

**Staff Report for Order No. R3-2012-0005
ATTACHMENT 2.C**

**CITY OF SALINAS COMMENTS RECEIVED ON
PROPOSED ORDER NO. R3-2012-0005 AND STAFF RESPONSE**

COMMENTS ON SPECIFIC ORDER LANGUAGE

XI. FINDINGS

The Central Coast Regional Water Quality Control Board (Central Coast Water Board) finds that:

Note – Finding 1 through Finding 13 are not shown. No comments were provided by the City of Salinas on these findings.

14. The Basin Plan is the Central Coast Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Water Board and approved by the SWRCB, Office of Administrative Law and the USEPA, where required. The Basin Plan identifies the following beneficial uses for receiving waters within and downstream of the Order coverage area: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Ground Water Recharge (GWR), Contact Water Recreation (REC1), Non-contact Water Recreation (REC2), Wildlife Habitat (WILD), Cold Freshwater Habitat (COLD), Migration of Aquatic Organisms (MIGR), Warm Freshwater Habitat (WARM), Spawning Reproduction and/or Early Development (SPWN), Preservation of Biological Habitats of Special Significance (BIOL), Rare, Threatened, or Endangered Species (RARE), Estuarine Habitat (EST), Freshwater Replenishment (FRSH), Commercial and Sport Fishing (COMM) and Shellfish Harvesting (SHELL).

“The Draft Permit seeks to limit end of pipe methods for compliance with the Clean Water Act. City of Salinas soils consist of inter-bedded layers of clays and silts that severely hamper groundwater recharge while the area has an overdraft problem. Utilizing bioretention planters will not solve the problem. Only end of pipe retention/detention/infiltration basins will provide for increased groundwater recharge by allowing access to permeable soils strata deeper in the ground and increased infiltration/percolation rates due to the increased head a basin can provide. It is the City’s intent to require filtering on site per the SWDS but provide hydromodification mitigation at end of pipe basins so that groundwater recharge, a beneficial use as identified in the findings, can be provided to the maximum extent without saturating near surface soils and creating soils stability and attendant structural problems (swelling of clayey soils, saturation of perched sand lenses promoting liquifaction).”

Staff Response to Comment City of Salinas – Finding 14

For the purposes of this Order, end of pipe systems are facilities located at the ‘downstream’ perimeter of a project providing flow control and/or runoff treatment prior to the runoff discharging to the MS4. End of pipe BMPs can also refer to offsite systems that detain, retain, and/or treat stormwater before the stormwater enters receiving waters.

Provision J.4.e.i requires the City to require Priority Development projects to use uniformly decentralized controls, natural treatment, and volume reduction BMPs as the first means of compliance for meeting the numeric flow control and treatment requirements. The City may allow project applicants to use centralized, mechanical, and/or synthetic flow control and treatment BMPs when the applicant cannot meet flow control and treatment requirements using uniformly distributed decentralized controls, natural treatment, and volume reduction BMPs, because of site constraints or challenges removing certain pollutant types. The intent of requiring projects to use decentralized LID-type controls is to mimic watershed processes. Typically, a vegetated landscape, prior to development, acts as a sponge and retains small storm events in the soil strata and retains rainwater through vegetation and cavities in the landscape. Once the ground becomes saturated, runoff is generated and moves offsite and is captured along the way or eventually flows to surface waters. One objective of a LID approach is to mimic this process to recharge groundwater in a distributed fashion to contribute to shallow groundwater and deep aquifers. Shallow groundwater hydrologically connected to surface waters provides baseflow to streams and helps sustain riparian areas. Centralized basins that collect and retain or detain stormwater from surrounding impervious landscapes provide runoff peak control for larger flows, but do not mimic a landscape's response to smaller storms. The Order does not prevent the use of offsite basins; however, the Order does not allow centralized, offsite detention or retention basins as the first means of compliance for meeting the treatment and flow control criteria.

The Central Coast Water Board Joint Effort for Hydromodification Control will inform the City's future flow control requirements. The Central Coast Water Board Joint Effort for Hydromodification Control will identify how, and to what extent, stormwater should be managed to protect, maintain, and restore dominant watershed processes impacted by changes in stormwater flows resulting from development, as necessary to protect water quality and beneficial uses.

The Order prioritizes the use of decentralized LID controls to manage stormwater on new development and redevelopment sites, because this type of approach is more representative of natural conditions and therefore more protective of beneficial uses. See Staff Response to Comment City of Salinas Supplemental – 4.

Note – Finding 15 is not shown. No comments were provided by the City of Salinas on this finding.

16. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, section (6) of the California Constitution.

“The Draft permit requires increased levels of service. For a complete discussion of the issue refer to the Best, Best and Krieger letter to the Board dated 8/12/2011 on this issue regarding Phase II permit included as attachment 1. The same conclusion applies to the City of Salinas Draft Permit requirements.”

Staff Response to Comment City of Salinas – Finding 16

Central Coast Water Board staff understands that the City has withdrawn from its comments references to the BB&K letter cited in the comment, accordance with a November 28, 2011 email to Central Coast Water Board staff from Walter Grant.

Regardless, the Order does not require an increased level of service and is not an unfunded mandate. The unfunded mandate provisions of the California Constitution at Article XIII B, Section 6 were not intended to address a permit, order, or requirements therein issued by a regulatory agency of state government imposing federal requirements upon parties prohibited from discharging waste into the waters of the State and the United States under both state and federal law. Indeed, the Legislature clarified that the unfunded mandate provision of the California Constitution does not apply to regional board orders. (Gov. Code section 17516). If the Order required a higher level of service, every permittee could file a “claim” for reimbursement to comply with any regulatory action, claiming that the regulatory action requires a “new program” or an “increased level of service.” The Constitution addresses reimbursement for additional “services” mandated by the State upon local agencies, not regulatory requirements imposed upon all permittees, including cities and counties. The intent of the constitutional section was not to require reimbursement for expenses incurred by local agencies complying with laws that apply to all state residents and entities. (See *City of Sacramento v. State of California*, 50 Cal. 3d. 51 (1990) citing *County of Los Angeles v. State of California*, 43 Cal. 3d. 46).

The performance standard applicable to MS4s has remained the same since subdivision (p), extending “point source” regulation to storm water discharges was added to Section 402 of the Clean Water Act in 1987. The Central Coast Water Board has issued two prior iterations of requirements implementing this performance standard, each with incrementally greater detail to provide municipalities with guidance regarding elements of municipal storm water management programs that are practicable, and therefore, appropriate components for compliance with the performance standard. However, despite the incrementally increasing levels of detail, the fundamental requirement that municipalities reduce pollutants in MS4s to the MEP remains the cornerstone of the mandate imposed upon municipalities by the federal Clean Water Act and implementing NPDES regulations for storm water.

Even if the Tentative Order could be characterized as requiring a mandate for an increased level of governmental services, it is not an unfunded state mandate because it implements a federal program, rather than a state program. State subvention is not required when the federal government imposes the costs of a new program or a higher level of service. (Cal. Const. Art XIII B; Id).

A central purpose of the principle of state subvention is to prevent the state from shifting the cost of government from itself to local agencies. (*Hayes v. Commission on State Mandates*, 11 Cal. App. 4th 1564, 1581 (1992)). In this instance, no such shifting of the cost of government has occurred. The responsibility and cost of complying with the Clean Water Act and Phase I NPDES municipal storm water regulations lies squarely with the local agencies which own and operate MS4s, not with the State. The State cannot shift responsibilities and costs to local agencies when the responsibilities and costs lie with the local agencies in the first place.

Note – Finding 17 through Finding 22 are not shown. No comments were provided by the City of Salinas on these findings.

23. The City of Salinas is situated in northern Salinas Valley in Monterey County, approximately ten miles east of the Pacific Ocean and adjacent to the Salinas River. Stormwater runoff is generated from various land uses in the Permit coverage area and discharges into receiving waters, which in turn flow into Monterey Bay. Four major creeks and several minor tributaries pass through the Salinas area and receive stormwater discharges from the Permit

coverage area northeast and adjacent to Highway 101. Santa Rita Creek carries stormwater discharges from a small portion of the Permit coverage area to the Espinosa Slough. The three other major creeks—Natividad, Gabilan, and Alisal Creeks—are interconnected. Alisal Creek becomes the Salinas Reclamation Ditch. Natividad and Gabilan Creeks flow through the northeastern portion of the City to Carr Lake. Carr Lake is often dry and is utilized for farming, but also functions as a stormwater retention basin. Flows leaving Carr Lake discharge to the Salinas Reclamation Ditch. The Salinas Reclamation Ditch flows west from the Permit coverage area, paralleling the Alisal Slough and eventually discharges to the Tembladero Slough. Espinosa and Tembladero Sloughs discharge to the Old Salinas River. Stormwater from the southernmost portion of the City flows to a lift station which discharges to the Salinas River. The Salinas River, like Espinosa and Tembladero Sloughs, discharges to the Old Salinas River. The Old Salinas River is an estuary that is often separated from the Pacific Ocean by a sand bar. The Old Salinas River discharges into the Pacific Ocean at the downstream end of the Elkhorn Slough and Moro Cojo Slough estuary system near Moss Landing.

“The City of Salinas Industrial Waste Treatment Plant is adjacent to the City of Salinas. And subject to it’s own WDRs under a permit wit the Board. The City of Salinas is more than a mile from the Salinas river so it is not adjacent to the Salinas River. Carr Lake is not a stormwater retention basin. Gabilan and Natividad creeks are contained within a manmade Reclamation Ditch (No. 1665) within Carr Lake. Flows in excess of the capacity of the Reclamation Ditch overflow into the existing farmed areas adjacent to the Ditch, and when the Ditch capacity is exceeded, are metered out of Carr Lake due to the constriction caused by the undersized US 101 culvert.”

Staff Response to Comment City of Salinas – Finding 23

Central Coast Water Board staff has revised the Order to state that City is near the Salinas River. The Order has been revised to state that Carr Lake “functions to detain stormwater flows,” since this is the result of excess flows overflowing onto adjacent farmed areas.

24. Stormwater discharges from urban and developing areas in the Permit coverage area are significant sources of certain pollutants that cause or may be causing or threatening to cause or contribute to water quality impairment in receiving waters. Furthermore, as delineated in the 2010 CWA section 303(d) list, the Central Coast Water Board has found that there is a reasonable potential that municipal stormwater discharges cause or may cause or contribute to an excursion above water quality standards for the impairments identified in the table below. In accordance with CWA section 303(d), the Central Coast Water Board is required to establish TMDLs for these pollutants to these waters to eliminate impairment and attain water quality standards. Therefore, certain early pollutant control actions and further pollutant impact assessments by the Permittee are warranted and required pursuant to this Order.

Receiving Water	CWA Section 303(d) Listed Impairments
Alisal Slough	Low dissolved oxygen; Nitrate; Sediment Toxicity; Unknown Toxicity
Santa Rita Creek	Nitrate (source unknown); Ammonia, unionized; E. coli; Fecal coliform; Low dissolved oxygen; Nitrate; Sodium; Turbidity

Gabilan Creek	Fecal coliform (from natural, nonpoint, and urban runoff/sewer sources); Nitrate (source unknown); Ammonia, unionized; Fecal coliform; Nitrate; Sediment toxicity; Turbidity; Unknown toxicity; pH
Natividad Creek	Nitrate (source unknown); Ammonia, ununionized; E. coli; Low dissolved oxygen; Nitrate; Sediment toxicity; Temperature, water; Turbidity; Unknown toxicity; pH
Salinas Reclamation Ditch	Ammonia, unionized; Fecal coliform (from natural, agricultural grazing, and urban runoff/sewer sources); Low dissolved oxygen (source unknown); Pesticides (from agricultural, industrial, and nonpoint sources); Priority organics (from agricultural, industrial, non-point, urban runoff/sewer, and unknown sources); Chlorpyrifos; Copper; Diazinon; E. Coli; Nitrate; Sediment toxicity; Turbidity; Unknown toxicity; pH
Salinas River	Fecal coliform (source unknown); Nitrate (source unknown); Pesticides (from agricultural and nonpoint sources); Toxaphene (source unknown); Chlordane; Chloride; Chlorpyrifos; DDD; Diazinon; Dieldrin; Electrical Conductivity; Enterococcus; E. coli; PCBs; Sodium; Total dissolved solids; Turbidity; Unknown toxicity; pH

25. CWA section 303(d) also lists Tembladero Slough, the Old Salinas River Estuary, the Old Salinas River, Salinas River Lagoon (North), and the Salinas River Refuge Lagoon (South) as impaired for various pollutants. Tembladero Slough is listed as impaired for chloryphyll-a, chlorpyrifos; diazinon, enterococcus, E. coli, fecal coliform, nitrate, nutrients, pesticides, pH, sediment toxicity, total coliform, turbidity, and unknown toxicity. The Old Salinas River Estuary is listed as impaired for nutrients and pesticides. The Old Salinas River is listed as impaired for chloryphyll-a, chlorpyrifos; diazinon, E. coli, fecal coliform, low dissolved oxygen, nitrate, sediment toxicity, turbidity, unknown toxicity, and pH. The Salinas River Lagoon (North) is listed as impaired for nutrients and pesticides. The Salinas River Refuge Lagoon (South) is listed as impaired for turbidity and pH.

"The constituents are included in the storm water in the creeks before it enters into the City of Salinas MS4, are added to it within Carr Lake from the farming activities therein, and a comprehensive study of the concentration of flow constituents entering the City, entering Carr Lake, leaving Carr Lake, and leaving the City limits needs to be conducted to see the magnitude of the impact the City discharges have before assuming the City "municipal stormwater discharges cause or may cause or contribute to an excursion above water quality standards ...".and that "certain early pollutant control actions and further pollutant impact assessments by the Permittee are warranted and required pursuant to this Order". Monitoring has been performed at the locations identified but the system needs to be modeled or dye tested to determine when sampling should occur at the different locations to get a true picture of the contributors. Currently when sampling is done it is sampled upstream, then approximately two hours later downstream and the slug of water that was tested upstream most likely has not reached the downstream sampling location so a true picture is not available that the City is a significant contributor. For example, Diazinon was outlawed for residential uses years ago and can only be used within designated areas of California for agricultural applications, including the Salinas Valley. Since Carr Lake contains a large area of intensive agricultural use and is within the City limits the City non point sources may not be contributing to a high degree for most of

the constituents identified, especially if they are normally contained within agricultural runoff, especially since there has been an Ag Waiver in place.

Staff Response to Comment City of Salinas – Findings 24 and 25

The City is not responsible for pollutants that are not discharged through its stormwater conveyance system. The purpose of the table included in Finding 24 is to indicate current water quality impairments, not to definitively identify the sources of these impairments. The Central Coast Water Board recognizes that the City is not the only source of pollutants to waters, and is regulating agricultural lands, other (Phase II) municipalities, and other activities and discharges to hold all dischargers accountable. At the same time, according to the City's annual reports, historic sampling by the City of its own stormwater discharges confirms that the City's stormwater discharges contain many of the pollutants listed in the table. To the extent that the City's stormwater discharges contain pollutants for which the receiving waters are impaired, it is a true statement that there is reasonable potential that municipal stormwater discharges cause or may cause or contribute to an excursion above water quality standards for the impairments identified.

The comment suggests that the level of the City's contribution to pollutant conditions in receiving waters must be determined more precisely, presumably prior to establishing the City's responsibility for early pollutant control actions and further pollutant impact assessments. However, the pollutant control actions contained in the Order are based on knowledge and reasonable potential that the City's stormwater discharges contain pollutants. In addition, the monitoring program focuses pollutant impact assessments on the City's stormwater discharges, which are clearly the City's responsibility, and not on receiving water conditions. Receiving water monitoring is included in the Order in a limited fashion for the purpose of assessing the long-term impact of the City's pollutant control actions on receiving water quality.

Note – Finding 26 is not shown. No comments were provided by the City of Salinas on this finding.

27. **Urban development creates new pollution sources as** human population density increases and brings with it proportionately higher levels of car emissions, car maintenance wastes, **municipal sewage**, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants, **which can either be washed or directly dumped into the MS4.** As a result, the runoff leaving the developed urban area is significantly greater in pollutant load than the pre-development runoff from the same area. These increased pollutant loads must be controlled to protect downstream receiving water quality. The most common categories of pollutants in urban runoff include total suspended solids, sediment, pathogens (e.g., bacteria, viruses, protozoa), heavy metals (e.g., copper, lead, zinc and cadmium), petroleum products and polynuclear aromatic hydrocarbons, synthetic organics (e.g., pesticides, herbicides, and PCBs), nutrients (e.g., nitrogen and phosphorus fertilizers), oxygen-demanding substances (decaying vegetation, animal waste), detergents, and trash.

“Municipal sewage is not washed or directly dumped into the MS4 in the City of Salinas. The City does not have a combined storm/sanitary sewer system. This does not apply to the City. The areas that were and are being developed in the City are agricultural properties. The net pollutant load has significantly decreased as a result of development since silt and appurtenant pesticides and fertilizers which were used in ag production in the developed areas have since ceased, erosion and appurtenant sediment concentrations has been minimized and in some cases ceased altogether including air borne dust as the land has been developed, agricultural

ditches that overflowed yearly and caused increased sediment load have been enlarged and erosion control installed to minimize or eliminate the appurtenant sediment and fertilizer/pesticide contribution. Large areas previously dedicated to cattle grazing operations and the appurtenant fecal matter that became a constituent of runoff from these areas have been replaced. As the ag areas have been replaced, these areas have come under City jurisdiction including restrictions on/mitigation of dumping that occurs regularly in rural areas. Natural areas have not been replaced, only enhanced and expanded by the development process resulting in better water quality. Cases in point are Gabilan Creek which went from a sand ag ditch denuded by application of weed killers as part of normal ag operations and overflowing on a yearly basis causing erosion to a lush tree lined channel and an extension of the only natural habitat to be found in the City of Salinas, the Darington habitat located in Creekbridge approximately between Lexington Drive and Nantucket Boulevard. The habitat now extends within Creekbridge from East Boronda Road to the County lands downstream of the Creekbridge Village Shopping Center. Future development will extend this habitat and create additional green belts within what is now existing farm land in row crops. Natividad Creek was an existing 5 foot wide and 4' deep scar in the middle of cattle grazing land within what is now Natividad Creek Park. To Google Earth it look for Freedom Parkway between Constitution Boulevard and Nogal Drive which runs through it. The northerly limit is East Boronda Road and southerly limit is Las Casitas Drive. As the Future Growth Area develops to the north and upstream of East Boronda Road this creek corridor/greenbelt will be extended and habitat restored. The intent is to create a natural corridor running from Carr Lake to the foothills upstream. Development will provide these enhancements and replace the ag operations which currently contribute the majority of pollutants and result in significant improvement in water quality, not degradation thereof. The Creek has been restored and the City has worked with Friends of the Natives to continually maintain and enhance the creek and the appurtenant 64-acre park to provide educational opportunities for the public, most notably local schoolchildren. Further downstream, Reclamation Ditch No. 1665 (Natividad Creek) upstream of East Laurel Drive has been breached to allow water to flow into adjacent farm land and create a wetland were once there was nothing but fields. This facility also aides in groundwater recharge since an area east of the ditch is lower than the Ditch invert and ponds water and the water quality improved within Natividad Creek since the water which flowed directly via a confined channel now has a chance to spread out, slow down and natural water cleaning processes can be maximized. Keep in mind that what was pre-existing before the Reclamation ditch was swamps, the Reclamation Ditch was built by the Reclamation District in the early 1900's and not by the City and the swamps were replaced by farm land, and what is being has and is being developed is farm land, not natural habitat and that development is improving water quality, not degrading it. Also keep in mind that the only way these improvements in habitat will continue is if development continues which is the engine that drives funding for it. Also keep in mind that since the areas that have the best potential for groundwater infiltration are along the Creek corridors discouraging/restricting end of pipe retention/detention/infiltration basins will have a significant negative impact on groundwater in conflict with the Clean Water Act. We have included Attachment 2 for illustration. We have included recently obtained soils borings along East Boronda Road as Attachment 3 to illustrate the nature of the inter-bedded layers which prevent/inhibit infiltration/percolation. East Boronda Road is the downstream limit of the Future Growth Area."

Staff Response to Comment City of Salinas – Finding 27

Finding 27 is a general statement about the most common sources of pollutants typically found in municipal stormwater discharges. Therefore the Finding identifies pollutants which have the potential to be found in the City's stormwater discharges. Central Coast Water Board staff recognizes that urban development of agricultural lands can result in reduction of some

pollutants. However, this reduction does not alter the fact that urban development generates pollutants which can be discharged with stormwater, and which the City is required to reduce to the MEP. These pollutants can come into contact with municipal stormwater in a wide variety of ways. For instance, contamination from municipal sewage can enter buried storm drain pipes through seepage and be discharged from the MS4.

Central Coast Water Board staff also recognizes actions taken, and planned, by the City to restore water quality, beneficial uses, and watershed processes. See Staff Response to Comment City of Salinas Supplemental – 22.

Note – Finding 28 and Finding 29 are not shown. No comments were provided by the City of Salinas on these findings.

30. This Order incorporates presumptive BMPs to reduce pollutants in stormwater discharges to the MEP. These BMPs include erosion control, sediment control, and construction site waste management practices; the implementation of good housekeeping practices designed to control pollutants at the source, promote the use of proper waste management practices, and implement control practices to keep pollutants away from any entrance to the storm drainage system; requirements for new development and redevelopment designed to preserve pre-developed hydrologic and pollutant conditions; requirements for development planning, and watershed characterization. These BMPs have been required on the basis of the state of the science of municipal stormwater management and the Central Coast Water Board's experience regulating municipal stormwater management programs. The BMPs identified in this Order are technically feasible, practicable, and cost-effective.

"This means we are exceeding our requirements just by replacing the existing agricultural uses and removing the attendant sediment, tracking of soils onto roadways, pesticide and fertilizer components by developing and therefore the only component we need to seriously consider is the hydromodification mitigation and minimal, if any, filtration to meet pre-development conditions. Feasibility, practicality and cost-effectiveness have not been addressed in the fact sheets since the references included therein have no application to the Draft Permit as proposed and the specific impacts on the City and it's residents. Estimates of costs in direct relation to the specific requirements of the Draft Permit as proposed have not been prepared by the Regional Board and the definitions of MEP/BMP that are applied throughout the Draft Permit do not take into consideration cost-effectiveness or practicality, only practicability which when used in MEP is "Maximum Extent Possible". "Best Management Practices" is not defined as "Practical Management Practices". For this statement to be true the Board Staff must do an independent fiscal analysis based on the requirements of the Draft Permit as proposed and as intended to be implemented, based on the current state of staffing and available equipment within the City. If the intent is different than stated and will be interpreted in a court of law in a third party lawsuit, then the Draft Permit must be radically altered. If the requirements of the Draft Permit stand, such as requirements that redevelopment parcels be treated as "greenfields" once the surface has been removed, the owners of redevelopment parcels are expected to bring the Board to court. If the regulations as intended are not perceived to be strict enough interpretations as practiced by the City with the Boards intent and blessing (see Ag Waiver) then we expect local environmental groups such as Landwatch and others to bring the City and the Board to court."

Staff Response to Comment City of Salinas – Finding 30

The Central Coast Water Board Joint Effort for Hydromodification Control will inform the details of the flow requirements for new development and redevelopment projects. Applicable projects that occur on existing agricultural lands will also have to adhere to the flow and treatment requirements. See Staff Response to Comment Chamber – 5.

Central Coast Water Board staff recognizes there are costs associated with compliance with this Order. For Central Coast Water Board staff response to comments related to implementation costs, see Staff Response to Comment City of Salinas – 26, Staff Response to Comment Latino – 1, and Staff Response to Comment Steele – 1. Central Coast Water Board staff has also provided a discussion of funding options available to the City in Staff Response to Comment City of Salinas Supplemental – 12.

31. As operator of the MS4, the Permittee cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the Permittee essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control. These discharges may cause or contribute to a condition of contamination or a violation of water quality standards.

This statement is so broad that if we allow upstream waters to flow to the City untreated (we don't prohibit them) then we accept responsibility for the entire watershed upstream of the City. The City cannot prevent these waters from flowing into the City per current drainage law (the mutual enemy doctrine) nor is it responsible for the constituents of storm water from the upper part of the watershed. As development proceeds upstream some of the watershed will come under the City's control but all of it will never come under the City's control since development cannot proceed to the mountain ridge tops. This statement must be revised so that the City is not responsible for waters coming into the City limits since it is the Board's/Monterey County Water Resources Agency's responsibility to regulate waters outside of the City limits and bodies of water within the City limits over which MCWRA has jurisdiction and maintenance responsibility for.

Staff Response to Comment City of Salinas – Finding 31

See Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) on the question of the City's responsibility for pollutants discharged by others into receiving waters upstream of the Permit coverage area. See Staff Response to Comment City of Salinas Supplemental – 21 for discussion of urban creeks as part of the City's MS4. The language of Finding 31 is typical of language in other Phase I permits throughout California and is largely taken directly from the federal Phase II NPDES stormwater regulations. The Order regulates discharges from the City's MS4 to receiving waters and from lands within the Permit coverage area into the City's MS4. Where urban creeks are also part of the City's MS4, the Order does not hold the City responsible for discharges which entered the creeks upstream of the Permit coverage area. Staff has modified Sections A, B, and C of the Order to clarify this point.

Note – Finding 32 and Finding 33 are not shown. No comments were provided by the City of Salinas on these findings.

34. Runoff needs to be addressed during the three major phases of urban development (planning, construction, and use) in order to reduce the discharge of pollutants to the MEP, effectively prohibit non-stormwater discharges, and protect receiving waters. Development which is not guided by water quality planning policies and principles can unnecessarily result

in increased pollutant load discharges and flow rates, volumes, and durations which can negatively impact receiving water beneficial uses. Construction sites without adequate BMP implementation result in sediment runoff rates which greatly exceed natural erosion rates of undisturbed lands, causing siltation and impairment of receiving waters. Existing development generates substantial pollutant loads which are discharged in runoff to receiving waters.

“Not always the case when the existing being replaced has more impact and causes more pollutant load in the receiving than what replaces it.”

Staff Response to Comment City of Salinas – Finding 34

The commenter raises a valid point that new development and redevelopment can sometime encompass a land use that generates a lower pollutant load than the previous land use. Finding 34 states that development, “can unnecessarily result in increased pollutant discharges.” Finding 34 does not state that all new development and redevelopment will generate higher pollutant loads than the previous land use. That being said, even if a new development or redevelopment site generates a lower pollutant load than the previous land use, that does not alleviate the project from the responsibility of managing the pollutants generated on the site.

Note – Finding 35 is not shown. No comments were provided by the City of Salinas on this finding.

36. New or modified requirements are necessary to improve the Permittee’s efforts to reduce the discharge of pollutants in urban runoff to the MEP and achieve water quality standards.

“The extent of modifications or changes to the requirements may actually increase discharge if sound engineering principals are not applied. If infiltration methods/BMPs cannot be segregated from treatment methods/BMPs, if spills occur groundwater will be compromised by promoting infiltration to subsurface soils strata and eventually groundwater. This is especially critical after accidents when vehicle fluids are released or during fires when chemical components can be washed into storm drainage systems. First responders cannot always be at an incident site soon enough to segregate the pollutant source and as budgets shrink the response time gets longer. By providing treatment/filtering on site isolated from the groundwater by restricting infiltration through use of liners such as in bioretention planters, these filtration methods can then be isolated in case of a spill by closing off the storm drain upstream of a centrally located retention/detention/infiltration basin. It is much simpler and more cost effective to remove a planter to the depth of the liner and flush out a storm drain and dispose of it properly than to remove a planter to the depth the chemicals can seep or require costly extractions wells and pumping systems. The isolation procedure is part of the operation and maintenance of site BMPs as required in Maintenance Declarations. As more and more roadside ditches are required as BMPs and restrictions put in place as to requiring curbs by the Draft Permit, the ability to isolate spills and prevent infiltration to subsurface soils by first responders becomes severely compromised.”

Staff Response to Comment City of Salinas – Finding 36

Central Coast Water Board staff does not find that the commenter’s concern is a significant threat to water quality. The likelihood of pollutants, related to fires or vehicular accidents that cause vehicular fluid discharges, getting washed into stormwater management features is not a significant threat to water quality. These situations have a low occurrence rate. Central Coast Water Board staff finds that the environmental benefits of infiltrating stormwater management

BMPs outweigh the water quality threat posed by the scenarios included in this comment. In the event of a discharge of pollutants resulting from an accident, the City must implement all measures, to the MEP, to prevent the pollutants from entering surface receiving waters and groundwater. Depending on the pollutant type and quantity, some pollutants may be adequately attenuated and/or broken down by stormwater management features and/or the soil column; therefore, not posing a threat to groundwater quality.

37. Enforcement of local runoff-related municipal codes, ordinances, statutes, standards, specifications, permits, contracts, and other regulations is an essential component of an effective Stormwater Management Program and is specifically required in the federal stormwater regulations and this Order. The Permittee is responsible for adoption and enforcement of ordinances and/or policies, implementation of identified BMPs needed to prevent or reduce pollutants in stormwater discharges, and the allocation of funds for the capital, operation and maintenance, administrative, and enforcement expenditures necessary to implement and enforce required BMPs within the Permit coverage area.

"This is an un-funded mandate under California law. The City will be more than happy to comply, provide the jobs, if the State provides the funding required. If not funded by the State, the only ways the City can fund compliance is by leveeing fees and/or taxes. In the current economic climate and considering the implications of Prop 26 limiting what can or cannot be instituted without a 2/3 vote of the electorate. The possibility of getting a 2/3 vote are slim to none. The fact sheets quote various studies where people are more than willing to pay for "clean water". The studies were not done in Salinas nor were they completed since the downturn of the economy and should be removed from the fact sheets since they do not apply to this Draft Permit."

Staff Response to Comment City of Salinas – Finding 37

The Order is not an unfunded mandate. See Staff Response to Comment City of Salinas – Finding 16 and Staff Responses to Comments City of Salinas Supplemental – 8, 14, and 17. Regarding costs, Central Coast Water Board staff wrote the Order to only include requirements for effective and efficient measures that are appropriate for the City's conditions. Many of requirements are the same as or refine already existing requirements. Also, many of the City's cost estimates up to this point seem to be based on misinterpretations of the requirements. By responding to the City's comments, Central Coast Water Board staff aims to resolve these misinterpretations. The cost information in the Fact Sheet contains much of the information relied upon by USEPA in adopting federal NPDES stormwater regulations.

Note – Finding 38 through Finding 41 are not shown. No comments were provided by the City of Salinas on these findings.

42. The Permittee has one stormwater outfall pipe that discharges to the Salinas River. This outfall is a significant contributor to pollutants in the Salinas River and contains non-stormwater flows during dry weather. This pipe and outfall are part of the Permittee's MS4 and are therefore the responsibility of the Permittee to address.

"This pipe and the discharges therefrom are most economically treated at end of pipe. This permit seeks to limit/severely restrict end of pipe treatments even though they are considered part of the tool box to meet the MEP requirement. End of pipe mitigation must be allowed since, if done correctly, it meets the requirement of the Clean water Act."

Staff Response to Comment City of Salinas – Finding 42

The Order requires the City to develop an effective solution to reduce pollutants in the Salinas River outfall. The Order does not prohibit the use of an end-of-pipe treatment if an end-of-pipe treatment is an effective solution to reduce pollutants in the Salinas River outfall.

For additional discussion of end-of-pipe treatment, see Staff Response to Comment City of Salinas – Finding 14 and Staff Response to Comment City of Salinas – Supplemental 36.

Commercial and Industrial

43. The facilities and operations listed in this Order that are to be inspected by the Permittee have the potential to discharge contaminated stormwater into the MS4. This stormwater can adversely impact the quality of receiving waters and beneficial uses. Industrial stormwater monitoring data indicate that industrial and commercial sites continue to contribute significant quantities of pollutants in stormwater runoff.

“This statement is either incorrect or overly broad or the assumption as stated by the Board Staff that the cost for mitigation will not exceed \$100,000 is not correct. There are 2,534 commercial and industrial sites combined within the City limits. If only a handful of sites are considered to contribute by Board Staff then they need to be identified. Otherwise this opens the door for all 2,534 sites to be cataloged (inventoried?), BMPs determined and implemented. Since we have a list of commercial and industrial sites this does not constitute an inventory as required later on in the Draft Permit provisions.”

Staff Response to Comment City of Salinas – Finding 43

Central Coast Water Board staff has not stated that the cost for the commercial and industrial program will not exceed \$100,000. Central Coast Water Board staff has stated that the City's estimate of a \$79 million initial cost for the residential and commercial/industrial program is not supported by the requirements contained in the Order.

The statement in the finding that industrial stormwater monitoring data indicate that industrial and commercial sites continue to contribute significant quantities of pollutants in stormwater runoff is correct. Data submitted to the Central Coast Water Board by facilities in Salinas show significant pollutants in stormwater runoff from sites in the City's Permit coverage area.

The City is required to inventory their commercial and industrial facilities to assess which ones are the highest priority (have the greatest potential to negatively impact water quality). The City is already required under existing Order No. R3-2004-0135 to have an inventory of all industrial facilities and high risk commercial facilities. Existing Order No. R3-2004-0135 already requires the City's inventory to include the name, address, nature of business or activity, SIC code, stormwater contact and whether the facility or operation is enrolled in the General Industrial Permit. If, as the comment states, the City currently only has a list and not an inventory, the City is in violation of their existing Order. The Draft Order requires the City to add some additional commercial facilities to their inventory and to include potential pollutants and a description of the activities that have the potential to contaminate stormwater. Central Coast Water Board staff modified the language of Provision F.1 to clarify the City does not have to perform an initial inspection the first year in order to complete the initial inventory and prioritization. In addition, see Staff Response to Comment City of Salinas – Provision F.1.b.xi.

The City is also already required under existing Order No. R3-2004-0135 to have developed and implemented BMPs for commercial and industrial facilities.

44. The Basin Plan, which designates beneficial uses and establishes water quality objectives for the Central Coast Region, recognizes that agricultural-related facilities and operations can generate pollutants such as sediment, pesticides, and nutrients, that upon discharge to receiving water can degrade water quality and impair beneficial uses.
45. Runoff from greenhouses and nurseries has a high potential for water quality impairment. Heavy pesticide use and fertilizer use, coupled with an intensive irrigation regime and leaching used by many nurseries may result in a discharge of waste and poses significant threat of pollution to surface water and groundwater from pesticides

“These statements must also include statements to the effect that the City does not have responsibility for flows and their constituents from upstream areas since it cannot prohibit them from entering the City limits nor runoff from agricultural areas within the City which are covered under the Aq Waiver.”

Staff Response to Comment City of Salinas – Finding 45

The Order does not hold the City responsible for pollutants that are not discharged through its stormwater conveyance system (see Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1)). The Order regulates discharges from the City’s MS4. The Order does not suggest otherwise; therefore it is not necessary for Finding 45 to include a statement that the City is not responsible for flows and constituents which entered receiving waters upstream of the Permit coverage area. For additional clarification, the Draft Order has been modified at Sections A, B, and C so that the City is not held responsible for discharges into segments of its MS4 that are also receiving waters, when the discharges originate outside the Permit Coverage Area.

The existing Agricultural Order (R3-2004-0117) does not limit the City’s authority to adopt ordinances, establish permit conditions, and designate required BMPs for lands or activities within its jurisdiction. However, discharges from agricultural lands that are comprised solely of return flows and/or stormwater are exempt from NPDES permitting. As such, the City is not responsible for these discharges that enter its MS4. The City is responsible for other agricultural-related discharges into its MS4. Greenhouses and nurseries are treated as commercial facilities and activities under the Draft Order, since their operations are more similar and closely associated with commercial facilities and activities than with agricultural lands.

Parcel-Scale Development

46. Watershed processes affected by stormwater, actions to manage stormwater, and/or land uses that alter stormwater runoff patterns include the following: 1) surface runoff, 2) groundwater recharge and discharge, 3) sediment processes, 4) chemical processes, and 5) evapotranspiration. These watershed processes must be maintained and protected in order to support beneficial uses throughout the Permittee’s watersheds. Restoration of degraded watershed processes is necessary to re-establish impacted beneficial uses. New development, redevelopment, and existing land use activities create alterations to stormwater runoff conditions which in turn result in changes to watershed processes that can cause or contribute to impairment of beneficial uses and violations of water quality standards.

“This statement also needs to be modified considering the information we have provided in above. A large portion of the permit assumes that development that exists and development that is proposed has/will negatively impact the watershed when in fact replacement of ag uses has resulted/will result in a net improvement in water quality whereas post development runoff will need to be mitigated by mitigating the effects of hydromodification. The watershed process was degraded before development took place.”

Staff Response to Comment City of Salinas – Finding 46

See Staff Response to Comment Chamber – 5.

47. A higher percentage of impervious area correlates to a greater pollutant loading, resulting in turbid water, nutrient enrichment, bacterial contamination, organic matter loads, toxic compounds, temperature increases, and increases of trash or debris.
48. Development and urbanization increase pollutant loading and volume, velocity, frequency, and discharge duration of stormwater runoff. First, natural vegetated pervious ground cover is converted to impervious surfaces such as highways, streets, rooftops and parking lots. While natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process, in contrast, impervious surfaces can neither absorb water nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the increased density of human population brings proportionately higher levels of vehicle emissions, vehicle maintenance wastes, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants.

“Again these statements are overly broad considering what development has replaced. They either have to be qualified in light of pre-existing agricultural conditions or modified per the actual facts involved. The condition before development was not naturally vegetated cover and for future development also naturally vegetated cover did not exist due to ag operations including intensive control of vegetation to prevent weed propagation.”

Staff Response to Comment City of Salinas – Finding 48

See Staff Response to Comment Chamber – 5.

49. The increased volume, increased velocity, and discharge duration of stormwater runoff from developed areas has the potential to accelerate downstream erosion and impair stream habitat in natural drainages.

“Unless mitigated by installation of erosion control and re-establishment of natural habitat. The Reclamation Ditch does not resemble a natural habitat in any way shape or form. The Monterey County Water Resources Agency (MCWRA) is planning to line the Reclamation Ditch with concrete and other unnatural materials and allow increased impervious area/flow from developed properties in exchange for a fee. A copy of the Nexus Study was provided to Board Staff. This is in direct conflict with the hydromodification requirements of the existing and Draft Permit since it is less expensive to pay the Reclamation Ditch fee to MCWRA rather than complying with the existing or Draft Permit. This encourages non-compliance with the Permit in direct conflict with the Board within the City limits and the principals of the Permit outside of the City limits. Once an applicant provides us with plans hydromodification mitigation has not been included. If section 5.6.3 of the existing SWDS is complied with then this is not a problem.”

MCWRA is ignoring this requirement despite providing them with the section and requirements repeatedly. This also makes our job harder when attempting to get the applicant to conform with our standards/Permit requirements.”

Staff Response to Comment City of Salinas – Finding 49

See Staff Response to Comment Chamber – 5.

Central Coast Water Board staff plans to work with Monterey County Water Resources Agency and the City to make sure the Reclamation Ditch fees do not undermine or conflict with the new development and redevelopment requirements in the Order.

50. Low Impact Development (LID) is an effective approach to managing stormwater to minimize the adverse effects of urbanization and development on watershed processes and beneficial uses resulting from changes in stormwater runoff conditions. LID strategies can achieve significant reductions in pollutant loading and runoff volume as well as greatly enhanced recharge rates. The proper implementation of LID techniques results in greater benefits than single purpose stormwater and flood control infrastructure.

51. Controlling urban runoff pollution by using a combination of onsite source control and LID BMPs augmented with treatment control BMPs before the runoff enters the MS4 is important for the following reasons: 1) many end-of-pipe BMPs (such as diversion to the sanitary sewer) are typically ineffective during significant storm events, but onsite source control BMPs can be applied during all runoff conditions; 2) end-of-pipe BMPs are often incapable of capturing and treating the wide range of pollutants which can be generated on a sub-watershed scale; 3) end-of-pipe BMPs are more effective when used as polishing BMPs, rather than the sole BMP to be implemented; 4) end-of-pipe BMPs do not protect the quality or beneficial uses of receiving waters between the source and the BMP; and 5) offsite end-of-pipe BMPs do not aid in the effort to educate the public regarding sources of pollution and their prevention.

“The City of San Francisco treats all of their storm and sanitary sewer as part of a combined sewer system. They are in compliance with State and Federal requirements. This would not be possible if the system was ineffective during a significant storm event. End of pipe treatments can also provide better control and pollution reduction since the processes are tried and true and do not require monitoring to verify that the treatment actually works, as is required per the Draft Permit can be controlled whereas LID BMPs currently cannot be considered tried and true, otherwise the amount of monitoring required by the Draft Permit would not be required and the stated intent of that monitoring would not be to measure the effectiveness of the LID BMPs. End of pipe BMPs are also allowed per the MEP definition contained within the Fact Sheets:

‘Elizabeth Jennings, Senior Staff Counsel, State Water Board’s Office of the Chief Counsel, addressed the achievement of the MEP standard as follows:

“To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:

- Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?

- Regulatory Compliance: Is the BMP in compliance with stormwater regulations as well as other environmental regulations?
- Public Acceptance: Does the BMP have public support?
- Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?
- Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources?

The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or SWRCBs, and not by the Permittee. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a Permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the Permittee may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPs the municipality shall make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the Permittee to show compliance with its Order. After selecting a menu of BMPs, it is the responsibility of the Permittee to ensure that all BMPs are implemented.”

[The Fact Sheet for Finding 9 States that:]

‘The MEP requirement is analogous to a technology-based requirement in that it focuses on implementation of pollutant reduction measures to achieve improvements in the quality of the stormwater that is discharged. Compliance with the MEP requirement can range from implementation of structural and nonstructural BMPs to installation of end-of-pipe treatment systems. MEP does not define the limits of pollution control measures that may be required of MS4 operators, and the requirement to implement controls that reduce pollutants to the MEP is not limited by the goal of attaining water quality standards. In some circumstances, compliance with MEP may result in controls more stringent than applicable water quality standards, and in others, less stringent. The Central Coast Water Board may use its discretion to impose other provisions beyond MEP, as it determines appropriate for the control of pollutants, including ensuring strict compliance with water quality standards (Defenders of Wildlife v. Browner (1999) 191 F.3d 1159, 1168). Requirements in this Order that are more explicit than the federal stormwater regulations in 40 CFR 122.26 are prescribed in accordance with the CWA section 402(p)(3)(B)(iii) and are necessary to meet the MEP standard. The MEP standard is a dynamic performance standard which evolves over time as knowledge about stormwater management increases. Therefore the Permittee’s SWMP must continually be assessed and modified in an adaptive management fashion to incorporate improved programs, control measures, and BMPs in order to achieve the evolving MEP standard. Absent evidence to the contrary, this continual assessment, revision, and improvement of SWMP implementation is expected to ultimately achieve compliance with water quality standards in the Central Coast Region.’

The City must be able to utilize end of pipe treatments or hydromodification mitigation as part of a complete tool box of BMPs. Without restrictions imposed by the Draft Permit since in many cases they will exceed the required MEP to merely comply. Case in point is providing on site

water quality/filtering measures and a centralized retention/detention/infiltration basin as outlined in 9. above since an extra level of protection of groundwater can be achieved while being practical to maintain as in the case of spills while providing more than the required infiltration allowed by on site soils infiltration rate in a basin setting due to the additional hydraulic head provided. Since the availability of first responders continue to decline to contain spills this method also responds to the changing dynamic which is staff reductions due to declining revenue.

Since the basins provide hydromodification mitigation and not filtering they will not compromise the effort to educate the public as to sources of pollution and prevention and can provide secondary treatment as well. The basins are required to be planted as a normal BMP in that they are to be shaped/planted to appear as natural drainages and will provide enough mass to provide a safe habitat for flora and fauna as they will be open to fauna to access but not the public in general (prevents dumping and minimizes trash) due to the open picket fencing proposed. They are also included as part of green belts to provide additional biotic mass and are not stand alone and will not appear artificial like smaller scope BMPs such as bioretention planters.”

Staff Response to Comment City of Salinas – Finding 51

The City of San Francisco’s sanitary sewer system was designed to handle sanitary discharges and stormwater discharges. Central Coast Water Board staff is of the understanding that the City of Salinas’ sanitary sewer system was not designed to handle stormwater discharges from the City. Typically wastewater treatment plants are at the upper end of their capacity during the rainy season; therefore, systems not designed to handle stormwater discharges, may be ineffective at treating stormwater discharges if these put the plant over capacity.

See Staff Response to Comment City of Salinas – Finding 14. Most end of pipe treatment systems require maintenance to continue to perform as originally designed. Some end of pipe systems may even contain components (e.g., filter devices) that need to be replaced otherwise the BMP loses its effectiveness. Under the City’s existing Order No. R3-2004-0135, the City is already implementing an operation and maintenance program to provide oversight of post-construction BMPs. The Order includes some modifications to the City’s existing operation and maintenance program.

See Staff Response to Comment City of Salinas – Finding 36.

52. Although dependent on several factors, the risks typically associated with properly managed infiltration of runoff are not significant. The risks associated with infiltration can be managed by many techniques, including: 1) designing landscape drainage features that promote infiltration of runoff, but do not “inject” runoff (injection bypasses the natural processes of filtering and transformation that occur in the soil), 2) taking reasonable steps to prevent the illegal disposal of wastes, 3) protecting footings and foundations, and 4) ensuring that each drainage feature is adequately maintained in perpetuity. However, in some circumstances, site conditions (i.e., historical soil contamination) and the type of development (i.e., urban infill) can limit the feasibility of retaining, infiltrating, and reusing stormwater at sites.

“At the first workshop Phil Hammer stated that if the underlying soil was found to be contaminated another site would need to be identified to provide offsetting mitigation. This will effectively kill redevelopment of compromised sites since land costs would increase cost if the BMPs as identified in the Draft permit, including restrictions on end of pipe treatment, are

required. The cost of finding an offsetting site and piping the runoff for treatment would make most, if not all, compromised sites undevelopable. Furthermore, if the site must be treated as pre-existing farmland, as is the case in most of Salinas, if the impervious materials are removed to soils, as is the case in most redevelopment projects to allow for re-compaction (which the Draft Permit seeks to limit further on) and grading, it makes no sense for someone to pay the cost for demolition and comply with SWDS requirements as if it were a greenfield, when someone can go outside of developed areas to a greenfield (actually row crop) and develop without the demolition costs and with the same site improvement costs. This will accelerate conversion of farm land while redevelopment areas decay and no net improvement is made by requiring no direct connections and minimizing impervious areas as is the current requirement.”

Staff Response to Comment City of Salinas – Finding 52

Provision J.4.h provides alternative options, for meeting the flow control and treatment requirements offsite, if a project applicant demonstrates that it cannot achieve the requirements onsite. One of the listed examples of a situation when offsite compliance may apply is on, “brownfield development sites or other locations where pollutant mobilization is a documented concern.” The offsite compliance alternatives include the following options: 1) offsite flow control and treatment project in the same Urban Subwatershed, or 2) in-lieu fee towards a City retrofit project. Both of these options involve managing stormwater at an offsite location, not managing stormwater from the site being developed. The Order does not require new development or redevelopment projects that cannot achieve the flow control and treatment requirements onsite to route stormwater offsite for treatment and/or flow control.

See Staff Response to Comment City of Salinas – Provision J.3.a

53. It is necessary to provide long-term operation and maintenance of structural flow/volume control and treatment BMPs to ensure that the BMPs maintain their intended effectiveness at managing runoff flow/volume and removing pollutants. If BMPs are not properly maintained, new development and redevelopment will cause degradation of the Permittee’s watershed processes.
54. If not properly designed or maintained, certain BMPs implemented or required by municipalities for urban runoff management may create a habitat for vectors (e.g. mosquitoes and rodents).

“These two paragraphs point out why certain end of pipe methods should be considered and allowed as conforming to BMPs to the MEP. By having the volume reduction at end of pipe the City can monitor, and control maintenance of infiltration basins so volumes and are not exceeded and flooding does not occur. Individual bioretention planters with infiltration capability, however minimal, are difficult to monitor even with Maintenance Declarations and the requirements therein. Each planter would need to be tested periodically for infiltration rate if not properly maintained. This would require flooding the planter to measure infiltration rates. A consolidated facility is easier to monitor for performance and more economical to maintain.”

Staff Response to Comment City of Salinas – Finding 54

See Staff Response to Comment City of Salinas – Finding 14.

The Order requires the City to implement an operation and maintenance program to provide oversight of BMPs at private sites and to maintain the City’s BMPs. The Order also requires the City to require private developments to conduct self inspections to verify long-term success of

post-construction BMPs. It is the City's responsibility to develop an effective program to ensure post-construction BMPs are properly maintain and continue to function as designed. Decentralized LID BMPs are being implemented in development projects around the nation. Other municipalities are implementing successful oversight programs to ensure post-construction BMPs continue to function as designed.

55. Updated Stormwater Development Standards (SWDS), which include the Permittee's urban runoff-related design and maintenance requirements for new development and redevelopment projects, are needed to manage changes in stormwater runoff conditions caused by new development and redevelopment that can affect watershed processes that impact beneficial uses. It is practicable for the Permittee to update the SWDS starting within three months of adoption of this Order, since significant efforts to develop these standards has already occurred.

"The simplest way to have updated the Draft Permit would have been to modify the existing Permit, modify the SWMP and the SWDS together and not create a 359 page document and it all would have been done when the Draft Permit is adopted. Now, we have a 359 page permit, a SWMP that must meet the requirements of the Permit and will need to be modified each time the Draft Permit is modified and vice versa and we must modify the SWDS within 3 months of adoption. It is impossible to compare the SWMP directly to what was included in the Draft Permit and the actual impacts on the SWDS in the time allotted by the Regional Board. Therefore we must comment directly on the 359 page Draft Permit rather than edited previous documents. FYI City of Portland, Oregon has a 75 page long SWP and Washington, DC has a 92 page long SWP."

Staff Response to Comment City of Salinas – Finding 55

This Order combines new requirements consistent with the evolving MEP standard with requirements contained in Order R3-2004-0315 and the City's current SWMP. In addition, requirements have changed based on findings by the Central Coast Water Board during typical compliance assurance activities or receipt of complaints. The Central Coast Water Board performed a program audit of the City during the term of Order No. R3-2004-0135. Where the audit found common implementation problems, requirements have been altered to better ensure compliance. In addition, the Central Coast Water Board conducted reviews of SWMP Annual Reports submitted by the City. Updates to the Permittee's programs are also based on the City's Report of Waste Discharge. In some instances, the Permittee and the Central Coast Water Board have identified similar issues that merit program modifications. Central Coast Water Board staff considered taking the approach, suggested by the comment, of simply modifying the existing documents, but found that many of the changes required to meet the evolving MEP standard and make the City's program consistent with other Phase I programs did not lend themselves readily to this approach. This Order is 182 pages long as a result, including Findings and Attachments. (The Fact Sheet is an additional 180 pages, but the Fact Sheet does not contain requirements. Instead, the Fact Sheet contains explanation of and justification for requirements contained in the Order.)

This Order includes more specificity in the requirements to develop, perform, and track stormwater management actions at specific levels of implementation, and to determine if the effectiveness of each action is sufficient to achieve compliance with this Order. The increased specificity of Order language addresses several problems that accompanied implementation of the current Order. The approach of the current Order, whereby Order language directed the City to first develop and incorporate BMPs into a SWMP, then to submit the SWMP to the

Central Coast Water Board for approval, required two distinct procedural efforts by both the City and Central Coast Water Board staff. As a result, the effort and time expended on procedural matters associated with approving the SWMP (and SWDS) was cumbersome and hindered program implementation. By increasing specificity in the language describing what is required and how it is measured, this Order limits the number of program components that must be separately developed by the City and approved by the Central Coast Water Board Executive Officer. Additionally, the current Order language provided only limited performance criteria for BMPs. Thus the current Order presented challenges to both the Permittee and Central Coast Water Board staff in demonstrating the City's compliance with Order requirements. Central Coast Water Board staff's audit of the City's program implementation confirmed the need for greater specificity in Order language in order to demonstrate and/or determine the City's compliance with Order requirements.

The City has had 60 days to review the Draft Order and submit comments for review and response by Central Coast Water Board staff. Central Coast Water Board staff met with City staff prior to public release of the Draft Order to explain the Order, and conducted three public workshops in the City during the public review period for the purpose of explaining the Order and answering questions from City staff and other stakeholders. Central Coast Water Board staff also offered to hold weekly conversations during September and October, 2011, to allow further opportunity for questions from the City and discussion of the Order. Central Coast Water Board staff has found that many of the City's comments relate to a relatively small number of topics. In some cases, these comments indicated areas where the Order could be improved to make it clearer to understand and implement. Where appropriate, Central Coast Water Board staff has modified this Order in response to these comments.

Development Planning and Stormwater Retrofits

Note – Finding 56 is not shown. No comments were provided by the City of Salinas on this finding.

57. When water quality impacts are considered during the planning stages of a project, new development and many redevelopment projects can more efficiently incorporate measures to protect water quality and beneficial uses. **It is important to consider potential stormwater impacts when making planning decisions to reduce pollutant loading and manage flows in order to protect watershed processes and beneficial uses.**

"The majority of the impacts of future development will be to reduce pollutants, and if end of pipe methods for volume control are not restricted, beneficial uses such as groundwater recharge can be realized. Remember the current state of the watershed is ag fields in row crop with an Ag exemption. Future development will result in substantial improvements in water quality just by replacing the current use-Ag."

Staff Response to Comment City of Salinas – Finding 57

See Staff Response to Comment Chamber – 5.

See Staff Response to Comment City of Salinas – Finding 14.

Note – Finding 58 is not shown. No comments were provided by the City of Salinas on this finding.

59. Since urban runoff does not recognize political boundaries, watershed-based urban runoff management can greatly enhance the protection of receiving waters within a watershed. Such management provides a means to focus on the primary watershed processes in each urban subwatershed. By focusing on the primary watershed processes, watershed efforts can maximize protection of beneficial uses in an efficient manner. **Effective watershed-based urban runoff management 1) actively reduces pollutant discharges and abates pollutant sources causing or contributing to watershed water quality problems, and 2) actively mimics natural watershed processes.**

“There is no natural watershed in the future growth area, only ag fields and row crops. The drainage patterns will be determined by the slope of the land as is. It will be beneficial not to mimic existing watershed processes since as far as water quality there are no beneficial uses currently being employed within the watershed.”

Staff Response to Comment City of Salinas – Finding 59

See Staff Response to Comment Chamber – 5.

60. Ecologically functioning riparian environments provide aquatic and terrestrial habitat and act both as filters that reduce pollutants in stormwater discharges and as sponges to reduce the impact of unnatural stormwater flows on the ecosystem’s hydrology. These benefits can be achieved by protecting existing healthy riparian environments, **or by restoring degraded areas into functioning ecosystems. Waterbodies within the Permittee’s coverage area include both degraded riparian areas and functioning, at various degrees, riparian areas.**

“The majority of functioning riparian areas were created by development to replace existing ag operations. By having an end of pipe basin, we can mass plantings as part of overall green belt concept and create enough mass biotically for fauna as well as flora. Bioretention planters do not provide that since they provide a formal landscape without enough biotic mass.”

Staff Response to Comment City of Salinas – Finding 60

The purpose of the requirement to manage stormwater at the source is to direct water in ways in which it moved prior to human disturbance. This entails distributed infiltration of groundwater to support shallow and deep groundwater recharge. Shallow groundwater flows that are hydrologically connected to surface waters provide baseflow supplies to streams. The delivery of water at slower rates to stream systems, compared to delivering all water via surface water systems, can help support vegetation in riparian areas. The intent of the decentralized low impact development approach is to help create a balanced system.

61. **Coordination with other stakeholders, MS4s, and other entities to align stormwater management with regional water management, salt and nutrient management, and flood management will result in opportunities to protect, enhance, and/or restore natural resources.**

“Rather than concentrating on Phase 1s SWPs should be required and applied evenly across the board on Phase 2 and Ag entities to be effective. However, we have no control over those entities. The Regional Board does. We encourage opening dialog amongst all three to create a truly “watershed” approach that is reasonable, practical and cost effective. With the Phase 2 entities now under consideration for increased requirements, and the Ag waiver under review, now is the perfect time.”

Staff Response to Comment City of Salinas – Finding 61

See Staff Response to Comment City of Salinas – Fact Sheet L.6.

Note – Finding 62 through Finding 79 are not shown. No comments were provided by the City of Salinas in the Findings for these subsections.

THEREFORE, IT IS HEREBY ORDERED that California Regional Water Quality Control Board Central Coast Region (Central Coast Water Board) Order No. R3-2004-0135, National Pollutant Discharge Elimination System Permit No. CA0049981 Waste Discharge Requirements for City of Salinas Municipal Storm Water Discharges (Order No. R3-2004-0135) is rescinded, and that the City of Salinas (hereafter the Permittee) shall comply with the following:

A. Discharge Prohibitions

- 1) Discharges into and from the MS4 in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance (as defined in section 13050 of the California Water Code in Waters of the State of California or Waters of the U.S. are prohibited. ~~in Waters of the State of California or Waters of the U.S. are prohibited.~~ *There are ag land surrounding and within the City which discharge into the MS4. What is the intention of this Permit Provision with respect to ag discharges? The ag waiver program is currently being reconsidered, but there has thus far been no resolution to that matter.*

Staff Response to Comment City of Salinas – Provision A.1

The comment provided by the City adds the redundant language “in Waters of the State of California or Waters of the U.S. are prohibited” and then strikes through the added language. Central Coast Water Board staff made the assumption that the City is not proposing to add or remove this language.

The agricultural land that discharges to the Reclamation Ditch does not discharge to the City’s MS4.

Central Coast Water Board staff added a footnote to Provision A.5 to clarify the prohibitions do not apply to discharges into and from portions of the MS4 that are also receiving waters when the discharges originate outside the Permit coverage area.

See Staff Response to Comment City of Salinas – Supplemental 21, Staff Response to Comment City of Salinas – Supplemental 30, Staff Response to Comment City of Salinas – Supplemental 43, and Staff Response to Comment City of Salinas – Fact Sheet A-D.3 (1).

- 2) Discharges of waste that are prohibited by the Statewide Water Quality Control Plans or the Water Quality Control Plan, Central Coast Region (Basin Plan) are prohibited.
- 3) Discharges from MS4s that cause or contribute to the violation of water quality standards are prohibited.
- 4) Discharges from MS4s containing pollutants that have not been reduced to the maximum extent practicable are prohibited.
- 5) Non-Stormwater Discharges - Discharges of material other than stormwater to Waters of the U.S. or another MS4 are prohibited except as allowed under this Section or unless such discharges are authorized by a separate NPDES permit. The following categories of non-stormwater discharges are not prohibited provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges are implemented:
 - a) Diverted stream flows;
 - b) Rising ground waters;
 - c) Uncontaminated ground water infiltration [as defined by 40 CFR section 35.2005(20)];

- d) Uncontaminated pumped groundwater;
- e) Foundation drains;
- f) Springs;
- g) Water from crawl space pumps;
- h) Footing drains;
- i) Air conditioning condensation;
- j) Flows from riparian habitats and wetlands;
- k) Water line flushing;
- l) Discharges from potable water sources; and
- m) De-chlorinated or debrominated swimming pool water.

Three items were deleted from the list in the existing permit: (1) lawn and landscape irrigation from potable water sources; (2) irrigation water; and (3) individual residential car washing? Why were those three singled out and removed from the list? Have they been demonstrated to be more polluting than any other source of runoff?

Staff Response to Comment City of Salinas – Provision A.5.m

Central Coast Water Board staff added individual residential car washing, incidental runoff from landscape irrigation and lawn watering, and irrigation water to the Order.

- 6) Discharges or flows from fire fighting activities are excluded from the non-stormwater discharge prohibition and need only be addressed where they are identified as significant sources of pollutants to Waters of the U.S.
- 7) When a non-stormwater discharge category listed above is identified by the Permittee or the Central Coast Water Board Executive Officer as a potential significant source of pollutants to Waters of the U.S. or physically interconnected MS4, or poses a threat to beneficial uses, the Permittee shall either:
 - a) Prohibit, via ordinance or other method, the discharge category from entering the Permittee's MS4; or
 - b) Not prohibit the discharge category and implement, or require the responsible parties to implement, BMPs that will reduce pollutants to the MEP; and
 - c) Submit the each item listed below to the Central Coast Water Board within 90-days upon identification of such discharge category.
 - i) The non-stormwater discharge category listed above that the Permittee elects not to prohibit.
 - ii) The BMPs for each discharge category listed above that the Permittee will implement, or require the responsible parties to implement, to prevent or reduce pollutants to the MEP. The Central Coast Water Board Executive officer may require changes to the proposed BMPs.
- 8) Discharges of Incidental Runoff shall be controlled. The Permittee shall require parties responsible for Incidental Runoff to implement each requirement listed below to control the Incidental Runoff.
 - a) Detect leaks (for example, from broken sprinkler heads) and correct the leaks either within 72 hours of learning of the leak, or prior to the release of 1,000 gallons, whichever occurs first. . How is the City to measure whether 1,000 gallons has been released? Does not seem reasonably practicable.

Staff Response to Comment City of Salinas – Provision A.8.a

Central Coast Water Board staff deleted the "1,000 gallon" requirement and moved these requirements to Provision H.10.

- b) Properly design and aim sprinkler heads.

- c) Do not water during precipitation events.
- d) Manage ponds containing recycled water such that no discharge occurs unless the discharge is a result of a 25-year, 24-hour storm event or greater.
- e) Any other actions necessary to prevent the discharge of Incidental Runoff to the MS4 or Waters of the U.S. *Is it possible for anyone to prevent the discharge of incidental runoff in a reasonably practicable way?*

Staff Response to Comment City of Salinas – Provision A.8.e

Incidental runoff is prevented through a variety of measures, several of which are listed in this Provision (e.g., detect leaks, properly design and aim sprinklers, and not watering during precipitation events). Central Coast Water Board staff modified the language in Provision A.8 to give the City more flexibility in the methods used to reduce incidental runoff and moved these requirements to Provision H.10.

- 9) Non-storm water discharge runoff that is not Incidental Runoff is prohibited, unless otherwise specified in Section A.5. Incidental Runoff may be regulated by waste discharge requirements or, where necessary, waste discharge requirements that serve as a NPDES permit.

B. Effluent Limitations

- 1) The Permittee shall implement BMPs that reduce the discharge of pollutants in stormwater to the MEP.
- 2) Stormwater discharges regulated by this Order shall not contain a hazardous substance in amounts equal to or in excess of a reportable quantity listed in 40 CFR Part 117 or 40 CFR Part 302.

C. Receiving Water Limitations

- 1) Discharges from the MS4 that cause or contribute to the violation of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule, or the Basin Plan are prohibited. *Is there any accounting for those waters coming into the City's MS4 from outside the City's jurisdictional boundaries and which are carried through the City's MS4 and then discharged? This provision suggests that the City is responsible for cleaning up the contaminants and pollutants from other sources outside the City's control. The ag fields surrounding the City is just one example.*

Staff Response to Comment City of Salinas – Provision C.1

See Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) and Staff Response to Comment City of Salinas – Finding 31 regarding the comment on the City's responsibility for pollutants discharged by others into receiving waters upstream of the Permit coverage area. Also note that the Order does not consider the Reclamation Ditch as part of the City's MS4.

- 2) Discharges from the MS4 shall not cause or contribute to a condition of pollution, contamination, or nuisance in receiving waters. *Same comment as made to no. 1, above.*

Staff Response to Comment City of Salinas – Provision C.2

See Staff Response to Comment City of Salinas – Provision C.1.

- 3) The Permittee shall comply with all of the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations through timely How is "timely" defined? Who makes the determination of whether an action is "timely"? implementation of control measures/BMPs and other actions to reduce pollutants in the discharges in accordance with the requirements of this Order, including any modifications. The Permittee's Stormwater Management Program shall be designed to achieve compliance with all Discharge Prohibitions, Effluent Limitations and Receiving Water Limitations. If violation(s) of water quality standards persist notwithstanding implementation of the requirements of this Order, the Permittee shall assure compliance with all of the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations by implementing each of the items listed below.

Staff Response to Comment City of Salinas – Provision C.3

Timely is not defined in the Order. Many components of the Order specify the required timing of actions by the City. Where the Order is not specific, the City would implement BMPs in what it believes is a timely manner. If Central Coast Water Board staff determine the City is not complying in a timely manner during program compliance assessment, Central Coast Water Board staff will notify the City. The language of Provision C.3 is the receiving water limitations language specified by State Board Order WQ 99-05. The State Board has instructed the Water Boards to use this language in municipal stormwater permits.

- a) Upon a determination by either the Permittee or the Central Coast Water Board that discharges are causing or contributing to a violation of an applicable water quality standard, the Permittee shall submit a Report of Receiving Water Quality Violation (Report) to the Central Coast Water Board Executive Officer that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the violation of water quality standards. The Report shall be incorporated in the next Annual Report unless the Central Coast Water Board Executive Officer directs an earlier submittal. The Report shall include an implementation schedule for new or improved BMPs, if applicable. The Central Coast Water Board Executive Officer may require modifications to the Report.
- b) If the Central Coast Water Board Executive Officer requires modifications to the Report, the Permittee shall submit any modifications within 30 days of notification.
- c) Within 30 days following approval of the Report by the Central Coast Water Board Executive Officer, the Permittee shall incorporate into its Stormwater Management Program the approved modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required. *This process here pursuant to which the Executive Officer has authority to determine which BMPs should be applied and when, appears to establish a prescriptive method for determining which BMPs apply within the City. And, this basically establishes the Executive Officer as the authority for determining what MEP is. That is not an appropriate role for Executive Officer. This appears to usurp the City's authority for managing its stormwater program.*

Staff Response to Comment City of Salinas – Provision C.3.c

The language of Provision C.3.c is the receiving water limitations language specified by State Board Order WQ 99-05. The State Board has instructed the Water Boards to use this language in municipal stormwater permits.

Several documents in the Order are required to be prepared by the City and approved by the Central Coast Water Board Executive Officer. The Order also prescribes, in several provisions, a method the City can follow to comply, as well as provides the City with an option that allows the City to propose an alternative methodology for approval by the Executive Officer. The Order specifies that only alternative methodologies that have been approved by the Executive Officer will be considered to be in compliance with the Order. These documents and methods of

compliance are part of the City's SWMP. Under their existing Order No. R3-2004-0135, the City has to obtain Executive Officer approval for any and all changes to their SWMP. Under this Order, the City is not required to obtain approval for all changes to their SWMP, they only have to obtain Executive Officer approval for specific components of their SWMP as specified in the Order. See Staff Response to Comment City of Salinas – Fact Sheet Finding 36 (1) for an explanation of why this change was made. Several provisions in the Order specify a method of compliance and give the City the opportunity to submit an alternative methodology to the Executive Officer. This provides the City with the flexibility of two different options that each have their advantages. The City can develop their own approach, or if they prefer, to follow the method provided in the Order. When the Executive Officer approves an alternative methodology, the Executive Officer is not changing the requirements or amending the Order; the Executive Officer is changing the method the City will use to implement the Order requirements. Executive Officer approval helps ensure the standard set forth by the Order is maintained, and that alternatives proposed by the City are not less effective than those detailed in the Order.

This comment suggests that the requirement in Provision C.3 that the Executive Officer approve the City's report coupled with the Executive Officer ability to require changes to the report constitutes the Executive Officer prescription to the City of which BMPs will be applied and when and would usurp the City's authority for managing its stormwater program. Provision C.3 does not indicate the Executive Officer will be prescribing which BMPs will be applied and when. The City will develop the BMPs. The Executive Officer will approve the proposed BMPs if they are protective of water quality and if they are not protective of water quality, the Executive Officer will not approve the proposed BMPs. If the Executive Officer does not provide approval, the City must identify other BMPs that will attain approval.

d) The Permittee shall implement the actions in accordance with the approved schedule.

4) The Permittee shall include in each Annual Report the effectiveness of BMPs in reducing violation(s) of water quality standards. The Central Coast Water Board Executive Officer may direct implementation of additional BMPs if there are continuing or recurring violation(s) of the same receiving water limitation.

D. General Provisions

- 1) General Requirements – The Permittee shall comply with each requirement listed below.
 - a) Comply with all of the requirements of this Order, including all Attachments. Implement all plans, reports, and other documents required by the Order, and any amendments or modifications to those plans, reports, and other documents as required by the Central Coast Water Board or **Central Coast Water Board Executive Officer**. *This appears to place the Executive Officer in the same position as the Board when it comes to modifications or approval of this Permit. To our knowledge the Executive Officer is not so empowered as to have that authority. There is a process for Permit adoption and modification, and that is not typically done at the administrative level. What is the authority for administrative approval or modification of Permit conditions?*

Staff Response to Comment City of Salinas – Provision D.1.a
See Staff Response to Comment City of Salinas – Provision C.3.c.

- b) Coordinate among the Permittee's internal departments and agencies to facilitate the implementation of the requirements of this Order.

- c) Participate in intra-agency coordination (e.g., Monterey County Water Resources Agency, Monterey County stormwater program) necessary to successfully implement the provisions of this Order. *. . . This suggests that the City's Permit compliance is reliant upon outside agencies, over which the City has no control. Certainly the City can collaborate and coordinate efforts with outside agencies, but the success of the City's compliance with the Permit Provisions should not be based on a role which outside agencies may or may not choose to play in the City's efforts to "successfully implement the provisions of this Order."*

Staff Response to Comment City of Salinas – Provision D.1.c

Central Coast Water Board staff added language to the Fact Sheet for Provision D to clarify that the City's compliance with the Order is not reliant on the cooperation of other agencies.

- d) Develop, maintain, implement, and enforce an effective stormwater management program that meets each requirement of this Order, reduces pollutants in discharges from the MS4 to the MEP, and protects watershed processes, water quality, and beneficial uses. *What does this mean for the City's SWMP and SWDS? I imagine those will have to be amended to conform with the requirements of this Permit. What is the timeline and the process for doing that? Will those also need to be reviewed and approved by Board staff, then the Executive Officer, then the Board?*

Staff Response to Comment City of Salinas – Provision D.1.d

The City must update their Stormwater Management Plan (SWMP) and Stormwater Development Standards (SWDS) to comply with the draft Order. The timeline for updating components varies and is specified in the draft Order. Central Coast Water Board staff added language to Provision D.3.a that clarifies that all components of the SWMP need to be updated within 12 months, with the exception of any components that have an earlier deadline specified in the Order.

SWMP and SWDS components requiring approval by the Central Coast Water Board Executive Officer are specified in the Order. Updates to the SWDS and SWMP to comply with this Order will not need to be approved by the Central Coast Water Board. The Order contains sufficiently detailed and enforceable requirements to ensure the MEP standard and water quality protection are attained, without further approvals by the Central Coast Water Board of additional work products stemming from the Order. The draft Order authorizes the Executive Officer to approve specified components of the SWMP and SWDS.

- 2) Permit Coverage Area - The Permit coverage area is the incorporated area of the City of Salinas. Any areas annexed into the City of Salinas shall become part of the Permit coverage area.
- 3) Stormwater Management Plan and Information Management Systems
- a) The Permittee shall develop and implement an effective SWMP that demonstrates how the Permittee will comply with each requirement of this Order. The SWMP shall include the documents developed for compliance with this Order (e.g., Enforcement Response Plan, inventories, checklists, inspection forms, BMPs developed to comply with this Order, BMPs required by this Order, documents submitted to the Central Coast Water Board, BMPs to achieve Wasteload Allocation Attainment Plan(s), developed assessment methodologies). The SWMP shall identify which staff and department are responsible for implementing each requirement. The Permittee shall update the components of the SWMP as necessary to maintain an effective program and as required by the Central Coast Water Board Executive Officer. *The purpose of the different elements of the City's storm water program is to have an "effective program," so*

if that is achieved then what more could there be that the Executive Officer could require? The current versions of the SWMP documents shall be kept on the Permittee's stormwater website.

Staff Response to Comment City of Salinas – Provision D.3.a

Examples of when the Central Coast Water Board Executive Officer would require an update to the SWMP could include when Central Coast Water Board staff identify a deficiency in the SWMP through an audit, annual report review, or other compliance assessment activity. The City's existing Order No. R3-2004-0135 contains similar language.

- b) The Permittee shall develop an information management system What does this mean? Is there a timeline required for completion? to track compliance with the requirements of this Order, including, but not limited to the information management system requirements specified in Sections of this Order.

Staff Response to Comment City of Salinas – Provision D.3.b

The information management system is how the City will document and track compliance with the Order and other information required by the Order. This does not need to be one master system but can consist of the City's existing data tracking systems and other ways to store data (for example in spreadsheets or databases). The Order provides flexibility on how the City manages/develops its information management needs. As was explained to City staff during the Draft Permit explanation meeting on August 29, 2010, the information management system does not need to be an expensive proprietary system and can be accomplished using software the City already owns. The majority of the requirements for information management can be accomplished using a spreadsheet. Deadlines for completion are specified in each Section of the Order that contains information management requirements.

- c) Specific details tracked by the information management system (e.g., inspection dates, reports received of potential illicit discharges) do not need to be contained in the SWMP, however the SWMP shall contain information that identifies each component of the information management system, what types of information they contain, and how a municipal staff member or member of the public would obtain data from the information management system.
- 4) Electronic Submittals - Unless otherwise directed by the Central Coast Water Board Executive Officer, the Permittee shall electronically submit all plans, reports and any other documents required by this Order to: r3_stormwater@waterboards.ca.gov. Plans, reports and any other documents shall comply with the signatory requirements of Attachment I – Standard Provisions and be submitted with a cover letter that identifies all attachments.
- 5) Recordkeeping – The Permittee must keep records to document and demonstrate compliance with each requirement of this Order (including records specified by this Order and not specified by this order). The records must be kept for at least five years after the record development. If the Order is continued beyond the expiration date, the Permittee shall keep all records either the duration of the Order, or five years, whichever is longer. The Central Coast Water Board Executive Officer may specify a longer time for record retention. Five years does not seem to be an unreasonably long period and is generally consistent with the City's existing record-keeping practices. In establishing internal protocols and practices it is helpful to have established timelines. Giving the Executive Officer authority to arbitrarily require a longer retention period creates too much uncertainty in the process and this provision appears to give that authority without any limits. This is unreasonable.

Staff Response to Comment City of Salinas – Provision D.5

The City of Salinas would be notified if the Central Coast Water Board Executive Officer requires longer record retention time. The notification would specify the records that are required to be retained for a longer retention time.

- 6) Implementation - All plans, reports, and subsequent amendments submitted in compliance with this Order shall be implemented immediately (or as otherwise specified). *There needs to be a recognition of the fact that this programs represents a resources strain at all levels: personnel and financial resources included. And, this appears to ignore the processes which the City is legally obligated to undertake with respect to plants, reports and amendments: They must be considered by the City Council. That cannot happen "immediately."* All submittals by the Permittee shall be adequate to implement the requirements of this Order.

Staff Response to Comment City of Salinas – Provision D.6

See Staff Response to Comment City of Salinas Supplemental – 6.

Central Coast Water Board staff modified General Provision D.6 to provide clarity.

Note – Provision D.7 is not shown. No comments were provided by the City of Salinas in the Provisions for this subsection.

E. Municipal Maintenance

- 1) Inventory – Within 12 months of adoption of this Order, the Permittee shall develop and maintain a comprehensive municipal inventory (*define what components and information is required to be in the inventory*). At a minimum, the Permittee shall update the inventory each year. The inventory shall, at a minimum, include each item listed below.

Staff Response to Comment City of Salinas – Provision E.1

Provisions E.1.a through E.1.e describe the components and information to be included in the inventory.

- a) The MS4 system including, but not limited to, the following:

- i) MS4 collection system and all conveyances; *Define exactly what is included, i.e. Reclamation Ditch is a conveyance but not under City jurisdiction. Does this include all minor drainage ditches that may convey water to a water channel.*

Staff Response to Comment City of Salinas – Provision E.1.a.i

Central Coast Water Board staff deleted Provisions E.1.a.i through E.1.a.iii in the Order to revise the municipal inventory to only include catch basins. The MS4 collection system, outfalls and non-catch basin inlets would be included in the MS4 System Map per Provision Q.2 and don't need to be provided in the municipal inventory.

- ii) Catch Basins and other inlets to the MS4; and *Does this include private inlets not in the City system i.e. with outfalls to the Reclamation Ditch and other conveyances-define exactly. Is this only those facilities under direct City ownership and control? Having d) below leads one to believe it is in excess of that definition.*

Staff Response to Comment City of Salinas – Provision E.1.a.ii

MS4 is defined by 40 CFR 122.26(b)(8) (see Attachment B of the Order). Central Coast Water Board staff modified the language in Attachment B of the Order to clarify “MS4” when used without qualification means the MS4 owned or operated by the City.

Central Coast Water Board staff deleted Provisions E.1.a.i through E.1.a.iii in the Order to revise the municipal inventory to only include catch basins. The City must include in their MS4 System Map (Per Provision Q.2.b) the inlets to the MS4. Since the Reclamation Ditch is not part of the MS4, inlets to the Reclamation ditch do not need to be included in the MS4 System Map. Private inlets to the MS4 must be included in the MS4 System Map to enable the City to track and oversee discharge points to their MS4.

- iii) Each outfall to receiving waters and/or the MS4. *Define-does this mean only City owned since the language of the permit states the City is responsible for all the storm drainage within the City limits?*

Staff Response to Comment City of Salinas – Provision E.1.a.iii

Central Coast Water Board staff deleted this provision.

- b) Areas identified as High Priority Private Development (see Section G.5 [Residential: High Priority Private Development]). *So just those residential areas, or other areas? The reference only to section is confusing as it appears to be limited to that section, but my guess is that is not the case.*

Staff Response to Comment City of Salinas – Provision E.1.b

This provision is only for residential areas that are identified as High Priority Private Development in Section G.5. Section G.5 describes how the City of Salinas will develop the list of High Priority Private Development areas from their Common Interest Areas, Home Owner Associations, and other residential areas where stormwater conveyance system components (e.g., streets, parking areas, catch basins, storm drains) are not owned or operated by the Permittee.

- c) Existing structural BMPs owned or operated by the Permittee that serve a water quality function (e.g., structural BMPs installed to comply with Order No. R3-2004-0135, other existing structural BMPs) or structural BMPs owned or operated by the Permittee installed to comply with this Order's requirements for Priority Development Projects as defined by Section J (Parcel-Scale Development). Only those related to Parcel-Scale Development?

Staff Response to Comment City of Salinas – Provision E.1.c

This provision applies to all structural BMPs owned or operated by the Permittee that serve a water quality function, not just to structural BMPs that relate to Parcel-Scale Development.

- d) Municipal Facilities – All Permittee-owned or operated facilities that are potential sources of pollution in stormwater, including, but not limited to, the following: By definition, this list is not exhaustive. It appears that additional “potential sources” can be added—presumably by the Executive Officer who is given a lot of administrative authority—at any time during the term of this Permit.

Staff Response to Comment City of Salinas – Provision E.1.d

The list of municipal facilities is not intended to be exhaustive. The City must evaluate the facilities they own and/or operate and add to this list any other facilities that are potential significant sources of pollution. Central Coast Water Board staff added “significant” to the Order to provide clarification. Central Coast Water Board staff may also determine through compliance assessment efforts (e.g., audits, program reviews) during the term of the Order that additional municipal facilities need to be included in the municipal inventory.

- i) Public works yards and other areas for equipment and material storage or maintenance;
- ii) Areas for vehicle fueling, vehicle storage, or maintenance;
- iii) Pesticide storage facilities;
- iv) Fuel farms;
- v) Hazardous waste disposal facilities, handling facilities, and transfer facilities;
- vi) Incinerators;
- vii) Landfills, composting facilities, recycling facilities, solid waste handling, and transfer facilities;
- viii) Public buildings, including schools, libraries, police stations, fire stations, municipal buildings, and similar buildings; What does “similar buildings” mean and who gets to define?

Staff Response to Comment City of Salinas – Provision E.1.d.viii

Similar buildings would be other City owned and/or operated buildings that have a similar potential to be significant sources of pollution in stormwater as schools, libraries, police stations, and fire stations. Central Coast Water Board staff added clarifying language to the Order. The City must evaluate the buildings they own and/or operate and add to this list any other buildings that are potential significant sources of stormwater pollution. Central Coast Water Board staff may also determine through compliance assessment efforts (e.g., audits, program reviews) during the term of the Order that additional buildings need to be included in the municipal inventory.

- ix) Public parking lots;
 - x) Roads;
 - xi) Public golf courses; and
 - xii) Public swimming pools.
- e) Municipal Maintenance Operations and Events It is not clear to me how these activities can be “inventoried.” How are Events defined?

Staff Response to Comment City of Salinas – Provision E.1.e

Events are described in Provision E.1.e.ix. Central Coast Water Board staff modified the language of the Order to clarify that Provision E.1.e.ix describes the events and to clarify what the event inventory would include. The City would inventory the reoccurring events by listing them (e.g., the Salinas Air Show at the Airport, the Saturday morning farmers market at “x” location, the Veterans Day Parade). The City would inventory the non-reoccurring events by general categories (e.g., various street fairs). The City would then include these events in their assessment and prioritization described in Provision E.2 and follow the requirements contained in Provision E for the events that are high priority (considered High Priority Municipal Facilities, Maintenance Operations, and Events) and follow the applicable requirements contained in Provision E for the events that are not high priority.

For operations, the City would inventory the general activity, not the specific instance of implementing the activity. For example, re-paving would be listed in the inventory and included in the City’s assessment and prioritization described in Provision E.2 based on typical re-paving jobs. The City would not inventory each specific re-paving job (e.g., the repaving of Main Street). Central Coast Water Board staff modified the language of the Order to clarify the inventory is for the general activity not the specific instance of that activity.

- i) Road and parking lot maintenance including pothole repair, pavement marking and striping, saw cutting, concrete work, curb and gutter replacement, buried utility repairs and installation, sealing, and re-paving.
- ii) Bridge maintenance, including re-chipping, grinding, and saw cutting.
- iii) Right-of-way maintenance, including mowing, herbicide and pesticide application, vegetation removal, and vegetation planting.
- iv) Landscape maintenance operations on municipal property (e.g., public right-of-ways, parks, and landscaped areas).
- v) Power washing.
- vi) Graffiti removal as well as bridge or other structural maintenance operations conducted directly over water or where discharges from these activities can enter the MS4 or water bodies. *Most above ground structures owned by the City are subject to Graffiti at least sometime during the year. This list could be extensive and require a lot of staff to document. Also, City contracts with others to provide graffiti removal and the utilities are also required to remove graffiti on their structures but sometimes the City does it for expediency. Is the City required to inventory this also? If the utility removes graffiti and we are not informed we did not inventory it we would be in technical violation of then permit. If we are not required to inventory those activities what good is it to inventory any of it?*

Staff Response to Comment City of Salinas – Provision E.1.e.vi

See Staff Response to Comment City of Salinas – Provision E.1.e. The inventory will be for graffiti removal activities in general and not each specific implementation of, for example, graffiti removal activity of a particular structure on a particular date. The purpose of including these activities in the inventory is to include them in the assessment and prioritization effort and implement appropriate BMPs depending on their potential threat to water quality.

- vii) Pesticide, herbicide, and fertilizer application, storage, and disposal.
- viii) Flood channel maintenance (e.g., clearing, mowing, sediment removal, and vegetation removal). *Again, this begs the question if we are responsible for the Reclamation Ditch. Define flood channel. If it is designated as within the floodway per FEMA FHBMs/FIRMs is that a flood channel?*

Staff Response to Comment City of Salinas – Provision E.1.e.viii

Central Coast Water Board staff added clarifying language to Provision E.1.e.x to specify only municipal maintenance operations need to be included in the inventory. Flood channel for this provision would mean a channel where clearing, mowing, sediment removal, or vegetation removal is performed for flood control purposes.

- ix) Outdoor festivals, parades, farmers markets, and street fairs. *A substantial portion of farmers markets and festivals are not held on City owned property or street right of way. Do we need to inventory them? What information do you want as defined by "inventory"? Is this the mere presence, location? Does it include operational plans and activities related to water quality like requiring trash cans? Restricting wash down activities? Requiring wash down activities if, say an ice cream cone is dropped on the pavement? Define.*

Staff Response to Comment City of Salinas – Provision E.1.e.ix

See Staff Response to Comment City of Salinas – Provision E.1.e.

The inventory would include public events that are held within the Permit coverage area that have the potential to generate significant pollutants.

The City would determine the appropriate BMPs to be required for events based their priority and the based on the types of pollutants likely to be generated. Requiring trash control, litter pick up, and proper collection of any pavement wash down water are examples of BMPs the City may determine are appropriate for the event, or category of events.

- 2) Municipal Facilities, Maintenance Operations, and Events Assessment – The Permittee shall perform an assessment of all inventoried Municipal Facilities, Maintenance Operations, and Events *(Is "events" defined somewhere? Are these City events or private events? This term does not read "Municipal". I do not recall that "events" is included in the existing permit. Is this a new requirement?)* each year. Each assessment shall at a minimum include implementation of each requirement listed below. The first annual assessment shall occur within *(or at the end of?)* 12 months of adoption of this Order. Subsequent annual assessments shall review the prior annual assessment and update it as needed.

Staff Response to Comment City of Salinas – Provision E.2

See Staff Response to Comment City of Salinas – Provision E.1.e.ix and Provision E.1.e. Events would include both City events and other public events with potential to impact water quality. The first annual assessment is required to occur sometime in the first 2 years of the Order. Subsequent annual assessments are required to occur each year. The City's existing Order No. R3-2004-0135 did not specify that events were to be included in the municipal inventory.

- a) Assessment of Pollutant Discharge Potential – The Permittee shall review the inventoried Municipal Facilities, Maintenance Operations, and Events to identify typical urban pollutants that are likely to be associated with each facility, operation, or event and assess the potential for the material and pollutants to be discharged in stormwater. At a minimum, the assessment shall consider the following typical urban pollutants: sediment, nutrients, metals, hydrocarbons, pesticides, chlorides, trash, bacteria, chlorine, organic matter, and other pollutants that are likely to be discharged in stormwater. *This then requires the inventory to require this information to be included. Is it intended that City staff attend each event to document this since we are required to "assess"? It is the only way to accurately assess potential pollutants. This will require City overtime (most events are held off hours), increased permit fees for events (legal nexus will require this effort be charged to the applicant, not general fund) consisting of anywhere from 3 to 10 hours to "assess" in the field, requiring office time to review event operational plans which must include methods for preventing or mitigating activities which might lead to*

pollutants entering the MS4 since the City is deemed responsible for all pollutants which enter it's system per other sections of the permit.

Staff Response to Comment City of Salinas – Provision E.2.a

The language of the provision states the City will perform their assessment based on typical pollutants that are likely to be associated with each facility, operation, or event. The City would not need to attend the event to perform the assessment. Central Coast Water Board staff recommends the City identify typical pollutants likely to be found in the type of event (for example, farmers markets), not each specific event based on direct field observations, and use that information when performing the assessment. This assessment would then determine if, for example, farmers markets would be identified as high priority or not and would also determine the types of standard BMPs that would be required for all farmers markets.

- b) Identification of High Priority Municipal Facilities, Maintenance Operations, and Events
- i) Based on the Assessment of Pollutant Discharge Potential, the Permittee shall identify as High Priority those Municipal Facilities, Maintenance Operations, and Events that pose higher potential threat to water quality based on, but not limited to, the following factors:
- (1) Type of activity;
 - (2) Materials used;
 - (3) Wastes generated;
 - (4) Pollutant discharge potential;
 - (5) Non-stormwater discharges;
 - (6) Proximity of site, operation, or event to receiving water bodies;
 - (7) Sensitivity of receiving water bodies;
 - (8) Whether the facility is subject to the General Industrial Permit or an individual NPDES permit;
 - (9) Whether the facility has filed a No Exposure Certification/Notice of Non-Applicability;
 - (10) Site design;
 - (11) Total area of the site, area of the site where municipal operations occur, and area of the site exposed to rainfall and runoff;
 - (12) Time since previous inspection;
 - (13) The facility, operation, or event's compliance history; and
 - (14) Any other relevant factors. *Again this further defines inventory and shows that the effort could be substantial from staff time and record keeping commitment. It could add as much as \$4,000 alone to a permit fee for an event like a street fair, daunting especially when a large portion are non-profit fund raisers.*

Staff Response to Comment City of Salinas – Provision E.2.b.i.14

See Staff Response to Comment City of Salinas – Provision E.2.a. In addition, Central Coast Water Board staff modified the language in Provision E.1.e.ix to clarify the assessment and prioritization will be based on typical similar events and not each individual event. For example, the City would not be specifically assessing each street fair. The City would be assessing street fairs in general based on typical street fairs in the City.

- ii) High Priority Municipal Facilities, Maintenance Operations, and Events - Municipal Facilities involved in vehicle or equipment maintenance or fueling, hazardous waste facilities, fuel or chemical storage locations, and any other facilities at which pollutants have a high potential to be discharged in stormwater shall be designated as High Priority Municipal Facilities. A minimum of 20 percent of the inventoried Municipal Facilities shall be designated as High Priority Municipal Facilities. *(Why does a minimum need to be designated as High Priority? Shouldn't an assessment or "inventory" determine this rather than just stating arbitrarily that 20% shall be so*

designated?” A minimum of 20 percent of the inventoried Municipal Maintenance Operations and Events shall be designated as High Priority Municipal Maintenance Operations and Events. (Same comment. What is the rationale and the justification for arbitrarily designated 20% as high priority?) The Permittee may submit to the Central Coast Water Board Executive Officer for approval a High Priority Municipal Facility and/or a High Priority Municipal Maintenance Operations and Events alternative that is less than 20 percent of inventoried Municipal Facilities, Operations, and Events. If the Permittee chooses to submit an alternative, the alternative must include demonstration that it will be as effective at reducing the discharge of pollutants to the MEP and protecting water quality as identifying 20 percent of inventoried Municipal Facilities, Operations, and Events as High Priority. (If this is the case for requiring a lesser than 20% initial demonstration, then there should be an equally burdensome requirement imposed upon Regional Board staff for initially having 20% identified as high priority.) The Permittee shall implement its program in accordance with a High Priority of no less than 20 percent of inventoried Municipal Facilities and Municipal Operations (Is this the same as “Maintenance Operations”? The terms appear to be used interchangeably throughout. Consistency would be helpful.) and Events until approval of the alternative by the Central Coast Water Board Executive Officer. Submittal of an alternative shall be provided to the Central Coast Water Board Executive Officer within 6 months of adoption of this Order. It is impossible to meet this schedule when in the first six months we will still be trying to sort out what this 359 page permit means and the implications. Events like the Salinas International Airshow are 3 day events (public attendance during 3 days) and require substantial time to set up and break down including practice sessions by the participating acts. Are we to be required to be present to “assess” the operation/impacts during the whole time? (But the first annual assessment does not have to be completed until 12 months into the Permit term. These two timelines should at least match...otherwise in effect the first annual assessment must be completed within 6 months.) City staff will need a significant amount of time in the first year to simply understand the overly complex requirements of this permit. Some items are of such a complex nature that there is no internal expertise to satisfy the requirement. There is a crucial time factor needed to assess what will have to be accomplished externally by contract and the lead time needed for deliverables for assessment by City staff. Items that have a 12 month completion date and are required to be reported in the first years Annual Report do not consider that staff will need 2-3 months of preparation time to compile an annual report to address the highly detailed requirements of this draft permit In order to report that the requirements of these (12 month) items have been met. They will have to be addressed in a much shorter period of time than the 12 month allocation would suggest.

Staff Response to Comment City of Salinas – Provision E.2.b.ii

The previous Order essentially requires the City of Salinas to treat everything as a high priority. Focusing on high priority sites under this Order will enable the City of Salinas to focus its municipal efforts and be more efficient. Prioritization allows a reduction of effort for items that are low priority. Without a minimum percentage, the City of Salinas could say that none of their facilities, operations and events are high priority, which would not meet the MEP standard. Twenty percent is based on the Pareto principle that for many events, roughly 80 percent of the effects come from 20 percent of the causes. If the City of Salinas determines that 20 percent is not appropriate, the draft Order allows the City of Salinas to propose another percentage.

Central Coast Water Board staff modified the language in Provisions E.2.b.i.11 and E.2.b.ii to consistently use "Maintenance Operations".

Central Coast Water Board staff modified the language in the Order to delete the 6 month deadline for submittal of an alternative.

See Staff Response to Comment City of Salinas – Provision E.2.a. Event assessment does not require event attendance by City staff.

This comment assumes the first Annual Report will be due 12 months after adoption of the Order (February 2nd). Per Attachment I.21 of the Order, Annual reports are not due until April 2nd of each year to provide the City two months after the completion of the year's activities to finish compiling the Annual Report.

- 3) Minimum BMPs for Municipal Facilities, Maintenance Operations, and Events – The Permittee shall develop and ensure the implementation of an effective set of BMPs for each inventoried Municipal Facility, Maintenance Operation, and Event, to reduce the discharge of pollutants in runoff to the MEP. The BMPs shall be combined into a manual, or equivalent, to facilitate use by field staff. The Permittee shall implement all BMPs within 12 months of adoption of this Order. These BMPs shall include, but not be limited to, each item listed below. *Here again is an overly broad requirement. Specific BMPs are listed as if for the purpose of staff intent, then the intent is expanded to BMPs to the MEP with no practical limit on what MEP means? We are also required to ensure implementation of the BMPs. If it is open ended as proposed then we could be in violation of the permit if we are audited and there is a difference of scope interpretation.*

Staff Response to Comment City of Salinas – Provision E.3

The list of BMPs is not intended to be exhaustive. The City must use their assessment of facilities, operations and events and add to this list any other BMPs required to produce a set of BMPs that is effective and will reduce the discharge of pollutants to the MEP. Central Coast Water Board staff has identified BMPs that are necessary to attain the MEP standard, but since the City is most familiar with its municipal facilities and operations, the City must also conduct an assessment to identify applicable BMPs.

See staff Response to Comment City of Salinas – Provision F.2.q for additional discussion on the MEP standard.

- a) Minimum BMPs listed in Section F.2 (Commercial and Industrial: Minimum BMPs) that are relevant to Municipal Facilities, Maintenance Operations or Events.
- b) Fueling Operation BMPs consisting of standard operating procedures for vehicle fueling and receiving of bulk fuel deliveries at Municipal Facilities to reduce the likelihood of spills and provide spill controls and clean up in the event that accidental spills do occur.
- c) Vehicle Maintenance BMPs consisting of standard operating procedures for vehicle maintenance and repair activities that occur at Municipal Facilities to reduce the likelihood of spills or releases and providing controls and clean up in the event that accidental spills do occur. Vehicle maintenance shall occur indoors or under covered areas.
- d) Equipment and Vehicle Washing BMPs that prohibits the discharge of equipment and vehicle wash wastewater to the MS4 or directly to receiving waters from municipal facilities. The Permittee shall meet this requirement by either installing a vehicle wash reclaim system, capturing and hauling the wastewater for proper disposal, connecting to the Salinas Industrial Wastewater Facility or Monterey Regional Water Pollution Control

Agency's regional wastewater treatment plant (with appropriate approvals and any pretreatment standards met), ceasing the activity, washing the equipment or vehicles at another properly managed location such as a private car wash, and/or applying for and obtaining a separate stormwater permit.

- e) BMPs to replace materials/chemicals with more environmentally benign materials or methods (e.g., use mechanical methods rather than herbicides, use water-based paints or thermoplastics rather than solvent-based paints for stripping). *The City already requires/uses thermoplastics within the public right of way. Will the City be required to require private sites to use thermoplastic? This could be a substantial cost impact especially for shopping centers. Solvent-based paint restrictions are air quality and not water quality requirements and do not belong in this permit. Delete.*

Staff Response to Comment City of Salinas – Provision E.3.e

The provisions in this Section refer to municipal operations and not the activities of private sites. Central Coast Water Board staff added clarifying language to Provision E.1.e.x.

- f) BMPs to change operations to minimize the exposure or mobilization of pollutants (e.g., mulch, compost, or landfill grass clippings) to prevent pollutants from entering surface waters. *The City already collects the clipping, etc. The City discourages use of air blowers by private operators as to blow debris into the storm drain (SD) system. The City cannot control all of these private operators. Since the City will be responsible for all that passively enters the MS4 the City could be in immediate violation of the permit. Many landscape operators are conducting business on a "word by mouth" basis as handymen and do not have a business license with the City. There is no way to track these non-permitted operators. City Staff addresses these issues when they are observed.*

Staff Response to Comment City of Salinas – Provisions Section E.3.f

The provisions in this Section refer to municipal operations and not the activities of private sites. Central Coast Water Board staff added clarifying language to Section E.1.e.x. The City of Salinas has the ability to control their own staff and contractors hired to perform municipal operations.

- g) BMPs for daily sweeping of roads and parking lots during maintenance operations that produce or disturb sediment or debris.
- h) BMPs for pesticide, herbicide, and fertilizer application, storage, and disposal, including the following:
- i) Training activities, permits, certifications, and other measures for municipal applicators and distributors;
 - ii) Integrated pest management measures that rely on non-chemical solutions for all municipal areas;
 - iii) Eliminating the use of pesticides and fertilizers within 48 hours prior to a likely precipitation event or irrigation. A likely precipitation event is any weather pattern that is forecast to have a 50 percent or greater probability of producing precipitation in the application area;
 - iv) Collection and proper disposal of unused pesticides, herbicides, and fertilizers;
 - v) A standardized protocol for the routine and non-routine application of pesticides, herbicides (including pre-emergents), and fertilizers;
 - vi) Prohibition of storage or application of banned or unregistered pesticides;
 - vii) Implementation of procedures to encourage the retention and planting of native vegetation to reduce water, pesticide, herbicide, and fertilizer needs;
 - viii) Limiting or replacing pesticide use (e.g., manual weed and insect removal);
 - ix) Limiting or eliminating the use of fertilizers. Prohibiting fertilizer application within 5 feet of pavement, 25 feet of a storm drain inlet, or 50 feet of a water body;

- x) Reducing mowing of grass to allow for greater pollutant attenuation, but not jeopardizing motorist safety;
 - xi) Storage of pesticides and fertilizers indoors or under cover on paved surfaces or use of secondary containment;
 - xii) Reduction in the use, storage, and handling of hazardous materials to reduce the potential for spills;
 - xiii) Regular inspection of storage areas;
 - xiv) Prohibition of use of pesticides on the CWA section 303(d) list for any water bodies the Permittee's MS4 is tributary to; and
 - xv) Provide direct supervision by a pesticide applicator, certified in the appropriate category, of municipal employees or contractors applying restricted use pesticides.
- i) BMPs for graffiti removal as well as bridge and other structural maintenance operations to prevent (I am not sure it is possible to totally "prevent" this from occurring.) polluted discharges, including the following:

Staff Response to Comment City of Salinas – Provision E.3.i

Central Coast Water Board staff deleted "all" and "any" from Provision E.3.i.

- i) Prevention of all debris, (Same comment. Does a BMP even exist to totally prevent this from occurring? How does "prevent" work with MEP?) including structural materials and coating debris, such as paint chips, or other debris and pollutants generated in bridge and structure maintenance or graffiti removal, from entering storm drains or water bodies;

Staff Response to Comment City of Salinas – Provision E.3.i.i

See Staff Response to Comment City of Salinas – Provision E.3.i.

- ii) Prevention of any discharge of debris (same comment), cleaning compound waste, paint waste, or wash water due to graffiti removal from entering storm drains or water bodies, through protection of nearby storm drain inlets or other means; and

Staff Response to Comment City of Salinas – Provision E.3.i.ii

See Staff Response to Comment City of Salinas – Provision E.3.i.

- iii) Proper disposal of wastes generated from these activities. Refer to the previous discussion on graffiti as to the problems associated with applying this to all graffiti removal activities.

Staff Response to Comment City of Salinas – Provision E.3.i.iii

See Staff Response to Comment City of Salinas – Provision E.1.e.vi. In addition, Central Coast Water Board staff added language to Provision E.1.e.x to specify that the inventory would only include graffiti removal for City owned/maintained property, not all graffiti removal activities.

- j) BMPs for all pavement washing, mobile cleaning, and pressure washing that prohibit the discharge (same comment) of wash water and non-stormwater to storm drains (the Permittee shall coordinate (Coordination requires participation by both parties. What if they choose not to cooperate with the City?) with the Salinas Industrial Wastewater Facility or Monterey Regional Water Pollution Control Agency's regional wastewater treatment plant (We can coordinate with the agency, but not with the plant.) to determine if disposal to these facilities is available for the wastewater generated from these activities, provided that appropriate approvals and any pretreatment standards are met). The IWTF cannot be used since it would be a violation of current WDRs. If all the activities required to be directed to the SS are done, it could result in overloading the SS collection system and appurtenant spills which would put the City in violation of this permit and subject to fines. Before requiring direction of discharges to the SS through this permit, a comprehensive analysis of the entire SS system is needed to determine the impacts. This will take time and significant capital outlay. This also could take significant capital outlay for upsizing the SS collection system and the MRWPCA plant.

An analysis like this would require an inventory of all commercial/industrial facilities not only to list the site address and use but to catalog all activities which could be required to discharge to the SS, the anticipated rate of discharge, when the discharge could occur, whether the existing SS system could accommodate the increased flows, cost for upgrading the system including MRWPCA plant. This will take up the time allotted (12 months) so the City will be in violation since it cannot meet the implementation schedule without risking SS spills. Keep in mind that the SS is not sized for the additional flows and many of the existing SS mains are at or near capacity. The cost for this detailed inventory and analysis will be substantial also.

Staff Response to Comment City of Salinas – Provision E.3.j

Central Coast Water Board staff replaced “prohibit” with “prevent” and added “managers” to Provision E.3.j of the Order. The requirement to coordinate with Monterey Regional Water Pollution Control Agency (MRWPCA) can be accomplished by the City contacting MRWPCA and asking if disposal to the facility is available. The Order doesn’t place the City out of compliance if MRWPCA does not agree to accept waste. The Order does require the City to not discharge their wash water into storm drains.

The Order requires the City to not discharge their municipal wash water into storm drains. The Order does not require the City to discharge wash water to the Salinas Industrial Wastewater Facility or the regional wastewater treatment plant. The language in this provision requires the City to determine if disposal to either of the wastewater facilities is available. If disposal at either wastewater facilities is not available, the City must use another method to prevent discharge of their wash water into storm drains. Central Coast Water Board staff note the City’s comment that disposal to the Salinas Industrial Wastewater Facility is not an option for wash water disposal.

The comment raises concern about additional flows into the Salinas Industrial Wastewater Facility or the regional wastewater treatment plant. The Order requires most types of non-stormwater to not be discharged to the MS4. The Order does not require the City to discharge these types of non-stormwater into the Salinas Industrial Wastewater Facility or the regional wastewater treatment plant. For non-stormwater that is not allowed in the MS4, the City has the choice to determine disposal method for this non-stormwater (one choice being discharge into the Salinas Industrial Wastewater Facility or the regional wastewater treatment plant). See Staff Response to Comment City of Salinas – Provision J.3.a.i.7 and Staff Response to Comment City of Salinas – Provision J.4.d.vi.

- k) All applicable BMPs that are described in the California Association of Stormwater Quality (CASQA) Handbook for Municipal Operations and the Caltrans Stormwater Quality Handbook Maintenance Staff Guide, May 2003 and its addenda (in the case where a conflict exists between the BMPs described in this Order and BMPs in the CASQA or Caltrans handbooks, the Permittee shall apply the BMP that is more protective of water quality). Again, here is an overly broad statement that negates the attempt of staff to define the intent above. Either define the intent in terms which can be interpreted the same by all or this permit opens the City up to third party lawsuits due to multiple interpretations as to what constitutes compliance.

Staff Response to Comment City of Salinas – Provision E.3.k

See Staff Response to Comment City of Salinas – Provision E.3.

- 4) High Priority Municipal Facilities, Maintenance Operations, and Events
- a) High Priority Municipal Facilities and Events Stormwater Pollution Prevention Plans - The Permittee shall develop, update, and implement an effective (How is the SWPPP evaluated for “effectiveness” and who makes that determination?) stormwater pollution

prevention plan (SWPPP) for each High Priority Municipal Facility and Event within 12 months of adoption of this Order. The SWPPP shall, at a minimum:

Staff Response to Comment City of Salinas – Provision E.4.a

A SWPPP is effective if implementation of the SWPPP reduces the discharge of pollutants to the MEP and protects water quality. The City of Salinas would evaluate the effectiveness and make modifications to the SWPPP if it is not effective.

- i) Identify BMPs (i.e., structural and non-structural BMPs, and operational improvements) installed, implemented, and maintained to minimize pollutants in runoff;
- ii) Include the appropriate stormwater BMPs described in Section E.3 (Minimum BMPs for Municipal Facilities, Maintenance Operations, and Events), any standard operating procedures, as well as inspection procedures, checklists, and schedules described in Section E.8 (Inspections of Municipal Facilities, Maintenance Operations and Events);
- iii) Include specific inspection checklists for each High Priority Municipal Facility and Event that identifies each designated BMP. The inspection checklist shall include implementation, installation, and maintenance requirements for each BMP so the inspector can make an objective assessment of whether each BMP is properly implemented, installed, and maintained;
- iv) Contain procedures for quarterly visual observation of stormwater discharges;
- v) Contain records of activities performed to comply with this Order;
- vi) Contain inspection schedules and all inspection records including weekly observations and quarterly inspections and visual observations of stormwater discharges;
- vii) Be maintained and be available for review by the Central Coast Water Board;
- viii) Be kept on-site at the facility, operation, or event for which it was completed; and
- ix) Be reviewed and updated each year, at a minimum, and more frequently if conditions change. Define more frequently if conditions change. Is there a limit to the frequency? What conditions are region 3 staff expecting will change? There are 248 City owned parcels so 20% would be 50 total City facilities that will be high priority plus at least the Salinas International Airshow plus say 4 other events for a total of 55 SWPPPs. Since SWPPPs have a defined format just preparing them would take over 3 months to provide the site plans and other required information at a cost of approximately \$5,000. Low end estimate would be over \$275,000 plus yearly inspections and updates/reporting, etc. and the cost of implementing the BMPs which is unknown but could well quadruple the costs to well over \$1m.

Staff Response to Comment City of Salinas – Provision E.4.a.ix

A change in conditions would be a change that resulted in the SWPPP becoming ineffective or obsolete. An example of a change of condition would be the addition of a vehicle fueling facility in one of the City of Salinas's corporation yards. Another example of a change of condition would be a modification on an adjacent property that resulted in the existing BMPs for a municipal facility to become ineffective. The estimates provided above make the incorrect assumption that the City of Salinas is starting from scratch in developing SWPPPs for their municipal operations. See Staff Response to Comment City of Salinas – Fact Sheet E.6.

- b) High Priority Maintenance Operations - The Permittee shall develop, update, and implement effective (Same comment as above re "effectiveness" determination.) standard operating procedures for stormwater pollution prevention for each High Priority Maintenance Operation within 12 months of adoption of this Order. The standard operating procedures shall, at a minimum:

Staff Response to Comment City of Salinas – Provision E.4.b

Standard operating procedures are effective if they are achieving the intended purpose to the MEP. The City of Salinas would evaluate the effectiveness and make modifications to the standard operating procedures if they are not effective.

- i) Identify BMPs (i.e., structural and non-structural BMPs, and operational improvements) installed, implemented, and maintained to minimize pollutants in runoff;
- ii) Include the appropriate stormwater BMPs described in Section E.3 (Minimum BMPs for Municipal Facilities, Maintenance Operations, and Events), as well as inspection procedures, checklists, and schedules described in Section E.8 (Inspections of Municipal Facilities, Maintenance Operations and Events);
- iii) Include specific inspection checklists for each High Priority Maintenance Operation that identifies each designated BMP in the standard operating procedures. The inspection checklist shall include implementation, installation, and maintenance requirements for each BMP so the inspector can make an objective assessment of whether each BMP is properly implemented, installed, and maintained;
- iv) Contain procedures for quarterly visual observation of stormwater discharges;
- v) Be maintained and be available for review by the Central Coast Water Board (Or the staff?); and

Staff Response to Comment City of Salinas – Provision E.4.b.v

Central Coast Water Board staff added “Staff” to the Order.

- vi) Be reviewed and updated each year, at a minimum, and more frequently if conditions change. Define more frequently if conditions change. Is here a limit to the frequency? What conditions are #Region 3 staff expecting will change?

Staff Response to Comment City of Salinas – Provision E.4.b.vi

See Staff Response to Comment City of Salinas – Provision E.4.a.ix.

- 5) MS4 System Operation and Maintenance – The Permittee shall properly operate and maintain the MS4 system to reduce the discharge of pollutants to the MEP. The Permittee shall implement each maintenance operation listed below, at a minimum, at all Permittee-owned and/or maintained MS4 system features.

- a) Catch Basins (3,557 City owned)

Staff Response to Comment City of Salinas – Provision E.5.a

Central Coast Water Board staff notes that the City owns 3,557 catch basins.

- i) Within 12 months of adoption of this Order, the Permittee shall inspect all catch basins. The Permittee shall measure and record the depth of each catch basin (i.e., the depth from the outlet pipe invert to the bottom of the catch basin sump-there are no sumps we are aware of due to vector issues and the existing soils conditions which limit percolation).- The City cannot comply. The City will be in violation. WG. The Permittee shall remove all sediment and debris from catch basins found to be at least 40 percent full, Current Standard -(i.e., the catch basin contains sediment and debris to at least 40 percent of its depth). In almost all cases the invert of the outlet pipe is the bottom of the catch basin. Typically, inspection of all catch basins and cleaning of those that meet the requirement begins in the spring just after the end of the wet weather season and is completed by October 1st of each year. This extended time period is needed due to the many other demands of the maintenance staff. The additional staff time needed to physically measure, record and enter into a database the volume of each of 3,557 catch basins is prohibitive to accomplish within the first year.

Staff Response to Comment City of Salinas – Provision E.5.a.i

Central Coast Water Board staff notes that nearly all catch basins in the City's MS4 do not contain sediment-capturing sumps. Therefore Central Coast Water Board staff modified Section E.5.a of the Order to include only the following elements:

- Annual inspection of all catch basins and cleaning of all catch basins with outlet pipes at least 40% occluded, during the first two years;
- Determination of sediment and debris depth in inspected catch basins;
- Identification of a more protective cleaning threshold by the end of Year 2;
- Identification of high priority catch basins by the end of Year 2;
- Inspection of all high priority catch basins and a percentage of non-high-priority catch basins each year, beginning in Year 3;
- Cleaning of all catch basins found to exceed the modified cleaning threshold, beginning in Year 3;
- Cleaning within 14 days for catch basins that can be cleaned by hand or handi-clam, and prior to the subsequent wet season for catch basins requiring use of a vacuum truck;
- Ongoing modification of the catch basin prioritization, on the basis of data; and
- Measuring and recording the total volume of sediment and debris removed from catch basins each year, for the Permit coverage area as a whole and for each Urban Subwatershed.

Central Coast Water Board staff also modified Section E.15, Section P.1.b.ii.1, Section P.8, and Fact Sheet XII.P.5 consistent with the above modifications.

- ii) By the end of Year 2, the Permittee shall develop and implement each year, a tiered catch basin inspection schedule based on findings of inspections conducted during Year 1.
 - (1) The Permittee shall designate all catch basins found to be at least 60 percent full as High Priority Catch Basins. High Priority Catch Basins shall be inspected a minimum of once during the rainy season and once during the dry season each year.
 - (2) The Permittee shall initially designate all other catch basins as Medium Priority Catch Basins. Medium Priority Catch Basins shall be inspected a minimum of once during the dry season each year.
- iii) During each inspection of a catch basin, the Permittee shall determine the amount of sediment and debris present as a percentage of the catch basin's capacity (e.g., 25 percent full).
- iv) The Permittee shall clean catch basins whenever they are determined during inspection to be at least 40 percent full, or whenever collected sediment and debris is within 12 inches of the outlet pipe invert. *See 5.a.i above. (12 inch requirement is not applicable.)* Catch basins so determined shall be cleaned out within 1 week of discovery. *(1 week may not be a reasonable amount of time...the City works 4-days per week due to budgetary furloughs.)* *Approximately 424 Catch basins were marked for cleaning during the 2011 inspections. 378 were cleaned with a handi-clam at the time of the inspection (same day). 46 were scheduled for vacuuming with the hydro-vac truck. Inspections are conducted one maintenance zone at a time through 18 zones. The 46 were discovered at various times during inspections over the 18 zones. These are typically scheduled as one maintenance project during the latter months of the dry weather season so that there are not multiple small interruptions for the hydro trucks that are conducting sanitary sewer maintenance in accordance with the States General Sanitary Sewer Permit. One week does not allow for weekends, holidays and mandatory furlough days that may allow as little as*

3 working days to respond with this 7 day requirement. This requirement should be changed to a minimum Of 14 working days.

Staff Response to Comment City of Salinas – Provision E.5.a.iv

See Staff Response to Comment City of Salinas – Provision E.5.a.i.

- v) The Permittee shall modify the inspection priority of catch basins on the basis of inspections.
 - (1) The Permittee shall increase the inspection priority of any catch basin found to be at least 60 percent full at any inspection to ensure that catch basins are cleaned before they reach 60 percent of capacity. (It is not clear how this section and section 5.ii.(1) are intended to work together.) If High Priority Catch Basins are found to be at least 60 percent of capacity at any inspection, the Permittee shall increase the inspection frequency for those catch basins to once during the dry season and twice during the wet season each year. Not consistent with once during wet season in 5.ii.1. above.

Staff Response to Comment City of Salinas – Provision E.5.a.v.1

See Staff Response to Comment City of Salinas – Provision E.5.a.i.

- (2) The Permittee may designate catch basins as Low Priority Catch Basins when at least two years of inspection data indicates that sediment and debris are accumulating in the catch basin at a rate that justifies the reduction of inspection frequency (e.g., a catch basin is found to be filling at a rate of 5 percent each year, and is less than 30 percent full). The Permittee shall inspect Low Priority Catch Basins every other year during the dry season.
- vi) The Permittee shall measure the volume of solids removed from catch basins Measure (by weight, physical size ?) Though both can occupy the same volume of space Magnolia leaves are not the same density as compacted sand or dirt.- The Permittee shall track the volume of solids removed in each Urban Subwatershed. See Section Q.2 for watershed delineation (Watershed Characterization: Watershed Delineation).

Staff Response to Comment City of Salinas – Provision E.5.a.vi

See Staff Response to Comment City of Salinas – Provision E.5.a.i. “Measure the volume” means to measure the volume of sediment and debris removed in an appropriate unit, such as cubic yards.

- b) Wastes, debris, and water removed during normal and emergency maintenance operations shall not be placed into the MS4 and shall be properly disposed. Decant from vacor trucks shall be discharged to the sanitary sewer or an appropriately designed dewatering facility. This whole section should be deleted because it assumes a physical condition of the catch basin which does not exist (sumps). The only way the City could measure would be to install catchments or Vortex units at each outfall.

Staff Response to Comment City of Salinas – Provision E.5.b

Central Coast Water Board staff assumes this comment is in regards to Provision E.5.a and not E.5.b. See Staff Response to Comment City of Salinas – Provision E.5.a.vi. Central Coast Water Board staff also deleted the sentence beginning with the word “Decant,” as the intention of the sentence is already stated in the previous sentence.

- 6) Street Sweeping and Cleaning
 - a) Within 12 months of adoption of this Order, the Permittee shall develop and keep current a map that indicates all sweeping routes, of all municipally-owned or operated streets and parking lots, and the priority designation of each route City already has this. In this case priority designation is the sweeping schedule for each route. Maps are available for each sweeping route.

Staff Response to Comment City of Salinas – Provision E.6.a

Many requirements contained in the Order are for things the City is required to already have completed under their existing Order No. R3-2004-0135. The City will verify the items developed under the existing Order comply with the requirements of the Order and make any needed updates.

- i) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall integrate sweeping routes into the Permittee's watershed characterization map developed according to Section Q.1 (Watershed Characterization: Watershed Data Information Management).
- b) The Permittee shall track the number of route miles swept and the volume of solids collected, normalized for moisture content *(this is not practical)*, for each sweeping event for each route. *So are we to sample each load to determine moisture content or assume a content? The curb miles for each route are established and are a static number posted on the route map. RC The sweepers have water spray bars at the front bumper, side brooms and at the conveyor belts or vacuum heads. Per manufacturer guidelines water is used throughout the route for dust suppression and to prevent sand blasting of the various sweeper mechanisms and hoppers. Water is also picked up at the curb and gutter from incidental standing water from various sources (such as from low spots, cross gutters or poor drainage from tree raised curb and gutter areas after a light rain. In the last 12 month reporting period the street sweepers used 475,650 gallons of water during sweeping operations. Much of this is sucked into the hopper and aids in the compaction of the sweeper loads inside the hopper so more can be contained before having to make a trip to dump the sweeper load. Determining volume of solids adjusted for moisture content is prohibitive as water content can vary greatly depending on conditions. Previously reported cubic yards are based on the capacity of the hopper on each sweeper. eg. A 5 cubic yard hopper ½ full is 2.5 cu. yards. These volumes are estimates based on visual observation. Some sweepers are built to raise the dump body and dump directly into a trash container. In this case the operator does not see the complete content of the hopper and may have to estimate 3; 4 or 5 cu. yds. of material. We do not determine whether it is 5 cu. yds. of compacted sand or 5 cubic yards of leaves or trash or a combination of all three. The time needed to analyze each load, log it and determine moisture content (how?), (that can vary substantially), is prohibitive and not conducive to our ability to complete the sweeping routes*

Staff Response to Comment City of Salinas – Provision E.6.b

Central Coast Water Board staff revised the Order to remove the requirement to normalize for moisture content. Central Coast Water Board staff recognizes that a certain degree of estimation is involved in determining the volume of solids collected through street sweeping. The measures cited in the comment, which the City currently uses to determine the volume of solids collected, are sufficient for the purposes of the Order.

- c) Within 12 months of adoption of this Order, the Permittee shall calculate the average volume of solids collected, normalized for moisture content *(again, how?)*, per route mile swept for each route. *This must be a dry weather assessment between March 1, and October 1 during the dry weather season. Fall season leaf drop on tree lined street would grossly impact the solids average as 4,000 cubic yards of leaves are removed from City streets from October through February each year. It is sometimes necessary to curtail sweeping on some routes in favor of the heavy leaf drop areas at the peak of leaf season.* The Permittee shall use this information to prioritize routes for sweeping.

Staff Response to Comment City of Salinas – Provision E.6.c

See Staff Response to Comment City of Salinas – Provision E.6.b. Central Coast Water Board staff also revised the Order to require measurement and assessment based on solids collected only during the dry season.

- i) High Priority Routes – *If implemented this may impact multiple routes as routes are structured so that the route does not occur concurrent with garbage pick up. RC* The Permittee shall designate as High Priority Routes those routes which were found to have the highest averages of solids removed per route mile swept. The Permittee shall designate a minimum of 20 percent of routes as High Priority Routes, with the percentage based on route length (i.e., 20 percent of the total miles of routes within the Permit coverage area). *(Why does a minimum number need to be designated? Shouldn't the designation of priority be based on the relative risk to water quality? This seems arbitrary.)CC* The Fact Sheet/Rationale Technical Report does not site any industry recognized study to support this seemingly arbitrary standard. The 20% minimum does not recognize whether there are minor, or major differences in the volumes of solids per curb mile or if they are all the same. In this scenario if all the routes are the same or similar in averages, 20 percent would still have to be swept at a greater frequency. This means a 100% increase in costs for sweeping brooms, misc. parts and vehicle wear and repairs, fuel, oil and water usage for each route that is moved from an every two week schedule to a weekly schedule. Please site an industry standard or comprehensive third party or municipal study that supports this standard. RC The Permittee may submit to the Central Coast Water Board Executive Officer for approval a High Priority Route alternative that is less than 20 percent. If the Permittee chooses to submit an alternative, the alternative must include demonstration that it will be as effective at reducing the discharge of pollutants to the MEP and protecting water quality as identifying 20 percent of routes as High Priority. *(Same comment as above: The Regional Board staff should provide the same level of justification for having 20% designated as high priority.)* The Permittee shall implement its program in accordance with 20 percent of routes being High Priority until approval of the alternative by the Central Coast Water Board Executive Officer. Submittal of an alternative shall be provided to the Central Coast Water Board Executive Officer within 6 months of adoption of this Order. *Cannot be met per previous discussion. (Same comment as above: This should be 12-months to match the time during which the City is required to perform its assessment.)*

Staff Response to Comment City of Salinas – Provision E.6.c.i

Central Coast Water Board staff modified the methodology contained in the Order for assessing and modifying the street sweeping schedule. The revised methodology focuses on schedule modifications which optimize total solids removal for the same total number of route miles. The revised methodology therefore focuses on increasing the effectiveness of the City's street sweeping efforts at reducing sediment and street debris. The Order retains language allowing the City to propose an alternative equivalent methodology, but Central Coast Water Board staff deleted the requirement that the City must submit its proposal within 6 months.

- ii) Low Priority Routes – The Permittee shall designate as Low Priority Routes those routes which were found to have the lowest averages of solids removed per route mile swept. The Permittee shall designate no more than 20 percent of routes as Low Priority Routes, with the percentage based on route length. This requirement has no defensible standards for implementation. With this standard, a route that has 10 cubic yards per curb mile is equivalent to a route that has 100 cu. yards per curb mile as long as they both fit into the 20% with the lowest average of solids. This reduction in service does not recognize political boundaries that constituents receive equal

services and increased service to business districts for obvious reasons. Doesn't this standard partially defeat the purpose of increasing sweeping by 100 % on High Priority routes. Decreasing the sweeping frequency of 20% of the sweeping routes by 50 % may negate the benefit of the 100% increase on high priority routes. Again this is an arbitrary standard. The Permittee may submit to the Central Coast Water Board Executive Officer for approval a Low Priority Route alternative that is greater than 20 percent. If the Permittee chooses to submit an alternative, the alternative must include demonstration that it will be as effective at reducing the discharge of pollutants to the MEP and protecting water quality as identifying only 20 percent of routes as Low Priority. The Permittee shall implement its program in accordance with no more than 20 percent of routes being Low Priority until approval of the alternative by the Central Coast Water Board Executive Officer. Submittal of an alternative shall be provided to the Central Coast Water Board Executive Officer within 6 months of adoption of this Order. Should be 12 months consistent with plan assessment and implementation.

Staff Response to Comment City of Salinas – Provision E.6.c.ii

See Staff Response to Comment City of Salinas – Provision E.6.c.i.

For the comment relating to constituents receiving equal services, a street sweeping schedule that sweeps areas more frequently that contain more sediment and debris could be argued to be more equitable to citizens. Currently, the majority of the City is swept at the same frequency, regardless of how dirty the streets are. Therefore, citizens that live in areas that have more sediment/debris are living with dirtier streets and are currently not being provided with the same service as those that live in areas that have less sediment and debris.

For the comment suggesting that a revised sweeping schedule could result in less total debris/sediment removal, the City will be collecting the data each year and will be providing in their Report of Waste Discharge a comparison of how successful the revised schedule has been in removing more debris and sediment. This information will be used in writing the City's next permit.

- iii) Medium Priority Routes – The Permittee shall designate as Medium Priority Routes those routes which are not designated as High Priority Routes or Low Priority Routes. All of this assumes that when each load is emptied and can be determined that all of that route is of a certain priority due to the amount of sediment collected when in all reality the concentration of sediment can vary considerably throughout the route. This also will negatively affect trash reduction currently accomplished by the sweeping since the pattern is currently determined by the trash pick up schedule (swept the day after in most cases to allow receptacles to be moved from the street) to capture trash that may have spilled for receptacle emptying by the solid waste company. Two patterns would then have to be developed, one for sediment and one for trash reduction and cost would need to double to comply with this permit. The majority of sediment comes from agricultural operations that is either wind blown or tracked into the City which the City does not control. Delete this entire requirement and keep the current pattern of sweeping (after trash pickup) since it is logical.

Staff Response to Comment City of Salinas – Provision E.6.c.iii

Central Coast Water Board staff recognizes that sediment concentrations will vary from point to point within a given sweeping route. Therefore assessments required by this Order are based on the average of solids collected per route mile. This language allows the City to conduct the volume measurement at the end of each route, rather than mile per mile.

Central Coast Water Board staff modified the methodology contained in this Order for assessing and modifying the street sweeping schedule to optimize total solids removal for the same level of effort (see Staff Response to Comment City of Salinas – Provision E.6.c.i). Therefore Central Coast Water Board staff does not believe that modifying street sweeping frequencies will negatively affect overall trash reduction or require two separate sweeping patterns. Section N of this Order requires the City to develop a plan for reducing trash loads. The language in Section N provides the City with flexibility to achieve this objective, including the flexibility to increase sweeping frequency of all routes if the City so chooses. This flexibility is not precluded by language contained in Section E.6 of this Order. At the same time, the revised Order does not require the City to increase the total number of route miles swept per year beyond the small incremental increase resulting from the difficulty of matching exactly the total miles swept.

d) Sweeping Frequency

- i) During Year 1, the Permittee shall sweep all municipally-owned or maintained streets and parking lots in accordance with their existing frequency (i.e., as specified in the most recently approved SWMP for Order No. R3-2004-0135).
- ii) Beginning in Year 2, the Permittee shall sweep all municipally-owned or maintained streets and parking lots each year in accordance with the following frequency: [Parking lots are not considered as sweeping routes. They generally are surface areas without curb and gutters and without sweeping miles to calculate. They vary in size by square footage. This formula does not work and cannot be applied for determining parking lot sweeping frequency.](#)

Staff Response to Comment City of Salinas – Provision E.6.d.ii

Central Coast Water Board staff revised the Order to base sweeping requirements on sweeping routes currently used by the City. Where these routes include parking lots, if any, solids removed from the parking lots will be included in the volume of solids collected for the route as a whole.

- (1) High Priority Routes – average of at least weekly;
- (2) Medium Priority Routes – average of at least bi-weekly; and
- Low Priority Routes – monthly. [This standard should be an average of twice monthly. We are currently on an every other week standard as above. We have found that this schedule is not conducive to street signage for street sweeping days nor for posting sweeping routes on the Web. There is no way to post this frequency schedule on street signs if in the future we are able to accomplish this task. For signage a route must be on a specific schedule such as every 2nd and 4th Wednesday of each month. You cannot sign the street with information that your street is swept every other week as the calendar day continually changes due to months with 5 calendar weeks. A typical two month route in this scenario would be Sept. 2nd, 16th and 30th and October 14th and 28th. Web posting of the schedule is equally cumbersome. Instead of posting specific days as in “Your street is swept on the 2nd and 4th Wednesday of each month” the web posting would have to be specific dates instead of specific days as above. This would mean that for 28 routes each route would have 27 sweeping dates or there would be 756 annual calendar dates to post for all 28 routes and all of those would need to be changed annually as the calendar changes each year. The City will need to change its current schedules to the 2nd and 4th Wednesday scenario. This standard should be changed to twice monthly.](#)

Staff Response to Comment City of Salinas – Provision E.6.d.ii.2

Central Coast Water Board staff modified the methodology contained in this Order for assessing and modifying the street sweeping schedule (see Staff Response to Comment City of Salinas –

Provision E.6.c.i). The revisions include flexibility for the City to sweep routes twice per month instead of biweekly.

e) If the Permittee's existing overall street sweeping effort provides equivalent or greater street sweeping frequency relative to the requirements above, the Permittee may continue to implement its existing street sweeping activities. (And if the existing is less, than the City is required to do more?) Overall we exceed this new standard as far as frequency is concerned. However, they are not prioritize for volume of materials collected. Current sweeping frequency is as follows.

- Sweeping Routes: 14% swept weekly (4 routes)
- Sweeping Routes: 86% swept bi-weekly (24 routes)

Under this plan 5.6 of our 28 routes would need to be swept weekly. As mentioned above, currently 4 routes are weekly. The impact would be if the current weekly routes (Downtown, and main thoroughfares for obvious reasons) don't fall into the high priority category. Then sweeping would have to be reduced in favor of the new high priority areas.

Staff Response to Comment City of Salinas – Provision E.6.e

Central Coast Water Board staff deleted this paragraph from this Order. Central Coast Water Board staff modified the methodology contained in this Order for assessing and modifying the street sweeping schedule to optimize total solids removal for the same level of effort (see Staff Response to Comment City of Salinas – Provision E.6.c.i). Since the revised methodology is designed to optimize total solids removal for the same level of effort, modifications will increase the volume of solids removed compared to the City's current level of effort.

e)f) By the end of Year 4, Permittee shall evaluate and modify the sweeping route priority designations established according to Section E.6.c (Municipal Maintenance: Street Sweeping and Cleaning) on the basis of the ratios of solids removed per route mile swept during the Dry Season for each route. This criteria is too nebulous. Does this mean that a medium priority route that yields an average 20 cubic yards of material and now yields 21 cubic yards must be changed to a high priority route because the nearest High Priority route now yields 20 cubic yards instead of 21. Based on a 150,000 population each route change affects approximately 5,500 residents. The flip-flopping of two residential routes affects approximately 11,000 residents that must learn a new sweeping schedule. Changing route frequency starts a domino effect of arranging multiple routes so that we do not conflict with all the garbage pickup routes, (a route full of garbage cans at the curb is as good as a street full of cars – you can't sweep at the curb. There must be some criteria other than 'this route produced more than that one', to change the route frequency.

Staff Response to Comment City of Salinas – Provision E.6.f

Central Coast Water Board staff deleted this paragraph from this Order. Central Coast Water Board staff modified the methodology contained in this Order for assessing and modifying the street sweeping schedule to optimize total solids removal for the same level of effort (see Staff Response to Comment City of Salinas – Provision E.6.c.i). Central Coast Water Board staff believes that this change addresses concerns raised in the comment that the methodology for designating route priorities and sweeping frequencies is unclear, arbitrary, and increases effort without commensurate increase in water quality benefit. This revision also bases sweeping schedule changes more squarely on achieving overall pollutant reduction and water quality protection, which is an adequate rationale for program modifications, particularly when the modifications do not result in a significant increase in level of effort.

Central Coast Water Board staff also recognizes that changing street sweeping schedules requires adjustments for business owners and residents as well as City staff. At the same time, federal regulations require the City to modify its program to reduce pollutants in stormwater discharges to the MEP and protect water quality. Therefore Central Coast Water Board staff revised this Order to require only one modification of route sweeping frequencies during the term of this Order.

Since this Order requires street sweeping on a weekly basis (weekly, biweekly/semi-monthly, or monthly), and since trash collection also typically follows a weekly schedule, Central Coast Water Board staff believes the City will be able to conduct street sweeping operations in a way that does not conflict with trash collection.

Central Coast Water Board staff recognizes that street sweeping is much less effective when street sweeping equipment can't access the curb and gutter. See Staff Response to Comment City of Salinas – Provision E.6.h.iii.

f)g) In areas where street sweeping is technically infeasible (e.g., streets without curbs), the Permittee shall increase implementation of other trash/litter BMP procedures to minimize pollutant discharges to storm drains and water bodies. The Permittee shall show on its street sweeping map the location of these areas. *This specifies that all new areas without curbs will implement trash reduction BMPs such as inlet screens since there is no other BMP which meets MEP criteria.*

Staff Response to Comment City of Salinas – Provision E.6.g

The language contained in this Order does not restrict the City to using inlet screens as the only means of complying with this Order. Federal regulations require the City to reduce pollutants in stormwater discharges to the MEP and to protect water quality. If the City approves new development or redevelopment without curb and gutter, thereby reducing or eliminating the effectiveness of street sweeping at removing pollutants, Central Coast Water Board staff does not believe it inappropriate for this Order to require the City to implement alternative BMPs. One reference the City can use for examples of trash reduction BMPs is the “Municipal Best Management Practices for Controlling Trash and Debris in Stormwater and Urban Runoff” prepared by the California Coastal Commission and the Rivers to Sea Project. This document can be found at http://www.plasticdebris.org/Trash_BMPs_for_Munis.pdf

g)h) Sweeping Equipment Selection and Operation

- i) When replacing existing sweeping equipment, the Permittee shall select and operate high-performing sweepers that are efficient in removing pollutants, including fine particulates, from impervious surfaces. *(The City Council has obligations under the law with respect to purchasing, e.g., accepting the lowest bid. There are a lot of factors which go into any governmental agency's purchasing determinations which must be taken into consideration. The City cannot legally predetermine which products it will purchase.)*

Staff Response to Comment City of Salinas – Provision E.6.h.i

Central Coast Water Board staff finds it unlikely that the City's purchasing obligations require the City to purchase ineffective equipment simply because it is cheapest. The language contained in this Order does not require the City to purchase the most effective equipment, only equipment that will be effective at the task for which it is purchased.

- ii) The Permittee shall track equipment design performance specifications to ensure that street sweeping equipment is operated at the proper equipment design speed with appropriate verification, and that equipment is properly maintained. *How do we verify? What kind of verification will the Regional Board accept? Installing GPS is*

costly and excessive. Additionally tracking employees by GPS can become a volatile Union issue.

Staff Response to Comment City of Salinas – Provision E.6.h.ii

Central Coast Water Board staff does not believe it is necessary for this Order to specify the means of compliance with this requirement, since a variety of means exist. For instance, a daily log showing miles swept and the length of time required, or periodic spot checks of sweeper operation, could provide adequate verification that street sweeping equipment is being operated at a speed that optimizes its effectiveness.

- iii) The Permittee shall operate sweepers to optimize pollutant removal by providing sweepers access to the curb through the use of parking restrictions that clear the curb or through effective public outreach to inform citizens of sweeping days and times so that voluntary curb clearing can occur. *This will cost the City a lot of money. Ther are 271+/- miles of City street and one can assume with parking two sides except for arterials. Reducing the amount by 50% accounting for major streets with no parking and intersections =271+/- miles of curb. To restrict parking would require placement of no parking limitation signs say every 200 feet to be legally visible for enforcement so 7154 signs. At a cost of \$50/sign installation that is a cost of \$357,720 not including enforcement costs or towing or staff time for determining no parking times etc. Changing them constantly based on the sweeping schedule for sediment per above would cost even more. The current routing system is not conducive to posting routing information on the web. Residential routes are swept every other week. This schedule does not result in a consistent calendar date (ie. Every first and third Wednesday). To incorporate the first and third Wednesday concept would require a reduction of residential sweeping from the current 27 weeks annually to 24 weeks annually. Further changing the routes at year 2 and again at year four is not conducive to a signage program regardless of cost. It is also difficult for our constituents to be advised of and remember a sweeping schedule if it is a floating target for change. The use of the term“effective” public outreach implies that with knowledge of the sweeping program that a majority of residents will remove the cars from the street. This is not an outcome that can be controlled nor predicted through the posting of schedules on the web or by other notification methods.*

Staff Response to Comment City of Salinas – Provision E.6.h.iii

The Order does not require the City to restrict parking. The comment suggests that the City does not currently have measures in place to enable street sweeping equipment access to the curb and gutter. As stated in the Fact Sheet Section XII.E.8, the effectiveness of street sweeping efforts is linked to being able to sweep at the curb. As a result, the comment raises concerns regarding the effectiveness of the City’s street sweeping efforts. The City is required to assess and report on the effectiveness of its efforts at reducing pollutants to the MEP and protecting water quality. Therefore Central Coast Water Board staff revised this Order to include Sections E.6.f.iii.1-3, which require the City to estimate and report the percentage of curb miles that are actually swept during street sweeping operations, and to develop and implement a strategy to increase this percentage over time.

See Staff Response to Comment City of Salinas – Provision E.6.f.

Federal regulations and this Order require the City to implement effective measures to reduce pollutants in stormwater discharges to the MEP and to protect water quality. This includes developing and implementing education and outreach programs that are effective at raising awareness and changing behavior.

h)j) Sweeper Waste Material Disposal – Within 12 months of adoption of this Order, the Permittee shall develop and implement an effective procedure to properly dewater and dispose of street sweeper waste material. This procedure shall ensure that water and material will not reenter the MS4 or enter water bodies. City already disposes of it's waste properly. Why dewater if disposed of properly? It would require handling the material twice. Should the waste be kilned? Screened? Define how to dewater. We have no means to dewater the waste material if that is in fact the intent.

Staff Response to Comment City of Salinas – Provision E.6.i

See Staff Response to Comment City of Salinas – Provision E.6.a. Central Coast Water Board staff deleted the phrase “dewater and” from this Order, as the intent of this requirement is to ensure that water and material will not reenter the MS4 or enter water bodies, and this intent is already stated in the paragraph.

h)j) Tracking of Dirt and Other Debris onto Streets – Within 12 months of adoption of this Order, the Permittee shall develop and implement effective BMPs to reduce the tracking of dirt and other debris onto streets, regardless of its source (e.g., construction sites, commercial operations, landscape operations, agricultural operations). The City has no control over agricultural operations due to ag waiver and this should be controlled by region 3, not the City. Without ag tracking there is no source since construction sites are already controlled. Within 12 months of adoption of this Order, the Permittee shall develop and utilize its legal authority (e.g., municipal codes, ordinances, statutes, standards, specifications, permits, contracts, or other means) to enforce the reduction of dirt and other debris tracked onto streets. The Permittee shall implement the progressive Enforcement Response Plan (Section S.2 [Legal Authority: Enforcement Measures and Tracking]) and take all necessary follow-up actions (e.g., warnings, notices, escalated enforcement, follow-up) to ensure operations are brought into compliance. The Permittee shall respond to and document all complaints received from third-parties and document any required corrective actions and the implementation of corrective actions. The Permittee shall utilize the reporting system described in Section H.4 (Illicit Discharge Detection and Elimination: Illicit Discharge Reporting System) to facilitate third-party complaints of tracking of dirt and other debris onto streets. Delete this requirement. City cannot comply since it has no jurisdiction over ag.

Staff Response to Comment City of Salinas – Provision E.6.j

The City of Salinas must be able to regulate the tracking of dirt and debris onto public streets, regardless of source. The City owns, operates, and has jurisdiction over its public streets, which also serve as part of the City's MS4. The City cannot passively receive and discharge through its MS4 pollutants from third parties. These pollutants must be reduced to the MEP and managed to protect water quality. As such, the Order requires the City to develop and implement BMPs to address tracking of dirt and other debris onto its streets.

The existing Agricultural Order (R3-2004-0117) does not limit the authority of the City or County. The existing Agricultural Order is a conditional waiver of waste discharge requirements from irrigated lands used for commercial crop production. The Central Coast Water Board implements and enforces the existing Agricultural Order by requiring enrolled agricultural operations to conduct monitoring and implement practices to treat or control discharges of waste to waters of the State (including sediment). The existing Agricultural Order does not directly regulate agricultural dirt and debris that is tracked onto city streets, roads, or highways.

7) Maintenance of Structural BMP Verification

a) The requirements of Section E.7 (Maintenance of Structural BMP Verification) apply to the following structural BMPs:

- i) Owned or operated by the Permittee and privately owned or operated that were installed to comply with Order No. R3-2004-0135;
 - ii) Owned or operated by the Permittee and privately owned or operated that were installed to comply with this Order's requirements for Priority Development Projects; and
 - iii) Owned or operated by the Permittee that serve a water quality function.
- b) The Permittee shall implement, within 12 months of adoption of this Order, effective verification of the maintenance of structural BMPs that at a minimum, includes the requirements contained in Section E.7.c through Section E.7.k.
 - c) Each structural BMP shall be maintained such that it continues to fully achieve its intended function for the life of the project. Structural BMPs designed to achieve a quantitative stormwater management objective shall be maintained such that they continue to achieve the specifications they were designed to achieve.
 - d) The Permittee shall develop and maintain an effective information management system to track all structural BMPs that contains, at a minimum:
 - i) Name and address of the structural BMP;
 - ii) The owner and operator of the structural BMP;
 - iii) Urban Subwatershed where the BMP is located; Why needed? We will have to go back through all of our current inventory to delineate.

Staff Response to Comment City of Salinas – Provision E.7.d.iii

The purpose of populating the City's information management system with the locations, based on Urban Subwatershed, of existing and future structural BMPs, is to inform the effectiveness of the City's stormwater management program at the Urban Subwatershed scale. Provision P.2 includes requirements for quantifying the pollutant loads and pollutant load reductions and runoff volume quantification at the Urban Subwatershed scale. To populate the information about the pollutant load and runoff volume reductions the City must have an understanding of BMPs being used to mitigate for urban impacts affecting stormwater.

The City's SWDS, under existing Order No. R3-2004-0135, requires the City to inspect structural BMPs installed pursuant to the requirements in existing Order No. R3-2004-0135; therefore, Central Coast Water Board staff assumes the City already has information about the location of existing structural BMPs. Central Coast Water Board staff anticipates the task of identifying the Urban Subwatershed where each existing BMP is located, using the City's existing records, should not be a very onerous task. The Order identifies nine Urban Subwatersheds, so the City should be able to use fairly coarse maps to conduct this exercise.

- iv) A site level map showing the location and extent of the installed structural BMPs that depicts the BMPs in relation to other site features and landmarks;
- v) Date(s) the structural BMPs were installed;
- vi) Designation of the BMP as a structural BMP designed to achieve a quantitative stormwater management objective or not; How can this be done? We would need to research all installed structural devices if they have a quantitative treatment level and for what flows? Are we to retroactively apply quantitative objectives? Are all BMPs which do not have a quantitative rating not BMPs? LID included? Delete.

Staff Response to Comment City of Salinas – Provision E.7.d.vi

The purpose of this requirement is designate which structural BMPs have a measureable quantitative treatment and/or flow management objective verses which structural BMPs do not have a measureable quantitative objective. Quantitative structural BMPs are structural BMPs that are designed to achieve a quantitative stormwater management objective (e.g., specific pollutant load reduction, retention of a specific volume of rainwater). The City is required to inspect structural BMPs to verify that the BMPs maintain their intended design functions. BMPs

with measureable quantitative objects will be assessed differently than those that do not have measureable quantitative objects. The City's SWDS under existing Order No. R3-2004-0135 details that post-construction BMPs must be maintained and inspected as described in the project's Stormwater Control Plan (SWCP). The SWCP should contain detailed information about a project's structural BMPs, because this is the plan that the project applicant used to demonstrate compliance with the SWDS to the City for design approval. The SWCPs for existing projects should provide ample information to populate the information required by Provision E.7.d.vi for existing structural BMPs.

Provision E.7.b requires the City to populate its information management system with the information detailed in Provisions E.7.c through E.7.k for the projects listed in Provision E.7.a. BMPs to manage stormwater can be structural and non-structural and can be quantitative and non-quantitative. LID BMPs can be structural and non-structural and can be quantitative and non-quantitative.

- vii) Designation of whether or not an O&M Plan (see Section J.4.i [Parcel Scale Development: Operation and Maintenance Plans for Flow Control and Treatment BMPs]) or maintenance agreement is required for the BMP;
- viii) For structural BMPs designed to achieve a quantitative stormwater management objective: the stormwater management objective and any other maintenance requirements necessary to achieve the quantitative objective; *Delete requirement.*

Staff Response to Comment City of Salinas – Provision E.7.d.viii

See Staff Response to Comment City of Salinas – Provision E.7.d.vi.

- ix) For BMPs with O&M Plans or maintenance agreements: Plan or agreement requirements;
 - x) For BMPs without O&M Plans: Maintenance procedures required for the BMP to continue to fully achieve its intended function;
 - xi) Dates and findings of inspections (routine and follow-up) including any corrective or enforcement actions taken.
- e) Structural BMP Rapid Assessment - Within 24 months of adoption of this Order, the Permittee shall develop a Structural BMP Rapid Assessment methodology to assess the maintenance needs of each structural BMP. The Permittee shall use the Lake Tahoe BMP Maintenance Rapid Assessment Methodology¹ (BMP RAM), or equivalent, to develop the Structural BMP Rapid Assessment methodology. *We have not been provided enough time to research what the impact of this will be. The one thing we do know is the restrictions of the Lake Tahoe basin are the most restrictive in California, if not the country as a whole and probably should not apply in our watershed considering the other pollutants which enter the MS4 from other sources. The cost impact are likely to be significant.* The methodology shall establish maintenance thresholds and benchmarks necessary to maintain BMP performance and generate a BMP RAM score for each BMP at each inspection.

Staff Response to Comment City of Salinas – Provision E.7.e

BMP performance relies upon adequate maintenance. Because of the importance of BMP maintenance, it is appropriate for the Order to include requirements for the City to use a standardized maintenance assessment methodology. The Lake Tahoe Structural BMP Maintenance Rapid Assessment Methodology (BMP RAM) is a simple and effective tool for determining when structural BMPs require maintenance to maintain their effectiveness at reducing pollutants. In addition, the BMP RAM provides flexibility for the City to identify

¹ 2NDNATURE LLC et. al. September 2009. *BMP RAM Technical Document, Lake Tahoe Basin*. Prepared for the U.S. Army Corps of Engineers, Sacramento District.

maintenance thresholds that are appropriate for the City's structural BMPs to maintain their design conditions. The tool is already developed and can be simply applied to the City, saving the City the cost of developing its own methodology. This Order also provides flexibility for the City to develop an alternative methodology if the City so chooses.

- f) The Permittee shall implement a prioritized plan for inspecting all structural BMPs that, at a minimum, implements each item listed below.
 - i) Inspection of Installed Privately-Owned or Operated Structural BMPs – The Permittee shall inspect all installed privately-owned or operated structural BMPs at least once every 5 years. *This is mixing privately owned BMPs into the municipal arena when it should be included in the commercial/industrial and residential sections if included at all. These inspections will be a cost to the private sector which is hidden in the Municipal section.* The Permittee shall use the developed Structural BMP Rapid Assessment methodology and shall ensure private owners or operators have been maintaining the BMP such that it fully achieves its intended function and the owners have been performing inspections and maintenance as required by the O&M Plan or maintenance agreement. *Again you are using absolute terms like ensure which we cannot comply with which will result in the City being in violation of the permit from day one. It is impossible to "ensure". How can we "ensure" they have been inspecting them?*

Staff Response to Comment City of Salinas – Provision E.7.f.i

Central Coast Water Board staff acknowledges the placement of the structural BMP maintenance could potentially have been placed in other Sections of the Order. Central Coast Water Board staff determined the Municipal Maintenance Section was the best fit, since this section is already addressing structural BMP maintenance.

For comment on "ensure", see Staff Response to Comment City of Salinas - Provision F.8

- ii) Beginning in Year 1, inspection by the Permittee of all installed Permittee owned or operated structural BMPs at least once each year. Once the Structural BMP Rapid Assessment is developed, the annual inspections shall include the BMP Rapid Assessment (starting no later than Year 3).
- g) For privately owned or operated BMPs, the Permittee shall follow an enforcement strategy using the Enforcement Response Plan to bring owners and operators into compliance.
- h) The Permittee shall perform required maintenance for all Permittee-owned or operated BMPs receiving a BMP RAM score less than "acceptable," as defined in the BMP RAM, at any inspection.
- i) For Permittee-owned or operated structural BMPs with O&M Plans, the Permittee shall implement the O&M Plan. If the O&M Plan is not effective at keeping the BMP in a condition to continue to fully achieve its intended function, the Permittee shall make improvements to the O&M Plan.
- j) For all other Permittee-owned or operated structural BMPs, the Permittee shall perform maintenance as needed for the structural BMP so that the structural BMP continues to fully achieve its intended function.
- k) The Permittee shall maintain legal authority to inspect privately owned or operated structural BMPs and enforce maintenance standards to ensure these structural BMPs are maintained such that the structural BMPs continue to fully achieve the structural BMPs intended function. *Explain how we are to enforce?*

Staff Response to Comment City of Salinas – Provision E.7.k

The Order provides the City with the flexibility to determine the how the City would enforce the maintenance of structural BMPs.

- l) It is recommended, but not required, that the Permittee keep photographic records of structural BMP to aid in future assessments and inspections. *This requirement should be revised to include inspection of BMPs installed to a twice a year inspection, once prior to the beginning of the rainy season and once during the rainy season to determine the structural BMP is still in operation and that the BM is being maintained per the manufacturer's instructions, if provided. Let's be practical here.*

Staff Response to Comment City of Salinas – Provision E.7.I

Central Coast Water Board staff assumes this comment is regarding Provision E.7.f and not E.7.I because it is about inspection frequencies. The City is suggesting in this comment that structural BMPs should be inspected more frequently (twice a year) than is required by the Order in Provision E.7.f. The inspection frequency listed in Provision E.7.f is a minimum, the City is free to inspect more frequently.

- 8) Inspections of Municipal Facilities, Maintenance Operations, and Events – Within 12 months of adoption of this Order, the Permittee shall develop effective *(Same comment re "effectiveness" determination.)* municipal inspections that at a minimum meet each item listed below. Beginning in Year 2, the Permittee shall implement the municipal inspection requirements each year.

Staff Response to Comment City of Salinas – Provision E.8

Inspections are effective if they result in implementation of BMPs that reduce the discharge of pollutants to the MEP and protect water quality. The City of Salinas would evaluate the effectiveness and make modifications to the inspections if they are not effective.

- a) Weekly Visual Observations – The Permittee shall weekly perform visual observations of all Municipal Facilities, Maintenance Operations, and Events *Define Events.* to ensure materials and equipment are clean and orderly, and to minimize the potential for pollutant discharge. The Permittee shall look for evidence of spills and debris and immediately clean them up to prevent contact with precipitation or runoff. The Permittee shall identify any corrective actions and verify the corrective action is completed. For Maintenance Operations that are occurring in multiple locations simultaneously, the weekly visual observations do not need to occur at every location but can be weekly rotating spot checks of some operations such that all crews are observed frequently. *Does this include City streets? With 271 miles at say an average of 10 miles an hour given stop signs and traffic signals, if nothing is found, it will take 271 hours/week. Since currently there are 36 working hours due to staff furloughs per week, it will take 7.5 employees plus equipment to perform this task. At a loaded rate of \$100,000 per year that is \$750,000/year cost to the City and does not include reporting and mitigation work. Add another 50% for another staff member to observe and note any discrepancies so that the driver is tasked only with observing the road for safety purposes. With just the 248 City parcels, allowing for an hour per parcel, it would take 248 hours/week or 7 staff or \$700,000 per year. Delete this requirement.*

Staff Response to Comment City of Salinas – Provision E.8.a

See Staff Response to Comment City of Salinas – Provision E.1.e for definition of events.

Central Coast Water Board staff added "inventoried" to Provision E.8.a of the Order to clarify that the inspections are only for the items inventoried in Provision E.1. Central Coast Water Board staff added "(excluding roads)" to the Order to clarify that City streets do not need be inspected weekly

The weekly observations are not intended to take one hour per parcel. The Order requires a weekly visual observation that materials and equipment are clean and orderly, and that any spills and debris have been cleaned up. All of the inventoried municipal facilities should already

have staff at the facilities at least once a week. Central Coast Water Board Staff recommends the City incorporate visual observations of clean and orderly material and equipment and spill/debris clean up into the existing staff's job responsibilities so that staff can efficiently perform the visual observation as they go about their typical job activities. For municipal maintenance operations, the Order allows these to be weekly rotating spot checks of some operations. Central Coast Water Board staff removed "Events" from Provision E.8.a and E.8.b so that only events that are high priority need quarterly inspections.

- b) Annual Inspections – The Permittee shall perform inspections each year of all Municipal Facilities, Maintenance Operations, and Events not designated as High Priority to ensure all minimum BMPs identified in Section E.3 (Minimum BMPs for Municipal Facilities, Maintenance Operations and Events) are implemented effectively. The inspections shall identify any modifications or additions required to reduce the pollutants in runoff to the MEP. *This means retrofits if new more effective BMPs are discovered. Modify so that the BMPs shall be maintained as installed and delete any reference to MP or modifications or additions.* The Permittee shall identify any corrective actions and verify the corrective action is completed.

Staff Response to Comment City of Salinas – Provision E.8.b

The minimum BMPs identified in Provision E.3 are typical source control and good housekeeping BMPs, the majority of which the City is required to have implemented already under existing Order No. R3-2004-0135. The City developed (and has been required to implement) SWPPPs for all municipal facilities under existing Order No. R3-2004-0135. Federal regulations require the City to implement their stormwater program to achieve the MEP standard.

The City suggests in the comment that the MEP standard means that the City always has to upgrade/retrofit to the most effective BMP available. MEP can be an iterative process but does not mean that the City would always have to upgrade to the most effective BMP regardless of cost. See staff Response to Comment City of Salinas – Provision F.2.q for additional discussion on MEP.

- c) Quarterly Inspections for High Priority Municipal Facilities, Maintenance Operations, and Events – The Permittee shall conduct quarterly inspections of all High Priority Municipal Facilities, Maintenance Operations, and Events.
- i) Inspection Procedures
- (1) Inspections shall include, but not be limited to the following:
 - (a) Assessment of the effective implementation of the Municipal Facility, Operation or Event SWPPP;
 - (b) Assessment of compliance with this Order, Permittee ordinances and permits related to runoff;
 - (c) Assessment of BMP implementation, maintenance, and effectiveness;
 - (d) Visual observations for non-stormwater discharges, potential illicit connections, and potential pollutants in runoff ; and
 - (e) Education and training on stormwater pollution prevention, as conditions warrant.
 - (2) The Permittee shall complete the specific inspection checklist contained in the SWPPP or standard operating procedures.
 - (3) Inspection Rating – The Permittee shall determine the Inspection Rating for each inspected facility, operation, and event using the methodology described in Attachment G, or an equivalent methodology approved by the Central Coast Regional Water Board Executive Officer. *(This creates the possibility that the*

methodology can be changed mid-stream without any rational or discussion. This essentially operates as an administrative amendment of the Permit.)

Staff Response to Comment City of Salinas – Provision E.8.c.i.3

The equivalent methodology language is an opportunity for the City of Salinas to propose an alternative. Methodology would only change mid-stream if proposed by the City of Salinas. Central Coast Water Board staff added “developed by the Permittee” to the Order to provide clarity.

- ii) The Permittee shall identify any BMPs that are not implemented effectively, or are not properly installed or maintained, and any additional BMPs required at each High Priority Municipal Facility, Operation, or Event to reduce pollutant discharges to the MEP and protect water quality.
- iii) The Permittee shall notify the responsible party of each High Priority Municipal Facility, Operation, or Event of the results of inspection, including the Compliance Percentage, any BMPs that are not implemented effectively, and any required additions or modifications to BMPs.
- iv) Low-Performing High Priority Municipal Facilities and Operations – The Permittee shall reinspect each High Priority Municipal Facility and Operation with an Inspection Rating of “E” or less within 30 days. The Permittee shall calculate the Inspection Rating for each reinspected facility and operation. The Permittee shall continue to reinspect the low-performing facility or operation as necessary, at intervals not to exceed 30 days, until there is a demonstrable quantifiable improvement in Inspection Rating.
- v) Visual Observation of Stormwater Discharges - The quarterly inspections shall include visual observations of the quality of the runoff discharges from each High Priority Municipal Facility, Maintenance Operation, and Event (unless climate conditions preclude doing so, in which case the Permittee shall evaluate the discharges four times during the rainy season). For Events that are less than 3 months in duration, one observation shall occur. Observed problems (e.g., color, foam, sheen, turbidity) that can be associated with pollutant sources or BMPs shall be remedied. Within three days, the observed problem shall be remedied, or for complex problems, a plan to promptly remedy the observed problem shall be developed within three days. *Similar costs will be incurred by the City in that the City cannot afford and the City will be in violation.*

Staff Response to Comment City of Salinas – Provision E.8.c.v

The requirements contained in this provision are recommended by USEPA. The suggested USEPA language would have required the City to remedy all observed problems that can be associated with pollutant sources within three days.¹ Central Coast Water Board provided the City with additional flexibility by allowing the City more time for complex problems.

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011, page 73.

- d) Information Management – The Permittee shall develop and maintain an information management system to record and track the following inspection information for each Municipal Facility, Operation, and Event:
 - i) Required inspection frequency and type (e.g., weekly visual observation, annual inspection, High Priority quarterly inspection and visual observation of stormwater discharge);
 - ii) Dates of all inspections and reinspections and type of inspection performed;
 - iii) For each inspection: corrective actions or any additional/modified BMPs required;
 - iv) Dates that corrective actions or additional/modified BMPs were implemented;

- v) Whether the recorded inspection is a reinspection;
- vi) If the responsible party was notified of the results of the inspection; and
- vii) For High Priority Municipal Facilities, Maintenance Operations, and Events:
 - (1) The number of specific BMPs required at each site;
 - (2) Results of inspections, including the inspection checklist, the number of BMPs implemented effectively or properly installed and maintained and the Compliance Percentage;
 - (3) Sites requiring reinspection within 30 days; and
 - (4) Results of the quarterly visual observations of stormwater discharges. Provide an example of how this has been implemented elsewhere, what software and hardware are needed, and what the cost is for the above. If it is not being required elsewhere then the cost impact is unknown and should be determined prior to requiring compliance.

Staff Response to Comment City of Salinas – Provision E.8.d.vii.4

Documentation of inspections is a standard component of municipal stormwater programs throughout the country. An effective information management system for tracking inspections can be accomplished through a spreadsheet program or a variety of other methods. The City has been required under existing Order No. R3-2004-0135 to document inspections. If the City is looking for ideas on how to efficiently improve their current tracking method, the City should contact other municipalities.

Central Coast Water Board staff is not required to develop permit costs prior to requiring compliance. Based on the fact the City is required already to track compliance with the Order, and compliance tracking is done routinely nationwide, Central Coast Water Board staff does not anticipate the cost of information management to be prohibitive. Also see Fact Sheet V for a discussion of economic issues.

- 9) New Flood Management Projects – Within 12 months of adoption of this Order, the Permittee shall develop and implement a process to assess and reduce the water quality impacts in the design of all new flood management projects that are associated with the Permittee or that discharge to the MS4. This process shall include implementation of BMPs that will reduce the impacts to site water quality and hydrology. This would require us to have jurisdiction over the Monterey County Water Resources Agency since they are the flood control agency. This is not something the City wishes to do, may not be possible to do without legislation and cannot be completed within 12 months if at all.

Staff Response to Comment City of Salinas – Provision E.9

The provision states that it only applies to projects that are associated with the City or that discharge to the MS4. If there are no projects that meet these conditions, then the requirements of Provision E.9 would not apply. The Reclamation Ditch is not part of the City's MS4 since it is owned and operated by MCWRA.

- 10) Information Management – The Permittee shall develop and maintain an effective information management system to record and track the information required in this Section. Outputs from the information management system are to be made available to the Central Coast Water Board (staff?) upon request. In addition to the inventory and information management requirements specified in Sections E.6 (Street Sweeping and Cleaning), E.7 (Maintenance of Structural BMP Verification) and E.8 (Inspections of Municipal Facilities, Maintenance Operations, and Events), the information management system shall at a minimum include each requirement listed below. The information management system shall be implemented within 12 months of adoption of this Order, unless otherwise specified.

Staff Response to Comment City of Salinas – Provision E.10

Central Coast Water Board staff added "staff" to the Order.

- a) MS4 System – For catch basins, other inlets, and outfall/outlets, the information management system shall include the location, individual identifier, type, maintenance requirements, maintenance schedules, Urban Subwatershed location (as defined by Section Q.2 (Watershed Characterization: Watershed Delineation)), and the department and personnel (*by title, not name of employee*) responsible for inspections. In addition, the information management system shall include:

Staff Response to Comment City of Salinas – Provision E.10.a

Central Coast Water Board staff added “(staff position)” to the Order to clarify that the personnel responsible should be by staff position and not by name of employee in case employees change. Central Coast Water Board staff deleted details that were redundant to Provision Q.2.

- i) Catch Basins
 - (1) The priority assigned to each catch basin according to Section E.5 (Municipal Maintenance: MS4 System Operation and Maintenance)
 - (2) The date each catch basin was inspected
 - (3) The fullness percentage of each catch basin for each inspection
 - (4) The date and a description of maintenance performed, including cleaning
- ii) Inlets to the MS4 (excluding catch basins)
 - (1) The date each inlet was inspected
 - (2) Maintenance performed, including date and description of maintenance
- iii) Each Outfall
 - (1) The date each outfall was inspected
 - (2) Maintenance performed, including date and description of maintenance
- iv) Surface Drainage Structures (see Section N.2 [Trash Load Reduction: Trash Reduction BMPs])
 - (1) Identification of all open channel and other surface drainage structure segments
 - (2) Identification of problem areas
 - (3) Required inspection schedule for each structure segment
 - (4) Dates structure segment was inspected and the inspection findings
 - (5) Dates trash or other debris was removed from structure segment
- b) Structural BMPs
 - i) The date each structural BMP was inspected
 - ii) The RAM score for each BMP at each inspection
 - iii) Maintenance performed, including date and description of maintenance
 - iv) Urban Subwatershed location
- c) Structural BMPs designed to achieve a quantitative stormwater management objective
 - i) The pollutants targeted by the BMP
 - ii) The expected pollutant removal for each targeted pollutant, expressed as an effluent concentration
 - iii) The expected hydrologic benefit of the BMP (e.g., runoff volume reduction)
 - iv) The date each BMP was inspected
 - v) The RAM score for each BMP at each inspection
 - vi) Maintenance performed, including date and description of maintenance
 - vii) The RAM score for each BMP following maintenance
 - viii) Urban Subwatershed location
- d) Municipal Facilities, Municipal Maintenance Operations, and Events
 - i) Assessments performed per Section E.2 (Municipal Facility, Maintenance Operations, and Event Assessment)
 - ii) Identification of High Priority Municipal Facilities, Municipal Maintenance Operations, and Events
 - iii) BMPs required

- iv) Location of SWPPP and date last updated (if SWPPP required)
- v) Inspections of High Priority Municipal Facilities, Operations, and Events
 - (1) Dates of all inspections and reinspections
 - (2) Results of all inspections and reinspections, including the Inspection Rating and any required corrective actions
- vi) Pesticide, Herbicide and Fertilizer Use
 - (1) The amount of pesticide, herbicide, and/or fertilizer applied by the Permittee (or staff not employed by the Permittee), by type (i.e., pesticide, herbicide, or fertilizer), product name or primary chemical constituent, and date
 - (2) The dates of all rain events that produce runoff – When pesticides or fertilizers are used, the Permittee shall retain records of precipitation forecast from the National Weather Service Forecast Office (e.g., by entering the location zip code at <http://www.srh.noaa.gov/forecast>).
- vii) Urban Subwatershed location
- e) New Flood Management Projects
 - i) Flood management projects being planned in the Permit coverage area
 - ii) BMPs implemented for each project The information management system that would be required is not within the current capabilities of the City. It would take a GIS system to actually be able to track all of the components required and facilitate all of the reports required at a cost of \$750,000 which has been verified by our water resources consultant.

Staff Response to Comment City of Salinas – Provision E.10.e.ii

Central Coast Water Board staff assumes based on content that this comment is for Provision E.10 in general and not specific to E.10.e.ii.

Central Coast Water Board staff modified the language of Provision E.10 for catch basins to only require the information management system to include the maintenance and inspection records. Provision E does not require the City to map anything in addition to what is specified in Provision Q.2. See Staff Response to Provision Q.2.b.v for a discussion on GIS. Central Coast Water Board staff also deleted non-catch basin inlets and outfalls from the municipal information management system because the municipal maintenance provisions do not specify maintenance of these system components.

- 11) Coordination With Monterey County Water Resources Agency – Within 2 years of adoption of this Order, the Permittee shall collaborate with Monterey County Water Resources Agency *(What is intended by “collaborate”? “Coordinate” may be a better term; however, either collaboration or coordination requires that both parties be willing and able. The City may be, but MCWRA may not be able to.)* to identify each MS4’s contributions, roles and responsibilities, jurisdictions, and legal authority regarding stormwater management and maintenance of the Salinas Reclamation Ditch. The City has explained the difficulties of complying with this order to region 3 staff. This requirement puts the City in jeopardy of being in violation since it requires the City to accomplish something that is not under its control. (And is there an expected outcome? Also, this provisions gives the City 2-years to make a determination (in collaboration with MCWRA) re the legal authority over the Rec Ditch, yet other Draft Permit provisions make the City immediately responsible for certain activities re the Rec Ditch, e.g., the trash requirements. Shouldn’t the jurisdictional and control issues be resolved before the City is obligated to take on any responsibilities re the Rec Ditch?)

Staff Response to Comment City of Salinas – Provision E.11

Central Coast Water Board staff modified the language in the Order to not hold the City responsible if MCWRA refuses to have discussions with the City. Central Coast Water Board Staff did not change “collaborate” to “coordinate” because both parties will have to participate in order to identify the items listed in this provision. Central Coast Water Board staff clarified the language in the Order (see staff Response to Comment City of Salinas – Supplemental 21) to make it clear that the Reclamation Ditch is not part of the City’s MS4. The City is responsible for discharges from their MS4 into the Reclamation Ditch and is not responsible for other discharges into the Reclamation Ditch.

Central Coast Water Board staff modified the language of Provision P.3.b.vii to give the City another option if they are unable to perform trash assessment activities in the Reclamation Ditch. The language in the Order is consistent with MCWRA owning and operating the Reclamation Ditch.

- 12) Salinas River Outfall – Within 12 months of adoption of this Order, the Permittee shall develop and submit to the Central Coast Water Board Executive Officer for approval, a plan to decrease the pollutant loads (including nutrients, salts, pathogen indicators, and pesticides) discharged from the Salinas River outfall. The plan shall include: *(If there is a model or a sample of what the Regional Board staff is looking for here, that would be helpful. Whenever a requirement is imposed, it would be helpful to know specifically the form and content which will be required so that the result can be produced as efficiently, i.e., as cheaply, as possible without having to revisit and make changes.)*
- a) Pollutant source identification;
 - b) Ranking of pollutant sources in terms of priority;
 - c) Identification of actions that will provide measurable pollutant load reduction outcomes;
 - d) Ranking of actions in terms of expected effectiveness;
 - e) Identification of actions to be implemented;
 - f) An implementation schedule;
 - g) Measurable pollutant load reduction outcomes;
 - h) Monitoring plan to monitor the Salinas River Outfall after actions are implemented that is consistent with CCAMP and the Receiving Water Monitoring described in Attachment D - Monitoring and Reporting Program; and
 - i) Identification of how the Permittee will assess effectiveness of the implemented actions and make any needed modifications to the plan. *This is an additional cost to the City.*

Staff Response to Comment City of Salinas – Provisions E.12 and E.12.i

Central Coast Water Board Staff does not have a specific example for the City of Salinas to follow. If the City of Salinas is concerned about the efficiency of developing an adequate plan, Staff recommends the City of Salinas discuss their planned approach for writing the plan with Central Coast Water Board staff early in the process so Central Coast Water Board Staff can provide input before the City of Salinas invests a substantial amount of time. Assessing effectiveness of the actions and making needed modifications is necessary to achieve the reduction in pollutant loads. If actions are not effective, the City of Salinas will be spending resources without results.

- 13) Training – The Permittee shall ensure that all municipal staff whose job duties are related to implementing the municipal maintenance requirements of this Order have the knowledge and understanding necessary to effectively implement this Order. All applicable municipal staff shall be trained each year. New municipal staff, or municipal staff new to a position related to municipal maintenance operations or events, shall be trained within one year of hire or attainment of new position. The Permittee shall perform an assessment of trained

municipal staff's knowledge of municipal stormwater program implementation and shall revise the training to address any deficiencies each year. Training documents shall be available for review by the Central Coast Water Board (staff?). The training shall, at a minimum, include each item listed below.

Staff Response to Comment City of Salinas – Provision E.13

Central Coast Water Board staff added "Staff" to the draft Order.

- a) The requirements of this Order that relate to the municipal staff's job duties The document is too lengthy to realistically be able to accomplish this. Region 3 staff does not have a handle on this document to be able to provide this training at this point in time.

Staff Response to Comment City of Salinas – Provision E.13.a

The City cannot implement the requirements of the draft Order without training their staff on what they need to do for successful implementation of the draft Order. Staff don't have to be trained on the entire draft Order, they only need to be trained on items that relate to their job duties. The March 2011 audit of the City's compliance with existing Order No. R3-2004-0135 found staff that didn't know the requirements of the Order that pertained to their job duties and therefore the requirements were not being implemented.

- b) The connection between municipal operations and water quality impacts
 c) How to effectively implement municipal BMPs specific to the municipal staff's job duties
 d) The administrative requirements of this Order, such as reporting and tracking
 e) For street sweeper operators (both Permittee employees and contractors): Training to enhance operations for water quality benefit
 f) For municipal staff or contractors applying or storing pesticides or fertilizers: Training in Integrated Pest Management techniques and the BMPs described in Section E.3.h (BMPs for pesticide, herbicide, and fertilizer application, storage, and disposal).
 g) Illicit discharge training as described in Section H.12 (Illicit Discharge Detection and Elimination: Illicit Discharge Training)
 h) For inspectors: The knowledge to readily identify deficiencies and evaluate the appropriateness and effectiveness of deployed BMPs and SWPPPs
 i) Refresher training for existing municipal staff each year to fill any knowledge gaps identified in the annual training assessment and to update municipal staff on preferred BMPs, current advancements in BMP technologies, regulation changes, Order updates, and policy or standards updates.
 j) Throughout the year municipal staff shall be updated (the training, right? This does not suggest that staff be changed...) if changes occur.

Staff Response to Comment City of Salinas – Provision E.13.j

Central Coast Water Board staff replaced "updated" with "kept up-to-date" in the draft Order for clarity.

- k) Staff not Employed by the Permittee – If the Permittee contracts out to others to implement portions of the municipal stormwater requirements of this order, these outside staff shall be trained per the requirements listed in this Section.

14) Staff Not Employed by the Permittee

- a) The Permittee is responsible for the effective implementation of the requirements in this Section regardless if the work is performed by municipal staff or contracted to others. Contracts for the performance of any municipal activity shall include requirements to comply with applicable BMPs and any other applicable requirements of this Order.
 b) The Permittee shall perform oversight of operations performed by others to ensure the effective implementation of the requirements of this Order. The City hires consultants to supplement staff and provide expertise the City does not have. To expect the City to be

responsible for contracted work is unrealistic. To require the City to “ensure” work by others is in conformance is also unattainable. Delete 14 in it’s entirety.

Staff Response to Comment City of Salinas – Provision E.14.b

Contracting out work does not absolve the City of Salinas from complying with the Order. The language in the Order is necessary to make it clear the City is responsible for the implementation of the requirements of the Order regardless of whether or not their own staff performs the work or the work is contracted out to others. Even if the City contracts out the work to others because they lack expertise, the City of Salinas needs to provide oversight to make sure the draft Order is complied with.

15) Reporting

- a) In the Year 1 Annual Report, the Permittee shall include: *Per previous discussion cannot comply with the schedules as each missed schedule impacts the next.*

Staff Response to Comment City of Salinas – Provision E.15.a

See previous responses.

- i) The municipal inventory;
- ii) A list of minimum BMPs developed for each inventoried Municipal Facility, Maintenance Operation, and Event;
- iii) Verification of SWPPPs development for each High Priority Municipal Facility, and Event;
- iv) Verification of standard operating procedures developed for each High Priority Maintenance Operation;
- v) The checklists developed for each High Priority Municipal Facility, Maintenance Operation, and Event;
- vi) A description of the information management system(s) developed to track the information required by this Section;
- vii) A summary of the results of catch basin inspection, including verification that all catch basins were inspected and cleaned as required, the total number of catch basins in the Permit coverage area, and the number of catch basins assigned to each priority category;
- viii) Street sweeping map showing priority designation assigned to each street (*change to read each route* and parking lot *(as previously discussed the priority rating requirements to not apply to parking lot sweeping. Please provide a different methodology.)* for sweeping and the criteria used for designation;

Staff Response to Comment City of Salinas – Provision E.15.a.viii

Central Coast Water Board staff modified this provision such that the sweeping map only needs to show the frequency assigned to each street and parking lot (e.g., weekly, twice a month, monthly).

- ix) A summary of sweeping activities performed;
 - x) The number of sweeping routes designated in each priority category;
 - xi) A description of the BMPs developed and legal authority developed to reduce tracking of dirt and other debris onto streets;
 - xii) A description of the procedure developed to dewater and dispose of street sweeper waste material;
 - xiii) A description of the developed Maintenance of Structural BMP Verification;
 - xiv) A description of the process developed to assess new flood management projects; and
 - xv) The plan developed for the Salinas River outfall.
- b) In the Year 2 Annual Report and each subsequent Annual Report, the Permittee shall include:

- i) A description of updates made to the municipal inventory including the reasoning for the update;
- ii) A description of updates made to the minimum BMPs including the reasoning for the update;
- iii) A description of updates made to High Priority Municipal Facility, Maintenance Operation, and Event SWPPPs including the reasoning for the update;
- iv) A description of updates made to the checklists for each High Priority Municipal Facility, Maintenance Operation, and Event including the reasoning for the update;
- v) A description of changes to the catch basin priority designations, including catch basins found to be at least 60 percent full that have been assigned to a higher priority inspection schedule, and the number of catch basins reduced to Low Priority Catch Basins with the justification for the changes in inspection priority;
- vi) A description of the implementation of the BMPs to reduce tracking of dirt and other debris onto streets including a description of any corrective actions taken;
- vii) A description of the Structural BMP Rapid Assessment methodology developed and the maintenance needs of each structural BMP (Year 2 Annual Report only);
- viii) Maintenance of Structural BMPs

(1) For each structural BMP inspected during the reporting period, the Permittee shall report the following information in electronic tabular format: *(what does this mean?)*

Staff Response to Comment City of Salinas – Provision E.15.b.viii.1

“Electronic tabular format” means a table organized to display the required information in a clear way, that is submitted electronically, or as part of a larger electronic document, to facilitate Central Coast Water Board staff’s analysis of the information. Central Coast Water Board staff added clarifying language to the Order.

- (a) Name of facility/site inspected;
- (b) Location (street address) of facility/site inspected;
- (c) Name of owner of installed BMPs; and
- (d) For each inspection:
 - (i) Date of inspection;
 - (ii) Type of inspection (e.g., initial, annual, follow-up, spot);
 - (iii) Type(s) of BMPs inspected (e.g., swale, bioretention unit, tree well) and an indication of whether BMPs are in an onsite or offsite system;
 - (iv) Inspection findings or results (e.g., proper installation, proper O&M, system not operating properly because of plugging, bypass of stormwater because of improper installation, maintenance required immediately); and
 - (v) Enforcement action(s) taken, if any (e.g., verbal warning, notice of violation, administrative citation, administrative order).
- (2) The total number of structural BMPs that have been installed to date to comply with Order No R3-2004-0135 or to comply with the requirements for Priority Development.
- (3) The number structural BMPs inspected each year and the number of structural BMPs found to have a BMP RAM score of less than “acceptable” (Year 3 Annual Report and subsequent Annual Reports only).
- (4) Whether or not structural BMPs were maintained, as required, to achieve a BMP RAM score of at least “acceptable” (Year 3 Annual Report and subsequent Annual Reports only).
- (5) A summary of information management system updates including measures the Permittee implements to ensure the system is kept up to date.

- (6) A discussion of the inspection findings for the year and any common problems encountered with various types BMPs. This discussion shall include a general comparison to the inspection findings from the previous year.
- (7) A discussion of the effectiveness of the Permittee's O&M BMPs and any proposed changes to improve the O&M BMPs (e.g., changes in prioritization plan or frequency of O&M inspections, other changes to improve effectiveness of BMPs).
- (8) A list of all newly installed (installed within the reporting period) BMPs. This list shall include the facility locations and a description of the BMPs installed.
- ix) Summary of the weekly visual observations procedures at Municipal Facilities, Maintenance Operations, and Events and how the Permittee ensured the weekly observations occur and that identified issues were resolved;
- x) Quarterly and Annual Inspections of Municipal Facilities, Maintenance Operations, and Events
 - (1) A summary of the quarterly and annual inspections for minimum BMP implementation including percentage of facilities, operations and events inspected and the inspection results and follow-up actions;
 - (2) The number of municipally owned and/or maintained High Priority Municipal Facilities, Operations, and Events, and the number of High Priority Municipal Facilities, Operations and Events inspected quarterly;
 - (3) Verification that site-specific inspection checklists were used for all inspections;
 - (4) Results of all inspections, including Inspection Rating;
 - (5) Identification of Low-Performing High Priority Municipal Facilities and Operations, including the results of all reinspections conducted and identification of improvements in Inspection Rating achieved at each facility and operation;
 - (6) Verification that all inspected sites were notified of the inspection results as required;
 - (7) Verification that the information management system has been updated as required;
 - (8) A summary of the results of the visual observations of stormwater discharges;
- xi) A list of all flood management projects in the planning stage and how water quality impact reduction measures are being incorporated into the design; and
- xii) A summary of the progress on the Salinas River outfall plan.
- c) In the Year 3 Annual Report, the Permittee shall include a summary of the developed Structural BMP Rapid Assessment methodology.
- d) In the Year 4 annual Report, the Permittee shall include:
 - i) A description of the process used to evaluate sweeping route priority designation, including a summary of the analysis of average ratios of solids removed per route mile swept calculated according to Section E.6.b.iii, the results of the analysis and any modifications made to sweeping route priority designations.

Staff Response to Comment City of Salinas – Provision E.15.d

This comment is provided without explanation, but it appears to be suggesting that an additional reporting requirement be listed for the Year 4 Annual Report. Central Coast Water Board staff modified the street sweeping provisions. The addition of the proposed language does not align with the revised street sweeping provisions.

Note – The remainder of Provision E.15 is not shown. No comments were provided by the City of Salinas in the remainder of Provision E.15.

F. Commercial and Industrial

1) Commercial and Industrial Inventory

- a) Within 12 months of adoption of this Order, the Permittee shall develop and maintain an updated inventory of all commercial and industrial facilities and operations within the Permit coverage area that could contribute a significant pollutant load to the MS4. The Permittee shall update the commercial and industrial inventory each year to include the following minimum information for each facility or operation:
 - i) Facility or operation name;
 - ii) Address;
 - iii) Urban Subwatershed the facility or operation is located;
 - iv) Nature of business or activity;
 - v) Pollutants potentially generated by the facility or operation;
 - vi) Standard Industrial Classification (SIC) codes;
 - vii) A narrative description of the facility or operation activities that have the potential to contaminate stormwater;
 - viii) Principal stormwater contact; and
 - ix) Whether the facility or operation is enrolled in the General Industrial Permit.
- b) At a minimum, the Permittee shall include each facility or operation listed below in the commercial and industrial inventory.
 - i) Commercial Vehicle and Equipment Facilities and Operations
 - (1) Airplane repair, maintenance, fueling, or cleaning;
 - (2) Automobile (or other vehicle) parking lots and storage facilities (i.e., facilities with the primary purpose of vehicle parking or storage);
 - (3) Automobile and other vehicle body repair or painting;
 - (4) Automobile repair, maintenance, fueling, or cleaning;
 - (5) Boat repair, maintenance, fueling, or cleaning;
 - (6) Equipment repair, maintenance, fueling, or cleaning;
 - (7) Retail or wholesale fueling; and
 - (8) Trucking centers, including repair, maintenance, fueling, or cleaning.
 - ii) Commercial Mobile Operations
 - (1) Mobile automobile or other vehicle washing, including commercial car washes;
 - (2) Mobile carpet, drape, or furniture cleaning;
 - (3) Mobile pet services;
 - (4) Pool and fountain cleaning;
 - (5) Mobile tallow services;
 - (6) Mobile sanitary services (e.g., septic and grease trap pumping, portable toilet servicing);
 - (7) Mobile water damage services;
 - (8) Power washing services; and
 - (9) Street and parking lot mobile sweeping services.
 - iii) Commercial Construction Facilities or Operations
 - (1) Cement mixing or cutting;
 - (2) Masonry operations;
 - (3) Granite, marble, and tile cutting;
 - (4) Building material retailers and storage; and
 - (5) Painting and coating.
 - iv) Commercial Landscaping and Pest Control Operations
 - (1) Agricultural chemical dealers and fertilizer/pesticides mixing facilities;
 - (2) Botanical or zoological gardens and exhibits;
 - (3) Cemeteries;

- (4) Golf courses, parks, and other recreational areas/facilities; and
- (5) Nurseries and greenhouses.
- v) Commercial Food Facilities
 - (1) Eating or drinking establishments, including food markets; and
 - (2) Meat cutting, packing, and processing.
- vi) Commercial Retail Centers
 - (1) Shopping malls, strip malls, big box stores, warehouse stores, and shopping centers; and
 - (2) Convenience stores and minimarts.
- vii) Commercial Trash and Garbage Facilities or Operations
 - (1) Refuse haulers, transfer stations, and tallow rendering facilities; and
 - (2) Recycling centers.
- viii) Miscellaneous Commercial Facilities or Operations
 - (1) Animal and veterinary facilities;
 - (2) Commercial laundries; and
 - (3) Other facilities with a history of un-authorized discharges to the MS4.
- ix) Industrial Facilities
 - (1) Industrial facilities, as defined by 40 CFR section 122.26(b)(14), including those subject to the General Industrial Permit or other individual NPDES permit.
 - (2) Facilities subject to section 313 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11023 (commonly known as SARA Title III); and
 - (3) Hazardous waste treatment, disposal, storage, and recovery facilities.
- x) Agricultural and livestock operations within the Permit coverage area that discharge into the Permittee's MS4
- xi) All other commercial and industrial facilities or operations that the Permittee determines may contribute a significant pollutant load to the MS4. *This greatly expands our current inventory plus requires additional information not required heretofore. Highlit items are those not required by the previous permit. There are at least 2,534 commercial/industrial parcels. While some operations may consist of several parcels, most of the commercial centers contain many stores and appurtenant operations under one parcel so the count should be a good approximation of the number of entities that that we will be required to catalog per F.1.a) above. Even if only half of the commercial/industrial parcels came under the definitions provided it would greatly expand the currently required data-base. Are we expected to track those mobile operations, which operate within the City without getting a City Business license as required? We cannot track those operations that don't currently comply or which may not comply with our ordinances. We could be found in violation without the ability to track these operations. The current requirement is 20% of our High Priority list annually. This results in about 150 inspections annually. The inclusion of restaurants on an annual basis will necessitate 458 inspections not including return compliance inspections. 20% of the remaining businesses categories listed could well add several hundred locations annually. The increased inspection and documentation requirements will increase the time needed and associated with each inspection. All current inspection forms will have to be revised to include the new rating system. This expanded list will exceed the ability for City staff to complete this task. Contract services will be required thus increasing the cost to the City for implementation.*

Staff Response to Comment City of Salinas – Provision F.1.b.xi

The comment states that highlighted items are not contained currently on the City's inventory. All of the items in F.1.b.ii are highlighted; however, mobile cleaners are required by existing Order No. R3-2004-0135 to be inventoried and inspected.

The City is required under existing Order No. R3-2004-0135 to inspect 100% of their industrial facilities annually as well as 20% of food services, automotive repair/auto body facilities, retail gasoline outlets, commercial car washes, and mobile cleaners. The City's SWMP identifies 166 industrial facilities and 626 of these other types, amounting to 792 facilities in the inventory and 294 facilities inspected each year. Central Coast Water Board staff revised this Order to require the City to have 1,250 facilities in its inventory and inspect 20% each year, amounting to 250 facilities inspected each year. (The revised Order does not require all industrial facilities and all food facilities to be inspected each year.) Thus the revised Order requires a larger inventory but fewer annual inspections. The revised Order requires less effort for annual inspections as a trade-off for requiring more effort developing the larger inventory. Central Coast Water Board staff believes this trade-off is more protective of water quality because requiring a larger inventory enables the City to identify and prioritize a larger number—and wider variety—of facilities and operations as potential threats to water quality, and enables the Permittee to inspect the facilities and operations most likely to present the greatest threat to water quality. Another water quality benefit of requiring fewer annual inspections is that the City will be able to increase the effectiveness of its inspection and enforcement efforts.

Another advantage of the Order is that the City is not required to visit 100% of industrial facilities each year. Currently, the City is required under existing Order No. R3-2004-0135 to visit every industrial facility each year, even if City inspectors have never found any stormwater improvements needed during their inspections of the facility. This Order allows the City to prioritize their inspections.

The purpose of the Inspection Rating system is to yield quantitative inspection results indicative of compliance with the requirements of this Order, and enable objective, measurable, and tangible comparison of compliance over time. This comparison can be used to quantitatively determine the City's effectiveness at achieving improvements over time in compliance with the MEP standard. Language contained in this Order provides flexibility for the City to propose an alternative methodology which achieves the same purpose. If the inspection method currently used by the City provides quantitative measures of tangible results, the City may submit its current methodology for approval by the Central Coast Water Board Executive Officer.

- c) Each year, the Permittee shall update and prioritize the commercial and industrial inventory. The Permittee shall prioritize facilities and operations, based on potential threat to water quality and watershed health, accounting for, but not limited to, the following factors:
 - i) Type of activity;
 - ii) Materials used at the facility;
 - iii) Wastes generated;
 - iv) Pollutant discharge potential;
 - v) Non-stormwater discharges;
 - vi) Proximity of facility to receiving water bodies;
 - vii) Sensitivity of receiving water bodies;
 - viii) Whether the facility is subject to the General Industrial Permit or an individual NPDES permit; [Do not have the criteria used by the state to make this assessment for state run stormwater permit programs.](#)

Staff Response to Comment City of Salinas – Provision F.1.c.viii

See Staff Response to Comment City of Salinas – Provision F.7.b.

- ix) Whether the facility has filed a No Exposure Certification/Notice of Non-Applicability; [again, a state run program.](#)

Staff Response to Comment City of Salinas – Provision F.1.c.ix

Central Coast Water Board Staff deleted this provision from the Order.

- x) Facility design;
 xi) Total area of the facility or operation, area where industrial or commercial activities occur, and area of the facility or operation exposed to rainfall and runoff;
 xii) Time since previous inspection;
 xiii) The facility or operation's compliance history; and
 xiv) Any other relevant factors. [There is no list of what is a priority compared to another use. Region 3 has not provided us with a prioritized list. Does one exist? The City cannot comply because a prioritized list has not been provided by region 3 staff. The inventory items required under c\) above greatly expand the current list of facilities and greatly expands the amount of information required to be gathered on each facility. Region 3 staff has repeatedly stated that we should already have most of the information required but staff does not take into account the expanded data base required, the items to be included. This greatly expands our current requirements requirements.](#)

Staff Response to Comment City of Salinas – Provision F.1.c.xiv

The draft Order requires the City of Salinas to prioritize their inventory based on the considerations outlined in F.1.c. For comment on expansion of facility inventory see Staff Response to Comment City of Salinas – Provision F.1.b.

- 2) Minimum BMPs – Within 12 months of adoption of this Order, the Permittee shall designate and require the effective implementation [define effective implementation](#) of minimum BMPs for all facilities and operations identified in the commercial and industrial inventory. Minimum BMPs shall be specific to facility or operation types and pollutant-generating activities, and shall, at a minimum, include the BMPs listed below, for each facility or operation identified in the commercial and industrial inventory. Each year, the Permittee shall update the minimum BMPs for consistency with trash reduction ordinances. [The only way the City can accomplish this task is to compile an inventory containing all of each site's facilities operations and specific facilities. This is far in excess of what is currently required as far as inventory information and in excess of what region3 staff has said is required. Modify this section to state what region 3 intends since it is different from what is written based on recent conversations with region 3.](#)

Staff Response to Comment City of Salinas – Provision F.2

BMPs are effective if they are achieving the intended purpose to the MEP. The City of Salinas must evaluate the effectiveness and make modifications to the BMPs if they are not effective.

The City does not need specific detailed information about individual facilities to comply with this provision. This provision requires the City to designate and require implementation of minimum BMPs. The provision states "Minimum BMPs shall be specific to facility or operation types and pollutant-generating activities." The City can accomplish this by knowing what type of facility/operation it is and what pollutant-generating activities typically occur at those types of facilities and operations. Central Coast Water Board staff added language to the Order to provide clarity.

- a) Implement source control BMPs. Minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning,

- maintenance, and fueling operations) to stormwater runoff by either locating these materials and activities inside or protecting them with storm resistant coverings.
- b) Manage stormwater runoff and run-on. Divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff to prevent runoff of contaminated flows and divert run-on away from pollutant sources.
 - c) Locate materials, equipment, and activities so that leaks are contained in containment and diversion systems.
 - d) Implement leak and spill prevention procedures and clean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharge of pollutants. Train employees who may cause, detect, or respond to a spill or leak in these procedures and have necessary spill response equipment available.
 - e) Use drip pans and absorbents under or around leaky vehicles and equipment, or, where feasible, store leaky vehicles and equipment indoors.
 - f) Use spill/overflow protection equipment.
 - g) Drain fluids from equipment and vehicles prior to on-site storage or disposal.
 - h) Perform all cleaning operations indoors, under covered areas, or in bermed areas that prevent runoff and run-on and capture any overspray.
 - i) Ensure that all wash water and process water drains to a proper collection system and not into the MS4.
 - j) Follow good housekeeping practices. Keep clean all exposed areas that are potential sources of pollutants, by regularly implementing BMPs (e.g., sweeping), keeping materials orderly and labeled, and storing materials in appropriate containers.
 - k) Conduct maintenance. Regularly inspect, test, maintain, and repair all commercial and industrial equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in urban runoff discharges.
 - l) Implement procedures, for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies (e.g., Monterey County Certified Unified Program Agency (CUPA), Environmental Health, and Central Coast Water Board).
 - m) Implement erosion and sediment control BMPs. Stabilize exposed areas and contain stormwater runoff using structural and/or nonstructural BMPs to minimize onsite erosion and sedimentation and the resulting discharge of pollutants.
 - n) Eliminate illicit discharges not authorized by an applicable NPDES permit as specified in Section A.5 (Discharge Prohibitions: Non-Stormwater Discharges).
 - o) Control waste, trash, and debris. Ensure that waste, trash, and debris are managed such they cannot be discharged to the MS4 or receiving waters.
 - p) Control dust generation and vehicle tracking of industrial materials. Minimize generation of dust and tracking of raw, final, and waste materials offsite.
 - q) Implement any additional BMPs required to effectively reduce pollutants discharged from these operations to the MEP. *q) expands the required BMPs to include whatever region 3 or third parties through lawsuits, think BMP to the MEP means. Either delete q) or the assumptions the City has made in preparing estimates of costs to commercial/industrial, and validated by a third party consultant, still hold and the potential cost could exceed \$50m since the statement is overly broad and requires whatever is possible as a BMP, not what is practical or economically feasible given the current lack of a consistent application as to MEP as admitted by region 3 staff. While staff has repeatedly opined that their intention is otherwise they have not agreed to narrow the definition of MEP or the requirements under this permit to remove the ambiguity and overly broad application of the requirements contained herein.*

Staff Response to Comment City of Salinas – Provision F.2.q

Central Coast Water Board Staff have not deleted this Provision as suggested by the comment.

This Order requires the Permittee to establish and implement BMPs to the maximum extent practicable (MEP). The MEP requirement exists for the City's entire stormwater program regardless of whether or not a specific provision specifically states it as such. MEP is the technology-based standard that operators of MS4s must meet established by Congress in CWA section 402(p)(3)(B)(iii). The Order cannot narrow the definition of MEP as suggested by the comment. This Provision is clear that the City of Salinas only need to implement BMPs to the MEP. See Fact Sheet VI for a detailed discussion of MEP. The City's continued assertion that if the Order does not limit MEP or narrow the definition of MEP that the City has to assume that they have to implement extreme actions at a much larger effort than in described in the Order (and spend an \$85 million upfront cost) is unjustified. Stormwater permits throughout the state contain similar language, and are not interpreted consistent with the City's interpretation. The Order has been written to balance the City's need for flexibility with the need for clear and specific requirements. To achieve this balance, the Order frequently prescribes minimum measurable outcomes, while providing the City with flexibility in the approaches it uses to meet those outcomes.

- 3) Notification – Within 12 months of adoption of this Order, the Permittee shall notify the owner/operator, of each facility and operation in the commercial and industrial inventory, of the stormwater requirements in this Section. New facilities and operations shall be notified of these requirements prior to issuance of a business license. The process of issuing a business license will need to require thorough review by engineering staff prior to issuance of any business license. There are 8,000 business licenses issued every year. Some are renewals but since accounting staff (who currently issue business license) cannot be expected to have the background to determine whether each business requires compliance or how each business requires compliance with these regulations, each of the 8,000 business licenses will need to be reviewed by engineering staff to determine impacts. If each application, with due diligence to “ensure” compliance with the permit requirements, takes ¼ hour through a question and answer process to determine current status or proposed processes which may require application of the permit requirements, engineering staff will cost \$25 each application. Current cost for a business license is \$50. This will increase the cost by 50%. Overall impact is 8,000 licenses x \$25 or \$200,000 per year. Additional staff required is 2,000 hours or at a loaded rate of \$100,000 per year not including those applications, which are covered under F, which will take longer. Therefore the cost estimated at \$200,000 is reasonable. (A business license is a tax/revenue generating mechanism and not a regulatory mechanism. In other words, a business license cannot be withheld if a person/business applies for a business license and pays the fees. Suggest changing this to read “...at the time of issuance of a business license.” The City can distribute materials to new/existing businesses at the time a license is issued or is renewed.)

Staff Response to Comment City of Salinas – Provision F.3

Central Coast Water Board staff modified the Order to allow the City flexibility of how they provide notification to new business.

- 4) Inspection of Facilities and Operations – The Permittee shall conduct commercial and industrial inspections for compliance with this Order.
- a) Inspection Procedures
- i) Within 12 months of adoption of this Order, the Permittee shall develop and implement effective inspection procedures that achieve the following for each inspected operation or facility: The City cannot comply with this schedule. See previous discussions,

Staff Response to Comment City of Salinas – Provision F.4.a.i

The City is required under existing Order No. R3-2004-0135 to inspect 100% of their industrial facilities annually as well as 20% of food services, automotive repair/auto body facilities, retail gasoline outlets, commercial car washes, and mobile cleaners. Many of the requirements of Provision F.4, the City is already required to be implementing under their existing Order. The Order allows the City 12 months to make the required modifications to their inspections.

Central Coast Water Board staff made changes to Provision F to reduce the number of facilities the City will be inventorying and inspecting.

- (1) For facilities that monitor runoff (e.g., facilities covered by the General Industrial Permit, facilities covered by other NPDES permits), review of facility monitoring data;
- (2) Verification of coverage under the General Industrial Permit (e.g., Waste Discharge Identification [WDID] Number and SWPPP), if applicable. [State to provide list and update annually. This is a state run program. Are we to verify that the permittees on the states list of permittees are actually enrolled in the program or is this to mean that City staff is to determine who should be included in the states General Industrial Permit program and if they are not enrolled require them to submit an NOI \(with associated fees\) to Region 3? RC](#)

Staff Response to Comment City of Salinas – Provision F.4.a.i.2

See Staff Response to Comment City of Salinas – Provision F.7.b. In addition, verification of coverage can be accomplished by asking to view the facilities' WDID numbers and SWPPPs during the inspection. The City doesn't need an enrollee list from the State. However, if the City wants a list of enrollees, they can, at any time, either access the publically accessible information on in the SMARTS system, or request the Central Coast Water Board to run a report of current enrollees.

- (3) Assessment of BMP selection, implementation, installation, and maintenance in accordance with minimum BMPs designated by the Permittee and with guidance contained in the California Stormwater Quality Association Stormwater Best Management Practices Handbook for Industrial and Commercial;¹
- (4) Assessment of compliance with Permittee stormwater regulations (e.g., municipal codes, ordinances, statutes, standards, specification, permits, contracts);
- (5) Determination of the Inspection Rating using the methodology described in Attachment G – Inspection Ratings, or an equivalent methodology approved by the Central Coast Water Board Executive Officer; [\(As with other provisions of this Draft Permit, this affords too much discretion in the Executive Officer to change the requirements without discussion. This creates an administrative amendment to the Permit.\)](#)

Staff Response to Comment City of Salinas – Provision F.4.a.i.5

See Staff Response to Comment City of Salinas – Provision C.3.c.

- (6) Assessment of additional BMPs that must be required to reduce the discharge of pollutants to the MEP;
- (7) Visual observations for non-stormwater discharges, potential illicit connections, and potential pollutants in urban runoff discharges;

¹ CASQA. *California Stormwater Quality Association Stormwater Best Management Practice Handbook: Industrial and Commercial*, January 2003. Web. 23 August 2011
<<http://www.cabmphandbooks.com/documents/Industrial/IndustrialCommercial.pdf>>.

- (8) Education on effective stormwater pollution prevention, as conditions warrant; and
 - (9) Identification of required corrective actions and verification that corrective actions have been implemented.
- ii) The Permittee shall determine one Inspection Rating for fast food restaurants related to requirements contained in this Section for Food Facilities,² and a second Inspection Rating related to requirements for trash and litter control contained in this Section and in Section N (Trash Load Reduction). The Permittee shall document and track both Inspection Ratings determined for each inspected fast food restaurant.
- b) Inspection Frequency
- i) Beginning in Year 2, a minimum of 20 percent of the facilities or operations contained in the commercial and industrial inventory (excluding food facilities) shall be inspected each year, in accordance with the annual inventory prioritization and the reinspections described below. When calculating percentage of facilities or operations inspected, multiple inspections of the same facility shall be considered as one facility inspection.
 - ii) Food Facilities – Each Food Facility shall be inspected each year beginning in Year 2.
 - iii) Low-Performing Facilities and Operations – The Permittee shall reinspect each Commercial and Industrial Facility and Operation with an Inspection Rating of “E” or lower within thirty days. The Permittee shall calculate the Inspection Rating for each reinspected facility and operation. The Permittee shall continue to reinspect the low-performing facility or operation as necessary, at intervals not to exceed thirty days, until there is a demonstrable improvement in Inspection Rating. The Permittee shall reinspect fast food restaurants when either or both of the Inspection Ratings determined during inspection is “E” or lower. The reinspection shall focus on BMPs related to the Inspection Rating(s) necessitating the reinspection.
- c) The Permittee shall notify the principal stormwater contact of each inspected facility or operation of the results of inspection, including the compliance percentage, trash level score (where relevant), any BMPs that were not implemented effectively, any required corrective actions, and any additional required BMPs. To accomplish this level of effort we would need to basically duplicate the efforts of the Monterey County Health Department. We need time to determine what cost is involved but estimate the cost will exceed \$250,000 including record keeping. Please provide your estimate of costs to comply as recommended by Little Hoover Commission recommendation 4.

Staff Response to Comment City of Salinas – Provision F.4.c

Commercial and industrial stormwater inspections accomplish different objectives than health department inspections. The City, if it chooses, can partner with their local health department to have one inspector trained on health department inspections and commercial/industrial stormwater inspections that performs both inspections in one visit. This could be an efficient use of resources. The City is already required under existing Order No. R3-2004-0135 to be performing commercial and industrial inspections. The modifications presented in this Order are incremental changes designed to improve the City’s commercial and industrial program in a way that focuses resources in an efficient and effective manner. Central Coast Water Board staff

² "Food Facility" means a facility that processes, packages or prepares meats, sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (e.g., restaurants, fast food restaurants, taverns, markets, booths, mobile vendors, and commissaries).

does not anticipate increased costs to be substantial, since the City is already conducting inspections.

- 5) Facility Monitoring Data Reported under the General Industrial Permit - The Permittee shall obtain, track, and analyze parameter results reported by industrial facilities within the Permit coverage area enrolled under the General Industrial Permit each year. The Permittee shall obtain the data using the Stormwater Multiple Application and Report Tracking System (SMARTS) as well as by requesting from the Central Coast Water Board any additional data submitted by enrollees in the General Industrial Permit. The Permittee shall use this data to assess the effectiveness of the Permittee's BMP designation, education, inspection, and enforcement activities for industrial facilities according to Section P.1.b.iii (Monitoring, Effectiveness Assessment, and Program Improvement: Industrial Facilities). *This is a region 3 responsibility that region 3 charges fees for. Region 3 shall perform this. Delete this requirement.*

Staff Response to Comment City of Salinas – Provision F.5

This provision has the City use data that is already being collected and available under a different program. This is a cost effective way for the City of Salinas to use existing available information to assist in their effectiveness assessment efforts. Having industrial facilities or the City collect data separately would be redundant and expensive. This provision will not change what is required to be submitted under the General Industrial Permit, nor will the provision change the Central Coast Water Board's oversight under the General Industrial Permit.

- 6) Information Management – Within 12 months of adoption of this Order, the Permittee shall develop and maintain an information management system to record and track the following information:
- a) Commercial and industrial inventory;
 - b) Dates of all inspections and reinspections;
 - c) Results of inspections, including the Inspection Rating and any required corrective actions;
 - d) Any additional required BMPs;
 - e) Documentation of the implementation of identified corrective actions;
 - f) Facilities or operations requiring reinspection the following year;
 - g) Facilities or operations requiring reinspection within 7 days;
 - h) Whether the recorded inspection was a reinspection or new inspection;
 - i) Any enforcement actions taken to bring the facility or operation into compliance; and
 - j) Records of inspection result notifications provided to primary stormwater contact. *See previous discussion as to the cost of implementing this information management system. Region 3 staff consistently ~~assumes~~ assumes the existing IMS of the City either contains this information or it can be readily assimilated into our existing system. Region 3 staff has assumed that it will be easy to ~~compile~~ compile all of the information required by this permit. Region 3 should provide us with the model after which this whole permit is established so we can determine if compliance is feasible.*

Staff Response to Comment City of Salinas – Provision F.6.j

See Staff Response to Comment City of Salinas – Provision F.11.a.ii, Staff Response to Comment City of Salinas – Provision D.3.b, and Staff Response to Comment City of Salinas – Provision E.8.d.vii.4.

- 7) Process to Refer Non-Filers and Noncompliance to Central Coast Water Board
- a) When the Permittee has exhausted its progressive Enforcement Response Plan (Section S.2 [Legal Authority: Enforcement Measures and Tracking]) and cannot bring

an operation into compliance with its regulations (e.g., municipal codes, ordinances, statutes) or this Order, or otherwise deems an operation to pose an immediate and significant threat to water quality, the Permittee shall provide oral notification to the Central Coast Water Board within five business days of such determination. Such oral notification shall be followed by written notification within 10 business days of the incident. What is this requirement based on? It is not feasible. Provide examples where this has been made a permit requirement in other jurisdictions and has been successful.

Staff Response to Comment City of Salinas – Provision F.7.a

This provision is already required by the previous Order. See the City of Salinas Stormwater Management Plan 7.4.B.

- b) For industrial facilities subject to the requirements of the General Industrial Permit that cannot demonstrate coverage under that permit, the Permittee shall notify the Central Coast Water Board of those non-filers within 10 business days of discovery. In making such notifications, the Permittee shall provide, to the Central Coast Water Board, at a minimum, the following information:
- i) Facility name and location including address;
 - ii) Facility contact and owner;
 - iii) Facility SIC code; and
 - iv) Records of communication with the responsible party regarding filing requirements.

The General Storm Water Permit is a state run program. We are not trained in the requirements of this permit process nor in what criteria is used for inclusion in this program. This is not a function that we can perform without sufficient knowledge or training regarding the program requirements of another agency. RC See 4.a.2 and 5. above.

Staff Response to Comment City of Salinas – Provision F.7.b

The language in this provision is very similar to the language in the City's existing Order No. R3-2004-0135 and is typical of language found in other Phase I permits in the state. The only knowledge the City needs to implement this requirement is the SIC codes of facilities that are subject to coverage under the General Industrial Permit. A list of these SIC codes can be found in Attachment 1 of the General Industrial Permit found on the State Water Board website at http://www.swrcb.ca.gov/water_issues/programs/stormwater/docs/induspmnt.pdf.

- 8) Enforcement of Commercial and Industrial Facilities and Operations – The Permittee shall utilize its legal authority to enforce appropriate ordinances, statutes, permits, contracts or other means to control pollutant discharges from all commercial and industrial facilities and operations. The Permittee shall implement the progressive Enforcement Response Plan and take all necessary follow-up actions (e.g., warnings, notices, escalated enforcement, follow-up) to ensure facilities and operations are brought into compliance. The Permittee shall respond to and document all complaints received from municipal staff and third-parties and document any required corrective actions that have been implemented. The Permittee shall utilize the reporting system described in Section H.4 (Illicit Discharge Detection and Elimination: Illicit Discharge Reporting System) to facilitate public complaints of commercial and industrial facilities and operations. This requirement again includes the term ensure. The city cannot ensure anything. Region 3 cannot ensure anything. Show us where anyone can ensure anything. Delete this term throughout this permit because it sets a standard that is unattainable just like MEP without a concise definition of what the intent is in all applications, which is in itself unattainable.

Staff Response to Comment City of Salinas – Provision F.8

Central Coast Water Board staff evaluated the entire Order for the use of the word “ensure”. In instances where the City has control and can ensure an outcome, Central Coast Water Board

staff kept “ensure” in the Order. In instances where the City has less ability to ensure an outcome, “ensure” was replaced with other appropriate terminology.

- 9) Training - The Permittee shall ensure see previous comments that any municipal staff, whose job duties are related to implementing the commercial and industrial stormwater requirements of this Order, have the knowledge and understanding necessary to effectively implement the requirements of the Order. All applicable municipal staff shall be trained each year. New municipal staff, or municipal staff new to a position related to commercial or industrial activities, shall be trained within one year of hire or attainment of new position. The Permittee shall perform an assessment of trained municipal staff’s knowledge of implementation of the commercial and industrial stormwater requirements of this Order and shall revise the training to address any deficiencies each year. The training shall, at a minimum, include each item listed below.

Staff Response to Comment City of Salinas – Provision F.9

See Staff Response to Comment City of Salinas – Provision F.8.

- a) The requirements of this Order that relate to municipal staff’s job duties;
- b) The connection between commercial and industrial activities and water quality impacts;
- c) How to readily identify deficiencies and evaluate the appropriateness and effectiveness of deployed BMPs;
- d) How to properly select, install, implement, and maintain effective BMPs for commercial and industrial activities;
- e) The administrative requirements of this Order, such as reporting and tracking and use of the Permittee’s Enforcement Response Plan;
- f) Inspection procedures;
- g) Tools to raise awareness and change the behaviors of non-compliant dischargers;
- h) Information on the requirements in the General Industrial Permit;
- i) Effective analysis of monitoring data;
- j) Illicit discharge training as described in Section H.12 (Illicit Discharge Detection and Elimination: Illicit Discharge Training);
- k) Refresher training for existing municipal staff each year to fill any knowledge gaps identified in the annual training assessment, update municipal staff on preferred BMPs, current advancements in BMP technologies, regulation changes, Order updates, and policy or standards updates;
- l) Throughout the year municipal staff shall be updated if changes occur; and
- m) Staff not employed by the Permittee - If the Permittee contracts out to others to implement portions of the commercial and industrial stormwater requirements of this Order, these outside staff shall be trained per the requirements listed in this Section.

Since region 3 staff will be the only ones completely knowledgeable of the intent and requirements of these requirements, it should be region 3 staff that provides the training at region 3 expense or delete these requirements.

Staff Response to Comment City of Salinas – Provision F.9.m

USEPA recognizes a key element in the successful implementation of a stormwater management program is the training of the municipality’s staff.¹ If work is contracted out to others, the contractors must have the appropriate knowledge to implement the requirements of the Order. Funding and implementation of the City’s stormwater management program is the responsibility of the City, not the Central Coast Water Board.

Central Coast Water Board staff deleted Provision F.9.m because it is redundant with the requirements contained in Provision F.10.

¹USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011.

10) Staff Not Employed by the Permittee

- a) The Permittee is responsible for the effective implementation of the requirements in this Section regardless if the work is performed by municipal staff or contracted to others. Contracts for the performance of any commercial and industrial stormwater activity shall include requirements to comply with applicable BMPs and any other applicable requirements of this Order.
- b) The Permittee shall perform oversight of activities performed by others to ensure the effective implementation of the requirements of this Order. Since region 3 staff will be the only ones completely knowledgeable of the intent and requirements of these requirements, it should be region 3 staff that provides the training at region 3 expense or delete these requirements.

Staff Response to Comment City of Salinas – Provision F.10.b

This comment appears to be identical to the comment just above, Comment City of Salinas – Provision F.9.m. See response to that comment.

11) Reporting

- a) In the Year 1 Annual Report, the Permittee shall include:
 - i) The commercial and industrial inventory and prioritization including the methodology used to prioritize; Region3 should provide us with this methodology as previously discussed.

Staff Response to Comment City of Salinas – Provision F.11.a.i

See Staff Response to Comment City of Salinas – Provision F.1.c.xiv.

- ii) A description of the information management system(s) developed to track the information required by this Section; Region 3 should provide us with the requirements based on previous application of these requirements as a model to follow. If it has not been done before then region 3 is requiring the City to create what has not been accomplished before, should be considered a pilot or Beta program and the City's efforts funded by region 3. The City would be more than willing to be a leader in these respects if region 3 provides the funding.

Staff Response to Comment City of Salinas – Provision F.11.a.ii

The details of the information required to be contained in the information management system are specified throughout the Order. Tracking information is a standard component of all stormwater management programs. The comment letter received from USEPA on this order (See Comment USEPA – 8) states that information management is clearly a necessary component of any effective stormwater management program and USEPA believes the permit requirements are consistent with the recommendations of the USEPA MS4 Permit Improvement Guide¹ and would also be necessary to satisfy the reporting requirements of NPDES regulations at 40 CFR Section 122.42(c).

A pilot program is not needed; the City can utilize a spreadsheet program to accomplish the majority (if not all) of the information management system requirements.

The March 2011 audit of the City's stormwater program identified the City was deficient in their management of information. The specific requirements contained in the Order should provide specific guidance to the City on appropriate information tracking.

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011, page 95.

- iii) A summary of BMPs designated for all facilities and operations on the commercial and industrial inventory;

- iv) A summary of the notification procedure used for owners and operators of facilities and operations of the requirements of this Section including the percentage of inventoried facilities and operations that have been provided notice; and
- v) The developed inspection procedures.
- b) In the Year 2 Annual Report and each subsequent Annual Report, the Permittee shall include:
 - i) A summary of the commercial and industrial inventory, prioritization, and information management system updates including a description of measures the Permittee implemented to ensure the system is kept up-to-date;
 - ii) Any updates to the BMPs required for each facility and operation;
 - iii) The percentage of newly inventoried facilities and operations that the Permittee has provided notice to of the requirements of this Section;
 - iv) The number of non-food facilities inspected that year and the total number of non-food facilities contained in the commercial and industrial inventory;
 - v) The number of food facilities inspected that year and the total number of food facilities contained in the commercial and industrial inventory;
 - vi) Results of all inspections, including the Inspection Rating;
 - vii) Identification of facilities and operations requiring reinspection within 30 days, and the results of all reinspections conducted; and
 - viii) Verification of notifications to facility and operation owner/operators of inspection results.
- c) In each Annual Report, the Permittee shall include:
 - i) Verification that the Permittee has obtained and tracked facility monitoring data reported under the General Industrial Permit and the results of the analysis (including how the Permittee used the data to inform their program);
 - ii) A summary of any referrals provided to the Central Coast Water Board for non-filers or non-compliance;
 - iii) A summary of the implementation of the Enforcement Response Plan including all enforcement actions taken during the reporting period;
 - iv) A description of the oversight procedures the Permittee implemented for all activities performed by staff not employed by the Permittee; and
 - v) A training report that includes at a minimum:
 - (1) A list of all staff whose job duties are related to implementing the municipal stormwater requirements of this Order, the date(s) training occurred and the topics covered;
 - (2) Results of the annual training assessment and a summary of any implemented revisions to the training; and
 - (3) A description of the Permittee's compliance with the training requirements of this Section.

This all greatly expands the requirements of the annual report. Please provide us with the costs from implementation from other programs. And since it is unfunded provide us the funding according to state law.

Staff Response to Comment City of Salinas – Provision F.11.c

The last two annual reports received from the City are over 600 pages in length and do not adequately report the City's compliance with the requirements of Order No. R3-2004-0135. This Order provides the City with specific direction to assist the City to reporting adequately and helps the City focus their resources on reporting information that is useful to the Central Coast Water Board and compliance documentation. Since the City's annual reports are already 600 pages in length, Central Coast Water Board staff does not find that the costs reporting will increase significantly. The reporting requirements contained in the Order are consistent with

federal regulation and are not unfunded state mandates. For a discussion on unfunded mandates, See Staff Response to Comment City of Salinas Supplemental – 17. The Central Coast Water Board is not responsible to provide the City with the funding to implement their stormwater program.

G. Residential

- 1) Prioritization of Residential Areas and Activities – Within 12 months of adoption of this Order, the Permittee shall identify High Priority Residential Areas and Activities that pose a threat to water quality. Annually, the Permittee shall review and update the High Priority Residential Areas and Activities. At a minimum, the High Priority Residential Areas and Activities shall include:
- Residential automobile repair, maintenance, washing, and parking;
 - Home and garden care activities and product use (e.g., pesticides, herbicides, and fertilizers);
 - Disposal of trash, pet waste, green waste, and household hazardous waste (e.g., paints, cleaning products);
 - Other residential activities, determined by the Permittee, that may contribute a significant pollutant load to the MS4; and
 - Any residential areas tributary to a CWA section 303(d) listed impaired water body, where the area generates pollutants for which the water body is impaired. *This means all of the City since even air borne soils fall on cars and homes and are flushed by storm water into the MS4. How does region 3 intend on this component to be separated and not be made part of the City's responsibility since it is airborne?*

Staff Response to Comment City of Salinas – Provision G.1.e

This provision applies to residential areas within the permit coverage area that drain to a 303(d) listed waterbody where the residential area generates the pollutant that the waterbody is listed for.

For example: Air borne soils containing pollutant “x” travel into a residential area. Pollutant “x” is being generated from nearby commercial operations and not being generated by activities in the residential area. The residential area drains to a waterbody that is listed as impaired for pollutant “x”. This example would not trigger the area to become a High Priority Residential Area because pollutant “x” is not being generated by the residential area, its only being transferred through the residential area.

2) Minimum BMPs

- Beginning in Year 2 and each subsequent year, the Permittee shall designate minimum BMPs for each High Priority Residential Area and Activity. The designated minimum BMPs shall be area or activity specific. *Region 3 should provide us with those BMPs it expects should be implemented based on previous experience where those BMPs have been found to be effective. These should be provided and included as specific requirements. Region 3 should also provide how these are expected to be implemented and the costs since region 3 staff disagrees with the estimate the City has provided based on a literal interpretation of these requirements.*

Staff Response to Comment City of Salinas – Provision G.2.a

Federal regulations require the City to develop their stormwater management program including the BMPs that will be implemented as part of their program. The BMPs developed by the City will be based on the areas and activities the City determines are highest in priority. The Order provides the flexibility for the City to use their knowledge of what is most likely to be effective in the City. For nearly a decade, municipal stormwater permits for the southern Orange County and San Diego County contain similar requirements regarding BMPs for residential areas and activities. The stormwater programs of the cities in those areas can provide examples of BMPs and implementation strategies available for residential application.

In this section of the Order, the City is required to identify BMPs that it will require to be implemented by residents. These BMPs need not involve substantial cost. For example, the BMPs the City can require to be implemented can focus on source control, such as properly storing and disposing green waste, hazardous materials, and vehicle fluids, protecting trash storage areas from contact with stormwater, picking up pet waste in yards, preventing erosion, and using drip pans for vehicle leaks.

See Fact Sheet section V for a discussion of economic issues.

- b) The minimum BMPs shall include household hazardous waste management. The Permittee shall coordinate with the Salinas Valley Solid Waste Authority and/or other disposal entity, to facilitate the proper management and disposal of all used oil, vehicle fluids, toxic materials, and other household hazardous wastes. Such facilitation shall include educational activities (What sort of examples can you provide?), public information activities, and establishment of collection sites operated by the Permittee or a private entity. Curbside collection of household hazardous wastes is encouraged.

Staff Response to Comment City of Salinas – Provision G.2.b

Examples of educational activities could include an educational program in the schools to teach why proper household hazardous waste management is important to protecting water quality, and teaching how to properly dispose of wastes.

- c) The Permittee shall implement, or require implementation of, the designated minimum BMPs and any additional measures necessary to comply with this Order. The statement is overly broad and opens up these requirements to mean anything that can possibly be considered a BMP in the future regardless of compliance with BMPs in the present tense especially when the permit is qualified by general statements in the findings and fact sheets which qualify everything to the MEP. Delete this statement.

Staff Response to Comment City of Salinas – Provision G.2.c

This requirement specifies that the City must require implementation of the BMPs it designates for residential areas and activities. However, if a residential area or activity is causing a violation of another requirement of the Order, then the City must address the residential area or activity to correct the violation. For example, the City may need to take such action if a residential area or activity is causing or contributing to a violation of water quality standards.

- d) The Permittee shall implement, or require implementation of, BMPs for residential areas and activities that have not been designated as high priority, as necessary. Again, overly broad and without a well defined meaning which limits the cost of implementation.

Staff Response to Comment City of Salinas – Provision G.2.d

The term “as necessary” provides the City with substantial flexibility. The term indicates that the City need only require BMPs for residential areas and activities that are not identified as high priority when it is necessary, such as when an otherwise low priority residential activity is causing a significant pollutant discharge.

- 3) Training – The Permittee shall **ensure** that all municipal staff that are likely to observe activities related to the residential stormwater BMPs, based on the municipal staff’s typical job duties, have the knowledge and understanding necessary to identify residential activities that have the potential to cause a threat to water quality and to implement the residential stormwater BMPs effectively. All applicable municipal staff shall be trained each year. New municipal staff, or municipal staff new to a position related to implementing the residential stormwater BMPs, shall be trained within one year of hire or attainment of new position. The Permittee shall perform an assessment of trained municipal staff’s knowledge of residential stormwater BMP implementation and revise the training to address any deficiencies each year. Training documents shall be available for review by the Central Coast Water

Board(staff?). Delete ensure per previous discussions. Include to the extent practical, not practicable.

Staff Response to Comment City of Salinas – Provision G.3

“Staff” has been added to the draft Order.

For “ensure” see Staff Response to Comment City of Salinas – Provision F.8.

- 4) Enforcement of Residential Areas and Activities – The Permittee shall utilize its legal authority to enforce appropriate ordinances, statutes, permits, contracts or other means to control pollutant discharges from all residential areas and activities. The Permittee shall implement the progressive Enforcement Response Plan (Section S.2 [Legal Authority: Enforcement Measures and Tracking]) and take all necessary follow-up actions (e.g., warnings, notices, escalated enforcement, follow-up) to ensure compliance *again overly broad without reasonable limits* with requirements for residential areas and activities. The Permittee shall respond to and document all complaints received from municipal staff and third-parties and document any required corrective actions that have been implemented. The Permittee shall utilize the reporting system described in Section H.4 (Illicit Discharge Detection and Elimination: Illicit Discharge Reporting System) to facilitate public complaints of residential areas and activities. Creates a new program which is unfunded. How does region 3 expect to fund this?

Staff Response to Comment City of Salinas – Provision G.4

Central Coast Water Board staff has removed “all” from the phrase “...take all necessary...”. Central Coast Water Board staff has also added additional language to the Order to allow the City to prioritize and adjust the level of response required depending on the significance of the complaint and to allow the City to not follow up on complaints that are not likely to impact water quality.

Responding to complaints should not create a new program. The City is already required under their existing Order No. R3-2004-0135 to have a mechanism to receive and respond to stormwater pollution related complaints from the public.

5) High Priority Private Development

- a) Within 12 months of adoption of this Order, the Permittee shall identify and prioritize all Common Interest Area, Home Owner Association, and other residential areas where stormwater conveyance system components (e.g., streets, parking areas, catch basins, storm drains) are not owned or operated by the Permittee. The Permittee shall designate as High Priority Private Development, those existing areas that have the largest potential to impact beneficial uses and water quality. How/what guidelines? Within 12 months of adoption of this Order, the Permittee shall establish criteria for new private residential areas to be designated as High Priority Private Development. Region 3 shall provide the criteria. Repeatedly this permit proposes requirements without any clear direction or guidance. What are the criteria? The criteria shall include, but not be limited to, the size and number of conveyance system components (e.g., an apartment/condominium complex may not be considered a High Priority Private Development but a residential subdivision with privately operated streets would). The Permittee shall submit the list of High Priority Private Development areas and the criteria for new areas to the Central Coast Water Board. The Central Coast Water Board Executive Officer may require modifications to the criteria used by the Permittee to designate High Priority Private Development areas. Have the Executive Officer provide the criteria for our comment as in all areas where the executive has review authority. Why should the City be required

to do the work of Region 3? If there is not another program from which these criteria can be taken from as in all such instances where this is required by the permit then the City should be considered as a Beta/pilot program and region 3 funds utilized to establish what logical criteria are. (I need some explanation on this to know what it is intended to mean for the City? What sort of criteria is contemplated here?)

Staff Response to Comment City of Salinas – Provision G.5.a

Provision G.5.a provides information on the criteria the City shall use to prioritize private development.

Federal regulations require the City to develop and fund their stormwater management program, not the Central Coast Water Board. This responsibility lies with the City because it is the party discharging pollutants through its stormwater conveyance system. The Order's language provides guidance by identifying the types of information the City must consider, while also providing the City flexibility in implementing the program.

The purpose of these requirements is to make sure significant streets, storm drains and other stormwater conveyance systems are not ignored by the City because they are privately held. As the language describes, it is intended that a subdivision with private streets may be high priority, but an apartment/condominium complex would not. If the City has no large privately owned areas, then they may not have any that would be considered high priority.

- b) Beginning in Year 2, the Permittee shall implement, or require the implementation of the requirements in Sections E.5 (Municipal Maintenance: MS4 System Operation and Maintenance) and E.6 (Municipal Maintenance: Street Sweeping and Cleaning) for High Priority Private Development in both existing and new development. *(But some of these "High Priority Private Development Areas" have private streets. What is the intent of this section?) Does this mean we have to impose the same sweeping requirements that are being imposed on the City to private (gated subdivisions) ie. The same priority assessment and frequency schedules no matter the size of the development.?*

Staff Response to Comment City of Salinas – Provision G.5.b

The intent is to implement the same level of street sweeping and cleaning to a large private subdivision as the equivalent streets would get if they were not privately owned. The frequency of sweeping for the high priority private development area would be prioritized similarly to the other residential streets in the City.

Central Coast Water Board staff modified Provision G.5 to only apply to new private development, and not existing private development.

- c) Each year, the Permittee shall update the priority list to include any new residential areas where stormwater conveyance system components are not managed by the Permittee. The list shall indicate which areas are designated as High Priority Private Development.

6) Reporting

- a) In the Year 1 Annual Report, the Permittee shall include:
- i) A summary of identified High Priority Residential Areas and Activities and a description of the selection criteria used to identify High Priority Residential Areas and Activities;
 - ii) The prioritized list of all residential areas where stormwater conveyance system components are not owned or operated by the Permittee including which areas are designated as High Priority Private Development; and

- iii) The selection criteria used to determine if new private residential areas will be designated as High Priority Private Development.
- b) In the Year 2 Annual Report, the Permittee shall include a description of how the Permittee obtained legal authority to implement the requirements of Sections E.5 (Municipal Maintenance: MS4 System Operation and Maintenance) and E.6 (Municipal Maintenance: Street Sweeping and Cleaning) in High Priority Private Development.
- c) In the Year 2 Annual Report and each subsequent year, the Permittee shall include:
 - i) A description of the High Priority Residential Area and Activity annual review and updates to the prioritization implemented by the Permittee including the reasoning for the update;
 - ii) A description of minimum BMPs designated for each High Priority Residential Area and Activity;
 - iii) A description of how the minimum BMPs were implemented for each High Priority Residential Area and Activity;
 - iv) A description of any updates to the list of High Priority Private Development including the reasoning for the update; and
 - v) A summary of the implementation of Sections E.5 (Municipal Maintenance: MS4 System Operation and Maintenance) and E.6 (Municipal Maintenance: Street Sweeping and Cleaning) in High Priority Private Development.
- d) In the Year 1 Annual Report and each subsequent Annual Report, the Permittee shall include a training report that contains, at a minimum:
 - i) A list of all staff members whose job duties are related to implementing the residential requirements of this Order, the date(s) training occurred, and the topics covered;
 - ii) Results of the annual training assessment and a summary of any implemented revisions to training; and
 - iii) A summary of the Permittee's compliance with the training requirements of this Section. Provide the City with examples where similar requirements have been instituted, their criteria, their programs and their costs.

Staff Response to Comment City of Salinas – Provision G.6.d.iii

Reporting on training programs can be found in annual reports of other municipalities enrolled in stormwater permits throughout the state. For example, the Monterey Regional Stormwater Program provides in their annual report a spreadsheet for all the stormwater program training that contains the list of staff members whose job duties are related to each training component, and when the training occurred. If the City is interested to know how much other municipalities spend on training, the City should contact those municipalities, or review their annual reports.

H. Illicit Discharge Detection and Elimination

- 1) Illicit Discharge Detection and Elimination BMP Development - The Permittee shall use the Center for Watershed Protection's guide on Illicit Discharge Detection and Elimination (IDDE): A Guidance Manual for Program Development and Technical Assistance¹ (Center for Watershed Protection IDDE Manual) or equivalent, to develop and implement effective ongoing activities to detect, investigate, and eliminate illicit connections and illicit discharges into the MS4. The illicit discharge detection and elimination activities shall, at a minimum, implement the requirements of this Section. Unless otherwise specified, all requirements in this Section shall be implemented within 12 months of adoption of this Order. Explicitly list those requirements from Center for Watershed Protection's guide on Illicit Discharge Detection and Elimination (IDDE): A Guidance Manual for Program Development and Technical Assistance² (Center for Watershed Protection IDDE Manual which apply to this permit, this MS4, considering the comments contained herein from the City. By including this and other references you expand the pages of this permit by the number included in each document referenced, require anyone who reads the permit to determine requirements for compliance to do the same and make the entire document unwieldy and impossible to decipher unless all of the referenced documents are included werewith. The original permit was 12 pages. By including these references as part of the permit you extend the volume to a point where no one, including region 3 staff, knows what is required. If Salinas staff asked "what effect does this have on the permit requirements and how do they modify those requirements as written herein" region 3 staff would not be able to reply with any certainty nor be able to determine what the economic impact for applying these documents is.

Staff Response to Comment City of Salinas – Provision H.1

USEPA recommends that permittees refer to the Center for Watershed Protection IDDE Manual when developing an IDDE program.¹ The manual is a guide and does not contain requirements, therefore there are no requirements of the manual that are requirements of the Order.

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011.

- 2) MS4 System Map – The Permittee shall maintain an up-to-date and accurate MS4 System Map. In addition to the requirements in Section Q.2 (Watershed Characterization: Watershed Delineation), the map shall at a minimum include:
- High Priority IDDE areas identified under Section H.3 (Prioritization); and
 - Dry Weather screening stations identified under Section H.6 (Dry weather screening). This is another component of the GIS system which must be compiled per the permit requirements and represent an unfunded mandate under current California law.

Staff Response to Comment City of Salinas – Provision H.2.b

See Staff Response to Comment City of Salinas – Provision Q.2.b.v for a discussion on GIS. For a discussion on unfunded mandates, See Staff Responses to Comments City of Salinas Supplemental – 8 and 17.

¹ Brown, Edward, Deb Caraco, and Robert Pitt. *Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment*. Ellicott City, MD: The Center for Watershed Protection; University of Alabama, October 2009. Web. 17 August 2011
<<http://www.cwp.org/documents.html>>.

² Brown, Edward, Deb Caraco, and Robert Pitt. *Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment*. Ellicott City, MD: The Center for Watershed Protection; University of Alabama, October 2009. Web. 17 August 2011
<<http://www.cwp.org/documents.html>>.

3) Prioritization

- a) The Permittee shall develop and implement effective procedures Define how this is supposed to be implemented, where it has been implemented before and what the cost is for implementation for identifying High Priority IDDE areas within the MS4 likely to have illicit discharges or illicit connections.

Staff Response to Comment City of Salinas – Provision H.3.a

The City is required under existing Order No. R3-2004-0135 to prioritize areas for IDDE. Provision H.3.b describes the criteria the City must use to implement the prioritization. Identification of priority areas for IDDE is recommended by USEPA and is standard language found in many permits throughout the United States.¹ Since the City is already required to prioritize areas for IDDE in existing Order No. R3-2004-0135, Central Coast Water Board staff do not anticipate that this requirement will result in a significant program cost increase for the City.

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011, page 27.

- b) The Permittee shall maintain a map of the identified High Priority IDDE areas. The map shall be updated each year at a minimum as needed to be kept current. The Permittee, shall assess the following in the prioritization:
- i) Areas with older infrastructure that are more likely to have illicit connections;
 - ii) Industrial, commercial, or mixed use areas (including areas with Food Facilities Define, Does this include restaurants and food vendor carts since mobile operations have been cited before?);

Staff Response to Comment City of Salinas – Provision H.3.b.ii

Central Coast Water Board staff changed this provision to clarify what was intended by industrial, commercial or mixed use areas.

- iii) Areas with a history of past illicit discharges; From what data base? We don't have one so one would need to be created.

Staff Response to Comment City of Salinas – Provision H.3.b.iii

The City is required under existing Order No. R3-2004-0135 to have an illicit discharge reporting system, track reports of illicit discharges, and maintain these records. The City should utilize the information they have been gathering on illicit discharges under the existing Order. If the City has not been tracking this information, the City may be in violation of its existing Order.

- iv) Areas with a history of illegal dumping; Of what constituents/pollutants? Is a mattress a pollutant? Define the constituents region 3 is concerned about and there effect on water quality so they can be prioritized.

Staff Response to Comment City of Salinas – Provision H.3.b.iv

A dumped mattress is trash and is a pollutant. The City could identify specific constituents of concern associated with dumping and use those constituents to assist their prioritization. However, simply identifying areas with a history of dumping of any constituent is likely sufficient to use in the prioritization of IDDE areas.

- v) Areas with onsite sewage disposal systems; There are maybe 20 sewage disposal systems which are leach fields and septic tanks within the City that we are aware of and not connected directly to the SS. Is this leading to requiring these systems to mandatorily connect to the SS? Does this refer to RV dumping stations. There is one at the service station near the Costco facility and one at the Beacon station at the Airport Blvd exit from hwy 101.

Staff Response to Comment City of Salinas – Provision H.3.b.v

The intent of this provision is to identify areas that are more likely to have illicit discharges and is not related to a requirement for an onsite sewage disposal system to connect to the sanitary sewer. Onsite sewage disposal systems typically refer to septic tanks with leach fields and not to RV dumping stations. However, if the City determines RV dumping stations are a risk for IDDE, they should include them in their prioritization.

- vi) Areas with older sewer lines or with a history of sewer overflows or cross-connections; Once all the mandated connections are made we may exceed capacity if studies are not done which analyze the impact of these connections. Good idea to document overflows so when mandated connections are made without proper analysis we have a baseline so future violations can be directly connected to region 3 mandates.

Staff Response to Comment City of Salinas – Provision H.3.b.vi

The intent of this provision is to identify areas that are more likely to have illicit discharges and does not mandate connections.

- vii) Industrial sites covered under the State Water Resource Control Board (State Water Board) General Industrial Permit or an individual NPDES permit within the Permit coverage area; and Again, a Region 3 Permit process. These lists reside with Region 3. Region 3 must provide a comprehensive and update list to include this requirement.

Staff Response to Comment City of Salinas – Provision H.3.b.vii

The SMARTS database is publically accessible. It contains data on all the facilities covered under the General Industrial Permit. In addition, the City may request a list of sites covered under the General Industrial Permit or an individual NPDES permit from the Central Coast Water Board at any time. Central Coast Water Board staff added “Areas with” to the Order to clarify this provision.

- viii) Any other areas likely to have illicit discharges or illicit connections.
- c) A minimum of 20 percent of the Permit coverage area shall be designated as High Priority IDDE areas. (Same comment as before: Why does a minimum percentage need to be designated? Shouldn't this come about as the result of the evaluation? It may ultimately impose an unnecessary burden if in fact there are not 20%...and I understand the next provision which allows the City to request, after the fact a lesser percentage.) The Permittee may submit to the Central Coast Water Board Executive Officer for approval a High Priority IDDE area alternative that is less than 20 percent of the Permit coverage area. If the Permittee chooses to submit an alternative, the alternative must include demonstration that the alternative will be as effective at reducing the discharge of pollutants to the MEP and protecting water quality as a High Priority IDDE area of no less than 20 percent of the Permit coverage area. (Same comment re demonstration by the Regional Board staff that 20% is reasonable and justifiable.) The Permittee shall implement its program in accordance with a High Priority IDDE area of no less than 20 percent of the Permit coverage area until approval of the alternative by the Central Coast Water Board Executive Officer. Submittal of an alternative shall be provided to the Central Coast Water Board Executive Officer within 6 months of adoption of this Order. (Same comments as before re timing...6 months v 12 months.)

Staff Response to Comment City of Salinas – Provision H.3.c

See Staff Response to Comment City of Salinas – Provision E.2.b.ii.

Central Coast Water Board staff deleted the deadline for submittal of an alternative in Provisions H.3.c, E.2.b.ii, E.6.c.i, and E.6.c.ii of the Order.

d) The list of High Priority IDDE areas shall identify which Urban Subwatershed each area is located in per Section Q.2 (Watershed Characterization: Watershed Delineation).

- 4) Illicit Discharge Reporting System – The Permittee shall promote, publicize, and facilitate public reporting (What is intended here? There is a cost associated with promoting and publicizing anything.) of suspected illicit discharges or other water quality concerns associated with discharges into or from the MS4 through the development and implementation of an effective central contact point reporting system. Promotion and publicity of the reporting system shall occur in both English and Spanish. The illicit discharge reporting system shall accommodate both English and Spanish speaking callers.

Staff Response to Comment City of Salinas – Provision H.4

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(5) requires “a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers.” Provisions H.4.a through H.4.h describe how the permittee will promote, publicize and facilitate public reporting. Central Coast Water Board staff acknowledges there may be a cost associated with this required aspect of the City’s program.

- a) The Permittee shall promote and publicize the illicit discharge reporting system contact information to both internal Permittee staff and the public. At a minimum, telephone numbers for the system shall be printed on all education, training, and public participation materials required under this Order, and clearly listed in the telephone book (there is a cost associated with this.) and on the Permittee website. We have problems getting people to report crimes. Does region 3 think this will be effective, especially in those areas where most of the illicit discharges might occur?

Staff Response to Comment City of Salinas – Provision H.4.a

See Staff Response to Comment City of Salinas – Provision H.4. Provision H.4.a lists minimum actions for promoting and publicizing the illicit discharge reporting system. If the City finds this (or has found this) to be ineffective, the City should implement additional actions.

- b) The Permittee shall develop and maintain an effective information management system to track all reports of potential illicit discharges. Please provide us with information on where this had been applied before and what the cost has been to be “effective” and how effectiveness has been measured. If there is not a pre-existing program, fund a pilot program for all to use. The information management system shall at a minimum include the following for all reports of potential illicit discharges:

Staff Response to Comment City of Salinas – Provision H.4.b

Tracking and responding to reports of illicit discharges are standard components of municipal stormwater programs throughout the country. An effective information management system for tracking reports of illicit discharges does not need to be developed through a Central Coast Water Board funded pilot program as suggested by the City. It can be accomplished through a spreadsheet program or a variety of other methods. The City has been required under existing Order No. R3-2004-0135 to have already developed a method to track reports of illicit discharges. If the City is looking for ideas on how to efficiently improve their current tracking method, the City should contact other municipalities.

- i) The follow-up actions conducted by the Permittee (e.g., investigations, enforcement);
 - ii) Type of discharge, approximate discharge quantity, and discharge location (including Urban Subwatershed); and
 - iii) The resolution of the report.
- c) The Permittee shall develop and maintain a written response procedure. Provide the City with an example. If there is none region 3 should fund a pilot program to establish a written response procedure. The procedure shall contain a flow chart for internal use,

that shows the procedures for responding to reports of potential illicit discharges, the various responsible agencies and their contacts, and who would be involved in illicit discharge incidence response, even if it is an entity other than the Permittee. The Permittee's response procedure shall include a plan that identifies how plugs or other diversions would be installed to contain illicit discharges or spills within the MS4.

Staff Response to Comment City of Salinas – Provision H.4.c

Written response procedures for reports of illicit discharges are standard components of municipal stormwater programs throughout the country and do not need to be developed through a Central Coast Water Board funded pilot program as suggested by the City. If the City is looking for ideas on written response procedures, the City should contact other municipalities.

- d) Notification of Sewage Spills – The Permittee shall develop and implement an effective mechanism whereby the reporting system is notified of all sewage spills. The Permittee shall respond to, contain, and clean up sewage from any such notification.
- e) Permittee shall conduct source investigations per Section H.7 (IDDE Source Investigation and Elimination) in response to reports.
- f) This reporting system shall incorporate the requirements to respond to public complaints of stormwater concerns at construction sites (see Section K.8 [Construction Site Management: Enforcement of Construction Site Management]).
- g) The Permittee shall test the reporting system to ensure it is operating as intended each year.
- h) The procedure for reporting a potential illicit discharge shall be included in the Permittee's fleet vehicles. Region 3 should provide us with the particulars of each program and their anticipated cost. Based on the requirements herein region 3 expects Salinas to develop/create a multitude of programs/procedures for which there are no equivalents and therefor should be statewide pilot programs funded by Region 3.

Staff Response to Comment City of Salinas – Provision H.4.h

See Staff Response to Comment City of Salinas – Provisions H.4, H.4.a, H.4.b, and H.4.c. The requirements of Provision H.4 are similar to requirements of many municipal stormwater programs throughout the country and do not warrant being developed through a Central Coast Water Board funded pilot program as suggested by the City.

- 5) Illicit Discharge Drive-By Inspections and Identification – Within 12 months of adoption of this Order, the Permittee shall develop and implement effective procedures for illicit discharge identification.
 - a) The Permittee shall conduct drive-by inspections of the High Priority IDDE areas for illicit discharge screening at least quarterly. Drive-by inspections shall be conducted at times likely to have illicit discharges (e.g. illicit discharges from restaurant cleaning operations are likely to occur in the evening or at night). This requires the City to pay overtime. Are catering trucks part of this since they are licensed by the City?

Staff Response to Comment City of Salinas – Provision H.5.a

Central Coast Water Board staff acknowledges the City may have to pay overtime to effectively perform drive-by inspections at times likely to have illicit discharges. Catering trucks being included would depend on if they are located in the High Priority IDDE areas developed by the City.

- b) The Permittee shall develop Again region 3 is expecting the City to develop programs without any prior programs being developed statewide which means Salinas is a pilot program and should be funded as such. and maintain an effective Define how the program can be effective-provide examples of existing programs. information management system to track drive-by inspections. The information management system shall at a minimum include the following for all drive-by inspections:

Staff Response to Comment City of Salinas – Provision H.5.b

Drive-by inspections and information management are not new requirements for the City. The City is already required under their existing Order No. R3-2004-0135 to conduct drive-by inspections and document their compliance. For information management, see Staff Response to Comment City of Salinas – Provisions D.3.b, F.11.a.ii and E.8.d.vii.4. To be effective, an information management system will facilitate the implementation of and documentation of the requirements of the Order.

- i) Date and location of inspection;
 - ii) Observed or suspected discharges;
 - iii) Cause or responsible party; and
 - iv) Follow-up actions conducted to identify and/or eliminate any discharge.
- c) At the end of Year 1 and in each subsequent year, the Permittee shall review the data in the information management system and determine which specific areas or sites require drive-by inspections at an increased frequency. The Permittee shall increase the frequency of inspections at these locations. By how much? What would be considered effective in the eyes of region 3 staff?

Staff Response to Comment City of Salinas – Provision H.5.c

The Order doesn't specify the level of increased frequency. The City would determine what level of increased frequency would be effective given the findings of the drive-by inspections performed to date.

- 6) Dry Weather Screening – The Permittee shall develop and implement effectiveeffective define effective dry weather screening BMPs to detect illicit discharges. The Permittee shall implement and revise if necessary, What determines if revision is necessary? written procedures for dry weather field screening including field observations and field monitoring. The dry weather screening BMPs shall be designed to emphasize frequent, geographically widespread field monitoring to detect and eliminate illicit discharges and illicit connections to the MS4. Dry weather screening shall consist of field observations and field screening monitoring at selected stations. At a minimum, what is the upper limit-define the procedures shall be based on each of the following guidelines and criteria.

Staff Response to Comment City of Salinas – Provision H.6

Effective BMPs are BMPs that achieve the desired objective of detecting and eliminating illicit discharges to the MS4. A revision is necessary if the developed dry weather BMPs are not found to be effective. Municipal stormwater permits are based on the MEP standard and do not specify an upper limit.

- a) Beginning in Year 2, dry weather field screening shall be conducted at each identified station once per year during dry weather (no sooner than 72 hours following any rain event), between May 1st and September 30th.
- b) If flow or ponded runoff is observed at a dry weather field screening station and there has been at least 72 hours of dry weather, the Permittee shall make observations and conduct the required field sampling. General information shall be recorded and included in the information management system such as time since last rain, quantity of last rain, site descriptions (e.g., conveyance type, dominant watershed land uses), flow estimation (e.g., width of water surface, approximate depth of water, approximate flow velocity, flow rate), and visual observations (e.g., odor, color, clarity, floatables, deposits/stains, vegetation condition, structural condition, and biology).
- c) The Permittee shall use the Center for Watershed Protection IDDE Manual or equivalent, to develop parameters to dry weather field screen and benchmark concentration levels for results whereby exceedance of the benchmark will require the

Permittee to conduct follow-up investigations to identify and eliminate the source causing the exceedance of the benchmark.

Staff Response to Comment City of Salinas – Provision H.6.c

Central Coast Water Board staff added “or equivalent” to the Order.

- d) The Permittee shall conduct a follow-up investigation within two days to identify and eliminate the source if the benchmarks are exceeded.
- e) If the station is dry (no flowing or ponded runoff) during two subsequent field screening observations have been completed, the Permittee shall make and record all applicable observations and select another station from the list of alternate stations for monitoring.
- f) The Permittee shall identify dry weather screening stations and include the station location on the MS4 System Map.
 - i) The Permittee shall select stations according to one of the methods listed below.
 - (1) Stations shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the MS4 by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the MS4 or major outfall. This random selection shall use the guidelines and criteria listed below.
 - (a) A grid system consisting of perpendicular north-south and east-west lines spaced ¼ mile apart shall be overlayed on a map of the MS4, creating a series of cells.
 - (b) All cells that contain a segment of the MS4 shall be identified and one dry weather field screening monitoring station shall be selected in each cell.
 - (c) The Permittee shall determine alternate stations to be sampled in place of selected stations that do not have flow.
 - (2) The Permittee may select stations non-randomly provided adequate coverage of the entire MS4 system is ensured and that the selection of stations meets, exceeds, or provides equivalent coverage to the requirements given above.
 - ii) To select dry weather field screening monitoring stations, the Permittee shall:
 - (1) Locate stations downstream of any sources of suspected illegal or illicit activity;
 - (2) Locate stations to the degree practicable at the farthest manhole or other accessible location downstream in the system within each cell;
 - (3) Give priority to locating stations in High Priority IDDE areas; and
 - (4) Determine alternate stations to be sampled in place of selected stations that do not have flow.
- g) The Permittee shall develop and maintain an effective define/provide examples/where has this been implemented before information management system to track dry weather screening. The information management system, at a minimum, shall include the following for all dry weather screening activities:

Staff Response to Comment City of Salinas – Provision H.6.g

An effective information management system will achieve the intended purposes of facilitating the implementation of the requirements of the Order, assessing program effectiveness, documenting compliance with the Order, and keeping records required by the Order. See Staff Response to Comment City of Salinas – Provision D.3.b and Staff Response to Comment City of Salinas – Provision F.11.a.ii for additional discussion on information management.

- i) Date and station screened;
- ii) Date of last rain event;
- iii) Results of screening; and
- iv) Follow-up actions conducted to identify and/or eliminate discharge.

7) IDDE Source Investigation and Elimination

- a) The Permittee shall develop Provide the City with previously implemented effective procedures for other MS4s and implement effective procedures for tracing the source of an illicit discharge and for eliminating the source of the discharge.
- b) The Permittee shall maintain written standard operating procedures for conducting investigations into the source of all identified illicit discharges, including approaches to requiring such discharges to be eliminated. Provide the City with examples from other MS4s

Staff Response to Comment City of Salinas – Provision H.7.a and H.7.b

The City is responsible to develop their procedures for source tracking and investigations of illicit discharge. The City should refer to the Center for Watershed Protection IDDE Manual referenced in Provision H for IDDE program development. The City can also discuss IDDE programs with other municipalities to get ideas on what has worked effectively for other programs. Central Coast Water Board staff can also be a resource to the City for compliance with the Order during its implementation.

- c) Abatement and Cleanup – The Permittee shall respond within 1 business day of discovery or a report of a suspected illicit discharge with actions to abate, contain, and/or clean up all illicit discharges. What if the spill is something the City does not have expertise in and requires a consultant? It will require more than one day. A lot of the requirements and required minimum periods for responding in this permit assume the City has the resources on board. All of the response requirements included in the permit must be tempered so that a practical period of time is provided for requiring response or the City will be in violation.

Staff Response to Comment City of Salinas – Provision H.7.c

The Order does not require the actions to be complete within a day. The Order requires the City to respond within a day. More complex issues will take more than one day to resolve.

If the City does not have the in-house capacity to respond to illicit discharges in a timely manner, the City needs to figure out a mechanism to effectively respond to illicit discharges. An example of how they could do this would be to have a consultant on call to perform tasks for which the City lacks expertise. This same concept applies to other requirements of the Order.

- d) Determining the Source of the Illicit Discharge – The Permittee shall conduct an investigation(s) to identify and locate the source of all illicit discharges during or immediately following containment and cleanup activities.
- e) Corrective Action to Eliminate Illicit Discharge – Once the source of the illicit discharge has been determined, the Permittee shall immediately notify the responsible party of the problem, and require the responsible party to conduct all necessary corrective actions to eliminate the illicit discharge within one week. (One week may not be feasible.) Upon being notified that the discharge has been eliminated, the Permittee shall conduct a follow-up investigation and field screening, to verify that the discharge has been eliminated. The Permittee shall document the follow-up investigation. The Permittee shall implement the Enforcement Response Plan (Section S.2 [Legal Authority: Enforcement Measures and Tracking]) and take all necessary follow-up actions **to eliminate** illicit discharges. Again, it is impossible to absolutely eliminate anything. Use different wording that is practical and can be obtained or eliminate the requirement. Agricultural discharges from crop irrigation enters the city's storm system at multiple locations. These discharges are occurring throughout the dry weather season. Are these considered illicit discharges and who is responsible to inform farming operations to cease runoff from their properties. These flows can be quite substantial. Shall the Regional Board be contacted to enforce or notify the identified party to cease the discharge under the AG Waiver program? There are a number of outfall locations where

this does and will happen many times throughout the year. Is the Regional Board responsible for a general notification to agricultural interests that irrigation tailing water discharges are not allowed to enter the City's storm system before this permit is approved?

Staff Response to Comment City of Salinas – Provision H.7.e

The comment states one week may not be a feasible time period to eliminate the source of an illicit discharge. The City should be able to stop an identified illicit discharge in a week after identifying the source. The types of illicit discharges that will require infrastructure improvements (e.g., illicit connection of the sanitary sewer to the MS4, connection of commercial washing facility to the MS4) will take more than a week to design and implement the infrastructure improvement. However, these discharges should be stopped while the infrastructure improvement is completed.

The comment states that agriculture crop irrigation discharges enter the City's storm system. The City's comments elsewhere in the Order indicate the City believes the Reclamation Ditch is part of their MS4. Central Coast Water Board staff modified the Order to clarify the Reclamation Ditch is not part of the City's MS4 and the City is only responsible for discharges from the City's MS4 into the Reclamation Ditch, and is not responsible for other discharges into the Reclamation Ditch. In addition, discharges from agricultural lands that are comprised solely of return flows and/or stormwater are exempt from NPDES permitting. As such, the City is not responsible for these discharges that enter its MS4. The City is responsible for other agricultural-related discharges into its MS4.

- f) The Permittee's information management system shall document all investigations. The information management system, at a minimum, shall include the following for all source investigations:
 - i) Date and type of action that triggered the investigation;
 - ii) Dates investigation occurred;
 - iii) Follow-up actions conducted by the Permittee (e.g., enforcement);
 - iv) The results of the investigation; and
 - v) Date the investigation was closed.
- g) The Permittee shall report immediately the occurrence of any illicit discharges believed to be an immediate threat to human health or the environment to the Central Coast Water Board, including the discharge of sewage into the MS4. *What constitutes immediately? Define what discharges are immediate threats. If a maintenance worker reports a spill to a supervisor the City could be in violation for not immediately reporting it directly to region 3 first. There are reporting requirements for sewer overflows in the City's General Sanitary Sewer Permit with the state. This section should not supercede that permit's requirements.*

Staff Response to Comment City of Salinas – Provision H.7.g

The Order cannot specify every scenario of an immediate threat. The City must use their judgment to determine what they believes are immediate treats. The language of the Order would not cause the City to be in violation if a worker promptly reports it to their supervisor and the supervisor promptly reports it to the Central Coast Water Board. The provisions are not in conflict with the sewer overflow reporting requirements.

- h) The Permittee shall analyze the data gathered in Attachment D - Monitoring and Reporting Program to identify potential illicit discharges and follow the corrective actions outlined in Section H.7 (IDDE Source Investigation and Elimination). Analysis shall occur quarterly at a minimum.

- 8) Facilitate Disposal of Used Oil and Toxic Materials - The Permittee shall facilitate the proper management and disposal of all used oil, vehicle fluids, toxic materials, and other household hazardous wastes. The Permittee may coordinate with the Salinas Valley Solid Waste Authority (SVSWA), or other designated disposal company that currently implements program(s) to achieve this requirement. The Permittee shall ensure the availability of collection sites *This is a requirement that is not under the control of the City and therefore the City cannot ensure and the City could be in violation for other entities not complying.* and publicize their availability each year.

Staff Response to Comment City of Salinas – Provision H.8

This provision is written such that the City can facilitate the proper management and disposal and provide collection sites or the City can work with SVSWA or another disposal company. The City is not required to rely on any other entities to achieve this requirement, but may choose to do so in lieu of performing the activities themselves. This provision is similar to the provision in the City's existing permit (Order No. R3-2004-0135).

- 9) MS4 System Inlet Labels and Illegal Dumping Signs – By the end of Year 5, the Permittee shall label all MS4 system inlets in areas with foot traffic (e.g., areas with sidewalks or footpaths) within the Permit coverage area with a legible stormwater awareness message (e.g., a label, stencil, marker or pre-cast message such as “drains to the creek”). Within 12 months of adoption of this Order, the Permittee shall identify the inlets that shall be labeled that don't already contain a legible message. Beginning in Year 2, the Permittee shall label a minimum of 25 percent of the identified inlets each year. In addition, by the end of Year 2, the Permittee shall post signs with prohibitive language discouraging illegal dumping at designated public access points to creeks, other relevant water bodies, and channels. Signage and storm drain messages shall be legible and maintained and written in both English and Spanish. *Every drain inlet currently labeled would have to be re-labeled to include Spanish. What state and/or federal statute is Region 3 referring to that mandates warnings be provided in English and Spanish that don't include voting rights or accessibility references?*

Staff Response to Comment City of Salinas – Provision H.9

Central Coast Water Board staff modified the language in the Order to clarify the provision is referring to storm drain messages installed under the Order, and is not implying that the City replace all of their existing labels. The City has told Central Coast Water Board staff that a large portion of its population does not speak English. The signs are intended to be read directly by City residents. If the language information provided by the City is true, the signs would need to be bilingual to be effective. Central Coast Water Board staff modified the language in the Order to require the City to assess the percentage of their residents who are not fluent in English and determine if a bilingual reporting system is necessary to have an effective program.

- 10) Excessive Water Application - The Permittee shall prohibit the excessive application of potable and recycled water (e.g., over-watering of lawns or gardens causing water to escape from irrigated areas and run off into gutters, ditches, streets, sidewalks and other MS4 system components). *(How is excessiveness to be determined in this context? What's the measure?) Since this included in this section is lawn irrigation water to be considered an illicit discharge? If so Ag irrigation water would most certainly fall into this category. Including runoff that occurs through the City's storm system during wet weather when field runoff is substantial.*

Staff Response to Comment City of Salinas – Provision H.10

The example provided in this provision provides guidance on what is considered excessive: “...causing water to escape from irrigated areas and run off into gutters, ditches, streets,

sidewalks and other MS4 system components”. Excessive runoff is runoff that is greater than incidental runoff.

Provision A.5 has been modified to clarify that incidental runoff from lawn watering is not considered an illicit discharge. Excessive runoff from lawn watering however is considered an illicit discharge and must be prohibited. The City already prohibits excessive runoff from lawn watering in Chapter 36A of the City Code that states “No person shall cause, permit, or suffer any potable water to spill into streets, curbs, or gutters or to use potable water in any manner which results in any puddling, pooling or runoff of potable water beyond the immediate area of use”.

Discharges from agricultural lands that are comprised solely of return flows and/or stormwater are exempt from NPDES permitting. As such, the City is not responsible for these discharges that enter its MS4. The City is responsible for other agricultural-related discharges into its MS4.

Central Coast Water Board staff has moved the provisions to control Incidental Runoff from Provision A.8 to Provision H.10 in the Order.

11) Enforcement to Eliminate Illicit Discharges – The Permittee shall utilize its legal authority to enforce appropriate ordinances, statutes, permits, contracts or other means to eliminate illicit discharges within the Permit coverage area The City cannot be expected to eliminate anything. This is an unreasonable requirement and should be deleted The Permittee shall implement the progressive Enforcement Response Plan (Section S.2 [Legal Authority: Enforcement Measures and Tracking]) and take all necessary follow-up actions (e.g., warnings, notices, escalated enforcement, follow-up) to ensure ~~delete~~ responsible parties are brought into compliance. The Permittee shall respond to and document all complaints received from third-parties and document any required corrective actions have been implemented. The Permittee shall utilize the reporting system described in Section H.4 (Illicit Discharge Reporting System) to facilitate public complaints of illicit discharges.

Staff Response to Comment City of Salinas – Provision H.11

The federal regulations require both Phase I and Phase II municipal stormwater permits to contain IDDE programs. IDDE programs are standard components in municipal stormwater programs throughout the country. The “E” in IDDE stands for “eliminate”. Removing “eliminate” from Provision H would change Provision H to be Illicit Discharge Detection only, which would not accomplish the objectives of Provision H or the federal stormwater regulations.

For “ensure” see Staff Response to Comment City of Salinas – Provision F.8.

12) Illicit Discharge Training - The Permittee shall ensure that all municipal staff that may come into contact with or otherwise observe an illicit discharge or illicit connection to the MS4 based on the municipal staff’s typical job duties, have the knowledge and understanding necessary to identify potential illicit discharges and to implement the IDDE BMPs effectively. All applicable municipal staff shall be trained each year. New municipal staff, or municipal staff new to a position related to municipal maintenance activities or events shall be trained within one year of hire or attainment of new position. The Permittee shall perform an assessment of trained municipal staff’s knowledge of implementation of IDDE requirements of this Order and revise the training to address any deficiencies each year. Training documents shall be available for review by the Central Coast Water Board (staff?). The training shall, at a minimum include the following:

Staff Response to Comment City of Salinas – Provision H.12

Central Coast Water Board staff added “staff” to the Order.

- a) The requirements of this Order that relate to staff’s job duties; region 3 staff should be required to provide that information since region 3 staff prepared the permit. City staff can take up the responsibility once region 3 staff has defined staff’s duties to ensure that permit requirements are met.

Staff Response to Comment City of Salinas – Provision H.12.a

See Staff Response to Comment City of Salinas – Provision F.9.m.

- b) The connection between illicit discharges and water quality impacts;
 c) Investigation, remediation, and spill response procedures;
 d) The illicit discharge reporting system;
 e) How to readily identify, report, and correct a potential illicit discharge;
 f) Use of the Permittee’s Enforcement Response Plan;
 g) The administrative requirements of this Order, such as reporting and tracking;
 h) For individuals designated to answer calls for the IDDE reporting system, training in proper emergency and non-emergency procedures;
 i) Each year, ~~the~~ provide refresher training for existing staff to fill any knowledge gaps identified in the annual training assessment, update staff on preferred BMPs, current advancements in BMP technologies, regulation changes, Order updates, and policy or standards updates; and

Staff Response to Comment City of Salinas – Provision H.12.i

Central Coast Water Board staff deleted “the” in the Order.

- j) Updates throughout the year if changes in the above requirements occur.

13) Staff Not Employed by the Permittee

- a) The Permittee is responsible for the effective implementation of the requirements in this Section regardless if the work is performed by in-house staff or contracted out to others. Contracts for the performance of any IDDE activity shall include requirements to comply with applicable BMPs and any other applicable requirements of this Order.
 b) The Permittee shall perform oversight of activities performed by others to ensure the effective implementation of the requirements of this Order. See previous comments regarding contract staff and liability.

Staff Response to Comment City of Salinas – Provision H.13.b

See Staff Response to Comment City of Salinas – Provision E.14.b.

14) Reporting

- a) In the Year 1 Annual Report, the Permittee shall include:
 i) A summary of the IDDE BMPs developed including how the Center for Watershed Protection IDDE Manual or equivalent guidance was implemented;
 ii) A summary of the identified High Priority IDDE areas including the methodology used to identify High Priority IDDE areas;
 iii) A description of the information management system(s) developed to track the information required by this Section including a description of measures the Permittee implemented to ensure the system is kept up-to-date;
 iv) A description of the illicit discharge reporting system;
 v) A description of the dry weather screening benchmarks developed;
 vi) A description of dry weather screening station selection methodology;
 vii) Map showing the dry weather screening station locations;
 viii) A summary of the MS4 system inlets that will be labeled with a stormwater awareness message and the label details (e.g., size, message, materials);

- ix) A list of the locations the Permittee will post signs discouraging illegal dumping, an explanation the location selection criteria, and the sign details (e.g., size, message, materials);
 - x) A description of how the Permittee has prohibited the excessive application of potable and recycled water; and
 - xi) A description of procedures developed for conducting IDDE source investigations.
- b) In the Year 2 Annual Report, the Permittee shall include a list of locations where signs discouraging illegal dumping have been posted. The list shall verify if signs have been posted at all designated public access points to creeks, channels and other relevant water bodies.
- c) In each Annual Report, the Permittee shall include:
- i) A description of the MS4 System Map updates including the reasoning for the update;
 - ii) A description of updates to the map of High Priority IDDE areas including the reasoning for the update;
 - iii) Percentage of the Permit coverage area that has been designated as High Priority IDDE areas;
 - iv) A summary of the reports received (e.g., calls, e-mails, other reports) by the illicit discharge reporting system and follow-up actions conducted;
 - v) Results of the illicit discharge reporting system testing and any reporting system improvements implemented;
 - vi) A summary of the drive-by inspections performed including frequency of inspection, inspection findings, and follow-up actions conducted;
 - vii) A description of any modifications implemented to the drive-by inspection frequency based on the analysis of data collected the previous year including the reasoning for the modification;
 - viii) A description of the dry weather field screening conducted including frequency of inspection, inspection findings and when benchmarks were exceeded;
 - ix) A description of the source investigations performed including corrective actions implemented;
 - x) A description of the analysis performed of the Monitoring and Reporting Program data and follow up investigations and corrective actions implemented;
 - xi) A description of activities implemented to facilitate used oil and toxic material disposal;
 - xii) The percentage of identified MS4 inlets requiring a stormwater awareness message that were labeled;
 - xiii) A description of implementation of the Enforcement Response Plan including all enforcement actions taken during the reporting period;
 - xiv) A summary of the oversight procedures the Permittee implemented for all activities performed by staff not employed by the Permittee; and
 - xv) A training report that includes each item listed below.
 - (1) A list of all staff whose job duties are related to implementing the municipal stormwater program, the date(s) training occurred, and the topics covered.
 - (2) Results of the annual training assessment and a summary of any implemented revisions to training.
 - (3) A summary of the Permittee's compliance with the training requirements of this Section. See previous comments regarding inability to meet schedules as defined.

Staff Response to Comment City of Salinas – Provision H.14.c.xv.3
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This comment is shown in a paragraph regarding training reports but appears to be regarding schedules for compliance. See Central Coast Water Board staff's responses to comments regarding compliance schedules.

I. Not Used

- J. Parcel-Scale Development *(This is a unique term that could mean a lot of different things. A parcel may be different from a lot which is being developed, or redeveloped. There may be several projects on an individual parcel.)*

Staff Response to Comment City of Salinas – Provision J

Central Coast Water Board staff finds that changing the name of Provision J (Parcel-Scale Development) is immaterial and does not warrant the time to make the change throughout the entire Order and Fact Sheet. The Order details the types of land disturbances that will trigger the requirements in Provision J (Parcel-Scale Development). If there are several lots within a parcel, that are being developed separately, then the project applicants for the project on each lot will need to adhere to the applicable requirements in Provision J (Parcel-Scale Development).

- 1) Development Review and Approval Process – The Permittee shall develop and implement effective development plan review and permitting procedures to impose conditions of approval or other enforceable mechanisms to implement the requirements of this Section. The Permittee shall inform applicable project applicants of the requirements of this Section at the pre-application or equivalent meeting.
- 2) Stormwater Development Standards
 - a) Stormwater Development Standards Structure – Within 3 months of adoption of this Order, the Permittee shall revise the SWDS to separate the document into two elements, SWDS Requirements and SWDS Guidance. *(I do not think that 3 months is a reasonable amount of time during which to do this work. There is a lot in this new Permit for the City to begin implementing. We need time to fully understand the Permit and its implications before we revise existing documents. We suggest at least 6 months to get the SWDS revised. Six months seems more reasonable given the 12-month timeline in subsection i.)*
 - i) SWDS Requirements – This element shall include the post-construction requirements specified by this Section. Applicability thresholds shall be included in this element. Within 12 months of adoption of this Order, this element shall be subdivided into requirements for Priority Development Projects and requirements for Non-Priority Development Projects
 - ii) SWDS Guidance – This element shall include guidance related to SWDS compliance (i.e., guidance for project applicants for how to comply with the SWDS) and compliance verification (i.e., guidance for municipal staff for how to verify new development and redevelopment projects comply with the SWDS). *Per previous discussions this cannot be completed in the time allotted. Change 3 months to 12 months at least. Why modify the SWDS when they will need to be modified in the near future per the results of the joint effort? Change all schedule constraints to match the timeline for completion of the Joint Effort. With so many revisions over time City staff will continually be holding seminars to keep the design and development community abreast of the changes and won't have time to make the changes.*

Staff Response to Comment City of Salinas – Provision J.2.a

The City provided many comments related to the short-term deadlines (3 months after adoption of this Order) in Provision J. This response is meant to serve as the general response for all the comments related to the short-term deadlines in Provision J related to SWDS modifications.

Central Coast Water Board staff is aware of significant land areas zoned in the City of Salinas for future development. To ensure these future developments maintain and restore watershed processes impacted by stormwater management as necessary to protect water quality and beneficial uses, Central Coast Water Board staff finds the conditions outlined in Provision J must be implemented as soon as possible.

Central Coast Water Board staff finds that reorganizing the SWDS will improve implementation of the SWDS. The SWDS, under existing Order No. R3-2004-0135, is over 200 pages (page count does not include attachments). The Order requires the City to reorganize its SWDS to improve the effectiveness of the document and to update some of the content. Currently, as observed by Central Coast Water Board staff during a focused audit, City staff is not sufficiently applying the SWDS to applicable projects; therefore, Central Coast Water Board staff finds that the City must reorganize its SWDS in order to effectively implement its SWDS. The intention of the upfront SWDS updates is to modify the SWDS so the City can effectively apply the standards to applicable projects and to update the standards in order to remove some ambiguity in the numeric criteria and lower the applicability threshold to account for the cumulative effect of small projects. Since these changes are not major, Central Coast Water Board staff does not believe these changes will require the City to conduct extensive outreach on the changes. The intention of the latter SWDS updates is to formalize long-term treatment and flow control requirements in the SWDS. In addition, the City can leave place holders in the initial SWDS reorganization (required by Provision J.2.a) for the updates required after 12 months of adoption of the Order. See the Fact Sheet for Provision J for further justification about SWDS modification requirements.

See comments, City of Salinas – 27 and City of Salinas – 29. The City provides justification for why it needs 18 weeks, instead of 3 months, to make modifications to its SWDS. Central Coast Water Board staff modified the Order to change all of the requirements for SWDS modifications with '3 months after adoption of this Order' deadlines to '18 weeks after adoption of this Order'. The City explained in comments, City of Salinas – 27 and City of Salinas – 29, that it will need 3 additional months, in addition to the 18 weeks, to hire new staff or a consultant. Central Coast Water Board staff finds that the task of modifying the SWDS should be within the scope of expertise required to implement existing Order No. R3-2004-0135; therefore, Central Coast Water Board staff does not find that the City should be granted 3 additional months to hire new staff or a consultant. The initial modifications to the SWDS incorporate some additional language and language replacements (exact wording is provided in Provision J) and reorganizing the SWDS (see Provision J.2.a). The City is not required to develop any of its own requirements for the initial SWDS modifications.

- b) Maintain Current SWDS – The Permittee shall implement all current requirements for Priority Development Projects contained in the SWDS until revisions required per this Section and the results of the Joint effort are known and can be incorporated into the SWDS at the same time are completed. The Permittee shall submit SWDS updates required per this Section to the Central Coast Water Board for review 30 days prior to due dates prescribed in this Order. (If this is applicable to the 3-month requirement in (a), above, then the City really only have 2 months to get the SWDS before we have to submit it to the Board for approval. That is unreasonable.) If the Central Coast Water Board Executive Officer does not comment on the SWDS updates or issue a modified review and revision schedule within 10 days of receipt of the SWDS updates, the Permittee shall implement SWDS revisions as prescribed in this Section. If at any point during the coverage period of this Order, the Permittee proposes to make other changes to the SWDS, the Permittee shall submit proposed draft SWDS changes in the

Permittee's Annual Report. When the Permittee updates the SWDS to include the final flow control and treatment requirements (12 months after adoption of this Order), the Permittee shall replace the existing applicability thresholds and numeric criteria for stormwater management with the final applicability thresholds and final flow control and treatment requirements per Sections J.4.f (Final Flow Control Requirements) and J.4.g (Final Treatment Requirements).

Staff Response to Comment City of Salinas – Provision J.2.b

See Staff Response to Comment City of Salinas – Provision J.2.a.

- c) Apply SWDS to Projects – The Permittee shall apply the SWDS Requirements element to all applicable projects. The Permittee shall require applicable projects to adhere to the version of the SWDS that is most current at the time the planning application is deemed complete. If, within two years of being deemed complete, a project does not demonstrate progress in the project review process (i.e., applicant submitting supplemental information to the original application, plans, or other documents required for any necessary approvals), the Permittee shall require the applicant to adhere to the most current version of the SWDS when the project moves to the next step in the review and approval process. We need to check and see if this complies with current development law. Development law will govern, such as in the case of vesting tentative maps and extensions approved as part of the Subdivision Map Act (SMA). Revise accordingly.

Staff Response to Comment City of Salinas – Provision J.2.c

Central Coast Water Board staff modified Provision J.2.c.

- 3) Requirements for Non-Priority Development Projects – The Permittee shall, within 12 months of adoption of this Order, develop and implement an effective program for requiring Non-Priority Development Projects to manage stormwater as described below.
- a) All new development and redevelopment projects creating and/or replacing delete replacing. This change will kill all redevelopment in favor of greenfield use or out of town sites where demolition costs are not incurred as previously discussed with region 3 staff. Redevelopment should follow the current net new impervious area requirements currently in the SWDS. Revise accordingly. 2,000 square feet or more net versus pre-project conditions of impervious surfaces (excludes roof replacement and solar panel installation projects), and not considered to be a Priority Development Project, shall be considered a Non-Priority Development Project. The Permittee shall exempt projects meeting the infeasibility criteria in Section J.4.h.ii (Alternative Compliance Justification) from the requirements in Section J.3.a.ii. The Permittee shall, within 12 months of adoption of this Order change all to match Joint Effort timeline as previously discussed, revise the SWDS to require all Non-Priority Development Projects to include the following:

Staff Response to Comment City of Salinas – Provision J.3.a

Current Phase I municipal stormwater permits in California trigger post-construction requirements for redevelopment projects when impervious area is created and/or replaced; therefore, the applicability thresholds for redevelopment in the Order are consistent with other Phase I municipal stormwater permits in California. Redevelopment projects provide an opportunity for restoring watershed processes that have been altered by stormwater management resulting from urbanization in order to restore water quality and beneficial uses. The City does not provide evidence that these requirements applied elsewhere in California have pushed redevelopment projects into greenfield areas.

Central Coast Water Board staff acknowledges multiple environmental benefits of infill and redevelopment as compared to greenfield development. Central Coast Water Board staff

recognizes the direct nexus to water quality and watershed health from doing such things as focusing development in the urban core, which typically requires less supporting infrastructure (e.g., roads) and redeveloping areas that are already disturbed, instead of creating new impacts and expanding the urban footprint. Central Coast Water Board staff finds the Order does not deter infill and redevelopment projects for the following reasons: 1) The Order is consistent with the development requirements in other current Phase I municipal stormwater permits in California; 2) The long-term development requirements that the City develops through the Central Coast Water Board Joint Effort for Hydromodification Control will treat infill and redevelopment separate from greenfield development, because these criteria will be based on local landscape characteristics; and 3) The Order includes alternative compliance options for smart growth, infill, and redevelopment locations where it can be demonstrated that onsite compliance with the requirements is infeasible.

The Smart Growth Association, American Rivers, Center for Neighborhood Technology, River Network, and the National Resources Defense Council, asked ECONorthwest to investigate if stormwater regulations that require or encourage LID, applied uniformly to greenfield development and redevelopment, would impact developers' decisions about where and how to build. The study, based on case studies of multiple municipalities, indicated that implementing LID in redevelopment situations tended to be more challenging than on greenfield developments, because LID techniques are usually more site-specific and custom. However, developers were not choosing to invest in greenfield developments over redevelopment because of LID standards. The study indicated that developers' decision-making process for projects incorporates a wide range of economic factors, including various construction costs, current and future market conditions, regulatory incentives and disincentives, and uncertainty and risk. Many developers interviewed for the study described the cost of implementing stormwater controls as minor compared to other economic factors they considered in deciding whether or not to pursue a project, especially in the context of complex redevelopment projects and green building infill projects. The study points out that the demand for green buildings and sustainable stormwater practices has been increasing in response to the rapid growth in the global green building industry, which will likely play an important role in developers' decisions for how and where to build.¹

The Central Coast Water Board Joint Effort for Hydromodification Control updates are required within 12 months of adoption of this Order; therefore, the requirements for Non-Priority Development Projects are aligned with the Central Coast Water Board Joint Effort for Hydromodification Control timeline.

¹ECONorthwest. *Managing Stormwater in Redevelopment and Greenfield Development Projects Using Green Infrastructure: Economic Factors that Influence Developers' Decisions*, June 2011.

- i) Source control BMPs including each item, where ~~applicable~~ replace applicable with feasible as determined by City staff, listed below.

Staff Response to Comment City of Salinas – Provision J.3.a.i

Central Coast Water Board staff finds that the below source control BMPs are reasonable requirements for all Non-Priority Development Projects. Central Coast Water Board staff used the word, 'applicable', to excuse projects from including BMPs that are not applicable to the site (e.g., A site without a swimming pool would not need to include plumbing to accommodate swimming pool discharges).

- (1) Storm drain stenciling and signage;
- (2) Minimize impervious areas;
- (3) Landscaping that minimizes irrigation and runoff, promotes surface infiltration, and minimizes the use of pesticides and fertilizers;

- (4) Efficient irrigation systems (*How defined or assessed?*);

Staff Response to Comment City of Salinas – Provision J.3.a.i.4

Central Coast Water Board staff added language to Provision J.3.a.i.4 in the Order.

- (5) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas;
- (6) Trash storage areas designed to minimize the exposure of trash storage areas to stormwater runoff by either locating these inside or protecting them with storm resistant coverings; and
- (7) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards: See previous discussions on studies needed to determine if diversion to the SS are feasible before these requirements are instituted.

Staff Response to Comment City of Salinas – Provision J.3.a.i.7

Central Coast Water Board staff modified Provision J.3.a.i.7.

- (a) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants;
- (b) Dumpster drips from covered trash and food compactor enclosures;
- (c) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
- (d) Swimming pool water, if discharge to onsite vegetated areas is not a feasible option; and
- (e) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option
- ii) At least two of the items listed below. Refer to the discussion by RBF regarding requirements under the Clean Water Act and region 3 determining how to comply. The entire SWDS toolbox should be available to meet MEP. (This is too prescriptive. Shouldn't the City and the project applicants have the discretion to determine, based on site conditions, costs, etc., which BMPs to implement into a project to address the storm water issues to the MEP?)

Staff Response to Comment City of Salinas – Provision J.3.a.ii

Central Coast Water Board staff aimed to develop fairly simple requirements for the Non-Priority Development requirements, because these are fairly small-scale projects. Central Coast Water Board staff weighed the pick-list option versus setting numeric criteria. Central Coast Water Board staff determined that the pick-list option would be the smoothest option for small-scale projects.

- (1) Porous Driveway – Projects shall install permeable surfaces for the entire driveway area. This includes the parking area and the drive surface leading to the parking area. Permeable surfaces allow rainwater to infiltrate through it. These surfaces include, but are not limited to, porous asphalt, porous concrete, ungrouted paving blocks, and gravel. The same effect can be had by using strip grates, swales to divert to lawns or grading to one side. Unless vacuumed 3 times a year, porous pavement will become plugged and useless. Is the City to be required to "ensure" the pavement remains porous? If so, figure on a yearly fee of at least \$100 for this inspection per residential parcel for visiting each site and observing testing and remediation. Each parcel would be required to replace the driveway under the maintenance provisions provided in the Municipal section E.

Staff Response to Comment City of Salinas – Provision J.3.a.ii.1

Central Coast Water Board staff added language to Provision J.3.a.ii.1 in the Order. The Order provides options, in addition to porous asphalt and porous concrete, for the driveway design

option. Central Coast Water Board staff is aware of the maintenance requirements for porous asphalt and porous concrete. If a project applicant does not intend to maintain porous asphalt and porous concrete surfaces, then the expectation is the project applicant will pick a different option for meeting the Non-Priority Development Project criteria.

The Order does not require Non-Priority Development Projects to develop operation and maintenance plans. The Order requires the City to provide guidance for maintaining post-construction BMPs at Non-Priority Development Projects and to develop the legal authority to require Non-Priority Development Projects to maintain the installed BMPs in perpetuity. The requirements in Provision E are intended to be fairly minimal for oversight of Non-Priority Development Projects. Also, see the Fact Sheet for Provision J for more detail on the expectation for long-term oversight of Non-Priority Development Projects.

(2) Downspout Routing – Each roof downspout shall be directed to one of the BMPs listed below.

(a) Cistern/Rain Barrel – Projects shall direct roof downspouts to rain barrels or cisterns. The stored stormwater can then be used for irrigation or other non-potable uses as permitted by local, State, and Federal regulations. [Refer to RBF's comments regarding infeasibility of cisterns in our climate.](#)

Staff Response to Comment City of Salinas – Provision J.3.a.ii.2.a

Comment noted.

(b) Rain Garden/Planter Box – Projects shall direct roof downspouts to rain gardens or planter boxes that provide retention and treatment of stormwater.

(3) Amended Soils – Projects shall amend soils with at least 30 percent compost, to an 18-inch depth, in all areas allotted for landscape [requirements where feasible and not in conflict with the recommendations of the geotechnical engineer.](#) The compost mix shall comply with compost specifications included in the Model Biotreatment Soil Media Specifications.

Staff Response to Comment City of Salinas – Provision J.3.a.ii.3

Central Coast Water Board staff added language to Provision J.3.a.ii.3 in the Order.

b) Legal Authority for Long-Term Maintenance of BMPs – The Permittee shall, within 12 months of ~~adoption of this Order~~ [modification of the SWDS to comply with the Joint Effort findings \(use this entire section\)](#), establish the legal authority (e.g., in municipal code or ordinance) to require Non-Priority Development Projects to maintain the installed BMPs in perpetuity. [Why require BMPs you know have a good chance of failing such as porous pavement?](#) The Permittee may allow Non-Priority Development Project property owners to modify BMPs or install alternate BMPs from the original design, so long as the alternate BMPs meet the requirements for Non-Priority Development Projects.

Staff Response to Comment City of Salinas – Provision J.3.b

The Central Coast Water Board Joint Effort for Hydromodification Control updates are required within 12 months of adoption of this Order; therefore, the requirements for legal authority for long-term maintenance of BMPs at Non-Priority Development Projects are aligned with the Central Coast Water Board Joint Effort for Hydromodification Control timeline.

Central Coast Water Board staff intention is to require low maintenance BMPs at Non-Priority Development Project sites. The Order permits the installation of any type of permeable surface for driveways. Central Coast Water Board staff expects project applicants, with direction from City staff, will choose project design options from Provision J.3.a.ii that are appropriate for the site and future occupants. If the future occupant is unlikely to maintain a porous asphalt or concrete driveway, then another stormwater management design option should be used.

- c) Guidance for Long-Term Maintenance of BMPs – The Permittee shall, within 12 months of adoption of this Order, develop guidance for maintenance of the Non-Priority Development Project BMPs, in order to maintain the original designed effectiveness. The Permittee shall provide this education material to Non-Priority Development Project owners prior to final approval/occupancy or transfer of ownership. Hopefully the owners will keep this information and apply it. I know a lot of people who don't keep or read owner's manuals for everything they buy. Hence why only BMPs which are as foolproof as possible should be required. Caltrans District 5 engineering considers bioretention/swales one such BMP.

Staff Response to Comment City of Salinas – Provision J.3.c

See Staff Response to Comment City of Salinas – Provision J.3.b.

- 4) Requirements for Priority Development Projects – The Permittee shall implement each procedure and requirement listed below to ensure all new development and redevelopment projects that are considered Priority Development Projects adhere to the applicable requirements and operate and maintain any BMPs constructed pursuant to these requirements.
- a) Initial Priority Development Project Applicability Thresholds – Within 3 months (comply with previously discussed timeline related to Joint Effort-we will insert “timeline” from here on in relating to the previous discussion) (Same comment as above re this 3-month time period.) of adoption of this Order, the Permittee shall revise the SWDS to use the following applicability thresholds to specify that in addition to the Priority Development Project Categories included in the April 13, 2010 version of the SWDS, and any future amendments thereto, the following projects shall also be considered Priority Development Projects.

Staff Response to Comment City of Salinas – Provision J.4.a

See Staff Response to Comment City of Salinas – Provision J.2.a.

- i) All new development and redevelopment projects that create a net new or replace 10,000 square feet or more of impervious surface. The Permittee may remove any project categories and/or thresholds that conflict with this new threshold. Where a portion of a new development project falls into a Priority Development Project Category, such as a parking lot, the entire project footprint is subject to SWDS requirements.

Staff Response to Comment City of Salinas – Provision J.4.a.i

See Staff Response to Comment City of Salinas – Provision J.3.a.

- ii) All projects that are significant redevelopment as defined in the current SWDS.
- b) Stormwater Control Plan (SWCP) – Within 3 months timeline of adoption of this Order, the Permittee shall require Priority Development Project applicants to submit a comprehensive SWCP to detail how the applicant will meet applicable stormwater management requirements. The Permittee shall maintain copies of SWCPs, for every project required to adhere to requirements in this Section, in its records. The Permittee shall identify at what point(s) in the plan review process the applicant must submit its conceptual and final SWCP. The Permittee shall develop and implement an effective SWCP review process to verify Priority Development Projects are designed to meet all the applicable requirements in this Section. The Permittee shall maintain documentation to demonstrate the Permittee reviewed each SWCP for inclusion and adequacy of the information identified below.

Staff Response to Comment City of Salinas – Provision J.4.b

See Staff Response to Comment City of Salinas – Provision J.2.a. Under existing Order No. R3-2004-0135, the City already requires applicable project applicants to submit SWCPs to

demonstrate how the project meets the SWDS. Provision J.4.b includes some modifications to the SWCP requirements.

- i) At a minimum, the Permittee shall require the applicant to include the following components in its SWCP:
 - (1) Site Information, including the following:
 - (a) Project and applicant name;
 - (b) Project type (land use);
 - (c) Project description;
 - (d) Project location including address and Assessor's Parcel Number;
 - (e) Project size including total project size and impervious area before and after construction (in acres);
 - (f) Topographic base map;
 - (g) Natural features (e.g., existing wetlands/streams, natural drainage routes, riparian areas);
 - (h) Identification of the manner that runoff is conveyed to receiving water (e.g., direct discharge to creek, municipal storm drain);
 - (i) Required water body setbacks per Section L (Development Planning and Stormwater Retrofits);
 - (j) Existing drainage infrastructure (e.g, pipes, vaults, ditches);
 - (k) Depth to average and seasonal high groundwater;
 - (l) Soil classification and infiltration rate;
 - (m) Pollutants of concern for proposed project per Section J.4.g.ii (Pollutants of Concern); and
 - (n) Opportunities and constraints for stormwater control;
 - (2) Site Condition Calculations – Calculations based on site conditions 1) prior to the development project, at the point in hydrologic history (i.e., pre-development, pre-project, or somewhere in between) determined by the Permittee based on the current flow control and treatment requirements, and 2) post-development, for:
 - (a) Surface runoff conditions including peak flow rate, volume, velocity, and time of concentration; and
 - (b) Loading of pollutants identified in Section J.4.b.i.1.m.
 - (3) Site design, including:
 - (a) Site layout – Documentation to demonstrate project applicant followed methodology, per Section J.4.c (Site Layout), for maximizing LID at the site and explanation for areas of site where LID design principles could not be met and where LID structural BMPs could not be used as the method of compliance for meeting flow control and treatment requirements; [Refer to RBF discussion on region 3 determining what BMPs are MEP. The applicant should be able to determine what BMPs are used to meet water quality and quantity standards as long as they provide similar treatment. Change all such requirements to reference BMPs as included in the SWDS and which may be developed in the future.](#)

Staff Response to Comment City of Salinas – Provision J.4.b.i.3.a

See Staff Response to Comment City of Salinas – Provision L.1.a.i.1

- (b) Flow Control and Treatment BMPs (both structural and non-structural BMPs) – Design specifications, installation details, BMP placement and sizing, and anticipated BMP effectiveness at managing flow and removing pollutants;
- (c) Source control BMPs;
- (d) Areas with amended and/or engineered soils; and
- (e) Landscaping plan.

- (4) Permitting and code compliance issues; and
- (5) Owner's certification verifying project design meets the applicable SWDS requirements (includes signature of owner or representative appointed by the owner).
- ii) Alternative Compliance – The Permittee shall require all applicants proposing to use alternative compliance, to submit alternative compliance justification per Section J.4.h.ii (Alternative Compliance Justification). If an applicant is using an offsite location to achieve the requirements of this Section, the Permittee shall require the applicant to include all applicable SWCP information required for the onsite measures. If an applicant is paying in-lieu fees to achieve the requirements of this Section, the Permittee shall require the applicant to provide information to demonstrate the applicant will achieve the requirements outlined in Section J.4.h.i.2 (In-Lieu Fee Towards Permittee Retrofit Project). Define that In lieu fees do not mean reclamation ditch fees required by MRWPCA to allow discharge into the reclamation ditch regardless of SWDS hydromodification requirements.

Staff Response to Comment City of Salinas – Provision J.4.b.ii

The Order defines, In-Lieu Fee Towards Permittee Retrofit Project, in Provision J.4.h.2; therefore, Central Coast Water Board staff does not find it necessary to define in-lieu fee again. Central Coast Water Board staff recommends the City explain the difference between in-lieu fees discussed in the Order and in-lieu fees required by Monterey County Water Resource Agency to applicable applicants.

- c) Site Layout – Within 3 months of adoption of this Order, the Permittee shall apply LID design principles to all Priority Development Projects. The Permittee shall require project applicants to follow a process to maximize LID at the site. The Permittee shall use Attachment E - Steps for a Successful LID Design, or an equivalent methodology, when working with project applicants to meet the SWDS requirements. The Permittee shall update this process, and documents related to the process, to align with the most updated version of the SWDS requirements. The Permittee shall require the applicant to demonstrate compliance with this process in its SWCP. At a minimum, to implement LID design principles, the Permittee shall require Priority Development Projects to:
 - i) Conserve natural areas, including existing trees, other vegetation, and soils;
 - ii) Construct streets, driveways, sidewalks, or parking lot aisles to the minimum widths necessary, provided that public safety is not compromised; (There are factors other than just public safety which determine the size that drive aisles, for example, are built.);

Staff Response to Comment City of Salinas – Provision J.4.c.ii

Provision J.4.c.ii specifies that the City must require Priority Development Projects to construct drive surfaces using the minimum necessary width. Central Coast Water Board staff finds that this language provides sufficient flexibility to allow the applicant to allow for wider widths of drive surfaces if necessary (e.g., to accommodate bike lanes, comply with American Disabilities Act requirements).

- iii) Minimize the impervious footprint of the project, including:
 - (1) Implementing measures to make development more compact (e.g., site layout characteristics, densities, parking allocation, open space); and
 - (2) Implementing measures to limit directly connected impervious area (e.g., selection of paving materials, use of self-retaining areas).
- iv) Avoid excess grading and disturbance to soils;
- v) Concentrate development where soils are least permeable;
- vi) Minimize soil compaction to landscaped areas;

- vii) Minimize disturbances to natural drainages (e.g., natural swales, topographic depressions);
- viii) Disconnect impervious surfaces through distributed pervious areas; and
- ix) Direct runoff into cisterns or rain barrels for reuse, onto vegetated areas, or through infiltrative surfaces. Refer to previous discussions. Applicants should be allowed to utilize whatever BMPs are included in the SWDS or future BMPs which may be developed as long as they provide similar water quality treatment and mitigate hydromodification.

Staff Response to Comment City of Salinas – Provision J.4.c.ix

See Staff Response to Comment City of Salinas – Provision L.1.a.i.1

- d) Source Control – Within 3 months of adoption of this Order timeline, the Permittee shall require Priority Development Projects to implement the following source control BMPs (where applicable) to reduce pollutants in urban runoff:

Staff Response to Comment City of Salinas – Provision J.4.d

See Staff Response to Comment City of Salinas – Provision J.2.a.

- i) Storm drain stenciling and signage;
- ii) Landscaping that minimizes irrigation and runoff, promotes surface infiltration, and minimizes the use of pesticides and fertilizers;
- iii) Efficient (How is efficiency defined or assessed?) irrigation systems;

Staff Response to Comment City of Salinas – Provision J.4.d

Central Coast Water Board staff added language to Provision J.4.d.iii in the Order.

- iv) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas;
- v) Trash storage areas designed to minimize the exposure of trash storage areas to stormwater runoff by either locating these inside or protecting them with storm resistant coverings; and
- vi) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - (1) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants;
 - (2) Dumpster drips from covered trash and food compactor enclosures;
 - (3) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
 - (4) Swimming pool water, if discharge to onsite vegetated areas is not a feasible option; and
 - (5) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. See previous discussions regarding studies required and limitation on SS use and surcharging the system.

Staff Response to Comment City of Salinas – Provision J.4.d.vi

Central Coast Water Board staff modified Provision J.4.d.vi.

- e) Initial SWDS Modifications for Flow Control and Treatment Requirements –
 - i) Uniformly Decentralized Controls – Within 3 months (Same comment re this 3-month time period.) of adoption of this Order timeline, the Permittee shall update the SWDS to require Priority Development Project applicants to manage rainfall at the source using uniformly distributed decentralized controls, natural treatment, and volume reduction BMPs (e.g., bioretention, vegetated swales, filter strips) as first means of compliance for meeting the numeric criteria for stormwater management. Where the applicant can not meet flow control and treatment requirements using uniformly distributed decentralized controls, natural treatment, and volume reduction BMPs, because of site constraints or challenges removing certain pollutant types, the

- Permittee may allow the applicant to use centralized, mechanical, and/or synthetic flow control and treatment BMPs.
- ii) Initial Flow Control Numeric Criteria – Within 3 months (Same comment re this 3-month time period.) of adoption of this Order timeline, the Permittee shall revise the April 13, 2010 SWDS Section, ‘1.5.3 Numeric Criteria for Stormwater Management’, item number 3, to incorporate the changes indicated in Attachment J - Modifications to SWDS: Initial Flow Control Criteria.

Staff Response to Comment City of Salinas – Provision J.4.e

See Staff Response to Comment City of Salinas – Provision J.2.a.

- f) Final Flow Control Requirements – Within 12 months of adoption of this Order timeline, the Permittee shall submit to the Central Coast Water Board Executive Officer for approval, revised Priority Development Project applicability thresholds and numeric criteria for stormwater management in the SWDS to require Priority Development Projects to achieve each requirement listed below. The Permittee shall implement its final flow control applicability thresholds and numeric requirements within 12 months of adoption of this Order timeline.

Staff Response to Comment City of Salinas – Provision J.4.f

See Staff Response to Comment City of Salinas – Provision J.2.a.

- i) Applicability Thresholds – The Permittee shall develop applicability criteria consistent with the Central Coast Water Board Joint Effort for Hydromodification Control to designate which project types will be required to adhere to the final flow control requirements. The applicability thresholds shall capture all project types [e.g., nature of development (i.e., new development or redevelopment), land use], sizes, and locations, accounting for cumulative effects of development, which have the potential to alter the primary watershed processes through stormwater management. The Permittee shall amend the Priority Development Project definition in the SWDS to specify the projects meeting the revised applicability criteria shall adhere to the final flow control requirements.
- ii) Final Flow Control Numeric Requirements – Using methodology developed through the Central Coast Water Board Joint Effort for Hydromodification Control, the Permittee shall derive and apply post-construction numeric criteria for controlling stormwater runoff to maintain, protect and, where necessary, restore beneficial uses of waters affected by stormwater. The Permittee shall ensure the numeric criteria for Priority Development Projects addresses the following desired conditions for primary watershed processes within the Permittee’s watersheds as necessary to protect and restore beneficial uses of water affected by stormwater:
 - (1) Surface Runoff – Maintain runoff volume, rate, duration, and surface storage at pre-development levels;¹
 - (2) Groundwater Recharge and Discharge – Maintain infiltration to support baseflow and interflow to wetlands and surface waters, and deep vertical infiltration to groundwater at pre-development levels;
 - (3) Sediment Processes – Maintain hillslope (rilling, gully, sheetwash, creep, and other mass movements); riparian (bank erosion); and channel (fluvial transport and deposition) processes within natural ranges;

¹ Numeric criteria shall identify the point in hydrologic history (i.e., pre-development, pre-project, or somewhere in between) for which the applicant shall design their site, if pre-development condition is not feasible.

- (4) Chemical Processes – Maintain chemical attenuation through sequestration, degradation, and rate of chemical delivery to receiving waters at pre-development levels; and
- (5) Evapotranspiration – Maintain evapotranspiration volume and rate at pre-development levels.
- iii) Modeling – The Permittee shall require all projects greater than ~~10,000 square feet~~ one acre-current BAHM model doubles the rate of runoff versus other methods and impacts are costly. Keep existing criteria. of impervious area to use a continuous simulation hydrologic computer model, such as USEPA's Hydrograph Simulation Program – Fortran (HSPF), to simulate the post-development runoff (including the effect of proposed post-construction BMPs) and runoff at the point in hydrologic history prior to the development per Section J.4.b.i.2 (Site Condition Calculations), to demonstrate compliance with the final flow control requirements. The Permittee shall require the project applicant use a rainfall record of at least 30 years to populate the model.

Staff Response to Comment City of Salinas – Provision J.4.f.iii

When a piece of land is made impervious, experience in Seattle and elsewhere is pointing towards 10,000 square feet of impervious area as being the threshold when managing flow starts becoming feasible from an engineering standpoint. This is why we changed the one-acre threshold to 10,000 square feet of impervious area for triggering the modeling requirements. Also, modeling is necessary at a fairly small-scale project size in order to make sure projects are designed accurately to avoid the cumulative impacts of many small projects causing incremental flow rate increases. The 2009 Orange County Phase I Permit is an example of another Phase I municipal permit that requires new development and redevelopment projects, which create and or replace at least 10,000 square feet of impervious area, to conduct continuous simulation modeling.

- g) Final Treatment Requirements – Within 12 months of adoption of this Order timeline, the Permittee shall revise the Priority Development Project applicability thresholds and numeric criteria for stormwater management in the SWDS to require Priority Development Projects to achieve each requirement listed below. The Permittee shall implement its final treatment applicability thresholds and numeric requirements within 12 months of adoption of this Order timeline.

Staff Response to Comment City of Salinas – Provision J.4.g

See Staff Response to Comment City of Salinas – Provision J.2.a.

- i) Applicability Thresholds – The Permittee shall amend the Priority Development Project definition in the SWDS to specify that the categories listed below shall adhere to the Final Treatment Requirements. These categories apply to public or private land that fall under the planning and permitting authority of the Permittee.
- (1) All new development or redevelopment projects that create and/or replacenet new 5,000 square feet or more of impervious and/or turf surface (collectively over the entire project site). Refer to previous discussion of impacts on redevelopment.

Staff Response to Comment City of Salinas – Provision J.4.g.i.1

See Staff Response to Comment City of Salinas – Provision J.3.a.

- (2) Road Projects – Widening of existing streets or roads with additional traffic lanes including the following:
- (a) The addition of traffic lanes results in an alteration of more than 50 percent of the impervious surface of an existing street or road, runoff from the entire project, consisting of all existing, new, and/or replaced impervious surfaces, shall be included in the treatment system design. This is not always feasible

if the existing half street is at a different elevation than the proposed half street. Only require the new impervious area to provide filtration and mitigate hydromodification and allow the existing half street to provide structural methods for water quality since the SD system was designed to accommodate the flows.

Staff Response to Comment City of Salinas – Provision J.4.g.i.2.a

See Staff Response to Comment City of Salinas – Provision J.3.a. Street retrofits provide a good opportunity to use public right-of-way to improve stormwater management in the City. Multiple tools exist for improving stormwater management on existing streets to better maintain and restore watershed processes impacted by stormwater management. Some examples include: installation of curb bulb-outs with stormwater management features, installation of pervious pavement in parking stalls on the sides of streets, and enhancement of street medians to accommodate stormwater runoff.

- (b) The addition of traffic lanes results in an alteration of less than 50 percent of the impervious surface of an existing street or road, only the runoff from new and/or replaced impervious surface of the project shall be included in the treatment system design. However, if the runoff from the existing traffic lanes and the added traffic lanes cannot be separated, any onsite treatment system shall be designed and sized to treat runoff from the entire street or road. If an offsite treatment system is installed or in-lieu fees paid, the offsite treatment system or in-lieu fees shall address only the runoff from the added traffic lanes.
- (3) Exclusions – The following exclusions apply:
 - (a) Interior remodels;
 - (b) Detached single-family home projects that are not part of a larger plan of development, and create or replace less than 20,000 square feet of new impervious and/or turf surfaces; and
 - (c) Sidewalk, bicycle lane, and trail projects including the following:
 - (i) Sidewalks built as part of new streets or roads and built to direct stormwater runoff to adjacent vegetated areas;
 - (ii) Bicycle lanes that are built as part of new streets or roads that direct stormwater runoff to adjacent vegetated areas;
 - (iii) Impervious trails built to direct stormwater runoff to adjacent vegetated areas, or other non-erodible permeable areas, ~~preferably away from creeks or towards the outboard side of levees;~~ Delete since this then requires collection and point discharge since the runoff is not allowed to sheet flow through vegetation down to the creek and

Staff Response to Comment City of Salinas – Provision J.4.g.i.3.c.iii

The proposed deletion is not necessary, since the Order only states it is a preference, as opposed to a strict requirement. In addition, the language proposed for deletion does not require collection and point discharge.

- (iv) Sidewalks, bicycle lanes, or trails constructed with permeable surfaces.²
- (d) Routine maintenance or repair such as:
 - (i) Roof or exterior wall surface replacement; and
 - (ii) Pavement removal and reconstruction and/or resurfacing within the existing footprint. See previous public workshop discussions. Sites should be allowed to reconstruct pavements per accepted engineering practices

² Permeable surfaces include pervious concrete, porous asphalt, un-grouted unit pavers, and granular materials.

without being penalized for correcting blight and run down conditions. Making an existing site conform to SWDS will cost more and will discourage maintenance.

Staff Response to Comment City of Salinas – Provision J.4.g.i.3.d.ii

Resurfacing activities do not trigger the final treatment requirements. If a project applicant redevelops a parking lot and excavates down to bare soil or original grade, and meets the applicability size thresholds, then the project must adhere to the final treatment requirements. See definition for redevelopment in Order Attachment B (Definitions). See also Staff Response to Comment City of Salinas – Provision J.3.a.

(4) Redevelopment Conditions –

- (a) Where a redevelopment project in the categories specified above results in an *addition/alteration* of more than 50 percent of the impervious surface of a previously existing development, runoff from the entire project, consisting of *all existing, new, and/or replaced delete “all existing” “and/or replaced”* impervious surfaces, shall be included in the treatment system design *and structural BMPs such as inlet filters may be utilized in lieu of LID BMPs.*

Staff Response to Comment City of Salinas – Provision J.4.g.i.4.a

See Staff Response to Comment City of Salinas – Provision J.3.a.

Provision J.4.g.iii includes the final treatment numeric criteria. The Order requires the City to require projects to use BMPs that utilize infiltration as the first means of compliance for meeting the treatment requirements. Capturing, retaining, and infiltrating rainwater is typically a much more effective method of attenuating pollutants compared to filtering rainwater and then releasing it. If an applicant can demonstrate that infiltration of the entire design storm is not feasible, then the applicant can use a flow-through biofiltration system to treat the remaining flow. Biofiltration systems provide an environment relying on natural mechanisms to break down and attenuate pollutants. Flow-through biofiltration systems are typically more effective in the long-term at removing pollutants from stormwater than utilizing end-of-pipe treatment BMPs. Compared to the treatment options provided in Provision J.4.g.iii, BMPs such as inlet filters do not provide the same level of treatment, do not mimic natural systems, and become less effective over time if not properly maintained and/or replaced. As such, inlet filters typically do not meet the MEP standard.

- (b) Where a redevelopment project in the categories specified above results in an *alteration-addition* of less than 50 percent of the impervious surface of a previously existing development, only runoff from the new *and/or replaced* impervious surface of the project shall be included in the treatment system design. *Keep to the net new impervious surface criteria or it will discourage, if not kill, redevelopment projects as previously discussed. Don't penalize developers for trying to remove urban blight or create jobs by making it more costly than greenfield development.*

Staff Response to Comment City of Salinas – Provision J.4.g.i.4.b

See Staff Response to Comment City of Salinas – Provision J.3.a.

- ii) Pollutants of Concern – The Permittee shall require each Priority Development Project addressed in Section J.4.g.i (Applicability Thresholds) to:
- (1) Identify the potential pollutants of concern for the proposed project, including, at a minimum:
 - (a) Pollutants for which receiving waters are listed as impaired under CWA section 303(d);
 - (b) Pollutants associated with the land use type of the development; and

- (c) Pollutants expected to be generated by activities occurring on site.
- (2) Implement BMPs that target and are effective at addressing pollutants of concern, as documented by the California Stormwater Quality Association (CASQA) BMP Handbooks or other equivalent source; and
- (3) For projects discharging directly to CWA section 303(d) listed water bodies for which TMDLs have been approved, implement measures consistent with strategies for pollutant load reductions outlined in the Permittee's Waste Load Allocation Attainment Plan(s) per Section O (TMDL).
- iii) Final Treatment Numeric Requirements – The Permittee shall require each Priority Development Project addressed in Section J.4.g.i (Applicability Thresholds) to treat the total amount of runoff identified in Section J.4.g.iv (Hydraulic Sizing Criteria for Treatment Systems) for the Priority Project's drainage area ~~with LID measures onsite.~~
- (1) ~~LID measures are harvesting and re-use, infiltration, evapotranspiration, or biotreatment. Deleted references to on site. Do not limit the available BMPs an applicant can use as long as they provide the required water quality as required under the Clean Water Act. Region 3 is exceeding the requirements of the Clean Water Act by doing this. See RBF's discussion of this subject.~~
- (2) A properly engineered and maintained biotreatment system may be used ~~only~~ if it ~~is infeasible to implement~~ ~~deleted "only" and "is infeasible to implement" and added-provides the same water quality and mitigates hydromodification in lieu of~~ harvesting and re-use, infiltration, and evapotranspiration at a project site ~~through LID methods. Don't limit the tools that can be applied.~~
- (a) Biotreatment systems shall be designed to have a surface area no smaller than what is required to accommodate a 5 inches/hour stormwater runoff surface loading rate. The planting and soil media for biotreatment systems shall be designed to sustain plant growth and maximize stormwater runoff retention and pollutant removal.
- (b) Model Biotreatment Soil Media Specifications – Within 12 months of adoption of this Order timeline, the Permittee shall submit to the Central Coast Water Board a report containing, at a minimum, the below information.
- (i) Proposed soil media specifications (including compost specifications) for biotreatment systems;
- (ii) Proposed soil testing methods to verify a long-term infiltration rate of 5-10 inches/hour;
- (iii) Relevant literature and field data showing the feasibility of the minimum design specifications;
- (iv) Relevant literature, field, and analytical data showing adequate pollutant removal and compliance with the hydraulic sizing criteria in Section J.4.g.iv (Hydraulic Sizing Criteria for Treatment Systems); and
- (v) Guidance for the Permittee to apply the minimum specifications in a consistent and appropriate manner. Region 3 should provide this information or fund a pilot project to determine (i) through (v). The City should not have to invent everything to be used by others since that is an unfair economic burden.
- (c) Within 12 months of adoption of this Order timeline, the Permittee shall ensure that biotreatment systems installed comply with the biotreatment soil media specifications and soil infiltration testing methods. How. Region 3 shall provide that information. If you are requiring it you must have a source?

Staff Response to Comment City of Salinas – Provision J.4.g.iii

See Staff Response to Comment City of Salinas – Provision J.2.a for issues on the timeline.

See Staff Response to Comment City of Salinas Supplemental – 4. The Order requires the City to require project applicants to achieve flow and treatment requirements onsite. The Order includes alternative compliance options if an applicant demonstrates that it cannot manage stormwater onsite to meet the flow and treatment requirements. The alternative compliance approach includes offsite and in-lieu fee options. The purpose of requiring applicants to manage stormwater onsite using decentralized BMPs is to protect and maintain watershed processes impacted by stormwater management at development projects as necessary to protect water quality and beneficial uses. Central Coast Water Board staff modified Provision J.4.g.iii to provide a wider range of BMP options for complying with the final treatment requirements if the applicant demonstrates that LID measures are infeasible.

See Staff Response to Comment City of Salinas – Provision J.4.g.i.4.a.

The City must develop the biofiltration soil media specifications so that the specifications are appropriate for local conditions. The Fact Sheet for Provision J explains that the City may reference or directly use the Model Bioretention Soil Media Specifications, developed by San Francisco Bay municipalities, pursuant to the San Francisco Bay Regional Water Quality Control Board's requirements, for the City's biotreatment soil media specifications.

See Comment USEPA – 2 which supports the requirements in J.4.g.iii. Also, see Staff Response to Comment USEPA – 2 for more details about modifications to the Final Treatment Numeric Criteria.

- iv) Hydraulic Sizing Criteria for Treatment Systems – The Permittee shall require that stormwater treatment systems constructed for Priority Development Projects addressed in Section J.4.g.i (Applicability Thresholds) meet at least one of the hydraulic sizing design criteria listed below.
 - (1) Volume Hydraulic Design Basis – Treatment systems whose primary mode of action depends on volume capacity shall be designed to treat stormwater runoff equal to the volume of runoff generated by the 85th percentile 24-hour storm event, based on local rainfall data.
 - (2) Flow Hydraulic Design Basis – Treatment systems whose primary mode of action depends on flow capacity shall be sized to treat:
 - (a) The flow of runoff produced by a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or
 - (b) The flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity.
 - (3) Combination Flow and Volume Design Basis – Treatment systems that use a combination of flow and volume capacity shall be sized to treat at least 80 percent of the total runoff over the life of the project, using local rainfall data.
- h) Onsite/Offsite Compliance Alternative – The Permittee shall require project applicants meet the SWDS using either onsite or offsite flow control and treatment BMPs as feasible and either is acceptable if they meet the water quality and hydromodification requirements to the same extent. Do not limit which BMPs can be applied so cost effectiveness can be taken into account. Limiting or directing which BMP may be applied and in what order is not required by the Clean Water Act. Especially when the geotechnical investigation has determined on site infiltration is not feasible or is minimal. See RBF discussion. The Permittee shall only permit a project applicant to use offsite compliance alternatives if the project applicant can demonstrate that onsite controls are

~~infeasible per Section J.4.h.ii (Alternative Compliance Justification).—A project applicant successfully uses onsite controls BMPs when all source control, treatment, and flow control collectively result in the SWDS being met at their the project watershed or SD system prior to disposal into receiving water project site, in accordance with Section J.4.e.i (Uniformly Decentralized Controls). Modified paragraph.~~

Staff Response to Comment City of Salinas – Provision J.4.h

See Staff Response to Comment City of Salinas – Provision J.4.g.iii.

i) Offsite Compliance Alternatives

(1) Offsite Flow Control and Treatment Project in the Same Urban Subwatershed -

The offsite project shall provide flow control and treatment BMPs to meet the SWDS requirements of the calculated equivalent quantity of both stormwater runoff control and pollutant load reduction and a net environmental benefit. Offsite projects shall be constructed by the end of construction of the development project. If more time is needed to construct the offsite project, for each additional year, up to three years, after the construction of the development project, the offsite project shall provide an additional 10 percent of the calculated equivalent quantity of both stormwater runoff control and pollutant load reduction. Such offsite projects shall be completed within three years of the end of development project construction. The project applicant shall be responsible for the long-term O&M of the offsite project unless the project applicant develops an agreement with the Permittee that the Permittee will take responsibility for the offsite project in perpetuity.

(2) In-Lieu Fee Towards Permittee Retrofit Project - The Permittee may develop an in-lieu fee option to fund Permittee retrofit projects. The fee shall go towards a retrofit project that meets the following criteria:

(a) Is a candidate project for retrofitting per Section L (Development Planning and Stormwater Retrofits);

(b) Is located within the same Urban Subwatershed as the development project being mitigated or in an Urban Subwatershed deemed to have a more critical need for restoration of riparian vegetation and habitat;

(c) Provides equal or greater contribution towards desired conditions for watershed processes, per Section J.4.f.ii (Final Flow Control Numeric Requirements), as the portion of the development project being mitigated;

(d) Includes a complete implementation schedule and project plan;

(e) Is scheduled to commence construction within one year of the construction commencement of the development project being mitigated; and

(f) The Permittee or the applicant/developer accepts responsibility for project completion and long-term maintenance. It may be a private project.

Staff Response to Comment City of Salinas – Provision J.4.h.i.2

The in-lieu fee option is City retrofit projects. Therefore, the City is responsible for making sure long-term maintenance of a retrofit project occurs. The City can delegate that authority to a project applicant; however, it will be the City's responsibility to ultimately make sure the operation and maintenance occurs. Provision J.4.h.i.1 (Offsite Flow Control and Treatment Project in the Same Urban Subwatershed) provides an alternative compliance option for the project applicant to conduct a non-municipal project and be responsible for the long-term operation and maintenance.

ii) Alternative Compliance Justification – To utilize alternative compliance measures, the Permittee shall require the project applicant to demonstrate that compliance with the applicable requirements of this Section would be technically infeasible by submitting a site-specific hydrologic and/or design analysis conducted and endorsed by

a registered professional engineer, geologist, architect, and/or landscape architect. Technical infeasibility may result from the examples listed below. One of these examples alone does not necessarily demonstrate infeasibility for implementing all the requirements of this Section. ~~The Permittee shall require the applicant to collectively demonstrate the applicant has optimized all onsite BMP and site layout options, and then for any portion(s) of the site and/or volume of stormwater remaining, the Permittee may allow the applicant to address those portions of the site and/or volume using offsite compliance alternatives. Delete this and similar requirements that limit use of all BMPs. Region 3 staff stated during discussions with City staff that it was not limiting use of end of pipe BMPs but this whole section seeks to limit their use through relegating them to BMPs of last resort. Modified paragraph.~~

Staff Response to Comment City of Salinas – Provision J.4.h.ii

See Staff Response to Comment City of Salinas – Provision J.4.g.iii.

- (1) Brownfield development sites or other locations where pollutant mobilization is a documented concern; and
- (2) Smart growth and infill or redevelopment locations where the density and/ or nature of the project would create significant difficulty for compliance with the onsite flow control and treatment requirements and limited percolation/infiltration rates.

Staff Response to Comment City of Salinas – Provision J.4.h.ii.2

The Order focuses on requirements to protect and restore watershed processes impacted by stormwater management as necessary to protect water quality and beneficial uses. The infiltration component aims to maintain or restore infiltration dispersion, location, and volumes; therefore, the Order doesn't require higher volumes of water to be infiltrated than would naturally occur. However, if a project proposes to change the infiltration patterns of a site by reducing infiltration capacities in some areas (e.g., compacting soils, creating impervious areas), then the project may have to engineer an area so it is more conducive to accepting and infiltrating more runoff (e.g., amend soils, working vegetation).

- i) Operation and Maintenance Plans for Flow Control and Treatment BMPs – Within 12 months of adoption of this Order timeline, the Permittee shall revise the SWDS to require all private and public Priority Development Projects that include flow control and treatment BMPs to develop and implement in perpetuity a written O&M Plan that, at a minimum, includes each component listed below. The Permittee may allow the Priority Development Project applicant to include the O&M Plan components in the SWCP in place of developing a separate document. The Permittee shall approve the O&M Plan prior to final approval/occupancy.

Staff Response to Comment City of Salinas – Provision J.4.i

See Staff Response to Comment City of Salinas – Provision J.2.a.

- i) Components Required for All Applicants of Priority Development Projects (Public and Private)
 - (1) Site map identifying all flow control and treatment BMPs requiring long-term maintenance to remain effective
 - (2) Design specifications, including structural design and anticipated BMP effectiveness at managing flow and removing pollutants, for all flow control and treatment BMPs requiring long-term maintenance
 - (3) Maintenance procedures and schedule
 - (4) Self inspection program to ensure BMPs continue to function as designed and strategy for fixing and/or replacing BMPs if inspections identify BMPs not functioning as designed
- ii) Components Required for All Applicants of Private Priority Development Projects (does not apply to Public)

- (1) Conditions of approval or other legally enforceable agreements or mechanisms that, at a minimum, require at least one of the following from all project owners and their successors in control of the project or successors in fee title:
- (a) The project owner's signed statement accepting responsibility for the O&M of the installed onsite and/or offsite flow control and treatment BMPs until such responsibility is legally transferred to another entity;
 - (b) Written ~~conditions in the sales or lease agreements~~ or deed restrictions (City is not always privy to private agreements), for the project that requires the buyer or lessee to assume responsibility for the O&M of the onsite and/or offsite installed flow control and treatment BMPs until such responsibility is legally transferred to another entity; Modified sentence.

Staff Response to Comment City of Salinas – Provision J.4.ii.1.b

The City can require the project applicant to demonstrate in the O&M Plan that the applicant has met the conditions of approval included in Provision J.4.ii.1. The City does not have to gather information about conditions of approval or other legally enforceable agreements or mechanisms on its own. Central Coast Water Board staff finds that the option to include conditions of approval or other legally enforceable agreements or mechanisms in written conditions in the sales or lease agreements of a property is a reasonable option and should not be removed.

- (c) Written text in project deeds, or conditions, covenants and restrictions for multi-unit residential projects that require the homeowners association or, if there is no association, each individual owner to assume responsibility for the O&M of the installed onsite and/or offsite flow control and treatment BMPs until such responsibility is legally transferred to another entity; or
 - (d) Any other legally enforceable agreement or mechanism, such as recordation in the property deed, that assigns the O&M responsibility for the installed onsite and/or offsite flow control and treatment BMPs to the project owner(s) or the Permittee
- (2) Conditions of approval or other legally enforceable agreements or mechanisms that require the granting of site access to all representatives of the Permittee, local mosquito and vector control agency staff, and Central Coast Water Board staff, for the sole purpose of performing O&M inspections of the installed flow control and treatment BMPs

- 5) Information Management System – Within 3 months of adoption of this Order cannot meet this schedule as previously explained. Too aggressive considering the magnitude of the changes and other requirements of this permit etc., the Permittee shall develop and maintain an effective information management system to manage and document projects required to implement the requirements of this Section. The Permittee shall be able to retrieve each item of information listed below for all projects.

Staff Response to Comment City of Salinas – Provision J.5

Central Coast Water Board staff conducted an audit, in March 2011, of components of the City's stormwater management program. Central Coast Water Board staff identified deficiencies of the City's current tracking system for new development and redevelopment projects. In follow-up discussions with the City, the City indicated it would improve its project tracking system. Central Coast Water Board staff does not anticipate that adding information categories to the tracking system will take very much time, assuming the City has improved its project tracking system since the March 2011 audit.

Central Coast Water Board staff has retained the 3 month deadline in the Order for updating the City's information management system. See comment, City of Salinas – 29. For successful implementation of the requirements in Provision J, Central Coast Water Board staff finds it is essential for the City to have a robust, reliable tracking system. The March 2011 audit indicated the City's inadequate tracking system was affecting the City's ability to appropriately apply the SWDS to applicable projects. Also see Staff Response to Comment City of Salinas – Provision D.3.b and Staff Response to Comment City of Salinas – Provision F.11.a.ii for Central Coast Water Board staff's expectations for information management systems and system implementation.

- a) Tracking information for the following project types:
 - i) Non-Priority Development Projects; and
 - ii) Priority Development Projects
 - b) Completion date, for the above project types, of the following project stages, where applicable:
 - i) Permittee notified of project;
 - ii) Project application submitted;
 - iii) Project planning application deemed complete;
 - iv) Permittee determines project meets the requirements of this Section;
 - v) Building permit issued by Permittee;
 - vi) Construction commences;
 - vii) Final approval/occupancy; and
 - viii) Maintenance plan approved by Permittee [Note: Tracking O&M addressed in Section E (Municipal Maintenance)]
 - c) Data used to determine if the project met the applicability threshold for Non-Priority or Priority Development Project [(e.g., impervious area created or replaced, number of housing units, type of project (e.g., automotive repair shop, restaurant, hillside development, or gasoline outlet)]
 - d) The SWCP
 - e) Documentation of the plan review and SWCP review (for Priority Development Projects), to demonstrate the Permittee verified each project met all applicable requirements of this Section, for each approved Non-Priority Development Project and Priority Development Project
- 6) Training – The Permittee shall ensure that all municipal staff whose job duties are related to implementing the requirements of this Section (e.g., development and planning review staff, engineers, enforcement staff, inspectors, maintenance staff, Elected Officials, City Council, Planning Commission) have the knowledge and understanding necessary to effectively implement the new development and redevelopment provisions. New municipal staff, or municipal staff new to a position related to this Section, shall be trained within one year of hire or attainment of new position. The Permittee shall perform an assessment of trained municipal staff's knowledge of implementation of the requirements of this Section and shall revise the training to address any deficiencies each year. Training documents shall be available for review by the Central Coast Water Board. The training shall, at a minimum, address each item listed below.
- a) The requirements of this Section and other topics that relate to the municipal staff's job duties, including: [See previous section comments on training. This may be in conflict with position descriptions currently in force at the City and controlled by agreements between staff unions and the City.](#)

Staff Response to Comment City of Salinas – Provision J.6.a

See Staff Response to Comment City of Salinas – Provision F.9.m, Staff Response to Comment City of Salinas – Provision E.13.a, and Staff Response to Comment City of Salinas – Provision G.6.d.iii. In addition, it's the City's responsibility to determine how best to train their staff such that they can effectively implement the requirements in the Order.

- i) Federal, State, and local water quality laws and regulations applicable to development projects (including most current version of the SWDS);
- ii) The connection between land use decisions and short-term and long-term water quality impacts (i.e., impacts from land development and urbanization);
- iii) Detailed understanding of the water body setback requirements in Section L (Development Planning and Stormwater Retrofits) and the environmental benefit of healthy water body buffers;
- iv) Detailed understanding of the site design review and approval process for compliance with the requirements of this Section. This includes an understanding of which municipal staff/departments are responsible for each portion of the site design review;
- v) SWCP development and review;
- vi) O&M Plan development and review;
- vii) Enforceable mechanisms related to insufficient installation and long-term maintenance of flow control and treatment BMPs;
- viii) Methods of minimizing impacts to receiving water quality resulting from development, including:
 - (1) Identification of local sensitive water bodies, including CWA section 303(d) listed-impairments, and methods to manage pollutant loading to these receiving waters;
 - (2) Methods to control impacts to watershed processes;
 - (3) Selection of the most effective BMPs to manage watershed processes at the site level;
 - (4) Identification of pollutants of concern;
 - (5) LID site planning and BMP design techniques (e.g., plant pallet selections, soil mixtures, pervious surface designs, bioretention and biotreatment facility designs);
 - (6) Source control BMPs; and
 - (7) Selection of the most effective treatment BMPs for the pollutants of concern.
- ix) Public health concerns related to stormwater management infrastructure; and
- x) Methods for properly installing and maintaining flow control and treatment BMPs.
- b) The administrative requirements of this Order, such as reporting and tracking.
- c) Refresher training for existing municipal staff each year to fill any knowledge gaps identified in the annual training assessment and to update municipal staff on preferred BMPs, current advancements in BMP technologies, regulation changes, Order updates, and policy or standards updates.
- d) Throughout the year municipal staff shall be updated if changes occur. [This is why the SWDS should be changed at one time when the Joint Effort requirements are in, not several times.](#)

Staff Response to Comment City of Salinas – Provision J.6.d

The Order requires two sets of updates to the SWDS. Central Coast Water Board staff finds it reasonable to update municipal staff on these two sets of SWDS changes.

- e) Staff not Employed by the Permittee – If the Permittee contracts out to others to implement portions of the municipal stormwater requirements of this order, these outside staff shall be trained per the requirements listed in this Section.

7) Reporting

- a) In each Annual Report, the Permittee shall include each requirement listed below.
- i) Any SWDS revisions the Permittee proposes, in addition to the SWDS updates required pursuant to this Order
 - ii) Any changes to the Permittee's plan review process, regulations, or other components of the New Development and redevelopment provisions to ensure development projects adhere to requirements in this Order
 - iii) A description of the guidance (i.e., workshops, manuals, brochures, face-to-face discussions) provided to development project applicants to provide assistance in meeting the requirements in the SWDS. Explain the effectiveness of the guidance tool(s), who received the guidance, and when in the project development process the development project applicant received the guidance.
 - iv) Tracking reports detailing new project information uploaded during reporting year based on information identified in Section J.5 (Information Management System)
 - v) For every Non-Priority Development Project and Priority Development Project approved during the reporting period, the Permittee shall report the following information in electronic tabular format:
 - (1) Type of project (e.g., Non-Priority or Priority Development Project, applicability threshold category);
 - (2) Data used to determine if the project met the applicability threshold for Non-Priority or Priority Development Project;
 - (3) Requirements related to LID, source control, flow control, and water quality control imposed on project, including the following:
 - (a) Explanation of requirements achieved by project;
 - (b) Explanation of requirements not achieved by project; and
 - (c) Explanation of how the project achieved the requirements; and
 - (4) Alternative compliance options pursued by project.
 - vi) Description of enforcement activities applicable to implementing the requirements of this Section and a description of the effectiveness of those activities, including an explanation of the process used to evaluate the effectiveness of those activities.
 - vii) A training report that includes at a minimum:
 - (1) List of all staff whose job duties are related to implementing the requirements of this Section, the date(s) training occurred, and the topics covered;
 - (2) Results of the annual training assessment and a summary of any implemented revisions to training; and
 - (3) A summary of the Permittee's compliance with the training requirements of this Section.
- b) Model Biotreatment Soil Media Specifications – In the Year 1 Annual Report, the Permittee shall submit the model biotreatment soil media specifications per Section J.4.g.iii (Final Treatment Numeric Requirements). [Region 3 should again provide this. We should not be expected to invent these or a pilot program should be funded by region 3.](#)

Staff Response to Comment City of Salinas – Provision J.7.b
See Staff Response to Comment City of Salinas – Provision J.4.g.iii

K. Construction Site Management

- 1) Construction Site Management and Information Inventory - The Permittee shall develop and maintain a construction site inventory to track all construction sites in the Permit coverage area. See Section K.6.e (Information Management) and Section K.10 (Information Management System) for information management requirements for the inventoried construction sites. Within 12 months of adoption of this Order, the Permittee shall develop and implement effective construction site management that complies with the requirements of this Section.
- 2) High Priority Construction Sites
 - a) The Permittee shall establish criteria for High Priority Construction Sites, which at a minimum shall consider the following factors:
 - i) Site size and size of disturbed area;
 - ii) Site slope;
 - iii) Soil erosion potential;
 - iv) Proximity to CWA section 303(d) listed water bodies impaired by sediment;
 - v) Sensitivity of receiving water bodies;
 - vi) Non-stormwater discharges; and
 - vii) Past record of non-compliance by the operators of the construction site.
 - b) At a minimum, sites that are required to enroll in the General Construction Permit that have not obtained an Erosivity Waiver from the State Water Board shall be identified as High Priority Construction Sites. *The Board should be required to notify the City when SWPPP and NOIs have been submitted and WDIDs issued with the City limits so we can track projects which may not have obtained a City Permit such as school (OSA) or other projects.*

Staff Response to Comment City of Salinas – Provision K.2.b

The City isn't required by the Order to regulate construction site management for projects it has no jurisdictional control over (for example a federal facility or Hartnell College). The Order has been revised to provide clarification. If NOI submittal information would be otherwise useful for the City, the City can obtain this information from the public stormwater database (SMARTS).

- 3) Minimum Construction BMPs for All Construction Sites
 - a) The Permittee shall require all construction sites to implement the following BMPs:
 - i) For construction sites with earth disturbance activities:
 - (1) Stabilized construction entrance/exit;
 - (2) Scheduling of grading activities to minimize bare graded areas during the Rainy Season;
 - (3) Preservation of existing vegetation where possible;
 - (4) For sites with exposed slopes, erosion control BMPs during the Rainy Season or before a likely precipitation event (any weather pattern that is forecast to have a 50 percent or greater probability of producing precipitation in the area);
 - (5) Down slope sediment control BMPs (e.g., sediment logs, silt fence, sand bag barrier);
 - (6) Stockpile management; and
 - (7) Protection of slopes and channels.
 - ii) Concrete waste management;
 - iii) Solid waste management;
 - iv) Sanitary/septic waste management;
 - v) Storm drain inlet protection; and

- vi) Good housekeeping practices (e.g., trash management, proper material storage).
 - b) The Permittee shall designate additional BMPs as minimum BMPs at construction sites as necessary to comply with the requirements of this Order.
- 4) Minimum Requirements for High Priority Construction Sites
- a) For construction sites subject to the General Construction Permit, the Permittee shall require construction permittees to submit their WDID number as proof of coverage pursuant to the General Construction Permit prior to issuance of a building or grading permit. For sites that have obtained an Erosivity Waiver from the State Water Board, the Permittee shall require construction permittees to submit a copy of the State Water Board Erosivity Waiver approval.
 - b) For all High Priority Construction Sites, the Permittee shall require construction permittees to submit source control and erosion and sediment control plans. The Permittee shall ensure that each of the minimum requirements listed below, in addition to the requirements in Section K.3 (Minimum Construction BMPs for All Construction Sites), are effectively implemented for High Priority Construction Sites.
 - i) Erosion and Sediment Control BMPs – Erosion control and sediment control BMPs shall be designed, installed, and maintained to reduce the discharge of pollutants from construction sites to the MEP and protect water quality. Erosion and sediment from slopes and channels shall be controlled by implementing an effective combination of erosion control (source control) and other sediment control BMPs, consistent with erosion and sediment control BMPs described in the San Francisco Regional Water Quality Control Board's Erosion and Sediment Control Field Manual, the CASQA Construction Stormwater BMP Handbook, or equivalent manual. At a minimum, such erosion and sediment control BMPs shall be designed, installed, and maintained to effectively:
 - (1) Control stormwater volume and velocity within the site to minimize soil erosion;
 - (2) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
 - (3) Minimize the amount of soil exposed during construction activity;
 - (4) Minimize the disturbance of steep slopes;
 - (5) Minimize sediment discharges from the site by designing, installing, and maintaining erosion and sediment control BMPs that address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
 - (6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;
 - (7) Minimize soil compaction (to the extent possible given engineering considerations) and, unless infeasible, preserve topsoil; and

Staff Response to Comment City of Salinas – Provision K.4.b.i.(7)

Central Coast Water Board staff added “for areas that will remain pervious” to the Order to clarify that this provision doesn’t apply to portions of the project that, for example, will have a structure built over it, or be paved. There are other situations where compaction may be required for structural stability where the area will remain pervious (like a fill slope). This provision doesn’t say compaction must be eliminated. In the fill slope example, the project would minimize compaction by not compacting in other areas where it wasn’t required for structural stability.

- (8) Provide adequate redundancy of upslope BMP and temporary stabilization and not rely solely on perimeter control BMPs.
- ii) Soil Stabilization – Stabilization of disturbed areas shall, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 (consecutive?) calendar days. In areas where initiating vegetative stabilization BMPs immediately is infeasible, alternative equivalent stabilization BMPs shall be employed. Slope stabilization shall occur on all inactive slopes during the rainy season and during rain events in the dry season. Slope stabilization shall occur on all active slopes during rain events regardless of the season.

Staff Response to Comment City of Salinas – Provision K.4.b.ii
Central Coast Water Board staff has added “Consecutive” to the Order.

- iii) Dewatering – Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate BMPs.
- iv) Source Control BMPs – The Permittee shall require dischargers to design, install, implement, and maintain BMPs to minimize the discharge of pollutants. At a minimum, such BMPs shall be designed, installed, implemented and maintained to:
- (1) Eliminate discharges from equipment and vehicle washing, wheel wash water, and other wash waters;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater runoff; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- v) Surface Outlets – The Permittee shall require dischargers to utilize outlet structures that withdraw water from the surface when discharging from basins and impoundments, unless infeasible.
- vi) Source control and erosion and sediment control plans shall contain, at a minimum, the following:
- (1) Provisions to effectively comply with the requirements in Section K.3 (Minimum Construction BMPs for All Construction Sites) and Section K.4 (Minimum Requirements for High Priority Construction Sites);
 - (2) A vicinity map showing nearby roadways, the construction site perimeter, and the geographic features and general topography surrounding the site;
 - (3) A site map showing the construction site in detail including: the existing and planned site elements (e.g., buildings, landscaped areas); general topography both before and after construction; drainage patterns across the site; location of physical BMPs; delineation of areas where soils disturbance activities will occur; and anticipated stormwater discharge locations (e.g., the receiving water, a conduit to receiving water, drain inlets);
 - (4) A detailed, site-specific listing of the potential sources of stormwater pollution;
 - (5) A description of the type of source control and erosion and sediment control BMPs to be employed at the site;
 - (6) The rationale used for selecting BMPs, including how the BMP protects a waterway or stormwater conveyance;
 - (7) The name and telephone number of the qualified person responsible for implementing the source control and erosion and sediment control plans; and

- (8) Certification/signature by the landowner or an authorized representative.
- 5) Construction Plan Review – The Permittee shall review construction plans for all construction sites.
- a) For High Priority Construction Sites without a State Water Board Erosivity Waiver, prior to issuing a grading or building permit, the Permittee shall:
 - i) Review source control and erosion and sediment control plans and ensure that the plans contain adequate and appropriate site-specific construction site BMPs and other provisions that meet the requirements in Section K.3 (Minimum Construction BMPs for All Construction Sites) and Section K.4 (Minimum Requirements for High Priority Construction Sites); and
 - ii) Complete a documented review of each source control and erosion and sediment control plan using a checklist or similar process.
 - b) For construction sites not identified as High Priority Construction Sites, prior to issuing a grading or building permit, the Permittee shall:
 - i) Review plans and ensure that the plans contain the required minimum construction BMPs in Section K.3 (Minimum Construction BMPs for All Construction Sites); and
 - ii) Complete a documented review of each construction plan using a checklist or similar process.
- 6) Inspections
- a) Construction Phases - The Permittee shall adequately inspect all phases of construction. In addition to the requirements specified in Section K.7 (Inspections of Structural BMP Installation), the Permittee shall perform each action item listed below.
 - i) Prior to Land Disturbance – Prior to allowing an operator to commence land disturbance activities, the Permittee shall perform an inspection to ensure all necessary sediment control BMPs are in place. For all Priority Development Projects, the Permittee shall verify sites have installed appropriate barriers to delineate areas where the contractor shall conserve natural areas and avoid excess grading and soil disturbance.
 - ii) During Active Construction – During active construction, the Permittee shall conduct inspections in accordance with the frequencies specified in Section K.6.c (Frequency) and Section K.6.d (High Priority Construction Sites).
 - iii) Following Active Construction – The Permittee shall not deem the construction site project complete or issue final building or occupancy permits until an inspection is performed to verify that all graded areas have reached final stabilization and that all temporary BMPs are no longer needed and have been removed (e.g., silt fence, waddles). Where vegetation is used for final stabilization, a uniform vegetative cover with minimum of 70 percent coverage shall be established.
 - b) Personnel and Procedures - The Permittee shall have trained and qualified personnel performing inspections. The Permittee shall follow, and revise as applicable, written procedures outlining the inspection and enforcement procedures. Inspections of construction sites shall, at a minimum:
 - i) Review the applicable source control and erosion and sediment control plans and conduct a thorough site inspection to determine if adequate BMPs have been selected, and if the BMPs have been installed, implemented, and maintained according to the plan;
 - ii) Require corrective actions for sites where adequate and effective BMPs have not been installed and maintained;

- iii) Assess compliance with the Permittee's ordinances, permits, or other requirements, and this Order, including the implementation and maintenance of designated minimum BMPs;
 - iv) Assess the appropriateness of BMPs and their effectiveness;
 - v) Visually observe and record non-stormwater discharges, potential illicit connections, and potential pollutants in runoff;
 - vi) Provide education and outreach on stormwater pollution control BMPs, as needed;
 - vii) Use the Enforcement Response Plan to ensure corrective actions are implemented and sites come into compliance; and
 - viii) Provide a written or electronic inspection report generated from findings in the field.
- c) Frequency - The Permittee shall inspect all active construction sites within the Permit coverage area a minimum of once a month during the rainy season to ensure compliance with local ordinances and this Order. During the remainder of the year, the Permittee shall inspect all active construction sites a minimum of once every other month.
- d) High Priority Construction Sites - The Permittee shall inspect High Priority Construction Sites a minimum of once a week during the rainy season and within 48 hours after a ½-inch rain event.
- i) Inspection Procedures for High Priority Construction Sites – In addition to the inspection procedures listed in Section K.6.b (Personnel and Procedures), the Permittee shall develop and implement inspection procedures for High Priority Construction Sites that achieve the following:
 - (1) Inspection Rating – The Permittee shall determine the Inspection Rating for each inspection of each High Priority Construction Site using the methodology described in Attachment G, or an equivalent methodology approved by the Central Coast Water Board Executive Officer. *(Same comment her with respect to the authority of the Executive Office to make a decision—seemingly arbitrarily—without any process which involves a discussion with the City. This is an administrative amendment of this Permit.)*

Staff Response to Comment City of Salinas – Provision K.6.d.i.1

See Staff Response to Comment City of Salinas – Provision C.3.c.

- (2) High Priority Construction Sites Ready for a Rain Event – The Permittee shall determine the percentage of High Priority Construction Sites ready for a rain event using the following procedure.
 - (a) The Permittee shall document and track all ½-inch rain events, as measured at the Permittee's primary rain gauge.
 - (b) For each ½-inch rain event, the Permittee shall determine the number of sites with an Inspection Rating of "B" or higher at the inspection immediately prior to the rain event, provided that the inspection occurred not more than 7 days prior to the start of the rain event.
 - (c) The Permittee shall calculate the percentage of High Priority Construction Sites ready for each ½-inch rain event by dividing the number of sites with an Inspection Rating of "B" or higher within 7 days prior to the rain event by the total number of active sites at the time of the rain event.
 - (d) If the Permittee's follow-up efforts lead to the reinspection of a site that results in an Inspection Rating of "B" or higher for the site, the Permittee may use the reinspected Inspection Rating in calculating the percentage of sites that are ready for a rain event, provided that the reinspection occurred prior to the start of the rain event.

- (3) For inspections conducted within 48 hours after a ½-inch rain event, the Permittee shall assess the following:
- (a) The scope of sediment discharges from the site, if any, and their potential impact on water quality;
 - (b) The effectiveness of BMPs at controlling erosion and sediment discharge; and
 - (c) The effectiveness of the Permittee's determination of Inspection Ratings that accurately represent actual threat of discharge of sediment and other pollutants.
- ii) The Permittee shall identify any source control and erosion and sediment control BMPs that are not implemented effectively or properly installed or maintained and any additional BMPs required at each site to prevent pollution and control erosion and sediment to the MEP and to protect water quality.
 - iii) The Permittee shall notify the responsible party of each inspected site of the results of inspection, including the compliance percentage, any BMPs that were not implemented effectively or properly installed or maintained, and any additional BMPs required.
- e) Information Management – The Permittee shall develop and maintain an effective information management system to record and track the following inspection information:
- i) Construction site information management as required in Section K.10 (Information Management System);
 - ii) Dates of all inspections;
 - iii) The number of inspections to verify that the sites are inspected at the minimum frequencies required;
 - iv) Dates of rain events resulting in at least ¼ inch of rainfall, preceded by at least 72 hours without rainfall;
 - v) The number of specific erosion and sediment control BMPs required at each High Priority Construction Site;
 - vi) Results of inspections, including the number of erosion and sediment control BMPs implemented effectively or properly installed and maintained and the compliance percentage for each High Priority Construction Site inspection;
 - vii) Any additional BMPs required, including required revisions to the site's source control and erosion and sediment control plan, as applicable;
 - viii) That the site's responsible party was notified of the results of the inspection; and
 - ix) Follow-up inspections and enforcement actions.
- 7) Inspections of Structural BMP Installation - The Permittee shall inspect all structural BMPs (owned/operated by the Permittee and privately owned/operated one every 5 years, correct?) both during and after installation. (Does this apply to existing BMPs or only to BMPs which come on-line after the approval of this Permit?) The inspections shall identify any required corrective actions. The Permittee shall verify all corrected actions are implemented.

Staff Response to Comment City of Salinas – Provision K.7

Section K.7.a and K.7.b only apply to BMPs which are constructed after the adoption of the Order. These inspections will occur both during and just after construction to make sure the BMP is installed correctly. Section K.7.c, which applies to BMP maintenance rather than BMP installation, refers to Section E.7 which explains in Section E.7.a that the provision applies to BMPs installed after the approval of the Order as well as to those BMPs previously installed under the City's existing Order No. R3-2004-0135. Section E.7.f specifies a maintenance

inspection frequency of once every 5 years for privately owned/operated and annually for City owned/operated.

- a) During Construction – The Permittee shall inspect all structural BMPs during installation, to verify proper BMP installation. The inspection shall also ensure appropriate safeguards are in place to prevent construction site pollutants and flows from compromising structural BMPs long-term performance.
- b) After the Installation is Complete – The Permittee shall inspect all structural BMPs upon completion of BMP installation. The Permittee shall not issue final approval/occupancy for the site until it has verified proper installation of all structural BMPs.
- c) Long-Term Inspections – The Permittee shall inspect structural BMPs after construction is complete according to Section E.7 (Municipal Maintenance: Maintenance of Structural BMP Verification) *(This seems to suggest that only those which are constructed after this Permit is approved are subject to this requirement.)*

Staff Response to Comment City of Salinas – Provision K.7.c

See Staff Response to Comment City of Salinas – Provision K.7.

- 8) Enforcement of Construction Site Management – The Permittee shall utilize its legal authority to enforce appropriate ordinances, statutes, permits, contracts or other means to control pollutant discharges from all construction sites. The Permittee shall implement the progressive Enforcement Response Plan (Section S.2 [Legal Authority: Enforcement Measures and Tracking]) and take all necessary follow-up actions (e.g., warnings, notices, escalated enforcement, follow-up inspections) to ensure construction sites are brought into compliance and are implementing effective BMPs. The Permittee shall respond to and document all complaints received from third-parties and document any required corrective actions have been implemented. The Permittee shall utilize the reporting system described in Section H.4 (Illicit Discharge Detection and Elimination: Illicit Discharge Reporting System) to facilitate public complaints of construction sites.
- 9) Process to Refer Noncompliance and Non-filers to the Central Coast Water Board
 - a) When the Permittee has exhausted its progressive Enforcement Response Plan and cannot bring a construction site or construction operator into compliance with its ordinances, permits, other requirements, or this Order, or otherwise deems the site to pose an immediate and significant threat to water quality, the Permittee shall provide oral notification to the Central Coast Water Board within five business days of such determination. Such oral notification shall be followed by written notification within ten business days of the incident.
 - b) For construction sites requiring coverage under the General Construction Permit that cannot demonstrate coverage under that permit, the Permittee shall notify the Central Coast Water Board of those non-filers within ten business days of discovery. In making such notifications, the Permittee shall provide to the Central Coast Water Board, at a minimum, the following information:
 - i) Site location including address;
 - ii) Site contact and owner;
 - iii) Estimated size of the site; and
 - iv) Records of communication with the responsible party regarding filing requirements.
 - c) The Permittee shall notify the Central Coast Water Board when the Permittee issues a stop work order or other high level enforcement action to a construction site as a result of stormwater violations. The Permittee shall notify the Central Coast Water Board, prior to the commencement of the rainy season, of all construction sites with alleged current violations each year. Information provided shall include, at minimum, the following:

- i) WDID number if enrolled under the General Construction Permit;
 - ii) Site location, including address;
 - iii) Site contact and owner;
 - iv) Estimated size of the site;
 - v) Current violations or suspected violations; and
 - vi) Records of communication with the responsible party regarding violations.
- 10) Information Management System – Within 6 months of adoption of this Order, the Permittee shall develop and maintain an effective information management system to track all construction sites in the Permit coverage area and the Permittee's implementation of the stormwater construction site management for each site. The Permittee shall keep the information management system up-to-date. Outputs from the system shall be available to the Central Coast Water Board upon request. The information management system shall at a minimum include the following for all construction sites:
- a) Relevant contact information for each site (e.g., name address, phone, for owner and contractor);
 - b) Site address;
 - c) Status of the site in the Permittee's permit/approval process (i.e., what permits or other approvals have been applied for by the applicant and the status of those approvals);
 - d) Size of site and area of disturbance;
 - e) Documentation of the site information used to determine if the site shall be designated as a High Priority Construction Site;
 - f) Designation of construction sites that are considered Non-Priority Development Projects and Priority Development Projects per Section J (Parcel-Scale Development);
 - g) Construction site start date and anticipated completion dates;
 - h) For High Priority Construction Sites - BMPs required for the site;
 - i) Documentation of the construction plan review;
 - j) Documentation of the structural BMP installation inspections;
 - k) Documentation of Enforcement Response Plan implementation (e.g. warnings, notices, escalated enforcement, follow-up);
 - l) Designation of High Priority Construction Sites – For these sites, the information system shall include source control and erosion and sediment control plans (unless the site has obtained a Erosivity Waiver from the State Water Board);
 - m) Designation of which sites are required to obtain permit coverage under the General Construction Permit – For these sites, the information system shall include:
 - i) State Water Board WDID for the site; and
 - ii) Designation of which sites have obtained an Erosivity Waiver from the State Water Board;
 - n) Required inspection frequency;
 - o) Inspection information required by K.6.e (Information Management); and
 - p) Sites referred to the Central Coast Water Board for noncompliance or not enrolling in the General Construction Permit.
- 11) Staff Training – The Permittee shall ensure that all staff members whose job duties are related to implementing the construction stormwater requirements of this Order, including but not limited to permitting, plan review, construction site inspections, and enforcement, have the knowledge and understanding necessary to implement construction stormwater activities effectively. All appropriate staff members shall be trained each year. New staff, or staff new to a position related to construction, shall be trained within one year of hire or attainment of the new position. The Permittee shall perform an assessment of trained staff's knowledge of implementation of the construction stormwater requirements of this order and

shall revise the training as needed each year. Training documents shall be available for review by the Central Coast Water Board. The training shall, at a minimum include each item listed below.

- a) All staff whose Duties are Related to Implementing the Construction Stormwater Requirements of this Order
 - i) Federal, state, and local water quality laws and regulations applicable to construction and grading activities
 - ii) The requirements of this Order that relate to staff's job duties
 - iii) The connection between construction activities and water quality impacts (i.e., impacts from land development and urbanization and impacts from construction material such as sediment)
 - iv) The administrative requirements of this Order, such as inspection and plan review reporting/tracking and use of the Permittee's Enforcement Response Plan
 - v) Illicit discharge training as described in Section H.12 (Illicit Discharge Detection and Elimination: Illicit Discharge Training)
 - vi) Refresher training each year for existing staff to fill any knowledge gaps identified in the annual training assessment, update staff on preferred BMPs, current advancements in BMP technologies, regulation changes, Order updates, and policy or standards updates
 - vii) Throughout the year staff shall be updated if changes occur
- b) Construction Inspectors – Inspectors shall be certified by the State Water Board as a Qualified SWPPP Developer (QSD)
 - i) How to readily identify deficiencies and evaluate the appropriateness of and effectiveness of deployed BMPs, erosion and sediment control plans, and SWPPPs
 - ii) Proper erosion and sediment control BMP selection, installation, implementation, and maintenance
 - iii) Proper source control BMP selection, installation, implementation, and maintenance
 - iv) How to verify Priority Development Project sites have installed appropriate barriers to delineate natural areas that are being conserved and to avoid excess grading and soil disturbance
 - v) How to identify appropriate installation of the types of Structural BMPs that could be installed in the Permit coverage area (e.g., be familiar with effective soil mixtures, installation of pervious surfaces, appropriate plant selection, and common mistakes in Structural BMP installation)
 - vi) How to ensure appropriate safeguards are in place to prevent construction site pollutants and flows from compromising structural BMPs' long-term performance
- c) Plan Reviewers – Plan reviewers shall be certified as a QSD or as a Qualified SWPPP Practitioner (QSP) working under the supervision of a plan reviewer certified as a QSD.
 - i) How to readily identify deficiencies and evaluate the appropriateness of proposed BMPs, erosion and sediment control plans, and SWPPPs
 - ii) Proper erosion and sediment control BMP selection, and installation
 - iii) Proper source control BMP selection and installation
- d) Staff Not Employed by the Permittee - If the Permittee contracts out to others to implement portions of the construction stormwater requirements of this Order, these outside staff shall be trained per the requirements listed in this Section.

12) Staff Not Employed by the Permittee

- a) The Permittee is responsible for the effective implementation of the requirements in this Section regardless if the work is performed by in-house staff or contracted out to others. Contracts for the performance of any construction stormwater activity shall include requirements to comply with applicable requirements of this Order.

- b) The Permittee shall perform oversight of activities performed by others to ensure the effective implementation of the requirements of this Order.

13) Reporting

- a) In the Year 1 Annual Report, the Permittee shall include:
 - i) Criteria established for High Priority Construction Sites;
 - ii) A description of the process developed by the Permittee to ensure minimum construction BMPs will implemented at all construction sites;
 - iii) A description of the process developed by the Permittee to review erosion and sediment control plans for compliance with the requirements of this Section including the documentation process; and
 - iv) A description of the information management system(s) developed to track the information required by this Section.
- b) In each Annual Report, the Permittee shall include:
 - i) The number of construction sites that did/did not implement the minimum construction BMPs;
 - ii) A summary of the source control and erosion and sediment control plan reviews conducted by the Permittee including the number of sites required to submit a plan and the number of sites with plans reviewed by the Permittee;
 - iii) A summary of all inspections including the follow-up actions performed by the Permittee that includes:
 - (1) The percentage of High Priority Construction Sites that were inspected each week throughout the rainy season;
 - (2) The Inspection Rating of each High Priority Construction Site at each inspection;
 - (3) Dates of ½-inch rain events;
 - (4) The number of active High Priority Construction Sites at the time of each ½-inch rain event;
 - (5) The number and percentage of High Priority Construction Sites ready for each rain event, determined according to Section K.6.d.i. (Inspection Procedures for High Priority Construction Sites);
 - (6) A summary of the Permittee's assessment of sediment discharges from sites deemed unready for a rain event, and of impacts to water quality resulting from these discharges;
 - (7) A summary of the results of inspections conducted within 48 hours after a ½-inch rain event, including a description of any sediment discharges and their potential impact on water quality, a discussion of the effectiveness of BMPs at controlling erosion and sediment discharge, and a discussion of the effectiveness of the Permittee's determination of Inspection Ratings that accurately represent actual threat of discharge of sediment and other pollutants; and
 - (8) Verification the information management system was kept updated with all required information in this Section and a description of measures the Permittee implemented to ensure the system is kept up-to-date;
 - iv) The number of structural BMPs constructed that are owned/operated by the Permittee and privately owned/operated;
 - v) A summary of structural BMPs (both owned/operated by the Permittee and privately owned/operated) inspected during construction including the percentage of BMPs inspected, corrective actions identified, and corrective actions implemented;

- vi) A summary of structural BMPs (owned/operated by the Permittee and privately owned/operated) inspected after construction was complete including the percentage of BMPs inspected, corrective actions identified, and corrective actions implemented;
- vii) A summary of how the Enforcement Response Plan was used for construction sites including all enforcement actions taken during the reporting period;
- viii) A summary of any referrals to the Central Coast Water Board for noncompliance or non-filers;
- ix) A summary of the oversight procedures the Permittee implemented for all activities performed by staff not employed by the Permittee; and
- x) A training report that includes at a minimum:
 - (1) A list of all staff members whose job duties are related to implementing construction stormwater requirements of this Order, the date(s) training occurred and the topics covered;
 - (2) Results of the annual training assessment and a summary of any implemented revisions to training; and
 - (3) A summary of the Permittee's compliance with the training requirements of this Section. Since the City will be performing the work region 3 should the City should be receiving funds received by the State for these purposes. It has been the States policy in the past not to review SWPPPs unless a violation was discovered. The City is now doing what the State refused to do. This is a double standard.

Staff Response to Comment City of Salinas – Provision K.13.b.x.3

This comment is inserted in the training reporting section but appears to pertain to the review of construction plans. The comment implies the Order requires the City to conduct oversight for the Construction General Permit. However, the state's Construction General Permit is a separate regulatory program. The Order does not require the City to conduct oversight of the Construction General Permit. Instead, the Order requires the City to use its grading, building, and other related review processes to control the discharge of pollutants from construction sites, in accordance with the federal stormwater regulations and guidance. Federal regulations require the City to implement a construction site management program for sites in the Permit coverage area. Consistent with USEPA guidelines, the Permit requires the City to review source control and erosion and sediment control plans. USEPA states "The permit must require that the permittee establish review procedures for construction site plans to determine potential water quality impacts and ensure the proposed controls are adequate. These procedures must include the review of individual pre-construction site plans to ensure consistency with local sediment and erosion control requirements."¹

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011, page 37.

L. Development Planning and Stormwater Retrofits

1) Planning and Building Document Updates – The Permittee shall modify, at a minimum, General Plans (*The General Plan is not a document which operates in the way contemplated by this section. Amendments may be considered when the General Plan is next up for review.*), Specific Plans (*Specific Plans vest development rights and those rights cannot be unilaterally changed by the City.*), Zoning, Building Codes, and SWDS to control the impacts to watershed processes (*What is intended with the term “control the impacts”?*) in existing urban areas and in new growth areas within the Permit coverage area.

Staff Response to Comment City of Salinas – Provision L.1

This provision does not require, nor does it intend for the Permittee to amend the General Plan in a manner inconsistent with allowable amendment schedule. Central Coast Water Board staff finds the planning and review process allows municipalities to review and condition Specific Plans. The Planner's Guide to Specific Plans states, "As with a general plan, the authority for adoption of the specific plan is vested with the local legislative body pursuant to [California Government Code Section] 65453(a)."¹ Section 65453(a) of the California Government Code states, "A specific plan shall be prepared, adopted, and amended in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by the legislative body."²

¹State of California: The Planner's Guide to Specific Plans, Governor's Office of Planning and Research: Part One – The Specific Plan. Web 10 November, 2011. http://ceres.ca.gov/planning/specific_plans/sp_part1.html.

²California Codes: Government Code – Section 65450-65457. Web 10 November, 2011. <http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=96906323164+0+0+0&WAISaction=retrieve>.

a) Specific Plan Conditions for Future Growth Areas – Within 3 months of adoption of this Order (*I do not understand the point of this 3-month timeline.*) City will need more time than this to go through its legally required processes including public notification, the Permittee shall require any subsequent Specific Plans or other master planning documents (*What is intended with “other master planning documents”?*) adopted for Future Growth Areas to meet the following minimum requirements:

Staff Response to Comment City of Salinas – Provision L.1.a

The fact sheet for Provision L explains the importance of accounting for impacts to watershed processes during very early planning stages. Central Coast Water Board staff is aware of significant land areas zoned in the City for future development. To ensure these future developments are protective of watershed processes that are impacted by stormwater management in order to protect water quality and beneficial uses, Central Coast Water Board staff finds Specific Plans must be conditioned with the requirements in Provision L.1.a in a timely manner.

Central Coast Water Board staff does not find that the information provided in comment, City of Salinas – 28, is adequate justification for why the City needs more than 3 months to implement the requirements in Provision L.1.a. Given the information provided by the City, Central Coast Water Board staff is unclear what codes and ordinance updates would be required to implement the requirements in Provision L.1.a.

Central Coast Water Board staff intends Provision L.1.a to apply to all principle planning documents adopted for Future Growth Areas. The City has recently adopted a few Specific Plans for portions of its Future Growth Areas. Central Coast Water Board staff identified Specific Plans in Provision L.1.a, but also identified the more broad term, master planning

documents, in the event that portions (i.e., drainage infrastructure) of the City's Future Growth Area follow a different planning approval path to address a project's land use disturbance.

- i) The Permittee shall require the distribution, location, extent, and intensity of major components of public and private stormwater drainage facilities proposed to be located within the area covered by the Specific Plan and needed to support the land uses described in the Specific Plan to be selected and/or designed according to LID principles.

- (1) Site Layout – ~~The Permittee shall require use of Attachment E – UC Davis ‘Steps for a Successful LID Design’, or an equivalent methodology, when working with applicants to select and/or design stormwater drainage facilities in Future Growth Area Specific Plans. This again limits use of BMPs by requiring only LID to be applied as a first resort and structural BMPs as a last resort. Only if the BMP meets the water quality and hydromodification mitigation requirements is required under the Clean Water Act to the MEP and does not restrict the use or provide a preference for any given BMP whether it be LID or end of pipe. This section should be re-written to reflect this. LID may be desirable and be more cost effective in the long run but region 3 already provided an exception for new urbanist concepts. Deleted “Steps for a Successful LID Design” requirement.~~

Staff Response to Comment City of Salinas – Provision L.1.a.i.1

Attachment E UC Davis ‘Steps for a Successful LID Design’ is a tool for integrating LID into a project design. LID design incorporates both site planning principles and structural practices to achieve site performance objectives. There is a full suite of LID structural BMPs. The Order requires the City to require stormwater drainage facilities to be selected and/or designed according to LID principles. One of the goals of this Provision is to ensure that future developments are developed in a manner that controls urban stormwater impacts to watershed processes. The Order prescribes the use of LID principles and practices because LID is a type of site design that strives to protect the natural hydrology once a site is developed. The Order does not prescribe the implementation of specific BMPs, just that a site meets the goals associated with LID.

- (2) LID Principles – The Permittee shall ~~require~~ encourage Future Growth Area Specific Plans to follow LID design principles see above. The Future Growth Area Specific Plans shall:
- (a) Conserve natural areas, including existing trees, other vegetation, and soils;
 - (b) Minimize disturbances to natural drainages (e.g., natural swales, topographic depressions);
 - (c) Avoid excess grading and disturbance to soils;
 - (d) Avoid compaction and impervious cover in zones that allow stormwater infiltration;
 - (e) Minimize the impervious footprint of the project;
 - (f) Disconnect impervious surfaces through distributed pervious areas;
 - (g) Specify vehicular zones (e.g., streets, driveways, parking lot aisles) to the minimum widths/areas necessary, provided that public safety is not compromised; and
 - (h) Use green infrastructure for conveying stormwater runoff, in place of conventional curb, gutter, and subgrade enclosed pipe runoff systems, in locations where such use does not conflict with other Permittee development goals and requirements.
- (3) The Permittee shall ~~require~~ encourage run-off volume calculations used in design of infrastructure (e.g., stormwater conveyance systems, regional flood management facilities) to be based on managing rainfall at the source using

distributed decentralized controls that use LID design principles as described in Section L.1.a.i.1 (Site Layout) and L.1.a.i.2 (LID Principles).

Staff Response to Comment City of Salinas – Provisions L.1.a.i.2 – L.1.a.i.3

To ensure the City will verify that Specific Plans include the requirements outlined in Provisions L.1.a.i.2 – L.1.a.i.3, the Order must use the word, 'require'.

- (4) The Permittee shall review Future Growth Area Specific Plan language to ~~ensure~~ ensure-City cannot ensure determine if it is feasible to it includes, at a minimum:
- (a) Provisions for protecting and/or utilizing groundwater recharge zones;
 - (b) Maintenance agreements or easements for stormwater management-related landscaping features;
 - (c) Reduced parking ratios from existing Permittee standards to take advantage of shared parking opportunities and mixed use;
 - (d) Parking allowed in building setbacks; (What is this supposed to mean?) and
 - (e) Reduced parking requirements for any assisted living, low income housing, or other housing units likely to have lower parking demand.

Staff Response to Comment City of Salinas – Provision L.1.a.i.4

Building setbacks are typically used to position a building, parking area, and other features from a property line or boundary. Language that allows parking in setbacks makes more efficient use of land, while language that prohibits it reduces opportunities for efficient use of land. Setbacks are typically prime areas for stormwater management; therefore, parking areas in setback areas may also serve a dual purpose by handling stormwater runoff in addition to providing parking.¹ Provision L.1.a.i.(4)(d) requires the City to ensure that Specific Plans allow parking in building setbacks. There are certain circumstances where parking within a building setback may not be practicable based on the size and location of the setbacks.

For "ensure" see Staff Response to Comment City of Salinas – Provision F.8.

¹Aligning Land Use and Water Quality Protection in Ventura County. Chapter 9: Parking and Loading. Page 17. Web. 10 November 2011. p. 17. <http://water.lgc.org/ventura>.

- ~~(5) The Permittee shall review Future Growth Area Specific Plan language and removedeleted "remove"-provide for flexibility for the use of LID features and not prevent them:Water quality requirments should not interfere with the safety of the public or replace engineering knowldge and it's sensible application. Region 3 staff is not versed in development matters or the impacts of limiting different types of improvements and is practicing engineering outside of it's area of expertise which is not allowedd per the State Board of Registration of PEs. It will also be opening itself up to lawsuits where the application of these restrictions causes damage, injury, bodily harm or even death. A conventional curb provides for protection up to 31 mph per AASHTO separating vehicular traffic from pedestrian traffic.~~
- ~~(6) Language that stipulates conventional curb, gutter, and subgrade enclosed pipe runoff conveyance as required improvements;~~
 - ~~(7) Language that may prohibit shared drainage among properties or shared public/private drainage handling and treatment;~~
 - ~~(8) Language that limits driveway paving material to asphalt, Portland cement, or some other highly impervious material;~~
 - ~~(9) Language that prohibits flexible building setbacks;~~
 - ~~(10) Landscaping requirements that limit or prohibit infiltration, such as elevated landscaped beds, compaction specifications, or required materials; and~~

~~Requirements for large rights of way or language that could impede use of LID techniques in rights of way. Deleted 6 through 10. (Specific Plans are prepared by the project applicants...they are not City documents. The City does review them and approve them, but pursuant to the requirements of state and local law.) (But what about safety considerations? Curbs play a role in public safety, so they should not be dismissed ad hoc in this manner.)~~

Staff Response to Comment City of Salinas – Provision L.1.a.i.5

Central Coast Water Board staff does not intend to compromise safety. Provision L.1.a.i.(2)(h) specifies that Specific Plans for Future Growth Areas must use green infrastructure for conveying stormwater runoff, in place of conventional curb, gutter, and subgrade enclosed pipe runoff systems, in locations where this type of design will not conflict with other City development goals and requirements. Therefore, the City may allow curb and gutter systems or other traffic calming design features on roads where these features are needed for safety. Provision L.1.a.i.(5)(a) is requiring the City to not require the use of conventional curb, gutter, and subgrade enclosed pipe runoff conveyance, in order to give the applicant flexibility in how a site conveys stormwater runoff.

Central Coast Water Board staff finds the planning and review process allows municipalities to review and condition Specific Plans. The Planner's Guide to Specific Plans states, "As with a general plan, the authority for adoption of the specific plan is vested with the local legislative body pursuant to [California Government Code Section] 65453(a)."¹ Section 65453(a) of the California Government Code states, "A specific plan shall be prepared, adopted, and amended in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by the legislative body."²

¹State of California: The Planner's Guide to Specific Plans, Governor's Office of Planning and Research: Part One – The Specific Plan. Web 10 November, 2011. http://ceres.ca.gov/planning/specific_plans/sp_part1.html.

²California Codes: Government Code – Section 65450-65457. Web 10 November, 2011. <http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=96906323164+0+0+0&WAIAction=retrieve>.

- b) Parcel-Scale Development Projects – Within 12 months of adoption of this Order, the Permittee shall complete each action item listed below to revise planning and building requirements for development projects subject to the parcel-scale development requirements in Section J (Parcel-Scale Development).
- i) The Permittee shall conduct an analysis of all applicable codes, regulations, standards, and/or specifications to identify modifications and/or additions necessary to remove gaps and impediments to effective implementation of ~~parcel-scale development~~~~deleted parcel scale~~ and added "permit" requirements. *(What are the "parcel-scale development requirements"? The determination of whether any such "gaps" exist is at the discretion of the City.)*

Staff Response to Comment City of Salinas – Provision L.1.b.i

The parcel-scale development requirements are in Section J (Parcel-Scale Development) as specified in Provision L.1.b. The Order requires the City to determine what gaps and impediments exist.

- ii) The Permittee shall modify codes, regulations, standards, and/or specifications as applicable *(and as the City determines necessary)* to fill identified gaps and remove identified impediments to effective implementation of ~~parcel-scale development~~~~deleted "parcel scale development and added "permit"~~ requirements.

Staff Response to Comment City of Salinas – Provision L.1.b.ii

Central Coast Water Board staff finds the requirement to fill identified gaps and remove identified impediments is a clear requirement and does not need to be revised. Other provisions

in the Order address updates and modifications to codes, ordinances, etc. related to other portions of the City's stormwater program.

- (1) The Permittee shall review planning and building requirement language to ~~ensure~~ *ensure-city cannot ensure-substitute provide flexibility in applying/utilizing* ~~includes~~, at a minimum:
- (a) Provisions for protecting and/or utilizing groundwater recharge zones;
 - (b) Maintenance agreements or easements for stormwater management-related landscaping features;
 - (c) Reduced parking ratios from existing Permittee standards to take advantage of shared parking opportunities and mixed use;
 - (d) Parking allowed in building setbacks (*What does this mean?*); and
 - (e) Reduced parking requirements for any assisted living, low income housing, or other housing units likely to have lower parking demand.

Staff Response to Comment City of Salinas – Provision L.1.b.ii.1

Central Coast Water Board staff finds that the City has the authority to modify its codes, regulations, standards, and specifications to make sure the objectives in Provision L.1.b.ii.(1) are achieved.

See Staff Response to Comment City of Salinas – Provision L.1.a.i.(4) regarding parking in building setbacks.

- (2) For “ensure” see Staff Response to Comment City of Salinas – Provision F.8. The Permittee shall review planning and building requirement language and remove:
- (a) Language that stipulates conventional curb, gutter, and subgrade enclosed pipe runoff conveyance as required improvements; (*No. Curbs are related to safety and should not be summarily dismissed through this permit.*)
 - (b) Language that may prohibit shared drainage among properties or shared public/private drainage handling and treatment;
 - (c) Language that limits driveway paving material to asphalt, Portland cement, or some other highly impervious material;
 - (d) Language that prohibits flexible building setbacks;
 - (e) Landscaping requirements that limit or prohibit infiltration, such as elevated landscaped beds, compaction specifications, or required materials; and
 - (f) Requirements for large rights of way or language that could impede use of LID techniques in rights of way. *See previous comments*

Staff Response to Comment City of Salinas – Provision L.1.b.ii.2

See Staff Response to Comment City of Salinas – Provision L.1.a.i.(5)

- c) Urban Subwatershed-Scale Stormwater Planning
 - i) Within 3 years of adoption of this Order, the Permittee shall conduct, at the appropriate scale, an assessment of the predicted dominant watershed process impacts of the below land use actions, prior to taking either of the listed actions. (*So, as I read this, if the City does not take either of these actions, then the City does not need to conduct this assessment.*) The assessment shall include a quantification of predicted impacts (e.g., runoff volume changes, pollutant loading, loss and addition of riparian and wetland cover, changes to drainage network, groundwater recharge rate changes) using computer modeling and other best available science. *This widens the requirement to everything under the sun. narrow the scope to reasonable applicable of available science or tell us what other best available science there is.*

Staff Response to Comment City of Salinas – Provision L.1.c.i

The City is correct in its interpretation of Provision L.1.c.i. The City only needs to conduct the assessment if the actions listed in Provisions L.1.c.i.(1) and L.1.c.i.(2) are taken.

Central Coast Water Board staff modified Provision L.1.c.i.

- (1) A cumulative expansion beyond current boundaries of the incorporated area of the City of greater than 40 acres within an Urban Subwatershed; or *(Is this a reference to an annexation? What does this mean...in plain language? And, if this is an annexation, such an assessment can only be done if there is a project planned on the land proposed to be annexed.)*

Staff Response to Comment City of Salinas – Provision L.1.c.i.1

Central Coast Water Board staff modified Provision L.1.c.i.(1) to use the term, annexation.

The purpose of conducting the Urban Subwatershed-Scale stormwater planning is to inform future development decisions. Central Coast Water Board staff is unclear why the City cannot conduct this planning until a project is slated on the annexed land.

- (2) A planned land use action that is projected to increase the total impervious surface area of an Urban Subwatershed by 5 percent of existing impervious area (e.g. from 10 percent to 10.5 percent or from 20 percent to 21 percent). *(The City likely will not be in the position of developing anything. Chances are if this occurs it will be a development by a private person or entity. Why should the City conduct such an analysis on a private development project? If it is a private development, should the project developer be responsible for completing this assessment?)*

Staff Response to Comment City of Salinas – Provision L.1.c.i.2

The City is required to ensure the assessment of the predicted dominant watershed process impacts for the land use action described in Provision L.1.c.i.(2) gets completed. The Order does not prevent the City from tasking the private developer(s) with conducting this task.

- ii) The Permittee shall develop a plan, for each land use action, *(Other than an annexation, the City is not going to take a land use action.)* to demonstrate numerically how the land use action will mitigate for the identified watershed process impacts. The plans shall, at a minimum, include the following:
- (1) Assessment of a combination of site, structural, and managerial approaches to minimize the impacts to water quality (i.e., pollution prevention, treatment, and LID measures);
 - (2) Identification of measurable targets established to protect the dominant watershed processes of the Urban Subwatershed;
 - (3) Identification of minimum performance measures to demonstrate attainment of measurable targets to protect dominant watershed processes of the Urban Subwatershed; and
 - (4) Strategy to conduct a public process for review and comment of plan, which may be part of the CEQA review associated with the land use action.

Staff Response to Comment City of Salinas – Provision L.1.c.ii

Comment noted.

d) Riparian Protection Policies and Requirements –

- i) Within 12 months of adoption of this Order, *(if necessary and as determined by the City)* the Permittee shall modify codes, regulations, standards, and/or specifications requiring project applicants to establish and maintain setbacks, for any new development or redevelopment, around waterbodies identified in Section Q.3 (Watershed Characterization: Water Body Identification). At a minimum these modifications shall include each requirement listed below:

Staff Response to Comment City of Salinas – Provision L.1.d.i

Central Coast Water Board staff has changed the provision to clarify that modifications are only necessary if City's current codes and other specifications do not address the listed items. If the City already has codes, regulations, standards, and/or specifications that meet the intent of the requirements listed below, then the City will not have to update their codes, regulations, standards, and/or specifications for those requirements.

- (1) The Permittee shall retain the 100-foot setback area along Gabilan and Natividad Creeks and other creeks as established by Salinas General Plan COS-17, and establish a 30-foot setback for all other streams identified per Section Q.3 (Watershed Characterization: Water Body Identification). The setback shall be measured from the top of the bank (*Is this term defined? It has been an issue in the past in terms of identifying the top of the bank. High water mark?*), or from the outside edge of riparian vegetation, whichever is farthest from the centerline of the stream.

Staff Response to Comment City of Salinas – Provision L.1.d.i.1

Central Coast Water Board staff changed 'top of the bank' to 'top of streambank'. 'Top of streambank' is defined in Attachment B – Definitions.

- (2) The Permittee shall retain the 100-foot setback along wetlands not associated with streams as established by Salinas General Plan COS-17, and establish a 30-foot setback for all other wetlands identified per Section Q.3 (Watershed Characterization: Water Body Identification). The Permittee shall measure the wetland setback from the outside edge of the wetland.
- (3) Except as set forth below, the Permittee shall prohibit development activities in the setback area; however, the Permittee may grant exceptions for passive recreation uses (e.g., trails, playfields, and picnic areas) within the 30- and 100-foot setback, so long as the Permittee establishes and enforces specific development standards to protect beneficial uses from potential impacts of stormwater runoff associated with these land uses.
- (4) If the Permittee allows recreational trails to be located within the setback, the Permittee shall implement a re-vegetation program wherein a vegetative buffer is established between the trail and the outside edge of the riparian vegetation.
- (5) The Permittee shall protect existing riparian and wetland vegetation and habitat from construction disturbance. The Permittee shall place fencing temporarily at the outside edge of the setback area during construction. This fencing shall remain in place until construction is complete, after which it shall be removed.
- (6) Where a redevelopment is being conducted within the 30- and 100-foot setback area, the Permittee shall not allow the developer to increase the building footprint within the 30- and 100-foot setback.
- (7) The Permittee may consider approval of development activities within the setback if a biotic resources study (prepared for the Permittee's City Planner by his or her designee) makes the findings listed below. The Permittee shall notify Central Coast Water Board staff 15 days prior to approval of new development or redevelopment within a setback area. *Staff shall be required to reply within 5 working days.*

Staff Response to Comment City of Salinas – Provision L.1.d.i.7

The Order requires the City to notify Central Coast Water Board staff 15 days prior to approval of new development or redevelopment within a setback area. If Central Coast Water Board staff does not respond within 15 days of submitting the City's notification, the Permittee can approve the development activity.

- (a) The encroachment would have no adverse impact on the riparian and/or wetland resources' capacity to attenuate the effects of urban storm runoff on the receiving water, or,
 - (b) The implementation of alternative mitigation measures will achieve comparable or better attenuation of the effects of urban storm runoff than the strict application of the 30- and 100-foot setback.
- ii) Within 4 years of adoption of this Order the Permittee shall review all riparian protection policies and requirements for appropriateness relative to identified areas of existing riparian vegetation and habitat and areas of potential for growth of riparian vegetation and habitat, per Section Q.4.b (Watershed Characterization: Riparian Vegetation and Habitat). The Permittee shall make changes to its riparian protection policies and requirements, as necessary, to ensure all applicable development projects adhere to the following requirements:
- (1) All new development projects proposed on parcels where there is existing riparian vegetation and habitat, identified per Section Q.4.b.i (Watershed Characterization: Riparian Vegetation and Habitat), shall not conduct ground disturbance in the existing riparian vegetation and habitat. The Permittee shall require the project applicant to protect the existing riparian vegetation and habitat on the applicant's land, in perpetuity. *(How does the Regional Board propose this occur? Through what methodology?)*

Staff Response to Comment City of Salinas – Provision L.1.d.ii.1

The City is required to determine the appropriate mechanism(s) to ensure project applicants protect existing riparian vegetation and habitat on the applicant's land.

- (2) All new development projects proposed on parcels where the areal and/or lineal extent of existing riparian vegetation and habitat is less than site potential, identified per Section Q.4.b.ii (Watershed Characterization: Riparian Vegetation and Habitat), shall create riparian vegetation and habitat to establish optimal riparian vegetation and habitat coverage. The Permittee shall require the project applicant to maintain any restored riparian areas until the area reaches optimal riparian function and an equilibrium state.
- (3) Alternative Compliance – The Permittee may develop an in-lieu fee alternative compliance program for projects required to establish optimal riparian vegetation and habitat coverage. If a project applicant can demonstrate that it is not feasible to achieve the requirements for vegetation and habitat, or, that a greater watershed benefit could be attained by restoring riparian vegetation and habitat off-site, then the Permittee may allow the project applicant to pay an in-lieu fee towards a Permittee-managed retrofit project. The fee shall go towards a retrofit project that meets the following criteria:
 - (a) Is a candidate project for retrofitting per Section L.2 (Retrofit Existing Development);
 - (b) Is located within the same Urban Subwatershed as the development project being mitigated or in an Urban Subwatershed deemed to have a more critical need for restoration of riparian vegetation and habitat;
 - (c) Provides equal or greater quality and quantity of watershed processes as the portion of the development project being mitigated;
 - (d) Includes a complete implementation schedule and project plan;
 - (e) Is scheduled to commence construction within one year of the construction commencement of the development project being mitigated; and
 - (f) The Permittee accepts responsibility for project completion and long-term maintenance.

- e) CEQA Process Update – Within 12 months of adoption of this Order, the Permittee shall review its CEQA process and make revisions as applicable. At a minimum, the Permittee shall perform each action item listed below: (So, the requirements are imposed on only those projects which are “projects” for CEQA purposes? What about exempt projects for which no CEQA checklist is completed?)

Staff Response to Comment City of Salinas – Provision L.1.e

The City is correct in its interpretation of Provision L.1.e. The Order only requires projects subject to CEQA to adhere to CEQA process updates prescribed by the Order. However, CEQA status of projects does not have bearing on other requirements of Sections J and L of the Order.

- i) Review the Permittee’s CEQA process for consistency with the Governor’s Office of Planning and Research guidance, ‘CEQA and Low Impact Development Stormwater Design: Preserving Stormwater Quality and Stream Integrity through CEQA Review.’¹ The Permittee shall make changes to its CEQA process to remove any identified inconsistencies.
- ii) Update the Permittee’s CEQA checklist to include each question listed below: (So, the requirements are imposed on only those projects which are “projects” for CEQA purposes? What about exempt projects for which no CEQA checklist is completed?)

Staff Response to Comment City of Salinas – Provision L.1.e.ii

See Staff Response to Comment City of Salinas – Provision L.1.e.

- (1) Could the proposed project result in an increase in pollutant discharges to receiving waters? Consider water quality parameters such as temperature, dissolved oxygen, turbidity and other typical stormwater pollutants (e.g., heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash).
- (2) Could the proposed project result in a decrease in treatment and retention capacity for the site’s stormwater run-on?
- (3) Could the proposed project result in significant alteration of receiving water quality during or following construction?
- (4) Could the proposed project result in increased impervious surfaces and associated increased urban runoff?
- (5) Could the proposed project create a significant adverse environmental impact to drainage patterns due to changes in urban runoff flow rates and/or volumes?
- (6) Could the proposed project result in increased erosion downstream?
- (7) Could the proposed project alter the natural ranges of sediment supply and transport to receiving waters?
- (8) Is the project tributary to an already impaired water body, as listed on the CWA Section 303(d) list? If so, can it result in an increase in any pollutant for which the water body is already impaired?
- (9) Could the proposed project have a potentially significant environmental impact on surface water quality, to either marine, fresh, or wetland waters?
- (10) Could the proposed project have a potentially significant adverse impact on groundwater quality or quantity?
- (11) Could the proposed project result in decreased baseflow quantities to receiving surface waterbodies?

¹ *Technical Advisory: CEQA and Low Impact Development Stormwater Design: Preserving Stormwater Quality and Stream Integrity Through California Environmental Quality Act (CEQA) Review*. Sacramento, CA: Governors Office of Planning and Research, 5 August 2009. Web. 17 August 17, 2011 <http://www.opr.ca.gov/ceqa/pdfs/Technical_Advisory_LID.pdf>.

- (12) Could the proposed project cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?
- (13) Does the proposed project remove and/or alter the function of floodplain area?
- (14) Does the proposed project site layout adhere to the Permittee's waterbody setback requirements?
- (15) Can the proposed project impact aquatic, wetland, or riparian habitat?

2) Retrofit Existing Development

- a) Retrofit Project Types and Objectives – The Permittee shall develop and implement procedures to retrofit existing development with the purpose of restoring degraded watershed processes affected by urban stormwater discharges. (Is there a timeline associated with this work? Some time during the permit term?) The Permittee may coordinate the retrofit procedures with flood control projects to determine the feasibility of retrofitting existing structural flood control devices to provide additional flow control and pollutant removal from stormwater;

Staff Response to Comment City of Salinas – Provision L.2.a

The deadlines associated with the retrofit requirements are in Provisions L.2.b and L.2.c. Central Coast Water Board staff added a sentence to L.2.a in the Order to provide further clarification.

- i) In developing and implementing the retrofit procedures, the Permittee shall emphasize the following objectives:
 - (1) Restoring watershed processes; and
 - (2) Reducing pollutants in stormwater discharges
- ii) The Permittee shall assess, at a minimum, the following land uses/features (all of these which exist in the City? What are the parameters of the assessment?) as candidates for retrofitting: (There does not appear to be a timeline associated with this work.)
 - (1) Streets;
 - (2) Parking lots; and (Including privately-owned parking lots?)
 - (3) Stormwater management facilities and conveyance systems (e.g., detention basins, flood management structures/devices). (Including privately-owned and maintained facilities and systems?)

Staff Response to Comment City of Salinas – Provision L.2.a.ii

The requirement is intended to have the City assess all the types of features listed in L.2.a.ii. The deadlines associated with the retrofit requirements are in Provisions L.2.b and L.2.c. Central Coast Water Board staff added a sentence to L.2.a in the Order to provide further clarification.

Central Coast Water Board staff modified Provision L.2.a.ii to clarify the City only needs to conduct the assessment for Permittee-owned land uses/features.

- iii) The Permittee shall assess a range of types of modifications to candidate land uses/features for retrofitting.
- iv) The Permittee shall develop numeric performance goals to demonstrate how retrofit projects are expected to reduce pollutant loads and/or restore watershed processes. Each project shall provide benefits to watershed processes equivalent to the benefits generated by a project meeting its associated performance goals as listed in Table H.1 in Attachment H – Qualifying Retrofit Projects.
- v) The Permittee shall ensure that retrofit projects are designed to meet or exceed performance goals.

- b) Long-Term Retrofit Plan – Within 5 years of adoption of this Order, the Permittee shall develop a Long-Term Retrofit Plan *(Is this the same thing as in subsection (a) of this section 5?)* that addresses the retrofit objectives, candidate land uses/features, types of modification, and performance goals. At a minimum, the Long-Term Retrofit Plan shall include each element listed below:

Staff Response to Comment City of Salinas – Provision L.2.b

Central Coast Water Board staff is unclear what language in Provision L the City is referring to in this comment. There is no L.5 in Provision 5.

- i) An inventory of potential retrofit locations based on an assessment that considered, at a minimum:
 - (1) The Urban Subwatershed Program Effectiveness Rating per Section P.6 (Monitoring, Effectiveness Assessment, and Program Improvement: Program Effectiveness Rating); and
 - (2) The broad range of areas, projects, and programs presenting opportunities for retrofit projects.
- ii) An evaluation and ranking of the inventoried projects to identify High Priority Areas for Retrofitting.
- iii) An investigation of available funding resources and potential funding methods for retrofitting, including grants, incentives, subsidies, and fees (e.g., in-lieu fees for off-site compliance alternative per Section J.4.h (Parcel-Scale Development: Onsite/Offsite Compliance Alternative)) for existing discharges to the MS4. *(What if no funding is identified?)*

Staff Response to Comment City of Salinas – Provision L.2.b.iii

See Staff Response to Comment Steele – 1.

- iv) Provisions for tracking, inspecting, and maintaining BMPs implemented at retrofit projects.
- v) An implementation plan that identifies a minimum of five projects the City will implement. Each project shall have performance goals and a schedule to complete the project within 5 years of Long-Term Retrofit Plan completion.
- c) Pilot Retrofit Project Design – The Permittee shall complete design and planning work on one retrofit project within 5 years of adoption of this Order.
 - i) Within 2 Years of adoption of this Order, the Permittee shall derive a list of a minimum of 5 candidates for pilot retrofit projects. *(So, (a) and (b) of this section need to be complete within 2 years of approval of the Permit? The timing of this section is not clear.)* This list shall be based on the criteria outlined in Section L.2.a (Retrofit Project Types and Objectives) that is available at the time of the list development and shall take into account the prioritization conducted according to Section L.2.b.ii. The Permittee shall maintain an updated list, with a minimum of 5 projects, until Long-Term Retrofit Plan completion.
 - ii) The Permittee shall direct Priority Development Projects that qualify for the in-lieu fee compliance alternative to this list.
 - iii) Within 5 years of adoption of this Order, the Permittee shall complete 60 percent design of at least one qualifying retrofit project from the list of 5 candidates.
 - iv) The Permittee shall require that retrofit projects initiated before completion of the Long-Term Retrofit Plan adhere to the same standards as Priority Development Projects for operation and maintenance plan development and maintenance protocols. The Permittee shall inspect retrofit projects using the same protocols as required for the Priority Development Projects.

Staff Response to Comment City of Salinas – Provision L.2.c

Central Coast Water Board staff deleted a sentence in L.2.c in the Order to make the deadlines associated with the pilot retrofit projects more clear.

- 3) Aligning Stormwater Management with Related Planning Goals and Requirements
- a) Integrated Regional Water Management –
- i) Within 12 months of adoption of this Order, the Permittee shall coordinate with other stakeholders to pursue the Environmental Enhancement Objectives of the May 2006 Integrated Regional Water Management Functionally Equivalent Plan Update² through the Permittee's stormwater management program. *(What is the intent of this provision?)*
 - ii) Within 2 years of adoption of the Order, the Permittee shall identify opportunities to protect, enhance, and/or restore natural resources including streams, groundwater, watersheds, and other resources consistent with the Integrated Regional Water Management Functionally Equivalent Plan Update. At a minimum, the Permittee shall examine opportunities for stormwater capture and reuse, and stormwater infiltration for aquifer recharge.

Staff Response to Comment City of Salinas – Provision L.3.a

See the Fact Sheet for Provision L for an explanation of the intent of Provision L.3.a. Central Coast Water Board staff has revised Order language in L.3.a. i-ii to clarify that the provision shall rely on the Integrated Regional Water Management Plan which is in use during the time periods specified.

- b) Salt and Nutrient Management –
- i) Within 2 years of adoption of this Order, the Permittee shall coordinate with local water and wastewater entities, together with local salt/nutrient contributing stakeholders *(Have these been identified?)*, to fund locally driven and controlled, collaborative processes open to all stakeholders that will prepare salt and nutrient management plans for groundwater basins underlying the Permit coverage area, per State Water Board Recycled Water Policy (State Water Board Resolution No. 2009-0011).
 - ii) Within 4 years of adoption of this Order, the Permittee shall evaluate opportunities to include a significant stormwater use and recharge component within the salt/nutrient management plan(s). At a minimum, the Permittee shall coordinate with other stakeholders to include stormwater recharge/use goals and objectives in salt and nutrient management plan(s).

Staff Response to Comment City of Salinas – Provision L.3.b

The Central Coast Water Board region has several active salt/nutrient management stakeholder groups. These stakeholder groups are organized based on groundwater basins. The City of Salinas is located in the Seaside Area Subbasin and is a member of the Joint Powers Authority, led by Monterey County Water Resources Agency. Monterey County Water Resources Agency will develop Salt and Nutrient Management Plans per the Recycled Water Policy.

- c) Flood Management – Upon the next revision of the General Plan Housing Element, the Permittee shall:
- i) Identify areas that may accommodate floodwater for groundwater recharge and stormwater management; and

² *Salinas Valley Integrated Regional Water Management Functionally Equivalent Plan Summary Document Update*. The Monterey County Water Resources Agency, May 2006. Web. 17 August 2011 <http://www.mpwmd.dst.ca.us/Mbay_IRWM/IRWM_library/Salinas_Valley_FEP_May_2006.pdf>.

- ii) Consider the location of resources that are used for groundwater recharge and stormwater management.
- 4) Reporting
- a) Planning and Building Document Updates
 - i) Specific Plan Conditions for Future Growth Areas – In Year 1 Annual Report and each subsequent Annual Report, the Permittee shall provide an inventory of all Specific Plans for Future Growth Areas submitted to the Permittee for approval, in the approval process, or approved by the Permittee in the reporting year. For each approved Specific Plan for Future Growth Areas, the Permittee shall describe how the Plan meets the requirements of Section L.1.a (Specific Plan Conditions for Future Growth Areas).
 - ii) Parcel-Scale Development Projects – In the Year 1 Annual Report, the Permittee shall describe the modifications the Permittee made to the planning and building requirements pursuant to Section L.1.b (Parcel-Scale Development Projects).
 - iii) Urban Subwatershed-Scale Stormwater Planning – In the Year 3 Annual Report and each subsequent Annual Report, the Permittee shall submit the following:
 - (1) A list of the land use actions described in Section L.1.c.i taken for the reporting year; and
 - (2) The assessment of predicted dominant watershed process impacts for each land use action and the plan to demonstrate numerically how the land use action will mitigate for the identified watershed process impacts.
 - iv) Riparian Protection Policies and Requirements –
 - (1) In the Year 1 Annual Report, the Permittee shall submit copies of all the codes, regulations, standards, and/or specifications that the Permittee modified to comply with Section L.1.d.i. *(And if the City determines that modifications are not required?)*

Staff Response to Comment City of Salinas – Provision L.4.a.iv

If the City determines that modifications are not required, because the City already has the regulatory authority to implement the riparian protection policies outlined in this Order, the City should explain in the Annual Report how its existing policies are sufficient for implementing some or all of the riparian policies outlined in this Order. For gaps in the existing policies, the City should explain what regulatory mechanisms it modified to fill the gaps.

- (2) In each Annual Report, the Permittee shall provide verification that all applicable projects approved in the reporting year adhered to the setback requirements.
- (3) In the Year 4 Annual Report and each subsequent Annual Report, the Permittee shall provide the following:
 - (a) A description of any modifications to the Permittee's riparian protection policies and requirements based on the Watershed Physical Condition Assessment per Section Q.4.b (Watershed Characterization: Riparian Vegetation and Habitat);
 - (b) An inventory of all new development projects, approved during the reporting year, proposed on parcels where the areal extent of riparian vegetation and habitat is less than site potential; and
 - (c) A summary of on-site and/or alternative compliance achieved by project applicants pursuant to Section L.1.d (Riparian Protection Policies and Requirements).
- v) CEQA Process Update –
 - (1) In the Year 1 Annual Report, the Permittee shall submit the following:

- (a) A summary of inconsistencies of the Permittee's CEQA process with the guidance, CEQA and Low Impact Development Stormwater Design: Preserving Stormwater Quality and Stream Integrity Through CEQA Review – The summary shall include the revisions the Permittee made to remove any identified inconsistencies; and
 - (b) The Permittee's updated CEQA checklist.
- (2) In each Annual Report, the Permittee shall include a description of any updates to the CEQA process that relate to protection of watershed processes. The Permittee shall also report on the effectiveness of the CEQA process at getting development projects to incorporate project components at early stages in project review process (What about projects which are exempt from CEQA?), so that project achieves flow control and treatment BMP requirements, incorporates LID principles, and adheres to water body setback requirements.

Staff Response to Comment City of Salinas – Provision L.4.a.v

See Staff Response to Comment City of Salinas – Provision L.1.e.

b) Retrofit Existing Development

i) Long-Term Retrofit Plan

- (1) In each Annual Report, the Permittee shall submit a summary of its progress toward developing its Long-Term Retrofit Plan. The summary shall include a description of the portion of the plan completed and a schedule the Permittee will follow for completing the remainder of the plan.
- (2) In the Year 5 Annual Report, the Permittee shall submit the Long-Term Retrofit Plan.

ii) In the Year 2 Annual Report and each subsequent Annual Report, the Permittee shall submit the most up-to-date list of candidates for pilot retrofit projects.

iii) In each Annual Report, the Permittee shall submit a description of any retrofit projects (There is a requirement for only one, though.) for which the Permittee initiated or completed 60 percent design in the reporting year, including the following:

- (1) A description of the project, including information sufficient to demonstrate that the project meets the criteria outlined in Sections L.2.a (Retrofit Project Types and Objectives) and L.2.b (Long-Term Retrofit Plan);
- (2) An explanation of why the Permittee selected the project for retrofitting;
- (3) Identification of retrofit objectives the retrofit project was selected to achieve; and
- (4) The expected water quality benefit (i.e., include justification).

Staff Response to Comment City of Salinas – Provision L.4.b.iii

Central Coast Water Board staff modified Section L.4.b.iii in the Order.

c) Aligning Stormwater Management with Related Planning Goals and Requirements – In each Annual Report, the Permittee shall report on the progress of aligning stormwater management with related planning goals and requirements to protect and restore the Permittee's watershed processes, and the effectiveness of those efforts.

- i) In each Annual Report, the Permittee shall submit a description of the Permittee's participation in the Salinas Valley Integrated Regional Water Management (IRWM) process, including the number of meetings at which the Permittee has been represented and a description of the results of the participation.
- ii) In the Year 2 Annual Report and each subsequent Annual Report, the Permittee shall submit a description of the opportunities the Permittee and other IRWM stakeholders have examined for stormwater capture and reuse and stormwater infiltration for aquifer recharge.
- iii) In the Year 2 Annual Report and each subsequent Annual Report, the Permittee shall submit a description of the Permittee's participation in developing salt and

- nutrient management plan(s) for all applicable groundwater basins underlying the Permit coverage area, including a description of the results of the participation.
- iv) In the Year 4 Annual Report, the Permittee shall submit the language from the salt and nutrient management plan(s) identifying stormwater recharge/use goals and objectives.
- v) In each Annual Report following revision of the General Plan Housing Element, the Permittee shall submit the Element language identifying areas in the Permit coverage area that may accommodate floodwater for groundwater recharge and stormwater management, and the location of resources that are used for groundwater recharge and stormwater management. All of the above is an unfunded mandate according to state law. Region 3 should provide funding if this is what it wants to accomplish. The City has no funding sources for retrofitting of existing development and any requirements should be made contingent upon either region 3 providing funding or grant funding being available for the whole program. The City is not against retrofitting. The City just plainly does not have the funding source.

Staff Response to Comment City of Salinas – Provision L

Central Coast Water Board staff is unclear if this comment applies to all of Provision L or just applies to the retrofit component of Provision L.

See Staff Responses to Comments City of Salinas Supplemental – 8, 17.

M. Public Education and Public Involvement

- 1) General – The Permittee shall implement effective comprehensive stormwater public education that complies with the requirements of this Section (*Effectiveness is assessed by compliance with this section?*). The public education shall be designed to reduce pollutant discharges to the MS4 through changes in target audiences' behavior.

Staff Response to Comment City of Salinas – Provision M.1

The City is required to evaluate the effectiveness of each program component. See Provision P for effectiveness assessment requirements.

- 2) Collaboration – The Permittee may comply with requirements of this Section by collaborating with other entities. The Permittee is responsible for the implementation of the requirements of this Section regardless of who conducts the activities.
- 3) Priority Stormwater Issues – Within 12 months of adoption of this Order, the Permittee shall identify a minimum of six highest Priority Stormwater Issues to be addressed by the public education BMPs. At least three of the Priority Stormwater Issues shall be residential issues and at least three of the Priority Stormwater Issues shall be commercial or industrial issues. Trash shall be identified as a Priority Stormwater Issue.
- 4) Target Audiences
- a) Within 12 months of adoption of this Order, the Permittee shall identify the target audience(s) for each identified Priority Stormwater Issue. The public education BMPs shall include education of underserved (*“Underserved” in what capacity? How is this term defined?*) target audiences, including various ethnic and socioeconomic groups. The public education BMPs shall educate ethnic communities through culturally effective and appropriate methods (*“culturally effective” and “appropriate” are not self-explanatory and we might benefit if they were defined (or we might be better off defining them later ourself during implementation).*).

Staff Response to Comment City of Salinas – Provision M.4.a

“Underserved” is included in the language of the Order to refer to various ethnic and socioeconomic groups.

Central Coast Water Board staff added clarification to “culturally effective and appropriate” in the Order.

- b) School Children shall be identified as a target audience for at least one Priority Stormwater Issue. The Permittee shall collaboratively conduct or participate in development and implementation of a plan to educate school children. The plan shall include use of classroom education, field trips, hands-on experiences, or other educational methods. (*Whether this occurs is at the discretion of the local school districts which establish their curriculum in accordance with State requirements. If the school districts do not want to participate, they do not have to. The City has no control over this.*). *Current Permit states that we have to “offer” educational opportunity. Last Permit also stated grades 3-6. This Permit is silent on grade level. Are we best off leaving this undefined? Further, last sentence appears to be a list of options. However, if it is an inclusive list, we should object. The Permit should not dictate means but ends. Whether we conduct in-class, or in-field education should not matter. Filed trips have been challenging due to cost and teachers not having time.*

Staff Response to Comment City of Salinas – Provision M.4.b

Central Coast Water Board staff modified the language in the Order to give the City flexibility if the school districts do not cooperate.

The Order does not specify the required grade of school children. Central Coast Water Board staff modified the Order to include that grades 3-6 are preferred but not required.

The last sentence in Provision M.4.b contains 4 items with an “or” between. This provides the City a list of options and does not require the City to implement all 4 options.

- 5) Outcomes – Using all appropriate media, the Permittee’s public education BMPs shall:
- a) Measurably increase the knowledge (*The City can present information, but whether a person’s knowledge is increased is a subjective determination over which the City has no real control.*) of the target audiences regarding each identified Priority Stormwater Issue; and

Staff Response to Comment City of Salinas – Provision M.5.a

See Staff Response to Comment City of Salinas Supplemental – 39. The City must raise awareness and change behavior to have an effective program. For suggestions on how to raise awareness and change behavior, the City can refer to the Public Education and Outreach Program Element section of the CASQA Effectiveness Assessment Guidance.¹ The City can also perform a literature search on-line for CBSM.

¹CASQA. *California Stormwater Quality Association Municipal Stormwater Program Effectiveness Assessment Guidance*, May 2007.

- b) Measurably change the behavior (*The City can present information, but has no control over whether a person’s behavior changes.*) of target audiences for each identified Priority Stormwater Issue so that they implement desired behaviors and stop undesirable behaviors.

Staff Response to Comment City of Salinas – Provision M.5.b

See Staff Response to Comment City of Salinas – Provision M.5.a.

- 6) Assessment – The Permittee shall perform a minimum of two assessments by the end of Year 4 to quantitatively determine if knowledge has increased and if behavior has changed in target audiences for each Priority Stormwater Issue. (*Are there examples of how such can be quantitatively determined? How can it be determined whether a person’s knowledge has been increased? The City is not going to test the City’s residents. And changes in behavior? How will that be assessed? City could conduct (phone) interviews or surveys to measure change. Professionally conducted surveys are not cheap. Cost information several years ago was \$25K each.*)

Staff Response to Comment City of Salinas – Provision M.6

For suggestions on how to assess if awareness has been raised and if behavior has been changed, the City can refer to the Public Education and Outreach Program Element section of the CASQA Effectiveness Assessment Guidance.¹ The City can partner with other municipalities in the region to conduct surveys.

¹CASQA. *California Stormwater Quality Association Municipal Stormwater Program Effectiveness Assessment Guidance*, May 2007.

- 7) Education Strategies and Methods – The Permittee shall incorporate the use of Community-Based Social Marketing¹ techniques or equivalent into its public education BMPs to effectively change the behavior of the identified target audiences regarding each Priority Stormwater Issue.
- a) At a minimum, the Permittee shall use the following Community-Based Social Marketing or equivalent techniques:
- i) Research on barriers to desired behaviors and benefits of desired behaviors (e.g., literature review, observation, focus groups);
 - ii) Elicit commitment to implement desired behavior from target audience; How might we do this?

Staff Response to Comment City of Salinas – Provision M.7.a.ii

The commitment tool in Community-Based Social Marketing is used by asking a person or group to make a commitment to a particular behavior using a verbal or written agreement. An example of this would be to have a class of school children during a stormwater education opportunity sign a pledge to always dispose of their trash properly. People who make a commitment or pledge are more likely to follow through on implementing the desired behavior.

- iii) Remove barriers to desired behavior;
- iv) Provide incentives for desired behavior; (Such as?)

Staff Response to Comment City of Salinas – Provision M.7.a.iv

Examples of incentives used in Community-Based Social Marketing include social approval, user fees, refunds, variable rates, and preferential treatment.

- v) Use the concept of social norms/modeling of desired behavior;
 - vi) Use education messages that are specific, easy to remember, from a credible source, and appropriate for the target audience; and
 - vii) Use prompts reminding target audience of desired behavior.
- b) Pilot Projects
- i) In Year 2, Year 3 and Year 4, the Permittee shall implement pilot projects for two Priority Stormwater Issues per year using CBSM or equivalent techniques.
 - ii) In Year 3 and each subsequent year, the Permittee shall expand the effective pilot projects throughout the Permit coverage area. Pilot projects found to be ineffective shall be revised and a replacement pilot project implemented. In Year 2, Year 3 and Year 4, the replacement pilot projects shall be implemented in addition to the two new pilot projects- Drop reference to Year 2; We can't do conduct "replacement projects" in year 2 until we have determined that the original project did not meet expectations. At the earliest, this would be in Year 3.

Staff Response to Comment City of Salinas – Provision M.7.b.ii

Central Coast Water Board staff removed "Year 2" from the Order.

- 8) Development Planning and Stormwater Controls for New Development and Redevelopment Projects – Within 12 months of adoption of this Order, the Permittee shall develop and implement effective education for project applicants, developers, contractors, property owners, and other responsible parties that are required to adhere to laws and regulations applicable to stormwater management on development projects. Education shall occur as early in the planning and development as possible and all through the permitting and construction process. The Permittee shall design the education such that each audience, as applicable, maintains an updated understanding of the following:

¹ A variation of social marketing, referred to as Community-Based Social Marketing by Canadian environmental psychologist Doug McKenzie-Mohr.

- a) Requirements and applicability thresholds for Non-Priority and Priority Development Projects related to, but not limited to, site planning, source control, LID, flow control, and treatment control;
 - b) LID strategies and design tools for achieving flow control and treatment control requirements for Non-Priority and Priority Development Projects;
 - c) Stormwater Control Plan development;
 - d) Operation and Maintenance Plan development and implementation;
 - e) Enforceable mechanisms related to insufficient installation and long-term maintenance of flow control and treatment control BMPs;
 - f) Water body setback requirements in Section L (Development Planning and Stormwater Retrofits);
 - g) The process for project submittals and Permittee review and approval related to the stormwater management portion of the site design; and
 - h) Federal, State, and local water quality laws and regulations applicable to construction and grading activities (e.g., General Construction Permit, 401 Water Quality Certification).
- 9) Public Involvement – The Permittee shall involve the public in the development and implementation of the Stormwater Management Program. At a minimum, the Permittee shall:
- a) Within 12 months of adoption of this Order, implement a public advisory group by:
 - i) Establishing a stand-alone group or utilizing an existing group or process that consists of a balanced representation of all affected parties, including but not limited to: residents, business owners, and environmental organizations in the MS4 area and or affected watershed; and *There is flexibility here in the language, so we should be fine meeting this. We! would be opposed to forming a formal standing advisory group as it takes an inordinate amount of staff time to manage.*
 - ii) Inviting the public advisory group to participate in the planning and implementation of all parts of the Stormwater Management Program;
 - b) Create opportunities each year for the public to participate in the implementation of stormwater management activities (e.g., stream clean-ups, storm drain stenciling, volunteer monitoring, education activities); and
 - c) Ensure the public can easily find information about the Permittee's Stormwater Management Program throughout the term of this Order.
- 10) Website – Within 12 months of adoption of this Order, the Permittee shall maintain an up-to-date stormwater website, which shall include material to facilitate implementation of the public education and involvement BMPs. The website shall, at a minimum, include the following information:
- a) How the public can get involved in planning and implementation of activities related to the Stormwater Management Program;
 - b) Contact information for the illicit discharge and reporting system described in Section H.4 (Illicit Discharge Detection and Elimination: Illicit Discharge Reporting System);
 - c) Details of school children education;
 - d) Who to contact for each aspect of the Stormwater Management Program;
 - e) A copy of this Order, the Stormwater Management Plan (not as a link to one large file but as a table of contents that contains links to individual SWMP components) and SWDS; and

Staff Response to Comment City of Salinas – Provision M.9.a.i

Central Coast Water Board staff notes this comment.

- f) Resources related to the Priority Stormwater Issues.

11) Reporting

- a) In each Annual Report, the Permittee shall include:
- i) A summary of education efforts and accomplishments for development planning and stormwater controls for new development and redevelopment projects, including:
 - (1) Education topic;
 - (2) Audience;
 - (3) Education mode (e.g., workshops, manuals, brochures, verbal education at planning counter);
 - (4) Quantity of people informed; and
 - (5) A report on specific guidance provided to new development and redevelopment project applicants on how to achieve and demonstrate compliance with flow control, treatment control, and LID requirements.
 - ii) Any collaborations the Permittee participated in to implement the requirements of this Section;
 - iii) A description of the involvement opportunities the Permittee created for the public to participate in the implementation of stormwater management activities and any other public involvement activities implemented to comply with this Order; and
 - iv) A link to the stormwater website, verification the website complies with the requirements of this Order, and a summary of website updates implemented.
- b) In the Year 1 Annual Report, the Permittee shall include:
- i) A description of the Priority Stormwater Issues identified by the Permittee and the basis of selection;
 - ii) The target audience(s) identified for each Priority Stormwater Issue;
 - iii) A description of the public advisory group established; [See my comment under 9a1.](#) and

Staff Response to Comment City of Salinas – Provision M.11.b.iii

Central Coast Water Board staff notes this comment.

- iv) A description of the methods and schedule the Permittee plans to implement to quantitatively assess knowledge increase in target audiences for each Priority Stormwater Issue.
- c) In the Year 2 Annual Report, the Permittee shall include a description of the pilot projects implemented and the techniques used to measurably increase knowledge and change behavior.
- d) In the Year 3 Annual Report and subsequent Annual Reports, the Permittee shall include an assessment of each pilot project and a justification for each pilot project that was expanded and each pilot project that was replaced with a different pilot project. The Permittee shall include an explanation of how any replacement pilot projects were selected. The Permittee shall describe each pilot project and expanded project and the CBSM or equivalent techniques used to measurably increase knowledge and change behavior.
- e) In the Year 4 Annual Report, the Permittee shall include a description of the assessments conducted to measure knowledge and behavior change. The description shall include the assessment methods used as well as the results of the assessment. *Revise the requirements of this section to match Phase 2 Draft Permit requirements when adopted. This way the requirements are the same and costs can be shared as suggested.*

Staff Response to Comment City of Salinas – Provision M.11.e

The requirements of the City's permit are not tied to the requirements of the Phase II Draft Permit. It is unknown when the Phase II permit will be adopted and it isn't appropriate to have the City wait to make revisions to their program.

N. Trash Load Reduction

- 1) Trash Load Reduction Program - The Permittee shall develop and implement effective structural and non-structural BMPs, including trash reduction ordinance (Implementation of a "trash reduction ordinance" may not be necessary as the City has in place legislation to address the issues in this section.), to ~~prevent~~ delet "prevent"-reduce the amount of trash (We can't prevent trash from entering the system or we would need to screen every inlet and receiving water) trash from entering the MS4 (Can anyone really "prevent trash from entering the MS4? If so, how?)") and remove trash where discovered that has entered the MS4. The Permittee shall consider the results of trash assessments conducted according to Section P.2.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Quantification) in the selection of BMPs and to direct and focus its trash reduction efforts and resources.

Staff Response to Comment City of Salinas – Provision N.1

Central Coast Water Board staff has revised the Order to read, "trash reduction ordinances, as necessary." The draft Order does not imply that the City must develop wholly new legislation if the City already has effective legislation in place.

Central Coast Water Board staff has replaced "prevent" with "reduce" in the Order here and in Section N.2.d.

The Permittee is responsible for reducing the discharge of pollutants, including trash. This responsibility includes efforts to discover where trash has collected or been deposited in the MS4. Removing trash only "where discovered" suggests that the City is not responsible to expend effort on discovery.

2) Trash Reduction BMPs

- a) Municipally Owned or Operated Areas – Within 12 months of adoption of this Order, the Permittee shall designate and implement BMPs to control trash and litter from the following sites and sources, at minimum:
- i) ~~Municipally owned and/or operated schools;~~delete schools-we don't operate schools
 - ii) Public parks;
 - iii) City owned Public venues (e.g., the ~~Rodeo Grounds~~ and the Municipal Stadium); delete "Rodeo Grounds" we don't own the rodeo grounds either and (Leased to private entities who manage and who operate them.)
 - iv) Municipal facilities (as defined in Section E.1 [Municipal Maintenance: Inventory]). (Most have been leased out to private entities which manage and operate them.)

Staff Response to Comment City of Salinas – Provision N.2.a

Central Coast Water Board staff has revised the Order to reflect the comment. Facilities owned by the City that are leased and operated by others remain the City's ultimate responsibility.

- b) Inspection and Cleaning of Surface Drainage Structures
- i) Within 12 months of adoption of this Order, the Permittee shall visually inspect all open channels and other surface drainage structures for trash and other debris. (The City should not be responsible for inspecting the Rec Ditch...the Rec Ditch is not the City's to maintain. The MCWRA has the responsibility for inspecting and for maintaining the Rec Ditch. The City will not assume responsibility over the Rec Ditch.) The Permittee shall also identify and prioritize problem areas, such as those with recurrent illegal dumping, for inspection at least three times per year. We don't have unfettered access to the Reclamation Ditch-this should be a Monterey County requirement

Staff Response to Comment City of Salinas – Provision N.2.b.i.

Central Coast Water Board staff has revised this Order to include the phrase “which are part of the Permittee’s MS4 or part of receiving waters within the Permit coverage area that are not owned and operated by MCWRA.” Central Coast Water Board staff has revised the Order to remove language identifying the Reclamation Ditch as part of the City’s MS4, as the Reclamation Ditch is owned and operated by the Monterey County Water Resources Agency.

- ii) Beginning in Year 2, the Permittee shall visually inspect priority problem areas at least three times each year, and all other areas at least once each year.
- iii) The Permittee shall remove, within one week, trash and other debris found during visual inspections (~~Rec Ditch: The City cannot enter into the Rec Ditch for any purposes...it is not the City's feature to either maintain or operate.~~), ~~The one week requirement is not realistic. With weekends, holidays, and mandatory furloughs this could translate to as little as 3 working days. This requirement should be removed as the City typically coordinates with volunteer programs, earth day events, community cleanup days and Return of Natives organizations to accomplish this task. These are events that are held on specific dates each year and are part of our community outreach program. These are not events that can be arranged in just any 7 day window. City staff does regularly inspect and schedules cleanups outside the scope of the volunteer program. Our internal schedule should be within 14 Working Days from inspection.~~ except as required in Section P.3.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Action Level). The Permittee shall document surface drainage structure maintenance in a log that is to be made available for review by the Central Coast Water Board (~~staff?~~) upon request. ~~For surface drainage structures maintained by others that are located within the Permit coverage area, but where the Permittee lacks the authority to remove debris (such as the Salinas Reclamation Ditch), the Permittee shall visually inspect and document as described in this Section and coordinate debris removal with the entity that maintains the structure. The Permittee shall seek authority to remove debris from surface drainage structures maintained by others. Deleted “For surface drainage...maintained by others.” Per previous discussions with Region 3 this is the responsibility of MCWRA CC: (Why should the City be responsible for inspecting a feature which it does not own, manage, operate or maintain? This is an unnecessary burden in an already very burdensome program. This is a permit condition more appropriately included in the MCWRA’s permit.) (No...the City has enough responsibility to maintain its own facilities. The City will not actively seek to take on additional responsibility unless there is a source of funding to provide the resources for this additional work.)~~

Staff Response to Comment City of Salinas – Provision N.2.b.iii

See Staff Response to Comment City of Salinas – Provision N.2.b.i and Staff Response to Comment City of Salinas – Provision N.5.d.iii.

Central Coast Water Board staff has changed “within one week” to “within 14 working days” in the Order. The language in the Order is flexible enough to allow the City to schedule visual inspections to coincide with the availability of clean-up volunteers and events. The Order requires the City to designate as priority problem areas those areas where a single annual inspection and cleaning are not adequate to reduce trash to the MEP. Therefore it is reasonable for the City to clean priority problem areas after each inspection where trash is discovered.

Central Coast Water Board staff has added “staff” to the Order.

c) Source Identification and Abatement

- i) By the end of Year 2, the Permittee shall analyze the results of visual monitoring conducted according to Section N.3 (Trash Reduction Plan). For surface drainage structures found to contain significant deposits of trash, the Permittee shall identify potential sources of the trash. *(Perhaps a better way to address the Rec Ditch issue is for the MCWRA to be responsible for the visual inspections, to share information with the City re trash, and for the City and MCWRA to work together to identify the sources of the trash, as required in this section.)* The Permittee shall evaluate the implementation and effectiveness of existing BMPs targeting the identified sources, and identify and implement BMP modifications necessary to abate the identified sources. *(That way the MCWRA can implement BMPs within its jurisdictional boundaries, and so too can the City for those areas within the City which are sources of trash within the Rec Ditch.)* For modifications requiring more than 12 months to complete, the Permittee shall develop and adhere to a schedule for implementing identified modifications.

Staff Response to Comment City of Salinas – Provision N.2.c.i

Central Coast Water Board staff has corrected the Order to read “Section N.2 (Inspection and Cleaning of Surface Drainage Structures.” Central Coast Water Board staff has revised Section N.2 to address City comments related to the Reclamation Ditch (see Staff Response to Comment City of Salinas – Provision N.2.bi, Staff Response to Comment City of Salinas – Provision N.2.b.iii). See also revisions to the Order in Section P.3.b.vii.

- ii) By the end of Year 3, the Permittee shall implement BMP modifications identified according to Section N.2.c (Source Identification and Abatement). For modifications requiring more than 12 months for completion, the Permittee shall adhere to the implementation schedule.
- d) Trash Reduction Ordinance – By the end of Year 3, the Permittee shall develop, adopt, and enforce a Trash Reduction Ordinance *(No, the City is not going to arbitrarily adopt an ordinance. The City Council determines what legislation to adopt and it may choose to not adopt such an ordinance.)* to prevent or remove trash and litter loads from the Permittee’s MS4. *(Or enforce its existing legislation with respect to trash.)* The ordinance shall address the following sites and sources and types of trash typically generated by these sites and sources, at a minimum:

Staff Response to Comment City of Salinas – Provision N.2.d

Central Coast Water Board staff has revised the provision to read “By the end of Year 3, the Permittee shall have developed, adopted, and be enforcing enforceable mechanisms, such as a trash reduction ordinance, to effectively reduce trash discharges to the Permittee’s MS4 and remove trash and litter loads from the Permittee’s MS4. The enforceable mechanisms shall address the following sites and sources and types of trash typically generated by these sites and sources, at a minimum.” Federal regulations require the City to reduce pollutants in stormwater discharges to the MEP, including trash. Enforceable mechanisms are essential for achieving the MEP standard because they give the City adequate authority to enforce compliance with conditions of the Order.

- i) Commercial retail centers (as defined in Section F.1.b.vi [Commercial and Industrial: Commercial Retail Centers]);
- ii) Shopping districts;
- iii) Transportation hubs (e.g., bus stations);
- iv) Fast food restaurants;
- v) Public and private schools; *(The City has no jurisdiction over school facilities. The School Districts can exempt themselves from certain local regulation, and some of them have done so or have attempted to do so.)*

Staff Response to Comment City of Salinas – Provision N.2.d.v

Central Coast Water Board staff notes that the City may have limited authority to enforce City ordinances at public school facilities. However, the City has adequate authority to enforce its ordinances in the areas surrounding public schools. Therefore Central Coast Water Board staff has reworded the Order so that it refers to areas surrounding public schools, rather than the public schools themselves. Studies show that school facilities can be a significant source of trash, and effort expended to address trash at public schools could be an effective way to reduce overall trash loads. Therefore Central Coast Water staff recommends that the City work with public schools in the Permit coverage area to reduce trash loads. Central Coast Water Board staff is not aware of any jurisdictional obstruction that would prevent the City from enforcing City ordinances at private school facilities.

- vi) Garbage and waste handling and storage areas;
- vii) Loading areas;
- viii) Illicit dumping; and
- ix) Littering and litter.

3) Trash Reduction Plan

- a) High Priority Trash Areas - By the end of Year 2, the Permittee shall prioritize areas for trash reduction on the basis of their potential for trash discharges to the MS4. The Permittee shall review and update the prioritization each year. The Permittee shall identify High Priority Trash Areas according to the following criteria:
 - i) Land uses listed in Sections N.2.a (Municipally Owned or Operated Areas) and N.2.d (Trash Reduction Ordinance);
 - ii) Visual inspections performed according to Section N.2.b (Inspection and Cleaning of Surface Drainage Structures);
 - iii) Results of potential source analysis conducted according to Section N.2.c (Source Identification and Abatement);
 - iv) Results of trash quantification performed according to Section P.2.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Quantification);
 - v) Results of trash assessments conducted according to Section P.3.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Action Level);
 - vi) Areas known to be potential sources of trash (e.g., illegal dumping areas); and
 - vii) Results of MS4 cleaning activities, such as catch basin cleaning conducted according to Section E.5.a (Municipal Maintenance: Catch Basins).
- b) By the end of Year 2, the Permittee shall develop and implement an effective Trash Reduction Plan to significantly significantly (What does “significantly” mean? Is there a threshold?) reduce trash entering the MS4 and remove trash that has entered the MS4. The Trash Reduction Plan shall focus on the High Priority Trash Areas. The plan shall include an implementation schedule. The Plan shall incorporate Trash Reduction BMPs and establish short-term and long-term objectives for the following activities, at a minimum:

Staff Response to Comment City of Salinas – Provision N.3.b

There is insufficient data to determine a numeric trash reduction threshold for the term of this Order. Provisions in the Order require the City to quantify trash loads and identify priority sources of trash and litter. The City and Central Coast Water Board staff will use this information to determine what constitutes a significant trash reduction for the City. This approach also allows flexibility to determine what constitutes the MEP standard for trash reduction by the City. The word “significantly” provides flexibility for the City and Central Coast Water Board staff together to determine an appropriate trash reduction target based on level of effort involved and baseline trash conditions.

- i) Trash capture at the stormwater pump station to the Salinas River;
- ii) Trash capture at catch basins and other inlets to the MS4;
- iii) Trash capture at flood management facilities, including detention basins; and
- iv) Trash and litter control in municipally-owned and maintained streets and sidewalks in downtown commercial and shopping districts. Define "trash Capture". As discussed with Region 3 staff it will be a major expenditure to install screens in all inlets. (It is important to distinguish between the trash entering the Rec Ditch and the City's MS4 from outside the City's limits—e.g., trash which enters the Rec Ditch outside the City's boundaries and which enters within the City's boundaries. How has that been accounted for in these Permit provisions?)

Staff Response to Comment City of Salinas – Provision N.3.b.i - iv

"Trash capture" is a term used by stormwater managers and regulators to refer to the removal of trash from the MS4, typically in the form of devices which screen trash and prevent it from reentering the MS4.

See Staff Response to Comment City of Salinas – Fact Sheet N.5

Staff Response to Comment City of Salinas – Finding 31 and Staff Response to Comment City of Salinas – Provision N.2.b.i

- 4) Trash Reduction Tracking Methodology – By the end of Year 4, (There seems to be a disconnect between Section 3.b. and this section 4 in terms of the timing. Section 3.b. is based on a Year 2 review, but the trash reduction methodology is based on the fourth year. This does not seem to track very well.) the Permittee shall develop a Trash Reduction Tracking Methodology that will be used to assess the effectiveness of trash load reduction actions. The methodology shall quantify trash load reductions in a manner that is consistent with the methodology developed according to Section P.2.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Quantification).

Staff Response to Comment City of Salinas – Provision N.4

Section N.3 requires the City of Salinas to develop and begin implementing the Trash Reduction Plan by the end of Year 2. The Trash Reduction Plan is a long-term plan with both short-term and long-term objectives. Section 4 requires the City to develop a methodology for quantifying trash load reductions over time. The Order requires the City to develop the Trash Reduction Tracking Methodology by the end of Year 4 in order to give the City more time to develop the methodology. Since the Trash Reduction Plan is a long-term effort, Water Board staff does not believe it is necessary for the City to develop the tracking methodology at the beginning of Trash Reduction Plan implementation.

5) Reporting

- a) In each Annual Report, the Permittee shall include:
 - i) Verification that the Permittee implemented all designated BMPs at all sites and sources identified according to Section N.2.a (Municipally Owned or Operated Areas);
 - ii) A summary of visual inspection and abatement activities conducted according to Section N.2.b (Inspection and Cleaning of Surface Drainage Structures), including the following:
 - (1) A list of open channels and other surface drainage structures inspected, including indication of priority problem areas inspected three times each year;
 - (2) Dates of all visual monitoring and inspection events;

- (3) Verification that the Permittee removed all trash and debris found within one week of each inspection;
 - (4) A summary of the results of visual inspection and cleaning events, including the amount of material removed on an Urban Subwatershed basis; and
 - (5) Identification of areas containing significant deposits of trash.
- iii) ~~A summary of the Permittee's progress at securing authority to remove debris from surface drainage structures maintained by others.~~ Deleted iii- This is the responsibility of others, not the City.

Staff Response to Comment City of Salinas – Provision N.5.a.iii

Central Coast Water Board staff has deleted the requirement related to drainage structures maintained by others, since such structures are not in the City's MS4. However, discharges from the City's MS4 and from lands within the Permit coverage area are still the most significant source of trash to these structures. Therefore Section P.3.b requires the City to conduct trash assessments in receiving waters at four locations, including two locations within the Reclamation Ditch. In response to comments in this Section regarding the City's jurisdiction and access, Central Coast Water Board staff has added Section P.3.b.vii to provide flexibility for compliance.

- b) In the Year 1 Annual Report, the Permittee shall include:
- i) A list of BMPs designated to control trash and litter from sites and sources identified in Section N.2.a (Municipally Owned or Operated Areas);
 - ii) Verification that the Permittee visually inspected all open channels and other surface drainage structures for trash and other debris, and removed all trash and other debris within one week of inspection except as required in Section P.3.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Action Level); and
 - iii) Identification of priority problem areas identified according to Section N.2.b (Inspection and Cleaning of Surface Drainage Structures) that the Permittee will visually inspect three times each year. The requirement must be modified in the event we have storms and the structure/channel is not accessible.

Staff Response to Comment City of Salinas – Provision N.5.b.iii

By requiring inspections three times each year, the Order already provides sufficient flexibility in scheduling inspections for the City of Salinas to avoid inspections during or immediately after major storm events.

- c) In the Year 2 Annual Report, the Permittee shall include:
- i) A description of surface drainage structures found to contain significant deposits of trash, a description of the process used to identify potential sources of the trash, and identification of the potential sources; (stet) A requirement to have us identify the potential sources of trash could be problematic.

Staff Response to Comment City of Salinas – Provision N.5.c.i

Central Coast Water Board staff recognizes that source identification can be challenging. However, identification of pollutant sources is an essential step for reducing pollutants.

- ii) A description of the process used to evaluate the effectiveness of BMPs targeting identified sources, including a list of BMP modifications identified and the schedule for implementing the modifications;
- iii) The adopted Trash Reduction Ordinance; (Should not be required to adopt an ordinance.)

Staff Response to Comment City of Salinas – Provision N.5.c.iii

Central Coast Water Board staff has revised this provision to read, "A description of the Permittee's enforceable mechanisms."

- iv) A description of High Priority Trash Areas, including a discussion of the rationale used to identify High Priority Trash Areas; and
- v) The Trash Reduction Plan.
- d) In the Year 2 Annual Report and each subsequent Annual Report, the Permittee shall include:
 - i) A summary of the Permittee's progress implementing BMP modifications identified according to Section N.2.c (Source Identification and Abatement), according to identified implementation schedules;
 - ii) A description of the Permittee's implementation of the Trash Reduction Plan, including verification that activities identified in the Plan were implemented in accordance with the Plan; and
 - iii) Quantification of trash removed from the MS4 each year. How? Weight, type, source, etc.? We do this now to a limited degree.

Staff Response to Comment City of Salinas – Provision N.5.d.iii

Section N.4 of the Order directs the City to quantify trash load reductions in a manner that is consistent with the methodology developed according to Section P.2.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Quantification). Therefore the City may quantify trash load reductions in any unit of measure that is consistent with the City's trash quantification methodology.

Note – The remainder of Provision N.5 is not shown. No comments were provided by the City of Salinas in the remainder of Provision N.5.

O. Total Maximum Daily Loads

- 1) For each Total Maximum Daily Load (TMDL) that identifies the Permittee as a responsible party, the Permittee shall achieve its assigned wasteload allocation according to the schedule specified in the TMDL. *This item requires the City meet a specific pollutant load for various reaches of the waterways (likely clarified below). Achievement of this mandate requires the City (or some other entity) to quantify measureable loads at some cost. Further, my sense of this is the City will be helpd accountable for private sector discharges that might exceed TMDL limits. This is a new requirement.*

Staff Response to Comment City of Salinas – Provision O.1

If the Office of Administrative Law approves any TMDLs, where the City is assigned a wasteload allocation due to its MS4 discharges, during the term of the Order, the Order requires the City to develop a plan for meeting its wasteload allocation. A wasteload allocation is an amount of pollution from an existing source (e.g., stormwater) that can be assimilated by a receiving water without impairment of beneficial uses. As such, the City must attain its wasteload allocations to prevent its MS4 discharges from violating water quality standards. Attainment of wasteload allocation is also necessary to achieve the Clean Water Act's objective to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The City is responsible for discharges from its MS4, including those that originate from third parties. However, the Order does not hold the City responsible for third party discharges to its MS4, if those discharges originate outside the Permit coverage area, and the MS4 is also a receiving water. The City is correct this is a new requirement; TMDLs where the City is assigned a wasteload allocation due to its MS4 discharges have only recently been developed. Municipal stormwater permits throughout the State are being updated to incorporate implementation requirements for recently adopted TMDLs.

- 2) Within one year of TMDL approval by the Office of Administrative Law, the Permittee shall submit a plan for meeting its wasteload allocation to the Central Coast Water Board, for every TMDL where the Permittee is listed as a responsible party. *I haven't read how "responsible party" is defined, but this could make the City accountable for mitigating private sector discharges at some cost. Preparation of a TMDL Mitigation Plan could be a large undertaking, depending upon where the TMDL line is drawn. We should first be provided with what the TMDLs are for each pollutant and where we currently stand with respect to these.* Within 60 days of submitting the plan to the Central Coast Water Board, the Permittee shall start implementing the plan. *Before we begin implementation, we should first receive RB approval of our Plan.* The Permittee shall incorporate new BMPs (structural, non-structural, and/or other measures to attain the required source control) and other stormwater management program modifications identified in the Wasteload Allocation Attainment Plan(s) into the Permittee's stormwater management program. *This could require a major outlay of City funds if not narrowly defined for scope and intent. Provide the intent and narrow the scope throughout this section. Provide the City with examples of programs from other locations. This could be a major unfunded mandate.* The Wasteload Allocation Attainment Plan(s) shall include, at a minimum, each of the principle components listed below, unless the Permittee provides justification for why specific components are in conflict with specific TMDL provisions.

Staff Response to Comment City of Salinas – Provision O.2

Regarding the City's responsibility for private sector discharges, see Staff Response to Comment City of Salinas – Provision O.1.

TMDLs identify dischargers that contribute to receiving water impairments and assign those dischargers wasteload allocations. Central Coast Water Board staff has modified Provision O to clarify that the City shall achieve its assigned wasteload allocation for TMDLs where the City is assigned a wasteload allocation due to its MS4 discharges. The City may be assigned a wasteload allocation in TMDLs for other discharges (e.g., sanitary sewer collection system spills and leaks) that are not regulated by the Order.

The City has been assigned a wasteload allocation due to its MS4 discharges in the Lower Salinas River Watershed Fecal Coliform TMDL. Central Coast Water Board staff anticipates the City will be assigned a wasteload allocation due to its MS4 discharges in the Lower Salinas Watershed Nutrient TMDL which is currently in the development process.

Central Coast Water Board staff plan to review submitted Wasteload Allocation Attainment Plans. However, the Order requires the City to implement Wasteload Allocation Attainment Plans within 60 days of submittal. This approach is included in the Order so that potentially inadequate plans that Central Coast Water Board staff cannot approve do not serve to delay the start of implementation.

The Central Coast Water Board has required other municipalities in the Central Coast region that are assigned wasteload allocations to develop Wasteload Allocation Attainment Plans. A few examples of Central Coast MS4s that have submitted plans include the following: City of San Luis Obispo, County of San Luis Obispo, and City of Morro Bay.

The intent of the section is for the City to attain its wasteload allocations so that water quality and beneficial uses are protected. Requirements to protect water quality are not unfunded mandates. See Staff Responses to Comments City of Salinas Supplemental – 8, 14, and 17 for further discussion on unfunded mandates.

- a) A detailed description of the Permittee's strategy for BMP selection, assessment, and implementation, to ~~ensure~~ ~~delete~~ ~~"ensure"~~ ~~we cannot ensure~~ that implemented BMPs will effectively abate pollutant sources, reduce pollutant discharges, and achieve wasteload allocations according to TMDL schedule.

Staff Response to Comment City of Salinas – Provision O.2.a

For "ensure" see Staff Response to Comment City of Salinas – Provision F.8.

- b) Identification of sources of the impairment within the Permit coverage area, including specific information on various source locations and their magnitude within the Permit coverage area. *We lack knowledge of the particular sources for impairment. (If we knew these, we would abate these discharges.) This section assumes that the City will have finite knowledge of the issues and will prepare specific activities to mitigate them. To our knowledge no entity, including the RB's CCAMP program, has quantified pollutant loads or sources of pollution specifically to develop such a plan.*

Staff Response to Comment City of Salinas – Provision O.2.b

Central Coast Water Board staff finds that to effectively achieve wasteload allocations, municipalities will need to identify the sources of impairment. This is a fundamental component to tackling water quality issues. Since the City's MS4 receives and transports impairing pollutants to receiving waters, the City is responsible for identifying the sources of impairing pollutants and abating them as necessary to attain its wasteload allocation.

- c) Prioritization of sources within the Permit coverage area, based on suspected contribution to the impairment, ability to control the source, and other pertinent factors.
- d) Identification of BMPs that will address the sources of impairing pollutants and reduce the discharge of impairing pollutants.

- e) Prioritization of BMPs, based on expected effectiveness at abating sources and reducing impairing pollutant discharges, as well as other pertinent factors.
- f) A detailed BMP implementation schedule. For each BMP, identify milestones the Permittee will use for tracking implementation, measurable goals the Permittee will use to assess implementation efforts, and measures the Permittee will use to assess BMP effectiveness. The Permittee shall include expected BMP implementation for future implementation years, without a multi-year budget, committing to work beyond one year is problematic with the understanding that future BMP implementation plans may change as new information is obtained.

Staff Response to Comment City of Salinas – Provision O.2.f

The Order includes many requirements for BMP implementation over multiple years. Planning for future activities is a fundamental part of implementing a stormwater program. In addition, the Order requires *expected* BMP implementation only, and clarifies that BMP implementation plans may change.

- g) A quantifiable numeric analysis demonstrating the BMPs selected for implementation will achieve any numeric analysis is merely a projection of what might take place, and not a guarantee (“will achieve”) that selected BMPs will achieve the desired result—we simply lack the specific data (to model) to demonstrate that we will achieve the intended results. the Permittee’s wasteload allocation according to the schedule identified in the TMDL. This analysis will most likely necessitate modeling efforts. Computer modeling would need to be prepared by a consultant. Our current consultant has not been able to identify sources of pollutants, so generating a computer model that produces specific results may not be possible. The Permittee shall conduct repeat numeric analyses as the BMP implementation plans evolve and information on BMP effectiveness is generated. This requirement is open-ended—how many and when are “repeat” analyses required. Once the Permittee has water quality data from the TMDL monitoring program per Section O.2.h; the Permittee shall incorporate water quality data into the numeric analyses to validate BMP implementation plans. Does this suggest that the City develop a mitigation plan PRIOR to when we have TMDL load data? If so, then the Plan would be prepared absent a goal.

Staff Response to Comment City of Salinas – Provision O.2.g

Central Coast Water Board staff modified Provision O.2.g.

Municipalities in California are using modeling tools to link pollutant reductions to BMP implementation. If the City cannot identify sources of impairing pollutants, the City may need to take a different approach to identifying sources of pollutants within the City.

The City of Los Angeles is an example of a California municipality that has developed and started implementing a program to address TMDLs in which the City of Los Angeles is assigned a wasteload allocation due to its MS4 discharges. For the TMDL for discharges of trash to the Los Angeles River and Ballona Creek, the City of Los Angeles conducted a study on trash generation areas within the City to inform the selection and placement of BMPs. In the high trash-generating areas, the City of Los Angeles is implementing institutional controls and is planning to retrofit catch basins to include trash devices that will prevent trash from entering the storm drain system.

The Channel Island Harbor Beaches and Santa Monica Bay Beaches bacteria TMDLs are two other examples of TMDLs in which municipalities are assigned wasteload allocations due to their MS4 discharges, and the municipalities have submitted implementation plans that have been approved by the Los Angeles Regional Water Quality Control Board. For these TMDLs,

municipalities have conducted modeling to determine what structural and non-structural BMPs to implement in catchments identified as high pollutant generators and started conducting compliance monitoring. Also, the Los Angeles Regional Water Quality Control Board, City and County of Los Angeles, and Heal the Bay supported the development of a modeling program available for public use to quantify the pollutant reduction associated with the implementation of structural BMPs.¹The Order requires the City to determine the frequency of numeric analyses needed to inform BMP implementation.

The Order requires the City to develop and submit a Wasteload Allocation Attainment Plan within one year of TMDL approval by the Office of Administrative Law. The Order requires the City to start implementing the plan within 60 days of submitting the plan to the Central Coast Water Board.

¹ *Structural BMP Prioritization and Analysis Tool*. Web. 9 December 2011. < <http://sbpat.net/>>.

- h) A detailed description, including a schedule, of the monitoring program the Permittee plans to implement or use to assess discharge and receiving water quality, BMP effectiveness, and progress towards and ultimate attainment of the Permittee's wasteload allocation. The water quality monitoring program shall be consistent with any monitoring program information included in the TMDL documentation. The monitoring program shall be designed to validate BMP implementation efforts and demonstrate wasteload allocation attainment.
- i) A detailed description of how the Permittee will assess BMP and plan effectiveness. The description shall incorporate assessment methods described in the CASQA Municipal Stormwater Program Effectiveness Assessment Guide and this Order.
- j) A description of how the Permittee will modify the plan to improve upon BMPs that the effectiveness assessment highlights as ineffective. This would need to be hypothetical until we learn why BMPs have been ineffective.

Staff Response to Comment City of Salinas – Provision O.2.j

Provision O.2.j requires the City to develop a strategy for revising BMPs based on effectiveness assessment results. Central Coast Water Board staff recognizes that the Wasteload Allocation Attainment Plans will be a living document, and will therefore evolve overtime based on effectiveness assessment results. Central Coast Water Board staff also recognizes that achieving wasteload allocations will most likely be an iterative process and that is why the Order requires the City to have a plan in place to modify its plan based on lessons learned.

- k) A detailed description of information the Permittee will include in Annual Reports to illustrate progress towards meeting wasteload allocations according to TMDL schedule.
- l) A detailed description of how the Permittee will collaborate with other agencies, stakeholders, and the public to develop and implement the Wasteload Allocation Attainment Plan. We cannot compel stakeholder agencies to collaborate with us, but can and will propose continued collaboration and can describe our intentions.

Staff Response to Comment City of Salinas – Provision O.2.i

Central Coast Water Board staff understands that the City cannot force other agencies and stakeholders to collaborate. However, the Order requires the City to demonstrate how the City will try to get other agencies and stakeholders to collaborate on the Waste Load Allocation Attainment Plan implementation.

- m) Any other items identified by TMDL Project Reports or Resolutions or currently being implemented to address TMDL provisions.

3) Reporting

- a) Within one year of TMDL approval by the Office of Administrative Law, the Permittee shall submit a plan for meeting its wasteload allocations, pursuant to the requirements of this Section, for every TMDL where the Permittee is listed as a responsible party. *One year is likely sufficient time to prepare a plan (we would need to speak with possible consultants), but the specifics are the issue.*

Staff Response to Comment City of Salinas – Provision O.3

Comment noted.

Note – The remainder of Provision O.3 is not shown. No comments were provided by the City of Salinas in the remainder of Provision O.3.

P. Monitoring, Effectiveness Assessment, and Program Improvement

1) BMP Effectiveness Assessment

- a) General BMP Effectiveness Assessment *(It seems that these effectiveness assessment criteria pertain to each of the different Permit Provisions set forth in previous sections. It may be more easily-read if these assessments are included in the specific sections of the Permit which correspond to each topic. That way a person reading or trying to implement this Permit only has to go to one section to find everything about that topic.)*

Staff Response to Comment City of Salinas – Provision P.1.a

Central Coast Water Board staff finds that the time required at this stage to make this change and reformat the Order is not warranted by the limited potential benefit.

- i) The Permittee shall assess the effectiveness of BMPs specified in this Order and developed by the Permittee in compliance with this Order, except for those BMPs where Focused Assessment measures are identified in this Section. For BMPs where Focused Assessment measures are identified in this Section, the Permittee shall conduct effectiveness assessments according to Section P.1.b (Focused BMP Effectiveness Assessment).
- ii) Public Education and Municipal Staff Training
- (1) By the end of Year 2, the Permittee shall develop a plan for assessing the effectiveness of public education *(I am still uncertain as to how we can practically and really assess the effectiveness of the public education components of the City's Storm Water Program: Assessment of changes in knowledge and in behavior. Any suggestions as to how those can be realistically measured?)* and municipal staff training BMPs specified in this Order and developed by the Permittee in compliance with this Order. The plan shall include assessment measures capable of providing quantitative information about the following:

Staff Response to Comment City of Salinas – Provision P.1.a.ii.1

Guidance for evaluating the effectiveness of public education efforts at changing knowledge and behavior can be found in USEPA's *MS4 Permit Improvement Guide*, USEPA's *MS4 Program Evaluation Guidance*, and the California Stormwater Quality Association (CASQA) *Municipal Stormwater Program Effectiveness Assessment Guidance*, all of which are available online. In addition, the City can refer to public education assessment tools developed and implemented by Phase I and Phase II communities throughout California. The following are examples of tools which can be used to assess changes in awareness or behavior: targeted public surveys, tests or quizzes administered both before and after training and/or education events, interviews conducted during site inspections, and comparison of inspection results over time.

- (a) Changes in knowledge about the impacts of stormwater discharges and steps that can be taken to reduce pollutants in stormwater runoff, for specific target audiences;
- (b) Changes in behavior of specific target audiences; and
- (c) The proficiency of the Permittee's municipal staff at performing stormwater-related responsibilities in compliance with this Order.
- (2) Quantitative assessment measures used by the Permittee may include, but need not be limited to, surveys, interviews, inspections, and tests taken before and after training events.
- (3) By the end of Year 3, the Permittee shall evaluate the effectiveness of public education and municipal staff training efforts using the plan developed according to Section P.1.a.ii (Public Education and Municipal Staff Training). The Permittee shall use the results of this evaluation to identify modifications to public education and municipal staff training efforts that achieve increasing changes in knowledge

and behavior of specific target audiences. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified improvements.

- (4) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall conduct a follow-up assessment of the effectiveness of the Permittee's public education and municipal staff training efforts using quantitative assessment measures developed according to Section P.1.a.ii (Public Education and Municipal Staff Training). Region 3 staff shall provide example/similar programs which have been implemented elsewhere. We should not be held responsible for creating the template for everything.

Staff Response to Comment City of Salinas – Provision P.1.a.ii.4

Many examples of public education programs are available. See Staff Response to Comment City – P.1.a.ii.1. As an owner and operator of an MS4 that discharges pollutants to receiving waters, the City is responsible for assessing the effectiveness of its BMPs. While there is plentiful guidance and examples available in this case, in cases where such guidance and examples are not readily available, the City must develop and implement its own effectiveness assessment methods.

- b) Focused BMP Effectiveness Assessment –The Permittee shall conduct Focused BMP Effectiveness Assessment according to the requirements of this Section. The Permittee may propose alternative assessment measures and methods that are equivalent or better for approval by the Central Coast Water Board Executive Officer.
- i) Inspections – The Permittee shall analyze inspection results collected for High Priority Municipal Facilities, Operations, and Events; Commercial and Industrial Facilities; Fast Food Restaurants and Commercial Retail Centers; and High Priority Construction Sites (collectively, "Sites") according to Sections E.8.c (Municipal Maintenance: Quarterly Inspections for High Priority Municipal Facilities, Maintenance Operations, and Events), F.4 (Commercial and Industrial: Inspection of Facilities and Operations), and K.6.d (Construction Site Management: High Priority Construction Sites), and Attachment G – Inspection Ratings. The Permittee shall use the results of this analysis to determine the effectiveness of the Permittee's efforts at designating effective BMPs for controlling pollutant sources and removing pollutants from stormwater; educating applicable target audiences in the effective implementation, installation, and maintenance of required BMPs; educating applicable municipal staff in the effective inspection of required BMPs; achieving compliance with requirements of this Order, and improving compliance at low-performing sites through follow-up activities. The Permittee shall apply the following assessment measures and track the results of assessments separately for High Priority Municipal Facilities, Operations, and Events; Commercial and Industrial Facilities; Fast Food Restaurants and Commercial Retail Centers; and High Priority Construction Sites.
- (1) Beginning in Year 2, the Permittee shall analyze Inspection Ratings determined during inspections each year for Sites in each Site category, and evaluate the effectiveness of the Permittee's efforts at achieving an Inspection Rating of "B" or higher at each inspection of each Site.
- (2) Beginning in Year 2, the Permittee shall analyze improvements in Inspection Ratings achieved through reinspection of low-performing Sites each year, and evaluate the effectiveness of the Permittee's follow-up efforts at achieving demonstrable improvements in Inspection Ratings at low-performing Sites in

each Site category. The Permittee is not ~~be~~ required to conduct this analysis for High Priority Construction Sites or High Priority Municipal Events.

Staff Response to Comment City of Salinas – Provision P.1.b.i.2

Central Coast Water Board staff has deleted “be” from the Order.

- (3) Beginning in Year 3, the Permittee shall compare Inspection Ratings determined during inspections each year for Sites in each Site category with Inspection Ratings determined in previous years for Sites in the same Site category, and shall evaluate the effectiveness of the Permittee’s efforts at improving Inspection Ratings over time for Sites within each Site category.
 - (a) The Permittee shall use the results of this evaluation to identify and implement BMP modifications related to each Site category that achieve increasing Inspection Ratings over time for Sites within each Site category. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications.
 - (b) If the average of all Inspection Ratings determined each year results in an annual average Inspection Rating of “B” or higher, determined according to Attachment G, the Permittee shall continue to implement actions designed to improve Inspection Ratings, but is not required to achieve further increases in annual average Inspection Rating.
- (4) Beginning in Year 3, the Permittee shall calculate the average increase in Inspection Rating achieved each year through reinspection of low-performing Sites in each Site category, and shall compare the result with the average increase in Inspection Rating achieved in previous years. The Permittee shall use the results of this comparison to identify and implement BMP modifications related to each Site category that achieve an increasing trend over time in the degree of improvement achieved through reinspection of low-performing sites in each Site category. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications. The Permittee shall not be required to conduct this analysis for High Priority Construction Sites or High Priority Municipal Events.
- (5) Beginning in Year 3, the Permittee shall compare the percentage of High Priority Construction Sites that were ready for each rain event each year with the percentage of High Priority Construction Sites that were ready for each rain event in previous years. The Permittee shall evaluate the effectiveness of construction site management BMPs at increasing over time (syntax?) the percentage of High Priority Construction Sites ready for each rain event.

Staff Response to Comment City of Salinas – Provision P.1.b.i.5

Central Coast Water Board staff has added commas to the Order to clarify the meaning of the sentence.

- (a) The Permittee shall use the results of this evaluation to identify and implement modifications to construction site management BMPs that will achieve an increasing trend over time in the percentage of High Priority Construction Sites ready for each rain event. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications.

- (b) If the number of High Priority Construction Sites ready for a rain event exceeds 90 percent each year, the Permittee shall continue to implement actions designed to attain 100 percent readiness for each rain event, but is not required to achieve further increases in the number of High Priority Construction Sites ready for a rain event.
- ii) Municipal Maintenance Program
- (1) Catch Basin Cleaning
- (a) Beginning in Year 1, the Permittee shall review the catch basin inspection and cleaning maintenance log each year to ensure that all catch basins found to be at least 60 percent full at any inspection have been assigned to a higher priority tier. If the Permittee finds any catch basin to be at least 60 percent full at any inspection, the Permittee shall modify the catch basin inspection and cleaning schedule, in accordance with Section E.5.a- (Municipal Maintenance: Catch Basins), to ensure that all catch basins are cleaned before they reach 60 percent of capacity.
- (b) At the end of Year 4, the Permittee shall analyze the solids volume data collected according to Section E.5.a (Municipal Maintenance: Catch Basins). The Permittee shall determine the volume of solids removed in Years 1 through 4 from catch basins in each Urban Subwatershed, as identified in Section Q.2 (Watershed Characterization: Watershed Delineation), and the volume of solids removed in each Urban Subwatershed per acre of developed land in each Urban Subwatershed. The Permittee shall identify the two Urban Subwatersheds with the most solids removed per acre of developed land.
- (c) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall analyze and identify potential sources of sediment discharges to the MS4 in the two Urban Subwatersheds identified according to Section P.1.b.ii.1 (Catch Basin Cleaning). The Permittee shall incorporate the results of this analysis into the determination of Program Effectiveness Ratings according to Section P.6 (Program Effectiveness Rating). In addition, the Permittee shall evaluate the effectiveness of BMPs at controlling sediment discharges to the MS4 in the two identified Urban Subwatersheds, and shall identify and implement BMP modifications, including identification of additional BMPs, as necessary, to control sediment discharges to the MS4 from the two identified Urban Subwatersheds. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications. *This section assumes that the City has sumps in its catch basins. This must be completely modified to reflect the existing Catch basin configuration.*

Staff Response to Comment City of Salinas – Provision P.1.b.ii.1

See Staff Response to Comment City of Salinas – Provision E.5.a.i. Central Coast Water Board staff has modified Section P.1.b.ii.1 consistent with changes made to Section E.5.

- (2) Structural BMPs – Beginning in Year 2, the Permittee shall analyze the structural BMP inspection and maintenance records each year to ensure that all structural BMPs were inspected and maintained according to the methodology developed in Section E.7 (Municipal Maintenance: Maintenance of Structural BMP Verification). The Permittee shall evaluate the effectiveness of the structural BMP inspection and maintenance at ensuring that all structural BMPs are maintained at the required level. The Permittee shall modify the structural BMP

inspection and maintenance procedures, as necessary, to ensure that all structural BMPs are maintained at the required level. For modifications requiring more than 12 months to complete, the Permittee shall develop and adhere to a schedule for implementing identified improvements.

(3) Street Sweeping and Cleaning

- (a) Beginning in Year 1, the Permittee shall use the data tracked according to Section E.6 (Municipal Maintenance: Street Sweeping and Cleaning) to determine the following each year:
- (i) The annual average volume of solids collected, normalized for moisture content, per road-mile swept for each sweeping route priority designation;
 - (ii) The annual average volume of solids collected, normalized for moisture content, per route mile swept during the Dry Season for each route; and
 - (iii) The annual average volume of solids collected, normalized for moisture content, per route mile swept during the Dry Season for all routes in each sweeping route priority designation.
- (b) Beginning in Year 2, the Permittee shall analyze annual average volumes of solids collected each year per route mile swept for all routes in each sweeping route priority designation, determined according to Section P.1.b.ii.3 (Street Sweeping and Cleaning) and shall identify and implement modifications to the street sweeping program each year that increase *(syntax)* the average volume of solids removed per road-mile swept for each sweeping route priority designation over time. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications.

Staff Response to Comment City of Salinas – Provision P.1.b.ii.3.b

Central Coast Water Board staff has simplified the sentence structure in the Order to clarify the meaning.

- (c) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall analyze average volumes of solids removed per road mile swept for each route and identify routes that are significant sources of sediment and other debris to the MS4.
- (d) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall analyze annual average volumes of solids collected per route mile swept during the Dry Season for each route, determined according to Section P.1.b.ii.3 (Street Sweeping and Cleaning). The Permittee shall use the results of this analysis to develop a street sweeping plan and schedule that optimizes the effectiveness and efficiency of sweeping efforts. *Refer to Section E comments.*

Staff Response to Comment City of Salinas – Provision P.1.b.ii.3

See responses to Section E comments.

(4) Pesticide, Herbicide, and Fertilizer Use

- (a) Beginning in Year 1, the Permittee shall use information collected according to Section E.10.d.v (Municipal Maintenance: Inspections of High Priority Municipal Facilities, Operations, and Events) each year to determine the total amount and primary chemical constituent of each type of pesticide, herbicide, and fertilizer applied by the Permittee within 7 days prior to all rain events that produced runoff.
- (b) Beginning in Year 2, the Permittee shall compare the amount of pesticide, herbicide, and fertilizer used each year determined according to Section

P.1.b.ii.4 (Pesticide, Herbicide, and Fertilizer Use) to the amount of pesticide, herbicide, and fertilizer used in previous years. The Permittee shall evaluate the effectiveness of efforts to reduce the amount of pesticide, herbicide, and fertilizer applied within seven days prior to rain events. The Permittee shall use the results of this evaluation to identify and implement modifications to pesticide, herbicide, and fertilizer application activities that achieve a decreasing trend over time in the amount of pesticide, herbicide, and fertilizer applied within seven days prior to rain events. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications. *This section assumes the prime source of pesticides in the MS4 and receiving waters is from City operations. The major source is aq operations. That source should be addressed before requiring a complex plan to address a minor source such as City facilities.*

Staff Response to Comment City of Salinas – Provision P.1.b.ii.4

The Central Coast Water Board currently regulates agricultural sources of pesticides through Executive Officer Order No. R3-2011-0017, which extends Agricultural Order No. R3-2004-0017 through September 30, 2012. Central Coast Water Board staff has also developed a Preliminary Draft Agricultural Order for the Regulation of Agricultural Discharges for review and approval by the Central Coast Water Board. Federal regulations require the City to reduce the discharge of pollutants in stormwater discharges to the MEP and protect water quality. Therefore this Order requires the City to address its pesticide usage. The Order requires the City to track its pesticide usage and decrease pesticide use over time. Central Coast Water Board staff does not believe this requirement constitutes a complex plan, since the City is already required by the County Agricultural Commissioner to track and report its pesticide usage.

iii) Industrial Facilities

- (1) By the end of Year 2, the Permittee shall analyze stormwater discharge parameter results obtained according to Section F.5 (Commercial and Industrial: Facility Monitoring Data Reported under the General Industrial Permit) for Years 1 and 2 to identify the pollutant having the greatest number of reported exceedances, using the following procedure.
 - (a) The Permittee shall identify exceedances by comparing the stormwater discharge parameter results for each parameter with the exceedance limits established by the General Industrial Permit;
 - (b) The Permittee shall determine the total number of reported exceedances for each reported pollutant for Years 1 and 2.
 - (c) The Permittee shall identify the pollutant with the greatest number of reported exceedances as the Target Pollutant.
 - (d) The Permittee shall determine the annual average number of exceedances of the Target Pollutant by dividing the total number of exceedances of the Target Pollutant by the total number of annual reports submitted through SMARTS *Use long description* for Years 1 and 2.

Staff Response to Comment City of Salinas – Provision P.1.b.iii.1.d

Central Coast Water Board staff has added the longer identifier to the Order.

- (2) By the end of Year 3, the Permittee shall evaluate the effectiveness of the Permittee's efforts to reduce discharges of the Target Pollutant. The Permittee's evaluation shall include, at minimum, an assessment of the adequacy of BMPs designated according to Section F.2 (Commercial and Industrial: Minimum

- BMPs), educational efforts, and the Permittee's inspection and follow-up procedures. The Permittee shall use the results of the evaluation to identify and implement modifications and/or additions to the Commercial and Industrial Program designed to reduce exceedances of the Targeted Pollutant in stormwater discharges from industrial facilities. The Permittee shall consider both short-term and long-term modifications. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications.
- (3) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall divide the number of exceedances of the Target Pollutant reported in the General Industrial Permit reporting period immediately prior to the submittal of the Permittee's Report of Waste Discharge by the number of annual reports submitted through SMARTS in the reporting period. The Permittee shall compare this result with the annual average number of exceedances of the Target Pollutant determined in Year 2 according to Section P.1.b.iii (Industrial Facilities). The Permittee shall use the results of this comparison to evaluate the effectiveness of modifications and/or additions made to the Commercial and Industrial Program at reducing exceedances of the Target Pollutant. At a minimum, the evaluation shall analyze of the objective of each modification, the effectiveness of each modification at achieving its intended objective, and the reasons each modification was (or was not) able to achieve its intended objective.
- iv) Riparian Protection – Beginning in Year 1, the Permittee shall record and track all exceptions, exemptions, and variances from the Riparian Protection Policies and Requirements contained in Section L.1.d (Development Planning and Stormwater Retrofits: Riparian Protection Policies and Requirements) allowed each year for development activities.
- (1) The Permittee shall record the following information for each exception, exemption, or variance:
- (a) The location of the development activity awarded the exception or variance, including site location and identification of the Urban Subwatershed;
 - (b) The justification for allowing the exception, exemption, or variance;
 - (c) The size of the permitted encroachment into riparian buffers established by this Order;
 - (d) A quantitative and qualitative description of riparian area lost or damaged due to the permitted encroachment;
 - (e) A quantitative and qualitative description of riparian area created, restored, or enhanced as mitigation for the permitted encroachments; and
 - (f) A description of measures established to protect riparian areas created, restored, or enhanced as mitigation for the permitted encroachments.
- (2) Beginning in Year 1, the Permittee shall also determine the following each year:
- (a) The total area of encroachment permitted into riparian buffers established by this Order, for the Permit coverage area as a whole and for each Urban Subwatershed; and
 - (b) The total amount of riparian area created, restored, or enhanced as mitigation for the permitted encroachments, for the Permit coverage area as a whole and for each Urban Subwatershed.
- (3) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall review the exceptions, exemptions, and variances from the Riparian Protection Policies and Requirements contained in Section L.1.d

(Development Planning and Stormwater Retrofits: Riparian Protection Policies and Requirements) allowed during the term of this Order up to that time.

- (a) The Permittee shall determine the total area of encroachment permitted into riparian buffers established by this Order, for the Permit coverage area as a whole and for each Urban Subwatershed.
 - (b) The Permittee shall determine the total amount of riparian area created, restored, or enhanced as mitigation for the permitted encroachments, for the Permit coverage area as a whole and for each Urban Subwatershed.
 - (c) The Permittee shall inspect each riparian area created, enhanced, or restored as mitigation for permitted encroachments. The Permittee shall evaluate the size and quality of each mitigation area compared with the original mitigation requirements and the value of the riparian area lost or damaged by the permitted encroachment, and shall assess whether each mitigation area complies with the original mitigation requirements and whether it successfully replaces the riparian values lost or damaged.
 - (d) The Permittee shall evaluate the effectiveness of its development planning and review process at protecting riparian areas within the Permit coverage area. The evaluation shall include analysis of the number and scope of exceptions, exemptions, and variances permitted, the amount of riparian area lost or reduced in quality, potential impacts to water quality and beneficial uses from the encroachments, and size and quality of mitigation areas.
- c) Programmatic BMP Improvement – Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall identify modifications to program BMPs needed to achieve measurable goals for improving targeted watershed processes according to Section P.7 (Program Improvement Needs).

2) Pollutant Load and Water Quality Stressor Quantification

a) Pollutant Load Quantification

- i) Within 12 months of adoption of this Order, the Permittee shall quantify annual Urban Subwatershed pollutant loads using the following procedure. The Permittee may propose an alternative method for quantifying annual Urban Subwatershed pollutant loads that is equivalent or better for approval by the Central Coast Water Board Executive Officer.

(1) The Permittee shall use the CWP Watershed Treatment Model,¹ or an equivalent method approved by the Central Coast Water Board Executive Officer (*The City should be given the opportunity (as in other sections of this Draft permit) to determine an equivalent that works for it. This affords too much discretion in the Executive Officer...to prescriptive and does not allow the City to make the determination for itself how it will meet this provision.*), to estimate annual pollutant loads and pollutant load reductions on the basis of annual average rainfall. The Permittee shall also quantify any reductions associated with BMPs and other program elements. The Permittee shall use pollution concentration and BMP removal efficiency data from the National Stormwater Quality Database, local monitoring data, and/or other centralized databases (e.g., the American Society of Civil Engineers International Stormwater BMP Database) (*Are there other, perhaps equivalent, sources of this information? Does the City have to subscribe to a service to get this information? Is there a cost for this information?*). In estimating pollutant load reductions from BMPs, the Permittee

¹ The Stormwater Manager's Resource Center. *The Watershed Treatment Model, Version 3.1*. Web. 18 August 2011 <<http://www.stormwatercenter.net>>.

shall count pollutant load reductions only for structural BMPs that are designed to achieve a quantitative stormwater management objective and are maintained at least to an “acceptable” level, or equivalent, using the methodology developed according to Section E.7.e (Municipal Maintenance: Structural BMP Rapid Assessment). In estimating pollutant load reductions from such BMPs, the Permittee shall assume that the BMP is achieving its design quantitative stormwater objective. The Permittee shall justify all assumptions used to model BMP pollutant reductions on the basis of appropriate data.

Staff Response to Comment City of Salinas – Provision P.2.a.i.1

The language in the Order gives the City discretion to propose any alternative method that the City considers sufficient. The role of the Executive Officer is to ensure that the proposed alternative is functionally equivalent to the cited method.

The sources for pollution concentration and BMP removal efficiency data cited in the Order are widely available databases containing data collected from Phase I municipalities throughout the United States. Therefore, in addition to being widely available, the cited sources provide data that is statistically reliable. Central Coast Water Board staff was able to access the cited sources on the internet without charge. The language contained in the Order allows the City to propose an alternative equivalent source of pollution concentration and BMP removal efficiency data if the City wishes to do so.

- (2) At a minimum, the Permittee shall quantify annual loads for the following pollutants: *(Is there any consideration made for these pollutants which enter the City from sources outside the City’s jurisdiction? Should the City be responsible for accounting for and ultimately remediating pollutants from sources outside the City? This is a fundamental question which pervades a lot of the Draft Permit provisions, but which is not apparently taken into consideration.)*

Staff Response to Comment City of Salinas – Provision P.2.a.i.2

The Order requires the City to estimate pollutant loads in runoff from Urban Subwatersheds (see Section P.2.a.i and definition of “Urban Subwatershed”), which are aligned with the Permit coverage area. Therefore this provision is concerned only with pollutants in runoff from urban lands discharged from the City’s MS4, and the Order does not require the City to estimate or assume responsibility for pollutants contributed by other sources that are not discharged by the City’s MS4.

- (a) Sediment;
 - (b) Fecal coliform bacteria;
 - (c) Total nitrogen;
 - (d) Copper;
 - (e) Lead;
 - (f) Zinc; and
 - (g) Additional pollutants as identified by the Permittee in consultation with the Central Coast Water Board.
- (3) The Permittee shall quantify annual pollutant loads and pollutant load reductions for the entire Permit coverage area and for each Urban Subwatershed identified in Section Q.2 (Watershed Characterization: Watershed Delineation).
- ii) Prior to the submittal of the Permittee’s Report of Waste Discharge, the Permittee shall repeat the procedure developed according to Section P.2.a (Pollutant Load Quantification). The Permittee shall use Stormwater Discharge Trend Monitoring data, and other data collected according to this Section, to modify the assumptions used to model pollutant loads and BMP pollutant reductions. The Permittee shall apply information obtained through the modeling exercise in developing Urban

Subwatershed Program Effectiveness Ratings according to Section P.6.a.i (Risk of Impact to Watershed Processes and Beneficial Uses).

b) Trash Quantification

- i) Baseline Trash Load (BTL) – By the end of Year 4, the Permittee shall determine the BTL in stormwater discharges from the MS4 to establish the basis for assessing the effectiveness of trash reduction efforts. The Permittee shall determine the BTL using the following formula, or an equivalent method approved by the Central Coast Water Board Executive Officer:

$$BTL = \sum [(area \text{ by land use}) \times (TGR \text{ for the land use})]$$

- (1) Area by Land Use – The Permittee shall determine the total land area tributary to the MS4 occupied by each land use, in acres. The Permittee shall use the actual existing land use for developed parcels using aerial photography, development records, direct observation, or other means. In the case of undeveloped parcels, the Permittee shall use the zoned land use.
- (2) Trash Generation Rate (TGR) – The Permittee shall determine the (TGR) for each land use using one of the following methods, or an equivalent method approved by the Central Coast Water Board Executive Officer:
- (a) The Permittee may use the TGRs shown in Table P.1. Street acreage is considered to have a TGR equivalent to that of the adjacent land use.

Table P.1. Trash Generation Rates (TGR)²

Land Use	TGR (lbs/acre/year)
Commercial ³	16.90
Industrial ⁴	13.45
High Density Residential ⁵	5.98
Low Density Residential ⁶	3.52
Open Space/Parks ⁷	5.27

² TGRs used in Table P.1 were determined according to Attachment C - Trash Generation Rates by Land Use.

³ Commercial includes retail stores, shopping centers and districts, restaurants, hotels, personal services, business services, financial services, movie theaters, building materials sales, and wholesale stores open to the public.

⁴ Industrial includes automobile dealerships and repair shops, light manufacturing, distribution, warehousing, large wholesale stores not open to the public, public facilities, medical care facilities, libraries, large religious facilities, museums, community centers, public auditoriums, observatories, live indoor and outdoor theaters, convention centers, communication facilities, utility facilities (electrical, solid waste, liquid waste, water storage and water transfer, natural gas, and petroleum), educational facilities, preschools and daycare centers, trade schools (including police and fire training academies), transportation facilities (airports, railroads, freeways and major roads, park and ride lots, bus terminals and yards, truck terminals, mixed transportation, and mixed transportation and utility), mixed urban (mixed commercial, industrial, and/or residential), business parks, offices (professional, legal, medical, financial, administrative, research and development, corporate, and general business).

⁵ High Density Residential includes all residential uses having 2 or more units per acre.

⁶ Low Density Residential includes all residential uses having less than 2 units per acre.

⁷ Open Space/Parks includes golf courses, local and regional parks and recreation facilities, cemeteries, wildlife preserves and sanctuaries, designated open space, botanical gardens, agriculture, and animal intensive operations.

OR

- (b) The Permittee may determine TGRs per unit area by land use type through a baseline monitoring program similar to that employed by Los Angeles County *(There is a huge difference in terms of size and resources between the City of Salinas and Los Angeles County. This does not appear reasonable at all for that to be used as the baseline for establishing a program in Salinas.)* for its trash baseline monitoring study.⁸

Staff Response to Comment City of Salinas – Provision P.2.b.i.2.b

The baseline monitoring program employed by Los Angeles County involved counting pieces of trash per acre for various land uses in Los Angeles County. Therefore, as a methodology the City could use to determine TGRs unique to conditions in the City, the Los Angeles County model can be applied anywhere. In addition, since TGRs are defined as weight of trash per land unit, the significant factor for the applicability of TGRs developed by Los Angeles County is not the overall size of the study area but whether trash densities are comparable between Los Angeles County and the City. As explained in the Fact Sheet for Section P, a trash study conducted by Keep America Beautiful found that trash patterns did not vary significantly between geographical areas. Therefore Central Coast Water Board staff believes TGRs developed by Los Angeles County can be applied to the City with a reasonable level of confidence, especially given the way the Order requires the City to use the information. Finally, the language contained in the Order allows the City to propose an alternative methodology for approval by the Executive Officer. The Order language specifies that only alternative methodologies that have been approved by the Executive Officer will be considered to be in compliance with the Order.

- (3) In the determination of applicable areas that generate trash loads for inclusion in the BTL, the Permittee may propose, with supporting documentation, areas for exclusion which do not discharge rubbish, refuse, bark, sawdust, or other solid wastes into surface waters, into the MS4, or at any place where they could eventually be conveyed to the MS4 or surface waters, including floodplain areas.
- (4) The Permittee shall determine the BTL for the entire Permit coverage area and for each Urban Subwatershed identified in Section Q.2 (Watershed Characterization: Watershed Delineation).
- ii) Trash Load Reduction – By the end of Year 4, the Permittee shall determine the annual Trash Load Reduction achieved by Trash Load Reduction activities, using the Trash Reduction Tracking Methodology developed in accordance with Section N (Trash Load Reduction: Trash Load Reduction). The Permittee shall determine the Trash Load Reduction for the entire Permit coverage area and for each Urban Subwatershed identified in Section Q.2 (Watershed Characterization: Watershed Delineation). The Permittee shall compare the Trash Load Reduction amount to the Baseline Trash Load for each Urban Subwatershed and identify Urban Subwatersheds that are significant sources of trash.
- iii) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall evaluate the effectiveness of the Trash Load Reduction Program at reducing trash discharges.
- (1) The Permittee shall identify and implement modifications to the Trash Load Reduction program that achieve increasing trash load reductions over time, and shall identify short-term and long-term quantitative objectives for Trash Load

⁸ *Trash Baseline Monitoring Results Los Angeles River and Ballona Creek Watersheds*. County of Los Angeles Department of Public Works, Watershed Management Division, 17 February 2004. Web. 18 August 2011 <<http://dpw.lacounty.gov/wmd/TrashBaseline/links.cfm>>.

Reduction that the Permittee shall achieve, emphasizing Urban Subwatersheds identified as significant sources of trash. For modifications requiring more than 12 months for completion, the Permittee shall develop and adhere to a schedule for implementing the identified modifications.

- (2) The Permittee shall apply information about trash conditions in each Urban Subwatershed in developing Urban Subwatershed Program Effectiveness Ratings according to Section P.6.a.i (Risk of Impact to Watershed Processes and Beneficial Uses).
- c) Runoff Volume Quantification – The Permittee shall quantify average annual runoff volume for the entire Permit coverage area (*How is the City supposed to do this?*) and for each Urban Subwatershed identified in Section Q.2 (Watershed Characterization: Watershed Delineation). The Permittee shall use the CWP Watershed Treatment Model, the Rational Method, or equivalent simplified spreadsheet method approved by the Central Coast Water Board Executive Officer, to calculate annual runoff volume on the basis of average annual rainfall. The Permittee shall justify all assumptions used to model runoff volume and runoff volume reductions on the basis of appropriate data.

Staff Response to Comment City of Salinas – Provision P.2.c

The Order specifies using the Center for Watershed Protection (CWP) Watershed Treatment Model, the Rational Method, or an equivalent model. The CWP model is a simple spreadsheet model that uses land use acreages to estimate annual average runoff volume using the Rational Method. The user enters the acreage of each primary land use category (e.g., commercial, industrial, low density residential) and the average annual rainfall. The user may also adjust impervious surface percentages assumed by the model for each land use category to calibrate the model to local conditions. The Rational Method (used by the CWP model) provides runoff volumes that can be compared over time without the expense or complexity of other models, at a level of precision that is sufficient for this type of comparison.

- i) Pre-developed Runoff Volume – Within 12 months of adoption of this Order, the Permittee shall quantify the average annual runoff volume for the entire Permit coverage area and for each Urban Subwatershed using Pre-developed land conditions.
- ii) Developed Runoff Volume – Within 12 months of adoption of this Order, the Permittee shall quantify the average annual runoff volume for the entire Permit coverage area and for each Urban Subwatershed using land conditions currently existing within the Permit coverage area. The Permittee shall also quantify any runoff volume reductions associated with BMPs and other program elements. The Permittee shall justify all assumptions used to model runoff volume and BMP runoff volume reductions on the basis of appropriate data.
- (1) Within 12 months of adoption of this Order, the Permittee shall subtract the Developed Runoff Volume from the Pre-developed Runoff Volume in each Urban Subwatershed to determine the runoff volume attributed to development in each Urban Subwatershed. The Permittee shall calculate the percent change in runoff volume in each Urban Subwatershed using the following formula:

$$\text{Percent Change in Runoff Volume} = \frac{\text{Runoff Volume Attributed to Development}}{\text{Pre-developed Runoff Volume}}$$

- (2) Within 12 months of adoption of this Order, the Permittee shall prioritize Urban Subwatersheds for runoff volume reduction improvements on the basis of the Percent Change in Runoff Volume in each Urban Subwatershed. The Permittee shall apply this prioritization in the identification of candidate retrofit projects

according to Section L.2 (Development Planning and Stormwater Retrofits: Retrofit Existing Development).

- iii) Runoff from the 24-Hour, 85th Percentile Storm Event – Within 12 months of adoption of this Order, the Permittee shall quantify the average annual runoff volume from the 24-Hour, 85th Percentile Storm Event, for the entire Permit coverage area and for each Urban Subwatershed, using land conditions currently existing within the Permit coverage area. The runoff volume determined shall take into account runoff volume reductions associated with BMPs and other program elements. The Permittee shall justify all assumptions used to model runoff volume and BMP runoff volume reductions on the basis of appropriate data.
 - iv) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall recalculate the Developed Runoff Volume, the Percent Change in Runoff Volume, and the runoff from the 24-hour, 85th percentile storm event for each Urban Subwatershed using land conditions existing in the Permit coverage area at that time. The Permittee shall recalibrate the model by modifying the assumptions used to model runoff volume and BMP runoff volume reductions on the basis of data collected, runoff volume reducing retrofits, and/or other stormwater management activities. The Permittee shall justify all assumptions used to model runoff volume and BMP runoff volume reductions on the basis of appropriate data.
 - (1) The Permittee shall compare the Developed Runoff Volume determined prior to the submittal of the Permittee's Report of Waste Discharge with the Developed Runoff Volume determined in Year 1, for the Permit coverage area as a whole and for each Urban Subwatershed.
 - (2) The Permittee shall compare the runoff volume from the 24-hour, 85th percentile storm event determined prior to the submittal of the Permittee's Report of Waste Discharge with the runoff volume from the 24-hour, 85th percentile storm event determined in Year 1, for the Permit coverage area as a whole and for each Urban Subwatershed.
 - (3) The Permittee shall apply this information in developing Urban Subwatershed Program Effectiveness Ratings according to Section P.6.a.i (Risk of Impact to Watershed Processes and Beneficial Uses).
- 3) Action Levels
- a) Urban Catchment Action Level Pilot Projects
 - i) The Permittee shall conduct Urban Catchment Action Level Pilot Projects in four urban catchments within the Permit coverage area, in accordance with this Section and Attachment D - Monitoring and Reporting Program. The purpose of Urban Catchment Action Level Pilot Projects is to assess the water quality of discharges from representative urban catchments in relation to Stormwater Discharge Action Levels identified in this Order.
 - ii) The Permittee shall analyze the results of samples collected and tested each year to determine the number of exceedances of any Stormwater Discharge Action Level identified in Table P.2.

Table P.2. Stormwater Discharge Action Levels

Pollutant (unit)	Action Level ⁹
Turbidity (NTUs)	126
Nitrate & Nitrite total (mg/L)	2.6
Copper total (ug/L)	129
Zinc total (ug/L)	982
Fecal Coliform (MPN/100 ml)	400
Pyrethroid Pesticides	
Gamma-cyhalothrin (ug/L)	0.00024
Lambda-cyhalothrin (ug/L)	0.001
Bifenthrin (ug/L)	0.004
Cyfluthrin (ug/L)	0.0003
Cypermethrin (ug/L)	0.001

- iii) Beginning in Year 3, the Permittee shall implement required actions each year in response to the second exceedance within the coverage period of this Order of any Stormwater Discharge Action Level in any Urban Catchment Action Level Pilot Project catchment. If the second exceedance of any Stormwater Discharge Action Level of any constituent occurs before Year 3, the Permittee shall implement required actions in Year 3. The Permittee shall implement the following required actions in an iterative manner to reduce discharges of pollutant(s) in exceedance of Stormwater Discharge Action Levels to the MEP.
- (1) Identify potential sources of the pollutant(s) in the sampled urban catchment(s) where exceedances occurred, and evaluate the sources to determine whether they are unique to the urban catchment(s) in which the exceedances occurred or are likely to be present in other urban catchment(s) within the Permit coverage area on the basis of similar land uses, pollutant sources, and other factors.
 - (2) Prioritize potential pollutant sources for corrective action in the urban catchment(s) where the sources are likely to be present. The Permittee shall assign highest priority to sources with the greatest potential for contributing the relevant pollutant(s) to stormwater discharges.
 - (3) Evaluate the implementation and effectiveness of existing BMPs targeting the potential pollutant sources, and identify and implement, in the urban catchment(s) where the sources are likely to be present, improvements to existing BMPs that reduce the discharge of pollutant(s) from priority pollutant sources to the MEP.
 - (4) Identify and implement additional BMPs, as necessary, in all applicable urban catchment(s) where the sources are likely to be present, that reduce the discharge of pollutant(s) from priority pollutant sources to the MEP.
- iv) Absence of a detected exceedance of a Stormwater Discharge Action Level for any pollutant or condition, as described in this Section, does not indicate the absence of a water quality problem or relieve the Permittee from implementing all other required elements of this Order.

⁹ Action levels for turbidity, nitrate & nitrite, copper, and zinc are derived from the 90th percentile of data contained in the National Stormwater Quality Database (see Table Fact Sheet P.2: Source Data for Stormwater Discharge Action Levels). The action level for fecal coliform is derived from the wasteload allocation for municipal stormwater discharges identified in the Lower Salinas River Fecal Coliform TMDL, currently awaiting approval by the State Water Board and USEPA. Action levels for pyrethroid pesticides are derived from LC50 thresholds established by USEPA.

- v) This Order does not regulate natural sources and conveyances of constituents listed in Table P.2. To be relieved of the required actions for exceedances, the Permittee shall demonstrate that the likely and expected cause of the Stormwater Discharge Action Level exceedance is not anthropogenic in nature.
- b) Trash Action Level
- i) Beginning in Year 2, the Permittee shall conduct Trash Assessments each year at four sites using the most current version of the Rapid Trash Assessment Methodology (RTAM) developed by the San Francisco Bay Regional Water Quality Control Board,¹⁰ or as approved by the Central Coast Water Board Executive Officer (Or an equivalent selected by the City. We need to be careful to not usurp the City's authority and discretion in managing and in implementing its storm water program.). The purpose of Trash Assessments is to assess the level of trash in the Permittee's water bodies, particularly in relation to the Trash Action Level. An additional purpose is to reduce the amount of trash in surface waterways. The Permittee shall identify a Trash Assessment Site within each location described in Table P.3 in accordance with RTAM and use the same sites for all subsequent Trash Assessments.

Staff Response to Comment City of Salinas – Provision P.3.b.i

The language contained in the Order allows the City to propose an alternative methodology for approval by the Executive Officer. The Order language specifies that only alternative methodologies that have been approved by the Executive Officer will be considered to be in compliance with the Order. Executive Officer approval helps ensure alternatives are equivalent to the method proposed in the Order.

Table P.3. Trash Assessment Sites and Locations

Site	Location
1	Salinas Reclamation Ditch between Market St. and its confluence with Natividad Creek
2	Salinas Reclamation Ditch between Victor St and N. Davis Rd.
3	Gabilan Creek between Constitution Blvd. and E. Laurel Dr.
4	Natividad Creek between Garner Ave. and E. Laurel Dr.

- (1) Dry Weather Assessment – The Permittee shall assess and collect trash at each site listed in Table P.3 each year between August 1 and September 30, beginning within 12 months of adoption of this Order.
- (2) Rainy Season Assessment – The Permittee shall, in addition to dry season assessment and collection, assess and collect trash at each site listed in Table P.3 each year between February 1 and March 30, beginning within 12 months of adoption of this Order.
- ii) The Trash Action Level at all sites is defined as a RTAM Trash Assessment Score of 79 points, or equivalent.
- iii) Beginning in Year 3, the Permittee shall implement required actions each year in response to any Trash Assessment at any Trash Assessment Site that results in a Trash Assessment Score below the Trash Action Level. The Permittee shall implement the following required actions in an iterative manner to reduce discharges of trash to the MEP.
- (1) Identify potential sources of trash in the Urban Subwatersheds tributary to the Trash Assessment Site where the Trash Assessment Score fell below the Trash

¹⁰ *Rapid Trash Assessment Protocol, Version 8*. San Francisco Bay Regional Water Quality Control Board; Surface Water Ambient Monitoring Program, 15 November 2004. Web. 17 August 2011.

- Action Level, and evaluate the sources to determine whether they are unique to the Urban Subwatersheds tributary to the assessment site or are likely to be present in other Urban Subwatersheds within the Permit coverage area on the basis of similar land uses, pollutant sources, and other factors.
- (2) Prioritize potential trash sources for corrective action in the Urban Subwatersheds where the sources are likely to be present. The Permittee shall assign highest priority to sources with the greatest potential for contributing trash to stormwater discharges.
 - (3) Evaluate the implementation and effectiveness of existing BMPs targeting trash, and identify and implement, in the Urban Subwatersheds where the sources are likely to be present, improvements to existing BMPs that reduce trash in stormwater discharges to the MEP.
 - (4) Identify and implement additional BMPs, as necessary, in all applicable Urban Subwatersheds where the sources are likely to be present, that reduce trash in stormwater discharges to the MEP.
- iv) The Permittee shall collect all visible trash detected in the Trash Assessment Site during each assessment.
 - v) Throughout the duration of this Order, the Permittee shall not conduct any trash collection activities within the boundaries of any of the locations, defined in Table P.3, except for trash collection within the Trash Assessment Site associated with Trash Assessments required in this Section.
 - vi) Absence of a Trash Assessment Score below the Trash Action Level at any Trash Assessment Site, as described in this Section, does not indicate the absence of a water quality problem or relieve the Permittee from implementing all other required elements of this Order.
- 4) Stormwater Discharge Quality Monitoring
- a) The Permittee shall conduct stormwater discharge quality monitoring according to the requirements of this Section. The Permittee may propose an alternative stormwater discharge quality monitoring program that is equivalent or better for approval by the Central Coast Water Board Executive Officer.
 - b) Urban Catchment Action Level Pilot Projects Monitoring – The Permittee shall conduct Urban Catchment Action Level Pilot Projects Monitoring in accordance with Attachment D - Monitoring and Reporting Program.
 - c) Stormwater Discharge Trend Monitoring
 - i) The Permittee shall conduct Stormwater Discharge Trend Monitoring in accordance with Attachment D - Monitoring and Reporting Program.
 - ii) The Permittee shall use Stormwater Discharge Trend Monitoring results to modify the assumptions used to model pollutant loads and BMP pollutant reductions according to Section P.2.a (Pollutant Load Quantification).
 - iii) Prior to the submittal of the Permittee's Report of Waste Discharge, the Permittee shall analyze Stormwater Discharge Trend Monitoring data for stormwater discharge quality trends. The Permittee's analysis shall include the following elements, at a minimum:
 - (1) Assessment of water quality trends;
 - (2) Assessment of pollutant loading trends for each parameter listed in Table Attachment D.3 (Stormwater Discharge Trend Monitoring Parameters), where supported by the data;
 - (3) Assessment of the time-based relationship between precipitation (rainfall hyetograph) and discharge (runoff hydrograph); and

- (4) Extrapolation of the results of analysis of Stormwater Discharge Trend Monitoring data to other Urban Subwatersheds, as appropriate.
- iv) The Permittee shall apply the results of analysis of Stormwater Discharge Trend Monitoring data in developing Urban Subwatershed Program Effectiveness Ratings according to Section P.6.a.i (Risk of Impact to Watershed Processes and Beneficial Uses).
- 5) Receiving Water Monitoring
- a) The Permittee shall conduct Receiving Water Monitoring in accordance with Attachment D - Monitoring and Reporting Program. *(Attachment D actually contains some requirements, and not just guidance as with the other Attachments. It would be helpful if the specific requirements imposed upon the City in Attachment D (example = Section 2.a.) are included in the body of the Permit. Again, this is goes to the ease of use of this document.)* The Permittee may propose an alternative receiving water monitoring program that is equivalent or better for approval by the Central Coast Water Board Executive Officer.

Staff Response to Comment City of Salinas – Provision P.5.a

Attachment D is a fully-enforceable part of the Order. The monitoring and reporting requirements of the Order are contained in an attachment to distinguish them from the rest of the Order, so that “fine-tuning” adjustments can be made to the monitoring and reporting program without the involved approval process necessary to modify the main body of the Order. This ability allows the City greater freedom to recommend modifications to the monitoring and reporting program during the term of the Order.

- b) Prior to the submittal of the Permittee’s Report of Waste Discharge, the Permittee shall analyze Receiving Water Monitoring data for receiving water quality trends. The Permittee’s analysis shall include the following elements, at a minimum:
- i) Assessment of water quality trends; and
- ii) Extrapolation of the results of analysis of Receiving Water Monitoring data to other receiving waters, as appropriate.
- c) The Permittee shall apply the results of analysis of Receiving Water Monitoring data in developing Urban Subwatershed Program Effectiveness Ratings according to Section P.6.a.i (Risk of Impact to Watershed Processes and Beneficial Uses).
- 6) Program Effectiveness Rating – Prior to the submittal of the Permittee’s Report of Waste Discharge, the Permittee shall rate the overall effectiveness of the Stormwater Management Program in protecting, maintaining, and/or restoring beneficial uses and watershed processes affected by urban runoff.
- a) For each Urban Subwatershed delineated per Section Q.2 (Watershed Characterization: Watershed Delineation), the Permittee shall evaluate the full array of information collected, compiled, and managed per this Order to establish an Urban Subwatershed Program Effectiveness Rating. The Urban Subwatershed Program Effectiveness Ratings shall be based on risk of impact to, and degree of alteration of, watershed processes and beneficial uses in each Urban Subwatershed.
- i) Risk of Impact to Watershed Processes and Beneficial Uses – The Permittee shall evaluate risk of impact to dominant watershed processes (identified through the Central Coast Joint Effort for Hydromodification Criteria) and beneficial uses for each of the Permittee’s Urban Subwatersheds. The Permittee shall establish a single gradient of risk from low to high, based on information collected and developed on an Urban Subwatershed basis per this Order. The Permittee shall identify where each Urban Subwatershed is located on the gradient of risk in relation to all other Urban

Subwatersheds, based on a combined evaluation of the following attributes and characteristics:

- (1) Stormwater Pollutant Source-Generating Land Uses and Sites – The Permittee shall quantitatively evaluate information developed and tracked for each Urban Subwatershed per this Order, including the following:
 - (a) Municipally Owned and/or Operated High Priority Facilities, Operations, and Events;
 - (b) IDDE Priority Areas;
 - (c) Commercial and Industrial Facilities and Operations (including: Food Facilities; fast food restaurants and commercial retail center trash level scores; and Other Commercial and Industrial Facilities and Operations);
 - (d) Industrial Sites/Sources, including sites/sources and the number of reported exceedances reported each year at industrial facilities; and
 - (e) High Priority Construction Sites.
 - (2) Pollutant Load Quantification. The Permittee shall:
 - (a) Evaluate Urban Subwatershed pollutant loads developed according to Sections P.2.a (Pollutant Load Quantification), P.2.b (Trash Quantification), and P.4.c (Stormwater Discharge Trend Monitoring);
 - (b) Use Action Level exceedance data, developed according to Section P.3.a (Urban Catchment Action Level Pilot Projects), to attempt to extrapolate target pollutants and loading characteristics from Pilot Project Urban Subwatersheds to other Urban Subwatersheds;
 - (c) Use extrapolation of Stormwater Discharge Trend Monitoring data, developed according to Section P.4.c (Stormwater Discharge Trend Monitoring), to estimate target pollutants and loading characteristics to other Urban Subwatersheds; and
 - (d) Identify Urban Subwatersheds that are significant sources of trash.
 - (3) Exposure of Receiving Waters to Pollutant Delivery – The Permittee shall evaluate exposure, including:
 - (a) Urban Subwatershed runoff volume attributed to development;
 - (b) Distribution and number of outfalls and channels conveying stormwater, plugs and diversions, and related attributes of the MS4 that indicate exposure; and
 - (c) Receiving Water monitoring data.
 - (4) Zones of Hydrologic Continuity between Surface and Groundwater – The Permittee shall consider the location and condition of undeveloped, pervious land, groundwater recharge areas, floodplains and other areas that provide direct routes for surface runoff to enter groundwater basins.
 - (5) Development Potential – The Permittee shall quantify the number of acres of undeveloped parcels zoned for developed (non-open space) uses.
- ii) Extent and Degree of Alteration of Watershed Processes and Beneficial Uses – The Permittee shall evaluate the extent and degree of alteration of dominant watershed processes (identified through the Central Coast Joint Effort for Hydromodification Criteria) and beneficial uses for each of the Permittee’s Urban Subwatersheds. The Permittee shall establish a single gradient of alteration from low to high, based on information collected and developed on an Urban Subwatershed basis per this Order. The Permittee shall identify where each Urban Subwatershed is located on the gradient of alteration in relation to all other Urban Subwatersheds, based on a combined evaluation of the following attributes and characteristics:

Staff Response to Comment City of Salinas – Provision P.6.a.ii

Central Coast Water Board staff has added “an” to the Order.

Note – Provision P.6.a.ii.1 through Provision P.8 is not shown. No comments were provided by the City of Salinas in the Provisions for these subsections.

Q. Watershed Characterization

- 1) Watershed Data Information Management – The Permittee shall characterize its watersheds for the purpose of stormwater management and compile and manage information in digital format (What is the specific expectation here?), by completing the components described in Sections Q.2 (Watershed Delineation) – Q.5 (Meteorological Information). The Permittee shall develop and maintain capacity for spatial data management, analysis, and display (mapping) - functions commonly provided by Geographic Information System software. This would require the City to install a GIS system. This cost has been estimated at \$750,000 plus \$150k/year to maintain. This is an unfunded mandate. At least once every two years, the Permittee shall update information on current conditions of watershed characteristics described in Sections Q.2 – Q.5 (Watershed Delineation) – Q.5 (Meteorological Information) [The Permittee shall update the map each year for items identified in Section Q.2.b (MS4 System Map)], using the most accurate information available. The Permittee shall use the compiled watershed information as indicated in this Order and make the information available for review by the Central Coast Water Board (or staff?).

Staff Response to Comment City of Salinas – Provision Q.1

The specific expectation for the watershed characterization is to establish the foundation for watershed-based stormwater management by requiring the delineation of Urban Subwatersheds and the collection and management of information for each Urban Subwatershed. Within delineated Urban Subwatersheds and their receiving waters, only information that relates to stormwater management is to be collected. Specific expectations are further defined in the permit sections that follow.

See Staff Response to Comment City of Salinas – Provision Q.2.b.v for a discussion on GIS.

See Staff Response to Comment City of Salinas Supplemental – 17 for a discussion on unfunded mandates.

See Staff Response to Comment City of Salinas – Provision Q.2.b.v for a discussion on cost.

“Staff” has been added to the Order.

2) Watershed Delineation

- a) Within 12 months of adoption of this Order, the Permittee shall delineate and map each feature listed below. The Permittee may propose an alternative delineation scheme and use it upon approval by the Central Coast Water Board Executive Officer.
- i) Existing Urban Subwatersheds – The Permittee shall delineate developed areas grouped into Existing Urban Subwatersheds according to Attachment F – Salinas Existing Urban Subwatersheds.
- ii) ~~Future Urban Subwatersheds~~ – The Permittee shall delineate all areas within the Permittee’s sphere of influence not captured by Existing Urban Subwatersheds, based on NHDPlus¹ Catchments (USEPA and United States Geological Survey [USGS]). This is information that would normally be provided by developers. Since the economy did a downturn all development plans have been put on hold except for some schools due to overcrowding funded by bond measures and grants and the

¹ NHDPlus is an integrated suite of application-ready geospatial data sets including an elevation-based catchment for each flowline in the stream network of the National Hydrography Dataset (NHD) (download instructions available at <http://www.horizon-systems.com/nhdplus/HSC-wth18.php>).

Cloverfield Shopping Center. This item should be delayed until the information can be provided by the developers in the future.

ii)

Staff Response to Comment City of Salinas – Provision Q.2.a.ii

The purpose of including Future Urban Subwatersheds in the City's watershed delineation is to inform watershed-based stormwater management. Maintaining an understanding about how the City can grow and expand to accommodate different land uses and growing populations in a way that maintains and restores those watershed processes that are impacted by stormwater management is essential to water quality protection and watershed health. It is retroactive to wait for developers to provide this information after land designations have already been made. Central Coast Water Board staff does not anticipate the delineations required in Provision Q.2.a.ii to be an onerous task. The Order specifies the resource to use for obtaining the catchment information at no charge.

b) MS4 System Map – Within 12 months of adoption of this Order, the Permittee shall complete an accurate MS4 System Map. The map shall be of sufficient detail so as to assist the Permittee with tracing illicit discharges and other sources of urban stormwater pollution, tracking BMP operation and maintenance, and assessing the physical condition of water bodies. The Permittee shall update the map each year with all connections to the MS4 authorized or allowed by the Permittee after adoption of this Order. The MS4 System Map, at a minimum, shall include the following:

- i) The MS4 and all conveyances. The map shall identify which portions of the system are open channels (or other surface drainage features);
- ii) Inlets to the MS4. Each inlet shall be given an individual identifier, noted on the map, indicating the Urban Subwatershed in which it is located and the type of inlet (e.g., catch basin);
- iii) Outfalls (or outlets) to receiving waters, and/or the MS4. Each outfall shall be given an individual identifier, noted on the MS4 System Map, indicating the Urban Subwatershed in which it is located and the type of outfall (e.g., discharge to stream, discharge to detention and/or retention facilities);
- iv) Drainage areas contributing to all outfalls that receive and discharge urban runoff from and to the MS4; and

— Within 2 years of adoption of this Order, the Permittee shall map existing, known connections over 8 inches in diameter to MS4 conveyances tributary to all storm drain outfalls with a 24-inch nominal diameter or larger, or an equivalent cross-sectional area for non-pipe systems. *The existing SD system map includes outfalls over 18" in diameter. It will cost a lot of money to map all small (8") connections through field observation and going through record drawings. This is part of the GIS system cost previously stated. The City would love to have an accurate GIS system but does not have the funds at present to create/install one. ~~Walter:~~ We have physical maps that show the smaller diameter pipes. However, these are old and are not available in digital form for upgrading. There are some missing components that have been drawn in from field observations. ~~As you noted, this is not part of a GIS system.~~*

v)

Staff Response to Comment City of Salinas – Provision Q.2.b.v

The City has estimated \$750,000 up-front and an additional \$150,000 annually for the GIS requirements of this Order. Central Coast Water Board staff do not believe this is an accurate estimate based on the work the City has reported to have completed for their MS4 system mapping under existing Order No. R3-2004-0135 and the publically available data. During the October 24, 2011 Central Coast Water Board staff call with City staff, the City indicated that it

already has GIS software, but the cost estimates are associated with the analysis and uploading the information into GIS.

The City is already required under existing Order No. R3-2004-0135 to:

- Develop a comprehensive inventory (containing location, type, maintenance requirements and maintenance schedules for: inlets, existing structural treatment control, outfall to receiving waters, collection system pipes) and map of all inlets to the MS4 and outlets to receiving waters.
- Update the City's inventory and mapping of municipal inlets and outfalls.
- Physically inventory >3,000 inlets and locate them on a map.
- Upgrade inventory of inlets and outfalls using digitized technology as a first step towards full GIS applications.

The City has been reporting in their annual reports their success in achieving the requirements of existing Order No. R3-2004-0135:

- The 2006-2007 Annual Report provided by the City reports (emphasis added): *The First Edition Storm Drain Map Book was completed in April 200... This book replaces last year's storm drain book that used manual technology. The First Digitized Edition Storm Drain and Outfall book contains aerial photography of the City along with digitized locations of storm drains, outfalls and main storm truck lines. These digitized locations have a specific grid and number assigned to them to identify them during inspection and cleaning activities. The inventory of storm drains changed from 3200 locations to 3557. Along with the new mapping book Info Systems developed an electronic data base to record data obtained during inspections and cleaning activities..... All storm drain inlets and outfalls were digitally mapped over city aerial photographs.*
- The 2009-2008 Annual Report provided by the City reports: *All of the MS4 was mapped, inventoried and documented. The two handheld GIS computers purchased last year have been calibrated with mapping and data to update and electronically document the MS4. GIS devices have helped increase efficiency and accuracy with regards to the inspection and follow-up process.....This second phase of the mapping program is successfully completed with all inlets and outfalls documented. Second phase included the use of electronic handheld devices for field applications and data collection that was implemented during 2008-2009 year.*
- The 2010-2011 Annual Report provided by the City reports: *Updating and mapping of municipal inlets and outfalls is ongoing as new development occurs. The use of electronic handheld devices for field applications and data collection continues to be used to document all storm drain and outfall activities. GIS applications have not yet been fully achieved due to lack of funding.*

The requirements contained in Provisions Q.2.a, Q.3, and Q.5 are for the City to utilize information that already exists and is available at no cost. Central Coast Water Board staff is available to assist the City in telling the City where to obtain much of the required GIS data. All the City would need is a GIS software license (that they already have) and a modest amount of GIS capability.

Central Coast Water Board staff have added clarification to the Fact Sheet on the scope of spatial analysis.

3) Water Body Identification

- a) For all Urban Subwatersheds, within 12 months of adoption of this Order, identify and map all ephemeral, intermittent, and perennial water bodies based on existing information including, but not limited to, the following:
 - i) NHD Flow Line² (USEPA and USGS);
 - ii) NHD Water Body³ (USEPA and USGS);
 - iii) National Wetlands Inventory⁴ (USFWS); and
 - iv) Relevant environmental documents (e.g., developed per CEQA, NEPA) that include waterbody delineations reflecting current conditions.
- b) For all Urban Subwatersheds, within 2 years of adoption of this Order, identify and map zones that infiltrate stormwater to support baseflow and interflow to wetlands and surface waters, and deep vertical infiltration to groundwater, based on available information that describes conditions including, but not limited to, the following:
 - i) Groundwater basins
 - ii) Groundwater recharge areas;
 - iii) Soil type;
 - iv) Surface geology; and
 - v) Land cover type and condition affecting rainfall infiltration.

4) Watershed Physical Condition Assessment

- a) By the end of Year 3, the Permittee shall conduct a rapid assessment⁵ of all second and higher order streams within the Permit coverage area, with the exception of Gabilan and Natividad Creeks, for which the Permittee shall conduct this assessment by the end of Year 2.
- b) Riparian Vegetation and Habitat – By the end of Year 3, the Permittee shall identify and map riparian vegetation and habitat associated with water bodies delineated per Section Q.3 (Water Body Identification), with the exception of Gabilan and Natividad Creeks, for which the Permittee shall identify and map riparian vegetation and habitat by the end of Year 2. In addition to maps, the Permittee shall collect and maintain information on riparian vegetation and habitat condition, including the following:
 - i) Existing riparian vegetation and habitat based on the following:
 - (1) Aerial and ground-level photography of sufficient quality, detail, and scale to conduct this analysis;
 - (2) Results of the rapid assessment of second and higher order streams conducted per Section Q.4.a.
 - (3) General condition and quality of riparian vegetation and habitat expressed as good, fair, or poor on the basis of multiple factors, including, but not limited to the following:
 - (a) Presence or absence of riparian vegetation
 - (b) Canopy cover of low flow channel expressed in terms of shading (i.e., 1. Channel completely shaded at noon; 2. Most of the channel shaded most of the day; 3. Some of the channel shaded part of the day; 4. Very little of the channel shaded; 5. No shade);

² NHD linear features of types: stream/river, canal/ditch, pipeline, artificial path, coastline, and connector.

³ NHD polygonal features of types: Playa, Ice Mass, Lake, Pond, Reservoir, Swamp, Marsh, and Estuary.

⁴ The National Wetlands Inventory is a national program established by the United States Fish and Wildlife Service to map wetlands (available at <http://www.fws.gov/wetlands/>).

⁵ The Permittee shall use the Center for Watershed Protection's manual for the Unified Stream Assessment (available at <http://www.cwp.org/>) or equivalent when conducting rapid assessment of stream corridors.

- (c) Presence of multiple vegetation layers (i.e., canopy, understory, and ground cover);
 - (d) Ratio of native to exotic plant species;
 - (e) Pollutant filtering capacity (e.g., grassy strips along the top of streambank); and
 - (f) Human impact (e.g., channelization, stabilization, levies, worn and compacted footpaths); and
- (4) Acreage and/or lineal feet of good, fair, and poor quality for riparian vegetation and habitat on an Urban Subwatershed basis and for each second and higher order stream that the Permittee conducted a rapid assessment for per Section Q.4.a.
- ii) Areas with potential for growth of riparian vegetation and habitat, based on the following:
- (1) Historical aerial and ground-level photography;
 - (2) Stream flow characteristics;
 - (3) Groundwater characteristics;
 - (4) Available reference conditions; and
 - (5) Other available information.
- c) By the end of Year 2, the Permittee shall acquire and map impervious cover data based on NLCD 2006 Percent Developed Imperviousness,⁶ or equivalent.
- ~~d)~~ Within 12 months of adoption of this Order, the Permittee shall report dominant watershed processes for each Urban Subwatershed in accordance with those dominant watershed processes identified through the Central Coast Water Board Joint Effort for Hydromodification Control. *(What is the Joint Effort is not completed within 12 months?)*

d)

Staff Response to Comment City of Salinas – Provision Q.4.d

The Central Coast Water Board Joint Effort for Hydromodification Control has already completed the portion of work to determine the dominant watershed processes for different areas within the Central Coast Region.

- 5) Meteorological Information – Within 2 years of adoption of this Order, the Permittee shall maintain meteorological data for all Urban Subwatersheds based on information from multiple sources, including, but not limited to, the following:
- a) National Climatic Data Center summary of precipitation data;
 - b) Near-Real-Time Monthly High-Resolution Precipitation Climate Data Set for the Conterminous United States (Oregon State University, Parameter-elevation Regressions on Independent Slopes Model PRISM);
 - c) Local rain gages; and
 - ~~d)~~ Evapotranspiration data from California Irrigation Management Information Management System. *Rain gauges/remote weather stations would need to be set up and maintained for each Urban Subwatershed. This is a cost the City has no funds for.*

d)

Staff Response to Comment City of Salinas – Provision Q.5

Provision Q.5 requires the City of Salinas to use available information to populate data sets of meteorological information for each Urban Subwatershed. Provision Q.5 provides specific direction to the City to maintain accurate information on meteorological conditions. The

⁶ The National Land Cover Database (NLCD) is produced by the Multi-Resolution Land Characteristics Consortium – a group of federal agencies. The NLCD provides an updated circa 2006 continuous imperviousness estimate layer (raster) for the conterminous United States (available at http://www.mrlc.gov/nlcd2006_downloads.php).

provision does not specify that meteorological data be collected from within each Urban Subwatershed. Central Coast Water Board staff added “existing” before “local rain gages” to clarify that the City isn’t required to set up new stations.

Note – Provision Q.6 is not shown. No comments were provided by the City of Salinas in the Provisions for this subsection.

R. Fiscal Analysis

- 1) The Permittee shall secure the resources necessary to meet all requirements of this Order. *(What, exactly, is the expectation here?)* Inability to secure financial or other resources shall not excuse violation with any provision of this Order. *It is improbable, if not impossible that the City will be able to obtain funds in the current economic climate. Prop 26 has severely limited the ability to levee fees or taxes since a 2/3 vote is need for passage. The last tax measure failed (TAMC for Regional Traffic Improvements). Since the City has little chance of obtaining additional funds and the anticipated tax shortfall this year is approximately \$8m, the City will be forced to layoff public safety staff to shift funds to this effort. The City has estimated it will cost approximately \$6m the first year and \$6m the next four years to comply with the Draft Permit as written. RBF has independently estimated it will cost \$7m the first year, \$7m the second year, \$5m the third year and \$4.9m the fourth and fifth years. Some modifications to the Draft Permit language and contents may help but the City cannot afford to increase outlay for SD when tax revenues are declining. \$6m pays for 40 public safety staff so this is what the impact the Draft permit would have. The Little Hoover commission recommendation 4 is that Water Boards should estimate the impact of regulations. Region 3 should prepare it's own estimate of the impacts to determine the funding and identify other sources of funding which don't include increased fees or taxes to fund this mandate. CC: (MEP is the standard, correct? And economic realities are to be considered when evaluating whether MEP has been satisfied, correct?)*

Staff Response to Comment City of Salinas – Provision R.1

See Staff Response to Comment Steele – 1.

- 2) Reporting – In each Annual Report, the Permittee shall submit the following: 1) an Annual Budget Summary for the current reporting year and 2) an Annual Fiscal Analysis for the upcoming reporting year (estimated expenditures). Both analyses shall detail the expenditures, including, but not limited to, the figures breakdown of expenditures, expenditure funding source(s) (including any limitations on the use of such funds), and identification of resource sharing with other collaborators involved in Program implementation (including volunteer programs or programs of other agencies), for the following categories: *This requires an entirely new time accounting system. MR*

Staff Response to Comment City of Salinas – Provision R.2

Central Coast Water Board staff is unclear why the fiscal analysis requirements will require the City to get an entirely new accounting system. The existing Order No. R3-2004-0135 includes a similar requirement to submit an annual report that includes a fiscal summary of the expenditures necessary to comply with the Order.

- a) Program Management Activities – Overall administrative costs; and
- b) Program Implementation Activities (activities related to this Order only), including the following:
 - i) Municipal maintenance;
 - ii) Commercial and industrial facilities;
 - iii) Residential;
 - iv) Illicit discharge detection and elimination;
 - v) Agriculture and livestock;
 - vi) Parcel-scale development;
 - vii) Construction site management;
 - viii) Development planning and stormwater retrofits;
 - ix) Public education and public involvement;
 - x) Trash load reduction;
 - xi) Total maximum daily load;

- xii) Monitoring, effectiveness assessment, and program improvement;
- xiii) Watershed characterization; and
- xiv) Miscellaneous expenditures (describe). Region 3 needs to narrowly define scope for the basis of providing this information.

Staff Response to Comment City of Salinas – Provision R.2.b

The Order requires the City to submit cost estimates for each program component to ensure the City has sufficient funds to comply with the Order to the MEP. See the Fact Sheet for Provision R (Fiscal Analysis) for the Central Coast Water Board's authority to request a fiscal analysis and for justification about why a fiscal analysis is necessary for an effective stormwater management program.

S. Legal Authority

- 1) General – The Permittee shall establish, maintain, and enforce adequate legal authority to effectively implement all requirements of this Order and control pollutant discharges into and from the Permittee’s MS4. Legal authority shall be obtained through municipal codes, ordinances, statutes, standards, specifications, permits, contracts, or similar means. The Permittee shall review and revise as necessary the existing municipal codes, ordinances, statutes, standards, specifications, permits, contracts, and other regulations to ensure proper authority exists to effectively implement and enforce all of the requirements of this Order. If needed, all revisions shall be made and adopted within 12 months of adoption of this Order. This legal authority shall, at a minimum, authorize the Permittee to perform each requirement listed below.
 - a) The Permittee shall control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to the Permittee’s MS4. This requirement applies both to industrial and construction sites which have coverage under the General Industrial Permit or General Construction Permit, as well as to those sites which do not. The Permittee shall upgrade and enforce grading ordinances as necessary to comply with this Order.
 - b) The Permittee shall **prohibit** *we can legislate most anything but this does not mean it will actually keep illicit discharges out of the MS4* illicit discharges to the MS4 not otherwise allowed pursuant to Section A.5 (Discharge Prohibitions), including, but not limited to, the following:

Staff Response to Comment City of Salinas – Provision S.1.b

CWA section 402(p)(3)(B)(ii) states, “Permits for discharges from municipal storm sewers shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers.” The City must have enforceable mechanisms in place to prohibit the discharge of non-stormwater into its MS4. The City is not necessarily in violation of the Order if a non-municipal discharger illicitly discharges to the MS4. However, the City must have the means to stop illicit discharges, take steps to prevent illicit discharges, and enforce against illicit dischargers.

- i) Sewage;
- ii) Wash water from the cleaning of gas stations, auto repair garages, or other types of automotive service facilities;
- iii) Discharges from areas where machinery and equipment are visibly leaking oil, fluid, or antifreeze;
- iv) Discharges from the cleaning, repair, or maintenance of any type of equipment, machinery, vehicle, or facility;
- v) Discharges of concrete truck cement and discharges from concrete-related pumps, tools, and equipment washout;
- vi) Discharges from mobile operations such as mobile automobile washing, steam cleaning, power washing, carpet cleaning, sandblasting, and other such mobile commercial and industrial operations;
- vii) Discharges from stationary and mobile port-a-potty servicing;
- viii) Discharges from stationary and mobile pet grooming facilities;
- ix) Wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including, but not limited to, the following: parking lots, streets, sidewalks, driveways, patios, plazas, work yards, and outdoor eating or drinking areas;
- x) Discharges from material storage areas containing chemicals, fuels, grease, oil, or other uncovered receptacles containing hazardous materials;

- xi) Discharges from decorative fountains and ponds;
 - xii) Discharges from swimming pools or other bodies of water used for recreation or bathing, containing chlorine, biocides, or other chemicals;
 - xiii) Discharges of swimming pool filter backwash;
 - xiv) Discharges of excess landscape irrigation;
 - xv) Discharges of trash container leachate;
 - xvi) Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water); and
 - xvii) Discharges from spills, dumping, or disposal of materials, such as litter, landscape and construction debris, sediment, garbage, animal waste, fuel or chemical waste, batteries, any pesticides, fungicide, or herbicide, and any other materials which have the potential to adversely impact water quality.
- c) The Permittee shall prohibit and **eliminate** *we can also not eliminate since it will be impossible to trace all connections and if one is found we are not aware of we would be in violation of the permit.* illicit connections to the MS4.

Staff Response to Comment City of Salinas – Provision S.1.c

See Staff Response to Comment City of Salinas – Provision S.1.b.

- d) The Permittee **shall control the discharge of spills**, dumping, or disposal of materials other than stormwater to the MS4. *Again, Region 3 is requiring the City to do the impossible. Spills are by nature incidental or accidental. We can't prevent accidents.*

Staff Response to Comment City of Salinas – Provision S.1.d

See Staff Response to Comment City of Salinas – Provision S.1.b.

- e) The Permittee shall require compliance with conditions in Permittee urban runoff-related municipal codes, ordinances, statutes, standards, specifications, permits, contracts, and other regulations (i.e., hold dischargers to the Permittee's MS4 accountable for the dischargers' contributions of pollutants and flows).
- f) The Permittee shall utilize enforcement mechanisms as outlined in Section S.2 (Enforcement Measures and Tracking) to require compliance with Permittee urban runoff-related municipal codes, ordinances, statutes, standards, specifications, permits, contracts, and other regulations.
- g) The Permittee shall control the contribution of pollutants and flows between its MS4 and other MS4s (e.g., Monterey County, the State of California Department of Transportation, Monterey County Water Resources Agency, Non-Traditional Small MS4s, rail, United States Department of Defense). *This statement should be revised since we cannot control things in general and we cannot control flows from other MS4s into our MS4. Especially since we do not control the Reclamation Ditch and it's tributaries out side of the City limits.*

Staff Response to Comment City of Salinas – Provision S.1.g

See Staff Response to Comment City of Salinas Supplemental – 43.

- h) The Permittee shall carry out all inspections, surveillance, and monitoring necessary to determine compliance with and violation of urban runoff-related municipal codes, ordinances, statutes, standards, specifications, permits, contracts, and other regulations, and with this Order, including the prohibition on illicit discharges to the MS4. The Permittee shall have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from commercial, industrial, and other sites/sources discharging into the Permittee's MS4, including construction sites.
- i) The Permittee shall require the use of BMPs to prevent or reduce the discharge of pollutants into MS4s to the MEP and protect water quality.

- j) The Permittee shall require documentation on the effectiveness of BMPs implemented to reduce the discharge of pollutants to the MS4 and to the MEP and to protect water quality.
- 2) Enforcement Measures and Tracking
- a) Within 12 months of adoption of this Order, the Permittee shall develop and implement an effective progressive Enforcement Response Plan. The Enforcement Response Plan shall outline the Permittee's potential responses to violations (e.g. non-compliance of municipal codes, ordinances, statutes, standards, specifications, permits, contracts) and shall address repeat and continuing violations through progressively stricter responses as needed to achieve compliance. The Enforcement Response Plan shall describe how the Permittee will use each enforcement response type listed below, based on the type of violation.
 - i) Verbal Warnings – Verbal warnings are primarily consultative in nature. At a minimum, verbal warnings shall specify the nature of the violation and required corrective action.
 - ii) Written Notices – Written notices of violation (NOVs) shall stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.
 - iii) Escalated Enforcement Measures – The Permittee shall have the legal ability to employ any combination of the enforcement actions listed below (or their functional equivalent) and to escalate enforcement responses where necessary to correct persistent violations, repeat or escalating violations, or incidents that have the potential to cause significant detrimental impacts to human health or the environment:
 - (1) Citations (with Fines) – The Enforcement Response Plan shall indicate when the Permittee will assess monetary fines, which may include civil and administrative penalties.
 - (2) Stop Work Orders – The Permittee shall have the authority to issue stop work orders that require construction, industrial and commercial activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate BMPs.
 - (3) Withholding of Plan Approvals or Other Authorizations – Where a facility, site or operation is in violation, the Enforcement Response Plan shall address how the Permittee's own approval process affecting the facility, site or operation's ability to discharge to the MS4 can be used to abate the violation.
 - (4) Additional Measures – The Permittee may also use other escalated measures provided under local legal authorities. The Permittee may perform work necessary to improve BMPs and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.
 - b) Enforcement Information Management System – Within 3 months of adoption of this Order, the Permittee shall track instances of violations. The enforcement information management system shall, at a minimum, include the following:
 - i) Name of owner/operator of site/source;
 - ii) Location of stormwater source (e.g., construction site, industrial facility);
 - iii) Description of violation;
 - iv) Required schedule for returning to compliance;
 - v) Description of enforcement response used, including escalated responses if repeat violations occur or violations are not resolved in a timely manner;
 - vi) Accompanying documentation of enforcement response (e.g., citations, NOVs);
 - vii) Any referrals to different departments or agencies; and

- viii) Date violation was resolved.
- c) Recidivism Reduction – Within 3 months of adoption of this Order, the Permittee is required to identify chronic violators of any component of this Order and reduce the rate of violation **recidivism**. The Permittee shall summarize inspection results of these chronic violators and include incentives, disincentives, or an increased inspection frequency at the violator’s site(s). *We cannot control how the violator will react, therefore we cannot control recidivism*

Staff Response to Comment City of Salinas – Provision S.2.c

This Order requires the City to reduce the number of repeat violations from the same violator. Central Coast Water Board staff finds it is reasonable to expect the City to reduce the rate of violation recidivism if the City uses such things as increased inspections, escalating enforcement, incentives, and disincentives.

- 3) Certified Statement – Within 12 months of adoption of this Order, the Permittee shall submit a statement certified by the Permittee’s chief legal counsel that the Permittee has taken the necessary steps to obtain and maintain full legal authority to implement and enforce each of the requirements contained in this Order. This statement shall include:
- Identification of all departments within the Permit coverage area that conduct urban runoff related activities and their roles and responsibilities under this Order and an up-to-date organizational chart specifying these departments and key personnel;
 - Citation of urban runoff-related municipal codes, ordinances, statutes, standards, specifications, permits, contracts, and other regulations, and the reasons they are enforceable;
 - Identification of the local administrative and legal procedures available to mandate compliance with urban runoff-related municipal codes, ordinances, statutes, standards, specifications, permits, contracts, and other regulations, and therefore with the conditions of this Order;
 - A description of how urban runoff-related municipal codes, ordinances, statutes, standards, specification, permits, contracts, and other regulations are implemented and appealed; and
 - A description of whether the Permittee can issue administrative orders and injunctions or if it shall go through the court system for enforcement actions.
- 4) Training – The Permittee shall **ensure** *we cannot ensure, that would mean 100% understanding* that all municipal staff whose job duties are related to implementing the requirements of this Section have the knowledge and understanding necessary to effectively implement this Order. New municipal staff, or municipal staff new to a position related to this Section, shall be trained within one year of hire or attainment of new position. The Permittee shall perform an assessment of trained municipal staff’s knowledge of implementation of the requirements of this Section and shall revise the training to address any deficiencies each year. Training documents shall be available for review by the Central Coast Water Board. The training shall, at a minimum, address each item listed below.

Staff Response to Comment City of Salinas – Provision S.4

For “ensure” see Staff Response to Comment City of Salinas – Provision F.8.

Note – Provision S.4.a through Provision S.5 is not shown. No comments were provided by the City of Salinas in the Provisions for these subsections.

T. Changes to this Order

- 1) Review and Revision of Order - The Central Coast Water Board may reopen and revise this Order at any time prior to its expiration **upon application by any affected person**, or on its own motion. *This is one reason we estimated the costs as we did, based on literal interpretation, not Region 3 staff intent. Ther does not even need to be a third party lawsuit to cause a literal interpretation of the requirements of the Draft Permit, there just needs to be an application by a person who says they are affected.*

Staff Response to Comment City of Salinas – Provision T.1

This provision is standard NPDES permit language. This provision states than anyone can request that the Central Coast Water Board open and revise the Order. It also states that the Central Coast Water Board may revise the Order. This does not say that Central Coast Water Board staff can revise the Order. If the Central Coast Water Board were to revise the Order, there would be a 30 day public comment period and a Central Coast Water Board public hearing. The comment suggests that the City estimated large costs partially due to this provision. The City should not estimate the costs the Order based on some unknown revisions, the City should estimate the costs of the Order as written. If there is a hearing to revise the Order at some point during the Permit term, the City can estimate the costs of the known proposed changes then.

- 2) The Permittee shall comply with Attachment D - Monitoring and Reporting Program of this Order and any revisions or modifications thereto **as ordered by the Central Coast Water Board Executive Officer**. The Central Coast Water Board Executive Officer is authorized to revise the Monitoring and Reporting Plan and also to allow the Permittee to participate in regional, statewide, national, or other monitoring programs. *Does the City get a public hearing to discuss these revisions or is this just a directive handed down from the Executive Director?*

Staff Response to Comment City of Salinas – Provision T.2

This provision allows the Central Coast Water Board Executive Officer to modify the Monitoring and Reporting Program without holding a public hearing. The purpose of this provision is to allow the Executive Officer to make minor changes to monitoring requirements when technical or logistical issues arise, as occasionally happens with implementation of monitoring programs. If the City disagrees with a change made by the Executive Officer, the City can request that the Central Coast Water Board hold a public hearing.

Note – Provisions U through Provision W are not shown. No comments were provided by the City of Salinas in the Fact Sheet Findings for these subsections.

XI. Findings

A. Incorporation of the Fact Sheet

1. This Fact Sheet is for Order No. R3-2012-00XX, NPDES Permit No. CA0049981, Waste Discharge Requirements for City of Salinas Municipal Stormwater Discharges. It includes cited regulatory and legal references and additional explanatory information in support of the requirements of this Order.

B. Permit Background

2. This Order renews NPDES Permit No. CA0049981, which was first issued on October 22, 1999 (Order No. 99-087), and then renewed on February 13, 2002 (Order No. R3-2004-0135). On September 30, 2009, in accordance with Order No. R3-2004-0135, the City of Salinas, as the Principal Permittee, submitted a permit application (Report of Waste Discharge) for renewal of the MS4 Permit.
3. This Order supersedes and rescinds Order No. 99-087 and Order No. R3-2004-0135. This Order serves as a NPDES permit, pursuant to CWA section 402, or amendments thereto, and shall become effective February XX, 2012.
4. Section 402 of the CWA prohibits the discharge of any pollutant to Waters of the U.S. from a point source, unless that discharge is authorized by a NPDES permit. Though stormwater and non-stormwater may come from a diffuse source, it is discharged through MS4s, which are point sources under the CWA. Federal NPDES regulation 40 CFR 122.26(a)(iii) and (iv) provide that discharges from MS4s, which service medium or large populations greater than 100,000 or 250,000 respectively, shall be required to obtain a NPDES permit. Federal NPDES regulation 40 CFR 122.26(a)(v) also provides that a NPDES permit is required for "A [stormwater] discharge which the Director, or in states with approved NPDES programs, either the Director or the USEPA Regional Administrator, determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States." Such sources are then designated into the program.

Other small MS4s, such as those serving colleges, also exist within the watersheds of City of Salinas in the Central Coast Region. While these MS4s are not subject to this Order, they are subject to the Phase II NPDES stormwater regulations. Over time, these MS4s will be designated for coverage under the State Water Board's statewide general stormwater permit for small MS4s. *Is the City required to monitor their activities and apply it's requirements on the college, i.e. Hartnell College?*

Staff Response to Comment City of Salinas – Fact Sheet Finding 4

Order requirements do not apply to other MS4s not owned or operated by City, and the Order does not require the City to monitor the activities of owner/operators of other MS4s. However, where these other MS4s discharge to the City's MS4, the Order states that the City may not passively receive and discharge pollutants from these other MS4s. This means that the City is responsible for what it receives into its MS4, and should take necessary steps to require owners and operators of other MS4s discharging to the City's MS4 to reduce pollutants in their discharges to the MEP. See also Staff Response to Comment City of Salinas Supplemental – 30.

5. The Permittee owns and operates a MS4 that serves drainage areas within the Permit coverage area. The Permittee's MS4 discharges into the surface water bodies listed in Finding No. 24 of this Order. This Order regulates the Permittee's MS4 discharges into these surface water bodies. *Does it regulate the Reclamation Ditch since it is under the jurisdiction of the Monterey County Water Resources Agency (MCWRA)?*

Staff Response to Comment City of Salinas – Fact Sheet Finding 5

The Reclamation Ditch is not part of the City's MS4 because it is not owned or operated by the City. Central Coast Water Board staff has modified the Order, where necessary, to reflect this.

6. The Permit coverage area is the incorporated area of the City and defines the boundary of the Permittee's MS4. If the Permittee expands its incorporated area during the term of this Order, the boundary of the Permittee's MS4 shall expand to match the expanded incorporated area. Therefore, the Permittee is responsible for implementing the applicable requirements of this Order in newly incorporated areas. *What if those areas are currently in ag use as most of the Future Growth Area (FGA) and Carr Lake is?? Aren't those covered by the Ag Waiver until developed?*

Staff Response to Comment City of Salinas – Fact Sheet Finding 6

See Staff Response to Comment City of Salinas Supplemental – 30.

C. Basis for the Order

7. In 1987, Congress established CWA Amendments to create requirements for stormwater discharges under the NPDES program, which provides for permit systems to regulate the discharge of pollutants. Under the Porter-Cologne Water Quality Control Act, the State Water Board and Regional Water Boards have primary responsibility for the coordination and control of water quality, including the authority to implement the CWA. Porter-Cologne (section 13240) directs the Regional Water Boards to set water quality standards via adoption of Basin Plans that conform to all state policies for water quality control. As a means for achieving those water quality standards, Porter-Cologne (section 13243) further authorizes the Regional Water Boards to establish waste discharge requirements (WDRs) to prohibit waste discharges in certain conditions or areas. Since 1999, the Central Coast Water Board has issued the City a MS4 NPDES permit. The Order will renew Order No. R3-2004-0135 to comply with the CWA and attain water quality standards in the Basin Plan by limiting the contributions of pollutants conveyed by urban runoff. Further discussions of the legal authority associated with the prohibitions and directives of this Order are provided in Section XII.S (Legal Authority) of this Fact Sheet.
8. See discussion for Finding No. 7.
9. The MEP requirement is analogous to a technology-based requirement in that it focuses on implementation of pollutant reduction measures to achieve improvements in the quality of the stormwater that is discharged. Compliance with the MEP requirement can range from implementation of structural and nonstructural BMPs to installation of end-of-pipe treatment systems. MEP does not define the limits of pollution control measures that may be required of MS4 operators, and the requirement to implement controls that reduce pollutants to the MEP is not limited by the goal of attaining water quality standards. *Then all measures can be used and LID is not the first line of BMPs and structural BMPs last as long as MEP is met.* In some circumstances, compliance with MEP may result in controls more stringent

than applicable water quality standards, and in others, less stringent. The Central Coast Water Board may use its discretion to impose other provisions beyond MEP *Practicable means possible so how can the CCWB require means beyond possible? Where does it get this authority from?*, as it determines appropriate for the control of pollutants, including ensuring strict compliance with water quality standards (Defenders of Wildlife v. Browner (1999) 191 F.3d 1159, 1168). Requirements in this Order that are more explicit than the federal stormwater regulations in 40 CFR 122.26 are prescribed in accordance with the CWA section 402(p)(3)(B)(iii) and are necessary to meet the MEP standard. *Where does the CCWB get authority include requirements in excess of 40 CFR 122.26?* The MEP standard is a dynamic performance standard which evolves over time as knowledge about stormwater management increases. Therefore the Permittee's SWMP must continually be assessed and modified in an adaptive management fashion to incorporate improved programs, control measures, and BMPs in order to achieve the evolving MEP standard. Absent evidence to the contrary, this continual assessment, revision, and improvement of SWMP implementation is expected to ultimately achieve compliance with water quality standards in the Central Coast Region.

Staff Response to Comment City of Salinas – Fact Sheet Finding 9

LID approaches are generally the most effective means for protecting water quality and beneficial uses from the impacts of stormwater runoff. They are also widely used throughout California. Due to this effectiveness and practicality, Central Coast Water Board finds that LID defines the MEP standard in many instances. As such, the Order requires implementation of LID as a first line of defense for new development and redevelopment. However, the Order accommodates situations where LID is not appropriate, and allows for other stormwater controls in those cases.

Regarding the comments on Central Coast Water Board authority, as cited in the Finding, Clean Water Act section 402(p)(3)(B)(iii) provides the Central Coast Water Board with legal authority to require implementation of controls beyond the MEP standard: "Permits for discharges from municipal storm sewers [...] shall require 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." In *Defenders of Wildlife v. Browner*, the U.S. Supreme Court found that this Clean Water Act language provided permitting authorities authority to require compliance with water quality standards, stating: "EPA has the authority to determine that ensuring strict compliance with state water-quality standards is necessary to control pollutants." The Court of Appeal, Fourth Appellate District (*Building Industry Association of San Diego County et al. v. State Water Resources Control Board et al*) supported the position that MEP is not ceiling on implementation that cannot be surpassed, stating: "If the maximum extent practicable standard is generally 'less stringent' than another Clean Water Act standard that relies on available technologies, it would be unreasonable to conclude that anything more stringent than the maximum extent practicable standard is necessarily impossible."

While the Order does not exceed the federal regulations, the Central Coast Water Board clearly has the authority to include requirements more detailed than those found in the federal regulations. Central Coast Water Board staff's use of permit writer discretion and the inclusion of more detailed requirements in the Order is consistent with USEPA guidance. For example, the preamble to the Phase I NPDES storm water regulations states "this rule sets out permit application requirements that are sufficiently flexible to allow the development of site-specific permit conditions."¹ In addition, in its review of a City of Irving Texas NPDES municipal storm

water permit, the USEPA Environmental Appeals Board stated that Congress “created the ‘maximum extent practicable’ (‘MEP’) standard and the requirement to ‘effectively prohibit non-storm water discharges’ into the MS4 in an effort to allow permit writers the flexibility necessary to tailor permits to the site-specific nature of MS4 discharges.”²

¹ 55 Fed. Reg. 48038.

² Environmental Appeals Board, USEPA. *NPDES Appeal No. 00-18; Order Denying Review*. 16 July 2001.

10. Coastal states are required to develop programs to protect coastal waters from nonpoint source pollution, as mandated by the federal Coastal Zone Act Reauthorization Amendments. Coastal Zone Act Reauthorization Amendments section 6217 identifies polluted runoff as a significant factor in coastal water degradation, and requires implementation of management measures and enforceable policies to restore and protect coastal waters. In lieu of developing a separate non-point source program for the coastal zone, California’s Non-Point Source Pollution Control Program was updated in 2000 to address the requirements of both the CWA section 319 and the Coastal Zone Act Reauthorization Amendments section 6217 on a statewide basis. The California Coastal Commission (CCC), the State Water Board, and the nine Regional Water Boards are the lead State agencies for upgrading the program, although 20 other State agencies also participate. Pursuant to the Coastal Zone Act Reauthorization Amendments section 6217(g) guidance document, the development of runoff management programs pursuant to this NPDES permit fulfills the need for coastal cities to develop an runoff non-point source plan identified in the State’s Non-point Source Program Strategy and Implementation Plan.¹

11. The Receiving Water Limitations in this Order require stormwater compliance with water quality standards through an iterative approach for implementing improved and better-tailored BMPs over time By specifying the order in which BMPs can be applied (LID before structural) the CCWB interferes in this iterative approach and tailoring BMPs for projects. The iterative BMP process requires the implementation of increasingly stringent BMPs until receiving water standards are achieved. This is necessary because implementation of BMPs alone cannot ensure attainment of receiving water quality standards. However implementing better tailored BMPs can so stricter BMPs are not the only way to meet the requirements For example, a BMP that is effective in one situation may not be applicable in another. An iterative process of BMP development, implementation, assessment, and modification is needed to promote consistent compliance with receiving water quality objectives. If assessment of a given BMP confirms that the BMP is ineffective, the iterative process should be restarted, with development of a new BMP that is anticipated to result in compliance with receiving water quality objectives. The iterative approach does not require specific BMPs to be considered before others are considered. All BMPs can be considered and if all meet the same water quality objective then cost effectiveness can be considered since MEP requirement is met.

The issue of whether stormwater discharges from MS4s must meet water quality standards has been intensely debated in past years. The argument arises because CWA section 402(p) fails to clearly state that municipal dischargers of stormwater must meet water quality standards. On the issue of industrial discharges of stormwater, the statute clearly indicates

¹ State Water Resources Control Board/California Coastal Commission. *Volume I: Nonpoint Source Program Strategy and Implementation Plan, 1998-2013 (PROSIP)*, January 2000. Web. 10 August 2011.

that industrial dischargers must meet both (1) the technology-based standard of “best available technology economically achievable (BAT)” and (2) applicable water quality standards. On the issue of municipal discharges however, the statute states that municipal dischargers must meet (1) the technology-based standard of MEP and (2) “such other provisions that the Administrator or the State determines appropriate for the control of such pollutants.” The statute fails, however, to specifically state that municipal dischargers must meet water quality standards. However, the CCWB is requiring TMDLs to be quantified and met within the program so this requirement exceeds what is required.

As a result, the municipal stormwater dischargers have argued that they do not have to meet water quality standards; and that they only are required to meet MEP for stormwater. Environmental interest groups maintain that not only do MS4 discharges have to meet water quality standards, but that MS4 permits must also comply with numeric effluent limitations for the purpose of meeting water quality standards. On the issue of water quality standards, USEPA, the State Water Board, and the Regional Water Boards have consistently maintained that MS4s must indeed comply with water quality standards. On the issue of whether water quality standards must be met by numeric effluent limitations, USEPA, the State Water Board (in Orders WQ 91-03 and WQ 91-04), and the Regional Water Boards have maintained that MS4 permits can contain narrative requirements for the implementation of BMPs in place of numeric effluent limitations for stormwater discharges.² See comment above. Requiring quantitative measurements exceeds CCWB authority.

In addition to relying on USEPA’s legal opinion concluding that MS4s must meet MEP for stormwater and water quality standards, the State Water Board also relied on the CWA’s explicit authority for States to require “such other provisions that the Administrator or the State determines appropriate for the control of such pollutants” in addition to the technology-based standard of MEP for stormwater discharges. To further support its conclusions that MS4 permit dischargers must meet water quality standards, the State Water Board relied on provisions of the CWC that specify that all waste discharge requirements must implement applicable Basin Plans and take into consideration the appropriate water quality objectives for the protection of beneficial uses.

The State Water Board first formally concluded that permits for MS4s must contain effluent limitations based on water quality standards in its Order WQ 91-03. In that Order, the State Water Board also concluded that it was appropriate for Regional Water Boards to achieve this result by requiring BMPs, rather than by inserting numeric effluent limitations into MS4 permits. Later, in Order WQ 98-01, the State Water Board prescribed specific precedent setting Receiving Water Limitations language to be included in all future MS4 permits. This language specifically requires that MS4 dischargers meet water quality standards and allows for the use of narrative BMPs (increasing in stringency and implemented in an iterative process) as the mechanism by which water quality standards can be met for stormwater discharges. See comment above.

² For the most recent assessment, see California State Water Resources Control Board. *Storm Water Panel Recommendations to the California State Water Resources Control Board: The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities*, 19 June 2006. Web. 17 August 2011 <http://cmua.org/Files/swpanel_final_report.pdf>.

In Order WQ 99-05, the State Water Board modified its receiving water limitations language in Order WQ 98-01 to meet specific objections by USEPA (the modifications resulted in stricter compliance with water quality standards). State Water Board Order WQ 99-05 states:

“In Order WQ 98-01, the State Water Board ordered that certain receiving water limitation language be included in future municipal stormwater permits. Following inclusion of that language in permits issued by the San Francisco Bay and San Diego Regional Water Boards for Vallejo and Riverside respectively, the USEPA objected to the permits. The USEPA objection was based on the receiving water limitation language. The USEPA has now issued those permits itself and has included receiving water limitation language it deems appropriate.

In light of USEPA's objection to the receiving water limitation language in Order WQ 98-01 and its adoption of alternative language, the State Water Board is revising its instructions regarding receiving water limitation language for municipal stormwater permits. It is hereby ordered that Order WQ 98-01 will be amended to remove the receiving water limitation language contained therein and to substitute the USEPA language. Based on the reasons stated here, and as a precedent decision, the following receiving water limitation language shall be included in future municipal stormwater permits.”

In the 1999 case involving MS4 permits issued by USEPA to several Arizona cities (*Defenders of Wildlife v. Browner*, 1999, 197 F. 3d 1035), the United States Court of Appeals for the Ninth Circuit upheld USEPA's requirement for MS4 dischargers to meet water quality standards, but it did so on the basis of USEPA's discretion rather than on the basis of strict compliance with the CWA. In other words, while holding that the CWA does not require all MS4 discharges to comply strictly with state water quality standards, the Court also held that USEPA has the authority to determine that ensuring strict compliance with state water quality standards is necessary to control pollutants. On the question of whether MS4 permits must contain numeric effluent limitations, the court upheld USEPA's use of iterative BMPs in place of numeric effluent limitations for stormwater discharges. *See previous comment. Why then require TMDLs?*

On October 14, 1999, the State Water Board issued a legal opinion on the federal appellate decision and provided advice to the Regional Water Boards on how to proceed in the future. In the memorandum, the State Water Board concludes that the recent Ninth Circuit opinion upholds the discretion of USEPA and the State to (continue to) issue stormwater permits to MS4s that require compliance with water quality standards through iterative BMPs. Moreover, the memorandum states that “[...] because most MS4 discharges enter impaired water bodies, there is a real need for permits to include stringent requirements to protect those water bodies. As TMDLs are developed, it is likely that MS4s will have to participate in pollutant load reductions, and the MS4 permits are the most effective vehicles for those reductions.” *Likely but not required.* In summary, the State Water Board found that the Regional Water Boards should continue to include the Receiving Water Limitations established in State Water Board Order WQ 99-05 in all future Orders.

The issue of the Receiving Water Limitations language was also central to the Building Industry Association's (and others') appeal of the San Diego Water Board's MS4 Permit Order No. 2001-01. The Building Industry Association contended that the stormwater MEP standard was a ceiling on what could be required of the Copermitees in implementing their runoff management programs, and that Order No. 2001-01's receiving water limitations requirements exceeded that ceiling. In other words, the Building Industry Association

argued that the Copermittees could not be required to comply with receiving water limitations if they necessitated efforts which went beyond the MEP standard. Again, the courts upheld the Regional Water Board's discretion to require compliance with water quality standards in municipal stormwater permits, without limitation. The Court of Appeal, Fourth Appellate District found that the Regional Water Board has "the authority to include a permit provision requiring compliance with water quality standards."³ On further appeal by the Building Industry Association, the California State Supreme Court declined to hear the matter.

While implementation of the iterative BMP process is a means to achieve compliance with water quality objectives for stormwater MS4 discharges, it does not shield the Permittee from enforcement actions for continued non-compliance with water quality standards. Regardless of whether or not an iterative process is being implemented, discharges that cause or contribute to a violation of water quality standards are in violation of this Order.

Staff Response to Comment City of Salinas – Fact Sheet Finding 11

Regarding the Order's preference for LID, see Staff Response to Comment City of Salinas – Fact Sheet Finding 9. Central Coast Water Board staff finds that LID constitutes MEP in many instances. MEP is the minimum standard the City must attain. Since LID is an important component of meeting the MEP standard, the Order requires implementation of LID. These LID requirements do not interrupt the iterative process since LID is clearly within the scope of MEP.

Further comments on this discussion object to the Order's use of numeric effluent limits. However, the Order relies upon receiving water limitations, as opposed to numeric effluent limits.

For further discussion on the Order's requirements for compliance with receiving water quality standards, see Staff Responses to Comments City of Salinas Supplemental – 3, 15, 19, and 20.

12. The USEPA adopted the National Toxics Rule on December 22, 1992, which was amended on May 4, 1995, and November 9, 1999. The California Toxic Rule was adopted by USEPA on May 18, 2000, and amended on February 13, 2001. These rules include water quality criteria for priority pollutants and are applicable to non-stormwater discharges from the MS4. Criteria for 126 priority pollutants are established by the California Toxic Rule. USEPA promulgated this rule to fill a gap in California water quality standards that was created in 1994 when a California court overturned the State's water quality control plans containing criteria for priority toxic pollutants. The federal criteria are legally applicable in the State of California for inland surface waters, enclosed bays, and estuaries for all purposes and programs under the CWA.

13. Section 131.12 of 40 CFR requires that the State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Central Coast

³ California Natural Resources Agency. *Building Industry Association of San Diego County, et al. v. State Water Resources Control Board, et al.*, 7 December 2004. Web. 10 August 2011.

Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies.

14. Section 303(c) of the CWA requires the state to establish Water Quality Standards. Water Quality Standards define the water quality goals of a water body, or part thereof, by designating their use or uses to be made of the water and by setting criteria necessary to protect those uses.

The Central Coast Water Quality Control Plan for the Central Coast Basin (Basin Plan) designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the Basin Plan. The Basin Plan was adopted by the Central Coast Water Board on February 11, 1994, and was subsequently approved by the State Water Board on May 18, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Central Coast Water Board and State Water Board.

15. Section 303(d) of the federal CWA (CWA, 33 USC 1250, et seq., at 1313(d)), requires States to identify waters that do not meet water quality standards ("impaired" water bodies). States are required to compile this information in a list and submit the list to USEPA for review and approval. This list is known as the section 303(d) list of impaired waters. As part of this listing process, States are required to prioritize waters/watersheds for future development of TMDLs. The State Water Board and Regional Water Boards have ongoing efforts to monitor and assess water quality, to prepare the section 303(d) list, and to subsequently develop TMDLs. The Central Coast Water Board has approved a 2010 section 303(d) list of impairments and potential urban sources in a regional analysis of impaired water body segments, which is currently under review by the USEPA and State Office of Administrative Law. Urban runoff that is discharged from the Permittee's MS4 contributes to receiving water quality impairment in the Central Coast Region.
16. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, section (6) of the California ~~Constitution~~ Constitution see BB&K letter dated 8/12/11 to Clerk of the Board SWRCB (Attachment 1) which disputes this conclusion. for several reasons, including, but not limited to, the following.

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (1)

Central Coast Water Board staff understands that the City has withdrawn from its comments references to the BB&K letter cited in the comment, accordance with a November 28, 2011 email to Central Coast Water Board staff from Walter Grant.

- 1) This Order implements federally mandated requirements under CWA section 402(p)(3)(B). While some requirements contained in this Order are more explicit They are in excess also rather than being more explicit (narrowly defining compliance) than the federal stormwater regulations, this Order includes these requirements for the purpose of achieving compliance with the provision in CWA section 402(p)(3)(B)(iii) that MS4 permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable." This Order includes requirements to effectively prohibit non-stormwater discharges, to reduce the discharge of pollutants in stormwater to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants, as required by the CWA. Federal cases have held the CWA provisions require the development of permits

and permit provisions on a case-by-case basis to satisfy federal requirements. (Natural Resources Defense Council, Inc. v. USEPA (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the CWA's savings clause (cf. Burbank v. State Water Resources Control Bd. (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. section 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but, instead, is part of a federal mandate to develop pollutant reduction requirements for MS4s. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389; Building Industry Association of San Diego County v. State Water Resources Control Bd. (2004) 124 Cal.App.4th 866, 882-883.)

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (2)

See Staff Response to Comment City of Salinas Supplemental – 4 for citation and discussion of Central Coast Water Board's authority to establish BMP requirements. See Staff Responses to Comments City of Salinas Supplemental – 8, 14, and 17 for information on why the Order's requirements do not exceed federal regulations. In addition, the Order contains language allowing the City to propose alternative measures that are as effective.

In *Defenders of Wildlife v. Browner*, the United States Court of Appeals, Ninth Circuit, found that "Although Congress did not require municipal storm-sewer discharges to comply strictly with [numerical effluent limitations], section 1342(p)(3)(B)(iii) states that '[p]ermits for discharges from municipal storm sewers ... shall require ... such other provisions as the Administrator ... determines appropriate for the control of such pollutants.' That provision gives the EPA discretion to determine what pollution controls are appropriate." As exhibited in *Defenders of Wildlife v. Browner*, permit writers clearly have discretion to determine what pollution controls are appropriate, and therefore can include more detailed requirements than those specifically found in the federal NPDES stormwater regulations. By including such requirements in this Order, the Central Coast Water Board has not exceeded federal law, but instead has complied with CWA requirements that municipal storm water permits meet the MEP standard and shall include "such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."

Use of permit writer discretion and the inclusion of more detailed requirements in this Order is also consistent with USEPA guidance. For example, the preamble to the Phase I NPDES storm water regulations states that "this rule sets out permit application requirements that are sufficiently flexible to allow the development of site-specific permit conditions" (FR 48038). In addition, in its review of a City of Irving, Texas NPDES municipal storm water permit, the USEPA Environmental Appeals Board stated that Congress "created the 'maximum extent practicable' ('MEP') standard and the requirement to 'effectively prohibit non-storm water discharges' into the MS4 in an effort to allow permit writers the flexibility necessary to tailor permits to the site-specific nature of MS4 discharges."⁴

⁴ Environmental Appeals Board, USEPA. *NPDES Appeal No. 00-18; Order Denying Review*. 16 July 2001.

In addition, broad legal authority for specific provisions contained in this Order which are more explicit than federal stormwater requirements is found in CWA sections 402(p)(3)(B)(ii-iii) and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B,C,E, and F) and 40 CFR 122.26(d)(2)(iv). Evidence demonstrating that specific provisions do not exceed federal requirements is described below.

Street Sweeping – Specific legal authority for street sweeping requirements contained in this Order is as follows: Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A)(3). These regulations require MS4s to maintain streets and implement procedures to reduce the impact on receiving waters resulting from MS4s' discharges of runoff from streets. USEPA guidance also recommends that stormwater permits include street sweeping requirements.⁵ *Where does it say that Region 3 can specify what exactly those consist of? It just allows including street sweeping requirements such as "sweep the streets"*

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (3)

See Staff Response to Comment City of Salinas Supplemental – 4 for citation and discussion of Central Coast Water Board's authority to establish BMP requirements. In addition, the Order contains language allowing the City to propose alternative measures that are as effective.

Riparian Protection Policies and Requirements – Federal regulation 40 CFR 122.34(b)(5) requires that MS4s implement non-structural BMPs, such as riparian area protections and buffers, to address post-construction stormwater runoff when it states that "non-structural BMPs are preventative actions that involve management and source controls such as policies and ordinances that provide requirements and standards to [...] protect sensitive areas such as wetlands and riparian areas [...] and] provide buffers along sensitive water bodies."

Stormwater Retrofits – Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A) requires that the proposed management program shall be based on "a description of structural and source control measures to reduce pollutants in runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls." Structural and source control measures include retrofits. In addition, federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(4) intends that existing structural flood control devices be evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible. Requiring stormwater retrofits for existing development is consistent with USEPA guidance, which states that "It is clear that we cannot protect the nation's waters without also addressing degradation caused by stormwater discharges from existing developed sites. For that reason stormwater programs must include substantive retrofit provisions."⁶

Specific Plan Conditions for Future Growth Areas – Federal regulation 40 CFR 122.34(b)(5)(iii) presumes that stormwater management programs that achieve the MEP standard will include planning-level requirements for development projects when it

⁵ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 77.

⁶ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 65.

states, “If water quality impacts are considered from the beginning stages of a project, new development and potentially redevelopment provide more opportunities for water quality protection. USEPA recommends that the BMPs chosen: be appropriate for the local community; minimize water quality impacts; and attempt to maintain pre-development runoff conditions. [...] When developing a program that is consistent with this measure's intent, USEPA recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures.” Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(2) provides that MS4s develop and implement a proposed management program which is to include “A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed.”

Watershed Characterization and Approach – USEPA guidance indicates the importance of watershed characterization when it recommends that stormwater permits include planning-level requirements that consider ecologically sensitive areas, ecosystem hydrology, and placement of development where it is most appropriate. The watershed characterization and approach included in this Order are designed to identify these and other watershed attributes with direct relationship to urban stormwater discharges. The long-term objective these requirements is stormwater management actions that are tailored to the particular watershed attributes and conditions of specific subwatersheds in the Permit coverage area. However those attributes are misrepresented in this permit by characterizing development as replacing natural attributes when in fact development is replacing already compromised watershed which has historically contributed more pollutants to the watershed in the form of sediment, pesticides and other appurtenant pollutants from ag operations in excess of what developed property contributes. It is only the hydromodification impacts which exceed those of the pre-existing agricultural impacts. This must be reflected throughout this permit where this discussion occurs. Consider the actual baseline conditions. Specific legal authority for this objective is Federal NPDES regulation 40 CFR 122.26(a)(3)(v), which states: “Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed, or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas [watersheds] which contribute storm water to the system.” USEPA recommends for municipal stormwater permit writers: “Examining stormwater on a watershed basis and including watershed principles is an important part of protecting waterways in a holistic manner. Climate change may increase the size and frequency of storms in some area of the nation. Including watershed-type assessments and considerations as Permit Requirements will help the permittee better focus their efforts to ensure the best water protection outcomes for existing conditions and those anticipated future conditions. Therefore, permit writers should consider including watershed protection principles.”⁷

⁷ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 61.

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (4)

See Staff Response to Comment Chamber – 5.

Information Management – USEPA guidance indicates the importance of a comprehensive information tracking and management system that is integrated into each of the minimum measures and coordinated with the monitoring and evaluation programs.⁸ An effective and efficient information management system enables the Permittee and Central Coast Water Board staff to determine compliance with Order provisions, and aids the Permittee in developing annual reports.

- 2) The Permittee's obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental *permittees* heavy industrial? Give examples who are issued NPDES permits for stormwater discharges. With a few inapplicable exceptions, the CWA regulates the discharge of pollutants from point sources (33 U.S.C. section 1342) and the Porter-Cologne Water Quality Control Act regulates the discharge of waste (CWC section 13263), both without regard to the source of the pollutant or waste. As a result, the "costs incurred by local agencies" to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and nongovernmental permittees. (See County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (5)

Non-governmental permittees, such as industrial facilities covered under the State Industrial General Permit, are subject to the BAT/BCT standard, which is generally more stringent than the MEP standard. In contrast, the Order requires the City to implement the BMPs identified in the Order, or equivalent BMPs as approved by the Central Coast Water Board Executive Officer, to reduce pollutants in stormwater discharges to the MEP and protect water quality.

The CWA and the Porter-Cologne Water Quality Control Act largely regulate stormwater with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Except for MS4s, the CWA requires point source permittees, including discharges of stormwater associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. section 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial stormwater discharges must strictly comply with water quality standards].) This Order does not require strict compliance with water quality standards. This Order, then, regulates the discharge of waste in municipal stormwater more leniently than the discharge of waste from non-governmental sources.

- 3) The local agency Permittee has the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. This fact sheet demonstrates that numerous activities contribute to the pollutant loading in the MS4. Local agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership. (e.g., see Apartment Association of Los

⁸ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011.

Angeles County, Inc. v. City of Los Angeles (2001) 24 Cal.4th 830, 842 [upholding inspection fees associated with renting property].) The ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (County of Fresno v. State of California (1991) 53 Cal.3d 482, 487-488.) *What this does not take into effect is that we do not have the authority to levy service charges, fees or assessments without due process through a proposition/ballot procedure, especially considering Proposition 26 requirement that a 2/3 vote is required for any such increase or new levy to become law. Therefore our authority comes from the ballot process and cannot be considered as having the absolute authority which is assumed by the first sentence. Also see BB&K letter.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (6)

The Fact Sheet discussion on Finding 16 refers to funding mechanisms such as permit fees and inspection fees, which do not require ballot measures. See also Staff Response to Comment City of Salinas - Fact Sheet Finding 16 (1).

- 4) The Permittee has requested Order coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal CWA section 301, subdivision (a) (33 U.S.C. section 1311(a)) and in lieu of numeric restrictions on its stormwater discharges. See previous comments. To the extent that the Permittee has voluntarily availed itself of the permit, its stormwater program is not a state mandate. (Accord County of San Diego v. State of California (1997) 15 Cal.4th 68, 107-108.) Likewise, the Permittee has voluntarily sought a program-based municipal stormwater permit in lieu of a numeric limitations approach on the Permittee's stormwater discharge. Same (See City of Abilene v. USEPA (5th Cir. 2003) 325 F.3d 657, 662-663 [noting that municipalities can choose between a management permit or a permit with numeric limitations].) The local Permittee's voluntary decision to file a report of waste discharge proposing a program-based permit is a voluntary decision not subject to subvention. Same (See Environmental Defense Center v. USEPA (9th Cir. 2003) 344 F.3d 832, 845-848.)

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (7)

See staff responses to previous comments. The City seeks permit coverage under the federal NPDES regulations to discharge stormwater runoff, and limited non-stormwater flows, from its MS4 to Waters of the U.S. In doing so, the City is required by federal regulations to demonstrate that it will effectively prohibit disallowed non-stormwater discharges and that it will effectively reduce pollutants in its stormwater it discharges to the MEP and protect water quality. The comment suggests the City believes that requirements contained in the Order are effectively equivalent to numeric effluent limits. On this subject, see Staff Response to Comment City of Salinas Supplemental – 42.

- 5) The Permittee's responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within the Permittee's ownership or control under state law predates the enactment of Article XIII B, section (6) of the California Constitution. See BB&K letter.

Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (8)

See Staff Response to Comment City of Salinas – Fact Sheet Finding 16 (1).

17. Permitting Framework – The CWA employs the strategy of prohibiting the discharge of any pollutant from a point source into Waters of the U.S. unless the permittee of the pollutant(s) obtains a NPDES permit pursuant to section 402 of the CWA. The discharge of stormwater and/or non-stormwater from an MS4 system is considered a discharge from a point source. As discussed below, however, the CWA regulates stormwater and non-stormwater discharges under different standards.

In 1987 the CWA was amended to include provisions that specifically concerned NPDES permitting requirements for stormwater discharges from MS4 systems. Section 402(p) of the CWA regulates the discharge of stormwater from MS4s. Such discharges of stormwater are subject to the MEP stormwater standard and the related iterative process. The MEP standard for stormwater discharges reflects Congress' recognition that the variability of flow and intensity of storm events render difficult strict compliance with water quality standards by MS4s. However, this standard was not considered applicable to non-stormwater discharges, which under 402(p) are required to be effectively prohibited from entering the MS4. Clearly, if non-stormwater discharges must be effectively prohibited from entering the MS4, the very next requirement (402(p)(3)(B)(iii)) requiring discharges from the MS4 be reduced to the MEP intends that the discharge of pollutants be limited to stormwater. Unless exempt or authorized under a separate NPDES permit, non-stormwater discharges are not authorized to enter the MS4 in the first instance and are considered to be illicit discharges.

The Federal Register further clarifies that such discharges through an MS4 are not authorized under the CWA (55 Fed. Reg. 47995):

“Today’s rule defines the term “illicit discharge” to describe any discharge through a municipal separate storm sewer system that is not composed entirely of stormwater and that is not covered by an NPDES permit. Such illicit discharges are not authorized under the CWA. Section 402(p)(3)(B) requires that permits for discharges from municipal separate storm sewers require the municipality to “effectively prohibit” non-stormwater discharges from the municipal separate storm sewer...Ultimately, such non-stormwater discharges through a municipal separate storm sewer must either be removed from the system or become subject to an NPDES permit.”

The federal regulations (40 CFR 122.26(d)(vi)(2)(B)) require that the Permittee prohibit “through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer.” As owners and operators of the MS4, the Permittee cannot passively receive discharges from third parties (Federal Register 68766) and thus is responsible for the discharge of any non-stormwater from its MS4. *This is impossible to prevent considering we are receiving waters from upstream which we cannot prevent and are allowed by the CCWB under the aq waiver. The CCWB is then responsible for these illicit discharges and is in violation.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 17 (1)

The Order does not hold the City responsible for pollutants that are not discharged through its stormwater conveyance system (see Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) and Staff Response to Comment City of Salinas – Finding 31).

The State Water Board’s precedential Order (Order WQ-2009-0008) affirming a Los Angeles County MS4 permit modification, consistent with USEPA’s prior interpretations, recognizes

that “[n]either the CWA nor the federal storm water regulations define ‘non-storm water.’ ‘Illicit discharge’ is defined as any discharge to an MS4 ‘not composed entirely of storm water.’[fn]. Thus, ‘illicit discharge’ is the most nearly applicable definition of ‘non-storm water’ found in federal law and is often used interchangeably with that term.”⁹

Stormwater and Non-stormwater Definitions – By definition non-stormwater is not precipitation related. 40 CFR 122.26(b)(13) states that: “Storm water means storm water runoff, snowmelt runoff, and surface runoff and drainage.” While “surface runoff and drainage” is not defined in federal law, it is related to precipitation events such as rain and/or snowmelt (see 55 Fed. Reg. 47995-96). The Federal Register (55, page 47995) includes an entire section on the definition of stormwater and non-stormwater. The term “surface runoff and drainage” does not include all incidental flows in the MS4 system, but consists of flows relating to precipitation events as clarified by the Federal Register, USEPA’s documents and permitting, and other Regional Water Board Orders.

The Federal Register (55 Fed. Reg. 47995-47996) provides clarification on the distinction between stormwater and non-stormwater discharges, including their regulation:

“In response to the comments which requested EPA to define the term storm water broadly to include a number of classes of discharges which are not in any way related to precipitation events, EPA believes that this rulemaking is not an appropriate forum for addressing the appropriate regulation of such non-storm water discharges, even though some classes of non-storm water discharges may typically contain only minimal amounts of pollutants. Congress did not intend that the term storm water be used to describe any discharge that has a *de minimis* amount of pollutants, not did it intend for section 402(p) to be used to provide a moratorium from permitting other non-storm water discharges.”

As recently recognized by the State Water Board in a precedential decision upholding an MS4 permit modification adopted by the Los Angeles Regional Water Board, “U.S. EPA has previously rejected the notion that ‘storm water,’ as defined at 40 CFR section 122.26(b)(13), includes dry weather flows. In U.S. EPA’s preamble to the storm water regulations, U.S. EPA rejected an attempt to define storm water to include categories of discharges ‘not in any way related to precipitation events.’[fn].”¹⁰ Thus, USEPA has made it clear that it deems discharges unrelated to precipitation events to be non-stormwater discharges. 40 CFR 122.26(d)(iv)(B) itself provides specific examples of non-stormwater discharges:

“...the following category of non-storm water discharges or flows shall only be addressed where such discharges are identified by the municipality as sources of pollutants to the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20) to separate storm sewers, uncontaminated pumped groundwater,...”

USEPA also removed street wash waters from the definition of stormwater, as USEPA specifically identified this discharge as being non-stormwater (55 Fed. Reg. page 47996). Additionally, section 1.2.2.2. of USEPA’s Multi-Sector General Permit for Industrial Activities

⁹ State Water Resources Control Board. *Order WQ 2009-0008 In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District*, 4 August 2009. Web. 10 August 2011. p. 4.

¹⁰ *Ibid.*, p. 7.

(MSGP-2000) considers fire hydrant flushings, irrigation drainage, landscape watering, and foundation or footing drains to be non-stormwater discharges. USEPA's September 1999 Storm Water Management Fact Sheet for Non-Storm Water Discharges to MS4s states that non-stormwater discharges can include discharges of process water, air conditioning condensate, non-contact cooling water, vehicle wash water, or sanitary wastes.

While these types of non-stormwater discharges (or illicit discharges) may be regulated under stormwater permits because as a practical matter they can enter and be discharged from the MS4 systems, they are not regulated as stormwater discharges under the CWA because they are unrelated to precipitation events. As indicated above, the State Water Board recent discussion of this issue supports the conclusion that non-stormwater discharges are unrelated to precipitation events. In its Order affirming amendments to the Los Angeles County MS4 permit to implement a TMDL to control bacteria in dry weather flows, the State Water Board rejected petitioners' (County of Los Angeles and the Los Angeles County Flood Control District) implied assertion that the definition of "storm water" contained in the federal regulations (defined as "surface run-off and drainage") includes the run-off and drainage from non-storm events. The State Water Board notes that the challenged permit provisions do not apply to storm water flows in that they apply only during dry weather conditions as defined in the permit. In upholding the challenged order, the State Water Board notes that the Los Angeles Water Board's permit language followed USEPA's approach, referring to USEPA's rejection of attempts to define storm water to include categories of discharges "not in any way related to precipitation events."¹¹

Lastly, the Regional Water Boards and State Water Board have issued multiple permits for non-stormwater discharges, including, but not limited to, R9-2008-0002 (extracted groundwater), R9-2002-0020 (hydrostatic discharge) and 2006-008 DWQ (utility vaults), pursuant to section 402 of the CWA.

Permitting Non-stormwater Discharges – The USEPA's approach (and the Regional Water Board's under its approved program) for non-stormwater discharges from MS4s is to regulate these discharges under the existing 402 NPDES framework (Fed. Reg. 47995 and 48037 see below) for discharges to surface waters. The NPDES program (40 CFR 122.44(d)) utilizes discharge prohibitions and effluent limitations as regulatory mechanisms to regulate non-stormwater discharges, including the use of technology and water quality-based effluent limitations. Non-numerical effluent limitations, such as BMPs for non-stormwater discharges may only be authorized where numerical effluent limits are infeasible or where the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA (40 CFR 122.44(k) see below).

The Federal Register (55, page 48037) provides clarification that non-stormwater discharges from the MS4 are to be regulated under section 402, not 402(p):

"Conveyances which continue to accept other "non-storm water" discharges (e.g. discharges without an NPDES permit) with the exceptions noted above (*exempted discharges that are not a source of pollutants*) do not meet the definition of municipal separate storm sewer and are not subject to 402(p)(3)(B) of the CWA unless such discharges are issued separate NPDES permits. Instead, conveyances which continue

¹¹ Ibid., p. 7. (quoting 55 Fed. Reg. 47990. 47995).

to accept non-storm water discharges which have not been issued separate NPDES permits are subject to sections 301 and 402 of the CWA.”

This regulatory approach is consistent with the approach recently upheld by the State Water Board in a precedential Order adopted on August 4, 2009. In this Order, the State Water Board rejected a challenge to amendments to the Los Angeles County MS4 permit that require compliance with receiving water limitations and discharge prohibitions for dry weather, non-stormwater discharges. Petitioners there argued that the receiving water limits and discharge prohibitions for dry weather permittees were inappropriate and that the Los Angeles Water Board should instead have regulated the discharges with the maximum extent practicable standard, through an iterative process. The State Water Board concludes that dry weather discharges, as defined in the permit and in the underlying TMDL, “are more appropriately regarded as non-storm water discharges, which the CWA requires to be effectively prohibited.”¹²

As stated above, for NPDES permits under 402 of the CWA, the CFR (122.44(k)) clarify that a permittees may utilize BMPs to control or abate the discharge of pollutants when:

- “(1) Authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities;
- (2) Authorized under section 402(p) of the CWA for the control of storm water discharges;
- (3) Numeric limits are infeasible; or
- (4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.”

For the last 12 years, the Permittee’s NPDES permit for discharges of stormwater have regulated non-stormwater discharges from the MS4. This permit requires the Permittee to prohibit non-stormwater discharges into (thus also through *How considering CCWB allows ag to discharge into water bodies non-stormwater discharges through the ag waiver upstream of the MS4?* and from *same considering most of it comes from upstream of the MS4*) its MS4, implement a program to prevent illicit discharges, and monitor to identify illicit discharges and exempted discharges that are a source of pollution. These measures are considered BMPs, are required to be included in NPDES permits issued under section 402(p) of the CWA, and are considered by USEPA to be an interim approach to permitting non-stormwater discharges from the MS4 in accordance with section 402 of the CWA and CFR 122.44(k).

Staff Response to Comment City of Salinas – Fact Sheet Finding 17 (2)

The Order does not hold the City responsible for pollutants that are not discharged through its stormwater conveyance system (see Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) and Staff Response to Comment City of Salinas – Finding 31).

18. This Finding is a clarification regarding the potential for discharges of stormwater and non-stormwater to impact the Beneficial Uses as described in the Basin Plan. As such these point source discharges require Waste Discharge Requirements (WDRs) to ensure that water quality standards are met. Furthermore, since point source discharges require WDRs,

¹² Ibid., p. 8.

the discharges are subject to the prohibitions, conditions and requirements of the Basin Plan.

In addition, municipal discharges have been split into stormwater and non-stormwater discharges to represent the differing regulations applicable to stormwater and non-stormwater, though both types of discharges are likely to contain pollutants.

19. An MS4 is defined in the federal regulations as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), owned or operated by the Permittee, and designed or used for collecting or conveying runoff.¹³ Natural drainage patterns and urban streams are frequently used by municipalities to collect and convey runoff away from development within their jurisdiction. Therefore, the Central Coast Water Board considers natural drainages that are used for conveyances of runoff, regardless of whether or not they've been altered by the municipality, as both part of the MS4s and as receiving waters. To clarify, an unaltered natural drainage, which receives runoff from a point source (channeled by the Permittee to drain an area within their jurisdiction), which then conveys the runoff to an altered natural drainage or a man-made MS4, is both an MS4 and a receiving water.¹⁴
20. Runoff treatment and/or mitigation in accordance with any of the requirements in this Order must occur prior to the discharge of stormwater into receiving waters. Allowing stormwater polluted runoff Shouldn't it be runoff polluted stormwater since stormwater is not supposed to contain pollutants by the previous definition so stormwater cannot pollute? to enter receiving waters prior to treatment to the MEP will result in degradation of the water body and potential exceedances of water quality standards, from the discharge point to the point of dissipation, infiltration, or treatment. Furthermore, the construction, operation, and maintenance of a pollution control facility in a water body can negatively impact the physical, chemical, and biological integrity, as well as the beneficial uses, of the water body. This requirement is supported by federal regulation 40 CFR 131.10(a) and USEPA guidance. According to USEPA,¹⁵ "To the extent possible, municipalities should avoid locating structural controls in natural wetlands. Before considering siting of controls in a natural wetland, the municipality should demonstrate that it is not possible or practicable to construct them in sites that do not contain natural wetlands... Practices should be used that settle solids, regulate flow, and remove contaminants prior to discharging storm water into a wetland." What if Carr Lake, which in no way resembles a natural wetland, is converted to a wetland which then restores the processes of pollutant removal which existed pre-development (before ag)? Would this then be allowed as a control such as the Elkhorn Slough functions, especially considering the added benefits of establishing habitat? Should the City cease to investigate the possibility of acquiring Carr Lake property for this use since it will not be allowed under the permit?

¹³ USEPA. *EPA Administered Permit Programs: The National Pollutant Discharge Elimination System. 40 CFR Part 122*, 2000. Web. 10 August 2011.

¹⁴ San Diego Regional Water Quality Control Board. *California Regional Water Quality Control Board San Diego Region Order No. 2001-01 – NPDES Permit No. CAS0108758*, 2001. Web. 10 August 2011. p. 3.

¹⁵ USEPA. *Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems, EPA 833-B-92-002*, November 1992. Web. 10 August 2011. p. 6-21

Staff Response to Comment City of Salinas – Fact Sheet Finding 20 (1)

Central Coast Water Board staff has revised the Fact Sheet for Finding 20 to read to the following: “Allowing polluted stormwater runoff to enter receiving waters ...”

See Staff Response to City of Salinas Supplemental – 22 for response to comment related to Carr Lake.

Additional Federal guidance discusses the implementation of wetlands to treat municipal stormwater discharges. It states:

“... Treatment wetlands should not be constructed in a waters of the U.S. unless you can sufficiently pretreat the stormwater flows to protect the values and functions of the waters of the U.S. Because storm water is an unpredictable effluent source and can contain high levels of toxic substances, nutrients, and pathogens, we strongly encourage that you construct the treatment wetland in uplands and use best management practices in these projects.”¹⁶ *What this basically says is the wetlands should be constructed outboard of the reclamation ditch and the reclamation ditch left as is. This is the practical result.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 20 (2)

See Staff Response to City of Salinas Supplemental – 22. Whereas Staff Response to City of Salinas Supplemental – 22 discusses this issue in relation to Carr Lake, the response also holds for the Reclamation Ditch.

Consistent with USEPA guidance, the conversion or use of Waters of the U.S./State into runoff treatment facilities or conveyance facilities for untreated stormwater discharges must be appropriately reviewed by both Federal and State resource agencies. Such projects may be subject to federal permitting pursuant to CWA section 404 if discharges of dredged or fill material is involved.

The placement of hydromodification controls within Waters of the U.S./State may also be subject to federal and/or state permitting, but would not necessarily be considered a pollutant treatment BMP. Provided the grade control structures are designed to re-establish a natural channel gradient and correct excessive changes to the sediment transport regime caused by urbanization, rather than to create a series of artificial hydrological impoundments for the purpose of treating pollution, this type of project is not considered an in-stream treatment BMP. *Good to know. But this is impossible if the grade control structures inhibit fish passage since there could be no approval from NMFS and CDFG.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 20 (3)

Central Coast Water Board staff notes the comment. There are other types of hydromodification controls, as well as ways of constructing grade control structures, which would be protective of water quality and beneficial uses and could be acceptable to NMFS and CDFG.

¹⁶ USEPA. *Guiding Principles for Constructed Treatment Wetlands: Providing for Water Quality and Wildlife Habitat*, EPA 843-B-00-003, October 2000. Web. 10 August 2011. p. 23.

21. CWC section 13389 exempts the adoption of waste discharge requirements (such as NPDES permits) from CEQA requirements: “Neither the State Water Board nor the Regional Boards shall be required to comply with the provisions of Chapter 3 (commencing with section 21100) of Division 13 of the Public Resources Code prior to the adoption of any waste discharge requirement, except requirements for new sources as defined in the Federal Water Pollution Control Act or acts amendatory thereof or supplementary thereto.”

This CEQA exemption was challenged during the Building Industry Association’s (and others’) appeal of the San Diego Water Board’s MS4 Permit Order No. 2001-01. The Building Industry Association contended that the CEQA exemption did not apply to permit requirements where the San Diego Water Board utilized its discretion to craft permit requirements which were more prescriptive than required by federal law. The Court of Appeal, Fourth Appellate District disagreed with this argument, stating “we also reject Building Industry Association’s argument to the extent it contends the statutory CEQA exemption in Water Code section 13389 is inapplicable to a particular NPDES permit provision that is discretionary, rather than mandatory, under the CWA.”¹⁷ On further appeal by the Building Industry Association, the California State Supreme Court declined to hear the matter.

In a decision, the Court of Appeal of the State of California, Second Appellate District, upheld the CEQA exemption for municipal stormwater NPDES permits (County of Los Angeles, et al. v. California State Water Resources Control Board, et al.).¹⁸

22. USEPA finds the control of pollutant discharges from industry and construction so important to receiving water quality that it has established a double system of regulation over industrial and construction sites. This double system of regulation consists of two parallel regulatory systems with the same common objective: to keep pollutants from industrial and construction sites out of the MS4. In this double system of regulation for runoff from industrial and construction sites, local governments must enforce their legal authorities (e.g., local ordinances, permits) while the Regional Water Boards must enforce its legal authority (e.g., statewide general industrial and construction stormwater permits). These two regulatory systems are designed to complement and support each other. Municipalities are not required to enforce **Regional Water Board and State Water Board permits; Why are we then required to perform inspections and require BMPs as brought to light in the second Public workshop?** however, they are required to enforce their ordinances and permits. The Federal regulations are clear that municipalities have responsibility to prevent non-stormwater and address stormwater runoff from industrial and construction sites which enters their MS4s. **But we should not be required to also enforce RWB of SWB permits and add another level of inspection and requirements since these facilities impacts have already been addressed and are regulated by higher authorities.**

Municipalities have this responsibility because they have the authority to issue land use and development permits. Since municipalities are the lead permitting authority for industrial land use and construction activities, they are also the lead for enforcement regarding runoff discharges from these sites. For sites where the Permittee is the lead permitting authority,

¹⁷ California Natural Resources Agency. *Building Industry Association of San Diego County et al., v. State Water Resources Control Board, et al.*, 7 December 2004. Web. 10 August 2011.

¹⁸ *County of Los Angeles et al., v. California State Water Resources Control Board, et al. No. BS080792*, 6 November 2006. *Lexis/Nexis*. Web. 10 August 2011.

the Central Coast Water Board will work with the municipality and provide support where needed. The Central Coast Water Board will assist the Permittee in enforcement against non-compliant sites after the Permittee has exhibited a good faith effort to bring the site into compliance. *See comment above. If we are enforcing RWB and SWB permits in a de facto manner then we should be receiving whatever fees the RWB and SWB receive.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 22 (1)

The response to this comment is contained in the Fact Sheet for Finding 22. In addition, see Staff Response to Comment City of Salinas Supplemental – 75.

The requirements for the City to develop and require the implementation of BMPs is consistent with USEPA recommendations for Phase I permits.¹

The Order does not require the City to enforce Central Coast Water Board or State Water Board permits. The Order requires the City to have their own separate construction and commercial/industrial program.

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011.

According to USEPA, the stormwater regulations envision that NPDES permitting authorities and municipal operators will cooperate to develop programs to monitor and control pollutants in stormwater discharges from industrial facilities.¹⁹ USEPA discusses the “dual regulation” of construction sites in its Storm Water Phase II Compliance Assistance Guide, which states “Even though all construction sites that disturb more than one acre are covered nationally by an NPDES storm water permit, the construction site runoff control minimum measure [...] is needed to induce more localized site regulation and enforcement efforts, and to enable operators [...] to more effectively control construction site discharges into their MS4s.”²⁰ While the Storm Water Phase II Compliance Assistance Guide applies to small municipalities, it is applicable to the Permittee, because they are similar in size and have the potential to discharge similar pollutant types as Phase II municipalities. *But Region 3 has recently argued that the Phase II and Phase I permit requirements and processes are different and Phase I cannot be covered under Phase 2 regulations, therefore Phase 2 requirements cannot necessarily be applied to Phase I entities. If we are similar in size and have the potential to discharge similar pollutant types as Phase II then we should be treated as equals under proposed regulations and this provides the argument why there should be parity between the two sets of requirements. Region 3 has also argued that since Phase Is are larger and they require more stringent regulation and this flies in the face of that argument.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 22 (2)

Phase I and Phase II permit requirements and processes are different, however there are many similarities in Federal regulations for Phase I and Phase II municipalities. To see how requirements in Phase I and Phase II permits can be similar and can also differ, refer to the USEPA MS4 Permit Improvement Guide.¹ The guide provides examples of language that can

¹⁹ USEPA. *Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems*, EPA 833-B-92-002, November 1992. Web. 10 August 2011.

²⁰ USEPA. *Storm Water Phase II Compliance Assistance Guide*, EPA 833-R-00-002, March 2000. Web. 10 August 2011.

be used in both Phase I and Phase II permits and also provides suggestions for how the language can be tailored to better fit within the context of a Phase I or Phase II permit.

Central Coast Water Board staff deleted “are similar in size” from the Order. It is also important to note that the City stormwater program has been permitted for a significantly longer time than most Phase II municipalities in the Central Coast region. Since the City has been implementing its program longer, its program should be advanced beyond Phase II MS4 programs.

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011.

D. Nature of Discharge

23. No discussion.

24. See also discussion for Finding No. 27.

The 1992, 1994, and 1996 National Water Quality Inventory Reports to Congress prepared by USEPA showed a trend of impairment in the nation’s waters from contaminated storm and non-stormwater runoff.^{21,22} The 1998 National Water Quality Inventory Report showed that runoff discharges affect 11 percent of rivers, 12 percent of lakes, and 28 percent of estuaries. The report states that ocean shoreline impairment due to runoff increased from 55 percent in 1996 to 63 percent in 1998. The report notes that runoff discharges are the leading source of pollution and the main factor in the degradation of surface water quality in California’s coastal waters, rivers, and streams. Furthermore, the NURP study found that pollutant levels from illicit non-stormwater discharges were high enough to significantly degrade receiving water quality, and threaten aquatic life, wildlife, and human health.²³

In addition, the Central Coast Water Board’s CWA section 303(d) list, which identifies water bodies with impaired beneficial uses within the Central Coast Region, also indicates that the impacts of stormwater and non-stormwater runoff on receiving waters are significant. Many of the impaired water bodies on the 303(d) list are impaired by constituents that have been found at high levels within stormwater and non-stormwater runoff (see discussion for Finding No. 69). Examples of constituents frequently responsible for beneficial use impairment include indicator fecal bacteria, heavy metals, and sediment; these constituents have been found at high levels in runoff both regionally and nationwide.²⁴

The 2010 CWA section 303(d) list of impaired water bodies includes changes to the 2006 CWA section 303(d) list. As delineated in the 2010 CWA section 303(d) list, the Central Coast Water Board has found that there is a reasonable potential that municipal stormwater discharges cause or may cause or contribute to an excursion above water quality standards for the impairments identified in Table XI.1 below.

²¹ USEPA. *The Quality of Our Nation’s Waters: A Summary of the National Water Quality Inventory: 1998 Report to Congress*, EPA 841-S-00-001, June 2000. Web. 10 August 2011.

²² USEPA. *Water Quality Conditions in the United States: A Profile from the 1998 National Water Quality Inventory Report to Congress*, EPA 841-F-00-006, June 2000. Web. 10 August 2011.

²³ USEPA. *Results of the Nationwide Urban Runoff Program: Volume 1 – Final Report*, EPA 832-R-83-112, December 1983. Web. 10 August 2011.

²⁴ Ibid.

Table XI.1. Receiving Water CWA Section 303(d) Listed Impairments

Receiving Water	CWA Section 303(d) Listed Impairments
Santa Rita Creek	Nitrate; Ammonia, unionized; E. coli; Fecal coliform; Low dissolved oxygen; Nitrate; Sodium; Turbidity
Gabilan Creek	Fecal coliform; Nitrate; Ammonia, unionized; Fecal coliform; Nitrate; Sediment toxicity; Turbidity; Unknown toxicity; pH
Natividad Creek	Nitrate; Ammonia, ununionized; E. coli; Low dissolved oxygen; Nitrate; Sediment toxicity; Temperature, water; Turbidity; Unknown toxicity; pH
Salinas Reclamation Ditch	Ammonia, unionized; Fecal coliform; Low dissolved oxygen; Pesticides; Priority organics; Chlorpyrifos; Copper; Diazinon; E. Coli; Nitrate; Sediment toxicity; Turbidity; Unknown toxicity; pH
Salinas River	Fecal coliform; Nitrate; Pesticides; Toxaphene; Chlordane; Chloride; Chlorpyrifos; DDD; Diazinon; Dieldrin; Electrical Conductivity; Enterococcus; E. coli; PCBs; Sodium; Total dissolved solids; Turbidity; Unknown toxicity; pH

25. This Finding is a clarification regarding the potential for discharges of stormwater and non-stormwater from the MS4 to impact the beneficial uses of downstream water bodies as well. The Permit coverage area and its receiving waters are part of a larger watershed extending from the headwaters of tributary streams to Monterey Bay. As a result, pollutants in stormwater and non-stormwater discharges from the MS4 have the potential to impact beneficial uses, or cause or contribute to an excursion above water quality standards, in downstream water bodies within the Salinas River watershed. As delineated in the 2010 CWA section 303(d) list, the Central Coast Water Board has identified Tembladero Slough, the Old Salinas River Estuary, the Old Salinas River, Salinas River Lagoon (North), and the Salinas River Refuge Lagoon (South) as impaired for the pollutants indicated in Table XI.2 below.

Table XI.2. Downstream Receiving Water CWA Section 303(d) Listed Impairments

Receiving Water	CWA Section 303(d) Listed Impairments
Tembladero Slough	Chloryphyll-a; Chlorpyrifos; Diazinon; Enterococcus; E. coli; Fecal coliform; Nitrate; Nutrients; Pesticides; pH, Sediment toxicity; Total coliform; Turbidity; Unknown toxicity
Old Salinas River Estuary	Nutrients; Pesticides
Old Salinas River	Chloryphyll-a; Chlorpyrifos; Diazinon; E. coli; Fecal coliform; Low dissolved oxygen; Nitrate; Sediment toxicity; Turbidity; Unknown toxicity; pH
Salinas River Lagoon (North)	Nutrients; Pesticides
Salinas River Refuge Lagoon (South)	Turbidity; pH

26. Section 13050(d) of the CWC defines “waste” as “sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.” 40 CFR 122.2 defines “point source” as “any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. **This term does not include return flows from irrigated agriculture or agricultural storm water runoff.** Yet these are the biggest contributors of the pollutants within the Salinas MS4 and come into the City limits from upstream and from within the City from Carr Lake aq operations and are not under the control of the City and cannot be prohibited due to the Aq waiver and are under control of Region 3, not the City. 40 CFR 122.2 defines “discharge of a pollutant” as “Any addition of any pollutant or combination of pollutants to waters of the U.S. from any point source.” Also, the justification for control of pollution into Waters of the State can be found at CWC section 13260(a)(1). State Water Board Order WQ 2001-15 verifies that discharges from the MS4 contain waste.²⁵

Staff Response to Comment City of Salinas – Fact Sheet Finding 26

The Order does not hold the City responsible for pollutants that are not discharged through its stormwater conveyance system (see Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) and Staff Response to Comment City of Salinas – Finding 31). Discharges from agricultural lands that are comprised solely of return flows and/or stormwater are exempt from NPDES permitting. As such, the City is not responsible for these discharges that enter its MS4. The City is responsible for other agricultural-related discharges into its MS4. The City’s authority to regulate agricultural-related discharges is not restricted by the existing Agricultural Order (see Staff Response to Comment City of Salinas – Finding 45).

27. A National Urban Runoff Program (NURP) study showed that heavy metals, organics, coliform bacteria, nutrients, oxygen demanding substances (e.g., decaying vegetation), and total suspended solids are found at relatively high levels in stormwater and non-stormwater discharges.²⁶ It also found that MS4 discharges draining residential, commercial, and light industrial areas contain significant loadings of total suspended solids and other pollutants. In addition, the State Water Board Urban Runoff Technical Advisory Committee (TAC) finds that urban runoff pollutants include sediments, nutrients, oxygen-demanding substances, heavy metals, petroleum hydrocarbons, pathogenic bacteria, viruses, and pesticides.²⁷ Runoff that flows over streets, parking lots, construction sites, and industrial, commercial, residential, and municipal areas carries these untreated pollutants through MS4s directly to receiving waters.

The Natural Resources Defense Council (NRDC) 1999 Report, “*Stormwater Strategies, Community Responses to Runoff Pollution*” identifies concentration of pollutants in runoff to be one of the main causes of the stormwater pollution problem in developed areas. The

²⁵ State Water Resources Control Board. *Order WQ 2001-15, In the Matter of Petitions of Building Industry Association of San Diego County and Western States Petroleum Association*, 15 November 2001. Web. 11 August 2011.

²⁶ Ibid.

²⁷ State Water Resources Control Board. Nonpoint Source Pollution Control Program. *Urban Runoff Technical Advisory Committee Report*, November 1994. Web. 11 August 2011.

report states that certain industrial, commercial, residential and construction activities are large contributors of pollutant concentrations in stormwater runoff. As human population density increases, it brings with it proportionately higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, and trash. *This study did not include the same types of contributors within the Salinas MS4 watershed, i.e. ag operations outside of the City and within the City. These operations contribute way more than the urbanized areas yet they are essentially unregulated and the burden falls on the city and only minor improvements can be made and the City is portrayed as the culprit. Where are the studies which scientifically measure those pollutants coming into the City MS4 from ag operations outside and the ag operations within, measured at the interfaces between the uses, to scientifically measure the actual net contribution from the City itself? There are measurements of the receiving water but no attempt delineate what the relative contribution is from each source.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1)

The comment suggests that the Order and the Central Coast Water Board hold the City responsible for water quality conditions in the receiving waters. However, this is not the case. The Central Coast Water Board recognizes that the City is not the only source of pollutants to waters, and is regulating agricultural lands, other (Phase II) municipalities, and other activities and discharges to hold all dischargers accountable. Nor does the Order hold the City responsible for pollutants that are not discharged through its stormwater conveyance system. The Order requires the City to reduce pollutants in its own stormwater discharges and the monitoring program focuses pollutant impact assessments on the City's stormwater discharges, not on receiving water conditions. Receiving water monitoring is included in the Order in a limited fashion for the purpose of assessing the long-term impact of the City's pollutant control actions on receiving water quality. The Order does not hold the City responsible for improving receiving water quality problems to which it does not cause or contribute.

The comment also suggests that the level of the City's contribution to pollutant conditions in receiving waters must be determined more precisely, presumably prior to establishing the City's responsibility for reducing pollutants and protecting water quality and beneficial uses. However, the pollutant control actions contained in the Order are based on the MEP standard, as well as evidence and the reasonable potential that the City's stormwater discharges contain pollutants. In addition, the monitoring program focuses pollutant impact assessments on the City's stormwater discharges, which are clearly the City's responsibility.

Studies show that the level of imperviousness in an area strongly correlates with the quality of nearby receiving waters.²⁸ One comprehensive study, which looked at numerous areas, variables, and methods, revealed that stream degradation occurs at levels of imperviousness as low as 10 – 20 percent.²⁹ Stream degradation is a decline in the biological integrity and physical habitat conditions that are necessary to support natural biological diversity. For instance, few urban streams can support diverse benthic communities with imperviousness greater than or equal to 25 percent.³⁰ To provide some perspective, a medium density, single-family home area can be from 25 percent to 60

²⁸ "National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule." *Federal Register* 64 (8 December 1999): Web. 10 August 2011.

²⁹ Ibid.

³⁰ Ibid.

percent impervious (variation due to street and parking design).³¹ More recently, a report on the effects of imperviousness in southern California streams found that local ephemeral and intermittent streams are more sensitive to such effects than streams in other parts of the country. This study, by the Southern California Coastal Water Research Program, estimated a threshold of response at a two to three percent change in percent of impervious cover in a watershed.³² You are citing studies of watersheds which are not ours. Do they contain the concentration of ag operations in and surrounding the area studied that we have? How does this apply to our specific watershed? You are comparing apples to oranges and should only include facts related to our watershed. This comment applies through the fact sheets.

Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (2)

The comment suggests that the cited studies are not relevant to conditions in the City and its watershed unless they include a significant agricultural component. The cited studies focus on the effects of urban development, particularly impervious surfaces, on receiving water conditions. The City is a large developed area with many acres of impervious surface. It is not the purpose of this Finding to suggest that the City is the only source, or even the primary source, of stream degradation in the Salinas River watershed. Rather, the purpose of this Finding is to demonstrate there is a relationship between impervious surface and stream degradation, which has an impact on surface water quality and beneficial uses. The cited studies are therefore relevant to local conditions in this context.

According to the CWP, urbanization strongly shapes the quality of both surface and ground water in arid and semi-arid regions of the southwest. Since rain events are so rare, pollutants have more time to build up on impervious surfaces compared to humid regions. Therefore, the pollutant concentrations of stormwater runoff from arid watersheds tends to be higher than that of humid watersheds.³³ The effect of antecedent rainfall events is demonstrated in a recent report from the California Department of Transportation (Caltrans) that found the concept of a seasonal first flush is applicable to the southern California climate.³⁴ This has no bearing on our watershed or its processes.

Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (3)

Other comments from the City suggest that the City does not consider the cited studies relevant to conditions in the City and its watershed because they are related to more arid watersheds. The CWP study defines arid watersheds as those receiving less than 15 inches of rain each year, and semi-arid watersheds as those receiving between 15 and 35 inches of rain each year, and the Caltrans study was conducted in areas with average annual rainfall of approximately 16.5 inches. By comparison, Salinas receives an average of between 13 and 13.5 inches of

³¹ Schueler, T.R., and Heather K. Holland, eds. "The Importance of Imperviousness (Article 1)." *Watershed Protection Techniques*. Ellicott City, MD: Center for Watershed Protection, 2000.

³² Coleman, Derrick, Craig MacRae, and Eric D. Stein. *Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams. Technical Report No. 450*. Southern California Coastal Water Research Project, April 2005. Web. 11 August 2011. p. iv.

³³ Schueler, T.R., and Heather K. Holland, eds. "Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66)." *Watershed Protection Techniques*. Ellicott City, MD: Center for Watershed Protection, 2000.

³⁴ Stenstrom, Michael K. and Masoud Kayhanian. *First Flush Phenomenon Characterization, Report No. CTSW-RT-05-073-02.6*. California Department of Transportation, August 2005. Web. 11 August 2011. <<http://www.dot.ca.gov/hq/env/stormwater/special/newsetup/>>.

rain each year, according to annual rainfall data collected at the Salinas Airport between 1872 and 2010.^{1, 2} Therefore Central Coast Water Board staff believes the cited studies are relevant to Salinas.

¹ Monterey County Water Resources Agency. Summary of Monthly Data for Period of Record, Salinas Airport Station. Web. 17 November 2011. Web. http://www.mcwra.co.monterey.ca.us/Agency_data/PrecipitationData/HistoricPrecipitationData/period_rec.pdf

² Western Regional Climate Center. Salinas FAA Airport, California (047669) 1981-2010 Monthly Climate Summary. 17 November 2011. Web. < <http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?ca7669>>

This Finding is supported by State Water Board Order No. 2003-0005-DWQ. State Water Board Order 2003-0005-DWQ also finds that pollutants of concern found in urban runoff include sediments, non-sediment solids, nutrients, pathogens, oxygen-demanding substances, petroleum hydrocarbons, heavy metals, floatables, polycyclic aromatic hydrocarbons (PAHs), trash, and pesticides and herbicides. Only includes specific studies of our watershed and our MS4. As Region 3 knows ours is unique and the studies cited do not adequately represent the processes which occur within our watershed(s).

Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (4)

See Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (2) and (3).

28. See discussion for Findings No. 24 through No. 27.

E. Implementation

General

29. Under CWA section 402(p), municipalities are required to reduce the discharge of stormwater pollutants from their MS4s to the MEP. MEP is the critical technology-based performance standard that permittees shall attain. The MEP standard is an ever-evolving, flexible Region 3 is attempting to remove that flexibility by requiring LID based as a first line of consideration and structural last when the main goal is MEP regardless of the BMPs used, and advancing concept, which considers technical and economic feasibility By requiring consideration of only LID as a first resort, especially in redevelopment areas, Region 3 is not considering economic feasibility because all BMPs are not considered at the same time based on water quality improvement and therefore if a structural BMP provides the same water quality for less cost then economic feasibility is taken out of the equation. As knowledge about controlling stormwater runoff continues to evolve, so does that which constitutes MEP. Reducing the discharge of stormwater pollutants to the MEP requires the Permittee to assess each program component equally based on all factors and revise activities, control measures, BMPs, and measurable goals, as applicable to meet MEP.

To achieve the MEP standard, municipalities must employ whatever BMPs are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing stormwater pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:

- 1) Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?

- 2) Regulatory Compliance: Is the BMP in compliance with stormwater regulations as well as other environmental regulations?
- 3) Public Acceptance: Does the BMP have public support?
- 4) Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?
- 5) Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources?

If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive BMPs, it is likely that MEP has not been met. On the other hand, if a permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost is prohibitive, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the permittee may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP based solely on cost, which would be clearly less effective. In selecting BMPs the Permittee shall make a serious attempt to comply and practical solutions may not be easily dismissed. In any case, the burden is on the Permittee to show compliance with its Order. After selecting BMPs, it is the responsibility of the permittee to ensure that all BMPs are implemented.³⁵ *Delete the requirement that LID shall be considered first through the iterative process because it is in conflict with this statement. Structural BMPs shall be given equal weight, including end of pipe BMPs in consideration to meet the intent of this statement and Sections J and L of the findings shall be revised to delete BMP priorities that do not allow all BMPs to be considered equally including the LID iterative process.*

A definition of MEP is not provided in either the federal statute or in the federal regulations. The final determination regarding whether a municipality has reduced stormwater pollutants to the MEP can only be made by the Central Coast Water Board or the State Water Board, and not by the Permittee. While the Central Coast Water Board or the State Water Board ultimately define MEP, it is the responsibility of the Permittee to initially propose actions that implement BMPs to reduce stormwater pollution to the MEP. In other words, the Permittee's SWMP developed under the Order is the Permittee's proposal of MEP. This Order provides a framework to guide the Permittee in meeting the MEP standard for stormwater.

It is the Central Coast Water Board's responsibility to evaluate the proposed programs and specific BMPs to determine what constitutes MEP, using the above guidance and the court's 1994 decision in NRDC v. California Department of Transportation, Federal District Court, Central District of California. The federal court stated that a discharger must evaluate and implement BMPs except where (1) other effective BMPs will achieve greater or substantially similar pollution control benefits; (2) the BMP is not technically feasible; or (3) the cost of BMP implementation greatly outweighs the pollution control benefits. *What is the formula for determining when the costs greatly outweigh the benefits? Where can this be found?* Where the Permittee's proposal is not acceptable to the Central Coast Water Board, the Central Coast Water Board has defined MEP, and will continue to define MEP, by requiring implementation of additional measures by the Permittee.

³⁵ Jennings, Elizabeth. *Definition of Maximum Extent Practicable*. State Water Resources Control Board Memorandum, 11 February 1993.

Staff Response to Comment City of Salinas – Fact Sheet Finding 29

See Staff Response to Comment City of Salinas – Provision L.1.a.i.1 and Staff Response to Comment City of Salinas – Provision J.4.g.iii for discussions about LID BMPs. See Staff Response to Comment City of Salinas Supplemental – 4 for a discussion about prescriptive requirements. See Staff Response to Comment City of Salinas – Finding 14 for a discussion about end of pipe BMPs.

The City may assess some of its program components in more depth than others based on program priorities. Central Coast Water Board staff finds the suggested change to include, 'equally based on all factors,' is not a necessary revision.

The Order requires the City to require new development and redevelopment project applicants to meet the flow control and treatment control requirements. See Staff Response to Comment City of Salinas Supplemental – 9.

30. Phase I municipalities have been implementing, assessing, and modifying stormwater management BMPs for over a decade. In addition, voluminous research conducted by USEPA, California Association of Stormwater Quality (CASQA), and others provides information on the technical feasibility, effectiveness, and cost of stormwater management BMPs. This wealth of knowledge and expertise identifies a variety of BMPs known to provide a measure of control over stormwater and non-stormwater discharges and pollutants in these discharges. While more quantitative information is needed about the effectiveness of some of these BMPs at achieving tangible results in receiving water conditions, this body of knowledge provides an initial approximation of what constitutes MEP, and is incorporated as such by this Order.
31. The federal regulations (40 CFR 122.26(d)(vi)(2)(B)) require that the Permittee prohibit "through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer." In addition, this finding is supported by the preamble to the Phase II municipal stormwater regulations.³⁶
32. When rain falls and drains freeways, industries, construction sites, and neighborhoods, it picks up a multitude of pollutants. Gravity flow transports the pollutants to the MS4. Illicit discharges and connections also can contribute a significant amount of pollutants to MS4s. MS4s are commonly designed to convey their contents as quickly as possible. Due to the resulting typically high flow rates within the hardened conveyance systems of MS4s, pollutants which enter or are deposited in the MS4 and not removed are generally flushed unimpeded through the MS4 to Waters of the U.S. Since treatment generally does not occur within the MS4, in such cases reduction of stormwater pollutants to the MEP must occur prior to discharges entering the MS4.
33. The State Water Board finds in its Order No. WQ 98-01 that BMPs are effective in reducing pollutants in stormwater runoff, stating that "implementation of BMPs [is] generally the most appropriate form of effluent limitations when designed to satisfy technology requirements, including reduction of pollutants to the maximum extent practicable." A State Water Board

³⁶ "National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule." *Federal Register* 64 (8 December 1999): p. 68765 – 68766. Web. 10 August 2011.

TAC further supports this Finding by recommending “that nonpoint source pollution control can be accomplished most effectively by giving priority to [BMPs] in the following order:

- 1) Pollution Prevention – implementation of practices that use or promote pollution free alternatives;
- 2) Source Control – implementation of control measures that focus on preventing or minimizing urban runoff from contacting pollution sources;
- 3) Treatment Control – implementation of practices that require treatment of polluted runoff either onsite or offsite.”³⁷

Pollution prevention, the reduction or elimination of pollutant generation at its source, is an essential aspect of BMP implementation. Fewer pollutants are available to be washed from developed areas when the generation of pollutants by activities is limited. Thus, pollutant loads in stormwater discharges are reduced from these areas. In addition, there is no need to control or treat pollutants that are never generated. Furthermore, pollution prevention BMPs are generally more cost effective than removal of pollutants by treatment facilities or cleanup of contaminated media.^{38,39}

In the Pollution Prevention Act of 1990, Congress established a national policy that emphasizes pollution prevention over control and treatment. CWC section 13263.3(a) also supports pollution prevention, stating “The Legislature finds and declares that pollution prevention should be the first step in a hierarchy for reducing pollution and managing wastes, and to achieve environmental stewardship for society. The Legislature also finds and declares that pollution prevention is necessary to support the federal goal of zero discharge of pollutants into navigable waters.” Because of the overwhelming volume of stormwater and the enormous costs associated with pollutant removal, pollution prevention is sensible.

USEPA also supports the utilization of a combination of BMPs to address pollutants in runoff. For example, USEPA has found there has been success in addressing illicit discharge related problems through BMP initiatives like storm drain stenciling and recycling programs, including household hazardous waste special collection days.⁴⁰ Structural BMP performance data has also been compiled and summarized by USEPA.⁴¹

The summary provides the performance ranges of various types of structural BMPs for removing suspended solids, nutrients, pathogens, and metals from stormwater flows. These pollutants are generally a concern in stormwater in the Central Coast Region. For

³⁷ State Water Resources Control Board. Nonpoint Source Pollution Control Program. *Urban Runoff Technical Advisory Committee Report*, November 1994. Web. 11 August 2011.

³⁸ Deviny, J.S. et al. *Alternative Approaches to Stormwater Quality Control (Appendix H), NPDES Stormwater Cost Survey*. Office of Water Programs. California State University, Sacramento, January 2005. Web. 11 August 11, 2011.

<http://www.owp.csus.edu/research/papers/papers/NPDES_Stormwater_costsurvey.pdf>.

³⁹ Schueler, T.R., and Heather K. Holland, eds. “Assessing the Potential for Urban Watershed Restoration (Article 142).” *Watershed Protection Techniques*. Ellicott City, MD: Center for Watershed Protection, 2000.

⁴⁰ “National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule.” *Federal Register* 64 (8 December 1999): p. 68728. Web. 10 August 2011.

⁴¹ USEPA. *Preliminary Data Summary of Urban Storm Water Best Management Practices, EPA 821-R-99-012*, August 1999. Web. 11 August 2011.

suspended solids, the least effective structural BMP type was found to remove 30-65 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load. For nutrients, the least effective structural BMP type was found to remove 15-45 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load. For pathogens, the least effective structural BMP type was found to remove <30 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load. For metals, the least effective structural BMP type was found to remove 15-45 percent of the pollutant load, while the most effective was found to remove 65-100 percent of the pollutant load.

The San Diego Regional Water Quality Control Board found in its Order No. R9-2009-0002 that treatment control BMPs can, to varying degrees, remove pollutants from runoff, but that pollution prevention and source control BMPs are necessary to reduce stormwater pollutant discharges to the point of supporting water quality objectives in the receiving waters.⁴² The San Diego Regional Water Quality Control Board based this finding on several studies conducted in recent years that measured the effectiveness of treatment BMPs in southern Orange County. *This is again comparing apples and oranges. Their MS4 and watershed makeup is substantially different than ours is both composition and size.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 33 (1)

Central Coast Water Board staff recognizes there are differences between watersheds and that combinations of stormwater management activities that are most effective at reducing pollutants to the MEP and protecting water quality may vary between different watersheds. However, the pollutant removal capabilities of particular BMP types are primarily a function of the type of BMP, not of watershed conditions. (An exception to this general statement is BMPs which rely on infiltration for stormwater treatment; the effectiveness of such BMPs is affected by the infiltration characteristics of local soils, though these can be amended.) In addition, numerous studies have shown the basic similarity in pollutants in stormwater discharges from different urban areas. Therefore Central Coast Water Board staff believes the San Diego study is generally applicable to the City's watershed and runoff conditions.

Results of these recent studies demonstrate that treatment at MS4 outfalls for pollutants that have already been discharged into the MS4 is generally unlikely to reduce pollutant concentrations to levels that would support water quality objectives. *Preventing the pollutants from coming in contact with storm water in the first place is always the best policy and requires less treatment. This does not however preclude a combination of approaches such as filtering on site and mitigating the effects of hydromodification offsite where it is more efficient in a centrally controlled infiltration/retention/detention basin.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 33 (2)

Central Coast Water Board staff notes the City's agreement with statements in the Fact Sheet to the effect that pollutant reduction in stormwater discharges is achieved most effectively through implementation of a combination of methodologies, including pollutant prevention, source control, in-line treatment BMPs, and end-of-pipe treatment applications. The most effective

⁴² San Diego Regional Water Quality Control Board. Order No. R9-2009-0002 NPDES NO. CAS0108740 Waste Discharge Requirements for Discharges of Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District within the San Diego Region. 16 December 2009.

combination of methodologies must be determined through analysis of watershed processes and runoff conditions impacted by stormwater management.

It is important to note that the CWA and NPDES federal regulations clearly require control of discharges into the MS4. Section 402(p)(3)(B)(ii) of the CWA states that MS4 permits must "prohibit non-storm water discharges into the storm sewers." 40 CFR 122.26(d)(2)(iv)(B) requires Permittees to "detect and remove [...] illicit discharges and improper disposal into the storm sewer" (see discussion for Finding No. 17). This Order's approach to regulating discharges into and from the MS4 is in accordance with State Water Board Order WQ 2001-15, which states: **"It is important to emphasize that dischargers into MS4s continue to be required to implement a full range of BMPs, including source control."** *Allows us to consider all BMPs on an equal basis rather than Region 3 specifying the order in which BMPs must be considered and what size (Parcel/Site scale) versus larger combined facilities for efficiency as long as water quality and quantity objectives are met. It should be up to the City to decide.*

The Fourth Appellate District Court of Appeals found that a similar approach to regulation of discharges into the MS4 taken in San Diego Water Board Order No. R9-2001-01 was appropriate. Therefore the court decision supports this Order's requirements.

Staff Response to Comment City of Salinas – Fact Sheet Finding 33 (3)

See Staff Response to Comment City of Salinas – Fact Sheet Finding 29.

34. MS4 permits are issued to municipalities because of their land use authority. The ultimate responsibility for the pollutant discharges, increased runoff, and inevitable long-term water quality degradation that results from urbanization lies with local governments. This responsibility is based on the fact that it is the local governments that have authorized the urbanization (i.e., conversion of natural *again there is nothing natural in what the City is allowing to be converted to urban areas since it was ag land and predominatly row crops to betgin with*, pervious ground cover to impervious urban surfaces) and the land uses that generate the pollutants and runoff. Furthermore, the MS4 through which the pollutants and increased flows are conveyed, and ultimately discharged into natural receiving waters **Reclamation Ditch?**, are owned and operated by the same local governments. In summary, the Permittee under this Order are responsible for discharges into and out of its MS4 because (1) the Permittee owns and operates the MS4; and (2) the Permittee has the legal authority that authorizes the very *development and land uses which generate the pollutants and increased flows in the first place.* *Only to the degree that the City can control the flows coming into the City is the City responsible for those flows because the City does not allow what it cannot control. The responsibilities as outlined in this permit must specifically outline that fact and what the City does/can control and what it cannot and the degree it can control what it does control. There should be qualifying statements of findings which provide this qualification.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 34 (1)

See Staff Response to Comment Chamber – 5.

The statement associated with the comment, "Reclamation Ditch," is a statement about MS4s generally and not about the City's MS4 in particular.

The Order does not hold the City responsible for pollutants that are not discharged through its stormwater conveyance system (see Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1)). The Order regulates discharges from the City's MS4. The Order does not suggest otherwise; therefore it is not necessary for Finding 45 to include a statement that the City is not responsible for flows and constituents which entered receiving waters upstream of the Permit coverage area.

For example, since grading cannot commence prior to the issuance of a local grading permit, the Permittee has a built-in mechanism to ensure that all grading activities are protective of receiving water quality.—. We do not control the grading permits for public schools not do we perform the inspections OSA does that. The Permittee has the authority to withhold issuance of the grading permit until the project proponent has demonstrated to the satisfaction of the Permittee that the project will not violate its ordinances or cause the Permittee to be in violation of this Order.—. See above. Our authority is limited in similar cases. Since the Permittee will ultimately be held responsible for any discharges from the grading project by the Central Coast Water Board, the Permittee will want to use its own permitting authority to ensure that whatever measures the Permittee deems necessary to protect discharges into its MS4 are in fact taken by the project proponent.

Staff Response to Comment City of Salinas – Fact Sheet Finding 34 (2)

See Staff Response to Comment City of Salinas – Provision K.2.b.

This Order holds the local government accountable for this direct link between its land use decisions and water quality degradation. This Order recognizes that each of the three major stages in the urbanization process (development planning, construction, and the use or operational stage) are controlled We do not control construction, the contractor does. We perform periodic inspections.by and must be authorized by the local government. Accordingly, this Order requires the local government to implement, or require others to implement, appropriate BMPs to reduce pollutant discharges and increased flow during each of the three stages of urbanization.

Staff Response to Comment City of Salinas – Fact Sheet Finding 34 (3)

The City has control over construction projects in many ways. For example, the City requires permits (and their associated conditions) to be issued and requires construction to be up to the City's standards and codes. The City can shut a construction project down if a construction site is not adhering to the City's regulations.

Including plans for BMP implementation during the design phase of new development and redevelopment offers the most cost effective strategy to reduce urban runoff pollutant loads to surface waters.⁴³ The Phase II regulations for small municipalities reflect the necessity of addressing urban runoff during the early planning phase. Due to the greater water quality concerns generally experienced by larger municipalities, Phase II requirements for small municipalities are also applicable to larger municipalities such as the Permittee. The Phase II regulations direct municipalities to develop, implement, and enforce a program to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger

⁴³ USEPA. *Storm Water Phase II Compliance Assistance Guide, EPA 833-R-00-002*, March 2000. Web. 10 August 2011.

common plan of development or sale. The program must ensure that controls are in place that would prevent or minimize water quality impacts. This includes developing and implementing strategies which include a combination of structural and/or non-structural BMPs appropriate to the locality. The program must also ensure the adequate long-term operation and maintenance of BMPs.⁴⁴ USEPA expands on the Phase II regulations *Is this the currently proposed Draft Permit which has been pulled back by the Water Board?* for urban development when it recommends that the Permittee:

“Adopt a planning process that identifies the municipality’s program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs and studies that address storm water runoff quality.”

Staff Response to Comment City of Salinas – Fact Sheet Finding 34 (4)

The Phase II regulations that appear to be the focus of the comment are the federal NPDES Phase II final rule. The citation from USEPA included here is derived from the source referenced in footnote 44, below, which was published in 1999. Therefore the Finding does not refer to the Draft Phase II permit currently under consideration by the State Board.

Management of urban runoff during the construction phase is also essential. USEPA explains in the preamble to the Phase II regulations that stormwater discharges generated during construction activities can cause an array of physical, chemical, and biological water quality impacts. Specifically, the biological, chemical and physical integrity of the waters may become severely compromised due to runoff from construction sites. Fine sediment from construction sites can adversely affect aquatic ecosystems by reducing light penetration, impeding sight-feeding, smothering benthic organisms, abrading gills and other sensitive structures, reducing habitat by clogging interstitial spaces within the streambed, and reducing intergravel dissolved oxygen by reducing the permeability of the bed material. Water quality impairment also results, in part, because a number of pollutants are preferentially absorbed onto mineral or organic particles found in fine sediment. The interconnected process of erosion (detachment of the soil particles), sediment transport, and delivery is the primary pathway for introducing key pollutants, such as nutrients, metals, and organic compounds into aquatic systems.⁴⁵

Finally, urban runoff from existing development must be addressed. Analysis of CCAMP monitoring data indicates that significant water quality problems exist in receiving waters which receive urban runoff from the Permit coverage area, and that the Permittee’s stormwater discharges may be causing or contributing to water quality impairments in the Salinas Reclamation Ditch and the Salinas River (see discussion for Finding No. 69). Source identification, BMP requirements, inspections, and enforcement are all important measures which can be implemented to address urban runoff from existing development. USEPA supports inspections and enforcement by municipalities when it states “Effective

⁴⁴ “National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule.” *Federal Register* 64 (8 December 1999): p. 68845. Web. 10 August 2011.

⁴⁵ *Ibid.*, p. 68728.

inspection and enforcement requires [...] penalties to deter infractions and intervention by the municipal authority to correct violations. Enforcement mechanisms [...] also must be described.”⁴⁶

35. Source identification is necessary to characterize the nature and extent of pollutants in discharges and to develop appropriate BMPs. It is the first step in a targeted approach to runoff management. Source identification helps identify the location of potential sources of pollutants in runoff. Pollutants found to be present in stormwater discharges and receiving waters can then be traced to the sites which frequently generate such pollutants. In this manner source inventories can help to target inspections, monitoring, and potential enforcement. This allows limited inspection, monitoring, and enforcement time to be most effective. USEPA supports source identification as a concept when it recommends construction, municipal, and industrial source identification in guidance and the federal regulations.^{47,48} One existing condition of the Reclamation Ditch (RD) has not been addressed. The RD has a very flat longitudinal slope which causes stagnation of water, which is a source that needs to be controlled, to exit downstream of the City. This impacts water quality and is not caused by the MS4/City. Has this been addressed as a contributing factor? Remember, the RD replaced marshes, swamps and wetlands and those do not occur unless the longitudinal gradient is very flat.

Staff Response to Comment City of Salinas – Fact Sheet Finding 35 (1)

Finding 35 states the importance of source investigation for identifying appropriate BMPs. The Order requires the City to conduct activities to identify sources of pollutants detected in stormwater discharges under specified conditions. Where sources of water quality problems in receiving waters are not the result of discharges from the City’s MS4 or of discharges from lands within the Permit coverage area, the City is not required to abate those sources.

The development of BMPs for identified sources will help ensure that appropriate, consistent controls are implemented at all types of development and areas. The Permittee shall reduce the discharge of pollutants in stormwater runoff to the MEP. To achieve this level of pollutant reduction, BMPs must be implemented. Designation of minimum BMPs helps ensure that appropriate BMPs are implemented for various sources. These minimum BMPs also serve as guidance as to the level of water quality protection required. USEPA requires development and implementation of BMPs for construction, municipal, commercial, industrial, and residential sources at 40 CFR 122.26(d)(2)(iv)(A-D). So will the CCWB require MCWRA to address the RD as a source? Require aeration as a BMP to reduce stagnation and decrease in Dissolved Oxygen (DO) due to the stagnation and increased Biological Oxygen Demand (BOD)?

Staff Response to Comment City of Salinas – Fact Sheet Finding 35 (2)

The Central Coast Water Board regulates other dischargers to Waters of the U.S. under other regulatory measures to hold all dischargers responsible for their own discharges.

⁴⁶ USEPA. *Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems*, EPA 833-B-92-002, November 1992. Web. 10 August 2011.

⁴⁷ Ibid.

⁴⁸ USEPA. “Section 122.26(d)(2)(ii) Storm Water Discharges.” *EPA Administered Permit Programs: The National Pollutant Discharge Elimination System. 40 CFR Part 122*, 2000. Web. 10 August 2011.

Updating ordinances and approval processes is necessary in order for the Permittee to control discharges to its MS4. USEPA supports updating ordinances and approval processes when it states “A crucial requirement of the NPDES storm water regulation is that a municipality must demonstrate that it has adequate legal authority to control the contribution of pollutants in storm water discharged to its MS4. [...] In order to have an effective municipal storm water management program, a municipality must have adequate legal authority to control the contribution of pollutants to the MS4. [...] ‘Control,’ in this context, means not only to require disclosure of information, but also to limit, discourage, or terminate a storm water discharge to the MS4.”⁴⁹

Inspections provide a necessary means for the Permittee to evaluate compliance of pollutant sources with its municipal ordinances and minimum BMP requirements. USEPA supports inspections when it recommends inspections of construction, municipal, and industrial sources.⁵⁰ Inspection of high risk sources are especially important because of the ability of frequent inspections to help ensure compliance, thereby reducing the risk associated with such sources. USEPA suggests that inspections can improve compliance when it states “Effective inspection and enforcement requires [...] penalties to deter infractions and intervention by the municipal authority to correct violations.”⁵¹

36. The Permittee is required to update and expand its SWMP in order to improve its efforts to reduce stormwater pollutants in runoff to the MEP and protect water quality, including beneficial uses and watershed processes. Changes to Order No. R3-2004-0135's requirements have been made to help ensure these standards are achieved by the Permittee. *Why then did CCWB not propose updating the SWMP and not combine the SWMP and Permit and still have a SWMP that needs updating?*

Staff Response to Comment City of Salinas – Fact Sheet Finding 36 (1)

Central Coast Water Board staff took the approach of moving the main requirements of the SWMP into the Order to allow the City to update the SWMP without having to receive approval from the Central Coast Water Board Executive Officer. Under existing Order No. R3-2004-0135, the City cannot change any portion of their SWMP without approval from the Central Coast Water Board Executive Officer. Central Coast Water Board staff have found that the requirement of a municipality to obtain approval for every SWMP change is not conducive to allowing a municipality to make timely improvements to their program. The Order requires the City to have a SWMP, which is a standard and important component of municipal stormwater programs that serves to guide implementation of Order requirements. The SWMP will be a working document that demonstrates how the City will comply with each requirement of the Order. The SWMP will also include the documents developed for compliance with the Order.

This Orders' requirements have changed based on findings by the Central Coast Water Board during typical compliance assurance activities or receipt of complaints. The Central Coast Water Board performed a program audit of the Permittee during the term of Order No. R3-2004-0135. Where the audit found common implementation problems, requirements

⁴⁹ USEPA. *Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems*, EPA 833-B-92-002, November 1992. Web. 10 August 2011.

⁵⁰ Ibid.

⁵¹ USEPA. *Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems*, EPA 833-B-92-002, November 1992. Web. 10 August 2011.

have been altered to better ensure compliance. In addition, the Central Coast Water Board conducted reviews of SWMP Annual Reports submitted by the Permittee. Updates to the Permittee's programs are also based on the Permittee's Report of Waste Discharge. In some instances, the Permittee and the Central Coast Water Board have identified similar issues that merit program modifications. However, even though the CCWB asked what changes the City would make to the Permit, adequate discussion was not held in advance of the permit being changed. CCWB then decided to change rather than discussing the proposing the changes before they were integrated into the permit where they are more difficult to amend given CCWB imposed timelines. The volume of comments that CCWB will receive is evidence of that missing step/process. The City could have expressed the problems inherent with this revised permit if it had been asked. The existing documents would then have been revised such as the SWMP, SWDS and permit in a manner that was easy to discern the changes and the City could have proposed different monitoring requirements that would have set the baseline and determined where the most egregious violations on water quality were coming from. Let's hope this process can be reset for the benefit of water quality.

Staff Response to Comment City of Salinas – Fact Sheet Finding 36 (2)

See Staff Response to Comment City of Salinas – Finding 55. The City has had opportunity to propose changes to Order requirements through its annual reports, its Report of Waste Discharge, conversations between City staff and Central Coast Water Board staff before, during, and after the development of this Order, three public workshops conducted by Central Coast Water Board staff in the City, and comments on the Draft Order. Prior to drafting the Order, Central Coast Water Board staff initiated a meeting and series of conference calls with the City to discuss staff's strategies for drafting and modifying the Order and to provide the City the opportunity for input on those plans. At the time of the meeting and conference calls, the City provided little input. Following the meeting and conference calls, the City had well over a year to provide input on the drafting of the Order but used the opportunity on a very limited basis. Central Coast Water Board staff has considered all input from the City, as well as the results of analysis of the strengths and weaknesses of the City's current program, in developing and modifying this Order. While the City submitted numerous comments, Central Coast Water Board staff has found that many of the City's comments relate to a relatively small number of topics. In addition, several of these topics have to do with confusion about the MEP concept, the definition of the City's MS4, and standard provisions language used in Phase I permits throughout California. These topics are interpreted consistently throughout California, and in any case are not indicative of problems inherent in this Order or of too little discussion about Order requirements.

For discussion of the monitoring requirements contained in this Order related to this comment, see Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) and Staff Response to Comment City of Salinas – 24.

37. The Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A – D) are clear in placing responsibility on the Permittee for control of runoff from third party activities and land uses to its MS4.⁵² In order for the Permittee to assume this responsibility, the Permittee must implement ordinances, permits, and plans addressing runoff from third parties.

⁵² USEPA. *EPA Administered Permit Programs: The National Pollutant Discharge Elimination System*. 40 CFR Part 122, 2000. Web. 10 August 2011.

Assessments for compliance with the Permittee's ordinances, permits, and plans are essential for the Permittee to ensure that third parties are not causing it to be in violation of its municipal stormwater permit. When conditions of non-compliance are determined, enforcement is necessary to ensure that violations of municipality ordinances and permits are corrected. When the Permittee determines a violation of its stormwater regulations, the Permittee must pursue correction of the violation. Without enforcement, third parties do not have incentive to correct violations. USEPA supports enforcement by municipalities when it states "Effective inspection and enforcement requires [...] penalties to deter infractions and intervention by the municipal authority to correct violations. Enforcement mechanisms [...] also must be described."⁵³

38. Development of a SWMP is a crucial runoff management measure and should be considered a BMP. The SWMP helps organize and focus the Permittee's programs and guide implementation. In its statewide assessment report to USEPA Region IX and the State Water Board, Tetra Tech, Inc. concluded that the lack of a master stormwater planning document must be considered a serious program deficiency.⁵⁴ When submitted to the Central Coast Water Board, the SWMP provides useful correspondence between the Permittee and the Central Coast Water Board. The SWMP also becomes available for review by the public, and thus facilitates public participation in runoff management decisions. Finally, the Central Coast Water Board is provided with a means to track the Permittee's implementation of this Order.

The focus of the Order is on development and implementation of a stormwater program which meets MEP, rather than creation of a SWMP which exhibits MEP. While the Order does not rely upon the SWMP to ensure MEP and other standards are achieved, the SWMP still serves a useful purpose. As stated above, the SWMP serves to organize the Permittee's efforts to address runoff. As a practical matter, any program of the size required by the Order should be documented in writing. This serves to guide implementation of the program by the numerous individuals responsible for program implementation. Then why not include the SWMP by reference rather than crating 347 more pages to comply with? Even if revising the SWM requires permission from the executive director or the Board.

A SWMP is not necessary for ensuring compliance with this Order because this Order itself contains sufficient detailed requirements to ensure that compliance with discharge prohibitions, receiving water limitations, and the narrative standard of MEP for stormwater are achieved. Implementation by the Permittee of a program in compliance with this Order's requirements, prohibitions, and receiving water limitations is the pertinent compliance standard to be used under the Order, as opposed to assessing compliance by reviewing the Permittee's implementation of its SWMP alone. The Central Coast Water Board ensures compliance with this Order by reviewing Annual Reports, conducting inspections, performing audits, and through other general program oversight.

⁵³ USEPA. *Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems*, EPA 833-B-92-002, November 1992. Web. 10 August 2011.

⁵⁴ Tetra Tech, Inc. *Assessment Report on Tetra Tech's Support of California's MS4 Stormwater Program*, 12 July 2006. Web. 11 August 2011. < <http://www.epa.gov/region9/water/npdes/pdf/ms4/tetra-tech-ms4-stormwater-report.pdf>>.

A SWMP is particularly important and useful for municipalities when program implementation is spread across several departments and/or when municipalities experience staff turnover.⁵⁵ The Permittee relies on multiple employees or contractors for program implementation. A written SWMP provides a tool for educating contractors and aids coordination between municipal employees and departments. See above. Have one or the other. Simplify.

The Permittee's SWMP is simply a description of the Permittee's runoff management program required under this Order. The SWMP serves as procedural correspondence which guides program implementation and aids the Permittee and the Central Coast Water Board in tracking implementation of the program. In this manner, the SWMP is not a functional equivalent of the Order. If it is not a relevant document then why did you include the provisions from it herein, as Region 3 staff stated was the purpose for the exponential expansion of the permit length?

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The SWMP is an integral piece of the City's stormwater program, since it defines the particulars of the program and serves to guide City staff in implementation of Order requirements. SWMPs are generally standard components of municipalities' stormwater programs. The Order and the SWMP are not interchangeable and it is not feasible for the City to only have one or the other as suggested by the comment. The Order specifies the requirements and the SWMP is the City's plan to implement the requirements of the Order. If the SWMP is incorporated by reference as containing permit requirements as the comments suggests, then the City would need Central Coast Water Board Executive Officer approval to make any changes. See Staff Response to Comment City of Salinas – Fact Sheet Finding 36 (1).

39. The annual reporting requirements are consistent with federal NPDES regulation 40 CFR 122.42(c), which states:

“The operator of a large or medium municipal separate storm sewer system of a municipal separate storm sewer system that has been designated by the Director under section 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such a system. The report shall include: (1) The status of implementing the components of the stormwater management program that are established as permit conditions; (2) Proposed changes to the storm water management program that are established as permit condition, Such proposed changes shall be consistent with section 122.26(d)(2)iii) of this part; (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under section 122.26(d)(2)iv) and (d)(2)(v) of this part; (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year; (5) Annual expenditures and budget for year following each annual report; (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and (7) Identification of water quality improvements or degradation.”

⁵⁵ Tetra Tech, Inc. *Program Evaluation Report. Orange County Storm Water Program: Cities of Laguna Beach, Laguna Hills, Lake Forest, and Rancho Santa Margarita*, 7 July 2006. Web. 11 August 2011. <<http://epa.gov/Region9/water/npdes/pdf/ms4/orange-county-ms4-program-evauation-0505.pdf>>.

CWC section 13267 provides that “the regional board may require that any person who has discharged [...] shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires.”

The Central Coast Water Board will review the reports to ensure that the Permittee's program is adequate to assess and protect water quality. The reporting requirements can also be useful tools for the Permittees to review, update, or revise its program. Areas or issues which have received insufficient efforts can also be identified and improved.

40. Education is a critical BMP and an important aspect of a SWMP. USEPA finds that “An informed and knowledgeable community is critical to the success of a storm water management program since it helps ensure the following: Greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, [and] greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters.”⁵⁶

Municipal Maintenance

41. Pesticides have been found to bioaccumulate and biomagnify in long-lived organisms at the higher trophic levels.⁵⁷ Since many aquatic species are utilized for human consumption, toxic substances accumulated in species' tissues can pose a significant threat to public health. USEPA supports this Finding when it states, “As runoff flows over areas altered by development, it picks up harmful sediment and chemicals such as oil and grease, pesticides, heavy metals, and nutrients (e.g., nitrogen, phosphorus). These pollutants often become suspended in runoff and are carried to receiving waters, such as lakes, ponds, and streams. Once deposited, these pollutants can enter the food chain through small aquatic life, eventually entering the tissues of fish and humans.” Pesticides can also bond with sediment in receiving waters and contribute to sediment ~~toxicity-toxicity~~. Southern California studies have shown that stream sediments can exhibit significant levels of toxic metals and pesticides.⁵⁸

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Central Coast Water Board staff has added “toxicity” to the Order.

42. Urban runoff from a significant portion of south Salinas is discharged through the Permittee's stormwater pump station to the Salinas River outfall. Runoff discharges are conveyed from the pump station to the Salinas River outfall through a pipe approximately one mile in length. The pipe passes beneath agricultural land, and the Permittee has

⁵⁶ USEPA. *Storm Water Phase II Compliance Assistance Guide*, EPA 833-R-00-002, March 2000. Web. 10 August 2011.

⁵⁷ Lee, G. Fred, Jones-Lee, Anne. *Preliminary Assessment of the Bioaccumulation of PCBs and Organochlorine Pesticides in Lumbriculus variegatus from City of Stockton Smith Canal Sediments and Toxicity of City of Stockton Smith Canal Sediments to Hyalella azteca*. Report to the DeltaKeeper Stockton, California, and the Central Valley Regional Water Quality Control Board. Sacramento, California. 2002. Web <<http://www.gfredlee.com/HazChemSites/SmithCanalReport.pdf>>.

⁵⁸ Holmes, R.W., Anderson, B.S., Phillips, B.M., Hunt, J.W., Crane, D.B., Mekebri, A. and V. Connor. “Statewide Investigation of the Role of Pyrethroid Pesticides in Sediment Toxicity in California's Urban Waterways.” *Environmental Science Technology*. Volume 42, 16 July 2008. p. 7003-7009.

detected groundwater intrusion into the pipe at several locations through video inspection of the pipe. It is likely that groundwater entering the pipe as it passes through agricultural land is contaminated with pollutants associated with agriculture (e.g., nitrates, pesticides).

The stormwater pump station, discharge pipeline, and Salinas River outfall are part of the Permittee's MS4 because they are owned and operated by the Permittee and used by the Permittee to convey municipal stormwater. According to federal regulations, the Permittee is responsible for discharges from its MS4 to receiving waters. This Order includes requirements for the Permittee to control the discharge of pollutants into its MS4 in order to reduce pollutant discharges from its MS4 to receiving waters. In the same way, the Permittee is responsible for discharges from the Salinas River outfall, regardless of how flows enter the discharge pipeline (i.e., from the stormwater pump station or through groundwater intrusion from agricultural lands). How can the City be responsible for groundwater intrusion from agricultural lands when the City has not ability to control it, the CCWB won't control it. The CCWB and the ag properties should be the ones responsible for it since the CCWB is the one that has the ability to regulate it and the ag properties are the ones that produce it. This statement is unenforceable and one reason this permit should be delayed until fatal flaws such as this are corrected. I don't think any court in the land would agree with this premise and the City will not.

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Federal regulations require the City to reduce pollutants in discharges from its MS4 to the MEP. The City owns and operates the discharge pipeline from the pump station to the Salinas River. As such, it is part of the City's MS4. Therefore the City is responsible for the water quality of discharges from the pipeline to the Salinas River. The City cannot passively receive and discharge pollutants from third parties. In this instance, the City's MS4 is enabling water quality impairment by third parties. While the City is not responsible for discharges from agricultural lands that are comprised solely of return flows and/or stormwater that enter its MS4, discharges from the Salinas River outfall are not such discharges. The City is responsible for other agricultural-related discharges into its MS4, including groundwater intrusion. While the City does not have authority to control groundwater levels or agricultural irrigation and pollutants outside its jurisdiction, the City does have authority and capability to control discharges from its pipeline. For instance, the City could repair or replace the discharge pipeline to protect it from groundwater intrusion or implement end-of-pipe treatment methods.

Commercial and Industrial

43. Commercial and industrial sites can be a significant source of pollutants in stormwater runoff. In an extensive review of stormwater literature, the Los Angeles Water Board found widespread support for the finding that "industrial and commercial activities can also be considered hot spots as sources of pollutants." It also found that "industrial and commercial areas were likely to be the most significant pollutant source areas" of heavy metals.⁵⁹ Likewise, stormwater runoff from heavy industry in the Santa Clara Valley has been found to

⁵⁹ Los Angeles Regional Water Quality Control Board. *The Role of Municipal Operators In Controlling the Discharge of Pollutants in Storm Water Runoff from Industrial/Commercial Facilities*, November 2001. Web. 11 August 2011. p. 7.

be extremely toxic.⁶⁰ These Findings are corroborated by USEPA, which states in the preamble to the 1990 Phase I NPDES stormwater regulations that "Because storm water from industrial facilities may be a major contributor of pollutants to municipal separate storm sewer systems, municipalities are obligated to develop controls for storm water discharges associated with industrial activity through their system in their storm water management program." However, this does not take into account those properties with a permit from the CCWB which are the responsibility of the CCWB and not the City. These should be excluded.

USEPA finds the control of pollutant discharges from industry so important to receiving water quality that it has established a double system of regulation over industrial sites. This double system of regulation consists of two parallel regulatory systems with the same common objective: to keep pollutants from industrial sites out of the MS4. In this double system of regulation for runoff from industrial sites, permittees shall enforce their legal authorities (e.g., local ordinances, permits) while Regional Water Boards must enforce their legal authority (e.g., statewide general industrial stormwater permits). These two regulatory systems are designed to **complement** and support each other. According to USEPA, the stormwater regulations envision that NPDES permitting authorities and municipal operators will cooperate to develop programs to monitor and control pollutants in stormwater discharges from industrial facilities.⁶¹ Municipalities are not required to enforce the State Water Board permit; however, they are required to enforce their ordinances and permits. The Federal regulations are clear that the Permittee has responsibility to prevent non-stormwater discharges and address stormwater runoff from industrial sites which enters the MS4. Some of the requirements herein require the City to duplicate things like inspections which the CCWB should be doing? Is the CCWB meeting it's requirements? An analysis should be performed by the CCWB to determine which functions are performed by Region 3 and which are to be performed by the City so that the efforts are truly complimentary as intended and not duplicative as pointed out by participants in the second Draft Permit Public Workshop.

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There are no commercial and facilities within the City's jurisdiction that are not the responsibility of the City, as the comment suggests. A facility that is enrolled in the General Industrial Permit does not become exempt from City requirements. Federal regulations require Phase I programs to have a commercial and industrial program that includes inspections. The existence of the General Industrial Permit does not change this requirement. See Staff Response to Comment City of Salinas – Fact Sheet Finding 22 (1).

44. The Carr Lake area of the Permit coverage area is actively farmed when not inundated by flood waters. The Central Coast Water Board has documented substantial empirical data demonstrating that water quality conditions in agricultural areas of the region continue to be severely impaired or polluted by waste discharges from irrigated agricultural operations and activities. The most serious water quality degradation is caused by fertilizer and pesticide

⁶⁰ Schueler, T.R., and Heather K. Holland, eds. "Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66)." *Watershed Protection Techniques*. Ellicott City, MD: Center for Watershed Protection, 2000.

⁶¹ USEPA. *Guidance Manual for the Preparation of Part II of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems*, EPA 833-B-92-002, November 1992. Web. 10 August 2011.

use, which results in run off of chemicals from agricultural fields into surface waters and percolation into groundwater. Runoff and percolation includes both irrigation water and stormwater. In addition, agricultural use of pesticides in the Central Coast Region and associated toxicity is among the highest in the State.⁶² Agriculture-related toxicity studies conducted on the Central Coast since 1999 indicate that toxicity resulting from agricultural discharges of pesticides has severely impacted aquatic life in Central Coast streams.^{63,64,65} Some agricultural drains have shown toxicity nearly every time the drains are sampled. Twenty-two sites in the region – 13 of which are located in the lower Salinas/Tembladero watershed area – have been toxic in 95 percent of the samples evaluated.

Agriculture-related facilities and operations can also generate pollutants such as sediment, pesticides, and nutrients, that upon discharge to receiving waters can degrade water quality and impair beneficial uses. *We agree which is why the contributions from outside of the City must be accurately measured so that the net contribution from inside the City limits and able to be controlled by the City can be established so that correct and beneficial BMPs are correctly applied. While Carr Lake is within the Permit coverage area we have no control over their operations. The CCWB is the entity through the Ag Waiver process for controlling agricultural runoff. This responsibility cannot be transferred onto the City just because of the location of the City limits.*

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See Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) for discussion of the City's responsibility for water quality conditions in receiving waters and for pollutants that are not discharged through the City's stormwater conveyance system, and of the need to determine the City's contribution of pollutants to receiving waters. Discharges from agricultural lands that are comprised solely of return flows and/or stormwater are exempt from NPDES permitting. As such, the City is not responsible for these discharges that enter its MS4. The City is responsible for other agricultural-related discharges into its MS4. Central Coast Water Board staff has modified Finding 31 to clarify this point.

45. CCAMP data from Franklin Creek (Santa Barbara County), a receiving water for runoff from greenhouses and nurseries, indicated high levels of nutrients and toxicity. Many greenhouse operations successfully reduced these levels when the Central Coast Water Board required them to eliminate surface water discharges. Irrigation runoff from large greenhouses and nurseries has been documented to be as much as 4,000,000 gallons per month. Greenhouse operations often leach crops to prevent salts build up in the root zone.

⁶² Starner, K., J. White, F. Spurlock and K. Kelley. *Pyrethroid Insecticides in California Surface Waters and Bed Sediments: Concentrations and Estimated Toxicities*. California Department of Pesticide Regulation, September 2006. Web. 16 August 2011.

⁶³ Anderson, B.S., J.W. Hunt, B.M. Phillips, P.A. Nicely, V. De Vlaming, V. Connor, N. Richard, R.S. Tjeerdema. *Integrated Assessment of the Impacts of Agricultural Drainwater in the Salinas River (California, USA)*. Department of Environmental Toxicology, University of California, Davis, 2003. Web. 16 August 2011.

⁶⁴ Anderson B.S., B.M. Phillips, J.W. Hunt, V. Connor, N. Richard, R.S. Tjeerdema. *Identifying Primary Stressors Impacting Macroinvertebrates in the Salinas River (California, USA): Relative effects of Pesticides and Suspended Particles*. Department of Environmental Toxicology, University of California, Davis, 2006. Web. 16 August 2011.

⁶⁵ Anderson, B.S., B.M. Phillips, J.W. Hunt, N. Richard, V. Connor, K.R. Worcester, M.S. Adams, R.S. Tjeerdema. *Evidence of Pesticide Impacts in the Santa Maria River Watershed, California, USA*. Department of Environmental Toxicology, University of California, Davis, 2006. Web. 16 August 2011.

Excessive leaching leads to greater runoff volumes and transport of waste.⁶⁶ Fertilizer usage in greenhouses and nurseries is intensive. A study conducted by University of California, Davis found that at least 60 percent of California greenhouses have more than 450 pounds of nitrogen per acre in the root zone at any given time. In many cases, more than half of the fertilizer nitrogen applied to ornamental crops is lost to leaching due, in part, to over application of fertilizers and poor irrigation efficiency, and is a significant source of surface water and groundwater pollution.⁶⁷ Pesticide use for ornamental plants grown in greenhouses and nurseries is also intensive. According to pesticide use reports submitted to Department of Pesticide Regulation, the greatest pesticide use at nurseries is with outdoor container nurseries and field-grown plants. Heavy pesticide use and fertilizer use, coupled with an intensive irrigation regime and leaching used by many nurseries may result in a discharge of waste in runoff and poses significant threat of pollution to surface water and groundwater.⁶⁸ *We have no greenhouses within the City limits. Why is this in here?*

Staff Response to Comment City of Salinas – Fact Sheet Finding 45

The Order identifies requirements related to the full spectrum of potential commercial and industrial facilities, including greenhouses and nurseries. Such facilities are not uncommon in municipalities with populations of 100,000 or more. Therefore, it is possible there may be a greenhouse or nursery within the City limits prior to the end of the term of this Order.

Parcel-Scale Development

46. The impact of urbanization on water quality is emphasized in the Order, since it is often linked to declines in watershed health. The NRC states, “Although the role of urban stormwater in degrading the nation’s waters has been recognized for decades, reducing that role has been notoriously difficult. This difficulty arises from three basic attributes of what is commonly termed ‘stormwater’: 1) It is produced from literally everywhere in a developed landscape; 2) Its production and delivery are episodic, and these fluctuations are difficult to attenuate; and 3) It accumulates and transports much of the collective waste of the urban environment. **Wherever grasslands and forest are replaced** by urban development in general, and impervious surfaces in particular, the movement of water across the landscape is radically altered. Nearly all of the associated problems result from one underlying cause: loss of the water-retaining function of the soil and vegetation in the urban landscape.”⁶⁹ *Again this implies that urban development within the City replaces natural processes when urban development in accordance with City ordinances promotes the re-establishment and expansion of riparian areas and there processes. When quoting general statements that point to the replacement of natural habitat vs the process that the City follows, it provides a false sense of responsibility regarding the current state of the watershed and the impacts of urbanization within the City to support the requirements concluded herein. You must frame your facts in the reality of what is the existing process, replacement of ag operations and the attendant pollutants which emanate from them.*

⁶⁶ Newman, Julie. *Greenhouse and Nursery Management Practices to Protect Water Quality*. Oakland, CA: University of California, Agriculture and Natural Resources, 2008. Print.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 23. <www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf>.

This Order requires the Permittee to implement a program to maintain and restore watershed processes to protect beneficial uses. This can only be accomplished by addressing the variety of changes in watershed functions and processes (physical, chemical, and biological) that result from urban development. This aligns with CWA section 101(a) which states, "The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters."⁷⁰ *If this is the case the major impact is hydromodification, not impairment of water quality since urbanization reduces the intensity of application of pesticides, fertilizers and sediment from runoff and BMPs to address hydromodification along with the remaining pollutants which come from urban areas should be the intent, not restoring the watershed to the pre-existing agricultural state.*

To effectively protect beneficial uses, it is necessary to maintain and restore all the watershed processes that can be affected by: stormwater, actions to manage stormwater, and/or land uses that alter stormwater runoff patterns. These watershed processes include the following: surface runoff, groundwater recharge and discharge, sediment processes, chemical processes, and evapotranspiration. Different landscapes naturally support some watershed processes more than others. Varying landscape components related to such things as soil type, geology, land cover, topography, groundwater characteristics, rainfall, and proximity to receiving waters determine the dominant watershed processes in a particular landscape. These dominant watershed processes in turn play a critical role in water quality and beneficial use protection. The Central Coast Water Board Joint Effort for Hydromodification Control will identify dominant watershed processes within and surrounding the Permit coverage area. *Then why require the City to modify it's SWDS before revising them again to comply with the results of the Joint Effort? This creates a constantly shifting playfield for engineers and architects including landowners and developers. The City has a difficult time keeping up with these changes and then the CCWB expects the City to then educate the entire AEC community repeated times. Keep it simple. Change the SWDS when the Joint Effort results are in.*

The traditional approach of focusing solely on receiving water conditions is reactive and does not focus on the source of short and long -term degradation of beneficial uses. There is a direct link between the condition of watershed processes and the status of beneficial uses. The following discussion explains the impacts anthropogenic watershed disturbances, and stormwater management actions directly related to those disturbances, have on each watershed process and the resulting impact to beneficial uses:

- 1) Surface Runoff – NRC discusses the impact urbanization has on surface runoff. "This transformation of the hydrologic regime from one where subsurface flow once dominated to one where overland flow now dominates is not simply a readjustment of runoff flow paths, and it does not just result in a modest increase in flow volumes. It is a wholesale reorganization of the processes of runoff generation, and it occurs throughout the developed landscape. As such, it can affect every aspect of that runoff—not only its rate of production, its volume, and its chemistry, but also what it indirectly affects farther downstream. This includes erosion of mobile channel boundaries, mobilization of once-static channel elements, scavenging of contaminants from the surface of the urban

⁷⁰ Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), 2002. Web. 16 August 2011. p. 3. <<http://www.epa.gov/lawsregs/laws/cwa.html>>.

landscape, and efficient transfer of heat from warmed surfaces to receiving waterbodies.”⁷¹

The USEPA MS4 permit improvement guidance document discusses the importance of addressing hydrologic modifications caused by urbanization, “Many traditional stormwater management practices, and the permit language that drives them, fail to address the hydrologic modifications that increase the quantity of stormwater discharges, and cause excessive erosion and stream channel degradation. Frequently the volume, duration, and velocity of stormwater discharges cause degradation to aquatic systems. Protecting and restoring the physical, chemical and biological integrity of receiving waters must be a central issue in stormwater permits.”⁷²

Surface runoff alterations include increased flows, volumes, and durations that intensify pollutant loading, carry runoff with higher temperatures, cause erosive impacts, and threaten the chemical, physical, and biological integrity of receiving waters. These impacts have the potential to negatively impact aquatic life beneficial uses.

- 2) Groundwater Recharge and Discharge – NRC explains how water enters subsurface layers and how urbanization affects these patterns. “In an undeveloped, vegetated landscape, soil structure and hydrologic behavior are strongly influenced by biological activities that increase soil porosity and the number and size of macropores, and thus the storage and conductivity of water as it moves through the soil. Leaf litter on the soil surface dissipates raindrop energy; the soil’s organic content reduces detachment of small soil particles and maintains high surface infiltration rates. As a consequence, rainfall typically infiltrates into the ground surface (Except in most of Salinas) or is evapotranspired by vegetation, except during particularly intense rainfall events.

“In the urban landscape, these processes of evapotranspiration and water retention in the soil may be lost for the simple reason that the loose upper layers of the soil and vegetation are gone—stripped away to provide a better foundation for roads and buildings. Even if the soil still exists, it no longer functions if precipitation is denied access because of paving or rooftops. In either case, a stormwater runoff reservoir of tremendous volume is removed from the stormwater runoff system; water that may have lingered in this reservoir for a few days or many weeks, or been returned directly to the atmosphere by evaporation or transpiration by plants, now flows rapidly across the land surface and arrives at the stream channel in short, concentrated bursts of high discharge.

“This transformation of the hydrologic regime from one where subsurface flow once dominated to one where overland flow now dominates is not simply a readjustment of runoff flow paths, and it does not just result in a modest increase in flow volumes...”⁷³

⁷¹ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 23.
<www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf>.

⁷² USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 50.

⁷³ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 23.
<www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf>.

NRC discusses a study by Line and White, which recently investigated runoff characteristics from two similar drainage areas in the Piedmont region of North Carolina. One of the drainage areas was being developed as part of a large residential subdivision during the course of the study, while the other remained forested or in agricultural field...baseflow as a percentage of overall discharge was approximately zero compared with 25 percent for the undeveloped area.⁷⁴ *This is a study in an area which is totally unlike Salinas in climate and topography.*

Beneficial uses of water bodies rely on stormwater recharge of groundwater basins that supply interflow and baseflow to the water bodies, because flows are delivered at slower rates, over a longer duration, as opposed to all receiving water contributions coming during precipitation events via surface runoff. Maintaining the recharge of alluvial aquifers through stormwater infiltration and the discharge of subsurface water to surface water bodies through baseflow and seasonal flow supports vegetation, moderates temperature, and provides habitat for fish and wildlife. Various organisms depend on a diversity of habitat conditions for different life stages. Maintenance of natural soil moisture content and flow within receiving waters contributes to these habitat conditions. Depriving receiving waters of interflow and baseflow therefore results in stressors to aquatic habitat. Levels of hydrologic connectivity within watersheds need to be maintained and protected to produce the pattern and range of flows necessary to support aquatic life beneficial uses.

- 3) Sediment Processes – NRC explains how human activities lead to changes in channel morphology. “Changes to channel morphology are among the most common and readily visible effects of urban development on natural stream systems. The actions of deforestation, channelization, and paving of the uplands can produce tremendous changes in the delivery of water and sediment into the channel network. In channel reaches that are alluvial, the responses are commonly rapid and often dramatic... The clearest single determinant of urban channel change is the alteration of the hydrologic response of an urban watershed, notably the increase in stream-flow discharges... If the increase in sediment transport caused by the shift in the runoff regime is not matched by the sediment supply, channel bed entrenchment and bank erosion and collapse lead to a deeper, wider channel form.”⁷⁵

Urbanization can cause both increases and decreases in sediment supply. Stormwater runoff from urban activities, especially construction activities, often results in upland sediment erosion delivering fine-grained material to receiving waters and can increase overall sediment supply. Conversely, increases in impervious surface cap landscapes that historically allowed stormwater runoff to deliver coarse-grained material to receiving waters and can decrease overall sediment supply.

Modifications to sediment supply resulting from changes in stormwater runoff due to urbanization can affect channel stability. Excess sediment can lead to increased bank shear stress as flows are diverted around deposits. On the other hand, reducing sediment load can lead to channel degradation if the stream does not have a steady sediment supply to move in dynamic equilibrium.

⁷⁴ Ibid. p. 155.

⁷⁵ Ibid. p. 148.

The General Permit for Discharges of Storm Water Associated with Construction Activity (State Water Board Order 2009-0009 DWQ) states, “Under past practices, new and redevelopment construction activities have resulted in modified natural watershed and stream processes. This is caused by altering the terrain, modifying the vegetation and soil characteristics, introducing impervious surfaces such as pavement and buildings, increasing drainage density through pipes and channels, and altering the condition of stream channels through straightening, deepening, and armoring. These changes result in a drainage system where sediment transport capacity is increased and sediment supply is decreased. A receiving channel’s response is dependent on dominant channel materials and its stage of adjustment.”⁷⁶ Again this must be framed by what has actually taken place in Salinas and addressed accordingly.

Modifications to sediment delivery, including grain size, volume, and delivery rate, change receiving water characteristics. NRC explains that enhanced sedimentation of receiving water bodies, caused by in-stream erosion and increased sediment delivery, reduces water clarity, decreases depth, and buries the benthic environment.⁷⁷ Modifications to sediment regimes threaten chemical, physical, and biological integrity of receiving waters and thereby have the potential to negatively impact aquatic life beneficial uses.

- 4) Chemical Processes – NRC explains how urbanization introduces new pollutants to watersheds. “As a watershed shifts from having mostly natural pervious surfaces to having heavily disturbed soils, new impervious surfaces, and activities characteristic of urbanization, the runoff quality shifts from relatively lower to higher concentrations of pollutants. Anthropogenic activities that can increase runoff pollutant concentrations in urban watersheds include application of chemicals for fertilization and pest control; leaching and corrosion of pollutants from exposed materials; exhaust emissions, leaks from, and wear of vehicles; atmospheric deposition of pollutants; and inappropriate discharges of wastes... Indeed, urban stormwater may actually have slightly lower pollutant concentrations than other nonpoint sources of pollution, especially for sediment and nutrients. The key difference is that urban watersheds produce a much larger annual volume of runoff waters, such that the mass of pollutants discharged is often greater following urbanization.”⁷⁸

Areas adjacent to water bodies provide attenuation of pollutants in stormwater by supplying biologically active environments to break-down and sequester pollutants. Maintenance of riparian and aquatic habitat diversity and complexity in these areas supports various life stages of aquatic organisms with food, shelter, shade, flood refuge, substrate characteristics, and depth and velocity variability. Riparian areas also support natural enhancement or improvement of water quality by providing such functions as erosion control, filtration and purification of runoff and surface water, nutrient and organic matter cycling, temperature and microclimate control, input of organic debris and coarse

⁷⁶ State Water Resources Control Board. *Construction General Permit, Fact Sheet, Order 2009-0009-DWQ*, 2010. Web. 16 August 2011. p. 37

⁷⁷ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 150.
<www.epa.gov/npdcs/pubs/nrc_stormwaterreport.pdf>.

⁷⁸ *Ibid.* p. 150-151.

sediments, interception of fine sediments, streambank stabilization, and maintenance of channel integrity.

Although riparian areas are the most pronounced pollutant attenuators, other areas within watersheds hold potential to sequester, degrade, and/or otherwise assimilate pollutants carried by stormwater. Stormwater pollutants may infiltrate and/or be degraded by organisms in soil. Pollutants carried by stormwater may settle out of runoff or never reach receiving waters, to be later broken down by other natural processes (e.g., vegetation, solar).

Modifications to landscapes that interrupt these processes threaten the chemical, physical, and biological integrity of receiving waters and have the potential to negatively impact aquatic life beneficial uses.

- 5) Evapotranspiration – In an undeveloped area, rainfall typically infiltrates into the ground surface or is evapotranspired by vegetation (See NRC reference in ‘Groundwater Recharge and Discharge’ discussion above). In the urban landscape, vegetation is altered and/or replaced with impervious surfaces and the processes of evapotranspiration and water retention in the soil are diminished, resulting in stormwater that flows rapidly across the land surface and arrives at the stream channel in short, concentrated bursts of high discharge.

The authors of the Santa Clara Valley Urban Runoff Pollution Prevention Program Hydromodification Management Plan report that changes in watershed vegetation, due to the effects of urbanization, affecting interception and evapotranspiration, is one of the factors having the greatest effect on stream stability.⁷⁹

By reducing evapotranspiration opportunities in a watershed, larger volumes of runoff accompany each rainfall event. In combination with alterations of surface water and subsurface flows, changes in evapotranspiration rates contribute to the wholesale reorganization of the processes of runoff generation described by the NRC, above. These changes in stormwater runoff threaten the chemical, physical, and biological integrity of receiving waters and thereby have the potential to negatively impact aquatic life beneficial uses.

The current scientific literature has documented the characteristics of stormwater runoff, including its quantity and quality from many different land cover types, as well as the characteristics of dry weather runoff. In addition, many correlative studies show how parameters co-vary in important but complex and poorly understood ways (e.g., changes in macroinvertebrate or fish communities associated with watershed road density or the percentage of impervious cover). Nonetheless, efforts to create mechanistic links between population growth, land-use change, hydrologic alteration, geomorphic adjustments, chemical contamination in stormwater, disrupted energy flows and biotic interactions, and changes in ecological communities are still in development. Despite NRC’s assessment of urban stormwater management in the US, there are a number of overarching truths that remain poorly integrated into stormwater management decision-making, although they have been robustly characterized for more than a decade and have a strong scientific basis that

⁷⁹ Santa Clara Valley Urban Runoff Pollution Prevention Program. *Hydromodification Management Plan, Final Report*, 21 April 2005. Web. 16 August 2011.

reaches even farther back through the history of published investigations. These truths include the following: 1) there is a direct relationship between land cover and the biological condition of downstream receiving waters; 2) the protection of aquatic life in urban streams requires an approach that incorporates all stressors; 3) the full distribution and sequence of flows (i.e., the flow regime) should be taken into consideration when assessing the impacts of stormwater on streams; and 4) roads and parking lots can be the most significant type of land cover with respect to stormwater.⁸⁰

To address the truths that NRC identifies above, this Order requires the Permittee to implement a program to maintain and restore watershed processes affected by stormwater management, by addressing the variety of changes in watershed functions and processes (physical, chemical, and biological) that result from urban development, in order to protect beneficial uses. *The truth is we convert ag land, not natural areas. Reflect that in the permit.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 46

See Staff Response to Comment Chamber – 5 for a discussion about the watershed conditions the Order uses as baselines for the Order. See Staff Response to Comment City of Salinas – Provision J.2.a. in response to the timeline for the SWDS changes. See Staff Response to Comment City of Salinas – Finding 14 for a discussion about how vegetated landscapes typically provide some level of retention of rainwater.

The example in the Fact Sheet for Finding 46 comparing the two drainage areas in North Carolina is meant to provide as an example of how urbanization can effect contributions to baseflow. Central Coast Water Board staff recognizes that the Piedmont region in North Carolina might have different landscape characteristics, soil types, climates, ect. However, Central Coast Water Board staff finds the example is still appropriate for the Fact Sheet to serve as an example.

47. Development and urbanization increase pollutant loads, volume, and discharge velocity. Natural vegetated pervious ground cover is converted to impervious surfaces such as paved highways, streets, and parking lots, and rooftops. Natural vegetated soil can both absorb rainwater and remove pollutants, providing an effective natural purification process. In contrast, impervious surfaces (such as pavement and concrete) can neither absorb water nor remove pollutants, and thus the volume, velocity, and discharge duration of stormwater runoff is increased and the natural purification characteristics are lost. The increased volume, increased velocity, and discharge duration, and increased pollutant loading of stormwater runoff from developed areas has the potential to accelerate downstream erosion and impair stream habitat in natural drainages. Studies have demonstrated a direct relationship between the degree of imperviousness of an area and water body degradation.⁸¹ Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 3-10 percent conversion from natural to impervious surfaces in a subwatershed. Recent studies conducted in California indicate that intermittent and ephemeral streams are even more susceptible to the effects of hydromodification than streams from other regions of the U.S.

⁸⁰ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 4-5.
<www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf>.

⁸¹ *Watershed Protection Research Monograph No. 1, Impacts of Impervious Cover on Aquatic Systems*. Ellicott City, MD: Center for Watershed Protection, March 2003. Web. 16 August 2011.

with stream degradation being recognized when the associated catchment's impervious cover is as little as 3-5 percent.^{82,83} The percentage of impervious cover is one indicator and predictor of potential water quality degradation expected from new development.

The Natural Resources Defense Council (NRDC) 1999 Report, "*Stormwater Strategies, Community Responses to Runoff Pollution*" identifies two main causes of the stormwater pollution problem in developed areas. Both causes are directly related to development:

- 1) Increased volume and velocity of surface runoff. There are three types of human-made impervious covers that increase the volume and velocity of runoff: (i) rooftop, (ii) transportation imperviousness, and (iii) non-porous (impervious) surfaces. As these impervious surfaces increase, infiltration will decrease, forcing more water to run off the surface, picking up speed and pollutants.
- 2) The concentration of pollutants in the runoff. Certain industrial, commercial, residential and construction activities are large contributors of pollutant concentrations in stormwater runoff. As human population density increases, it brings with it proportionately higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, and trash.

As a result of these two causes, runoff leaving developed areas is significantly greater in volume, velocity, and pollutant load than pre-development runoff from the same area.

By accommodating the traditional approach to stormwater management, development has also altered the flow regime (rate, magnitude, frequency, timing, and flashiness of runoff) that supports aquatic and riparian habitats. These hydrologic changes are driven by the loss of water storage capacity in the watersheds,⁸⁴ and exacerbated by physical alterations of the stream channel network.⁸⁵ This relationship between development and stream channel integrity has been documented nationally and in California.

Hydrologic changes from development also directly and indirectly adversely affect wetlands. Natural wetlands support many beneficial uses and provide important water-quality related ecological services, including pollutant removal, flood attenuation, and groundwater recharge.⁸⁶ The CWP recently provided USEPA with a synthesis of more than 100 scientific studies on the direct and indirect impacts of development, particularly urbanization, on wetlands and the role wetlands play in watershed quality. The report found that the three changes from land development with the most potential to impact wetlands include:

⁸² Stein, Eric and Susan Saleski. *Managing Runoff to Protect Natural Streams: The Latest Development on Investigation and Management of Hydromodification in California*. Technical Report No. 475. Southern California Coastal Water Research Project, December 2005, Web. 16 August 2011.

⁸³ Coleman, Derrick, Craig MacRae, and Eric D. Stein. *Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams*. Technical Report No. 450. Southern California Coastal Water Research Project, April 2005. Web. 11 August 2011.

⁸⁴ Konrad, Christopher P. and Derek K. Booth. *Hydrologic Changes in Urban Streams and Their Ecological Significance*. American Fisheries Society Symposium Vol.47., 2005. Web. 16 August 2011. p.157-177.

⁸⁵ Poff, N.L. et al. *The Natural Flow Regime: A paradigm for river conservation and restoration*. Bioscience Vol. 47, No. 11, 1997. Web. 16 August 2011. p.769-784.

⁸⁶ Wright, Tiffany, et al. *Direct and Indirect Impacts of Urbanization on Wetland Quality, Wetlands & Watersheds Article #1*. Ellicott City, MD: Center for Watershed Protection, December 2006. Web. 16 August 2011.

increased stormwater runoff; decreased groundwater recharge; and flow constriction.⁸⁷ Each of these changes can often be avoided or minimized by implementing LID BMPs.

Studies show that the level of imperviousness in an area strongly correlates with the quality of nearby receiving waters.⁸⁸ One comprehensive study, which looked at numerous areas, variables, and methods, revealed that stream degradation occurs at levels of imperviousness as low as 10 – 20 percent.⁸⁹ Stream degradation is a decline in the biological integrity and physical habitat conditions that are necessary to support natural biological diversity. For instance, few urban streams can support diverse benthic communities with imperviousness greater than or equal to 25 percent.⁹⁰ To provide some perspective, a medium density, single-family home area can be from 25 percent to 60 percent impervious (variation due to street and parking design).⁹¹

Even though the rainfall depths in arid watersheds are lower, watershed development can greatly increase peak discharge rates during rare flood events.⁹² A study conducted in arid watersheds around Riverside, California showed that, over two decades, impervious cover increased from 9 percent to 22 percent, which resulted in an increase of more than 100 percent in the peak flow rate for the two-year storm event. The study also showed that the average stormwater runoff volume each year had increased by 115 percent to 130 percent over the same time span.⁹³

Prior hydromodification studies in California have shown that the increase in impervious cover, and thus change in runoff volume, velocity, rate, and duration, results in a shift in the range of storms that produce geomorphically significant flows within receiving waters. Additionally, studies in California have determined that ninety percent of the geomorphic “work” done within channels receiving flows from developed areas now occurs from flows below the 10 year peak flow event.⁹⁴

This increased volume, velocity, rate, and duration of runoff greatly accelerates the erosion of the beds and banks within downstream receiving waters. Additionally, stormwater flows which runoff directly from impervious surfaces into the MS4 and thus receiving waters prevent the associated runoff of natural sediments which would occur in pre-project conditions. This combined alteration of the physical condition of stormwater runoff results in accelerated downstream erosion of receiving water bed and banks. The excessive erosion of stream beds and banks releases pollutants found in soils into receiving waters, degrades macroinvertebrate habitat, eliminates spawning habitat, reduces associated wetland and

⁸⁷ Ibid p.22

⁸⁸ “National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule.” *Federal Register* 64 (8 December 1999): Web. 10 August 2011.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Schueler, T.R., and Heather K. Holland, eds. “The Importance of Imperviousness (Article 1).” *Watershed Protection Techniques*. Ellicott City, MD: Center for Watershed Protection. 2000.

⁹² Schueler, T.R., and Heather K. Holland, eds. “Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66).” *Watershed Protection Techniques*. Ellicott City, MD: Center for Watershed Protection. 2000.

⁹³ Ibid.

⁹⁴ Santa Clara Valley Urban Runoff Pollution Prevention Program. *Hydromodification Management Plan, Final Report*, 21 April 2005. Web. 16 August 2011.

riparian habitat, and threatens existing infrastructure adjacent to receiving waters. Bank sloughing within creeks and streams increases the pollutant loading to those receiving waters, particularly for turbidity and phosphorous.⁹⁵ In arid environments, accelerated channel erosion has been shown to have synergistic impacts within watersheds. Increased channel erosion within Las Vegas wash has resulted in the loss of over 1,000 acres of wetland and riparian habitat, released additional pollutants into downstream receiving waters, and eliminated in-stream habitat and water quality conditions required for existing threatened and endangered species.⁹⁶ We are not an arid environment. This is superfluous.

According to the CWP, urbanization strongly shapes the quality of both surface and groundwater in arid and semi-arid regions of the southwest. Since rain events are so rare, pollutants have more time to build up on impervious surfaces compared to humid regions. Therefore, the pollutant concentrations of stormwater runoff from arid watersheds tends to be higher than that of humid watersheds.⁹⁷ The effect of antecedent rainfall events is demonstrated in a recent report from the California Department of Transportation that found the concept of a seasonal first flush is applicable to the southern California climate.⁹⁸

Staff Response to Comment City of Salinas – Fact Sheet Finding 47

See Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (3).

48. See discussion for Finding No. 47 above.

49. See discussion for Finding No. 47 above.

50. LID is an effective approach to minimizing the adverse effects of urbanization and development on watershed processes and beneficial uses that has been endorsed by California and other states. The California Ocean Protection Council, in a resolution adopted on May 15, 2008, found that LID is a practicable and superior approach that new development and redevelopment projects can implement to minimize and mitigate increases in runoff and runoff pollutants and the resulting impacts on downstream uses, coastal resources and communities. In its Strategic Plan Update 2008-2012, the State Water Board reiterated sustainability as a key principle, stating its commitment to “enhancing and encouraging sustainability within the administration of Water Board programs and activities by promoting water management strategies such as low impact development...”⁹⁹

⁹⁵ Bauer, D.W., D.J. Mulla, and A.C. Sekely. "Streambank slumping and its contribution to the phosphorus and suspended sediment loads of the Blue Earth River, Minnesota." *Journal of Soil and Water Conservation* 57.5 (2002): 243-250. Expanded Academic ASAP. Web. 17 Aug. 2011. <<http://www.jswnonline.org/content/57/5/243.abstract>>.

⁹⁶ Tuttle, P.L., and E.L. Orsak. *Las Vegas Wash Water Quality and Implications to Fish and Wildlife*. U.S. Fish and Wildlife Service, 1 November 2002. Web. 16 August 2011.

⁹⁷ Schueler, T.R., and Heather K. Holland, eds. "Storm Water Strategies for Arid and Semi-Arid Watersheds (Article 66)." *Watershed Protection Techniques*. Ellicott City, MD: Center for Watershed Protection. 2000.

⁹⁸ Stenstrom, Michael and Masoud Kayhanian. *First Flush Phenomenon Characterization. Report No. CTSW-RT-05-73-02.6*. California Department of Transportation, August 25. Web. 16 August 2011.

⁹⁹ State Water Resources Control Board. *Strategic Plan Update 2008-2012*, 2 September 2008. Web. 16 August 2011. p. 7

"LID is a comprehensive source control strategy first pioneered by Prince George's County, Maryland in 1997 to help address the growing economic and environmental limitations of conventional stormwater management practices. As LID was developed by a local government, it is sensitive to addressing local government's unique environmental and regulatory needs in the most economical manner possible by reducing costs associated with stormwater infrastructure design, construction, maintenance and enforcement. LID also provides for local government's need for economic vitality through reasonable and continued growth and redevelopment. LID allows for greater development potential with less environmental impacts through the use of smarter designs and advanced technologies to achieve a better balance between conservation, growth, ecosystem protection and public health/quality of life."¹⁰⁰

Use of LID techniques at new development, redevelopment, and retrofit projects is an effective approach to minimizing the adverse effects of urbanization and development on receiving waters and their beneficial uses. The implementation of LID techniques across the US and Canada has demonstrated that the proper implementation of LID techniques results in more benefits than single purpose stormwater and flood control infrastructure, including increased water quality protection, enhanced property values, improved aquatic and terrestrial habitat, aesthetic amenities, and improved quality of life.¹⁰¹ Further, properly implemented LID techniques can help mimic the pre-project runoff volume and time of concentration, thus minimizing the adverse effects of hydromodification on stream habitat and biological condition.¹⁰² The requirements of this Order facilitate the implementation of LID strategies to protect water quality, reduce runoff volume, and to garner additional benefits.

Specific LID strategies include bioretention and rainwater harvesting for reuse. Bioretention is a method of treating stormwater by pooling water on the surface and allowing filtering and settling of suspended solids and sediment at the mulch layer, prior to entering the plant/soil/microbe complex media for infiltration and pollutant removal. Rain gardens and bioretention techniques are used to accomplish water quality improvement and water quantity reduction. Prince George's County, Maryland, and Alexandria, Virginia have used this BMP since 1992 with success in many urban and suburban settings. Rain gardens can be integrated into a site with a high degree of flexibility and can balance nicely with other structural management systems, including porous asphalt parking lots, infiltration trenches, as well as non-structural stormwater BMPs. Rain gardens allow rain to be collected and seep naturally into the ground. This helps recharge groundwater supply and minimize the amount of polluted runoff.¹⁰³

¹⁰⁰ Coffman, Larry. *Low Impact Development: Smart Technology For Clean Water, Definitions, Issues, Roadblocks, and Next Steps*. American Society of Civil Engineers, 2004. Web. 16 August 2011. p. 1.

¹⁰¹ USEPA. *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices*. EPA 841-F-07-006, December 2007. Web. 16 August 2011.

¹⁰² *A Review of Low Impact Development Policies: Removing Institutional Barriers to Adoption*. Beltsville, Maryland: Low Impact Development Center; State Water Resources Control Board; The Water Board Academy, December 2007. Web. 16 August 2011.

¹⁰³ Obropta, Christopher, Sciarappa, William J. , Quinn, Vivian. "Rain Gardens." Rutgers Cooperative Research & Extension Fact Sheet No. 513. Rutgers Cook College Resource Center: 2006. Web. <http://water.rutgers.edu/Rain_Gardens/fs513.pdf>.

As an alternative to redirection of stormwater to functional landscape, rain gutter flows can be directed into rain barrels or cisterns for later use in irrigating lawns and gardens. Disconnections of rain gutters can effectively be implemented on existing properties with little change to present site designs. The benefits of urban area rainwater harvesting can be huge, providing supplemental water for many local uses, such as irrigating a vegetable garden and surrounding landscape, which also leaves more treated water in the municipal water supply to help cities through times of drought or other shortages. A number of cities in the Los Angeles Region, including Los Angeles, Long Beach and Santa Monica, have implemented successful rainwater harvesting incentive programs. See specific comments regarding why cisterns, etc. don't work in Salinas.

Traditional approaches to stormwater management involve conveying runoff off-site to receiving waters, to a combined sewer system, or to a regional facility that treats runoff from multiple sites. These designs typically include hard infrastructure, such as curbs, gutters, and piping. LID-based designs, in contrast, are designed to use natural drainage features or engineered swales and vegetated contours for runoff conveyance and treatment. In terms of costs, LID techniques like conservation design can reduce the amount of materials needed for paving roads and driveways and for installing curbs and gutters. Conservation designs can be used to reduce the total amount of impervious surface, which results in reduced road and driveway lengths and reduced costs. Other LID techniques, such as grassed swales, can be used to infiltrate roadway runoff and eliminate or reduce the need for curbs and gutters, thereby reducing infrastructure costs. Also, by infiltrating or evaporating runoff, LID techniques can reduce the size and cost of flood-control structures.¹⁰⁴ Where infiltration is possible. Where infiltration rates are slow and only the surface soil can absorb a limited amount of rainfall, alternative methods such as infiltration/retention/detention basins designed to access more permeable soils strata are needed or conduits to direct the surface runoff to areas with better infiltration rates. Parcel scale development assumes varying soils with varying infiltration rates exist on a parcel scale and improvements can be sited ("fingerprinting") so that BMPs can be installed over high infiltration rate soils and houses and other impervious structures can be placed over soils with low permeability/infiltration rates. This is not the case with the majority of the area slated for development (Future Growth Area-FGA). In this case the soils have very slow infiltration rates or are underlain by clayey layers (see attachment 3-soils borings along the downstream limit of the FGA). By requiring shallow infiltration BMPs within these areas the potential for groundwater recharge is minimized. While the intensity of flows can be attenuated and the water quality of the runoff substantially improved if not completely mitigated to the MEP, the ground can become saturated and negatively affect structures. The only way to "ensure" this does not happen is to require filtration on site, installation of infiltration basins on or near the "parcel" to accept the runoff and access better soil strata for infiltration, or pipe it to other areas which have already been identified through "fingerprinting" as having soils amenable to infiltration such as near stream bed zones of sands and gravels. It is nearly impossible to accurately determine how much of the surface soils can absorb before the pre-hydromodification amount of flow can be released or structural integrity of basement soils under structures is compromised. It is possible, and practical to assume that additional runoff will be present by assuming limited or no percolation under the site, increased runoff from hardened/impervious surfaces which is then directed to BMPs such as bioretention planters and rain gardens or structural filtration methods and then directed to areas/facilities where

¹⁰⁴ USEPA. *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices*. EPA 841-F-07-006, December 2007. Web. 16 August 2011.

infiltration and ground water recharge is possible. Part of the reason there is a groundwater deficit in the area and saltwater intrusion is that the water is pumped out of the aquifers faster than it can be replaced due to the inability to have enough surface infiltration. That is why the Salinas River inflatable dam is on the Salinas River because the underlying materials are conducive to infiltration and groundwater recharge.

The more runoff that can be infiltrated on a "Parcel Scale" the smaller any other conveyances or offsite facilities have to be so the economics themselves support the use of "Parcel Scale" implementation of infiltration BMPs, but in nearly every case in the FGA this approach is limited so other methods will be the only way and must then be planned for and assumed and any benefit that can come from parcel scale infiltration methods will be icing on the cake. Only one iteration, not a constantly repetitive LID design process is needed to prove this. Soils testing considering of deep borings (30 feet and infiltrometer tests at the bottom of BMP level. If these come back as low infiltrative soils with interbedded clay layers then that seals the deal. This is the practical approach which should replace the LID iterative approach.

Planters for filtration only are also the most economical approach since landscaping is required anyway and bioretention planters and similar devices are the least expensive to maintain and are a tested BMP. However, if filtration and comparable water quality can be obtained by structural means as previously stated in this fact sheet by the rates of removal of different structural BMPs up to 100% and the developer opts for that type of BMP due to the layout and requirements of the site, especially in commercial industrial areas where planters may get contaminated, then the iterative LID process should not have to be followed in that instance either.

Some other potential economic benefits associated with LID strategies, include, but are not limited to, reduced need for flood control and increased property values.¹⁰⁵ LID can also provide the benefit of additional groundwater supplies. Agreed

The implementation of LID techniques has been associated with the following other environmental benefits: improved air quality due to the increased use of trees and vegetation, reduced urban temperatures due to the shade offered by increased vegetation and the reduction of heat absorbing materials (e.g., concrete), the moderation of climate change due to reduced urban temperatures, increased energy efficiency due to lower ambient temperatures when LID practices are implemented on and around buildings, and aesthetic benefits due to the increased use of trees and vegetation.¹⁰⁶

Use of LID techniques at new development, redevelopment, and retrofit projects also enhances water supply. LID is consistent with and supports the Governor's 20 x 2020 Water Conservation Plan (February 2010); the State Water Board's 2008-2012 Strategic Plan Update (i.e. to promote sustainable local water supplies); the State Water Board's Recycled Water Policy (Resolution No. 2009-0011) objective to increase [beneficial] use of stormwater; requirements of the Water Conservation in Landscaping Act of 2006 (AB 1881, Laird), which

¹⁰⁵ MacMullan, Ed. "Assessing Low Impact Developments Using a Benefit-Cost Approach." *2nd National Low Impact Development Conference, March 12-14, 2007*. ECONorthwest. Web. 16 August 2011.

¹⁰⁶ USEPA. *Fact Sheet, Technical Guidance on Implementing the Storm Water Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act*, December 2009. Web. 16 August 2011.

requires cities and counties to adopt landscape water conservation ordinances by January 1, 2010; and the Department of Water Resources' Water Efficient Landscape Ordinance (Cal. Code of Regulations section 492.15).

There is a growing acceptance by stormwater professionals and local governments to integrate LID strategies that limit impervious area, and associated onsite retention criteria, into SWMPs and MS4 permits. For example, West Virginia's Small MS4 Permit No. WV0116025 requires the on-site retention of the volume of runoff produced from the first inch of a 24-hour storm; the USEPA's Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under section 438 of the Energy Independence and Security Act, requires the on-site retention of the volume of runoff produced from the 95th percentile storm event where technically feasible; the City of Philadelphia requires the onsite retention of the volume of runoff produced from the first inch of a 24-hour storm; and the City of Portland, Oregon requires the onsite infiltration of the runoff volume from a 10-year, 24-hour design storm.

Staff Response to Comment City of Salinas – Fact Sheet Finding 50

See Staff Response to Comment City of Salinas Supplemental – 109 for a response to a comment about rainwater harvesting.

See Staff Response to Comment Avery – 6 and Staff Response to Comment Chamber – 5 for discussions about baseline conditions for new development and redevelopment which includes a discussion about soil characteristics. See Staff Response to Comment City of Salinas – Finding 14 for a discussion about end of pipe treatment systems.

Central Coast Water Board finds that more extensive and representative soil analysis are needed at a site level to make decisions about what can and cannot be achieved at a site level. Central Coast Water Board staff finds that the commenter might be making some gross assumptions about the landscape functions/capacities, with regards to managing stormwater, in the future growth areas. Soil characteristics and hydrologic conductivity between aquifers and surface waters can vary, especially in areas as large as the City's future growth areas. The Central Coast Joint Effort for Hydromodification Control will also inform how stormwater management flows in the future growth areas will need to be managed to restore, protect, and/or maintain watershed processes affected by stormwater management to protect water quality and beneficial uses.

See Staff Response to Comment City of Salinas – Provision L.1.a.i.1 for a discussion about the LID site design process. LID site design incorporates a multi-tiered approach. LID site design influences the initial site layout by minimizing the project footprint and preserving features that provide dominant watershed functions. After the project applicant does everything it can to minimize the project impact, the applicant determines what BMPs to incorporate into the project design to mitigate for the remaining impacts. Central Coast Water Board staff finds this process valuable, in order to develop in a way that is protective of water quality.

51. Many end-of-pipe BMPs are designed for low flow conditions because their end-of-pipe location prevents them from being designed for large storm events. This results in the end-of-pipe BMPs being overwhelmed, bypassed, or ineffective during larger storm events more frequently than onsite BMPs designed for larger storms. BMPs are also frequently most effective for a particular type of pollutant (such as sediment). Such BMPs may be appropriate for small sites with a limited suite of pollutants generated; however, end-of-pipe BMPs must typically be able to address a wide range of pollutants generated by a

subwatershed, limiting their effectiveness. Moreover, the location of some end-of-pipe BMPs allow for untreated pollutants to be discharged to and degrade receiving waters prior to their reaching the BMPs. This fails to protect receiving waters, which is the purpose of BMP implementation. Moreover, opportunities to educate the public regarding urban runoff pollution can be lost when end-of-pipe BMPs are located away from pollutant sources and out of sight. Onsite BMPs can lead to a better understanding of urban runoff issues since they demonstrate urban runoff processes.

52. Infiltration is an effective means for managing urban runoff. However, measures must be taken to protect groundwater quality when infiltration of urban runoff is implemented. In some circumstances, site specific conditions (i.e., historical soil contamination) and the type of development (i.e., urban infill) can limit the feasibility of retaining, infiltrating, and reusing stormwater at sites. USEPA supports urban runoff infiltration and provides guidance for protection of groundwater: "With a reasonable degree of site-specific design considerations to compensate for soil characteristics, infiltration may be very effective in controlling both urban runoff quality and quantity problems. This strategy encourages infiltration of urban runoff to replace the natural infiltration capacity lost through urbanization and to use the natural filtering and sorption capacity of soils to remove pollutants; however, the potential for some types of urban runoff to contaminate groundwater through infiltration requires some restrictions."¹⁰⁷
53. See discussion for Finding No. 34.
54. Proper BMP design and maintenance can prevent the creation of vector habitat. Nuisances and public health impacts resulting from vector breeding can be prevented with close collaboration and cooperative effort between municipalities and local vector control agencies and the State Department of Health Services during the development and implementation of SWMPs.
55. The Permittee has significant plans for new development in the Permittee's coverage area as discussed in Section IV.B (Future Growth Area) of this Fact Sheet. Therefore, it is necessary to update the SWDS, which includes the Permittee's urban runoff-related design and maintenance requirements for new development and redevelopment projects, in a timely manner, so that the Permittee can manage changes in stormwater runoff conditions caused by development that can affect watershed processes that impact beneficial uses. In addition to managing changes in the future growth area, updates to the SWDS are also important for managing changes in new development and redevelopment in existing urban areas. This Order requires the Permittee to make changes to the content in the SWDS so that the Permittee's requirements for managing stormwater for new development and redevelopment projects meet MEP and are clearly stated. This Order also requires the Permittee to reorganize its existing SWDS. The existing SWDS include a number of clear requirements; however, key portions of the SWDS are not written clearly enough to ensure effective implementation. *The SWDS must also recognize our previous statements.*

Staff Response to Comment City of Salinas – Fact Sheet Finding 55

Central Coast Water Board staff does not understand how the commenter's suggested modification improves Finding 55; therefore, staff is not making the suggested modification.

¹⁰⁷ Pitt, Robert, Shirley Clark, and Keith Parmer. *Potential Groundwater Contamination from Intentional and Nonintentional Stormwater Infiltration*, EPA 600 SR-94 051. USEPA, May 1994. Web. 16 August 2011.

Development Planning and Stormwater Retrofits

56. See discussion for Findings No. 34 and No. 46. See discussion in Section IV.B (Future Growth Area) of this Fact Sheet for information about areas planned for future growth in the Permit coverage area.
57. Consideration of stormwater impacts from development is critical during the planning phases of development. Incorporating LID principles into the site design is easiest and most effective if done during preliminary project stages. LID site design is an iterative process; therefore, incorporating LID in the preliminary site design process minimizes major site design modifications, related to management of post-construction stormwater, at the end of the site design process. For these reasons, working with development project applicants at the earliest possible stage in the development review process of the requirements related to post-construction stormwater management is fundamental to optimizing LID at project sites. USEPA supports addressing stormwater management through planning when it states: "EPA recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs and studies that address storm water runoff quality."¹⁰⁸ See also discussion for Finding No. 34.
58. Conventional planning and zoning can be limited in its ability to protect the environmental quality of receiving waters. Watershed-based planning is often ignored, despite the fact that receiving waters unite land by collecting runoff from throughout the watershed. Since watersheds unite land, they can be used as an effective basis for planning. Watershed-based planning enables local and regional areas to realize economic, social, and other benefits associated with growth, while conserving the watershed resources needed to sustain such growth, including water quality.

Performing planning analyses at the Urban Subwatershed scale is appropriate given the likelihood an MS4 is more likely to have an influence and can devote resources at that scale, as opposed to on a larger watershed scale. To most effectively maintain and protect beneficial uses, the Permittee must incorporate goals for watershed process maintenance and protection when making decisions about future urban growth areas. To the extent possible, stormwater management must be an integral part of higher level planning documents that determine where and how development, that will result in stormwater discharges to the MS4, should occur since these decisions affect water quality.

USEPA explains why examining stormwater on a watershed basis and including watershed principles is an important part of protecting waterways in a holistic manner. Imperviousness has been shown to correlate with water quality impacts. In order to minimize water quality impacts, the Permittee must examine their planning principles to manage the creation of impervious surfaces at the watershed level, such as reducing the footprint of streets and

¹⁰⁸ "National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule." *Federal Register* 64 (8 December 1999): p. 68845. Web. 10 August 2011.

parking lots. Including watershed-type assessments and considerations as Permit Requirements will help the permittee better focus their efforts to ensure the best water protection outcomes for existing conditions and those anticipated future conditions.

Consideration of stormwater impacts from development is critical during the planning phases of development. This not only includes planning on the site-level, but also with respect to discharges from the MS4 on the watershed level. To the extent possible, stormwater management must be an integral part of higher level planning documents that determine where and how development that will result in stormwater discharges to the MS4 should occur since these decisions affect water quality. Using land efficiently can result in better stormwater management by putting development where it is most appropriate. For example, by directing and concentrating new development in areas targeted for growth, communities can reduce or remove development pressure on undeveloped parcels and protect sensitive natural lands and recharge areas. Another strategy is redeveloping already degraded sites such as abandoned shopping centers or underutilized parking lots. In this case, the net increase in discharges from developed sites would likely be zero, and it would likely decrease, depending on the on-site infiltration practices used. Also, by allowing or encouraging denser development, less land is converted overall, and less total impervious area created.¹⁰⁹

USEPA explains the importance of using the smaller watershed scale for gaining useful information to inform site-level work. Where existing plans and strategies have been developed at a basin-wide or other large geographic scale, they usually need to be refined at the smaller watershed scale to provide the information needed to develop a watershed plan. The assessment, monitoring, and other data collection requirements for larger basin studies typically are not as detailed as those for watershed plans or assessments generated for site-level work plans.¹¹⁰

59. See discussions for Findings No. 46 and 58.

60. Riparian areas provide water quality functions that protect and restore the beneficial uses of receiving waters; therefore, activities within riparian areas and degradation of riparian areas impact water quality. It is important to maintain and/or create riparian areas of adequate width to accommodate natural stream meandering and provide water quality functions including, but not limited to, floodwater storage, water quality enhancement through stormwater filtration and pollutant sequestration, and maintenance of plant and animal communities to support aquatic life beneficial uses. It is also important to maintain buffers of adequate size outside of stream and wetland system environments to assimilate landscape influences and protect the water quality functions stream and wetland systems provide where the existing habitat or perceived riparian are has not been degraded to such a point as to provide little value when compared to improved habitat which could be provided during the project so post project result is replaced degraded habitat.

Where riparian areas have been degraded (e.g., from encroachment, grading, placement of fill.), restoration of the natural conditions of characteristics including, but not limited to,

¹⁰⁹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 60-61.

¹¹⁰ USEPA. *Handbook for Developing Watershed Plans to Restore and Protect Our Waters*. EPA 841-B-002, March 2008. Web. 31 August 2011. p. 4-1.
<http://water.epa.gov/polwaste/nps/handbook_index.cfm>.

widths, topographic complexity, and substrate characteristics is important to restore the function riparian areas play in improving the quality of stormwater runoff and buffers based solely on physical stream bank characteristics such as top of bank should not apply.

Staff Response to Comment City of Salinas – Fact Sheet Finding 60

Central Coast Water Board staff modified the Fact Sheet for Finding 60 to include, ‘and/or create.’ Central Coast Water Board staff finds the suggested addition regarding existing habitat and perceived riparian area is unclear, so staff did not make a change.

Provision L includes riparian protection policies and requirements. The Order requires the City to require project applicants to adhere to creek setback requirements measured from the top of the streambank. The Order requires the City to conduct an assessment of its riparian vegetation and habitat (Provision Q). Based on the assessment results the City is required to assess the appropriateness of its riparian protection policies and requirements.

61. There is increasing awareness that, while site-based requirements are important to reduce impacts from urbanization, a site-based approach alone is unable to achieve a broader set of watershed goals, especially considering stormwater management impacts on regional issues such as water reuse, water preservation, groundwater management, and flood management. Stormwater, and the way in which stormwater is managed, can directly influence these watershed goals. Because water resources are shared and influenced by other stakeholders, MS4s, and other entities within the Permittee’s watersheds, coordination with these other entities is important to manage stormwater in a manner that protects, enhances, and/or restores natural resources.

62. This Order establishes requirements for retrofitting existing development to improve runoff conditions from developed areas. Retrofitting existing development with stormwater treatment and flow controls is necessary to address stormwater discharges from existing development that may cause or contribute to a condition of pollution or a violation of water quality standards. Existing BMPs are not sufficient, as evidenced by CWA section 303(d) listings and the Permittee’s monitoring reports. This is consistent with USEPA guidance, which states that “It is clear that we cannot protect the nation’s waters without also addressing degradation caused by stormwater discharges from existing developed sites. For that reason stormwater programs must include substantive retrofit provisions.”¹¹¹ While flow control and treatment BMPs are required for redevelopment, the current rate of redevelopment will not address water quality problems, including impaired watershed processes and impacts in receiving waters, in a timely manner. More advanced BMPs, including the retrofitting of existing development, are part of the iterative process. Retrofitting existing development is practicable for a municipality through a systematic evaluation, prioritization, and implementation plan. Retrofitting existing development is a widespread practice across the United States: Successful retrofitting programs have been implemented in such diverse locations as Seattle, Washington; Portland, Oregon; Santa Monica, California; Kansas City, Kansas; and Montgomery County, MD. However, these retrofits have little impact when redeveloped sites are required to be treated as virgin land for LID purposes. It is the entire body of existing development that contributes to water quality degradation. Therefore requiring parcel scale application of LID in redevelopment areas has minimal, if any, substantive effect. The Best Management Practice would be to

¹¹¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, April 2010. p. 65.

utilize existing storm drain fees and apply them to redevelopment but apply them to system retrofits which can improve water quality such as planted bulb-outs and similar practices including structural BMPs which are best adapted to existing developed areas. Delete the word "replace" in the applicability portions of Section J.

Staff Response to Comment City of Salinas – Fact Sheet Finding 62

Central Coast Water Board staff is unclear how the commenter's comment relates to the retrofit requirements in Provision L. The purpose of the retrofit requirements is to restore degraded watershed processes that are necessary to protect water quality and beneficial and that have been impacted by stormwater management on existing development. See Staff Response to Comment City of Salinas – Provision J.3.a for a discussion about infill and redevelopment projects.

Public Education and Public Involvement

63. The vast majority of stormwater management activities necessary for reducing pollutants in stormwater discharges to the MEP and protecting water quality require participation by the public. Inspection and enforcement activities conducted by the Permittee provide a back-up for public education, but cannot replace activities designed to inform the public about watershed and water quality issues, the water quality impacts of behaviors, and steps the public can take to reduce pollutants in stormwater and protect water quality. In addition, a well-informed public can assist the Permittee in identifying water quality problems (e.g., illicit discharges, dumping), thus multiplying the Permittee's field screening resources. USEPA finds that "An informed and knowledgeable community is critical to the success of a stormwater management program since it helps ensure the following: Greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, [and] greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters."¹¹² Regarding target audiences, USEPA also states "The public education program should use a mix of appropriate local strategies to address the viewpoints and concerns of a variety of audiences and communities, including minority and disadvantaged communities, as well as children." Therefore this Order identifies target audiences for public education in residential, commercial and industrial, construction, and development contexts.

The purpose of public education at all levels is to change behaviors that impact stormwater quality. Therefore it is not enough simply to convey information about stormwater quality issues. To be effective, the Permittee must also identify and remove obstacles to, and develop incentives for, desired behaviors. Community-based social marketing education techniques provide effective tools for achieving these objectives and designing public education programs that are effective at changing behaviors.

64. This Finding is supported by the Phase II Stormwater Regulations, which state "early and frequent public involvement can shorten implementation schedules and broaden public support for a program." USEPA goes on to explain, "Public participation is likely to ensure a

¹¹² USEPA. *Storm Water Phase II Compliance Assistance Guide*, EPA 833-R-00-002. March 2000. Web. 10 August 2011.

more successful storm water program by providing valuable expertise and a conduit to other programs and governments.”¹¹³

Trash Load Reduction

65. Trash is consistently found on and adjacent to roadways and in all geographical areas. A national litter study conducted by Keep America Beautiful found an average of 7,784 pieces of litter per mile on urban roads sampled across the nation.¹¹⁴ The most common visible litter items detected on urban roads were paper (45.6 percent of all pieces) and plastics (34.5 percent of all pieces). In addition, a California Department of Transportation Litter Management Pilot Study found that 80 percent of the litter associated with roadways was floatable, indicating that, without capture, this litter would enter Waters of the State following a storm event.¹¹⁵ High-density urban areas in Southern California have been shown to be responsible for up to 60 percent of the trash that enters receiving waters.^{116,117} In addition, CCAMP staff has documented significant trash deposits in the Salinas Reclamation Ditch and at the discharge from the pump station to the Salinas River in all seasons.
66. According to the Permittee’s Urban Watershed Management Program Annual Reports, the Permittee removed a total of 40 cubic yards of trash and debris in 2006-07, 11 tons plus 20 cubic yards in 2007-08, 370 cubic yards in 2008-09, and 2.5 tons plus 26 cubic yards in 2009-10.

Total Maximum Daily Loads

67. This Order requires the Permittee to establish a Wasteload Allocation Attainment Plan for every TMDL approved by the Office of Administrative Law, where the Permittee is listed as a responsible party, to fulfill a component of any future TMDL Implementation Plan adopted by the Central Coast Water Board. A TMDL is the total amount of a particular pollutant that a water body can receive and still meet water quality standards, which are comprised of water quality objectives, beneficial uses and the States Policy on Maintaining High Quality Waters.¹¹⁸ The water quality objectives serve as the primary basis for protecting the associated beneficial use. The numeric target of a TMDL interprets and applies the numeric

¹¹³ “National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule.” *Federal Register* 64 (8 December 1999): p. 68755. Web. 10 August 2011

¹¹⁴ 2009 *National Visible Litter Survey and Litter Cost Study Final Report*. Stamford, CT: Keep America Beautiful, Inc.; Mid Atlantic Solid Waste Consultants, 18 September 2009. Web. 17 August 2011. p. ES-4.

¹¹⁵ *Final Report, California Department Of Transportation District 7 Litter Management Pilot Study, Contract No. 43a0004c, Task Order No. 18, Caltrans Document No. Ct-Sw-Rt-00-013*. Sacramento, CA: California Department of Transportation, 26 June 2000. Web. 17 August 2011. p. 6-13.

¹¹⁶ Sedrak, Morad. “The City of Los Angeles Meets Trash TMDLs Compliance with Catch Basin Inserts and Opening Covers.” StormCon 2008. Orlando World Center Marriott Resort, Orlando, 6 August 2008. Conference Presentation.

¹¹⁷ It is likely that both the Keep America Beautiful study and the Caltrans study underestimated the total contribution of plastics. The Keep America Beautiful study focused on visible litter, and the Caltrans study relied upon a mesh capture size of 0.25 inches (6.35 millimeters). Neither method is able to effectively capture plastic pre-production pellets (aka, “nurdles”), which are roughly 3 mm in size.

¹¹⁸ State Water Resources Control Board. *Resolution No. 68-16, Statement Of Policy With Respect To Maintaining High Quality Of Waters In California*, 28 October 1968. Web. 17 August 2011.

and/or narrative water quality objectives of the water quality standards as the basis for the wasteload allocations.

Monitoring, Effectiveness Assessment, and Program Improvement

68. Previous Orders have relied on receiving water monitoring data to assess program effectiveness at protecting water quality. The Permittee has conducted water quality sampling since 1999. The Monitoring and Reporting Program for Order No. 99-087 required sampling at 20 receiving water sites within the Permit coverage area and one reference site located on Gabilan Creek upstream of the Permit coverage area. The Monitoring and Reporting Program for Order No. R3-2004-0135 required sampling at 3 receiving water sites within the Permit coverage area and one reference site upstream of the Permit coverage area. The high degree of variability in the data from these monitoring efforts and the influence of other water quality inputs have made it difficult to reliably discern the Permittee's contribution to water quality problems in receiving waters. The Permittee states: "Given the occurrence of exceedances of water quality objectives at background sites that confound the interpretation of impacts from Salinas stormwater at receiving water sites, few conclusions can be drawn regarding the influence of Salinas stormwater discharges on receiving water."¹¹⁹ A corollary of this difficulty is that the monitoring data is also not able to show improvements in receiving water quality resulting from the Permittee's stormwater management actions.

69. The Central Coast Ambient Monitoring Program (CCAMP) conducts water quality monitoring at one of the Permittee's stormwater discharges to the Salinas Reclamation Ditch at Airport Road near U.S. Highway 101 (CCAMP station 309AXX), and in the Salinas Reclamation Ditch at Boronda Road (CCAMP station 309 ALD). A comparison of water quality criteria scores determined for sampled parameters at 309AXX with the receiving water data indicates that the Permittee's stormwater discharges may be causing or contributing to water quality impairments in the Salinas Reclamation Ditch for the following parameters: Ammonia as N (total), Ammonia as N (unionized), Chloride, Fecal coliform, Total coliform, E. coli, Nitrate/Nitrite as N, Orthophosphate as P, Oxygen (dissolved), Oxygen (saturation), and Sodium. In addition, CCAMP conducts water quality monitoring at the Permittee's stormwater discharge to the Salinas River (CCAMP station 309SDR), and in the Salinas River 350 yards downstream of the discharge (CCAMP station 309DAV). A comparison of water quality criteria scores determined for sampled parameters at 309AXX with the receiving water data indicates that the Permittee's stormwater discharges may be causing or contributing to water quality impairments in the Salinas River for the following parameters: Ammonia as N (total), Boron (dissolved), Chloride, Chlorophyll a, Fecal coliform, Total

¹¹⁹ City of Salinas. 2009-2010 Annual Report: Urban Watershed Management Program. Permit No: CA0049981, Order: R3-2004-0135, 24 February 2011. Web. 23 August 2011.

coliform, E. coli, Dissolved solids (total), Nitrate/Nitrite as N, Orthophosphate as P, and Sodium.¹²⁰

70. To date, the Permittee has assessed the effectiveness of its stormwater management actions through water quality monitoring, verification that the Permittee has completed required activities, and simple accounting of the results of some stormwater management actions. As stated above, the monitoring data has been inadequate for discerning the effectiveness of the Permittee's program. The Permittee's verification and accounting assessments have also not provided sufficient information about the effectiveness of the Permittee's stormwater management actions at reducing pollutants in stormwater discharges and protecting water quality. Verification and accounting largely correspond to a Level 1 assessment, as identified by CASQA.¹²¹ As such, these assessments are inadequate for assessing effectiveness of activities at Level 6 (protection of receiving water quality).¹²² Without reliable information on the link between stormwater management activities and receiving water quality, the Permittee has not been able to identify needed BMP modifications, program deficiencies, priorities for activities or expenditures, or justify reductions in effort or expenditure on activities that have been demonstrated to be ineffective or unnecessary.

The monitoring requirements of this Order are designed to help fill the knowledge gap between the Permittee's stormwater management activities and their impact on receiving water quality. Stormwater discharge sampling in a limited number of Urban Catchments, associated with Stormwater Discharge Action Levels, will help the Permittee discern the cause-and-effect relationship between pollutant sources, BMPs, and stormwater management decisions over the long term by focusing on a limited management area over which the Permittee has a greater degree of control. Long-term trend monitoring of stormwater discharges and receiving waters focus on discerning long-term water quality trends that can be linked to stormwater management activities.

The monitoring and reporting program for this Order constitutes a change from previous monitoring and reporting programs. The change shifts resources away from extensive monitoring of receiving water conditions to a greater emphasis on stormwater discharge monitoring, and from monitoring at a multitude of sites to monitoring at a limited number of sites capable of providing information needed to understand the links between the Permittee's stormwater discharges and receiving water quality conditions. This change focuses the Permittee's efforts and expenditures on assessment actions that can produce

¹²⁰ Threshold water quality criteria were developed using Basin Plan Water Quality Objectives (WQOs), CCAMP attention levels, and USEPA standards. CCAMP staff used the threshold water quality criteria to develop water quality criteria scores for sampled parameters based on the relevant water body's beneficial uses. Central Coast Water Board staff compared the scores determined for CCAMP station 309AXX to the receiving water data collected at CCAMP station 309ALD. Where both the water quality criteria score for a sampled parameter exceeded thresholds (i.e., a score of "impacted," "very impacted," or "severely impacted") and the receiving water data indicated an impairment for the same parameter, the Central Coast Water Board concludes that the Permittee's stormwater discharges may be causing or contributing to the water quality impairment.

¹²¹ CASQA. *Municipal Stormwater Program Effectiveness Assessment Guidance*, May 2007. Web. 17 August 2011 <www.casqa.org>.

¹²² Accounting is sometimes capable of providing limited Level 4 assessment (reduction of pollutant loads from sources), depending on the BMP and what is assessed (e.g., an accounting of the volume of trash removed from a drainage channel constitutes a direct reduction of pollutant load).

tangible results. [See previous requirements for suggestions or monitoring to determine contributions before flows enter the City and at interfaces with ag uses and other jurisdictions.](#)

Staff Response to Comment City of Salinas – Fact Sheet Finding 70

See Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1) and Staff Response to Comment City of Salinas – Fact Sheet Finding 40.

71. This Order specifies requirements necessary for the Permittee to reduce the discharge of pollutants in stormwater discharges to the MEP. The Permittee's continual evolution in meeting the MEP standard is expected to achieve compliance with water quality standards. USEPA has consistently supported this expectation. In its Interim Permitting Approach for Water Quality-Based Effluent Limitations (WQBELs) in Storm Water Permits, USEPA states "the interim permitting approach uses BMPs in first-round storm water permits, and expanded or better-tailored BMPs in subsequent permits, where necessary, to provide for attainment of water quality standards."¹²³ USEPA reiterated its position in 1999, when it stated regarding the Phase II municipal storm water regulations that "successive iterations of the mix of BMPs and measurable goals will be driven by the objective of assuring maintenance of water quality standards" and "EPA anticipates that a permit for a regulated small MS4 operator implementing BMPs to satisfy the six minimum control measures will be sufficiently stringent to protect water quality, including water quality standards [...]."¹²⁴

MEP is a dynamic performance standard, which evolves over time as stormwater management knowledge increases. The Permittee's SWMP must be continually assessed and modified in an adaptive management fashion to incorporate improved programs, control measures, and BMPs, in order to achieve the evolving MEP standard. Absent evidence to the contrary, this continual assessment, revision, and improvement of stormwater management program implementation is expected to ultimately achieve compliance with water quality standards in the Central Coast Region. This approach is consistent with the CWA and State Water Board guidance. In *Defenders of Wildlife v. Browner* (1999, 197 F. 3d 1035), the United States Court of Appeals for the Ninth Circuit states: "Under 33 U.S.C. section 1342 (p)(3)(B)(iii), the EPA's choice to include either management practices or numeric limitations in the permits was within its discretion." In addition, the approach is consistent with State Water Board Order WQ 99-05, which outlines an iterative approach for achieving compliance with water quality standards.

Stormwater management is an evolving subject area that necessitates an adaptive management approach in which stormwater management actions are based on the current understanding of the science and program modifications result from new information. Adaptive management is predicated on the idea that in complex systems like urban watersheds, the information needed to fully inform management decisions is only partially available. Stressors like impervious cover interact with resource conditions, such as flow regimes, in sometimes unpredictable ways to produce varying effects on multiple beneficial uses. Basing stormwater management actions on poorly understood linkages [Why we](#)

¹²³"Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits, Notices." *Federal Register* 61 (26 August 1996): p. 43761. Web. 17 August 2011.

¹²⁴"National Pollutant Discharge Elimination System – Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, Final Rule." *Federal Register* 64 (8 December 1999): p. 68753-68754. Web. 10 August 2011.

suggested monitoring to determine actual contributions as before. is defensible when the results of the actions are systematically evaluated through monitoring and assessment, and the evaluation results in modification of subsequent actions. The adaptive management requirements contained in this Order take into account the complex nature of municipal stormwater management and the number and variety of factors affecting discharge and receiving water quality that make it difficult for stormwater managers to make clear cause-and-effect connections between discharge and receiving water conditions and BMP modifications that would influence those conditions. The requirements also take into account the amount of data needed to make reasonable adaptive management decisions; the length of time required to collect the necessary data; the cost of making modifications; and the potential that even reasonable management decisions may not reduce pollutant loads or affect water quality as anticipated, due to the variety of factors involved. Order requirements specify a level of effort in making adaptive management decisions and program modifications in line with these factors. Adaptive management is an on-going process that will span multiple permit cycles. Order requirements are based on the current understanding of the science, and new information (obtained from outside sources or the Permittee's own assessment activities) can improve understanding of stormwater management action efficiency and effectiveness, resulting in modifications to stormwater management actions.

Staff Response to Comment City of Salinas – Fact Sheet Finding 71

See Staff Response to Comment City of Salinas – Fact Sheet Finding 27 (1). In addition, the Monitoring and Effectiveness Assessment Program (Section P) is designed to provide information about the linkages between the City's stormwater management actions, the quality of the City's stormwater discharges, and long-term trends in receiving water quality.

Note – Fact Sheet Finding 72 through Fact Sheet Finding 79 are not shown. No comments were provided by the City of Salinas in the Fact Sheet Findings for these subsections.

XII. Specific Permit Provisions

A-D. Discharge Prohibitions, Effluent Limitations, Receiving Water Limitations, and General Requirements

1. Legal Authority

The following legal authority applies to Sections A, B, C, and D – Discharge Prohibitions, Effluent Limitations, Receiving Water Limitations and General Requirements:

2. Broad Legal Authority

CWA section 402, CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F), 40 CFR 122.26(d)(2)(iv), and 40 CFR 122.44.

3. Specific Legal Authority

CWC section 13050(l) states, “(1) ‘Pollution’ means an alteration of the quality of waters of the state by waste to a degree which unreasonably affects either of the following: (A) The water for beneficial uses. (B) Facilities which serve beneficial uses. (2) ‘Pollution’ may include “contamination.”

CWC section 13050(k) states, “‘Contamination’ means an impairment of the quality of waters of the state by waste to a degree which creates a hazard to public health through poisoning or through the spread of disease. ‘Contamination’ includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.”

CWC section 13050(m) states, “‘Nuisance’ means anything which meets all of the following requirements: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. (3) Occurs during, or as a result of, the treatment or disposal of wastes.”

CWC section 13241 requires each regional board to, “establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance [...]”

CWC section 13243 provides that, “A regional board, in a water quality control plan or in waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, will not be permitted.”

CWC section 13263(a) provides that waste discharge requirements prescribed by the Central Coast Water Board implement the Basin Plan.

Federal NPDES regulations 40 CFR 122.26(d)(2)(iv)(A - D) require municipalities to implement controls to reduce pollutants in stormwater runoff from commercial, residential, industrial, and construction land uses or activities. *Does not include ag areas so why are they included under the scope of our permit, such as Carr Lake?*

Staff Response to Comment City of Salinas – Fact Sheet A-D.3 (1)

Agriculture areas in the Carr Lake area that discharge into the Reclamation Ditch do not discharge into the City's MS4 and therefore are not covered by this Order. Also, discharges from agricultural lands that are comprised solely of return flows and/or stormwater are exempt from NPDES permitting. As such, the Permittee is not responsible for these discharges that enter its MS4. The Permittee is responsible for other agricultural-related discharges into its MS4. See Staff Response to Comment City of Salinas – Findings 31 and See Staff Response to Comment City of Salinas – Findings 45 for a discussion on pollutants that enter creeks upstream of the Permit coverage area as well as a discussion on the relationship between Agricultural Order (R3-2004-0117) and this Order.

Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(A - D) require municipalities to have legal authority to control various discharges to their MS4.

Federal NPDES regulation 40 CFR 122.44(d)(1) requires municipal stormwater permits to include any requirements necessary to, "[a]chieve water quality standards established under section 303 of the CWA, including State narrative criteria for water quality."

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to, "control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv) requires MS4 operators develop a management program that covers the duration of their permit.

Federal NPDES regulation 40 CFR 122.34(a) requires MS4 operators to develop, implement and enforce a stormwater management program.

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B) requires MS4 operators "to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer."

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(1) provides that the Permittee shall prevent all types of illicit discharges into the MS4 except for certain non-stormwater discharges.

The Discharge Prohibitions and Effluent Limitations are required by the above regulations and have not substantially changed from Order No. R3-2004-0135.

The Receiving Water Limitations contained in this Order are based on State Water Board Order No. 99-05, which specifies language to be included in municipal stormwater permits.

USEPA stormwater regulations define "illicit discharge" as "any discharge to a municipal separate storm sewer that is not composed entirely of stormwater" except discharges resulting from fire fighting activities and discharges from NPDES permitted sources (40 CFR 122.26(b)(2)). The applicable regulations state that the following non-stormwater discharges may be allowed if they are not determined to be a significant source of pollutants to the MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated

pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, **lawn watering, individual residential car washing,** flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, **and street wash water.** If, however, these discharges are determined to be a significant source of pollution then they are to be prohibited.

CCWB has included many of these in our permit. When were they found to be significant sources of pollution? By what means?

Staff Response to Comment City of Salinas – Fact Sheet A-D.3 (2)

Central Coast Water Board staff assume the comment is referring to the items highlighted in yellow by the City of Salinas.

Water line flushing, diverted stream flows, and rising ground waters are included in the non-stormwater discharges that are not prohibited in the Order. See Provisions A.5.a, A.5.b, and A.5.k.

Street wash water was not included in the non-stormwater discharges that are not prohibited under the City's existing Order No. R3-2004-0135. This Order is consistent the City's existing Order. See Discharge Prohibition A.5 in Order No. R3-2004-0135. Streets are a significant source of pollutants in stormwater, and washing them down into MS4s neither attains the MEP standard nor protects water quality.

Central Coast Water Board staff added landscape irrigation and lawn watering to the non-stormwater discharges that are not prohibited in Provision A.5.

The Permittee is required to develop a SWMP document that demonstrates how the Permittee will comply with each requirement of this Order. The SWMP document is a consolidation of all of the Permittee's relevant documents developed for compliance with this Order (e.g., Enforcement Response Plan, inventories, checklists, inspection forms, BMPs developed to comply with this Order, BMPs required by this Order, documents submitted to the Central Coast Water Board, BMPs to achieve Wasteload Allocation Attainment Plans, developed assessment methodologies) that will be implemented and enforced to comply with this Order. The Permittee is not required to submit all of the components of the SWMP to the Central Coast Water Board Executive Officer for approval. Components of the SWMP that are required to be submitted to Central Coast Water Board Executive Officer for approval are specified in the Order provisions. The Order also specifies other components of the SWMP that are required to be submitted to the Central Coast Water Board, however the Permittee does not have to obtain Central Coast Water Board Executive Officer approval before it begins to implement the provision. The Central Coast Water Board will notify the Permittee of required modifications to submitted documents. Notification may occur after Central Coast Water Board staff review of submitted documents or as a result of program evaluations.

40 CFR 122.26(d)(2)(iv) requires the management program to include a description of staff and equipment available to implement the program.

During the March 7, 2011 program evaluation, Central Coast Water Board staff found Permittee staff didn't know which version of the SWMP was the most current version. *Rectified already*The Permittee's stormwater website also contained an out of date version of the SWMP. The website contained the SWMP as a whole document 26.8 MB in size, so a member of the public would have to download the entire file to learn about a component of interest. To address these issues, in this Order, the components of the SWMP are required to be made available to the

public via the stormwater website. In order for members of the public or municipal staff to easily find and obtain the most current version of the SWMP components they are interested in, the website will be kept current and contain links to individual components. By breaking the SWMP into components that are kept up to date and more easily accessible, both the public and municipal staff can use the Permittee's stormwater website to make sure they are using the most current version. *This is excessive requirement. Someone can access the document and the table of contents and find the section they want.*

The Permittee is also required to develop an information management system to track compliance with the requirements of this Order. During the March 7, 2011 program evaluation, Central Coast Water Board staff found the Permittee wasn't able to demonstrate compliance with Order No. R3-2004-0135 because the Permittee's information management wasn't adequate to track all of the components of the Permittee's activities. The Order specifies in many sections the types of information the Permittee needs to track to be able to demonstrate compliance with the Order.

The SWMP and the information management system are intended to contain different types of information. For example, the SWMP will contain documents that relate to policies, procedures, and legal authority. The information management system, on the other hand, will track the details of the Permittee's implementation of the SWMP. The Permittee will often be updating the information management system daily (e.g., to enter inspection data, illicit discharge complaints, resolutions). The Permittee will be updating the SWMP components less frequently (e.g., as plans, policies, procedures and legal mechanisms are modified), however the SWMP is intended to be a compilation of living documents that are useful tools for the Permittee and the public. *So we will need to publish our documents and update the web site as each document in the info management system is updated since the IMS is supposed to be available to the public?? This will cost\$ to keep utilize our web site consultant for daily updates. We will need to add a staff member just to replace the consultant. \$100,000 loaded min..*

Staff Response to Comment City of Salinas – Fact Sheet A-D.3 (3-5)

The SWMP is currently provided on the City of Salinas website as one large PDF file that is 26.8 MB in size and 551 pages in length. Breaking the SWMP into components will allow for increased accessibility by both members of the public and City staff. The reduced file size of the components could make the information more available to members of the public without high speed internet access. Breaking the document into components on the website will also allow users to more easily navigate to their topic of interest and provides more insight of document contents without downloading or printing the entire document. Breaking the document into components will also allow the City to update portions of the document without providing an entire new version.

The Order does not require daily updates to the website. The Order does not require the City to publish the information management system on the website. The City can make the information management system data available as a print-out to the public upon request. Current versions of the SWMP components must be published on the website, but the SWMP will not change daily. See Fact Sheet XII.A-D.3 for an explanation of the different types of information that will be contained in the SWMP and the information management system.

E. Municipal Maintenance

Note – Fact Sheet E.1 through Fact Sheet E.2 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for these subsections.

3. Specific Legal Authority

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(1) requires, “A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(3) requires, “A description for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(4) requires, “A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible.” ***EYI***
Flood control is MCWRA responsibility

Staff Response to Comment City of Salinas – Fact Sheet E.3

While the City is not responsible for MCWRA flood management projects, the City is responsible for its own flood management projects, if any.

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(5) requires, “A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(6) requires, “A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities.”

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to “control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.”

Note – Fact Sheet E.4 through Fact Sheet E.5 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for these subsections.

6. Sections E.3, E.4, and E.8

Each municipal facility, operation, and event will require a different set of control measures depending on the nature of activities that occur there and the types of materials that are stored

and used. Developing and maintaining a site-specific SWPPP for each High Priority Facility will help to ensure that employees responsible for facility operation are aware of the stormwater controls required for the site. *This will be an additional cost for each facility as outlined with CCWB before including Charitable Events.*

Staff Response to Comment City of Salinas – Fact Sheet E.6

According to the City of Salinas's existing SWMP, SWPPPs have already been developed for all municipal facilities. These SWPPPs are contained in Appendix F-1 of the City's SWMP. The proposed Order only requires SWPPPs for High Priority Facilities and Events.

Central Coast Water Board staff modified the language of Provision E.3 of the Order to clarify that the City can develop BMPs for similar types of non-High Priority Events and doesn't have to develop specific BMPs for each occurrence of a similar type of non-High Priority Event. Central Coast Water Board staff also modified the language of Provision E.4.a of the Order to clarify that the City can develop a SWPPP for similar types of High Priority Events and doesn't have to develop a specific SWPPP for each occurrence of a similar type of High Priority Event.

Central Coast Water Board staff modified the language of Provision E.4.a.viii to remove "operation or event". Provision E.4.a only applies to facilities and events and it may not be practical for SWPPPs to be kept on site at an event. Central Coast Water Board staff also added language to Fact Sheet E.6 to provide clarification on how a SWPPP may be implemented for an event. The City will develop a standard SWPPP for the type of event and the event organizer will implement the required BMPs during the event. Central Coast Water Board staff recommends, the City accomplish this by requiring the BMPs in the event permit conditions issued to the event organizers.

There are a number of storage areas and activities that are common at municipal facilities that have a high potential for polluting stormwater. Fueling and vehicle maintenance and storage areas are prone to spills and drips of various automotive fluids. Equipment and vehicle washing areas are designed to mix water with dirt and hydrocarbons, requiring special treatment of the wastewater (including pretreatment and diversion to the sanitary sewer, if allowed) and protection of wash areas from rainfall and runoff.

USEPA recommends the best way to avoid pollutant discharges from sources of pollution is to keep precipitation and runoff from coming into contact with stored chemicals and activity areas that use chemicals and materials, which can become sources of stormwater pollutants¹.

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(6) requires a program to reduce to the maximum extent practicable, pollutants in discharges from MS4s associated with the application of pesticides, herbicides, and fertilizer. USEPA recommends a focus on requiring source controls to reduce the amount of chemicals used². The Order specifies the use of integrated pest management; selection of native vegetation that is naturally adapted to local conditions and therefore requires fewer chemical and water inputs; reducing exposure of the chemicals to water by scheduling application according to weather forecasts and plant needs; and ensuring that municipal employees who are responsible for storing and handling these materials are educated about their use, disposal, and possible impacts.

Graffiti eradication is performed on a regular basis by the Permittee. Through the Graffiti Abatement Program, the Permittee works with residents and businesses to abate graffiti from

¹ Ibid.

² Ibid.

public property and spaces that have public frontage such as sound walls and fences. The requirements of this Order will ensure graffiti is removed in a manner that will prevent non-stormwater and wash water discharges that may contain pollutants such as debris, cleaning compound waste, paint waste, wash water, or other pollutants from discharging into storm drains.

Bridge and structural maintenance activities performed over water or near storm drains have the potential to discharge pollutants into storm drains or water bodies. The requirements of this Order will ensure the prevention of debris such as structural materials and coating debris, or other debris and pollutants generated in bridge and structure maintenance, from entering storm drains or water bodies.

Pavement washing, mobile cleaning and pressure washing generate wastewater containing pollutants that if not managed properly, will likely enter storm drains. The requirements of this Order will ensure BMPs are implemented to prevent discharge of polluted wash water and non-stormwater from these activities to storm drains.

The Order requires weekly visual observations of Municipal Facilities, Maintenance Operations, and Events. The Order also requires quarterly comprehensive site inspections be conducted for High Priority Municipal Facilities, Maintenance Operations, and Events and annual inspections for those facilities, operations and events not designated as high priority. Weekly inspections are an appropriate frequency to look for spills and other debris to prevent their spread and minimize pollutant discharge potential. Quarterly comprehensive inspections are an appropriate frequency to ensure that material stockpiles that might be moved or utilized on a seasonal basis are protected from precipitation and runoff. Also, quarterly inspections will allow inspectors to observe different types of operations that occur at different times of the year (e.g., landscape maintenance crews are less active in the winter). Quarterly visual observations are required so that inspectors can see in real time the qualitative nature of the stormwater discharge and so that corrective action can be taken where necessary to improve on-site stormwater controls. Non-priority facilities, operations, and events will be inspected less frequently.

The Order requires the Permittee to determine the degree of compliance with provisions of the Order and risk of pollutant discharge for each High Priority Municipal Facility, Maintenance Operation, and Event, expressed as an Inspection Rating. Inspection Ratings are determined using a methodology contained in Attachment G – Inspection Ratings. The purpose of this requirement is to measure the effectiveness of the Permittee's efforts at reducing pollutants in stormwater discharges and protecting water quality at such facilities, operations, and events. Comparison of Inspection Ratings over time for each High Priority Municipal Facility, Maintenance Operation, and Event also provides a means for the Permittee to measure improvements in program effectiveness. The Order provides flexibility by allowing the Permittee to propose for approval by the Central Coast Water Board Executive Officer an alternative method for assessing the effectiveness of BMP selection, implementation, installation, and maintenance. The Order also requires the Permittee to perform repeat inspections of low-performing High Priority Municipal Facilities and Operations. The Order defines low-performing facilities and operations as sites with significant non-compliance with the provisions of the Order or with high risk of pollutant discharge. The Permittee is required to continue reinspecting low-performing facilities and operations at 30-day intervals until there is a demonstrable improvement in the Inspection Rating of the facility or operation (e.g., an increase in Inspection Rating from "E" to "D" through improved BMP selection, implementation, installation, and/or maintenance). The Permittee is also required to track and compare improvements in Inspection Rating achieved through reinspection over time. The purpose of this requirement is to measure

the effectiveness of the Permittee's follow-up efforts at achieving improved conditions at low-performing facilities and operations. Thirty days is a reasonable amount of time for achieving BMP improvements capable of resulting in a demonstrable improvement in Inspection Rating. High Priority Municipal Events are not included in the requirement for reinspections because the Order assumes that most events are not on-going.

The Order also specifies that inspection procedures, results, and controls for each facility be documented to ensure that the site inspections are consistent and that maintenance of stormwater controls remains part of the municipality's standard operating procedures. The requirement for documentation will allow the Central Coast Water Board or USEPA to verify that periodic site inspections have been performed. Inspections can identify improperly stored materials, activities that should not be performed outside (e.g., changing automotive fluids, vehicle washing), and poor housekeeping practices.

Staff Note – Fact Sheet E.7 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for this subsection.

8. Section E.6

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(3) requires a program for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from MS4 systems.

Street and parking lot sweeping is a practice that some municipalities initially conducted for aesthetic purposes. However, the water quality benefits are now widely recognized. Street sweeping prevents particulate matter associated with road dust from accumulating on public streets and washing into storm drains.

The Order language addresses a number of important factors recognized by USEPA³ and impacting the effectiveness of a street sweeping program. The first factor is the type of equipment used. The Order language stipulates that when equipment needs to be replaced, high-performance sweepers are purchased preferentially. Street sweeping has traditionally been more effective at removing large-sized particles, but new equipment has been developed to remove smaller, fine-grained particles. Mechanical sweepers (broom-type) are usually the least expensive and are better suited to pick up large-grained sediment. Vacuum and regenerative air sweepers are better at removing fine grained sediment particles, but they are more expensive. Removal efficiency can be improved through tandem sweeping (i.e., two sweepers sweeping the same route, with one following the other to pick up missed material), or if the street sweeper makes multiple passes on a street.

The second factor influencing street sweeping effectiveness is the way in which the equipment is operated. The Order specifies that equipment be operated according to the manufacturers' operating instructions by operators who have been trained to sweep in accordance with the Order requirements in order to protect water quality.

The third determining factor is the degree to which parked cars block sweeper access to the curb. One of the best ways to ensure access to the curb is to establish parking restrictions

³ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011.

based on sweeping schedules and to inform residents of the schedule so they can voluntarily move their cars. The Order requires that the Permittee institute parking restrictions and/or a public outreach campaign requesting that cars be parked elsewhere to accommodate sweeping schedules.

Because not all streets are suitable for sweeping (e.g., those that don't have a curb and gutter), increased implementation of other trash/litter and source control BMPs are needed in those areas. *This will require hand pick-up and is labor intensive and more costly yet CCWB wants the City to remove curb and gutter installation as a requirement so costs will continually increase as development continues.*

Staff Response to Comment City of Salinas – Fact Sheet E.8

The Order does not specify that hand pick-up occur in areas not suitable for sweeping. The Order provides the City with the flexibility on what trash/litter source control BMPs it implements. The Order does not require the City to prevent curb and gutter installation in future development.

The Permittee is required to maintain documentation of sweeping events and characterize the quantity and composition of pollutants removed from roadways. Street sweeping data are relatively easy to track and maintain, so the Order includes requirements for reporting and assessment of the effectiveness of the sweeping activities based on equipment used, miles swept, and the amount of materials collected.

The street sweeping material may not reenter the MS4. The material must be dewatered in a contained area and the water treated with an appropriate and approved control measure or discharged to the sanitary sewer. The solid material will need to be stored and disposed of properly to avoid discharge during a storm event. Some materials may require special handling and disposal, and may not be authorized to be disposed of in a landfill.

Note – Fact Sheet E.9 through Fact Sheet E.12 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for these subsections.

13. Section E.14

Many municipalities use third-party contractors to conduct municipal maintenance activities in lieu of using municipal employees. USEPA recommends contractors performing activities that can affect stormwater quality to be held to the same standards as the Permittee⁴. For the Permittee to ensure that contractors are using stormwater controls and following standard operating procedures, these expectations must be defined in contracts between the Permittee and its contractors, and the Permittee shall conduct periodic site visits or other verification measures. *See comments in the findings and provisions comments regarding this section.*

Staff Response to Comment City of Salinas – Fact Sheet E.13

See responses in Findings and Provisions.

⁴ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011.

F. Commercial and Industrial *See applicable City comments in Findings and Permit provisions section F.*

Staff Response to Comment

See responses to City of Salinas comments in the Findings and Provision sections. No additional comments were provided by the City of Salinas in the Fact Sheet for Section F.

G. Residential *See City comments in Findings and provisions comments.*

Staff Response to Comment

See responses to City of Salinas comments in the Findings and Provision sections. No additional comments were provided by the City of Salinas in the Fact Sheet for Section G.

H. Illicit Discharge Detection and Elimination *See City comments in Findings and provisions comments.*

Staff Response to Comment

See responses to City of Salinas comments in the Findings and Provision sections. No additional comments were provided by the City of Salinas in the Fact Sheet for Section H.

J. Parcel-Scale Development [See City comments in Findings and provisions comments and comments below.](#)

1. Legal Authority

The following legal authority applies to Section J – Parcel-Scale Development.

2. Broad Legal Authority

CWA sections 402(p)(3)(B)(ii-iii), CWA section 402(a), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F), 40 CFR 131.12, and 40 CFR 122.26(d)(2)(iv).

3. Specific Legal Authority

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(2) provides that the Permittee develop and implement a management program which is to include “A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plans shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(v) provides that the Permittee shall include the following in its permit application for discharges from its municipal storm sewer: “Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.”

The following Phase II Final Rule Federal NPDES regulations and discussion directly apply to small MS4s. However, due to greater water quality impacts generally generated by large MS4s, Central Coast Water Board staff finds the Phase II Final Rule for small MS4s is applicable to larger MS4s such as the Permittee.

Federal NPDES regulation 40 CFR 122.34(b)(5)(i) requires regulated small MS4 operators to “develop, implement, and enforce a program to address stormwater discharges from new development and redevelopment sites that disturb greater than or equal to one acre to the MS4, including projects that disturb less than one acre that are part of a larger common plan of development or sale...” The regulations also require that the MS4 “ensure that controls are in place that would prevent or minimize water quality impacts.”

Federal NPDES regulation 40 CFR 122.34(b)(5)(ii) requires regulated small MS4 operators to, “1) Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for your community; 2) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State, Tribal or local law; and 3) Ensure adequate long-term operation and maintenance of BMPs.”

Federal NPDES regulation 40 CFR 122.34(b)(5)(iii) provides the following guidance:

If water quality impacts are considered from the beginning stages of a project, new development and potentially redevelopment provide more opportunities for water quality protection. EPA recommends that the BMPs chosen: be appropriate for the local community; minimize water quality impacts; and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, EPA encourages you to participate in locally-based watershed planning efforts which attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, EPA recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. EPA recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction or operation and maintenance. Storm water technologies are constantly being improved, and EPA recommends that your requirements be responsive to these changes, developments or improvements in control technologies.

4. Section J.1

This Order requires that the Permittee incorporate the standards outlined in Section J into development plan review and permitting procedures to impose conditions of approval or other enforceable mechanisms to ensure effective implementation of the requirements in Section J. USEPA states, "Specific standards are a critical component of a stormwater management program. However, even the best requirements need to be supported by a review program to ensure that the standards are met...The permittee must have the authority to withhold approvals when standards are not met."¹

¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 58.

This Order requires the Permittee to inform applicable project applicants of the requirements of Section J at the earliest possible stage in the development review process. Incorporating LID principles into the site design is easiest and most effective if done during preliminary project stages. LID site design is an iterative process; therefore, incorporating LID in the preliminary site design process minimizes major site design modifications, related to management of post-construction stormwater, at the end of the site design process. For these reasons, informing development project applicants at the earliest possible stage in the development review process of the requirements related to Section J is fundamental to optimizing LID at project sites.

5. Section J.2

The existing SWDS include a number of clear requirements; however, key portions of the SWDS are not written clearly enough to ensure effective implementation. This Order requires the Permittee to separate the SWDS into two separate sections to clearly identify, 1) which components are required for new development and redevelopment project applicants, and 2) which components of the SWDS are meant to provide support for SWDS implementation. The Central Coast Water Board recognizes the amount of resources invested in the development of the existing SWDS; therefore, this Order outlines SWDS restructuring, without eliminating the existing document.

6. Section J.3

This Order requires the Permittee to require small-scale new development and redevelopment projects that create and/or replace 2,000 square feet of impervious surface to incorporate some basic BMPs into project site designs. Small-scale projects can cumulatively cause impacts to watershed processes. These BMP requirements include source control measures that are recognized nationwide as basic, effective techniques to minimize the introduction of pollutants into stormwater runoff. This Order also requires the Permittee to require small-scale projects to include at least two site design elements that are basic, effective techniques to reduce the amount of runoff and pollutants being discharged from the project site. One of the options is to include amended soils, with compost, on the project site. Compost has been a component of many bioretention soil mixes because it has been shown to increase water holding capacity and attenuate pollutants from stormwater. These requirements present fewer technical challenges to implement than flow control requirements and offer water quality treatment benefits at a meaningful scale in the urban development context.

It is necessary for the Permittee to gain the legal authority to ensure small-scale projects maintain any installed BMPs in perpetuity in order to ensure any installed BMPs continue to function as originally designed. Such legal authority provides the Permittee the means to correct an ineffective BMP, if such correction is found to be necessary. Maintenance agreements and regular Permittee inspections are not required for Non-Priority Development Project BMPs.

7. Section J.4

This Order requires the Permittee to ensure that all new development and redevelopment projects that are considered Priority Development Projects adhere to the applicable requirements and operate and maintain any BMPs constructed pursuant to those requirements.

The CWA section 402(p)(3)(B)(iii) requires, in part, that pollutants in stormwater be reduced to the MEP. The USEPA's definition is intentionally broad to provide maximum flexibility in MS4

permitting and to give municipalities the opportunity to optimize pollutant reductions on a program-to-program basis. The State Water Board's Office of Chief Counsel has stated that to achieve the MEP standard, municipalities must employ whatever BMPs are technically feasible (i.e., are likely to be effective) and are not cost prohibitive with the major emphasis on technical feasibility.² Because runoff rates can vary from storm to storm, the statistical probabilities of rainfall or runoff events become significant and are central to the control of pollutants through cost effective BMPs. Further, it is recommended that BMPs be designed to manage both flows and water quality for best performance³. The stormwater regulations require that an MS4 develop and implement a program to address post-construction discharges from all new development and redevelopment projects, and ensure the long-term operation and maintenance of these controls (see 40 CFR 122.34(b)(5)).

This Order requires the use of stormwater controls, with the aim of maintaining or restoring the pre-development stormwater runoff conditions at project sites. Many traditional stormwater management practices, and the permit language that drives them, fail to address modifications to watershed processes (such as increases in the quantity of stormwater discharges, decreases in groundwater recharge, alteration of sediment transport, decreases in pollutant attenuation, and decreases in evapotranspiration) that are caused by altered stormwater conditions resulting from development. Frequently these modifications to watershed processes cause degradation to receiving waters. Protecting and restoring the physical, chemical, and biological integrity of receiving waters must be a central issue in stormwater permits. In a recent report, NRC recommends that the NPDES stormwater program examine the impacts of stormwater flow, treat flow as a surrogate for other pollutants, and include the necessary control requirements in stormwater permits.⁴ Specifically, the report recommends that the volume retention practices of infiltration, evapotranspiration, and rainwater harvesting be used as primary stormwater management mechanisms. With similar reasoning, USEPA recommends use of a permit condition that is based on maintaining or restoring predevelopment hydrology. Additional information on the development of a post-construction program for Phase II permittees can be found at the CWP.⁵ Also, USEPA's green infrastructure website includes information on post-construction controls and programs⁶.

Without the appropriate measures in place, land development causes higher discharge volumes and higher pollutant loads than pre-development landscapes, causing modifications to watershed processes. These changes can occur even at the parcel-scale. When development occurs in previously undeveloped areas, the resulting alterations to the land can dramatically change how water is transported and stored. Development creates impervious surfaces and compacted soils which increases surface runoff and decreases groundwater infiltration. These changes can increase the volume and velocity of runoff, the frequency and severity of flooding, and the magnitude of peak storm flows, as well as the type, concentration, and quantity of

² Jennings, Elizabeth. *Memo Entitled Definition of Maximum Extent Practicable*. State Water Resources Control Board, 11 February 1993.

³ Roesner, L.A. "Urban Runoff Pollution – Summary Thoughts – The State of Practice Today and For the 21st Century." *Water Science and Technology*. 39.12 (1999): 353-360.

⁴ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 23.
<www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf>.

⁵ *Managing Stormwater in Your Community: A Guide for Building an Effective Post-Construction Program*, EPA Publication No: 833-R-08-001. Ellicott City, MD: Center for Watershed Protection, July 2008. Web. 18 August 2011 <www.cwp.org/postconstruction>.

⁶ "Managing Wet Weather with Green Infrastructure." *National Pollutant Discharge Elimination System (NPDES)*. USEPA. Web. 18 August 2011. <http://cfpub.epa.gov/npdes/home.cfm?program_id=298>.

pollutants in discharges. This Order includes requirements for the Permittee to require new development and redevelopment projects to manage stormwater to maintain, protect and, where necessary, restore watershed processes at the parcel-scale by having post-construction hydrology mimic the natural hydrology of the area.

USEPA recommends a simpler, but reasonably approximate 'mimicking the natural hydrograph' approach which can typically be accomplished by retaining (as opposed to detaining for later discharge) on a developed site, the volume of water that was retained prior to development, through the mechanisms of infiltration, evapotranspiration, and capture and use. By significantly reducing the volume of stormwater discharges, these mechanisms significantly reduce the discharge of pollutants in stormwater and maintain watershed processes, making discharge volumes the ideal all-around focus and metric for stormwater management. These provisions must be clear about the retention requirement (e.g., a rain garden with an under drain likely functions more as a detention and filtration system than an infiltration system).⁷ The best way to mitigate stormwater impacts from new developments is to use practices to treat, store, and infiltrate runoff on-site to mimic more natural runoff patterns. Innovative site designs that reduce imperviousness and disperse smaller-scale LID practices throughout a site are effective ways to achieve the goals of reducing flows and improving water quality.

(a) Section J.4.a

This Order requires the Permittee to use, in the interim, the existing applicability criteria for designating Priority Development Projects, with a few modifications. These criteria establish the different categories of new development and redevelopment projects that the Permittee must regulate under this Order. These categories are defined on the basis of the land use and the amount of impervious surface created and/or replaced by the project because impervious surfaces increase flows and contribute pollutants to runoff and certain land uses are sources of pollutants. Impervious surfaces can neither absorb water nor remove pollutants as the natural, vegetated soil they replaced can. Also, urban development creates new pollution sources which can lead to increased pollutant discharges to receiving waters. This Order requires the Permittee to revise the SWDS to require all new development and redevelopment projects that create or replace 10,000 square feet or more of impervious surface to be considered a Priority Development Project. Water Board staff consider the 10,000-square foot threshold to be appropriate, since staff expects it will reduce the cumulative effect of many small projects that cause incremental flow rate increases. The threshold is also consistent with requirements in other Phase I NPDES stormwater regulations throughout California.

(b) Section J.4.b

This Order requires the Permittee to require Priority Development Project applicants to develop and submit for approval a plan to demonstrate the applicant has met the applicable stormwater management requirements. The purpose of this plan is for the Permittee to be able to verify project applicants incorporate the applicable stormwater management requirements prior to constructing the project. Additionally, this documentation is necessary so Central Coast Water Board staff can verify the Permittee is sufficiently applying the applicable stormwater management requirements to the applicable development projects.

⁷ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 54.

(c) Section J.4.c

This Order requires the Permittee to require development project applicants to go through a process to maximize LID at project sites. This includes incorporating LID principles in the site design to minimize the project impact and using LID BMPs to manage stormwater that is generated post-development. Utilizing LID principles in the site design, such as preserving areas with permeable soils, minimizing the impervious footprint, and avoiding excess grading, will result in a smaller volume of water to manage post-development. USEPA explains that imperviousness has been shown to correlate with water quality impacts. Managing the creation of impervious surfaces, such as reducing the footprint of streets, parking lots, and driveways, will minimize water quality impacts. Protecting vegetation, native soils, and conserving water can also help ensure the hydrologic qualities of the site remain intact.⁸

(d) Section J.4.d

This Order includes source control measures that the Permittee must require to be included in all Priority Development Projects. These measures are recognized nationwide as basic, effective techniques to minimize the introduction of pollutants into stormwater runoff. This Order retains enough flexibility such that Priority Development Projects are not forced to include measures inappropriate, or impracticable, to the projects. This Order does not preclude the Permittee from requiring additional measures that may be applicable and appropriate.

(e) Section J.4.e

This Order requires the Permittee to require project applicants to manage rainfall using uniformly distributed decentralized controls, natural treatment, and volume reduction BMPs to achieve numeric criteria for stormwater management. LID BMPs are a solution to managing rainfall in this manner. The goal of LID is to mimic the pre-development natural hydrologic condition of the site, by minimizing disturbed areas and impervious cover and then infiltrating, storing, detaining, evapotranspiring, and/or biotreating stormwater runoff close to its source, so that stormwater does what it would have done before development. LID employs principles such as preserving and recreating natural landscape features and minimizing imperviousness to create functional and appealing site drainage that treats stormwater as a resource, rather than a waste product. Practices used to adhere to these LID principles include measures such as preserving undeveloped open space, rain barrels and cisterns, green roofs, permeable pavement, and biotreatment through rain gardens, bioretention units, bioswales, and planter/tree boxes. Additional community and environmental benefits may be achieved with the use of LID. LID is a cost-effective, beneficial, holistic, integrated stormwater management strategy.

USEPA finds that implementing LID strategies and practices can reduce stormwater management costs. In terms of costs, LID techniques can reduce the amount of materials needed for paving roads and driveways and for installing curbs and gutters. LID techniques can be used to reduce the total amount of impervious surface, which results in reduced road and driveway lengths and reduced costs. Other LID techniques, such as grass swales, can be used to infiltrate roadway runoff and eliminate or reduce the need for curbs and gutters, thereby reducing infrastructure costs. Also, by infiltrating or evaporating runoff, LID techniques can reduce the size and cost of flood-control structures.

⁸ Ibid, p. 60.

USEPA reviewed and evaluated seventeen case studies to compare the projected or known costs of LID practices with those of conventional development approaches. USEPA concludes that applying LID techniques can reduce project costs and improve environmental performance. In most cases, LID practices were shown to be both fiscally and environmentally beneficial to communities. In a few cases, LID project costs were higher than those for conventional stormwater management projects. However, in the vast majority of cases, significant savings were realized due to reduced costs for site grading and preparation, stormwater infrastructure, site paving, and landscaping. Total capital cost savings ranged from 15 to 80 percent when LID methods were used, with a few exceptions in which LID project costs were higher than conventional stormwater management costs.⁹

This Order requires the Permittee to make interim modifications to the flow control numeric criteria that are included in the Permittee's existing SWDS. The purpose of these modifications is to improve clarity and remove ambiguity of the existing numeric criteria. These criteria will be used until they are replaced with the final flow control requirements.

(f) Section J.4.f

This Order requires the Permittee to develop flow control numeric criteria for Priority Development Projects, to replace the existing numeric criteria, in order to achieve desired conditions for primary watershed processes within the Permittee's Urban Subwatersheds. This Order explains the Permittee must use the methodology developed through the Central Coast Joint Effort for Hydromodification Control, to derive this numeric criteria. In addition to addressing the protection of watershed processes at the Urban Subwatershed and greater watershed scale, it is also important to address the protection of watershed processes at the parcel-scale. Cumulative impacts at the parcel-scale cause alterations to watershed processes; therefore, implementing measures to maintain, protect and, where necessary, restore watershed processes at the parcel-scale will result in maintenance and in some cases improvements to watershed processes. This Order also requires the Permittee to develop applicability thresholds to identify what projects will be required to adhere to the revised flow control requirements. The Central Coast Joint Effort for Hydromodification Control will provide guidance to the Permittee for development of the applicability thresholds. It is important for the Permittee to account for multiple project factors in establishing the applicability thresholds to account for the cumulative effects of urbanization and the diverse threats to watershed processes from all potential project types, sizes, and locations.

USEPA explains the importance of replicating the pre-development hydrology to protect and preserve both the water resources onsite and those downstream. For example, if prior to development, 25 percent of the annual rainfall runs directly into the stream and the remainder infiltrates into the ground or is evapotranspired into the air, then the post-development goal should be to limit runoff to 25 percent of the annual precipitation while maintaining the correct aquifer recharge rate. This has the benefit, in most cases, of delivering water to the stream at approximately the same rate, volume, duration and temperature as the stream had naturally evolved to receive prior to development. The result will be to eliminate or minimize the erosion of

⁹ USEPA. *Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices*, EPA 841-F-07-006. December 2007. Web. 18 August 2011. <<http://www.epa.gov/owow/NPS/lid/costs07/>>.

streambeds and streambanks, significantly reduce the delivery of many pollutants to water bodies, and retain historical instream temperatures.¹⁰

(g) Section J.4.g

This Order establishes the different categories of new development and redevelopment projects that the Permittee must require to adhere to the final treatment requirements. Similar to the Permittee's existing Priority Development Project applicability criteria, these categories are defined on the basis of the land use and the amount of impervious surface created and/or replaced by the project, because certain land uses and greater amounts of impervious surface contribute more pollutants. With the exception of sidewalks, bicycle lanes, and trail projects, the rest of the project categories for Priority Development Projects trigger adherence to the final treatment criteria at the lower impervious threshold of 5,000 square feet. This threshold is consistent with State Water Board guidance, court decisions, and other Water Quality Control Boards' requirements. In the precedential decision contained in the State Water Board Order WQ 2000-11, the State Water Board upheld the Standard Urban Stormwater Mitigation Plan requirements issued by the Los Angeles Water Quality Control Board's Executive Officer on March 8, 2000, and found that they constitute maximum extent practicable for addressing pollutant discharges resulting from Priority Development Projects. The State Water Board reaffirmed that Standard Urban Stormwater Mitigation Plan requirements constitute maximum extent practicable in State Water Board Order WQ 2001-15. This Order's requirement that new development or redevelopment projects creating and/or replacing 5,000 square feet or more of impervious and/or turf surface shall adhere to the final treatment requirements is consistent with the Standard Urban Stormwater Mitigation Plan provisions upheld by the State Water Board. This Order's applicability thresholds for the final treatment requirements are also consistent with Order No. R9-2007-0001 issued by the San Diego Water Quality Control Board, Order Nos. R4-2009-0057 and R4-2001-182 issued by the Los Angeles Water Quality Control Board, Order No. 2009-0030 issued by the Santa Ana Water Quality Control Board, and State Water Board's Order WQ 2003-0005 issued to Phase II MS4s. Under Order WQ 2003-0005, Phase II MS4s with populations of 50,000 and greater are required to apply the lower 5,000 square foot threshold for requiring stormwater treatment systems by April 2008. This Order includes a higher threshold of 10,000 square feet of impervious area for sidewalk, bicycle lane, and trail projects because of the greater stormwater benefit that bike lanes, sidewalks, and trails provide by encouraging less use of automobiles.

Although most roads and parking lots are not repaired, modified, or reconstructed with great frequency, most municipalities engage in these types of activities on a fairly regular basis. Since roads and parking lots are often a significant percentage of urban impervious areas, these are land uses with significant opportunity for implementation of better stormwater BMPs. Because road and parking lot work is a major investment of resources, it makes sense to incorporate stormwater controls when work is ongoing for another purpose. There are numerous stormwater management practices for streets, street rights-of-way, and parking lots including Portland, Oregon-style green streets planters and bump-outs¹¹, porous pavements¹², Seattle,

¹⁰ USEPA. *Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act*, EPA 841-B-09-001. December 2009. Web. 18 August 2011. p. 9,

<http://www.epa.gov/owow/NPS/lid/section438/pdf/final_sec438_eisa.pdf>.

¹¹ "Portland Green Street Program." *Portland Bureau of Environmental Services*. City of Portland, Oregon. Web. 18 August 2011. <<http://www.portlandonline.com/bes/index.cfm?c=44407>>.

Washington-style street edge alternatives bioretention cells¹³, parking lot bioretention islands^{14,15}, and a variety of other BMPs¹⁶.

This Order requires each Priority Development Project, meeting the final treatment applicability thresholds, to treat the total amount of runoff identified by the hydraulic sizing criteria for treatment systems with LID treatment measures onsite. This Order recognizes the benefits of harvesting and reuse, infiltration, and evapotranspiration and establishes these methods at the top of the LID treatment hierarchy. There are certain situations where biotreatment is a valid LID treatment measure and this Order allows the Permittee the flexibility to make this determination so that Priority Development Projects are not forced to include measures inappropriate or infeasible to the project sites. Section J specifies minimum specifications for biotreatment systems to be considered as LID treatment and requires the Permittee to develop model biotreatment soil media specifications. The Permittee may reference or directly use the Model Bioretention Soil Media Specifications, developed by San Francisco Bay municipalities, pursuant to the San Francisco Bay Regional Water Quality Control Board's requirements, for the Permittee's biotreatment soil media specifications.

In contrast with the traditional approaches, the guiding principle behind capturing the volume of water generated by smaller storm events is to control stormwater at the source. It is much easier and cost efficient to prevent polluted stormwater from entering water bodies than trying to remove pollution once it's in receiving water bodies. Capturing stormwater and managing it onsite by runoff reduction techniques seeks to maximize the area available for infiltration so that runoff volume and pollutant concentrations are reduced. This is achieved through a variety of site design and engineered infiltration techniques. In addition to the environmental benefits, many community value benefits are realized including increased aesthetics and land value.

This Order lists the hydraulic sizing design criteria that the stormwater treatment systems installed for Priority Development Projects, meeting the final treatment applicability thresholds, must achieve. These criteria ensure that stormwater treatment systems will be designed to treat the optimum amount of relatively smaller-sized runoff-generating storms each year. That is, the treatment systems will be sized to treat the majority of rainfall events generating polluted runoff but will not have to be sized to treat the few very large annual storms as well. For many projects, such large treatment systems become infeasible to incorporate into the projects. This Order also adds a combined flow and volume hydraulic design criteria to accommodate those situations where a combination approach is deemed most efficient.

¹² "Post-Construction Stormwater Management in New Development and Redevelopment." *National Pollutant Discharge Elimination System (NPDES)*. USEPA. Web. 18 August 2011. <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=min_measure>.

¹³ "Street Edge Alternatives." *Seattle Public Utilities*. City of Seattle. Web. 18 August 2011. <http://www.seattle.gov/util/About_SPU/Drainage_&_Sewer_System/GreenStormwaterInfrastructure/NaturalDrainageProjects/StreetEdgeAlternatives/index.htm>.

¹⁴ "Bioretention - Commercial/Industrial/Institutional (Ultra Urban Retrofits)." *Urban Design Tools - Low Impact Development*. Low Impact Development Center, Inc. Web. 18 August 2011. <http://www.lid-stormwater.net/biocomind_home.htm>.

¹⁵ "Bioretention - Bioretention Installations in Prince George's County, MD." *Department of Civil & Environmental Engineering*. University of Maryland, 21 July 2004. Web. 18 August 2011. <<http://www.civil.umd.edu/~apdavis/Bioinstallations.htm>>.

¹⁶ "Green Infrastructure - Managing Wet Weather with Green Infrastructure." *National Pollutant Discharge Elimination System (NPDES)*. USEPA. Web. 18 August 2011. <http://cfpub.epa.gov/npdes/home.cfm?program_id=298>.

(h) Section J.4.h

With the wide array of runoff reduction practices that can infiltrate, evapotranspire, and capture and use stormwater there should be very few situations where management of stormwater using combinations of those mechanisms to meet flow control and treatment numeric requirements is not possible. However, it is certainly reasonable to expect that a series of physical constraints may exist, particularly in redevelopment situations, making it infeasible to achieve flow control and treatment numeric requirements onsite. Therefore, this Order provides the Permittee the option of creating offsite mitigation and/or payment in-lieu fee programs. Appropriate schedules for payment and implementation of mitigation measures must be established to ensure stormwater impacts are mitigated in a timely manner.¹⁷

USEPA provides rationale for why redeveloping brownfield developments may justify alternative compliance options. Redeveloping already degraded sites can reduce regional land consumption and minimize new land disturbance. Minimizing land disturbance and impervious cover is critical to maintaining watershed health. In addition to water quality benefits, cleaning up and reinvesting in brownfield properties increases local tax bases, facilitates job growth, utilizes existing infrastructure, takes development pressures off of undeveloped, open land, and both improves and protects the environment. The effect of low-density urbanization on watersheds and the hydrologic cycle is substantial. High-density development, including vertical density, slows land consumption rates and accommodates more land uses on a smaller footprint. Finally, mixing land uses and promoting transit-oriented development can directly reduce runoff since mixed-use developments have the potential to use surface parking lots and transportation infrastructure more efficiently, requiring less pavement.¹⁸

(i) Section J.4.i

Appropriate operation and maintenance are critical aspects to the function of any suite of BMPs. In many cases, controls may be located on private property, and it is necessary to establish provisions to assure responsibility and accountability for the operation and maintenance of these controls.

This Order requires that the Permittee obligate the owners of long-term BMPs to properly operate and maintain the BMPs in perpetuity. This obligation can take the form of a maintenance agreement between the land owner and/or the developer, which would be transferred to subsequent owners, between the Permittee and a homeowner's association, covenants and restrictions on the property deed itself, or other types of contract requiring all owners of the property to properly maintain and operate management practices. The maintenance agreement shall allow the Permittee or the Permittee's designee to perform maintenance or corrective actions neglected by the property owner/operator, and bill or recoup costs from that owner/operator.

Certain control measures implemented or required by the Permittee for urban runoff management might create a habitat for vectors (e.g., mosquitoes, rodents) if not properly designed or maintained. Close collaboration and cooperative efforts among the Permittee, local vector control agencies, Central Coast Water Board staff, and the State Department of Public

¹⁷ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 54.

¹⁸ *Ibid*, p. 54.

Health are necessary to minimize potential nuisances and public health impacts resulting from vector breeding.

A recent NRC report discusses the importance of long-term maintenance and municipal oversight of stormwater BMPs.¹⁹

One of the weakest parts of most stormwater management programs is the lack of information about, and funding to support, the long-term maintenance of structural BMPs. If structural BMPs are not inspected and maintained on a regular basis, the stormwater management program is likely to fail. This also negatively impacts the design process—if there is no inspection program and no accountability for maintenance, the designer has no incentive to build better, more maintenance- friendly structural BMPs. Finally, without an accurate assessment of the maintenance needs of a structural BMP, land owners and other responsible parties cannot anticipate their total costs over the lifetime of the device.

Almost all structural BMPs require active long-term maintenance in order to continue to provide volume and water quality benefits (Hoyt and Brown, 2005; Hunt and Lord, 2006b). Furthermore, a typical municipality may contain hundreds or thousands of individual structural BMPs within its jurisdiction. Thus, the long-term obligations for maintenance are considerable. For example, the annual maintenance cost of 100 medium-sized wet ponds (one-half acre to 2 acres) is estimated to be a quarter of a million dollars (Hunt and Lord, 2006c). Currently, the majority of municipal stormwater programs do not have adequate plans or resources in place for the long-term maintenance of structural BMPs (GAO, 2007). [If installed by developments the City requires that they be included in a maintenance district for funding maintenance so no problem for us there. It also is easier to maintain the percolation of one pond than require the maintenance of say 400 bioretention planters including inspection which is what is required of the permit.](#)

Staff Response to Comment City of Salinas – Fact Sheet J.7.i (1)

Central Coast Water Board staff appreciates the information about the maintenance districts for private developments.

The Order requires the installation of decentralized BMPs to manage stormwater runoff on new development and redevelopment projects, instead of centralized BMPs, because decentralized BMPs are typically more effective at protecting watershed processes impacted by stormwater management. Central Coast Water Board staff recognizes that challenges exist for overseeing the long-term effectiveness of post-construction BMPs. However, Central Coast Water Board staff finds that with a combination of self-inspection programs and City oversight, the long-term maintenance requirements are reasonable.

A number of issues confront the long-term maintenance of structural BMPs. First, legal and financial responsibility for maintenance must be assigned. Historically stormwater ownership and responsibility have been poorly defined and implemented (Reese and Presler, 2005). [Not if part of a maintenance district. Also it is esier to determine if a structural BMP is working verus and LID BMP since manufacturer's have set procedures](#)

¹⁹ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 368. <www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf>.

for maintenance to follow. If a party is an industrial facility that is required to obtain a permit, then responsibility for maintaining structural BMPs rests with the permittee. Other instances are more ambiguous. For residential developments, the responsibility for long-term maintenance could be assigned to the developer (e.g., establishing long-term financial accounts for maintenance), individual landowners, homeowners associations, or the municipality itself. Some cities, like Austin and Seattle, assume responsibility for long-term maintenance of structural BMPs in residential areas. Concerns over assigning responsibility to individual residential landowners or homeowners associations include insufficient technical and financial resources to conduct consistent maintenance and a lack of inspection to require maintenance. A recent survey of municipal stormwater programs found that less than one-third perform regular maintenance on stormwater detention ponds or water quality structural BMPs in general residential areas (Reese and Presler, 2005). To ensure that adequate maintenance will occur, municipalities can require performance securities (performance bonds, escrow accounts, letter of credit) that ensure adequate funds are available for maintenance and repair in the event of failure to maintain the structural BMP by the responsible party.

Staff Response to Comment City of Salinas – Fact Sheet J.7.i (2)

LID BMPs can be structural and non-structural. Guidance for long-term maintenance of LID BMPs is available for many LID BMPs. For example, the California Stormwater Quality Association provides guidance for maintaining its new development and redevelopment BMPs.

An effective maintenance program also requires a system to inventory and track structural BMPs, inspection/monitoring, and enforcement against noncompliance. The large number of structural BMPs to track and manage creates management challenges. Municipal stormwater programs must administer their regulatory programs, perform inspection and enforcement activities, and maintain structural BMPs in public lands/rights-of-way and sometimes in residential areas. Municipal programs often do not have adequate staff to ensure that these maintenance responsibilities are adequately carried out. The lack of adequate staff for inspection and an inadequate system for prioritizing inspections have been repeatedly pointed out (Duke and Beswick, 1997; Duke, 2007; GAO, 2007). *We agree wholeheartedly. We still have to inspect the LID BMPs to see and those are even more challenging to determine if they still function adequately and have been maintained.*

Staff Response to Comment City of Salinas – Fact Sheet J.7.i (3)

See staff response to Comment City of Salinas – Fact Sheet J.7.i (3)

Note – The remainder of Fact Sheet J.7 is not shown. No comments were provided by the City of Salinas in the remainder of Fact Sheet J.7.

K. Construction Site Management See City comments in Findings and Provisions comments and comments below.

1. Legal Authority

The following legal authority applies to Section K – Construction Site Management:

2. Broad Legal Authority

CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

3. Specific Legal Authority

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D) requires the proposed management program include “A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in stormwater runoff from construction sites to the municipal storm sewer system.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D)(1) requires the proposed management program include “A description of procedures for site planning which incorporate consideration of potential water quality impacts.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D)(2) requires the proposed management program include “A description of requirements for nonstructural and structural best management practices.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(D)(3) requires the proposed management program include “A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(A) requires each Permittee to demonstrate that it can control “through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by stormwater discharges associated with industrial activity and the quality of stormwater discharged from site of industrial activity.”

Federal NPDES regulation 40 CFR 122.26(b)(14) requires “The following categories of facilities are considered to be engaging in ‘industrial activity’ for the purposes of this subsection: [...] (x) Construction activity including cleaning, grading and excavation activities [...].”

Federal NPDES regulation 40 CFR 122.44(d)(1)(i) requires NPDES permits to include limitations to “control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause, have reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.”

4. Section K.1

To effectively conduct a construction site management program, the Permittee must know where construction activity is occurring. A construction site inventory tracks information such as

project size, disturbed area, distance to any water body or flow channel, when the SWPPP was approved by the Permittee, and whether the project is covered by the General Construction Permit. This inventory will allow the Permittee to track and target its inspections. As previously requested we need to know when applicants file SWPPPs and NOIs from the SMARTS program for our permit area. Is there a way that we can automatically be notified when this occurs including revisions? This will be critical in tracking who is doing what when and where and also if applicants are complying with modifications we request in a timely manner.

Staff Response to Comment City of Salinas – Fact Sheet K.4

See Staff Response to Comment City of Salinas – Provision K.2.b. In addition, staff is not aware of the SMARTS system having the capacity to send automatic notifications, however the data submitted into the SMARTS system is publically accessible. The City is responsible for the oversight of their own construction requirements and is not responsible for knowing whether or not a site is keeping up to date on requirements of the Construction General Permit. The City's responsibility with regards to the Construction General Permit is limited to the City verifying that a site has obtained coverage under the Construction General Permit. This verification is typically achieved by a municipality requiring a WDID number to be provided before issuance of City permits for applicable construction sites.

5. Sections K.2, K.3, and K.4

Construction land disturbance exposes soil to erosion processes and increases the potential for sediment mobilization, runoff, and deposition in receiving waters. Construction sites without adequate BMP implementation result in sediment runoff rates that greatly exceed natural erosion rates of undisturbed lands, causing siltation and impairment of receiving waters. In addition to sediment, stormwater discharges from construction sites generally include other pollutants such as phosphorus and nitrogen, petroleum derivatives, and other construction-related pollutants and solid wastes. The Order requires the Permittee to require construction site operators to meet certain minimum stormwater requirements relating to erosion and sediment control and source control. These minimum requirements specify the expectations for addressing erosion control, sediment control, and source control measures at construction sites.

EPA's Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category¹ require construction site owners and operators to implement a range of erosion and sediment control measures and source control practices to control pollutants in discharges from construction sites. These standards are broadly applicable to all construction activity disturbing one or more acres and are the basis for the Order's minimum requirements for larger sites. They provide an objective means of describing appropriate erosion and sediment control BMPs, source controls on construction site waste and storage of building materials, and other reasonable components of the Permittee's program to reduce pollutants to the maximum extent practicable in stormwater from construction sites.

Prioritization of construction sites in terms of risk allows the Permittee to use resources and staff time most effectively. The Permittee is required to identify priority sites based on the nature and extent of the construction activity, slope of the site, proximity to receiving waters, the characteristics of soils, and the water quality status of the receiving water. The State Water Board has identified that larger construction sites Since larger sites (1 acre and up) are required to file a NOI and SWPP this also goes towards the request to be notified as above. tend to be at increased risk for discharge of sediment and other pollutants and therefore requires larger sites

¹ "Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category, Final Rule." *Federal Register* 74 (1 December 2009): 62996-63058. Web.

to be enrolled in the General Construction Permit. The State Water Board allows some lower risk sites to qualify for an erosivity waiver. This Order uses this State Water Board established priority ranking for construction sites and has the Permittee designate as high priority sites that are required to enroll in the General Construction Permit and that do not qualify for an erosivity waiver.

Staff Response to Comment City of Salinas – Fact Sheet K.5

See Staff Response to Comment City of Salinas – Fact Sheet K.4.

6. Section K.5

The Order requires the review and prior approval of source control and erosion and sediment control plans for priority sites as well as review and approval of plans for non-priority sites to ensure that construction activities adhere to the Permittee's minimum stormwater control requirements. Review of source control and erosion and sediment control plans is necessary to verify the adequacy of proposed stormwater controls and to verify compliance with all applicable requirements in the Permittee's ordinance or other regulatory mechanisms, as well as compliance with control measure standards and specifications. A formalized review procedure ensures consistent review of plans by specifying the requirements for plans being submitted, the schedule for review, and general conditions for approval. The site plan review process also provides a way to track construction activities and enforce standards.

A good site plan review process provides the Permittee with the opportunity to comment – early and often – on a project's proposed number, type, location, and sizing of stormwater control measures that will be in place prior to, during, and at the conclusion of active construction. It is important to keep in mind that a site plan is a “living document” that may change during the life of the project; however, it is critical that the site plan be adequately reviewed and initially based on established policy, guidelines, and standards. The plan is the framework for stormwater control implementation and can serve as the basis for enforcement action on a project site.

The Order requires the Permittee to review plans before construction activity begins to ensure that the plans are consistent with the standards specified in Section K. The Order language also includes some key requirements during the plan review process. The plan must include the rationale used for selecting or rejecting control measures (for example, why a silt fence was selected or why a sediment trap was not included). Finally, plan reviewers must be trained and must document their review. Documentation of review can be done by using a checklist or similar process. *Is the State Board still responsible for SWPPP review for SMARTS submitted sites or is the City?*

Staff Response to Comment City of Salinas – Fact Sheet K.6

The City is not responsible for reviewing SWPPPs submitted to SMARTS. The City is responsible for reviewing source control and erosion and sediment control plans to ensure that the plans contain adequate and appropriate site-specific construction site BMPs and other provisions as required by this Order. See the provisions in Section K.5 of the Order.

Note – Fact Sheet K.7 through Fact Sheet K.10 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for these subsections.

L. Development Planning and Stormwater Retrofits *See City comments in Findings and Provisions comments and comments below.*

1. Legal Authority

The following legal authority applies to Section L - Development Planning and Stormwater Retrofits:

2. Broad Legal Authority

CWA sections 402(p)(3)(B)(ii-iii), CWA section 402(a), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B,C,E, and F), 40 CFR 131.12, and 40 CFR 122.26(d)(2)(iv).

3. Specific Legal Authority

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A) requires that the proposed management program shall be based on “a description of structural and source control measures to reduce pollutants in runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls.” Structural and source control measures include retrofits.

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(2) provides that the Permittee develop and implement a management program which is to include “A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plans shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(4) requires that the description of structural and source control measures shall include, at a minimum, “a description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible.” *Again MCWRA has jurisdiction over flood control.*

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This would apply to any flood management projects that the City implements in the future and existing structural flood control devices, if there are any, within the City’s jurisdiction that the City owns and operates. If the City has no flood management projects then this federal regulation would not apply to the City.

Federal NPDES regulation 40 CFR 122.26(d)(2)(v) provides that the Permittee shall include the following in its permit application for discharges from its municipal storm sewer: “Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.”

The following Phase II Final Rule Federal NPDES regulations and discussion directly apply to small MS4s. However, due to greater water quality impacts generally generated by large MS4s, Central Coast Water Board staff finds the Phase II Final Rule for small MS4s is applicable to larger MS4s such as the Permittee.

Federal NPDES regulation 40 CFR 122.34(b)(5)(iii) provides the following guidance:

If water quality impacts are considered from the beginning stages of a project, new development and potentially redevelopment provide more opportunities for water quality protection. USEPA recommends that the BMPs chosen: be appropriate for the local community; minimize water quality impacts; and attempt to maintain pre-development runoff conditions. In choosing appropriate BMPs, USEPA encourages you to participate in locally-based watershed planning efforts which attempt to involve a diverse group of stakeholders including interested citizens. When developing a program that is consistent with this measure's intent, USEPA recommends that you adopt a planning process that identifies the municipality's program goals (e.g., minimize water quality impacts resulting from post-construction runoff from new development and redevelopment), implementation strategies (e.g., adopt a combination of structural and/or non-structural BMPs), operation and maintenance policies and procedures, and enforcement procedures. In developing your program, you should consider assessing existing ordinances, policies, programs and studies that address storm water runoff quality. In addition to assessing these existing documents and programs, you should provide opportunities to the public to participate in the development of the program. Non-structural BMPs are preventative actions that involve management and source controls such as: policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation; policies or ordinances that encourage infill development in higher density urban areas, and areas with existing infrastructure; education programs for developers and the public about project designs that minimize water quality impacts; and measures such as minimization of percent impervious area after development and minimization of directly connected impervious areas. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. USEPA recommends that you ensure the appropriate implementation of the structural BMPs by considering some or all of the following: pre-construction review of BMP designs; inspections during construction to verify BMPs are built as designed; post-construction inspection and maintenance of BMPs; and penalty provisions for the noncompliance with design, construction or operation and maintenance. Storm water technologies are constantly being improved, and USEPA recommends that your requirements be responsive to these changes, developments or improvements in control technologies.

4. Section L.1

This Order includes requirements for the Permittee to condition developments in future growth areas to control the impact of future development on beneficial uses caused by alteration of watershed processes due to stormwater management. The City of Salinas' General Plan indicates large areas of lands for future developments, primarily to the northeast of the City.

The Local Government Commission explains water resources are threatened as never before. Rapid population growth, climate change, drought, and water quality impairment pose tremendous challenges for the entire State of California. Today, reliable sources of clean water are no longer a given, forcing California to rethink not only water sources, but water use now and into the future. One water source often overlooked is rainfall. Rather, the built environment is designed to treat rain as a nuisance. Collection, conveyance, and disposal summarize the engineering approach to conventional stormwater management. The conversion of absorbent land to pavement and other impervious surfaces led to larger collection and conveyance systems, with little connection made to increases in local flooding, polluted water, and degradation of famous beaches, bays, and estuaries. The water resource challenges presented above are intrinsically linked to local land use planning. Few decisions have greater impact on the quality, reliability, use, and overall sustainability of water resources than how and where we grow. Despite their integral nature, stormwater management and land use planning decisions are often disconnected.¹ Because the Permittee has plans for substantial future development, this Order emphasizes regulations for the stormwater component of land use planning decisions in order to maintain and restore beneficial uses and watershed health in new and existing urban areas.

This Order requires the Permittee to modify its land planning and building documents to control stormwater impacts to watershed processes that affect beneficial uses. The Local Government Commission provides rationale for not only including language to support watershed protection in larger community plans, but also incorporating watershed protection principles in local regulations. The Local Government Commission explains there are challenges and opportunities for aligning water and land use to support watershed protection, community design, and stormwater management goals. In California, General Plans translate a community's vision into preferred investment, land development, and land conservation options. Over the past decade, General Plans in California have included expanded language on sustainable development and resource protection. However, the vision for sustainability has proven difficult to implement. Entrenched local codes and ordinances continue to reflect and support sprawling, high-impact development. Most modern zoning regulations, which initially aimed to separate residences from harmful industrial areas, now work to separate nearly all aspects of day-to-day activities in a way that requires the use of an automobile to reach routine destinations. As a result, development standards have come to focus on designing communities for cars, which in turn create a landscape of expansive parking lots, larger roadways, and dispersed buildings and communities. For watersheds, the end effect is impaired water quality, increased flooding, reduced supplies, and degraded habitat.² The Permittee's existing General Plan includes specific environmental goals and objectives for future growth; however, as the Local Government Commission explains, often sustainable development and resource protection goals included in General Plans are not translated to actual development projects. This Order includes requirements for the Permittee to impose on Specific Plans or other master planning documents adopted for future growth areas in order to ensure development in future growth areas controls impacts to beneficial uses by protecting watershed processes through stormwater management.

¹ Anderson, Clark, Lisa Nisenson, and Patrick Stoner. *Water Resources and Land Use Planning: Watershed-based Strategies for Ventura County*. Sacramento, CA: Local Government Commission, December 2008. Web. 18 August 2011. p. 1.

<<http://water.lgc.org/ventura/ventura%20watershed%20plan%201.pdf>>.

² Ibid, p.2.

This Order includes requirements for the Permittee to require Specific Plans or other master planning documents adopted for future growth areas to incorporate LID principles, which include minimizing development footprints. See Fact Sheet for Section J (Parcel-Scale Development) for justification for LID requirements. This Order requires the Permittee to require planning documents adopted for future growth areas to demonstrate how projects will maintain surface/groundwater interaction based on groundwater recharge areas, areas where interflow occurs, soil type, surface geology, and land cover type and condition. This is important so that new urban areas support baseflow and interflow to wetlands and surface waters, and deep vertical infiltration to groundwater.

NRC explains, “As the percent of the landscape that is paved over or compacted is increased, the land area available for infiltration of precipitation is reduced, and the amount of stormwater available for direct surface runoff becomes greater, leading to increased frequency and severity of flooding. Reduced infiltration of precipitation leads to reduced recharge of the groundwater reservoir; absent new sources of recharge, this can lead to reduction in baseflow of streams (e.g., Simmons and Reynolds, 1982; Rose and Peters, 2001). Vegetation removal also results in a lower amount of evapotranspiration compared to undeveloped land.”³

Seattle Public Utilities conducted a literature review that includes, “In an extensive stream research project in Wisconsin, the observed decrease in stream baseflow was strongly correlated with watershed imperviousness (Wang et al. 2001). Similarly, an urban stream study in Vancouver, British Columbia, Canada, monitored eleven urbanizing small-stream watersheds. Baseflow and groundwater recharge were consistently lower in watersheds with more than 40 percent impervious cover (Finkebine et al. 2000). Both of these studies found linkages between these shifts in hydrologic regime and both habitat degradation and the decline in biological integrity in the urbanizing streams.”⁴

USEPA includes examples of water quality and watershed protection elements to consider in MS4 permit requirements. Many of the conditions in this Order that the Permittee must apply to development projects in future growth areas parallel these examples. For example, USEPA discusses the importance of minimizing development project impact by minimizing impervious surfaces, protecting native soils, preventing compaction, protecting vegetation with important evapotranspiration qualities, and preventing disturbances to natural water bodies; preserving, protecting, creating, and restoring ecologically sensitive areas that provide water quality benefits and serve critical watershed functions; and managing impacts close to the source.⁵

USEPA modeled the stormwater impact of new development at densities of one, four, and eight residential units per acre. The results revealed that, assuming communities continue to grow, it is better to concentrate development in a smaller land area using higher densities. “Lower-density development always requires more land than higher densities to accommodate the same amount of growth.” When more land is disturbed, more of alteration of watershed processes occurs, impacting beneficial uses of receiving waters. The study found that as density

³ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. p. 131.
<www.epa.gov/npdes/pubs/nrc_stormwaterreport.pdf>.

⁴ May, Christopher. *Watershed Processes and Aquatic Resources : A Literature Review*. Seattle, WA: Urban Watersheds, Drainage & Wastewater, Seattle Public Utilities. Web. 18 August 2011. p.7.
<<http://wdfw.wa.gov/publications/00034/wdfw00034.pdf>>.

⁵ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 60.

increases, overall impervious cover in a watershed decreases.⁶ This study supports Order requirements for compact development.

This Order includes requirements for the Permittee to revise planning and building requirements that affect parcel-scale development projects. This Order requires the Permittee to conduct an analysis of all applicable codes, regulations, standards, and/or specifications to identify modifications and/or additions necessary to remove gaps and impediments to effectively implement parcel-scale development requirements Section J (Parcel-Scale Development). The Permittee must modify its regulations to ensure that the Permittee's existing regulations do not prohibit effective implementation ~~of the~~ parcel-scale development requirements. Phase II MS4s in the Central Coast Region, participating in the Central Coast Water Board Joint Effort for Hydromodification Control, are also required to conduct this same exercise to remove gaps and impediments to support implementation of the final flow control numeric criteria. The Central Coast Water Board supported a training titled, Municipal Regulatory Update Assistance Program for California's Central Coast Jurisdictions, which the Permittee attended, to provide guidance for local regulatory updates. Training materials are also available from this course.⁷

The Local Government Commission explains that few decisions have greater impact on the quality, reliability, and overall sustainability of water resources than how and where we grow. The built environment reflects the effect of those decisions over time, resulting in patterns of development that shape our neighborhoods, communities, and entire regions. How these patterns unfold affects the amount of land, water, and infrastructure needed and, consequently, the impacts that growth will have on the quality and reliability of water resources and the health of local watersheds and beneficial uses. Despite their integral nature, water management and land use planning decisions are often disconnected. To address this disconnect, the Local Government Commission developed the Ahwahnee Water Principles, which provide guidelines for aligning water management with local land use decisions and help communities protect valuable water resources as they grow. These principles can be tailored to meet local needs and conditions, allowing communities to translate appropriate BMPs into effective policies.⁸ Central Coast Water Board staff finds that the Ahwahnee Water Principles may be a helpful resource for adhering to the requirements of this Order.

This Order includes requirements for the Permittee to determine impacts of significant expansions of the City and/or impervious area increases on watershed processes at the Urban Subwatershed-scale. This Order requires the Permittee to develop a plan to demonstrate numerically how the land use action will mitigate for the identified watershed process impacts. The purpose of this requirement is to steer land use decisions in a direction that maintains and restores watershed processes to protect beneficial uses, very early in the planning phases of development.

⁶ Richards, Lynn. *Protecting Water Resources with Higher- Density Development*, EPA 231R06001. Washington, D.C.: USEPA, January 2006. Web. 18 August 2011.

⁷ Central Coast Water Quality Control Board; AHBL; UC Davis Low Impact Development Initiative. *Central Coast Municipal Regulatory Update Assistance Program (MRUAP) Session One/Two*. Web. 23 August 2011

<http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydromod_chalette_index.shtml>.

⁸ Anderson, Clark, Lisa Nisenson, and Patrick Stoner. *Water Resources and Land Use Planning: Watershed-based Strategies for Ventura County*. Sacramento, CA: Local Government Commission, December 2008. Web. 18 August 2011. p. 10.

<<http://water.lgc.org/ventura/ventura%20watershed%20plan%201.pdf>>.

USEPA explains why examining stormwater on a watershed basis and including watershed principles is an important part of protecting waterways in a holistic manner. Imperviousness has been shown to correlate with water quality impacts. In order to minimize water quality impacts, the Permittee must examine their planning principles to manage the creation of impervious surfaces at the watershed level, such as reducing the footprint of streets and parking lots.

Consideration of stormwater impacts from development is critical during the planning phases of development. This not only includes planning on the site-level, but also with respect to discharges from the MS4 on the watershed level. To the extent possible, stormwater management must be an integral part of higher level planning documents that determine where and how development that will result in stormwater discharges to the MS4 should occur since these decisions affect water quality. Using land efficiently can result in better stormwater management by putting development where it is most appropriate. For example, by directing and concentrating new development in areas targeted for growth, communities can reduce or remove development pressure on undeveloped parcels and protect sensitive natural lands and recharge areas. Another strategy is redeveloping already degraded sites such as abandoned shopping centers or underutilized parking lots. In this case, the net increase in discharges from developed sites would likely be zero, and it would likely decrease, depending on the on-site infiltration practices used. Also, by allowing or encouraging denser development, less land is converted overall, and less total impervious area created.⁹

This Order requires the Permittee to require developers to adhere to waterway setback requirements. The Permittee addresses waterway setbacks in some of the Permittee's existing regulatory documents (e.g., General Plan Policy COS-17, SWMP Element 4); therefore, Central Coast Water Board staff does not anticipate that the planning and building requirement updates to address the initial requirements, due within 12 months of adoption of this Order, to require significant work by the Permittee.

This Order requires the Permittee to establish a 30-foot setback for all streams (except Gabilan and Natividad Creeks which must have a 100-foot setback) identified per Section Q.3 (Watershed Characterization: Water Body Identification). The Water Quality Control Plan, Central Coast Region (Basin Plan) mandates that, "specific actions can be taken to control water quality." The following specific actions are included: "A filter strip of appropriate width, and consisting of undisturbed soil and riparian vegetation or its equivalent, shall be maintained, wherever possible, between significant land disturbance activities and watercourses, lakes, bays, estuaries, marshes, and other water bodies. For construction activities, minimum width of the filter strip shall be thirty feet, wherever possible as measured along the ground surface to the highest anticipated water line."¹⁰ The Basin Plan describes the importance of functioning filter strips between water bodies and areas with significant ground disturbance. Also, the Basin Plan indicates a 30-foot water body setback for construction activities; therefore, new development and redevelopment, which involve construction activities, cannot occur within 30-feet of a water body.

Ecologically functioning riparian environments provide aquatic and terrestrial habitat for fish, amphibians, reptiles, mammals, and birds, and recreational and open space opportunities for the public. Riparian areas also provide water quality treatment functions. They improve water

⁹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 60.

¹⁰ Central Coast Water Quality Control Board. *Central Coast Region – Basin Plan*, 8 September 1994. Web. 23 August 2011. p. V-11 and V-13.

quality by removing nutrients and degrading pollutants through chemical processes; improving dissolved oxygen; storing sediment; and regulating temperatures among other benefits. These benefits can be achieved by protecting existing healthy riparian environments, or by restoring degraded areas into functioning ecosystems.

Also, ecologically sensitive areas can protect water quality by acting both as filters that reduce pollutants in stormwater discharges and as sponges to reduce the impact on the ecosystem's hydrology. Thermal pollution is also a concern that can impact biota in waterways. Stormwater discharges from impervious surfaces are often characterized by higher temperatures than natural, pervious surfaces. Reducing the chances of further increasing this temperature by preserving, protecting, and restoring natural features that provide shading for the waterway can further help reduce thermal pollution. Whenever possible natural waterways must be protected and not disturbed by stormwater from developed sites. Protecting vegetation, native soils, and conserving water can also help ensure the hydrologic qualities of the site remain intact.

This Order requires the Permittee to review its CEQA process and make revisions as applicable. The State Water Board Urban Runoff Technical Advisory Committee advises that the Permittee's CEQA initial study checklists be revised to include consideration of water quality effects from new development or redevelopment. The questions included in Section L.1.e (Development Planning and Stormwater Retrofits: CEQA Process Update) are questions to help the Permittee determine if the proposed project will manage stormwater to maintain and/or restore watershed processes and protect beneficial uses.

5. Section L.2

This Order requires the Permittee to develop and implement a program to retrofit existing development to restore degraded watershed processes affected by urban stormwater discharges. Retrofitting existing development is necessary for protecting water quality and beneficial uses. USEPA states, "It is clear that we cannot protect the nation's waters without also addressing degradation caused by stormwater discharges from existing developed sites. For that reason stormwater programs must include substantive retrofit provisions."¹¹ Existing BMPs are not sufficient to protect beneficial uses of receiving waters from MS4 stormwater discharges, as evidenced by 303(d) listings, CCAMP data, and the Permittee's monitoring reports. Based on the current rate of redevelopment, BMP requirements for redevelopment will not adequately address current impacts to watershed processes. To achieve actual improvement in watershed processes and the quality of receiving waters it is necessary to mitigate discharges from existing developed sites through implementation of measures which reduce stormwater runoff volume and rate, increase time of concentration, reduce pollutant loading, provide baseflow and interflow to wetlands and surface waters, provide deep vertical infiltration to groundwater, and restore receiving water hydraulic and habitat functions.

Retrofitting existing development is practicable and reasonable for the Permittee through a systematic evaluation, prioritization, and implementation plan focused on impaired watershed processes, specific pollutants (including trash), hydromodification impacts, feasibility, and effective communication and cooperation with private property owners. Retrofitting existing development is a widespread practice in the United States. Successful retrofitting programs

¹¹ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 65.

have been implemented in such diverse locations as Seattle, Washington;¹² Portland, Oregon;¹³ Santa Monica, California;¹⁴ Kansas City, Kansas;¹⁵ and Montgomery County, Maryland.¹⁶ In addition, USEPA-approved guidance for developing retrofitting programs is available through the CWP.¹⁷

Retrofit requirements included in this Order are consistent with CWA section 402(p)(3)(B)(iii), which requires 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.” Retrofit requirements are also consistent with USEPA guidance contained in the MS4 Permit Improvement Guide.¹⁸

This Order identifies retrofitting objectives the Permittee must emphasize when developing and implementing the retrofit program. The retrofitting objectives are consistent with water quality objectives and beneficial uses, the purpose of NPDES regulations, the CWC, the Basin Plan, and USEPA guidance.

The aim of retrofitting is to restore watershed processes and receiving water conditions to pre-development levels. Where constraints on retrofitting prevent achievement of pre-development levels, retrofitting can still lessen the impacts of development and restore receiving water conditions to a level approaching the natural condition.

This Order requires the Permittee to consider the full range of retrofitting project types in the development and implementation of the Permittee’s retrofitting program. This is consistent with USEPA-approved retrofitting guidance prepared by the CWP.¹⁹

This Order requires the Permittee to develop and implement a Long-Term Retrofit Plan within five years of adoption of this Order. This requirement is consistent with USEPA guidance which states, “Permittees may need a term or two to adequately develop and implement a retrofit plan. It is up to the permit writer to make this determination based on the specific information they

¹² "Street Edge Alternatives." *Seattle Public Utilities*. City of Seattle. Web. 18 August 2011.

<http://www.seattle.gov/util/About_SPU/Drainage_&_Sewer_System/GreenStormwaterInfrastructure/NaturalDrainageProjects/StreetEdgeAlternatives/index.htm>.

¹³ "Clean River Rewards: Contain the Rain." *Portland Bureau of Environmental Services*. City of Portland, Oregon. Web. 23 August 2011. <<http://www.portlandonline.com/bes/index.cfm?c=41976>>.

¹⁴ "Urban Runoff Case Studies." *Office of Sustainability and the Environment*. City of Santa Monica. Web. 23 Aug. 2011. <<http://www.smgov.net/Departments/OSE/categories/content.aspx?id=4007>>.

¹⁵ *Water the Future Is Clear*. 10,000 Rain Gardens. Web. 23 August 2011. <<http://www.rainkc.com/>>.

¹⁶ "Rainscapes Program." Department of Environmental Protection. Montgomery County, Maryland. Web. 23 August 2011.

<<http://www.montgomerycountymd.gov/dectmpl.asp?url=%5Ccontent%5Cdep%5Cwater%5Crainscapes.asp>>.

¹⁷ Schueler, Tom, David Hirschman, Michael Novotney, and Jennifer Zielinski. *Urban Subwatershed Restoration Manual No. 3 Urban Stormwater Retrofit Practices Version 1.0*. Ellicott City, MD: Center for Watershed Protection, July 2007. Web. 23 August 2011.

¹⁸ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 64.

¹⁹ Schueler, Tom, David Hirschman, Michael Novotney, and Jennifer Zielinski. *Urban Subwatershed Restoration Manual No. 3 Urban Stormwater Retrofit Practices Version 1.0*. Ellicott City, MD: Center for Watershed Protection, July 2007. Web. 23 August 2011.

have available on current programs.”²⁰ This Order includes specific requirements for what the Permittee must include in the Permittee’s development of the Long-Term Retrofit Plan. The purpose of these requirements is to increase the scope, flexibility, and effectiveness of the Long-Term Retrofit Plan development process, and to increase the feasibility and effectiveness of the Long-Term Retrofit Plan itself.

This Order requires the Permittee to inventory areas impacting watershed processes based on the Urban Subwatershed Program Effectiveness Rating, Section P.6 (Monitoring, Effectiveness Assessment, and Program Improvement: Program Effectiveness Rating). The Order requires the Permittee not to create an exhaustive list of all such areas in the Permit coverage area, but to develop a list of potential retrofit locations that considers the broad scope of impacts and opportunities for retrofitting present in the Permit coverage area. An inventory should contain a broad selection of potential retrofit locations, consider the scope of retrofitting opportunities identified in this Order, and address priority impacts to watershed processes present in the Permit coverage area.

The criteria for qualifying retrofit projects and the number of qualifying retrofit projects the Permittee must implement each year will be reviewed and updated at the end of every permit term. This Order requires the Permittee to complete the first Long-Term Retrofit Plan, including an implementation plan, within 5 years of adoption of this Order, and to implement the plan upon completion.

This Order requires the Permittee to derive a list of candidate retrofit projects, within 2 years of adoption of this Order, so in the event that a Priority Development Project qualifying for the offsite alternative compliance option pays an in-lieu fee, that fee can go towards a retrofit meeting the requirements of this Order. These projects will serve as pilot demonstration retrofit projects. *Will the CCWB consider providing support in the form of letters of recommendation for demonstration projects if grants are available for them?*

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If Central Coast Water Board staff finds the demonstration project supports watershed health, Central Coast Water Board staff would be open to providing written support for the project. This is contingent on Central Coast Water Board staff resources and conflict of interest issues (e.g., if Central Coast Water Board staff are on the grant selection committee).

This Order establishes the types of retrofit projects the Permittee may implement to meet the requirements of this Order. Qualifying retrofit projects (Attachment H - Qualifying Retrofit Projects, Table H.1) fall under two headings: project type and performance goal(s). The project types are consistent with the retrofitting opportunities listed in Section L (Development Planning and Stormwater Retrofits), with retrofit project categories described by the CWP, and with other provisions of this Order. Central Coast Water Board staff, using best professional judgment, determined performance goal(s) for retrofit project types based on projects that would result in tangible improvements to watershed processes, while still being feasible, achievable, and consistent with other provisions of this Order.

²⁰ USEPA. *MS4 Permit Improvement Guide*. EPA 833-R-10-001, 14 April 2010. Web. 16 August 2011. p. 65.

This Order requires the Permittee to inspect, track, and maintain completed retrofits. Regular maintenance of BMPs is essential for prolonged effective performance.²¹

The Local Government Commission provides advice on a funding mechanism for stormwater retrofits of municipal facilities. Many local governments have established a Gas Tax Street Improvement Fund, which allows use of gas taxes for a variety of street construction, maintenance, and improvements on public highways and streets. This provides an opportunity for financing stormwater improvements. In 2004, the State Comptroller's Office issued Guidelines Relating to Gas Tax Expenditures for Cities and Counties to describe how funds collected for vehicles and gas may be used. Under California law, fuel taxes are allowed for "research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for non-motorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes."²²

6. Section L.3

It is important for the Permittee to coordinate their water quality protection and land use planning activities to achieve the greatest protection of receiving water bodies. The Permittee coordination with other watershed stakeholders, especially Monterey County, the State of California Department of Transportation, Monterey County Water Resources Agency, Non-Traditional Small MS4s, rail, United States Department of Defense, and water and sewer districts, is important. The Permittee boundary encompasses land in three different watersheds. There are different agencies with jurisdiction of land upstream and downstream of the Permittee's watersheds and within the Permit coverage area. To successfully maintain and restore watershed processes the Permittee must coordinate with other watershed contributors.

Additionally, if municipalities located in the same watershed work together and pool resources to define water quality and watershed scale issues, and assess watershed conditions, in a coordinated manner, this helps streamline their compliance efforts, minimize costs, and disseminate information among municipalities.

This Order requires the Permittee to coordinate with other stakeholders to pursue the Environmental Enhancement Objectives of the May 2006 Salinas Valley Integrated Regional Water Management Functionally Equivalent Plan Update. The Permittee is identified as a stakeholder in the May 2006 Salinas Valley Integrated Regional Water Management Functionally Equivalent Plan Update. The Salinas Valley Integrated Regional Water Management Functionally Equivalent Plan Update includes Environmental Enhancement Objectives, including: identifying opportunities to protect, enhance, and/or restore natural resources, including streams, groundwater, watersheds, and other resources. The Salinas Valley has several natural resources that have been affected by human activities in the region. Water related planning in the region should consider the effects of humans on these resources and identify opportunities to protect, enhance, and restore them.

²¹ CASQA. *California Stormwater Quality Association Stormwater Best Management Practice Handbook: Municipal*, January 2003. Web. 23 August 2011

<<http://www.cabmphandbooks.com/documents/Municipal/Municipal.pdf>>.

²² Anderson, Clark, Lisa Nisenson, and Patrick Stoner. *Water Resources and Land Use Planning: Watershed-based Strategies for Ventura County*. Sacramento, CA: Local Government Commission, December 2008. Web. 18 August 2011. p. 79.

<<http://water.lgc.org/ventura/ventura%20watershed%20plan%201.pdf>>.

This Order requires the Permittee to collaboratively work with others to prepare salt and nutrient management plans for groundwater basins underlying the Permit coverage area, per the State Water Board's Recycled Water Policy. The State Water Board recognizes that the local water and wastewater entities, together with local salt/nutrient contributing stakeholders, will fund locally driven and controlled, collaborative processes open to all stakeholders. These processes will prepare salt and nutrient management plans for each basin/sub-basin in California, including compliance with CEQA and participation by Regional Water Board staff. The Permittee is a member of the Joint Powers Authority that is the Monterey County Water Pollution Control Agency (MCWPCA). The MCWPCA will develop Salt and Nutrient Management Plans per the Recycled Water Policy.

It is the intent of the Recycled Water Policy for every groundwater basin/sub-basin in California to have a consistent salt/nutrient management plan. It is also the intent of the State Water Board that because stormwater is typically lower in nutrients and salts and can augment local water supplies, inclusion of a significant stormwater use and recharge component within the salt/nutrient management plans is critical to the long-term sustainable use of water in California. Inclusion of stormwater recharge objectives in salt/nutrient management plans is consistent with State Water Board Resolution No. 2005-06, which establishes sustainability as a core value for State Water Board programs and also assists in implementing Resolution No. 2008-30, which requires sustainable water resources management and is consistent with Objective 3.2 of the State Water Board Strategic Plan Update dated September 2, 2008.

This Order requires the Permittee to address flood management, in the context of integrating management practices to maintain and restore watershed processes to protect beneficial uses, in the next General Plan Housing Element revision. 2007 State legislation has amended Government Code section 65302 to now require cities and counties to review the land use, conservation, and safety elements of the general plan "for the consideration of flood hazards, flooding, and floodplains" to address flood risks. The review of the land use element entails a local jurisdiction assessing floodplain mapping, groundwater recharge, and/or stormwater management information and determining if any of the information is new and/or differs from what is included in the existing general plan land use element. If the new data is different, then the existing general plan's background information, maps, goals, policies, and implementation measures, as well as the land use diagram may need to be amended.

In cooperation with the Governor's Office of Planning and Research, Housing and Community Development, California Emergency Management Agency, Central Valley Flood Protection Board, and California Geological Survey, the California Department of Water Resources prepared a guidance document describing how the 2007 flood risk management legislation affects city and county responsibilities related to local planning requirements, including general plans, development agreements, zoning ordinances, tentative maps and other actions. The document explains the location and designation of land uses in a general plan conservation element now "need to consider the identification of land and natural resources" that are used "for purposes of groundwater recharge and stormwater management."²³

²³ California Department of Water Resources. *Implementing California Flood Legislation into Local Land Use Planning: A Handbook for Local Communities*, October 2010. Web. 23 August 2011. p. 28, <<http://www.water.ca.gov/LocalFloodRiskPlanning>>.

Governor's Office of Planning and Research (OPR) California General Plan Guidelines²⁴ has references relating to planning and general plan preparation that may be helpful to the Permittee. The General Plan Guidelines contains a section with recommendations on how cities and counties can adopt optional elements within the general plan including a flood management element, which encompasses both floodwater management and floodplain management with discussions at the individual community level and the regional level. OPR's guidelines are equally useful in situations where a city or county has unilaterally included flood management in its general plan and where an individual jurisdiction's flood management element is a part of a larger regional strategy to be implemented by more than one agency.

NRC comments on the importance of a watershed approach to flood and stormwater management, "The urban water system is not solely designed to manage the quality of runoff. It also must be capable of safely handling flooding from extreme storms to protect life and property. Consequently, communities need to ensure that their stormwater infrastructure can prevent increased flooding caused by development (and possibly exacerbated by future climate change). In addition, many stormwater control measures must be designed to safely pass extreme storms when they do occur. This usually requires a watershed approach to stormwater management to ensure that quality and quantity control are integrated together, with an emphasis on the connection and effective use of conveyance channels, streams, riparian buffers, and floodplains."²⁵ *Having the process come together with separate industrial, ag, Phase II and Phase I permits does not lend to a watershed approach. The whole process needs to be rethought if a watershed approach is to become effective.*

Staff Response to Comment City of Salinas – Fact Sheet L.6

The Central Coast Water Board regulates dischargers (e.g., industrial, construction, agricultural, Phase II municipalities, Phase I municipalities) using different permitting mechanisms based on permitting authorities provided by State and Federal regulations. While drafting the Order, Central Coast Water Board staff coordinated with programs outside of the stormwater group to ensure the Order aligned with other water quality regulations in the Salinas area. In the context of the Order, the watershed approach is applied to urban stormwater management and is not indicated as an integrative approach to regulating all discharges in a watershed. Central Coast Water Board staff finds the Order's watershed approach will yield a more effective stormwater management program.

²⁴ *General Plan Guidelines Update*. Governor's Office of Planning and Research. Web. 23 August 2011. <<http://www.opr.ca.gov/index.php?a=planning/gpg.html>>.

²⁵ *Urban Stormwater Management in the United States*. Washington, D.C.: National Research Council, National Academies Press, 2008. Web. 16 August 2011. pp. 355-356

M. Public Education and Public Involvement *See City comments in Findings and Provisions comments and comments below.*

Note – Fact Sheet M.1 through Fact Sheet M.4 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for these subsections.

5. Section M.2

The Permittee is encouraged to collaborate with other entities on public education and involvement. Collaboration provides the opportunity for decreasing costs as well as sharing of ideas and resources. *As long as requirements are the same then collaboration work great. Need to make sure Salinas, as the only Phase 1 in the local area Region 3 has the same requirements as Phase II entities.*

Staff Response to Comment City of Salinas – Fact Sheet M.5

See Staff Response to Comment City of Salinas – Provision M.11.e.

Note – Fact Sheet M.6 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for this subsection.

7. Section M.4

This Order requires outreach to ethnically and socioeconomically diverse communities as well as children. The USEPA, Tailoring Outreach Programs to Minority and Disadvantaged Communities and Children Fact Sheet finds that, “many residents of ethnically and culturally diverse communities don't speak English”¹. English messages contained in public education outreach materials may not be effectively reaching a significant portion of some communities. The intent of this provision is to encourage behavior changes that reduce pollutants in stormwater to a portion of the population who might otherwise be overlooked. *How many languages will we be required to translate the information into? Are we required to have a bi or tri? Lingual website since the SWMP and our record keeping must be kept on line for the public to access?*

Staff Response to Comment City of Salinas – Fact Sheet M.7

The Order does not specify the methods the City must implement to provide education to ethnic communities. The City is provided with the flexibility to develop education methods that will be effective for the City. The Order does not require the City's record keeping to be kept online. The City can provide public access to their compliance records by providing a printout of requested information when requested by the public. The Order does require the SWMP to be kept online. The Order doesn't require the SWMP to be translated. The City has the flexibility to determine if translation of some of their documents/materials would be beneficial to the effectiveness of the public education program and if so, what documents.

8. Sections M.5, M.6, and M.7

This Order requires the Permittee to incorporate the use of Community-Based Social Marketing or equivalent strategies/methods into its educational program to effectively change the waste

¹ "Tailoring Outreach Programs to Minority and Disadvantaged Communities and Children." *National Pollutant Discharge Elimination System (NPDES)*. USEPA. Web. 23 August 2011.

<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=factsheet_results>.

disposal and runoff pollution generation behavior of the identified target audiences. Community-Based Social Marketing is a systematic way to change the behavior of communities to reduce their impact on the environment. Simply providing information is usually not sufficient to initiate behavior change. Community-Based Social Marketing uses tools and findings from social psychology to discover the perceived barriers to behavior change and ways of overcoming these barriers. Can CCWB provide examples of C-BSM programs for Phase I cities?

Staff Response to Comment City of Salinas – Fact Sheet M.8

The City of San Diego has conducted effective community based social marketing pilot projects at the La Jolla Shores Business District and Dog Beach in Ocean Beach.

The Permittee will perform assessments during the term of this Order to quantitatively determine if knowledge has increased and if behavior has changed in target audiences for the identified Priority Stormwater Issue.

Note – Fact Sheet M.9 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for this subsection.

10. Section M.9

This Order requires the involvement of the public, which includes a citizen advisory group to solicit feedback on the stormwater program Is this also required to be multilingual, and if so to what degree?, and opportunities for citizens to participate in implementation of the stormwater program. Stormwater management programs can be greatly improved by involving the community throughout the entire process of developing and implementing the program. Involving the public benefits both the Permittee itself as well as the community. By listening to the public's concerns and coming up with solutions together, the Permittee will gain the public's support and the community will become invested in the program. The Permittee will likewise gain even more insight into the most effective ways to communicate their messages. Public participation in implementation of the stormwater program can include many different activities such as stream clean-ups, storm drain markings, and volunteer monitoring.

Staff Response to Comment City of Salinas – Fact Sheet M.10

See Staff Response to Comment City of Salinas – Fact Sheet M.7. The Order does not require the citizen advisory group to be multilingual.

11. Section M.10

This Order requires the Permittee's stormwater website include information on public education and involvement. This will be a resource for the public on stormwater topics, provide the public with direct information on aspects of the stormwater program, as well as provide the public with the information it needs to get involved with the stormwater program. Again how many languages? This could get more expensive especially if the daily updated information also is expected to be in multiple languages.

Staff Response to Comment City of Salinas – Fact Sheet M.11

See Staff Response to Comment City of Salinas – Fact Sheet M.7.

N. Trash Load Reduction *See City comments in Findings and Provisions comments and comments below.*

Staff Response to Comment

See responses to City comments in the Findings and Provision sections.

1. Legal Authority

The following legal authority applies to Section N (Trash Load Reduction):

2. Broad Legal Authority

CWA sections 402(p)(3)(B)(ii-iii) and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B-C) and 40 CFR 122.26(d)(2)(iv)(A-B).

3. Specific Legal Authority

Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(B) requires Permittees to demonstrate adequate legal authority to “prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer.” Illicit discharge includes discharge of trash to the MS4, which includes streets, gutters, surface waters, floodplains, and areas where trash could eventually be conveyed to the MS4 or receiving waters.

Federal NPDES regulation 40 CFR 122.26(d)(2)(i)(C) requires Permittees to demonstrate adequate legal authority to “control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water.” This includes trash.

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(A)(1) requires proposed management programs to include “a description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal storm sewer systems.”

Federal NPDES regulation 40 CFR 122.26(d)(2)(iv)(B)(1) requires proposed management programs to include “a description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges.”

4. Sections N.1 and N.2

The Order requires the Permittee to develop and implement a program to reduce trash in stormwater discharges from the MS4 to the MEP and to protect water quality. Trash is a persistent and noticeable problem in the MS4. The Permittee made trash reduction a primary emphasis during the previous permit term. Despite this effort, trash continues to be a persistent and noticeable problem in the MS4, particularly in the Salinas Reclamation Ditch— *MCWRA is responsible for trash therein.* In addition, the Permittee continues to document large volumes of trash removed from the MS4 and receiving waters. According to the Permittee’s Urban Watershed Management Program Annual Reports, the Permittee removed a total of 40 cubic yards of trash and debris in 2006-07, 11 tons plus 20 cubic yards in 2007-08, 370 cubic yards in

2008-09, and 2.5 tons plus 26 cubic yards in 2009-10. The purpose of the trash load reduction requirements is to focus the Permittee on making tangible and measurable reductions in trash loads discharged to the MS4 and from the MS4 to receiving waters.

Staff Response to Comment City of Salinas – Fact Sheet N.4

See Staff Response to Comment City of Salinas – Provision N.5.d.iii.

The Basin Plan specifies the following narrative Water Quality Objectives for all inland surface waters, enclosed bays, and estuaries (Section II.A.2.a. General Objectives):

- For floating material: “Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.”
- For suspended material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
- For settleable material: “Waters shall not contain settleable material in concentrations that result in deposition of material that causes nuisance or adversely affects beneficial uses.”

The Order requires the Permittee to designate and implement structural and non-structural BMPs, including trash reduction ordinances, to prevent trash from entering the MS4 and to remove trash that has entered the MS4. Studies indicate that schools, parks, public venues, commercial retail centers and shopping districts, garbage and waste handling and storage areas, and loading areas are potentially significant sources of trash and litter to the MS4.^{1,2} Therefore the Order directs the Permittee to focus trash reduction activities on these sources and on municipally-owned and/or operated facilities.

5. Section N.3

This Permittee is expected to use information obtained through required Trash Assessments conducted according to Section P.3.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Action Level), Trash Quantification conducted according to Section P.2.b (Monitoring, Effectiveness Assessment, and Program Improvement: Trash Quantification), and other data in the development and implementation of the Trash Reduction Plan. Trash assessments will provide the Permittee with information about potential sources of trash discharges and subwatersheds discharging potentially significant trash loads to the MS4.

The Order requires the Permittee to develop a Trash Reduction Plan to significantly reduce trash entering the MS4 and remove trash that has entered the MS4. Trash capture devices incorporated into the MS4 is a proven method for removing floating trash and debris from the MS4. Hence why we estimated installing the Catch Basin screens though as stated by Staff this is not required. In addition, downtown commercial and/or shopping districts heavily trafficked by pedestrians are a known source of trash and litter. Since it can be difficult for the Permittee to

¹ A 2009 study conducted by Keep America Beautiful, Inc., found a correlation between litter generation and fast food restaurants, public areas, and transition areas (e.g., bus stations). In addition, the study found waste management areas (e.g., overfull garbage containers) to be a source of trash and litter, a strong correlation between pedestrian activity and litter in roadways. *2009 National Visible Litter Survey and Litter Cost Study Final Report*. Stamford, CT: Keep America Beautiful, Inc.; Mid Atlantic Solid Waste Consultants, 18 September 18, 2009. Web. 17 August 2011.

² A study conducted by Los Angeles County in 2002-2003 found commercial areas to have consistently higher litter rates than other land uses. *Trash Baseline Monitoring Results Los Angeles River and Ballona Creek Watersheds*. County of Los Angeles Department of Public Works, Watershed Management Division, 17 February 2004. Web. 18 August 2011
<<http://dpw.lacounty.gov/wmd/TrashBaseline/links.cfm>>.

require business owners to maintain municipal streets and sidewalks free of trash, the Order requires the Permittee to take the lead in reducing trash and litter in these areas.

Staff Response to Comment City of Salinas – Fact Sheet N.5

This Order does not require the City to install trash screens at all inlets. Rather, Section N.3.b of the Order requires the City to develop and implement a Trash Reduction Plan to significantly reduce trash loads. The Order provides flexibility for the City to determine the means of compliance with this objective. The Order requires the City to establish short-term and long-term objectives for trash capture at catch basins and other inlets to the MS4 as one element of the Trash Reduction Plan, but the City has flexibility in establishing these objectives.

Note – Fact Sheet N.6 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for this subsection.

O. Total Maximum Daily Loads [See City comments in Findings and Provisions comments.](#)

Staff Response to Comment

See responses to City of Salinas comments in the Findings and Provision sections. No additional comments were provided by the City of Salinas in the Fact Sheet for Section O.

P. Monitoring, Effectiveness Assessment, and Program Improvement [See City comments in Findings and Provisions comments.](#)

Staff Response to Comment

See responses to City of Salinas comments in the Findings and Provision sections. No additional comments were provided by the City of Salinas in the Fact Sheet for Section P.

Q. Watershed Characterization [See City comments in Findings and Provisions comments.](#)

Staff Response to Comment

See responses to City of Salinas comments in the Findings and Provision sections. No additional comments were provided by the City of Salinas in the Fact Sheet for Section Q.

R. Fiscal Analysis *See City comments in Findings and Provisions comments and comments below.*

1. Legal Authority

The following legal authority applies to Section R – Fiscal Analysis:

2. Broad Legal Authority

CWA sections 402(p)(3)(B)(ii-iii), CWC section 13377, and Federal NPDES regulations 40 CFR 122.26(d)(2)(i)(B, C, E, and F) and 40 CFR 122.26(d)(2)(iv).

3. Specific Legal Authority

Federal NPDES regulation 40 CFR 122.26(d)(2)(vi) provides that “[The Permittee must submit] for each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (d)(2)(iii) and (iv) of this Section. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.” *Per Little Hoover commission recommendation 4 water boards are to also do an analysis. As stated previously if the CCWB does there own based on their intent, it will go along way towards scoping what the intent is considering the broad language and terms included throughout the entire permit.*

Staff Response to Comment City of Salinas – Fact Sheet R.3

Central Coast Water Board staff assumes the commenter is referring to the Little Hoover Commission’s January 2009, ‘Clearer Structure, Cleaner Water: Improving Performance and Outcomes at the State Water Boards,’ in its comment. The report recommends that, “The water boards must develop standardized economic analysis procedures to help set priorities and determine the most effective and efficient means to improve water quality.”¹ The Little Hoover Commission is providing a recommendation to the State Water Boards. It is not a requirement for the State Water Boards to conduct a fiscal analysis of new Phase I Stormwater Permits.

Although Central Coast Water Board staff has not conducted a detailed cost analysis, staff considered cost while drafting the Order requirements. Central Coast Water Board staff has used the best quality data available when considering costs associated with the Order. This data includes information relied upon by USEPA when adopting the federal stormwater regulations, as well as data generated by a statewide study of stormwater program costs conducted by California State University, Sacramento. The Sacramento State study found the cost of various stormwater programs to range from \$18 - 46 per household annually. The permit requirements for some of the stormwater programs analyzed in the Sacramento State study are similar to those in the Order.

See Staff Response to Comment Steele – 1.

¹ *Clearer Structure, Cleaner Water: Improving Performance and Outcomes at the State Water Boards.* Little Hoover Commission, January 2009. Web. 5 December 2011. p.90 <
<http://www.lhc.ca.gov/studies/195/report195.pdf>>.

Note – Fact Sheet R.4 is not shown. No comments were provided by the City of Salinas in the Fact Sheet for this subsection.

| **S. Legal Authority** *See City comments in Findings and Provisions comments.*

Staff Response to Comment

See responses to City of Salinas comments in the Findings and Provision sections. No additional comments were provided by the City of Salinas in the Fact Sheet for Section S.