RESPONSE TO COMMENTS ON THE TENTATIVE NPDES PERMIT
Owens-Brockway Glass Container Inc.
Owens-Brockway Glass Container Inc., Facility
NPDES Permit No. CA0056464

This Table described the comments received from interested parties with regard to the above-mentioned tentative permit. Each comment has a corresponding response and action taken.

Commenter	No.	Comment	Response	Action Taken
Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
Owens-Brockway Glass Container Inc., (Owens or Discharger)	1.	**An Individual NPDES Permit Based on Water Quality- Based Effluent Limitations (WQBELs) is not Appropriate for the Owens Facility** Owens does not discharge any waste water into waters of the United States. Only storm water from rain events is discharged. Historically, storm water from the facility was regulated under the California Stormwater Industrial General Permit. However, as you are aware, after Owens' NPDES permit was last renewed, because its storm water discharges were included along with its former industrial wastewater discharges in that permit, Owens discontinued coverage under its General Permit. Owens recognizes that its approach in that situation was misguided. As shown by the issues highlighted below, the Tentative Permit illustrates why storm water should not be addressed through an individual NPDES permit. • Owens does not discharge waste water to the storm water system; Owens only discharges storm water during rain events. • The WQBELs in the Tentative Permit are inconsistent with U.S. Environmental Protection Agency (USEPA) and State Water Resources Control Board (State Water Board) policies	The Clean Water Act (CWA) requires that permits for storm water discharges associated with industrial activity comply with section 301 of the CWA, including the requirement under 301 (b)(1)(C) to contain water quality-based effluent limitations (WQBELs) for any discharge that the permitting authority determines has the reasonable potential to cause or contribute to a water quality standard excursion (CWA section 402(p)(3)(A)). Further, if the State or EPA has established a total maximum daily load (TMDL) for an impaired water that includes waste load allocations (WLAs) for storm water discharges, permits for either industrial storm water discharges or MS4 discharges must contain effluent limits and conditions consistent with the requirements and assumptions of the WLAs in the TMDL. (40 CFR part 122.44(d)(l)(vii)(B)).	None required.

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		established for the control of storm water from industrial sources.	The Facility discharges into Los Angeles River Reach 2 and the 2010 State Water Board California 303 (d) lists classified the Los Angeles River Reach 2 as impaired. The Los Angeles River Metals TMDL (Resolution No. R10-003) was adopted which establishes WLAs in Los Angeles River Reach 2 for cadmium, copper, lead, and zinc in dry and wet weather events. Since the pollutants are addressed in the TMDL which included waste load allocations (WLAs), a reasonable potential analysis is not contemplated as per the Policy for Implementation of Toxics Standards for Inland Surface Water, Enclosed Bays, and Estuaries, and effluent limitations have been developed based on the WLAs. In addition, data collected during discharges from the facility demonstrated reasonable potential for antimony, arsenic, cadmium, chromium VI, copper, lead, mercury, nickel, selenium, thallium, zinc, cyanide, and TCDD-Equivalents, pentachlorophenol, Bis(2-ethylhexyl)phthalate, and PCBs. Therefore, WQBELs are prescribed in the NPDES permit for these pollutants not already addressed in the TMDL to comply with the water quality standards and to protect the beneficial uses of the receiving water, the Los Angeles River.	

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		The Tentative Permit (see Attachment F) states that there is no need to consider background concentrations, mixing zones, or the fact that direct urban runoff will co-mingle with Owens' storm water discharge. During rain events, the Los Angeles River is swollen with huge volumes of urban runoff from throughout the Basin, mixing zones must be taken into account because the volume of storm water from Owens' site is only a miniscule portion of that storm water which eventually flows into the river. Owens' storm water does not discharge directly into the Los Angeles River; rather, it is co-mingled with urban and industrial runoff as it is relayed by underground piping over a 4 mile corridor, past numerous laterals, before finally reaching the outfall into the Los Angeles River. Further, while storm water flows in the Los Angeles Basin have the potential to pose an acute impact, storm water flows are too brief and infrequent (typically less than a day) to pose a chronic impact to the watershed at the point of discharge. Therefore, it is inappropriate for the Tentative Permit to require Owens' end of pipe, undiluted storm water to meet the water quality objectives when other discharges and runoff along a 4 mile corridor comingle with and dwarf Owens' volume prior to reaching the river.	Section IV.C.4.c., on page F-27, of the Fact sheet states in its entirety: "".*Since many of the streams in the Region have minimal upstream flows, mixing zones and dilution credits are usually not appropriate. Therefore, in this Order, no dilution credit is included.* Therefore, it is up to Owens to provide to the Regional Water Board the data necessary to evaluate the appropriate mixing zone and dilution credits (if any) for their discharge. This data must include an independent mixing zone study that demonstrates to the satisfaction of the Regional Water Board that a dilution credit is appropriate. Mixing zone studies may include, but are not limited to, tracer studies, dye studies, modeling studies, and monitoring upstream and downstream of the discharge that characterize the extent of actual dilution. Any studies conducted by Owens shall be conducted in accordance with the procedures outlined in Appendix 5 of the State Water Board's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP). Mixing zones are not appropriate for pollutants that are currently listed as stressors for the receiving water body	None required.

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			and for which a TMDL has been developed to facilitate the water body's ability to sustain its beneficial uses as defined in the Water Quality Control Plan for the Los Angeles Region.	
		The USEPA and State Water Board have acknowledged many times, when adopting policies and plans, that storm water effluent is markedly different from point source (industrial) discharges. The potential impact to receiving waters caused by storm water flow is vastly different from the impact that is caused by industrial process flows that are consistently flowing with concentrations that could pose both chronic and acute risks to waterbodies. Because of the difference in contaminant concentrations, and the co-mingling with urban runoff, the State Implementation Policy (SIP) specifically states that it must not be used to regulate storm water[1]. Nevertheless, the Tentative NPDES Permit relies on the SIP to established WQBELs for storm water from the Owens' facility[2]. WQBELs for storm water should be removed from Owens' Tentative Permit.	The USEPA promulgated the California Toxics Rule (CTR), which establishes water quality standards for certain priority toxic pollutants in California's inland surface waters, including pollutants in storm water discharges[4]. CTR criteria serve as state water quality standards for the State's applicable designated uses.[5] The CTR does not exclude storm water discharges, and by its own terms applies to all inland surface waters in the State. The CTR's preamble includes a section specifically entitled "Wet Weather Flows"[6] which supports the inclusion of water quality based effluent limitations (WQBELs) in the Order governing industrial storm water discharges. The preamble cites a 1999 Ninth Circuit decision stating that	None required.

[1] See SIP Page 3, Footnote 1.

[2] See Tentative Permit, page F-20

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		The most appropriate, valid, and relevant approach that is consistent with representative data is to allow Owens to comply with NPDES permit requirements through the California Industrial General Permit. This approach will harmonize storm water compliance at Owens' facility with all other industrial facilities in the Los Angeles River watershed, which in our view, is the only sustainable, practical, and prudent approach to regulating storm water.	"industrial storm water discharges must comply strictly with State water quality standards."[7] The SIP in footnote 1 does indicate that the policy does not apply to regulations of storm water discharges. However, the Technical Support Document for Water Quality-based Toxics Control (TSD) in Section 3.3.8. Effluent Characterization for Specific Chemicals on page 64 in paragraph 1 reads "The statistical approach shown in Box 3-2 or an analogous approach developed by a regulatory authority can be used to determine the reasonable potential." Hence, staff has used the approach outlined in the SIP, an analogous approach developed by a regulatory authority, to evaluate wastewater and/or stormwater discharges.	

[4] 40 C.F.R. § 131.38; 65 Fed.Reg. 31682 et seq. (May 18, 2000).

[5] 40 C.F.R. § 131.38(c).

[6] 65 Fed.Reg. 31703.

[7] 65 Fed.Reg. 31703 (citing *Defenders of Wildlife*, *supra*, 191 F.3d at 1165.)

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			Many individual industrial permittees in Region 4, Los Angeles, only discharge storm water. Data collected by the Discharger indicates, in many instances, that the effluent has contaminant concentrations that may cause or contribute to an exceedance of WQBELs. In instances where there is data to complete a reasonable potential analysis and the contaminant demonstrates reasonable potential, staff has issued individual NPDES permits that include numeric effluent limits. The data collected during discharges from the facility demonstrated reasonable potential to exceed WQBELs antimony, arsenic, cadmium, chromium VI, copper, lead, mercury, nickel, selenium, thallium, zinc, cyanide, and TCDD-Equivalents, pentachlorophenol, Bis(2-ethylhexyl)phthalate, and PCBs. Therefore, an individual NPDES permit with effluent limits is prescribed for discharges from Owens.	

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		Given the fact that Owens discharges no waste waters to receiving waters of the United States, it should be allowed to opt-in to the General Permit to assure proper regulation and compliance with state storm water policies[3].	Recent monitoring data (September 15, 2015 and January 5, 2016), from the facility indicates that it is not able to consistently meet applicable and appropriate effluent limitations. Therefore, the Regional Water Board has determined that coverage under the General Storm Water Permit is not appropriate for your discharge. As per section F of the General Storm Water Permit, the Regional Board shall retain the existing site specific industrial NPDES permit with numeric WQBELs. **Response to reference Footnote 3 Order No. R4-2004-0142 transferred to WDID 4 191022281 -** Order No. R4-2004-0142 that was issued to Pabco Building Products, LLC, Pabco Paper Company (Facility) was terminated on November 5, 2009, Discharges from the Facility is regulated under the General Permit for Storm Water Discharges associated with Industrial Activity. The Inspection Report dated June 25, 2009, indicated that no discharges occurred since 1998. The	None required.

[3] Rescinding Owens' individual NPDES permit to allow conversion to the General Permit is consistent with prior Board actions. Indeed, the Board has approved the rescission of multiple individual NPDES permits, and subsequently granted coverage under the General Industrial Stormwater Permit (e.g., Order No. R4-2004-0142 transfer to WDID 4 191022281). Further, two active glass plants are covered under the General Permit; subjecting the Vernon facility to an individual Permit based on WQBELs is arbitrary and inconsistent with state policies.

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			Discharger captures stormwater runoff, in a concrete-lined pond, and recycles it by using it during the cardboard and gypsum manufacturing process. .Process wastewater is disposed of in the sewer, under permit with the County Sanitation District of Los Angeles County. The referenced facility no longer discharges storm water from industrial process areas or wastewater.	
Owens-Brockway Glass Container Inc., (Owens or Discharger)	2.	**The Tentative Permit does not rely on all Available, Valid, Relevant, and Representative Data** Notwithstanding the fact that an Individual NPDES Permit is inappropriate for Owens' facility, the Tentative Permit does not rely on all available, valid, relevant and representative data. The points shown below highlight the major conditions that require additional time and consultation to clarify or modify the Tentative NPDES permit in advance of any Order being adopted: • ***Elimination of industrial discharge:*** The intent of the Tentative Permit is to address wastes that are discharged to receiving waters. As explained above, Owens does not discharge any waste or waste waters to waters of the United States; Owens discharges only storm water during rain events. Nevertheless, the Tentative Permit proposes Median Monthly Effluent Limitation ("MMEL"), which the permit itself recognizes as inappropriate for storm water effluent (see	Staff recognizes that Owens discharges storm water only based on information submitted on December 18, 2015, and January 8, 2016. The discharge from the Owens is not a continuous discharge and it is currently composed entirely of storm water runoff. Therefore, the tentative permit has been revised to remove monthly average effluent limits.	The revised tentative reflects the changes.

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		Pages E-9 and 10 of the permit). This is repeated throughout the Tentative Permit. The monthly limits should be removed, as such chronic limits do not apply to intermittent storm water flows. Further, this is consistent with the approach taken by staff for NPDES permits issued by the Board in 2015 (see Order R4-2015-0023). In addition to these inappropriate monthly limits, other parts of the Tentative Permit apply to industrial discharges. While a number of examples and suggested changes regarding this issue are included in the Specific Comments below, the list may not be exhaustive. All language where industrial discharge is contemplated, including references to wastes discharged to storm water discharge points, should be removed. • ***Clarification on New Constituents for which WDRs are proposed:*** The Tentative Permit provides that acute toxicity testing is to be replaced by chronic toxicity testing as this method is more stringent. To support this notion, a section in the draft permit that is non-existent (See Page F-16; reference to Section IV.C.6) was referenced. At a minimum, the reasoning for adding new constituents should be clearly stated. The State Water Board's toxic policy recognizes that toxicity assessment of urban runoff is difficult, with substantial uncertainty, and any assessment routinely varies by orders of magnitude over intervals as short as an hour. The Board recognizes that chronic toxicity criteria are applicable to dry weather, not wet weather. It bears repeating that Owens	Section IV.C.6 begins on Page F-32 of the Fact Sheet. The section entitled Whole Effluent Toxicity contains a discussion of toxicity including the Basin Plan criteria and the reason for including chronic toxicity. The Basin Plan for the Los Angeles Region includes a narrative water quality objective for toxicity, requiring that all waters be maintained free of toxic substances in concentrations that are toxic to or produce detrimental physiological responses in, human, plant, animal, or aquatic life. The water quality objective also prohibits acute and chronic toxicity in specific circumstances. Detrimental responses include, but are not limited to, decreased growth rate, decreased	None required.

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		discharges no waste water to receiving waters; Owens discharges only storm water during rain events, and has no industrial effluent that poses any chronic risk to receiving water bodies and associated fish and vegetation. Storm water poses only acute impacts, as exposure periods last several hours, not the seven-day or longer interval under which chronic toxicity testing is performed. Owens maintains that chronic toxicity testing, while relevant to facilities that discharge industrial waste continuously, is not relevant, is not valid, and is not representative of Owens' effluent and should be removed from the Tentative Permit.	reproductive success of resident or indicator species, and/or significant alterations in population, community ecology, or receiving water biota. In accordance with the Basin Plan, the acute toxicity objective for discharges dictates that the average survival in undiluted effluent for any three consecutive 96-hour static or continuous flow bioassay tests shall be at least 90%, with no single test having less than 70% survival. Owens permit, Order No. R4-2010-0087-R, contains acute toxicity limitations based on the acute toxicity objective in the Basin Plan. Data collected on January 24, 2013, and February 26, 2014, yielded exceedances of the acute toxicity limit. The acute toxicity limit only addresses the mortality endpoint. Chronic toxicity is a more stringent requirement than acute toxicity. A chemical at a low concentration can have chronic effects but no acute effects. The chronic toxicity limit addresses the mortality endpoint as well as changes in species growth and reproduction. This Order establishes a chronic toxicity effluent limitation using USEPA's 2010 Test of Significant Toxicity (TST) analysis. Chronic toxicity limitations are expressed as "Pass" or "Fail" and "% Effect" for maximum daily single result. The maximum daily effluent limitation (MDEL) is exceeded when a toxicity test results in a "fail," and the percent effect is greater than or equal to 0.50. The chronic toxicity effluent limitations in this Order are as stringent as necessary to protect the Basin Plan water	

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			quality objective for chronic toxicity. The permit includes chronic toxicity using the USEPA promulgated method included in 40 CFR Part 136 which requires a minimum of a five concentration testing design for final effluent testing. The five concentration test continues to be the appropriate test to use. However, the TST statistical analysis continues to be the appropriate statistical approach to analyze the data generated during the test. The Monitoring and Reporting Program in Section V.A.2. specifies that "Sufficient sample volume shall be collected to perform both the required toxicity test and Toxicity Identification Evaluation (TIE) studies." Since discharges from the facility occur infrequently, the sample collection protocol should mirror the protocol used for stormwater discharges which also occur infrequently. When the sample is collected, additional water should be collected in case accelerated monitoring or a TIE is required. The protocol enumerated in the permit has been modified for clarity and to focus on the fact that the facility discharges storm water only.	Text modified in Section V Attachment E.

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		• ***Basis for the RPA:*** Owens believes that the data used in preparation of the Reasonable Potential Analysis ("RPA") are incorrect. Specifically, the Tentative Permit establishes an effluent limit for PCBs; the staff report suggests that this limit is necessary based on sampling data from Owens' facility; however, this is not the case. PCBs have not been detected in storm water effluent from Owens' facility. PCB effluent limits are therefore not valid, not representative, and not relevant. Therefore, all PCB limits should be deleted from the Tentative Permit. In addition, hexavalent chromium is incorrectly identified having a maximum effluent concentration ("MEC") of 30 micrograms/liter (µg/L) at Discharge Point 001. Owens' data indicates that the MEC for hexavalent chromium was 11 µg/L, which is less than the most stringent water quality standard of 11.43 µg/L (a chronic criteria for fresh water). Further, Table F-9 and F-10 of the Tentative Permit should indicate that limits for both Chromium (VI) and Chromium (III) are not needed. Accordingly, all chromium limits should be deleted from the Tentative Permit. The Table below demonstrates the MEC for PCBs, hexavalent chromium, and trivalent chromium are below the most stringent water quality criteria ("C"), and therefore, limits for these constituents should be deleted from the permit.	Reasonable potential analysis was performed utilizing the monitoring data (4th Quarter 2010 through 3rd Quarter 2015) submitted by Owens for discharges through Discharge Points 001 and 002. Staff routinely utilizes the data from the previous permit term (five years) to evaluate the reasonable potential for the discharge to exceed applicable water quality critiera. Based on the RPA results, antimony, arsenic, cadmium, chromium VI, copper, lead, mercury, nickel, selenium, thallium, zinc, cyanide, and TCDD-Equivalents, pentachlorophenol, Bis(2-ethylhexyl)phthalate, and PCBs. have "reasonable potential" to cause an excursion above the water quality standard for this discharge; therefore, numeric effluent limits are necessary. Based on the Weck Laboratories, Inc., laboratory reports included in the 4th Quarter 2011 Self-Monitoring Report and 2012 Annual Storm Water Discharge Report, PCBs (Aroclor 1260) was detected with concentrations of 0.72 µg/L in the water sample collected on 11/04/2011 at Discharge Point 001, and 0.10 µg/L on 11/30/2012 at Discharge Point 002 and 0.17 µg/L at Discharge Point 001. The 2012 Annual Storm Water Discharge Report also indicates chromium	None required.

<table>
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<tr><td></td><td></td><td>
<table>
<tr><th>Constituent</th><th>Most stringent water quality criteria (C) (µg/L)</th><th>Maximum Effluent Concentration (MEC) Discharge Point 001 (µg/L)</th><th>Maximum Effluent Concentration (MEC) Discharge Point 002 (µg/L)</th></tr>
<tr><td>PCBs</td><td>0.00017</td><td>ND</td><td>ND</td></tr>
<tr><td>Chromium VI</td><td>11.43</td><td>11</td><td>6.6</td></tr>
<tr><td>Chromium III</td><td>464.06</td><td>260</td><td>28</td></tr>
</table>
As discussed above, storm water from Owens' facility poses no chronic risk. Therefore, Owens maintains that the RPA must be revised to identify the most stringent water quality standard for acute risks, not chronic risks. Chronic risks are not relevant, not representative, and are not valid when establishing WQBEL for storm water discharges.

The RPA establishes dry-weather effluent standards for copper and lead, which is inappropriate for Owens' facility; because it has no discharge during dry weather. Owens' only discharge is storm water; therefore dry-</td><td>VI was detected with a concentration of 30 µg/L on 11/30/2012 at Discharge Point 001. The data showed that the maximum effluent concentration (MEC) for PCBs is 0.72 µg/L for Discharge Point 001 and 0.10 µg/L for Discharge 002, which are greater than the most stringent water quality criteria (C = 0.00017 µg/L). For chromium VI the MEC is 30 µg/L for Discharge Point 001, which is greater than the water quality criteria (C = 11.43 µg/L). Therefore, the permit includes effluent limitations for PCBs and chromium VI.

Staff concurs with the chromium III data shown on the Table. The tentative permit does not include an effluent limit for chromium III.

See response to comments to "Clarification on New Constituents for which WDRs are proposed", page 9.:

The effluent limits for copper and lead were based on the Los Angeles River Metals TMDL. The TMDL establishes concentration-based dry weather WLAs in Los Angeles River Reach 2 for copper and lead and concentration based wet weather WLAs for cadmium, copper, lead, and zinc. The numeric target portion of the TMDL specifies when the wet weather and dry</td><td>None required.</td></tr>
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		weather standards are not valid, appropriate or representative of the storm water effluent; and all dry-weather standards should be deleted from the permit.	weather targets (based on numeric water quality criteria established by the CTR) are applicable. Wet weather targets are applicable when the flow in the Los Angeles River at F319-R Wardlow gauge station is greater than or equal to 500 cubic feet per second (cfs). Dry weather targets are applicable when flow in the Los Angeles River at that station is less than 500 cfs. The flow in the river is not directly associated with rain events. Hence, a storm water discharge may occur when the flow in the river indicates dry weather WLAs are appropriate. The TMDL states that permit writers may translate applicable WLAs into effluent limitations for the major, minor, and general NPDES permits by applying the effluent limitation procedures in Section 1.4 of the SIP or other applicable engineering practices authorized under federal regulations. Therefore, the permit includes dry-weather effluent limitations for copper and lead, and wet weather effluent limitations for cadmium, copper, lead, and zinc based on the WLAs contained in the LA River Metals TMDL and applying the procedures in Section 1.4 of the SIP.	

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		The RPA establishes monthly effluent limits for Owens' facility based on the State Implementation Policy. However, the State Implementation Policy specifically states that "this policy does not apply to regulation of storm water discharges." Significantly, the State Implementation Policy concludes that its general storm water permits for industrial sources should be used as the "relevant regulatory approach" for all storm water effluent'. Therefore, the monthly limits in the Tentative Permit are not valid, not relevant, and not representative for storm water and should be deleted. The RPA cannot be used to establish WQBELs for discharges comprised solely of storm water; these water quality based limits can only be based on the General industrial Permit's numeric action levels..	The average monthly effluent limits have been removed. See response to comments to "***Elimination of industrial discharge",*** page 8 . USEPA promulgated the California Toxic Rule (CTR), which establishes water quality standards for certain priority toxic pollutants in California's inland surface waters, including pollutants in Owens storm water discharges[8]. CTR criteria serve as the state water quality standards for the State's applicable designated uses.[9] Although the SIP does not apply to stormwater, the CTR does not exclude storm water discharges, and by its own terms applies to all inland surface waters in the State.[10] Further, the preamble to the final CTR	The revised tentative reflects the changes.

[8] 40 C.F.R. § 131.38; 65 Fed.Reg. 31682 et seq. (May 18, 2000).

[9] 40 C.F.R. § 131.38(c).

[10] See 40 C.F.R. § 131.38(a)(1).

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			recognizes that "[i]f a discharge causes, has the reasonable potential to cause, or contributes to an excursion of a numeric or narrative water quality criteria, the permitting authority must develop permit limits as necessary to meet water quality standards."[11] The Regional Board has discretion to use the SIP methodology as guidance, even where the SIP does not apply, as long as the board explains and justifies its methodology. (Order WQ 2006-0002, supra, p. 19; see also, Order WQO 2001-16 (Napa Sanitation District, Bay Area Clean Water Agencies, and San Francisco Baykeeper), p. 26; Order WQ 2010-0005 (U.C. Davis), p. 5.) The reasonable potential analysis determines which pollutants a facility has the reasonable potential to discharge. Other information, including Clean Water Act (CWA) 303(d) listing, effective TMDLs and Basin Plan criteria are also used to develop effluent limits included in the permit. The NPDES regulations require regulation of any pollutant that (1) causes; (2) has reasonable potential	

[11] 65 Fed.Reg 31702; see also 40 C.F.R. § 122.44(d)(1),(3).

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			to cause; or (3) contributes to the exceedance of a receiving water quality criteria or objective. As stated on Page 5 of this Response to Comments, the TSD includes a statistical protocol which is used to calculate effluent limits associated with storm water discharges. The TSD on page 64 in paragraph 1 reads ""The statistical approach shown in Box 3-2 or an analogous approach developed by a regulatory authority can be used to determine the reasonable potential." The Regional Board has routinely utilized the SIP to evaluate reasonable potential for storm water discharges. The protocol outlined in the SIP was used to evaluate reasonable potential for discharges from Owens-Brockway Glass Container Inc. Therefore, effluent limitations for antimony, arsenic, cadmium, chromium VI, copper, lead, mercury, nickel, selenium, thallium, zinc, cyanide, and TCDD-Equivalents, pentachlorophenol, Bis(2-ethylhexyl)phthalate, and PCBs are prescribed in the NPDES permit to comply with the water quality standards and to protect the beneficial uses of the receiving water, the Los Angeles River Reach 2, for discharges from the facility.	

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		Finally, the RPA relies on data that are not representative of Owens' site conditions. In the past two years, Owens has invested over $1MM in storm water management projects and enhanced BMPs, which have reduced concentrations and effluent loads by orders of magnitude. Therefore, the effluent data generated prior to 2015 are not representative or reasonable for establishing effluent limits for the facility. The RPA must be revised using effluent data that is representative of current operations and site conditions. Analytical results from the two most recent rain events (September 15, 2015, and January 5, 2016), which are representative of the facility's current condition, show a number of MECs below the most stringent water quality criteria as follows:	Sufficient effluent and receiving water data are needed to conduct a complete RPA. If data are not sufficient, the Discharger will be required to gather the appropriate data for the Regional Water Board to conduct the RPA. Upon review of the data, and if the Regional Water Board determines that WQBELs are needed to protect the beneficial uses, the permit will be reopened for appropriate modification. Monitoring data collected during storm water discharges from Owens on September 15, 2015, and January 5, 2016, (consists of two data points) is insufficient to conduct RPA. In addition, the Regional Water Board has not received/reviewed the 1st Quarter 2016 monitoring report which includes the January 5, 2016, monitoring data. A preliminary report of violations was submitted by Owens-Brockway Glass Container Inc. which noted violations of the daily maximum effluent limitations for total suspended solids, selenium, zinc, and TCDD Equivalents at EFF-001 and for total suspended solids, turbidity, copper, zinc, and TCDD Equivalents at EFF-002. This indicates that the Discharger continues to discharge pollutants with elevated concentrations relative to the effective effluent limitations. The recurring effluent violations indicate that	None required.

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<tr><th>Constituent</th><th>Most Stringent Water Quality Criteria (C) (µg/L)</th><th>Maximum Effluent Concentration (MEC) Discharge Point</th><th>Maximum Effluent Concentration (MEC) Discharge Point 002 (µg/L)</th></tr>
<tr><td>Antimony</td><td>6</td><td>3.7</td><td>2.9</td></tr>
<tr><td>Arsenic</td><td>10</td><td>3.9</td><td>5.0</td></tr>
<tr><td>Cadmium</td><td>5</td><td>2.3</td><td>2.2</td></tr>
<tr><td>Silver</td><td>22.12</td><td>ND</td><td>ND</td></tr>
<tr><td>Thallium</td><td>2</td><td>0.33</td><td>ND</td></tr>
<tr><td>Cyanide</td><td>5.2</td><td>ND</td><td>ND</td></tr>
</table>
</td><td>even though the facility has completed upgrades and continues to implement upgrades, the quality of the effluent has not changed to the extent that the facility is able to comply with applicable effluent limitations. Hence, the entire data set was used to evaluate reasonable potential.

Section 1.3 of the SIP states that “The RWQCB shall use all available, valid, relevant, representative, information, as described in section 1.2 to determine whether a discharge may (1) cause, (2) have a reasonable potential to cause, or (3) contribute to an excursion above any applicable priority pollutant criterion or objective.” Therefore, staff utilized the available monitoring data during the period from 4th Quarter 2010 through 4th Quarter 2014 to conduct the RPA. The RPA results indicate that antimony, arsenic, cadmium, chromium VI, copper, lead, mercury, nickel, selenium, thallium, zinc, cyanide, and TCDD-Equivalents, pentachlorophenol, Bis(2-ethylhexyl)phthalate, and PCBs. have “reasonable potential” to cause an excursion above the water quality standard for this discharge; therefore, numeric effluent limits are necessary. Chromium total and silver did not show reasonable potential. Therefore the effluent limits</td><td></td></tr>
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		Accordingly, in addition to deleting the invalid effluent limits for PCBs, hexavalent chromium, and total chromium, effluent limits for antimony, arsenic, cadmium, silver, thallium, and cyanide should be deleted, as those limits are not relevant or representative of the facility's current condition.	for chromium total and silver will be deleted. See Response to Comments, pages 12, 13, and 14. As mentioned above, antimony, arsenic, cadmium, chromium VI, selenium, thallium, and cyanide have "reasonable potential" to cause an excursion above the water quality standard for this discharge; therefore, numeric effluent limits are necessary. Historical operation of the facility have yielded elevated concentrations of antimony, arsenic, cadmium, chromium VI, selenium, thallium, and cyanide relative to the effluent limitations and in some cases have resulted in violations of the those limitations. The presence of these pollutants in historical discharges informed us of the potential for them to be present in future discharges. Hence, Trigger 3, or Best Professional Judgment (Table F-9 and F-10 in the Fact Sheet) has been used to retain these limitations. The effluent limits for total chromium and silver will be deleted since these pollutants did not show reasonable potential to exceed the water quality standards.	None required. . The revised tentative reflects the changes.

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Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
		• ***Proposed Effluent Limits:*** Owens has found several apparent calculation errors for mass loading effluent limitations, specifically the mass limits for dioxins and for hexavalent chromium. Owens requests that Board staff confirm the accuracy of all calculations in the Tentative Permit. Moreover, Owens seeks to understand the need for monthly mass loading for specific constituents, which as discussed in detail above, is inconsistent for those facilities that release only storm water. Notably, much of Section VII.E. (Average Monthly Effluent Limitation) is written assuming that additional samples could be collected at equal intervals during a calendar month or more frequent interval; this is not representative of Owens' operations, and should not be relied upon to establish effluent limits.	Staff concurs. The revised tentative permit reflects the correct mass-based limits for dioxins and chromium VI. The average monthly effluent limits have been removed. See response to comments to "***Elimination of industrial discharge",*** page 8. Staff recognizes the concerns regarding provision in Section VII.E. This provision is consistent with the standard language included in the recently adopted Industrial NPDES permits. The average monthly effluent limitation requirements will not be appropriate for Owens-Brockway Glass Container Inc. Since the discharges from the facility are composed entirely of storm water and the revised tentative permit includes primarily maximum daily effluent limitations; the referenced section is not applicable to the discharge.	The revised tentative reflects the changes. None required.

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		• ***Proposed Monitoring Conditions:*** Owens' current permit requires installation and operation of a rainfall gauge; Owens requests that the Tentative Permit be modified to allow for rain gauge data as an acceptable basis for calculation of flow. It is our experience that intermittent storm water discharges, which have significant and inherent variation over time, may not be properly estimated through use of industrial flow monitoring methods which are designed to measure continuous discharges.	The tentative permit requires Owens to measure and record the rainfall on each day of the month or submit the data obtained from the nearest city/county operated rain gauge monitoring station. Flow data calculated based on the rain gauge data may not be representative of the actual storm water flow discharged from the facility. A flow monitoring device installed at the point of discharge provides representative flow measurements for discharges from the facility. A number of dischargers in this region have installed flow meters and been able to verify the accuracy of measurements reported using them. Footnote 1 of the Table E-2, Page E-7 of Attachment E - MRP has been revised to include language to allow an estimated flow until the installation of a flow meter at Discharge Point 002, upon completion of the construction project in June 2016.	None required. The revised tentative reflects the changes.

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Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
		• ***Other errors:*** Additional inconsistencies and inaccuracies that appear throughout the Tentative Permit, include the following: ▪ There is no annual reporting required under the Tentative Permit, yet annual reporting is referenced in Attachment G.	The annual reporting referenced in Attachment G is the submittal of a comprehensive site compliance evaluation (evaluation) in each reporting period (July 1-June 30). The report which is completed annually should be submitted on February 1 as stipulated in Table E-4 on Page E-13 of Attachment E – Monitoring and Reporting Program.	None required.
		▪ Testing for residual chlorine is required even though the discharge of fire protection system test water has been eliminated.	New information submitted stated that fire protection test water is no longer discharged to the storm drain, it is now either routed to the basement closed loop recirculation system or pumped into a container for off-site disposal. The nature of operation which includes pumping of fire protection test water into a container at the facility provides opportunities for spills and accidents to occur. The potential spills and/or accidents may have a significant impact on the water quality of the receiving water. Thus, annual monitoring for residual chlorine is required to determine reasonable potential. This annual residual chlorine monitoring represents a significant decrease relative to the <u>once per discharge event</u> monitoring required in Order No. R4-2010-0087-R.	None required.

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		▪ Bypass effluent streams do not occur at Owens' facility, but are regulated per Attachment D.	This provision in Attachment D is consistent with the provisions included in all the Industrial NPDES permits adopted by this Regional Board. Therefore, there is no change to the provision. If Owens does not have bypass events the provision does not apply to the facility	None required.
		▪ The Storm Water Pollution Prevention Plan (SWPPP) requirements in Attachment G continue to reference the Industrial General Permit, which is no longer in effect.	The provision Attachment G regarding the Industrial General Permit is consistent with the provision included in all the Industrial NPDES permits adopted by this Regional Board. Therefore, there is no change to the provision.	None required.
		▪ Typographical errors appear throughout the document (e.g., Table 4, Attachment F, etc.).	The revised tentative permit reflects the changes made in Table 4 of the Order and in Attachment F.	The revised tentative reflects the changes.
		Owens respectfully requests that the Board staff carefully review the Tentative Permit to remove these and any other inconsistencies and inaccuracies. Several specific examples are provided in the additional comments below.	Staff has reviewed and updated the permit as required.	The revised tentative reflects the changes.

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Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
Owens-Brockway Glass Container Inc., (Owens or Discharger)	3	**Additional Comments:** **III. A.1. and 2. (Page 4)** Owens suggests revising the language to the following: "Owens discharges storm water through Discharge Points 001 and 002 as follows: 1. Discharge Point 001 — (Latitude 33.99639° North; Longitude 118.21722° West). The discharge through Discharge Point 001 consists of up to 0.163 MGD of storm water runoff from the central yard. This includes areas such as the cooling tower, furnace building, and various administrative/maintenance buildings. 2. Discharge Point 002 — (Latitude 33.99732° North; Longitude — 118.21944° West). The discharge through Discharge Point 002 consists of up to 0.680 MGD of storm water runoff from the main yard. This includes areas such as the batch house, oxygen plant, and storage/equipment maintenance buildings."	Staff agrees. Appropriate language has been incorporated to Section III.A1 and 2., Pages 4 and 5 of the Order to read as follows; **A.** Wastes discharged shall be limited to the following: **1.** Discharge Point 001 — (Latitude 33.99639° North; Longitude 118.21722° West) - Up to 0.163 million gallons per day (MGD) of storm water runoff from the central yard which includes areas such as the cooling tower, furnace building, and various administrative/maintenance buildings.~~/production areas (cullet bins, silos, and cooling tower areas) through Discharge Point 001.~~ **2.** Discharge Point 002 — (Latitude 33.99732° North; Longitude — 118.21944° West) - Up to 0.680 MGD of storm water runoff from the main yard. This includes areas such as the	The revised tentative reflects the changes.

Commenter	No.	Comment	Response	Action Taken
Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
			batch house, oxygen plant, and storage/equipment maintenance buildings. ~~(cullet bins, cooling towers, and silos areas) through Discharge Point 002.~~	
		III.B. (Page 5) Owens does not discharge waste via storm water discharge points; Owens discharges only storm water during rain events. Owens suggests revising the language to the following: "Discharges of thermal wastes, elevated temperature wastes, toxic wastes, deleterious substances, or other wastes to a storm drain system, the Los Angeles River, or other waters of the State, are prohibited."	The prohibition in Section III.B., Page 5 is consistent with the prohibition included in all the Industrial NPDES permits adopted by this Regional Board. It provides language stipulating that discharges of any waste other than authorized is prohibited. Therefore, there is no change to the prohibition.	None required.
		III.H (Page 5)) Delete this paragraph. Owens does not discharge waste via storm water discharge points; Owens discharges only storm water during rain events. Discharges of waste are prohibited by revised Paragraph III.B, so this paragraph should be deleted.	Please see response to comment III.B. (Page 5) above.	None required.

<table>
<tr><th>Commenter</th><th>No.</th><th>Comment</th><th>Response</th><th>Action Taken</th></tr>
<tr><td colspan="5">Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016</td></tr>
<tr><td></td><td></td><td><u>Section IV. Effluent Limitations, Tables 4 and 5:</u>

The mass loading limits in the Tentative Permit include at least two calculation errors, as shown below. Footnote 1, after both Tables 4 and 5, provides the following equation to determine the mass-based limitations:

Mass (lbs/day) = 8.34 x concentration (mg/L) x Q (MGD)

Based on this equation, Owens' calculated mass-based effluent limits differ from the proposed limits for both Chromium VI and 2,3,7,8-TCDD at EFF-002:

<table>
<tr><th>Parameter</th><th>Proposed Limit in Tentative Permit</th><th>Calculated limit</th></tr>
<tr><td>Chromium VI</td><td>0.03 lbs/day</td><td>0.09 lbs/day</td></tr>
<tr><td>2,3,7,8-TCDD</td><td>1.7 x 10^{13} lbs/day</td><td>1.6 x 10^{10} lbs/day</td></tr>
</table>

<u>IV.A.1.a., Table 4 (Page 6) :</u>

The number "86" under the column "Instantaneous Maximum" should be for "Temperature", not "Settleable Solids".</td><td>Staff concurs. The mass-based effluent limits (Maximum Daily) for Discharge Point 002 were changed for chromium VI (from 0.03 lbs/day to 0.09 lbs/day) and for TCDD Equivalents (from 1.7E-13 lbs/day to 1.6 E-10 lbs/day).

Staff concurs. Section IV.A.1.a. Table 4, Page 6 of the tentative Order has been revised to reflect the change.</td><td>The revised tentative reflects the changes.

The revised tentative reflects the change.</td></tr>
</table>

Commenter	No.	Comment	Response	Action Taken
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		VI.A.2.c. (Page 13): Owens does not discharge waste via storm water discharge points; Owens discharges only storm water during rain events. **Attachment E, I.L. (Pages E-3 and E-4):** The current language reads as follows: "For analyses with short holding times such as pH and total residual chlorine, the analyses may be conducted by a field technician or chemist from an ELAP certified laboratory provided that the personnel receives proper training and follows SOPs for field sampling and analysis. ..." The phrase "from an ELAP certified laboratory" should be deleted from this clause, as it would be unduly burdensome to require Owens to have ELAP certified laboratory personnel available on-site to timely sample the facility's storm water discharge on an urgent basis.	Please see response to comment III.B. (Page 5) above. The language was changed to read "Field analyses with short sample holding time such as pH, total residual chlorine, and temperature, maybe performed using properly calibrated and maintained portable instruments by trained personnel acting on the Discharger's behalf, using methods in accordance with 40 C.F.R. part 136. All field instruments must be calibrated per manufacturer's instructions. A manual containing the standard operating procedures for all field analyses, including records of personnel proficiency, training, instruments calibration and maintenance, and quality control procedures shall be maintained onsite, and shall be available for inspection by Regional Water Board staff. Information including instrument calibration, time of sample collection, time of analysis, name of analyst, quality	None required. The revised tentative reflects the changes.

Commenter	No.	Comment	Response	Action Taken
Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
			assurance/quality control data, and measurement values shall be clearly documented during each field analysis and submitted to the Regional Water Board as part of the corresponding regular monitoring report".	
		All references to residual chlorine should be removed from the Tentative Permit as fire protection system test water is no longer released to the storm water system.	See Response to Comments on page 23, second paragraph.	None required.
		Attachment E-7, Table E-2, Footnote 1: The language should be changed as follows: "The Discharger shall measure the discharge flow through Discharge Points Nos. 001 and 002 either by 1) a flow meter, or 2) multiplying inches of rainfall (as determined per Attachment E.IX:A. Rainfall Monitoring) by gallons of discharge per inch of rain (31,000 gal./inch at Discharge Point 001; 129,500 gal. at Discharge Point 002).	See Response to Comments on page 22, second and third paragraphs.	None required.
		Attachment E, I.Q. reads as follows: "For parameters that both average monthly and daily maximum limits are specified and the monitoring frequency is less than four times a month, the following shall apply. If an analytical result is greater than the		

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		average monthly limit, the Discharger shall collect four additional samples at approximately equal intervals during the month, until compliance with the average monthly limit has been demonstrated. All five analytical results shall be reported in the monitoring report for that month, or 45 days after results for the additional samples were received, whichever is later. In the event of noncompliance with an average monthly effluent limitation, the sampling frequency for that constituent shall be increased to weekly and shall continue at this level until compliance with the average monthly effluent limitation has been demonstrated. The Discharger shall provide for the approval of the Executive Officer a program to ensure future compliance with the average monthly limit." The language of this condition is intended for a facility that discharges wastewater continuously. Owens discharges only storm water during rain events. Owens cannot increase frequency to collect additional samples at equal intervals during a month, or collect weekly samples. Attachment E, I.Q. should be deleted in its entirety.	Staff is aware that Owens discharges only storm water during rain events. Thus, the average monthly limit was deleted and the revised tentative includes only maximum daily limitations. Therefore this provision does not apply to discharges of storm water from the Owens-Brockway Glass Container Inc. Facility. However, the provision is standard language and it is consistent with the provision included in all the Industrial NPDES permits adopted by this Regional Board. Therefore, there is no change to the provision.	The revised tentative reflects the changes.

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Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
		Attachment F, I. Table F-1 (page F-3) : • The correct name of Discharger is Owens-Brockway Glass Container Inc.	Staff agrees. The revised tentative permit reflects the change.	The revised tentative reflects the changes.
		• The correct Name of the Facility is Owens-Brockway Glass Container Inc.	Staff agrees. The revised tentative permit reflects the change.	The revised tentative reflects the changes.
		• The Facility Contact is Doug Pittman, Assistant Plant Manager, (323) 586-4275.	Staff agrees. The revised tentative permit reflects the change.	The revised tentative reflects the changes.

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		• The authorized person to sign and submit reports is Rodney Detmer, Plant Manager, (323) 586-4288.	A letter dated February 12, 2016, from Mr. Rodney Detmer, notified this Regional Water Board that Mr. Douglass Pittman is the duly authorized representative to sign all reports required by permits and other information requested by the Director. Staff agrees. The revised tentative permit reflects the change.	The revised tentative reflects the changes
		Attachment F **N. Facility Description** **A. Description of Wastewater and Biosolids Treatment and Controls (Pages F-4 to F-6) :** Owens suggests revising the first five paragraphs of this section to the following: This NPDES permit allows the discharge of 0.843 million gallons per day (MGD) of storm water from the Owens-Brockway Glass Container facility. Information submitted by the Discharger on November 19, 2015, indicated that the total storm water discharge	The revised tentative permit reflects the appropriate changes to the paragraphs on Pages F-4 to F-6.	The revised tentative reflects the changes.

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		from the Facility is 0.843 MGD (i.e., 0.163 MGD at Discharge Point 001 and 0.680 MGD at Discharge Point 002). The previous NPDES permit (Order No. R4-2010-0087-R) allowed the discharge of 1.0453 MGD of wastewater and 1.566 MGD storm water to surface waters. The ROWD, permit renewal application, and self-monitoring reports submitted indicate that since November 2004, all routinely-generated plant wastewater is discharged to the sanitary sewer under a joint permit issued by the City of Vernon and Los Angeles County Sanitation Districts of (Permit No. 1029). Although the discharge of 1.0 MGD furnace drain water was allowed by the previous permit, furnace drain water was never discharged to the storm sewer. Approximately every 12 — 15 years, a furnace is drained of glass for maintenance or color change purposes. It takes approximately 24 hours to drain a furnace of glass. During a furnace drain, glass is discharged into a flume of water flowing into a holding area in the basement or slab outside the furnace building, where it is collected in a fabricated "pond" for recirculation. Excess furnace drain water is hauled off-site for disposal or discharged into the sanitary sewer; it is not discharged to the storm sewer. The previous permit also allowed discharge of 0.04 MGD oxygen		

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		plant vacuum pump seal water. The vacuum pump seal water from two oxygen plants are combined into a recirculating system. Bleed water from this water recirculation system was previously discharged via Discharge Point 001, but is now recirculated as cooling water. Order No. R4-2010-0087-R permits the discharge of oxygen plant seal water in the event of an emergency (e.g., loss of sewer system pumps) to the storm drain through Discharge Point 001; however, even in the event of loss of sewer system pumps, oxygen plant vacuum pump seal water would not be discharged to storm water. In addition, the current permit allows Owens to discharge 0.0053 MGD of fire protection water. The fire protection system is tested approximately once every 3 months, using City-supplied water, without the addition of any chemicals. During testing, test water was previously allowed to flow to catch basins that discharge to storm water outfalls. Owens no longer discharges fire protection system test water to storm drains; it is now either routed to the basement closed loop recirculation system or pumped into a container for off-site disposal. Therefore, this permit does not authorize the discharge of fire protection system test water to the storm drain and into the surface waters.		

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		Third complete paragraph on Page F-5: Owens no longer has a wash pad adjacent to the covered cullet bins. The third complete paragraph on Page F-5 should be deleted.	Staff concurs. The reference to the wash pad has been deleted in the revised tentative permit.	The revised tentative reflects the changes.
		The First complete paragraph on Page F-6 should be changed as follows: The Facility no longer requires an option for discharge of the furnace drain water, oxygen plant vacuum pump seal water, or fire protection system test water to surface waters. Therefore, this Order only regulates the discharge of storm water runoff.	The revised tentative permit reflects the appropriate changes to the paragraph on Page F-6.	The revised tentative reflects the changes.
		Attachment F,11.B.1-2. (Page F-6): Owens suggests changing the language to the following: 1. Discharge Point 001 — (Latitude 33.99639° North; Longitude — 118.21722° West) The discharge through Discharge Point 001 consists of up to 0.163 MGD of storm water runoff from the central yard/production area. This includes areas such as the cooling tower, furnace building, and various	The revised tentative permit reflects the appropriate changes to Attachment F., Section II.B.1-2. (Page F-6).	The revised tentative reflects the changes.

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Comments received from Owens-Brockway Glass Container Inc., on February 11, 2016				
		administrative/maintenance buildings. 2. Discharge Point 002 — (Latitude 33.99732° North; Longitude — 118.21944° West) The discharge through Discharge Point 002 consists of up to 0.680 MGD of storm water runoff from the main yard. This includes areas such as the batch house, oxygen plant, and storage/equipment maintenance buildings.		
		Attachment F: Owens discharges non-contact, non-industrial storm water through roof gutters and parking lots. The Tentative Permit should reflect that non-contact, non-industrial storm water flows are authorized.	Discharges of storm water runoff from the roof drains, access road, and parking lot exit the property as sheet flow, flows along the curb and enters the storm drain. This sheet flow does not contact industrial areas and it is not monitored.	Page F-6 of the revised tentative has been modified.
		Owens respectfully requests a meeting with the Board staff in advance of the public hearing. We believe that a review of the Tentative Permit in greater detail, with an in-person discussion of its terms, provides the most efficient path forward.	Staff met with Discharger on February 24, 2016.	Meeting held as noted.

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		Further, Owens respectfully requests a redline copy of the Tentative Permit, and an executable copy of the Excel spreadsheet that was used to document the RPA, with an explanation of the highlighted areas. We ask that these materials be provided well in advance of the public meeting before the Board, to allow Owens sufficient time to review and prepare comments.	The Response to Comments together with the revised tentative permit will be mailed to the Discharger and Interested Parties.	Requested information will be provided with the Response to Comments.