

California Regional Water Quality Control Board, Los Angeles Region
Los Angeles County MS4 Permit
Response to Comments on the Tentative Order
NON-STORMWATER DISCHARGES MATRIX

Section/Topic	Comment Summary	Commenter(s)	Response	Change Made
<i>Prohibition of Non-Storm Water Discharges</i>				
Definition	The definition of “stormwater” includes “dry weather” runoff, as well as precipitation events. Any attempt to redefine the term “stormwater” to exclude dry weather is contrary to law.	Signal Hill	<p>The definition of “storm water” appropriately excludes “dry weather” runoff. The definition of “storm water” in the permit is consistent with USEPA’s regulations, which define “storm water” as “storm water runoff, snow melt runoff, and surface runoff and drainage.” (40 C.F.R. § 122.26(b)(13).) While “surface runoff and drainage” is not defined in federal law, USEPA’s preamble to the federal regulations demonstrates that the term is limited to the types of runoff that are the result of precipitation events, such as rain and/or snowmelt. (55 Fed. Reg. 47990, 47995-96 (Nov. 16, 1990).) USEPA also specifically rejected the notion that “storm water,” as defined at 40 CFR section 122.26(b)(13), includes dry weather flows. In its preamble to the regulations, USEPA stated: “In response to the comments [on the proposed rule] 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 under the NPDES program of such non-storm water discharges Consequently, the final definition of storm water has not been expanded from what was proposed.” (55 Fed. Reg. 47990, 47995-96.)</p> <p>Contrary to the commenter’s insinuation, “storm water” does not include any water that flows into storm drains that is incident to urban living. The commenter repeatedly uses the term “urban runoff” as support for its assertion. However, “urban runoff” is not a federally defined term, and the word “urban” does not appear in</p>	None

			<p>USEPA’s definition of “storm water”. By introducing the word “urban”, the commenter apparently seeks to redefine the federal definition of “storm water”, contained in 40 CFR § 122.26(b)(13), to include runoff and drainage that is not associated with precipitation events but with activities of urban living. This approach is not supported by legal authority, and is inconsistent with USEPA’s regulations that specifically identify numerous categories of discharges including landscape irrigation, diverted stream flows, 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, and street wash water as “non-storm water.” (40 C.F.R. 122.26(d)(2)(iv)(B)(1).) Thus, USEPA has made clear that the varieties of urban discharges that are unrelated to precipitation are deemed by USEPA to be non-storm water discharges. While these types of non-storm water discharges may be regulated under MS4 permits since they enter the MS4, they are not considered storm water discharges.</p> <p>Further, while “non-storm water” is not defined in the Clean Water Act or federal regulations, the federal regulations define “illicit discharge” as “any discharge to a municipal separate storm sewer that is not composed entirely of storm water and that is not covered by an NPDES permit (other than the NPDES permit for discharges from the municipal separate sewer and discharges resulting from fire fighting activities).” (40 C.F.R. § 122.26(b)(2).) This definition is the most closely applicable definition of “non-storm water” contained in federal law and the terms are often used interchangeably. USEPA added the illicit discharge program requirement to its regulations with the stated intent of implementing the Clean Water Act’s provision requiring permits to “effectively prohibit non-storm water discharges.” (55 Fed. Reg. 47990, 47995.)</p>	
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Application of MEP	<p>The MEP standard applies to discharges of both "non-stormwater" and "stormwater" from the MS4. The CWA and federal regulations treat both stormwater and non-stormwater <i>equally</i> once they are in the MS4 and are to be discharged. Thus, there is no basis to treat "dry-weather runoff" any more stringent under the CWA than wet weather. The Board's attempt to "prohibit non-stormwater discharges through the MS4 to receiving waters" exceeds federal law and is not authorized under State law. This appears to attempt to "back door" numeric limits on to the municipalities.</p>	County of Los Angeles, LACFCD, Signal Hill	<p>The MEP standard was intended to apply to municipal storm water discharges only. The Clean Water Act assigns different performance requirements for municipal storm water and non-storm water discharges. Clean Water Act section 402(p)(3)(B)(ii) requires that all MS4 permits shall include a requirement to effectively prohibit non-storm water discharges from entering the MS4. After that provision, the statute includes the subsidiary provision, section 402(p)(3)(B)(iii), which requires that all MS4 permits “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.” Clearly, if non-storm water discharges must be effectively prohibited, the very next requirement in the Clean Water Act necessarily intends that the reduction in the discharge of pollutants is limited to storm water discharges only. Thus, at a minimum, federal law mandates that MS4 permits must require controls that will result in reducing storm water pollutants to the MEP yet at the same time requires that non-storm water discharges be effectively prohibited from entering the</p>	None

			<p>MS4. The argument that non-storm water discharges, prohibited from entry into the MS4 in the first instance, should be held to comply with only the less stringent MEP standard developed for storm water discharges in recognition of the variable quality of storm events once the non-storm water discharges exit the MS4, is contrary to and potentially renders the “effectively prohibit” requirement in section 402(p)(3)(B)(ii) meaningless. Consistent with federal law, unless non-storm water discharges to the MS4 are authorized by a separate NPDES permit or are specifically exempted under federal regulations, non-storm water discharges are appropriately subject to the effective prohibition requirement in the Clean Water Act and the Board is not limited by the MEP standard in crafting appropriate requirements for non-storm water discharges.</p> <p>Non-storm water discharges from the MS4 that are not authorized by separate NPDES permits, nor specifically exempted, are subject to requirements under the NPDES program, including discharge prohibitions, technology-based effluent limitations and water quality-based effluent limitations. (40 C.F.R. § 122.44.) USEPA’s preamble to its regulations also supports the interpretation that regulation of non-storm water discharges through an MS4 is not limited to the MEP standard in CWA section 402(p)(3)(B)(iii): “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 storm water and that is not covered by an NPDES permit. Such illicit discharges are not authorized under the Clean Water Act. Section 402(p)(3)(B) requires that permits for discharges from municipal separate storm sewers require the municipality to ‘effectively prohibit’ non-storm water discharges from the municipal separate storm sewer...Ultimately, such non-storm water discharges through a municipal separate storm sewer must either be removed from the system or become subject to an</p>	
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			<p>NPDES permit.” (55 Fed. Reg. 47990, 47995.) This process would be wholly unnecessary if MEP were the governing standard for non-storm water discharges. In addition, USEPA further stated that, “[p]ermits for such [non-storm water] discharges must meet applicable technology-based and water-quality based requirements of Section 402 and 301 of the CWA.” (55 Fed. Reg. 47990, 48037.) In addition, California law requires NPDES permits to apply “any more stringent effluent standards or limitations necessary to implement water quality control plans....” (Wat. Code, § 13377.) Accordingly, numeric water quality based effluent limitations may be imposed on dry weather, non-storm water discharges from an MS4 that are regulated under a MS4 permit.</p> <p>Further, even assuming that the commenters are correct that non-storm water and storm water discharges are treated equally once they are in the MS4 and are to be discharged, it does not necessarily mean that non-storm water discharges would always be subject to the MEP standard. In addition to establishing the MEP standard for municipal storm water discharges, CWA section 402(p)(3)(B)(iii) allows the Board, as the permitting agency to include in the MS4 permit “such other provisions as the [Board] determines appropriate for the control of such pollutants.” Thus, under this provision alone, the Board could determine that the MS4 permit should appropriately include provisions to control non-storm water discharges, including discharge prohibitions, technology-based effluent limitations and water quality-based effluent limitations.</p>	
General	The Regional Board does not have the legal authority to extend the non-stormwater discharge prohibition from or through the MS4. The CWA only requires that permits “effectively prohibit” non-	County of Los Angeles, Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, LA Permit Group, Lawndale, City of	The commenters correctly assert that CWA section 402(p)(3)(B)(ii) requires that MS4 permits include a requirement to effectively prohibit non-storm water discharges “into the storm sewers.” However, the permit’s prohibition of non-storm water discharges “through the MS4 to receiving waters” is consistent with this mandate and USEPA’s regulations. Part 1.A. of the	None.

	<p>storm water discharges “into the storm sewers.” It does not require the prohibition of such non-storm waters through the MS4 to receiving waters. Also, the Permittee that has the authority and ability to effectively prohibit discharges to the MS4 will often be different from the Permittee controlling the MS4 at the point where it discharges into receiving waters. There remains ambiguity as to the responsibility for such discharges.</p>	<p>Los Angeles, Pico Rivera, San Gabriel, and West Covina</p>	<p>existing 2001 LA MS4 permit requires that permittees shall effectively prohibit non-storm water discharges “into the MS4 and watercourses.” During the litigation on the 2001 permit, that language was specifically challenged by several permittees. The court upheld the language in the 2001 permit by specifically rejecting the “into” versus “from” argument. The court stated: “[A]lthough this Court recognizes that it may not always be possible to prevent something from going into the system, it probably is the cheapest method. If something does not go in, there is no concern about it coming out the other end. If the contaminant does not enter the system, there is no need to process it at the end of the system.” The court further stated that the permit’s “regulation of what goes ‘into’ the storm drain does not take away from the Petitioners’ rights and needs to control the process” and set regional controls. (<i>In re Los Angeles County Municipal Storm Water Permit Litigation</i> (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 16-17.) The tentative permit’s language of “through the MS4 to receiving waters” is consistent with the language in the 2001 permit upheld by the court. The slight variation in terminology between the 2001 permit and the tentative permit does not alter the Board’s existing requirement, but simply serves to provide greater clarity. In the end, there is no meaningful difference between the phrasing of “into the MS4 and watercourses” and “through the MS4 to receiving waters.” Both requirements prohibit non-storm water discharges from reaching receiving waters, which is wholly consistent with Congress’ ultimate intent in the CWA and USEPA’s regulations that such non-storm water discharges not reach receiving waters. (55 Fed. Reg. 47990, 47997 [“The entire thrust of today’s regulation is to control pollutants that enter receiving water from storm water conveyances.”].) In addition, it can be logically concluded that if non-storm water discharges are detected leaving the MS4, they must have</p>	
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			<p>entered the MS4. Further, when referring to or discussing the effective prohibition on non-storm water discharges, USEPA’s preamble to its regulations governing MS4 permit frequently use the terms “to,” “from,” and “through,” interchangeably. (<i>See, e.g.,</i> 55 Fed. Reg. 47990, 47995-47997.) Congress’ intent and USEPA’s phraseology in its own regulations supports the Board’s interpretation that there is no meaningful difference with these terms.</p> <p>To the extent that there is a meaningful difference in the phrasing, the difference is clearly in favor of the permittees. The Board would be completely within its legal authority to prohibit all non-storm water discharges from entering the MS4. However, as written, “through the MS4 to receiving waters” provides permittees greater flexibility to not only use controls to prevent non-storm water from reaching the MS4 in the first instance, but also to make use of controls in the MS4 itself so that non-storm water does not reach receiving waters. For example, the language provides permittees flexibility to use regional solutions, such as low-flow diversions where non-storm water enters the MS4, but is diverted within the MS4 (prior to discharge to the receiving water) to the sanitary sewer, as well as catch-basin inserts or other controls in the MS4 designed to prevent trash from entering receiving water. If the Board were to use the exact language in the CWA, permittees would not be afforded this flexibility.</p> <p>Further, as previously noted, the Board is not limited by the MEP standard in crafting appropriate requirements for non-storm water discharges. Accordingly, non-storm water discharges from the MS4 that are not authorized by separate NPDES permits, nor specifically exempted, are subject to requirements under the NPDES program, including discharge prohibitions, technology-based effluent limitations and water quality-based effluent limitations. (40 C.F.R. § 122.44.) Thus, the Board can</p>	
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			<p>establish requirements that are designed to reduce pollutants in non-storm water from the MS4 to receiving water.</p> <p>Lastly, there is no ambiguity as to the responsibility of non-storm water discharges. While the permittee(s) that has the authority and ability to effectively prohibit discharges to the MS4 may be different from the permittee(s) controlling the MS4 at the point where it discharges into receiving waters, the language in the permit clearly states that each permittee is responsible “for the portion of the MS4 for which it is an owner or operator.” To the extent there is a difference in responsibility, or even a shared responsibility, permittees must work together to ensure that non-exempted non-storm water discharges do not reach receiving waters. As noted above by the court in the 2001 litigation, “[i]f something does not go in, there is no concern about it coming out the other end.”</p>	
General	<p>The Federal Register, Volume 55, No. 222, 47990 contains an error with regard to the non-stormwater discharge prohibition. The statement in the Federal Register that 402(p)(B)(3) requires that permits for discharges from municipal storm sewers require the municipality to “effectively prohibit” non-storm water discharges from the municipal storm sewer is wrong. USEPA confuses 402(p)(B)(3), which addresses stormwater (not non-stormwater) discharges from the MS4, with 402(p)(B)(2), which once</p>	<p>Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, LA Permit Group, Lawndale, City of Los Angeles, Pico Rivera, San Gabriel, and West Covina</p>	<p>The Board does not believe that USEPA erred in its preamble to its regulations and accurately meant what it said. The Board is also not in a position to deem USEPA’s statements as incorrect, or not reflecting USEPA’s intentions and rationale. The Board appropriately defers to and relies on USEPA’s statements regarding its own regulations. If the commenters believe that USEPA erred, such assertions should be made to USEPA.</p>	None.

	again prohibits non-stormwater discharges to the MS4. In any case, this issue has been resolved since the federal register was published in November of 1990.			
General	Extending the prohibition from or through the MS4 would subject non-stormwater discharges (including dry weather TMDL WLAs and non-stormwater municipal action levels) to pollutant limitations at the outfall.	Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, LA Permit Group, Lawndale, City of Los Angeles, Pico Rivera, San Gabriel, and West Covina	As previously noted, the Board may appropriately prohibit non-storm water discharges from reaching receiving waters, and in doing so, may also establish discharge prohibitions, technology-based effluent limitations and water quality-based effluent limitations for such discharges. In accordance with federal regulations, the permit includes effluent limitations that are consistent with the assumptions and requirements of all available TMDL WLAs. In addition, non-storm water action levels (NALs) are used as triggers for Permittees to evaluate the efficacy of their IC/ID program and to verify that their program is effectively controlling unauthorized non-storm water from entering the MS4 and ultimately being discharged to receiving waters.	None.
General	§402(p)(B)(ii) does not (as the tentative order’s fact sheet asserts) include watercourses, which according to Regional Board staff, means waters of the State and waters of the United States, both of which lie outside of the MS4.	Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel, and West Covina	Although the commenters do not refer to a specific page in the fact sheet, it is presumed that the commenters are referring to page F-10, as that is only discernible reference to “watercourses” in the fact sheet that makes sense. That section of the fact sheet summarizes the existing requirements of the 2001 LA MS4 permit. Part 1.A. of the existing 2001 LA MS4 permit requires that permittees shall effectively prohibit non-storm water discharges “into the MS4 and watercourses.” As previously noted, that language was upheld by the court in the litigation on the 2001 permit.	None.
General	Leaving the language “through the MS4” would require permittees to discern non- exempt discharges within commingle flows for upstream sources outside the jurisdiction of the permittee.	Downey, Monterey Park, Pomona, Santa Clarita, South Bay Cities, Temple City, Torrance	The permit appropriately requires that permittees prevent or control non-exempt discharges “for the portion of the MS4 for which it is an owner or operator.” To the extent that there are commingled flows, permittees should work with each other to ensure that the non-exempted non-storm water discharges do not reach receiving waters. If a permittee identifies that the source of a significant non-	None.

			storm water discharge originates within an upstream jurisdiction, the permit establishes a procedure to notify the Regional Water Board and the upstream jurisdiction. At that point, the upstream jurisdiction would have the responsibility to further investigate and address the discharge as appropriate.	
Legal Authority Part VI.A.2.a.ii.	Federal regulations do not require that Permittees have adequate legal authority to control discharges from an MS4 but only to the MS4. The CWA requires the effective prohibition of non-authorized non-stormwater discharges to the MS4, and all of the subparts of 40 CFR § 122.26(d)(2)(A-F) similarly and exclusively require legal authority to address discharges to the MS4. The County requests that Part VI.A.2.a.ii. be clarified and revised to read: “Prohibit all non-storm water discharges <u>to its MS4</u> not otherwise authorized or conditionally exempt pursuant to Part III.A.”	County of Los Angeles	This requirement is consistent with Congress’ intent in the CWA and USEPA’s regulations that non-storm water discharges not reach receiving waters. (55 Fed. Reg. 47990, 47997 [“The entire thrust of today’s regulation is to control pollutants that enter receiving water from storm water conveyances.”].) In order to prevent or control non-storm water discharges from reaching receiving waters, permittees must have the requisite legal authority for the portion of the MS4 for which it is an owner or operator. In addition, USEPA’s regulations for medium and large MS4s frequently use the terms “to the MS4” and “from the MS4” interchangeably. (<i>See generally</i> , 40 C.F.R. § 122.26(d).) Congress’ intent and USEPA’s phraseology in its own regulations supports the Board’s interpretation that permittees must have adequate legal authority to control discharges into and from a portion of an MS4 for which it is an owner or operator.	Change made to align with the language of Part III.A.1.
CERCLA Discharges	CERCLA is an unnecessary reference in the MS4 permit and has the potential to expose permittees to third party litigation.	Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel, and West Covina	Section 121(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides that no permit is required for the portion of any removal or remedial actions conducted in compliance with section 121 of CERCLA. In other words, the discharges of treated effluent from CERCLA cleanups into the MS4 are exempt from obtaining a permit, but must comply with substantive permit requirements. Discharges from CERCLA cleanups are considered “non-storm water” and normally must obtain a permit, but	None.

			<p>since CERCLA exempts them from the permit requirement, the discharges are not subject to their own separate permit. The permit addresses this situation by including in the prohibition on non-storm water discharges an exception for discharges from CERCLA cleanups that comply with certain conditions. The inclusion of this prohibition does not expose permittees to third party litigation. The purpose of the conditional prohibition is to clarify the role of USEPA and reduce the impact on the permittees. Where the specific authorized non-storm water discharge, including a temporary non-storm water discharge authorized by USEPA pursuant to sections 104(a) or 104(b) of CERCLA results in an exceedance of applicable receiving water limitations and/or WQBELs during a specific sampling event, the Permittee will not be found in violation of the limitations for that sampling event pursuant to Part III.A.5 of the permit.</p>	
CERCLA Discharges	<p>There should be no exception or waivers for CERCLA discharges to comply with permit requirements that other dischargers must follow. MS4 Permittees do not have such waivers when compliance is not practicable; other dischargers should be held to the same standards. CERCLA dischargers should be required to seek coverage under the appropriate NPDES Permit and comply with all requirements. In addition, dischargers must notify MS4 Permittees prior to unplanned discharges, and comply with any requirements issued by the MS4 Permittee.</p>	County of Los Angeles, LACFCD	<p>The Regional Board cannot change federal law. Section 121(e) of CERCLA explicitly grants a permit exemption for discharges associated with remedial actions taken in compliance with CERCLA. The Regional Board cannot require CERCLA dischargers to seek coverage under an NPDES permit if the discharge is conducted in accordance with a USEPA-approved remedial action. The purpose of the prohibition in the permit is to clarify the conditions where such a discharge could be authorized in the permit.</p> <p>Further, where the water quality characteristics of a specific authorized non-storm water discharge, including a temporary non-storm water discharge authorized by USEPA pursuant to sections 104(a) or 104(b) of CERCLA results in an exceedance of applicable receiving water limitations and/or WQBELs during a specific sampling event, the Permittee will not be found in violation of the limitations for that sampling event pursuant to Part III.A.5 of the permit.</p>	None.

<p>CERCLA Discharger Requirements & Notification of Unplanned CERCLA Discharge</p>	<p>The fact sheet contains USEPA requirements for CERCLA dischargers when discharging into the MS4. Such requirements should be part of the Tentative Order, not just the fact sheet. In addition, notification for unplanned dischargers must be made no later than 24 hours after the discharge has occurred. Notification for unplanned discharges, even if they are emergency discharges, must be made immediately. Recommend replacing “unplanned” with “emergency”, and remove “but no later than 24 hours after the discharge has occurred).”</p>	<p>LACFCD</p>	<p>Since these discharges are separately authorized by USEPA pursuant to sections 104(a) or 104(b) of CERCLA, not pursuant to section 402(p) of the Clean Water Act, it is appropriate to identify the requirements for these discharges in the Fact Sheet, but not as provisions applicable to MS4 Permittees in the order itself.</p> <p>With regard to “unplanned” discharges, as described in the Fact Sheet, notification is to occur “as soon as possible.”</p> <p>The Regional Board collaborated with USEPA on the language in the tentative order and concludes that the use of “planned” and “unplanned” is clear and reasonable.</p>	<p>None.</p>
<p>Uncontaminated ground water infiltration</p>	<p>Delete footnote 5. Move definition of “groundwater infiltration” from footnote 5 to Definitions in Attachment A. Eliminate reference to “inflow” as it is not relevant in this situation.</p>	<p>South Bay Cities, Torrance</p>	<p>The footnote, as written, is appropriate and relevant and provides necessary clarification.</p>	<p>None.</p>
<p>Notification of Discharge from Utility Vaults and Underground Structures</p>	<p>The Fact Sheet notes that dischargers permitted under NPDES No. CAG990002 are required to contact the appropriate Permittee(s) within 24 hours whenever there is a discharge of 50,000 gallons or more from utility vaults and underground structures to the MS4. The</p>	<p>LACFCD</p>	<p>The Fact Sheet has been revised to remove “within 24 hours” and instead indicate that some MS4 Permittees have notification and permitting procedures in place for dischargers to follow.</p>	<p>Fact Sheet, p. F-27</p>

	<p>LACFCD has a process that requires notification of up to 72 hours in advance of the discharge. Depending on the discharge location and volume, the discharger may have to apply for a Flood Permit to discharge to LACFCD's system.</p> <p>Recommendation: Remove "within 24 hours" from the notification requirement.</p> <p>Dischargers should contact the impacted MS4s to obtain all necessary authorizations to discharge.</p>			
<p>Monitoring of Discharges Permitted under NPDES Permit No. CAG990002</p>	<p>The Fact Sheet states that notice to MS4 operators, including the LACFCD, has been added "to ensure that Permittees are aware of the requirement and can monitor the discharge to the MS4 as appropriate." While a Permittee can voluntarily monitor such discharge, it is the discharger which has the responsibility for monitoring its discharge, not the Permittee.</p> <p>Recommendation: The final clause of this sentence should be modified as follows: "and can monitor the discharge to the MS4 or require monitoring by the discharger, as appropriate."</p>	<p>County of Los Angeles</p>	<p>The Fact Sheet has been revised as proposed.</p>	<p>Fact Sheet, p. F-27</p>
<p><i>Conditional Exemptions from Non-Storm Water Discharge Prohibition</i></p>				

General	The non-stormwater provisions contradict federal and state law and are unsupported by evidence. The Board proposes to continue authorizing a long list of non-stormwater discharges through the MS4. The Board must “effectively prohibit” these non-stormwater discharges.	Environmental Groups	Federal regulations do not prohibit numerous categories of non-storm water discharges that are not expected to be a source of pollutants. These include landscape irrigation, diverted stream flows, 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, and street wash water. (40 C.F.R. 122.26(d)(2)(iv)(B)(1).) The conditional exemptions in the permit are consistent with these federal regulations and the 2001 permit. However, this permit also specifies certain conditions, including implementation of BMPs, for each category of conditionally exempt non-storm water discharge that must be met in order for the non-storm water discharge to be exempted from the non-storm water prohibition and thus allowed through the MS4. But where, as in the permit, certain categories of non-storm water discharges have been identified by a permittee to be a source of pollutants, they are no longer exempt and become subject to the effective prohibition requirement in CWA section 402(p)(3)(B)(ii). In addition, the permit authorizes the Regional Board Executive Officer to modify a category or remove categories of conditionally exempt non-storm water discharges if the Executive Officer determines that a discharge category is a source of pollutants.	None.
General	Any change to conditionally exempt discharge categories should be subject to public comment/permit reopener	Santa Clarita	Once a permittee identifies a specific category of discharge to be a source of pollutants, they are no longer exempt and automatically become subject to the effective prohibition requirement in CWA section 402(p)(3)(B)(ii). In addition, like the 2001 permit, this permit authorizes the Regional Board Executive Officer to modify a category or remove categories of conditionally exempt non-storm water discharges if the Executive Officer determines that a discharge category is a source of pollutants. These provisions require immediate action to be consistent with the intent of the CWA and USEPA’s regulations for non-storm water discharges, thereby protecting receiving water quality. Requiring a public	None.

			comment/permit reopener before any change takes effect is inconsistent with this intent.	
Monitoring	Permitting and monitoring system excessive, requires all discharges to be monitored and includes thresholds, monitoring and permitting all discharges is simply not possible.	Santa Clarita	The permit does not specify monitoring of every discharge. The MRP first requires screening for significant non-storm water discharges. The MRP then requires source identification of the outfalls with significant non-storm water discharge using a phased approach over the permit term. Through this source identification step, some significant non-storm water discharges will be addressed. The MRP then only requires monitoring of significant non-storm water discharges from the MS4 comprised of either unknown or conditionally exempt non-storm water discharges, or continuing discharges attributed to illicit discharges. This will be a subset of the total number of outfalls, and a subset of those outfalls with significant non-storm water discharge. Additionally, permittees may, in lieu of the requirements in Attachment E, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A. of Attachment E and includes the elements set forth in Part II.E. of Attachment E in coordination with an approved Watershed Management Program per Part VI.C	None.
General	With the exception of Landscape irrigation, the City proposes to prohibit non-stormwater discharges and require those dischargers to obtain a Discharge Permit from the Regional Board so no changes to the language are requested. The Regional Board staff may want to consider making flow the only nexus needed to document a connection between a RWL or WLA exceedence and conditionally	Torrance	Comment noted. While flow data are valuable for identifying non-storm water discharges from the MS4, the Board finds that water quality monitoring data is useful to address the question of whether the conditionally exempt non-storm water discharge is a source of pollutants to a receiving water. If other representative data are available regarding the water quality characteristics of the conditionally exempt non-storm water discharge, then flow data may be adequate to establish a nexus between a RWL exceedence and a conditionally exempt non-storm water discharge from the MS4.	None.

	exempt non-storm water discharges			
Non-emergency fire fighting activities	The manuals for non-emergency firefighting activities BMPs should be presented in tabular form consistent with Table 8.	El Segundo Fire Department, Los Angeles Area Fire Chiefs Association	Table 8 lists specific and detailed requirements that Permittees must follow to accept non-storm water discharges into their MS4. As the Fire Fighting Activities BMP manuals are fairly detailed, a reference to the manual is most appropriate.	None.
Potable Water Sources	Table 8, (Page 33): Under the provision for (LACFCD) Los Angeles County Flood Control District to mandate reporting by potable water suppliers should be amended. LACFCD has no legal mechanism to enforce this provision except where the discharge is to a County owned right of way, which is in only a very small number of cases. It makes much more sense and is consistent with the rest of the permit to require each MS4 permittee to have this requirement. Please consider revising the language accordingly, "Whenever there is a discharge of one acre-foot or more into the MS4, the MS4 Permittee shall require advance notification by the discharger to the MS4 Permittee."	Downey, Sierra Madre	The Regional Water Board agrees and has broadened the notification to include other MS4 Permittees.	Language was revised.
Potable Water Sources	Footnote 10 - The City requests that this requirement be deleted. The City has no authority over the Water District. Such a	Malibu	MS4 Permittees could compel dischargers to comply as a condition of discharge to their MS4. MS4 Permittees are required to have adequate legal authority pursuant to 40 CFR section 122.26(d)(2)(i) to control discharges to the MS4.	Language was revised.

	<p>requirement is more appropriately placed on water providers by the State. Further, the Permit should not place requirements in footnotes, which are meant for clarifications, citations and references applicable to the main text. If the requirement is not deleted, the requirement must be properly placed within the Permit requirements in the text of the page.</p>		<p>The recordkeeping requirements have been moved to the main text instead of a footnote.</p>	
<p>Discharge Prohibitions</p>	<p>The City, being a potable water distribution system and an MS4 is concerned with this section and feels that some clarifications need to be addressed. The notification and monitoring requirements are unclear as to whether they apply to any discharge or if they apply to a threshold of 1 acre-foot. The City believes that if these requirements apply to all discharges this would be excessive and a waste of City resources. The City believes that this section should be rewritten to address the issues that may arise for cities that own and operate a potable water distribution system and are also a MS4 permittee.</p>	<p>Inglewood</p>	<p>The requirement applies to discharges above a threshold volume.</p> <p>The permit has been revised to move the notification requirements for discharges above a certain volume threshold to the main body for clarity.</p>	<p>Language was revised.</p>
<p>Potable Water Sources</p>	<p>As proposed, Permittees are required to work with potable</p>	<p>County of Los Angeles</p>	<p>A MS4 Permittee may “ensure” notification, monitoring and recordkeeping by requiring it as a condition for entry</p>	<p>Language was revised.</p>

	<p>water suppliers that may discharge to the Permittee’s MS4 to “ensure” notification, monitoring and record keeping. The Permittees cannot “ensure” that a third party, such as a potable water supplier, will undertake the required notice, monitoring and record keeping. It is appropriate for the Permittees to “require” such steps as a condition for entry of the discharge into their MS4.</p> <p>In addition, recordkeeping by the potable water supplier would only be required for discharges greater than one acre-foot (325,581 gallons). In previous discussions the proposed threshold was in the range of 25,000 to 30,000 gallons for potable water suppliers and/or distributors.</p>		<p>of the discharge into the MS4, or through other inter-agency agreements.</p> <p>The Regional Water Board agrees that the volume threshold is too large and have revised the threshold to 100,000 gallons which was proposed as the annual discharge threshold to require coverage under a General Potable Water Discharge Permit in the first draft of the current Ventura MS4 Order.</p>	
Potable Water Sources	Section III.A.2.a.ii: to clarify that the requirements set forth in items (1), (2) and (3) of Section III.A.2.a.ii apply only to discharges greater than one acre-foot, to clarify that it is clear to whom the required notification is to be given and to shorten the required notice period to be more realistic in connection with community water systems’ typical operations, in the	Public Water Agencies Group and Mutual Water Companies	The permit language has been clarified as suggested. Note that the volume threshold has been reduced to 100,000 gallons in response to other comments.	The language was revised.

	sixth line, after “ensure,” add the following: “to ensure, <u>that for discharges greater than one acre-foot:</u> (1) <u>notification shall be provided to the MS4 Permittee with jurisdiction over the land area from which the discharge originates</u> at least 24 72 hours. . . .,” and delete the “for all discharges greater than one acre-foot” at the end of the paragraph.			
Potable Water Sources	Footnote 9: Footnote 9 lists “pollutants of concern” and due to the relatively innocuous nature of community water system discharges we suggest deleting “trash and debris, including organic matter, total suspended solids (TSS)” and replacing it with “chlorine residual and pH.”	Public Water Agencies Group and Mutual Water Companies	The permit has been revised to state that pollutants of concern may include trash and debris, including organic matter, TSS, and to add chlorine residual and pH to the list of possible pollutants of concern. This will provide flexibility with regard to the types of monitoring conducted given the characteristics of the water supply discharge (e.g. discharge from a distribution system versus discharge from a water supply reservoir).	The language of Footnote 9 has been revised.
Potable Water Sources	Section III.A.4.a: in the first paragraph, to remove any possible conflict of this section with the essential non-stormwater discharge provisions in Part III.A.2, add: “ <u>Except as provided in Parts III.A.2.a.i and ii,</u> develop and implement”	Public Water Agencies Group and Mutual Water Companies	Part III.A.4.a applies to all conditionally exempt and conditionally exempt essential non-storm water discharges. There are no conflicts between Part III.A.4.a and Part III.A.2.a.	None.
Potable Water Sources	Section III.A.4.a.ii: delete subdivision (ii) in its entirety because if such permits are already required, the provision is duplicative.	Public Water Agencies Group and Mutual Water Companies	As described in the federal storm water rulemaking, federal regulations do not require these types of discharges to be effectively prohibited from the MS4. Permits are not required, but may be issued by the Water Board for these types of discharges.	None.

<p>Potable Water Sources</p>	<p>Table 8, page 33: in the “All Discharge Categories” box, because the provision would be very difficult, if not impossible, for community water systems to comply with, delete “segregate conditionally exempt non-storm water discharges from potential sources of pollutants to prevent introduction of pollutants to the MS4 and receiving water.” Replace that language with: “Discharges from potable water sources under Part III.A.2.a.ii shall ensure the flow path between the discharge point and entrance to the MS4 (e.g., streets, gutters, swales) is free of trash and debris, organic matter and potential sources of pollutants.”</p>	<p>Public Water Agencies Group and Mutual Water Companies</p>	<p>The Regional Water Board expects that Permittees will ensure that non-storm water discharges avoid potential sources of pollutants in the flow path. This may be accomplished by selecting the flow path to avoid potential sources of pollutants, and by ensuring that the flow path between the discharge point and the entrance to the MS4 is free of potential sources of pollutants. The permit has been revised to clarify expectations regarding this requirement.</p>	<p>The language has been revised.</p>
<p>Potable Water Sources</p>	<p>Table 8, page 33: in the “All Discharge Categories” box, the Los Angeles County Flood Control District does not in all instances have authority to require a discharger, such as a community water system, to perform any acts, particularly where the Flood Control District’s facilities are not directly used by a particular discharge. To clarify the advance notification requirement under that</p>	<p>Public Water Agencies Group and Mutual Water Companies</p>	<p>The permit has been revised to clarify that the permittee with authority over the MS4 to which the discharger is discharging shall require notification.</p>	<p>Language has been revised.</p>

	<p>provision in Table 8, the language should be modified to read: “Whenever there is a discharge of one acre-foot or more into the MS4, the discharger shall provide at least 24 hours’ advance notification to the MS4 Permittee with jurisdiction over the land area from which the discharge originates.”</p>			
General	<p>Part III.A.5: We request that the board confirm that this is regulatory relief from exceedances due to potable water discharge.</p>	Santa Monica	<p>The permit states that, if a Permittee demonstrates that the water quality characteristics of a specific authorized or conditionally exempt essential non-storm water discharge resulted in an exceedance of applicable RWLs or WQBELs during a specific sampling event, the Permittee shall not be found in violation of the applicable RWL or WQBEL for that sampling event.</p>	None.
Potable Water Sources	<p>Regarding Top of Page 28, Clarification of the one acre-foot threshold. As written, it is possible to interpret the one acre-foot threshold as applying to the cumulative total of smaller discharges which exceeds one acre-foot and/or as applying only to the third measure, “record keeping”. We believe that the intent of the language is that all individual discharges greater than one acre-foot need to have all three of the noted actions taken. So we recommend that the text be re-written so that it is clearer that the threshold applies to</p>	Sierra Madre, National Fire Sprinkler Association	<p>The Board agrees and will revise the language.</p> <p>Another commenter suggested the following language, which staff feels is appropriate;</p> <p>Additionally, each Permittee shall work with potable water suppliers that may discharge to the Permittee’s MS4 to ensure that all discharges greater than one-acre foot shall have: (1) notification at least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge; (2) monitoring of any pollutants of concern⁹ in the potable water supply release; and (3) record keeping by the potable water supplier.</p>	Language revised.

	all requirements. This should be done in Table 8 as well			
Potable Water Sources	Regarding Footnote 9 at the bottom of Page 28: This footnote is difficult to interpret and contains analyses of marginal significance. We believe that it should be consistent with Footnote 10 where the analysis of chlorine residual and pH are required. Further, the language used in this footnote makes more sense in Table 8 and as a result proposes the changes.	Sierra Madre, National Fire Sprinkler Association	The footnote is clear in its current form. Non-storm water discharges are allowed only if they are not source of pollutants. The constituents detailed in the footnote are pollutants and are appropriately called out.	None.
Potable water sources	Footnote 8: While in technical terms “raw water” is not potable, there is a very slight possibility that the pipeline linking the city’s source of raw water with our groundwater recharge facility may leak due to age or private contractor error. This raw water pipeline is a part of the city’s potable water supply source and therefore an integral part of our potable water system. Thus, we respectfully request that the term “raw water” be included in the footnote language as noted below	Sierra Madre	The footnote references planned discharges. As such the footnote is appropriate as is.	None.
Potable water sources	Clarify that the 1 acre-foot threshold applies to all of the	Metropolitan Water District of Southern	Comment noted; the discharge volume threshold has been included in the main body of the Order for clarity.	Language was be revised.

	provisions in the Draft Tentative Order regarding discharges from potable water supplier. As currently worded, this could be interpreted that wastewater purveyors must provide notification and also monitoring all discharges of any volume.	California, Golden State Water Company		
Clarification of the one acre-foot threshold.	As written, it is possible to interpret the one acre-foot threshold as applying only to the third measure, “record keeping”. We believe that the intent of the language is that all discharges greater than one acre-foot need to have all three of the noted actions taken. So we recommend that the text be re-written so that it is clearer that the threshold applies to all requirements. This should be done in Table 8 as well.	National Fire Sprinkler Association, LA DWP, City of Santa Monica, Main San Gabriel Basin Watermaster	The permit has been revised for clarity. Commenter suggested language: Additionally, each Permittee shall work with potable water suppliers that may discharge to the Permittee’s MS4 to ensure <i>that all discharges greater than one-acre foot shall</i> have: (1) notification at least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge; (2) monitoring of any pollutants of concern ⁹ in the potable water supply release; and (3) record keeping by the potable water supplier. for all discharges greater than one acre-foot. ¹⁰	Language revised.
Non-Stormwater Discharges	The Upper district believes that the draft permit recognized that Community Water Systems (CWSs) have legal obligations under both state and federal laws and regulations to discharge water for the protection of public health and safety. The Upper District supports the regulatory accommodations provided in this permit which will allow CWSs and MS4	Upper San Gabriel Valley Municipal Water District	The permit does recognize a category of non-storm water discharges that are legally required, and includes provisions in recognition of these legal obligations.	None.

	<p>permittees to work together to resolve water quality problems rather than placing them in a position where conflict would have resulted.</p>			
<p>General-Burdensome</p>	<p>Community Water Servicers (CWS), that are investor-owned, may find the revision of the MS4 to be burdensome and duplicative, based on the required level of reporting that a CWS is required to submit to an MS4. Section 4.a. (Page 29 of the order). California Water Service Co. already documents our BMP measures and already follows American Water Works Association guideline when discharging.</p>	<p>California Water Service Company</p>	<p>The reporting requirements are necessary information for Permittees to have to demonstrate compliance with the Permit, and specifically the requirement to effectively prohibit non-storm water discharges that are a source of pollutants to the MS4. CWS discharges can be a significant source of non-storm water flow to the MS4, and MS4 Permittees must have the ability to control discharges to their system. Therefore MS4 Permittees must be able to track these discharges.</p>	<p>None.</p>
<p>Clean out of MS4</p>	<p>Only require clean out of MS4 in areas with greater than one acre foot of discharge to allow for more manageable number of discharges to monitor</p>	<p>Santa Clarita</p>	<p>The clean out of the MS4 system is required only when lake dewatering is being done. Due to the volume of discharge and the potential discharge of pollutants involved, the language is appropriate as is.</p>	<p>None.</p>
<p>Lake Dewatering</p>	<p>Footnote 20 - The requirement states, "Permittees shall require that the following information is maintained by the lake owner / operator..." It is not clear which permittee is responsible: the one whose MS4 discharge first enters or the one from where the discharge originates. Again, the permit should not have</p>	<p>Malibu</p>	<p>The Permittee that owns/operates the portion of the MS4 where the discharge enters the system shall require the discharger to maintain the information on the discharge.</p> <p>The Order has been revised to move the recordkeeping requirements from a footnote into the main text of the Order.</p>	<p>The language will be moved from a footnote to the main body.</p>

	requirements in footnotes. Footnotes are meant for clarifications, citations and references applicable to the main text. Please clarify the requirement and remove it from the footnotes.			
Landscape Irrigation	Landscape irrigation is a proven source of pollutants and should no longer be included in the list of conditionally exempt non-stormwater discharges.	Environmental Groups	The permit includes several provisions to ensure that landscape irrigation is not a source of pollutants to the MS4. Specifically, Permittees must develop and implement procedures that minimize the discharge of landscape irrigation water into the MS4 by promoting conservation programs. Further, the permit requires that if a Permittee determines that landscape irrigation is a source of pollutants to the MS4 that causes or contributes to exceedances of applicable RWLs or WQBELs, the Permittee must address the discharge in one of several ways, per Part III.A.4.d.	None.
Landscape Irrigation	Landscape irrigation with recycled water - please clarify what an applicable O&M plan is and the Irrigation Management Plan	Santa Clarita	For landscape irrigation with recycled water many municipalities have preexisting requirement/plans for the use of recycled water. The language is referring to existing plans/requirements.	None.
Landscape irrigation using potable water	Irrigation water discharges are subject to the requirements of an ordinance adopted pursuant to AB 1881. Moreover, it is unclear how individual dischargers (who most often will be individual residents) can implement BMPs to minimize runoff or implement water conservation programs. Such programs also are the responsibility of the water purveyor, not the MS4 operators.	County of Los Angeles	The Order is clear that Permittees' obligation is to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4 by promoting conservation programs in coordination with local water purveyors, and through coordinated outreach and education programs to residents and businesses.	None.

<p>Swimming pool/spa discharges and Dewatering of decorative fountains</p>	<p>The testing required for residential pools, spas, and decorative fountains prior to discharging is cumbersome and much too sophisticated for most property owners to conduct. In addition, in Los Angeles County alone, there are 16,000 public pools and an undetermined number of decorative fountains, which will be subject to this testing prior to discharge. The cost of testing kits or laboratory analysis will pose a huge burden on the homeowners, as well as recreation and parks departments within the City and County. Please consider deleting this condition. We agree with the requirement for volumetrically and velocity controlling these discharges but for a different reason namely that the storm drain system should be able to handle it. Regardless of the rate of discharge, there would not be a significant loss to evaporation or infiltration when discharging into the storm drain system.</p>	<p>City of Los Angeles</p>	<p>Chlorine is toxic to aquatic life. While discharges from pools and decorative fountains may be conditional exemptions to the non-storm water prohibition, it is essential to prevent chlorine from being discharged to the receiving water. The Draft Order does not specifically require owners of residential pools, spas, and decorative fountains to “test” for chlorine residual to ensure that chlorine added to the water is not discharged in concentrations above 0.1 mg/L. Rather, the Permittee has discretion as to how this determination is made within their jurisdiction. The criteria listed in this section should be used to establish municipal codes and enforcement procedures. In most cases, the Board does not anticipate the need for residual chlorine testing or permitting. The comment regarding the significance of evaporation and infiltration is noted.</p>	<p>None</p>
<p>Non-commercial car washing by residents or non-profit organizations</p>	<p>We have concern about the enforceability of any BMPs applicable to residents or non-profit organizations,</p>	<p>County of Los Angeles</p>	<p>The Board acknowledges that enforcement of BMPs for residents or non-profit organization is typically not a priority for municipalities and anticipates most municipalities will implement BMPs applicable to</p>	<p>None.</p>

	which may be high school clubs or athletic teams. Most of these activities occur during the weekend, when municipal staff is not working. It would be very costly to attempt any enforcement during non-working hours.		residents or non-profit organizations by public education and technical assistance. The Board notes that many municipalities have water usage restriction ordinances that are implemented mainly by public outreach.	
BMPs for Discharges from Non-Commercial Car Washing	The Fact Sheet includes BMPs not listed in Table 8. Recommendation: Remove "...creating a temporary berm or block off the storm drains; using pumps or vacuums to direct water to pervious areas;..."	LACFCD	The Fact Sheet will be revised to remove these conditions to align with the changes to Table 8 in the Order	The Fact Sheet will be revised.
Street/sidewalk wash water	Substitute "patio" for "street" so that sidewalk and patio rinsing are conditionally allowed but not street washing. Also include patio washing in the Table 10 discussion of sidewalk washing for industrial/commercial source control BMPs	South Bay Cities, Torrance	Street washing has been shown to be an activity that is conducted regularly and can contribute pollutants to the MS4 if not properly managed. The Board did not specify every activity that generates non-storm water that may or may not contribute pollutants. To the extent that an activity generates non-storm water discharges that are a source of pollutants, those discharges must be effectively prohibited from discharging through the MS4.	None.
Street/sidewalk wash water	The conditional exemption of street/sidewalk water is inconsistent with the requirement in the industrial/commercial MCM section that street washing must be diverted to the sanitary sewer. Sidewalk water should definitely be conditionally exempt, but so also should patios and pool	LA Permit Group	The Board disagrees that the pollutant loading from an industrial/commercial private street/sidewalk is equivalent to a typical public sidewalk or street in a non-commercial area. Heavy commercial/industrial facilities typically store hazardous materials, have heavier vehicle traffic including heavy equipment/trucks, and some have metal sources which are not found in a light commercial or residential area. The Board did not specify every activity that generates non-storm water that may or may not contribute pollutants. To the extent that an activity generates non-storm water discharges that are a source of	None.

	deck washing. If street washing has to be diverted to the sanitary sewer for industrial/commercial facilities, then it should for all facilities and so should parking lot wash water as they are similar in their pollutant loads.		pollutants, those discharges must be effectively prohibited from discharging through the MS4.	
Street/sidewalk wash water	The allowable spray washing application rate of 0.006 gallons is too low and we are not aware of any product that would meet this application rate. Please remove application rate for high pressure, low volume spray-washing. Even higher application rates may not result in wash water discharges reaching the storm drain system.	City of Los Angeles	This requirement has not changed from the existing 2001 permit. The allowable spray washing rate of 0.006 gallons per square foot is based on approved BMPs identified in Resolution No. 98-08. These BMP requirements have been included in other MS4 permits within the State of California. The washing rate of 0.006 gallons per square foot is appropriate for inclusion in this permit.	None.
Definition	Please clarify what is meant by “segregate.” Give examples of measures that could be taken to segregate non-storm water discharges from potential sources of pollutants	Peninsula Cities, South Bay Cities, Torrance, Association of California Water Agencies	The term segregate means to prevent the non-storm water runoff from contacting sources of pollutants. An example is, if air conditioner condensate was being discharged within a heavy industry facility, a Permittee should take appropriate actions to prevent the discharge from coming into contact with the hazardous waste storage area, or any other areas with sources of pollutants, and entering into a storm water conveyance system.	None.
Table 8, Attachment F – IV.A.5. [Page 33, Page F-26] All Discharge Categories –	Most residential swimming pools hold from 20,000 to 22,000 gallons of water, and decorative fountains even less. Is the one-acre foot threshold intended to exempt	County of Los Angeles, LACFCD	The threshold has been revised to 100, 000 gallons, which was proposed as the annual discharge threshold to require coverage under a General Potable Water Discharge Permit in the first draft of the current Ventura MS4 Order. This threshold will allow discharge of smaller volumes without notification. However,	Threshold was revised.

Segregation of Flows, Notification	residential swimming pools and most decorative fountains from advanced notification? This notification would only apply to lakes dewatering and municipal/county/commercial swimming pools that are approximately half the size of an Olympic-sized swimming pool (approximately 660,000 gallons). Notification should be set at 30,000 gallons.		swimming pool, spa and decorative fountain discharges of less than 100,000 gallons must still meet the other conditions in Table 8.	
Table 8, Attachment F – IV.A.5	Part III.A.2.b combined with Table 8 would require Permittees to develop and implement procedures to ensure exempt non-storm water discharges that are generally perceived to be low risk meet very prescriptive and often highly resource intensive BMPs. For the dewatering of lakes, swimming pools/spas, and decorative fountains, the requirement to inspect and clean the MS4 inlet and MS4 outlet to the receiving water immediately prior to discharge is logistically infeasible, impractical, highly resource-intensive, and expensive. Moreover, since the outlet (which is discharging water from numerous sources) is constantly discharging, there should not be a need to clean	County of Los Angeles, LACFCD	For dewatering of lakes, swimming pools and decorative fountains, the permit has been revised to clarify that the provision requiring that the discharge pathway and the MS4 inlet to which the discharge is directed shall be inspected and cleaned out for discharges above the notification threshold. Furthermore, the requirement to inspect and cleanout the outlet has been removed. The notification threshold has been revised to 100,000 gallons.	The language has been revised.

	it out. Revised language proposed.			
General	On page 33 in Table 8 there is a requirement for all CENSWDs to “Segregate conditionally exempt non storm water discharges from potential sources of pollutants to prevent introduction of pollutants to the MS4 and receiving water.” This is difficult to understand and its practical implications are not clear. Based on the discussion at the recent Board Workshop, we believe the intent is to prevent discharges from mobilizing pollutants in the flow path. We would recommend that this section be re-written to more clearly state the intent. Possible language for Table 8 might be...”Ensure flow path between discharge point and entrance to the MS4 (e.g. streets, gutters, swales) are free of trash and debris, organic matter, and potential sources of pollutants.”	Association of California Water Agencies	The commenter’s understanding is generally correct. The permit has been revised to provide additional clarity.	Language was revised.
Table 8, Attachment F – IV.A.5	The use of the word “ensure” in the conditions/BMPs should be deleted, since the requirement is being asked of a third-party discharger, not the Permittee. A Permittee cannot “ensure” the conduct	County of Los Angeles, LACFCD	A MS4 Permittee may “ensure” notification, monitoring and recordkeeping by requiring it as a condition for entry of the discharge into the MS4, or through other inter-agency agreements.	None.

	of a third-party discharger. The provision should use the term “require” instead.			
Table 8, Attachment F – IV.A.5. [Page 33, Page F-26] All Discharge Categories – Segregation of Flows, Notification	It is not the sole responsibility of the LACFCD to require dischargers of one acre-foot (325,581 gallons) or more to provide advanced notification to potentially affected MS4s, including, at minimum, the District and the Permittee with land use jurisdiction of the originating discharge. LACFCD is not necessarily in a position to know when one acre-foot or more of discharge will be entering its MS4. This should be the responsibility of all the MS4 Permittees.	LACFCD	The Order has been revised to state that potentially affected Permittees, including but not limited to the LACFCD, shall require notification by the discharger.	Language has been revised.
Table 8	The permit makes frequent reference to Table 8 (“Required Conditions for Conditionally Exempt Non-Storm Water Discharges”) as it applies to CENSWDs. The majority of required conditions apply only to Non-Essential CENSWDs (although the first applied to both Essential and Non-Essential CENSWDs). The actual required conditions for Essential CENSWDs in III A 2 a i and ii are not found in this table. ACWA is concerned that it	Association of California Water Agencies	Given that the conditions in Table 8 are identified according to the type of non-storm water discharge, there should not be any confusion regarding the conditions applicable to different discharge types.	None.

	will be confusing if the requirements that apply to Essential CENSWDS are not in Table 8 or another Table that is clearly marked as applying to Essential CENSWDS. One solution would be to have separate Tables for Essential CENSWDs and Non-Essential CENSWDs (see attached table).			
Table 8, Attachment F – IV.A.5. [Page 33, Page F-26]	As written, the Permit would require segregation of conditionally exempted discharges from potential sources of pollutants. Since the MS4 can receive flows from multiple discharges and sources, segregating the conditionally exempt flows may not be feasible.	County of Los Angeles, LACFCD	Conditionally exempt non-storm water discharges are allowed into the MS4 only if they are not a source of pollutants. If a discharge that is conditionally exempt picks up pollutants prior to discharge into a MS4 it would no longer be exempt; therefore, this provision is intended to ensure that conditionally exempt discharges that are not a source of pollutants are directed away from potential sources of pollutants in the flow path, or that the flow path is inspected and cleaned prior to discharge of the conditionally exempt flows.	None.
<i>Conditional Exemptions from Non-Storm Water Discharge Prohibition within an ASBS</i>				
General	Please change to include from MS4 directly to an ASBS	Santa Clarita	The language has been revised as suggested.	Language has been revised.
III.A.2.b. & III.A.3.a ASBS and non-ASBS	The listed non-storm water discharges which are conditionally exempt within an Areas of Special Biological Significance (ASBS) should also be conditionally exempt in areas outside an ASBS, i.e., anywhere in the LA Basin. The same concerns for structural stability, slope stability and naturally occurring flows are present	County of Los Angeles, Peninsula Cities	These categories are already covered either as authorized non-storm water discharges covered by another NPDES permit, or conditionally exempt discharges. The language included in the Order for discharges within an ASBS mimics the language adopted by the State Board in Resolution No. 2012-0012.	No change to language.

	<p>on the Palos Verdes Peninsula as they are in ASBS in Malibu, this is especially clear from the recent landslide at Whites Point in San Pedro, as well as the active landslide areas on the Palos Verdes Peninsula. Exemption of these categories are essential for structural and slope stability, and should apply in areas not designated as ASBS. The list of exemptions should be consistent for both.</p>			
<i>Permittee Requirements</i>				
<p>III.A.4.a.i.-vi.</p>	<p>A Permittee cannot ensure that a third party discharger follow requirements relating to its discharge. Such a requirement would potentially make the Permittee liable for any failure of the third party discharger to follow the requirements set forth in the draft Permit.</p> <p>In addition, the language can be interpreted more broadly than Regional Water Board staff may have intended. While a footnote to this provision names such parties as POTW operators, potable water supply and distribution agencies and other governmental entities, it presumably could apply to</p>	<p>County of Los Angeles</p>	<p>Permittees are required to have the authority to control discharges to their MS4s pursuant to 40 CFR section 122.26(d)(2). A Permittee may ensure that discharges to its MS4 fulfill certain requirements through various mechanisms.</p>	<p>None.</p>

	any private company or individual as well. While this provision appears to shift to the discharger responsibility for controlling its discharge, the Permittee will incur administrative costs. Also, is this requirement applicable to discharges such as irrigation runoff, car washing, and other occasional, but repetitive activities conducted by non-institutional dischargers?			
III.A.4 a ii:	We believe that this provision does not serve any purpose. If a local MS4 owner or operator requires a local permit, the MS4 permit does not need to require the Permittee to require that permit, it is already required. If the local MS4 owner or operator does not require a local permit, the MS4 permit does not change that. We propose that this provision be struck out entirely.	Sierra Madre, National Fire Sprinkler Association	The section in question refers to Permittees’ oversight of non-Permittees. The following excerpt is from the beginning of the section commented on: <i>“Develop and implement procedures to ensure that a discharger, if not a named Permittee in this Order, fulfills the following for non-storm water discharges to the Permittee’s MS4”</i> Additionally, non-storm water dischargers refer to the Permit for direction regarding discharges to the Permittees’ MS4s. The inclusion of this language reinforces the idea that some MS4 owners do require a local Permit and dischargers need to check with the operator of the system they plan to discharge into.	None.
Permittee Requirements	This section makes frequent references to Table 8 which are BMPs for Non-Essential CESNSWD (except for the very first one which covers both Essential and Non-Essential CESNSWDs). However it is confusing as worded.	Sierra Madre	The language is clear in its current form.	None.
Permittee	This in conjunction with	Santa Clarita	The Clean Water Act requires that MS4 permits	None.

Requirements	Table 8 essentially requires permittees to divert all the stormwater from dry weather flows to the sewer. This exceeds federal requirements and is economically infeasible. Permits will be cost prohibitive, and will result in the public bypassing the permit process. Establish more reasonable thresholds.		effectively prohibit non-storm water discharges that are sources of pollutants to receiving waters. The requirements in the permit pertaining to non-storm water, including Table 8, are required to effectuate this federal standard. The Board may therefore appropriately prohibit non-storm water discharges from reaching receiving waters, and/or impose conditions/requirements to ensure that non-storm water discharges are not a source of pollutants to receiving waters. There are multiple ways of abating non-storm water discharges, including eliminating illicit discharges, directing illicit dischargers to apply for an NPDES permit, or directing them to divert their discharge to a sanitary sewer system. As written, the language is appropriate.	
III.A.4.c.	If the Permittees determine that authorized discharges contribute to a significant portion of non-storm water discharges that may have caused or contributed to an exceedance, the Permittee(s) should not be required to take further actions to determine whether the authorized discharges are a source of pollutants that causes or contributes to an exceedance of receiving water limitations. This places the burden to regulate NPDES-authorized discharges on the MS4 Permittees when such responsibilities lie with the Regional Water Board to evaluate the discharges they permit. Instead, the Permittee(s) should be	County of Los Angeles	If the Permittees determine that authorized discharges contribute to a significant portion of non-storm water discharges that may have caused or contributed to an exceedance of receiving water limitations, the Order includes provisions for Permittees to notify the Regional Board and provides that a Permittee would not be found in violation of applicable receiving water limitations for that sampling event. The Regional Board would take action as appropriate regarding the authorized discharge. The Permittee would not be required to take further action regarding the authorized discharge that caused the exceedance.	None.

	<p>allowed to focus resources on investigating the unauthorized discharges, and report the authorized discharges to the Regional Water Board for further evaluation and action.</p>			
III.A.4.d.	<p>Since “effectively prohibit” requires the discharger to either stop the discharge (which may be difficult given the circumstances of the discharge) or obtain an NPDES permit, it makes more sense for the discharger to apply directly to the Regional Water Board for coverage under the NPDES permit, as this places the responsibility on the discharger to ensure that it is complying with the Clean Water Act.</p> <p>The ultimate responsibility for non-stormwater discharges is that of the discharger, not the Permittee. The Permittee must, under the Clean Water Act, “effectively prohibit” non-allowed non-stormwater discharges, but the Permittee is not responsible for arranging treatment or diversion to sanitary sewers. Obviously, a discharger can contract with a sanitary sewer to handle the discharge, but</p>	<p>County of Los Angeles, LACFCD</p>	<p>The Board disagrees. The permittees have ultimate authority and responsibility to prohibit, prevent, or otherwise control the non-storm water discharges that enter and exit the portions of the MS4 for which they are owners and/or operators. Even if the permittees do not themselves generate the pollutants entering/exiting their MS4s, the permittees are nevertheless responsible for ensuring that the pollutants do not reach receiving waters through their MS4. As recently stated by the 9th Circuit Court of Appeals, “the Clean Water Act does not distinguish between those who add and those who convey what is added by others - the Act is indifferent to the originator of water pollution.” (<i>NRDC v. County of Los Angeles</i> (2011) 673 F.3d 880, 900.) Thus, the Clean Water Act, and this permit, appropriately places responsibility for preventing or controlling illicit discharges on the permittees.</p> <p>Once the permittees identify illicit discharges, they have a responsibility to abate these discharges. Permittees may abate the discharges in several ways, including source control and source remediation, directing non-permittee dischargers to eliminate the discharge, apply for an NPDES permit, or divert their discharge to a sanitary sewer system. As written, the language is appropriate.</p>	<p>None.</p>

	that is a responsibility for the discharger, not the Permittee. Source control and source remediation should always be the preferred action to encourage and instill change in polluting behaviors.			
III.A.4.d.	<p>Strike provision III.A.4.d.iii.</p> <p>Strike provision III.A.4.d.iv. as it is already covered under “impose conditions in addition to those in Table 8” at ii</p> <p>Eliminate footnote 18 as a definition, and instead split III.A.4.d.i. into two possible actions:</p> <ul style="list-style-type: none"> <i>i. Prohibit the non-stormwater discharge or</i> <i>ii. Require that the discharger obtain coverage under an NPDES permit</i> <p>Impose conditions in addition to those in Table 8.</p>	South Bay Cities, Torrance	The language is adequate in its current form. The meaning of “impose conditions in addition to those in Table 8” is intended to relate to additional BMPs or source control measures that could be implemented to prevent the discharge of pollutants, while subsections iii and iv cover different alternatives for addressing the discharge of pollutants -- through diversion or treatment.	None.
III.A.4.d.iv.	For municipalities to “provide for treatment” of a non-storm water discharge is inappropriate use of public funds unless it is a discharge generated by the activity of the MS4 Permittee. Instead the discharger must be required to obtain a permit	County of Los Angeles, Peninsula Cities, South Bay Cities, Torrance	Illicit discharges are prohibited under Federal law and in the Order. Once they are identified, Permittees have a responsibility to abate these discharges which could mean directing the dischargers to apply for an NPDES Permit or directing them to divert their discharge to a sanitary sewer system. As written, the language is appropriate and provides flexibility by giving Permittees a number of options for addressing the non-storm water discharge.	None.

	<p>and connect the discharge to the sanitary sewer, or to treat the discharge, but that would fall under “impose additional conditions”</p> <p>Strike this provision as it is already covered under “impose conditions in addition to those in Table 8” at ii.</p>			
III.A.5.	<p>Liability for receiving water limitation violations should not follow for any exceedance of a water quality standard. Nevertheless, we support the intent of this provision, which is to acknowledge that Permittees should not be liable for exceeding receiving water limitations and/or water quality-based effluent limitations due to authorized or conditionally exempt non-stormwater discharges.</p> <p>We believe however, that the provision as written would be difficult to utilize and contains ambiguous language.</p> <p>First, NPDES Permittees (the “authorized discharges”) may not be required to monitor their discharges and in any event, would send monitoring reports to the RWQCB, not Permittees. Also,</p>	County of Los Angeles	<p>First, for the most part, authorized and conditionally exempt essential non-storm water discharges must be monitored – either pursuant to the NPDES permit under which the discharge is covered or as required by USEPA for temporary discharges pursuant to sections 104(a) or 104(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or as a condition for discharging to the MS4 for discharges from potable water sources not otherwise covered by a NPDES permit.</p> <p>Further, it is the Board’s intention to regulate all pollutants, whether they are anthropogenic or naturally occurring, that are discharged from the MS4 to receiving waters. The entire purpose of a NPDES permit is to regulate discharges of “pollutants” from point sources to receiving waters. The Clean Water Act’s definition of “pollutant” in section 502(6) does not distinguish between pollutants that are caused by anthropogenic or naturally occurring sources. Even if a permittee is not able to control the source of a naturally occurring pollutant, permittees are required to control whether the pollutant is eventually discharged from the MS4 to receiving waters. Particularly in the case of non-storm water discharges, the Clean Water Act requires that NPDES MS4 permits prohibit non-storm water discharges that are a source of pollutants to receiving waters.</p>	None.

	<p>coordinating sampling taken at the point of discharge and in the receiving water would very extremely difficult, especially if the discharge point is some distance from the point of entry into the MS4. Also, “natural flows” are not monitored. Therefore, we recommend that for the “authorized discharges,” there be no requirement for source specific monitoring data.</p> <p>Second, there is no definition as to what constitutes “other relevant information regarding the specific non-storm water discharge as identified in Table 8.” The requirements of Table 8 apply to dischargers, not the Permittees.</p> <p>Third, none of these non-stormwater discharges should lead to liability for the Permittees unless there is a failure by Permittees to comply with the requirements of the Permit for that discharge category. Thus, if the Permittee fails to require certain BMPs or monitoring, it cannot benefit from the “safe harbor.”</p> <p>It is possible that multiple</p>		<p>Second, regarding the Board’s understanding of “other relevant information”, the language has been clarified to include “... documenting the characteristics of ...” the non-storm water discharge.</p> <p>Third, the Clean Water Act clearly states that non-storm water discharges that are a source of pollutants must be effectively prohibited. The 1990 storm water federal rulemaking identified some types of non-storm water discharges that could be exempt from the effective prohibition, assuming that they are not a source of pollutants. The federal rulemaking further specified that a permitting authority could include permit conditions to control these types of discharges. The requirements in Table 8 are intended to ensure to the extent possible that the non-storm water discharges are not a source of pollutants to receiving waters such that they can continue to be conditionally exempt from the effective prohibition. The federal rulemaking is clear that if a non-storm water discharge is a source of pollutants that the discharge must be eliminated or separately regulated by another NPDES permit.</p> <p>Finally, the Order contains procedures for source investigation by Permittees to identify whether multiple discharges are cumulatively causing or contributing to an exceedance.</p>	
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	<p>discharges could occur concurrently that could cumulatively cause or contribute to an exceedance. Permittees are also concerned about the extensive and widespread monitoring that may be required to provide that burden of proof.</p>			
III.A.5	<p>This condition regarding conditionally exempt non-stormwater discharges causing exceedances states, “[s]uch demonstration must be based on source specific water quality monitoring data from the authorized or conditionally exempt essential non-storm water discharge <i>and</i> other relevant information regarding the specific non-storm water discharge.” The conjunction should be changed to “<i>or</i>” rather than “<i>and</i>.” It is also unreasonable to require monitoring from every conditionally-exempt discharge. Further, given that most exceedances of receiving water limitations are discovered after at least a day, it is not possible to obtain a simultaneous sample from a conditionally exempt essential non-storm discharge. Therefore, a requirement for a permittee to provide water quality</p>	Malibu	<p>The language has been revised to use the term “or” instead of “and”. For the most part, authorized and conditionally exempt essential non-storm water discharges must be monitored – either pursuant to the NPDES permit under which the discharge is covered or as required by USEPA for temporary discharges pursuant to sections 104(a) or 104(b) of the CERCLA, or as a condition for discharging to the MS4 for discharges from potable water sources not otherwise covered by a NPDES permit.</p>	<p>The language has been revised.</p>

	monitoring data from a past discharge to prove it is not in violation is an impossible task and sets permittees up to fail.			
Attachment G – Non-Storm Water Action Levels				
General – Setting Non-Storm Water Action Levels (NAL)	The proposed NALs are the same as water quality objectives. Because the purpose of action levels is to identify the worst problems and prioritize actions, these action levels should be set at a higher level. <u>Recommendation</u> Review available monitoring data to set 90 th percentile values as action levels.	County of Los Angeles, LACFCD	Numeric action levels are triggers for Permittees to verify that their program is effectively controlling unauthorized non-storm water from entering the MS4. If a non-storm water discharge is a source of pollutants, it is considered an unauthorized non-storm water discharge. These illicit discharges are prohibited under federal law and in the Order. Therefore, it is appropriate to set the non-storm water action levels based on the prevailing water quality objectives. The commenter may be confusing the derivation and use of non-storm water action levels with that of municipal action levels for storm water. Municipal action levels are based on nationwide Phase I MS4 monitoring data for pollutants in storm water, and computed as the upper 25 th percentile concentration – representing an “upset” value, i.e. a pollutant concentration in the storm water discharge that is significantly higher than the average concentration in storm water. The MALs are used to prioritize storm water BMP implementation by identifying drainage areas with very poor storm water discharge quality relative to the average.	None.
General – Pollutants with Non-anthropogenic Sources	Pollutants that are known to be dominated by, or heavily contributed by, natural sources should not have action levels: e.g., Sulfate, Cyanide, Selenium, Nickel, Cadmium, Aluminum, TSS, pH, etc. <u>Recommendation</u> Remove Action Levels for	County of Los Angeles, LACFCD	It is the Board’s intention to regulate all pollutants, whether they are anthropogenic or naturally occurring, that are discharged from the MS4 to receiving waters. The entire purpose of a NPDES permit is to regulate discharges of “pollutants” from point sources to receiving waters. The Clean Water Act’s definition of “pollutant” in section 502(6) does not distinguish between pollutants that are caused by anthropogenic or naturally occurring sources. Even if a permittee is not able to control the source of a naturally occurring	None.

	these pollutants.		pollutant, permittees are required to control whether the pollutant is eventually discharged from the MS4 to receiving waters. This notwithstanding, the Regional Board is currently evaluating approaches to address natural sources of pollutants in its various regulatory programs. The tentative Order provides the opportunity for Permittees to identify the source of a pollutant in a non-storm water discharge and report these findings to the Regional Board. This information would be used by the Regional Board in evaluating any exceedances of non-storm water action levels in a Permittee's discharge.	
General – Setting Municipal Action Levels (MAL)	MALs should be set using the 90 th (upper 10 th) percentile values to allow for true prioritization of follow-up actions, which is the approach used in the San Diego Permit. <u>Recommendation</u> Set MALs using the 90 th percentile values.	County of Los Angeles, LACFCD	MALs are one tool for prioritization among several contained in the Order. The Regional Board has concluded that the 75 th percentile is an appropriate threshold to identify drainage areas with worse than average storm water quality.	None.
MAL for pH	The MAL for pH is set at 7.7; allowable values for pH have always been set as a range. <u>Recommendation</u> Set the MAL for pH to values outside of range 6.0–9.0.	County of Los Angeles, LACFCD	The MAL for pH has been revised to a range from 6.0-9.0.	The language has been revised.
Criteria for Submitting a MAL Action Plan	The draft Permit states: “Beginning Year 3 after the effective date of this Order, each Permittee shall submit a MAL Action Plan with the Annual Report (first MAL Action Plan due with December 15, 2013 Annual Report)...” If the effective date of the Order is October	County of Los Angeles, LACFCD	The date for submittal of the first MAL Action Plan will be changed to December 15, 2014. The running average should be calculated using all available data collected under the MRP for this Order.	The language will be revised.

	2012, October 2012 would be the beginning of Year 1, and October 2013 would be the beginning of Year 2, not Year 3. The MAL Action Plan should be submitted with the December 15, 2014 Annual Report. In addition, the time period for determining the “running average” should be clarified.			
Shellfish Criteria for Total Coliform Bacteria NAL	The NALs for Total Coliform Bacteria should be set to a higher level. <u>Recommendation</u> Review available monitoring data to set 90 th percentile values as action levels.	County of Los Angeles, LACFCD	Numeric action levels are triggers for Permittees to verify that their program is effectively controlling unauthorized non-storm water from entering the MS4. If a non-storm water discharge is a source of pollutants, it is considered an unauthorized non-storm water discharge. These illicit discharges are prohibited under federal law and in the Order. The commenter may be confusing the derivation of non-storm water action levels with that of municipal action levels for storm water. Municipal action levels are based on nationwide Phase I MS4 monitoring data for pollutants in storm water, and computed as the upper 25 th percentile concentration – representing an “upset” value, i.e. a pollutant concentration in the storm water discharge that is significantly higher than the average concentration in storm water. The MALs are used to prioritize storm water BMP implementation by identifying drainage areas with very poor storm water discharge quality relative to the average.	None.
Drinking Water (Municipal and Domestic Supply [MUN]) Criteria for Methylene Blue Active Substances (MBAS), Nitrite,	NALs for MBAS, Nitrite, Turbidity, and Aluminum should be set to a higher level. Drinking water (end-of-tap) criteria should not be used as end-of-pipe criteria or as action levels for the	County of Los Angeles, LACFCD	Numeric action levels are triggers for Permittees to verify that their program is effectively controlling unauthorized non-storm water from entering the MS4. If a non-storm water discharge is a source of pollutants, it is considered an unauthorized non-storm water discharge. These illicit discharges are prohibited under federal law and in the Order.	None.

Turbidity, and Aluminum	MS4. <u>Recommendation</u> Review available monitoring data to set 90 th percentile values as action levels.		The commenter may be confusing the derivation of non-storm water action levels with that of municipal action levels for storm water. Municipal action levels are based on nationwide Phase I MS4 monitoring data for pollutants in storm water, and computed as the upper 25 th percentile concentration – representing an “upset” value, i.e. a pollutant concentration in the storm water discharge that is significantly higher than the average concentration in storm water. The MALs are used to prioritize storm water BMP implementation by identifying drainage areas with very poor storm water discharge quality relative to the average.	
Action Levels	There are several references to “Table H-#” in Attachment G that should be corrected as necessary.	County of Los Angeles, LACFCD	References have been corrected.	The language has been revised.
Action Levels	Attachment G introduces numerous pollutants that now will need to be tested for. More time is needed to provide detailed comments specific to the Palos Verdes Peninsula . This Attachment should be advisory in nature until permittees and the Regional Board can further discuss.	Peninsula Cities	The non-storm water numeric action levels contained in Attachment G are triggers for Permittees to verify that their program is effectively controlling unauthorized non-storm water from entering the MS4. The previous Monitoring and Reporting Program of Order 01-182 also required testing for these pollutants at mass emissions stations and tributary monitoring stations. The action levels are based on the water quality standards applicable to the region’s surface waters. Standard procedures were used to derive action levels from the applicable water quality standards.	None.
VI.C.1.d Action Levels III.A.4.a.c and III.A.4.a.d Action Levels	As currently written in the Tentative Order, there is not a nexus between receiving water data (the basis for establishing watershed priorities per Part VI.C) and the non-stormwater action levels. Exceedances of the	City of Los Angeles	Numeric action levels are triggers for Permittees to verify that their program is effectively controlling unauthorized non-storm water from entering the MS4. Illicit discharges are prohibited under federal law and in the Order. Once such discharges are identified, Permittees have a responsibility to abate these discharges. A requirement of the Watershed Management Program	None.

	<p>non-stormwater action levels may occur without any commensurate exceedance or impact in the receiving water. Establishing a goal that is based upon not exceeding non-storm water action levels would therefore negate the very intent of the Watershed Management Programs – focusing on priorities, as defined by receiving water issues. As discussed in Comment #130, non-storm water action levels are more appropriately used to prioritize BMPs within a watershed.</p>		<p>includes Watershed Control Measures to prevent or eliminate non-storm water discharges. Action levels were established to identify where impacts to receiving waters are the most likely to occur, considering the existing receiving water quality as well as the beneficial uses within the receiving water. The action levels are intended to be a screening tool to prioritize the control of non-storm water discharges. Achieving action levels is only one of the goals of the Watershed Management Program. The Regional Board recognizes that in some cases, action levels may be a secondary means of prioritization.</p>	
Dry Weather Analytical Monitoring	<p>The tables with action levels (ALs) for brackish waters include a footnote noting that the ALs are set as the most stringent between the freshwater and salt water ALs. The footnote references tables for these ALs as H-# and H-# (H-9 and H-11 in the case of the brackish ALs in Table G-10 for the Dominguez Channel, for example). The reference to H-# tables is incorrect and should refer to the corresponding G-# tables (G-9 and G-11 for the Dominguez Channel example).</p>	City of Los Angeles	<p>The Regional Board concurs that the table footnotes within Attachment G referring to “Table H-“ should read “Table G-“.</p>	<p>Revised Attachment G Footnote References from “Table H-“ to “Table G-“, as appropriate.</p>
Dry Weather	Since the Tentative Order	City of Los Angeles	The Regional Board concurs that mercury Action Levels	The Daily

Analytical Monitoring	(TO) does not include detailed derivation of the ALs, it is not possible to verify or comment on the validity of the numbers presented in Attachment G for priority pollutants. However, a situation where an AL may be incorrect has been identified in the case of mercury. The daily maximum AL for discharges to non-ocean waters is either 0.1 µg/L, or 1.0 µg/L in the tables provided for all of the watersheds. No information for this variation is provided.		are incorrect in some of the Attachment G Tables. The references will be revised accordingly.	Maximum Action Level for Mercury in Tables G-1, G-2, G-3, G-14, and G-15 has been revised to 0.10 µg/L.
Dry Weather Analytical Monitoring	The Fact Sheet does not provide detailed calculations or information on how each of the non-storm water action levels were developed and provides only one example of such derivation (for nickel in discharges to salt water). As such, the Regional Board's calculations behind each non-storm water action level cannot be verified. Given that these non-storm water action levels may trigger significant actions by Permittees, it is imperative that Permittees can verify that each non-storm water action level is appropriate and validly established.	City of Los Angeles	The Regional Board assumes this comment refers to Action Levels based on CTR criteria. As referenced in the fact sheet, the step-by-step procedures for calculation of Action Levels based on CTR criteria are provided in the SIP. Additional assumptions, such as selected multipliers are also discussed in the Fact Sheet. For additional transparency, tables showing details on calculations will be provided.	Added tables to Attachment F that include Action Level Calculations for Freshwater and Saltwater CTR pollutants.