

**California Regional Water Quality Control Board, Los Angeles Region**  
**Los Angeles County MS4 Permit**  
**Response to Comments on the Tentative Order**  
**MONITORING AND REPORTING PROGRAM MATRIX**

<b>Section/Topic</b>	<b>Comment Summary</b>	<b>Commenter(s)</b>	<b>Response</b>	<b>Change Made</b>
<i>General</i>				
General	The monitoring and reporting program requirements were not developed in accordance with law, as the Board has failed to comply with Water Code sections 13267, 13225, and 13165. The Board must conduct a cost/benefit analysis and find that the burden, including the costs of these requirements, "bear a reasonable relationship" to their need.	Signal Hill; BILD	<p>The Board disagrees with the commenters' statements that a cost/benefit analysis must be conducted before any monitoring and reporting requirements are imposed. The monitoring and reporting program requirements are included in the permit pursuant to the Board's authority under the Clean Water Act and its regulations, as well as California Water Code section 13383. Section 308(a) of the federal Clean Water Act and sections 122.41(h), (j)-(l), 122.44(i), and 122.48 of Title 40 of the Code of Regulations require that all NPDES permits specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also require monitoring and reporting. (See 40 C.F.R. §§ 122.26(d)(2)(i)(F) &amp; (d)(2)(iii)(D), 122.42(c).) Thus, federal law mandates that the Regional Water Board require a monitoring and reporting program, and the federal authority does not suggest or require an additional cost/benefit analysis in imposing the monitoring and reporting program.</p> <p>The California Porter-Cologne Water Quality Control Act contains a special chapter, Chapter 5.5, which addresses Clean Water Act permits. As part of this Chapter, Water Code section 13383 governs monitoring and reporting requirements. Section 13383, like the federal Clean Water Act, does not mention or suggest or require a cost/benefit analysis to justify the inclusion of monitoring and reporting provisions in a permit.</p> <p>Water Code sections 13165, 13225, and 13267 do not apply to the monitoring and reporting requirements in this</p>	Clarifying language added. References to California Water Code section 13267 deleted.

			<p>permit. Instead, Water Code section 13383 governs the permitting process here. The general authority to require monitoring and reporting afforded by Water Code sections 13165, 13225, and 13267 does not trump the more specific authority the Board has in the context of issuing NPDES permits. Because the monitoring and reporting program requirements are required by federal law, any conflicting state law is preempted. (See <i>Silkwood v. Kerr-McGee Corp.</i> (1984) 464 U.S. 238, 248 [“state law is still preempted . . . where the state law stands as an obstacle of the full purposes and objectives of Congress.”]; see also Wat. Code, §§ 13370, 13377.) Therefore, the Board need not determine that the burden, including the costs of the reports, bear a reasonable relationship to the need for the report and the benefits to be obtained.</p> <p>During the litigation on the 2001 permit, similar arguments concerning the monitoring and reporting program were made by several permittees. The Los Angeles County Superior Court specifically considered and rejected these arguments, and upheld the Board’s authority to require monitoring and reporting without a cost/benefit analysis. (<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 II Trial on Petitions for Writ of Mandate, pp. 19-20.)</p> <p>References to Water Code section 13267 as authority to require monitoring and reporting were unnecessarily included in the tentative permit. In order to provide greater clarity concerning the Board’s authority to require monitoring and reporting, references to Water Code section 13267 have been deleted from the tentative permit, with the exception of provisions related to inspection and entry.</p>	
Receiving Water and Outfall	There is no consistency in the naming conventions of wet weather monitoring, stormwater monitoring, dry weather	County of Los Angeles	Storm water and non-storm water are used in the context of outfall monitoring, as these terms refer to the type of discharge from the MS4. These terms are defined in	None

Monitoring	monitoring, non-stormwater monitoring. For example, Part VI.C. is called “Minimum Wet Weather Receiving Water Monitoring Requirements” while Part VIII. is called “Storm Water Outfall Based Monitoring.” It is not clear whether “Wet Weather” and “Storm water” are being used interchangeably. If yes, the Permit should be revised so only one term is used. Otherwise, define both terms. This concern also applies to “Dry Weather” and “Non-Storm Water.” Recommendation: Be consistent in the use of terminology, or clearly define terms if they are not interchangeable		Attachment A of the Tentative Order. Wet-weather and dry-weather monitoring are used in the context of receiving water monitoring and describe the conditions under which the receiving water monitoring is to be conducted. Wet and dry weather conditions for monitoring are specified in Attachment E – MRP of the Tentative Order.	
Rain Gages	Throughout Attachment E there are references to measuring and reporting rainfall totals (or making monitoring decisions based on rainfall amounts). The rain gauges to be used for determining a wet versus dry weather day should be selected by the agencies and approved by the Regional Board. Since monitoring plans will be on a regional basis the use of 50% of County rain gages in a watershed may not be necessary. Plus, predictions do not necessarily use County rain gages.	LA Permit Group (Comment 2); South Bay Cities; County of Los Angeles	The rain gauges may be selected by the Permittees as part of the IMP and CIMP development process. The permit has been revised to clarify that Permittees may propose alternate rain gauges that provide representative data to determine wet or dry weather conditions for purposes of monitoring, subject to public review and Executive Officer approval.  The language requiring 50% of County rain gages in a watershed has been revised to allow alternative approaches if it can be demonstrated that information used is equivalent or more accurate.	Language revised.
General	The MRP does not include Southern California Bight Monitoring Requirements, as the Ventura MS4 includes. What is the Board’s reasoning for this difference?	Environmental Groups	In the past, the Principal Permittee was assigned the responsibility to participate in the Southern California Bight Steering Committee. The Regional Board has eliminated this requirement in the Tentative Order in light of the fact that there is no designated Principal Permittee in the Tentative Order.	None
General	The use of the HUC-12 watershed for	LA Permit	The USGS Hydrologic Unit Classification (HUC) system	Language

	limits is a good start but there needs to be some flexibility in its use to insure that the HUC-12 truly reflects the actual watershed boundary.	Group (Comment 1)	is the basis for the watershed boundaries in the Basin Plan; therefore, it is an appropriate classification system for identifying watershed-based monitoring locations. Permittees may propose an alternate monitoring program that provides adequately representative data for the receiving waters to which it discharges. This plan is subject to public review and Executive Officer approval.  Flexibility is provided to propose alternate approaches in an IMP or CIMP developed in conjunction with a Watershed Management Program (see Part VI.B).	revised
General	The MRP should allow for modification of monitoring requirements to focus efforts on watershed priorities. The WMP will identify specific priorities based on TMDLs and 303(d) Listings, which will allow MS4s to tailor monitoring to address the Primary Objectives and provide data to support management decisions. As currently written, there does not appear sufficient flexibility to modify monitoring requirements. This is of particular concern for the outfall monitoring requirements, which, as currently written, will require a significant level of resources without clear benefit to addressing receiving water issues. Flexibility is requested for a customized monitoring program to support the Watershed Management Programs. As such, the City requests that the following language regarding flexibility, consistent with the language and approach used for the minimum control measures, is added to Part VI.B. of the Order:  “Dischargers shall comply with the	City of Los Angeles (Comments 15 & 79)	The Tentative Order has been revised to provide Permittees the flexibility to submit a customized integrated monitoring program in conjunction with a Watershed Management Program, subject to public review and Executive Officer approval. Although flexibility and customization are provided for, all monitoring objectives and monitoring elements must be addressed by the plans	Language revised

	MRP and future revisions thereto, in Attachment E, <u>or may in lieu of the requirements in Attachment E, implement a customized monitoring program as set forth in an approved Watershed Management Program per Part VI.C. of this Order.</u>			
Part II.A.1.	Omit as a primary objective to assess the “biological impacts” of discharges from the MS4. The MS4 Permit is to regulate water quality. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to assess biological impacts of discharges and to set water quality regulations to prevent adverse biological impacts. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.	LA Permit Group (Comment 3); City of Vernon	The objective of the Federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (CWA section 101(a)). The requirement for Permittees to assess biological impacts of MS4 discharges on receiving waters is consistent with this objective. Beneficial uses, including many related to biological use protection, are a critical component of water quality standards. Biological assessment is necessary to evaluate cumulative effects of multiple pollutants discharged from the MS4.  This provision is required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees’ discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate.	None
Part II.E.1.	Monitoring requirements relative to MS4 permits are limited to effluent discharges and the ambient condition of the receiving water, as §122.22(C)(3) indicates:  <i>The permit requires all <b>effluent</b> and <b>ambient</b> monitoring necessary to show that during the term of the permit the limit on the indicator parameters continues to attain water quality</i>	LA Permit Group (Comment 4); Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San	The Regional Board disagrees that monitoring requirements relative to MS4 permits must be limited to effluent and ambient monitoring. Monitoring by the owners and/operators of MS4s is required pursuant to Clean Water Act section 308(a) and 40 CFR sections 122.41(h), (j)-(l), 122.44(i), 122.48, 122.26(d)(2)(i)(F), 122.26(d)(2)(iii)(D) and 122.42(c). 40 CFR section 122.26(d)(2)(iii)(D) identifies monitoring at outfalls, field screening points, and in-stream stations, and requires representative data collection. Wet weather receiving water monitoring (i.e. wet weather in-stream monitoring)	None

	<p><i>standards.</i></p> <p>The only definition of "ambient" monitoring is defined by SWAMP protocol as being 72 hours after a storm event.</p> <p>Regarding monitoring purposes "b" and "c" assessing trends in pollution concentrations should be: (1) limited to ambient water quality monitoring; and (2) Regional Board's surface water ambient monitoring program (SWAMP) should be charged with this responsibility. MS4 permittees fund SWAMP activities through an annual surcharge levied on annual MS4 permit fees.</p> <p><i>Recommended Corrective Action:</i> Clarify that RWL monitoring is only in the ambient condition as defined by SWAMP and that ambient monitoring is performed as part of the SWAMP and is not the responsibility of MS4 Permittees.</p>	<p>Gabriel and West Covina</p>	<p>is necessary to assist in the evaluation of the effects of storm water discharges on in-stream water quality. Wet weather receiving water monitoring is also necessary to assess trends in the effect of storm water discharges on in-stream water quality over time as Permittees implement additional and/or enhanced storm water control measures. Ambient monitoring conducted under SWAMP does not support these types of evaluation and would not be representative of the impacts of storm water discharges on the receiving waters. In-stream monitoring, referred to in the Tentative Order as receiving water monitoring, is also well established and supported by EPA's Part 2 MS4 permit application guide (EPA 833-B-92-002) and has been a part of the Los Angeles County MS4 program for more than ten years.</p> <p>Further, the commenters' reference to § 122.22(C)(3) is not only inapplicable to this case, but the citation is also incorrect. The Board believes that the correct citation for the quoted language is 40 CFR section 122.44(d)(1)(vi)(C)(3). That section applies to situations where a State has not established a water quality objective for a pollutant present in an effluent and establishes effluent limitations for an indicator parameter for the pollutant of concern. In this Order, the receiving water limitations and water quality based effluent limitations are derived from state or federally established water quality objectives. Therefore, the commenters' reference offers no support for their assertion.</p> <p>Lastly, Permittees may demonstrate compliance with the receiving water limitations provisions through either outfall monitoring or receiving water monitoring. If a Permittee's discharge quality as measured at the outfall does not exceed applicable WQBELs or receiving water limitations, then that provides a demonstration that the discharge did not cause or contribute to an exceedance of receiving water limitations.</p>	
Part II.E.1.c.	Omit Item c. The MS4 Permit is to	LA Permit	The objective of the Federal Clean Water Act is to restore	None

	<p>regulate water quality. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to “Determine whether the designated beneficial uses are fully supported as ...aquatic toxicity and bio-assessment monitoring.” This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.</p>	<p>Group (Comment 5)</p>	<p>and maintain the chemical, physical, and biological integrity of the Nation's waters (CWA section 101(a)). States implement the water quality standards program by designating beneficial uses, adoption of water quality objectives, and implementing programs (including permitting) in order to ensure compliance with these standards. The requirement for Permittees to assess biological impacts of MS4 discharges on receiving waters, including measuring aquatic toxicity and the health of the biological community, is consistent with this objective. Biological assessment and aquatic toxicity monitoring is necessary to evaluate cumulative effects of multiple pollutants discharged from the MS4.</p> <p>This provision is required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees’ discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate.</p>	
<p>Part II.E.2.a.</p>	<p>Outfall monitoring for stormwater for attainment of municipal action levels (MALs) would be acceptable were it not for their purpose. MALs represent an additional monitoring requirement for non-TMDL pollutants. MALs should really be used to monitor progress towards achieving TMDL WLAs that are expressed in the receiving water. Instead, Regional Board staff has chosen to create another monitoring requirement, without regard for cost or benefit to water quality or to Permittees. Non-TMDL pollutants should not be given special monitoring attention until it has</p>	<p>LA Permit Group (Comment 6); Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina</p>	<p>The commenters misunderstand the use of MALs. Attachment G contains two types of action levels.</p> <p>The non-storm water action levels are derived from the applicable water quality objectives and are used as triggers for Permittees to verify that their program is effectively controlling unauthorized non-storm water. 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. Non-storm water action levels are used where there is no applicable TMDL-based WQBEL for the pollutant in that waterbody. These non-storm water action levels will support implementation of</p>	<p>None</p>

<p>been determined that they pose an impairment threat to a beneficial use. Such a determination needs to be done by way of ambient monitoring performed by the Regional Board SWAMP. The resulting data could then be used to develop future TMDLs, if necessary.</p> <p>Furthermore, many of the MAL constituents (both stormwater and non-storm water) listed in Appendix G, are included in several TMDLs such as metals and bacteria. This is, of course, a consequence of the redundancy created by two approaches that are intended to serve the same purpose: protection of water quality.</p> <p><i>Recommended Correction:</i> Either utilize MALs, in lieu of numeric WQBELs, to measure progress towards achieving TMDL WLAs expressed in the receiving water or eliminate MALs entirely.</p>			<p>the requirement to effectively prohibit non-storm water discharges of pollutants through the MS4 and implementation of Permittees’ illicit connection/illicit discharge elimination programs.</p> <p>The second type of action levels in Attachment G are municipal action levels (MALs). Municipal action levels are based on nationwide Phase I MS4 monitoring data for pollutants in storm water, and computed as the upper 25<sup>th</sup> 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. MALs are used as a trigger to determine the efficacy of storm water BMPs and, in particular, to identify drainages with below average storm water discharge quality that should be prioritized for additional or enhanced BMPs. MALs have been endorsed by the State Board Blue Ribbon Panel as an effective tool for identifying “bad actor” catchments that should receive additional attention. Because MALs are derived from a statistical analysis of actual storm water quality, they do not have any relationship, in terms of their derivation, to WQBELs, which are derived from water quality standards. Therefore, MALs cannot replace the WQBELs established to implement TMDL WLAs. MALs are not consistent with the assumptions and requirements of TMDL WLAs, and are derived in a completely different manner, and for a very different purpose than the numeric WQBELs to implement TMDL WLAs. The Regional Water Board has included MALs in the Tentative Order as a tool for prioritizing implementation of storm water controls and as one metric for evaluating storm water discharges relative to the MEP standard.</p> <p>Monitoring of pollutants that are already impairing waters or may pose a threat to impairing waters is required. Non-storm water action levels were established in the draft Order after evaluating dry weather data collected by the Permittees from 2005-2011. These data indicate frequent exceedances of receiving water limitations during dry</p>	
---	--	--	--	--

			<p>weather.</p> <p>It is the obligation of entities that discharge to receiving waters to monitor to assess compliance with permit requirements, including the requirement to prohibit non-storm water discharges that are a source of pollutants and to implement storm water controls to the MEP, as well as to assess threats to water quality from the discharge, and to assess progress in remedying impacts from the discharge.</p>	
Parts II.E.2.b. and II.E.3.a.	Determining compliance with applicable wet weather or dry weather WQBELs derived from TMDL WLAs is only necessary when the final compliance date is within this Permit term. As the collection of such data is costly, it should only be required if (1) the Permittee elects to assess compliance at the outfall in lieu of the receiving water and (2) if the final TMDL compliance date is within the Permit term.	City of Los Angeles (Comments 80 & 81)	<p>The Regional Board disagrees. The tentative order allows Permittees to demonstrate compliance with the interim WQBELs in any one of several ways, including through the use of outfall monitoring. Monitoring is necessary, even when final compliance dates are beyond the term of the order. Monitoring is necessary to assess compliance with interim WQBELs and, where a Permittee or Permittees are implementing an approved WMP, monitoring is still necessary to evaluate the overall effectiveness of the chosen implementation measures included in the WMP and inform modifications to the WMP to ensure adequate progress towards achieving compliance with interim and/or final WQBELs.</p> <p>Within the MRP, the Permittee(s) has flexibility to coordinate outfall monitoring with previously approved TMDL Monitoring Plans, thus reducing costs.</p>	None
Part II.E.3.a.	Regarding “a,” This requirement is redundant in view of the aforementioned MALs and in any case is not authorized under federal stormwater regulations. 402(p)(B)(ii) of the Clean Water Act only prohibits discharges to the MS4 (streets, catch basins, storm drains and intra MS4 channels), not through or from it. This applies to all water quality standards, including TMDLs. Nevertheless,	LA Permit Group (Comment 7); Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San	<p>The Regional Board disagrees. This objective is not redundant with the inclusion of MALs in the Tentative Order. To the extent that the commenter is referring to MALs, the derivation of MALs is based on a statistical analysis of data on actual storm water quality, while WQBELs are derived from TMDL WLAs, which are based on water quality standards. Furthermore, MALs are applicable to storm water, not non-storm water. Part II.E.3 identifies the objectives of the <u>non-storm water</u> outfall based monitoring program.</p>	None

	<p>compliance with dry weather WQBELs can be achieved through BMPs and other requirements called for under the illicit connection and discharge detection and elimination (ICDDE) program, or requiring impermissible non-stormwater discharges to obtain coverage under a permit issued by the Regional Board.</p> <p><i>Recommended Correction:</i> Delete this requirement and specify compliance with dry weather WLAs, expressed in ambient terms, through the implementation of the IC/ID program.</p>	<p>Gabriel and West Covina</p>	<p>Regarding WQBELs applicable to non-storm water discharges, TMDL WLAs must be assigned to all discharges identified as pollutant sources contributing to the water quality impairment in the TMDL source analysis, and NPDES permits must include requirements consistent with the assumptions and requirements of all available WLAs. Non-storm water discharges from the MS4 have been identified in numerous TMDLs as a source of pollutants to receiving waters. The WQBELs included in the Order were derived from and are consistent with the assumptions and requirements of the TMDL WLAs. Further, 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.” The non-storm water action levels are derived from the applicable water quality objectives and criteria and are used as triggers for Permittees to verify that their program is effectively controlling unauthorized non-storm water where there are not applicable WQBELs for the pollutant derived from a TMDL. Therefore, it is appropriate to set the non-storm water action levels based on the water quality objectives/criteria.</p> <p>The Regional Water Board is supportive of Permittees’ efforts to address non-storm water discharges through their illicit connection/illicit discharge elimination programs; however, to the extent that these discharges are not effectively prohibited from the MS4, the quality of the discharges must be regulated at the point of discharge to the receiving water.</p>	
<p>Part II.E.3.b.</p>	<p>With regard to “b”, see previous responses regarding MALs and the limitation of the non-stormwater discharge prohibition to the MS4.</p> <p><i>Recommended Correction:</i> Delete this requirement because it exceeds the non-stormwater discharge prohibition</p>	<p>LA Permit Group (Comment 8); Cities of Baldwin Park, Carson, Covina, Duarte, Glendora,</p>	<p>MS4 Permittees are required to effectively prohibit discharges of non-storm water to the MS4. 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>	<p>None</p>

	to the MS4; and determine whether MALs or TMDLs are to be used to protect receiving water quality.	Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	establish requirements that are designed to reduce pollutants in non-storm water from the MS4 to receiving water and to ensure that non-storm water discharges from the MS4 do not cause or contribute to an exceedance of receiving water limitations. Discharges of non-storm water from the MS4 must be assessed to determine if they contribute pollutants to receiving waters. To the extent that non-storm water discharges contribute pollutants to receiving water, the discharge must be eliminated or otherwise controlled such that it is not a source of pollutants.	
Part II.E.3.c.	Regarding “c”, as mentioned, non-stormwater discharges cannot be applied to receiving water limitations because they are only prohibited to the MS4, not from or through it.  <i>Recommended Correction:</i> Delete this requirement because it exceeds the non-stormwater discharge prohibition to the MS4.	LA Permit Group (Comment 9); Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	Non-storm water outfall monitoring is necessary to evaluate the impact of the non-storm water discharges from the MS4 on receiving water quality. The separate requirement to effectively prohibit non-storm water discharges to the MS4 does not bar the Regional Water Board from including requirements for monitoring of non-storm water discharges from the MS4 to assess their impact on receiving water quality. Monitoring of discharges from the MS4 is required by 40 CFR sections 122.26(d)(1)(iv)(D)-(E) and 122.26(d)(2)(iii)(A)(4) among other authorities. Such monitoring will assist in determining whether the permittees have effectively prohibited non-storm water discharges into the MS4 and whether conditionally exempt non-storm water discharges are having an impact on receiving water quality.	None
Part II.E.4.	The information that is expected be generated to evaluate the effectiveness of new development/re-development (Attachment E. Part X) is focused on tracking and documenting the each new development/re-development subject to the requirements of Part VI.D.6 of the Order. As such, the monitoring program elements in Attachment E. Part II should be consistent. Please revise Part II.E.4 as follows:  New Development/Re-development	City of Los Angeles (Comment 82)	The Regional Board agrees with the changes suggested.	Revisions to Attachment E-MRP, Part II.E.4

	<p>effectiveness <del>monitoring</del> <u>tracking</u>. The objective of best management practices (BMP) effectiveness <del>monitoring</del> <u>tracking</u> is to <del>determine</del> <u>track</u> whether the <u>conditions in the building permit issued by the Permittee are implemented to ensure the volume of storm water associated with the design storm is retained on-site as required by Part VI.D.6.c.i of this Order, and as conditioned in the building permit issued by the Permittee.</u></p>			
Part II.E.4.	<p>Omit the requirement II.E.4. Monitoring of Development/Re-development BMPs is the responsibility of the Developers. Requirements for monitoring Developer BMPs should be part of Section VI.D.6. <i>Planning and Land Development Program</i> and the responsibility of the Developer.</p> <p>The purpose of this requirement is not authorized under federal stormwater regulations as it relates to monitoring. Requiring such monitoring is premature given the absence of outfall monitoring in the current and previous MS4 permits that would characterize an MS4's pollution contribution relative to exceeding ambient water quality standards. There is nothing in federal stormwater regulations that require monitoring on private or public property. Monitoring, once again, is limited to effluent discharges at the outfall and to ambient monitoring in</p>	LA Permit Group (Comment 10)	The Regional Board disagrees. Federal regulations require monitoring and reporting by the owners and/or operators of MS4s pursuant to 40 CFR sections 122.26(d)(2)(iii)(D), 122.41(h) and 122.42(c), among other authorities BMP implementation must be tracked to ensure that implementation is carried out as required in the Tentative Order. However, for clarification, Part X of Attachment E – MRP only requires <u>tracking</u> of new development and redevelopment subject to the provisions in Part VI.D.6 of the Tentative Order, not actual water quality monitoring of BMP effluent to determine BMP effectiveness.	None

	<p>the receiving water.</p> <p>Beyond this, monitoring for BMP effectiveness poses a serious challenge to what determines “effectiveness” -- effective relative to what standard? It is also not clear how such monitoring is to be performed.</p>			
Part II.E.5.	<p>Omit the requirement II.E.5. The MS4 Permit is to regulate discharges to receiving water. It is the role of the State EPA and Water Quality Control Board, not municipal governments, to conduct Regional Studies for Southern California Monitoring Coalition, bio-assessment and Pyrethroid pesticides. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.</p> <p>Requiring 85 jurisdictions to conduct regional monitoring is duplicative and inefficient and should be conducted by a Regional authority.</p> <p>Regional studies also lie outside the scope of the MS4 permit. However, because federal regulations require ambient monitoring in the receiving water, a task performed by the Regional Board’s SWAMP, regional watershed monitoring for aforementioned target pollutants can be satisfied through ambient monitoring. This can be accomplished with little expense on the part of permittees by:</p>	LA Permit Group (Comment 11)	<p>Regarding the Southern California Stormwater Monitoring Coalition Watershed Monitoring Program requirements, the objective of the Federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (CWA section 101(a)). The requirement for Permittees to assess biological impacts of MS4 discharges on receiving waters is consistent with this objective. Biological assessment of receiving waters is necessary to evaluate cumulative effects of multiple pollutants discharged from the MS4.</p> <p>The Pyrethroid Insecticide Study Requirements in Attachment E- MRP have been deleted. Where toxicity is observed in the receiving water, Permittees are required to conduct a toxicity identification evaluation (TIE). Where the TIE identifies pyrethroids as the cause of toxicity, Permittees will be required to test for pyrethroids in outfalls immediately upstream of the receiving water monitoring station. This is appropriate, since studies show that urban use of pyrethroids is currently one of the greatest contributors of toxicity to urban waters.</p> <p>These provisions are required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees’ discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate.</p>	Revisions to Attachment E-MRP to eliminate the requirement to conduct a Pyrethroid Insecticide Study, and to modify requirements related to aquatic toxicity monitoring.

	(1) using ambient data generated by the Regional Board SWAMP; (2) re-setting the County's mass emissions stations to collect samples 2 to 3 days following a storm event (instead of using a flow-based sampling trigger); and (3) using any data generated from existing coordinated monitoring programs (e.g., Los Angeles River metals TMDL CMP), provided that the data is truly ambient.			
Parts III.F and III.G.	Omit the requirements III.F. and III.G. Specifying Sampling Methods and Analytical Procedures in the permit adds unnecessary liability for Cities for work that is already described in USEPA Protocols and per approved TMDLs. These Items should be combined and state to follow USEPA Protocols or per approved TMDLs.	LA Permit Group (Comment 12)	Specification of sampling methods and analytical procedures is common practice in NPDES permits as it provides clarity of expectations when Monitoring Plans are submitted by Permittees. For the most part, these sections cross-reference requirements included elsewhere in the Tentative Order, specifically in Attachment D, Part III, or specify that methods must be fully described in each Permittee's monitoring program, which will be submitted for review and approval by the Regional Water Board Executive Officer. Sections 122.41(j)(1) and (j)(4) of Title 40 of the Code of Federal Regulations require that samples and measurements taken for the purposes of monitoring shall be representative of the monitored activity, and monitoring must be conducted according to testing procedures approved under 40 CFR Part 136 unless another method is required under 40 CFR subchapters N or O. The Board has determined that the sampling methods and analytical procedures included in Parts III.F. and III.G. will provide reliable representations of the monitoring activity.	None
Part III.F.2	The current requirement limiting grab samples for bacteria, oil and grease, cyanides, and volatile organics unnecessarily limits the ability for MS4s to collect grab samples for other constituents that are intended to be collected as grab (i.e., chromium) and instances where grab samples are considered to appropriately	City of Los Angeles (Comment 83)	The Board generally agrees with providing greater flexibility for Permittees to determine whether grab samples or composite samples are most appropriate given the constituent and discharge conditions. Justification for grab samples must be included in a Permittee's IMP or CIMP per Part III.F.1 of Attachment E-MRP. The MRP has been revised to allow greater flexibility for Permittees to collect grab samples for both constituents that are required to be taken as such, and where grab samples are	Language revised.

	<p>characterize conditions (i.e., dry weather). Suggest removing the sentence or alternatively revise as follows:</p> <p>2. Grab samples shall be taken <del>only</del> for <u>constituents that are required to be collected as such (i.e., pathogen indicator bacteria, oil and grease, cyanides, and volatile organics) and in instances where grab samples are generally expected to be sufficient to characterize conditions (i.e., dry weather).</u></p>		generally expected to be sufficient to characterize conditions.	
Part III.H.	Part III.H is the first of a number of requirements related to reporting. The requirements in the MRP appear duplicative at times and led to some confusion. Please either remove Part III.H as the reporting requirements are laid out in detail in Parts XIV through XVIII or revise Part III.H.1 to simply refer to Parts XIV through XVIII.	City of Los Angeles (Comment 84)	Part III.H is revised to remove provisions duplicative with those in Parts XIV through XVIII.	Attachment E-MRP revised.
Part III.H.3.	There is a typo for Item 3. Item 3. should read "...requirements identified in Part XVIII.A.5. and Part XVIII.A.7 of this MRP."	LA Permit Group (Comment 13); County of Los Angeles (Comment 140)	The language has been corrected to read:  "...requirements identified in Part XVIII.A.5. and Part XVIII.A.7 of this MRP."	References corrected in the MRP.
Monitoring	When a discharge occurs through an MS4, permits are already attained and NPDES results must be submitted to the authorized MS4 and to the LARWQCB. Furthermore the reporting requirements as drafted are ambiguous. The new reporting requirements add organic matter, and total suspended solids (TSS). These	California Water Service Company	The Order has been revised to clarify that pollutants of concern may include organic matter and TSS among others. If these are not pollutants of concern for the particular potable water release, they do not need to be monitored. USEPA approved methods should be used for all pollutants of concern that are monitored in the discharge. Regarding the additional level of reporting, this reporting is necessary as Permittees are responsible for controlling discharges of pollutants from their MS4s and	Language revised.

	are requirements that are vague and are drafted too broad. The additional levels of reporting to an MS4 outlined in III A 4 a, in itself is also burdensome.		need to be able to track potential sources of pollutants in non-storm water discharges.	
Section III A 4 a II	This Section requires the CWS to attain local permits by the MS4 owner. However, if an MS4 holder is also a CWS, how can these discharges be processed in an independent fashion that allows an MS4 to have the same permitting and reporting as a CWS without an MS4.	California Water Service Company	The purpose of ensuring that a non-permittee discharger obtains necessary permits from the MS4 Permittee is to ensure that the MS4 Permittee has adequate control over discharges to and from its MS4. Where a MS4 Permittee is also the discharger of the potable water, it should have the wherewithal to control its own discharges to and from its MS4.	None
General	Finally, we are alarmed by the extensive new monitoring provisions that go far beyond what we had expected to be the focus of this next permit--integrated TMDL monitoring. The Peninsula Cities have been focused on coordinated monitoring for the Machado Lake Nutrient and Santa Monica Bay Bacteria TMDLs. We fully anticipated that the monitoring requirements in the next permit would allow us to continue that focus by amending our monitoring programs to incorporate the new TMDLs which have been promulgated for these water bodies and for Los Angeles Harbor, as we believed that TMDLs were the high priority focus of the Regional Board. Instead the 72-page monitoring section of the draft permit introduces a myriad of new monitoring requirements completely outside the monitoring requirements in the adopted TMDLs	Peninsula Cities	Improved monitoring and reporting requirements have been added to this permit in order to better assess compliance with permit conditions and the effects on receiving waters.  Monitoring requirements have been reduced in the revised tentative order (e.g., significant reductions in the toxicity monitoring program, elimination of the pyrethroid special study) and opportunities for efficiencies through coordinated monitoring and customization of monitoring requirements in conjunction with a Watershed Management Program have been provided.	None
<b><i>Integrated Monitoring Programs</i></b>				
Part IV.A.4.	The IMPs should allow for	City of Los	The Board generally agrees with the suggestion to allow	Attachment E-

	<p>modification of monitoring requirements to focus efforts on watershed priorities. The WMP will identify specific priorities based on TMDLs and 303(d) Listings, which will allow MS4s to tailor monitoring to address the Primary Objectives and provide data to support management decisions. As currently written, the IMP requirements appear to only allow flexibility to modify screening approaches for dry weather outfall monitoring. More efficient approaches may be justifiable for other components of the IMP and should be allowed. Please revise Part IV.A.4 as follows:</p> <p>Where appropriate (e.g., dry-weather outfall based screening program), the Integrated Monitoring Program may develop and utilize <u>alternative approaches to meet the Primary Objectives (Part II.A) and address the five Monitoring Program elements (Part II.E). Sufficient justification shall be provided in the IMP for the alternative approach(es).</u> The alternative approach(es) must be screening level monitoring strategies to avoid more costly analytical procedures if approved by the Regional Water Board Executive Officer.</p>	<p>Angeles (Comment 85)</p>	<p>alternative approaches to monitoring in conjunction with a Watershed Management Program, subject to Executive Officer approval.</p>	<p>MRP revised.</p>
<p>Part IV.A.6.</p>	<p>Just for clarification, this provision for the IMP to address all TMDL and Non-TMDL monitoring does not prevent a reduction in the frequency, number of locations, or parameters. We anticipate that integrating all monitoring</p>	<p>City of Los Angeles (Comment 87)</p>	<p>The Board agrees that TMDL monitoring and monitoring to characterize storm water and non-storm water discharges from the MS4 and impacts on receiving water during wet and dry weather may be consolidated in an IMP or CIMP to meet the objectives of all of those programs subject to Executive Officer approval.</p>	<p>None</p>

	programs will result in a more efficient monitoring effort where the number of sampling events and analyses may be significantly reduced.			
Part IV.B.	<p>The CIMPs should allow for modification of monitoring requirements to focus efforts on watershed priorities. The WMP will identify specific priorities based on TMDLs and 303(d) Listings, which will allow MS4s to tailor monitoring to address the Primary Objectives and provide data to support management decisions. As currently written, the CIMP requirements do not appear to allow flexibility to modify monitoring approaches. More efficient approaches may be justifiable for other components of the CIMP and should be allowed. Please add a new bullet to Part IV.B. as follows:</p> <p>Where appropriate, the Coordinated Integrated Monitoring Program may develop and utilize alternative approaches to meet the Primary Objectives (Part II.A) and address the five Monitoring Program elements (Part II.E). Sufficient justification shall be provided in the CIMP for the alternative approach(es). The alternative approach(es) must be approved by the Regional Water Board Executive Officer.</p>	City of Los Angeles (Comment 86)	The Board agrees and has included clarifying language.	Attachment E-MRP revised.
Part IV.C.1.	More time is needed to prepare Coordinated Integrated Monitoring Plans due to the number of agencies	LA Permit Group (Comment 14)	Given that many of the stakeholders have organized to coordinate their comments to the draft MS4, that the permit has been in place for more than 10 years, that there	Attachment E-MRP revised

	involved. Since existing monitoring programs will proceed as Coordinated Integrated Monitoring Plans are being prepared, then there is no need for accelerated schedules. Revise Item 1. to provide twelve (12) months for each Watershed Group to submit a Memorandum of Understanding to work with other agencies for a Coordinated Integrated Monitoring Plan. A letter of intent allows a Permittee to drop out of the process at any time and 12 months are required to process a Memorandum of Understanding with County and State agencies.		has been notice and active stakeholder participation in the development of this permit for more than 1 year, it is reasonable to require notification regarding Permittees' intent to develop an IMP or CIMP within 6 months. The Tentative Order has been revised to align submittal of an IMP or CIMP with submittal of either individual or collaborative WMPs, respectively.	
Part IV.C.2.	Revise Item 2. to require "Each Permittee not participating in a Coordinated Integrated Monitoring Plan to submit an Integrated Monitoring Plan..."	LA Permit Group (Comment 15)	The Regional Board, in an effort to coordinate submittal deadlines, has revised Part IV.C.2 as follows: "Each Permittee <u>not electing to develop a WMP plan</u> shall submit an IMP...to the Executive Officer of the Regional Water Board within <u>twelve nine (129)</u> months after the effective date of this Order."	Change made as indicated.
Part IV.C.3.	Additional Time is needed to complete a CIMP. Twelve months is not sufficient time to complete a CIMP. Individual watersheds can have upwards of 40 agencies that may participate in a CIMP. Additionally, Regional Studies that may be addressed by CIMPs could include all 80 plus LA County Copermittees. For reference, TMDL requirements for monitoring program submittal, which tend to address one type of constituent, typically exceed 12 months. For more complicated monitoring (such as the LA/Long Beach Harbors) TMDL have 20 months. The primary challenge for	City of Los Angeles (Comment 88); LA Permit Group (Comment 16)	In an effort to coordinate submittal deadlines, Part IV.C.3 is revised as follows: " <del>The participating Permittees electing to develop a WMP plan and a letter of intent, signed by each of the participating Permittees,</del> to the Executive Officer of the Regional Water Board <u>concurrently with their draft WMP plan within 12 months after the effective date of this Order.</u> "  This change will provide Permittees who submit a Coordinated WMP and perform early actions an additional 6 months to submit the CIMP.	Change made as indicated.

	submitting coordinated monitoring programs is twofold: 1) working with a large group to come to consensus on a technical approach and 2) developing and signing agreements (cost sharing and memoranda of agreement). To truly allow for a coordinated approach that allows Permittees to develop a robust technical approach and work through the approval process (often through City council approval) at least 18 months are needed. Please revise the requirement for CIMPs to be submitted from 12 months to 18 months.			
Timeline	<p>The requirement to begin monitoring 30 days after the Board’s approval of the IMP and CIMP does not provide sufficient time. The Board has typically allowed 6 months or more to implement approved TMDL Coordinated Monitoring Plans.</p> <p>Recommend revise IV.C.5 to read:  <del>Monitoring Implementation of the IMP or CIMP shall commence within 30 days</del> <u>6 months</u> after approval of the <del>IMP or CIMP plan</del> by the Executive Officer of the Regional Water Board.</p>	County of Los Angeles (Comment 141)	Given that many of the stakeholders have organized to coordinate their comments to the draft MS4, that the permit has been in place for more than 10 years, that there has been notice and active stakeholder participation in the development of this permit for more than 1 year, it is reasonable to require co-Permittees to begin monitoring in an expeditious manner. However, the Tentative Order has been revised to extend the time frame for commencing monitoring from 30 days to 90 days after approval of the CIMP. Permittees electing to develop an IMP will still be required to commence monitoring within 30 days, since close coordination with other Permittees is not required.	Language revised
Part IV.C.5.	Revise to allow 9 months after approval of an IMP or CIMP by the Executive Officer to commence monitoring. It takes 3 months to issue Request for Proposals and award a contract for monitoring. It takes an additional 6 months to obtain permits from the Los Angeles County Flood Control District to access monitoring	LA Permit Group (Comment 17)	Given that many of the Permittees have organized to coordinate their comments to the draft MS4, that the permit has been in place for more than 10 years, that there has been notice and active Permittee participation in the development of this permit for more than 1 year, it is reasonable to require co-Permittees to begin monitoring in an expeditious manner. However, the Tentative Order has been revised to extend the time frame for commencing monitoring from 30 days to 90 days after approval of the	Language revised

	locations on their systems.		CIMP. Permittees electing to develop an IMP will still be required to commence monitoring within 30 days, since close coordination with other Permittees is not required. Permittees should anticipate the need for access permits and coordinate with LACFCD where necessary early in the monitoring program development process.	
Timeline	The MRP states that “[m]onitoring shall commence within 30 days after approval of the IMP or CIMP plan by the Executive Officer...” How long does the Board anticipate the approval process taking? The Environmental Groups are concerned that the limited staff resources may significantly delay this approval process and inhibit adequate monitoring from taking place for an extended period of time. The MRP must require that current MS4-required monitoring and TMDL monitoring occurs during the interim.	Environmental Groups	The Tentative Order has been revised to clarify that any monitoring conducted under Order No. 01-182 or an approved TMDL monitoring plan must continue until approval of the Permittee’s IMP or CIMP.	Language revised
Part IV.C.7.	Both the current permit shoreline monitoring program (CI-6948) and the SMBBB TMDL Coordinated Shoreline Monitoring Plan (CSMP) are being incorporated into the new permit. The CI-6948 shoreline monitoring requirements, Section II.D, is redundant to the CSMP. All stations monitored in the CI-6948 are also monitored in the CSMP. Furthermore, the SMBBB TMDL specifies that the agencies are to select sampling frequency and the CSMP states that the agencies have selected weekly sampling frequency. However, CI-6948 requires several stations to be monitored up to 5 days per week and with the addition of the CSMP	LA Permit Group (Comment 18)	The current monitoring requirements in Order No. 01-182 remain in place until the IMP or CIMP submitted as required by the Tentative Order are approved by the Executive Officer. Permittees may propose the changes identified in their IMP or CIMP.	None

	<p>additional stations will be monitored two days per week.</p> <p>Paragraph II.D.b) of the CI-6948 shoreline monitoring section specifies that the sampling frequency at 28th Street (DHS 113), also SMB-5-2, and Herondo storm drain (DHS 115), also SMB-6-1, be increased to 5 times per week. Paragraph II.D.e) states that monitoring sites are to be monitored 5 days per week if the historical water quality is worse than the reference beach. However, no evidence was presented to the responsible agencies that this was the case for the SMB-5-2 or 6-1.</p> <p>An evaluation of historical data was presented by the Regional Board Staff Report for the reconsideration of the SMBBB TMDL dated May 2012. Further evaluation of this data shows that SMB-5-2 and SMB-6-1 should not be subject to the increase frequency.</p> <p>In addition, the inclusion of both the CI-6948 shoreline monitoring program and CSMP into the permit will result in 5 (SMB-5-1, 5-3, 5-5, 6-5, and 6-6) of the other 9 monitoring stations in SMBBB TMDL Jurisdictional Groups 5 and 6 being monitored 2 days per week which is not the case for any of the other CSMP stations.</p> <p>For all of the above reasons, the shoreline monitoring provisions of CI-6948 should be removed from the new</p>			
--	---	--	--	--

	permit monitoring program. However, at a minimum, paragraph D.1.b) should be removed and paragraph D.1.e).(1) should be modified to remove stations S13 (SMB-5-1), S14 (SMB-5-3) S15 (SMB-5-5), S17 (SMB-6-5) and S18 (SMB-6-6).			
Implementation	Insufficient time is allotted to prepare Coordinated Integrated Monitoring Plans (CIMP). Since the monitoring for TMDLs should continue per the TMDL schedules, the Permittees should be allowed sufficient time to prepare the CIMPs. To prepare a CIMP the Permittees will need more than a Letter of Intent to proceed. We recommend that the draft order be modified to allow 12 months to submit a Memorandum of Agreement to participate in a CIMP and 24 months to submit the complete CIMP. The time required to award the monitoring contract is 3 months and at least 6 months are needed to obtain Los Angeles County Flood Control Encroachment Permits, thus at least 9 months is needed before commencing monitoring.	Cities of La Verne, Inglewood, and West Hollywood	The CIMP development time has been revised to align with submittal of a Watershed Management Program.	Language revised.
<b><i>TMDL Monitoring Plans</i></b>				
Past Due and USEPA TMDLs	The MRP should include shortened timeframes for submitting MRPs on past-due TMDLs and USEPA TMDLs adopted prior to 2010. Also, the Board should require all monitoring data that have been collected with respect to the TMDL since the effective date be submitted at the same time.	Environmental Groups	Monitoring data is routinely submitted for TMDLs for which final compliance deadlines have passed, namely, bacteria TMDLs for Santa Monica Bay Beaches, Marina del Rey Harbor, and Malibu Creek. Monitoring and data submittal requirements for these TMDLs will continue uninterrupted as Permittees developed their IMPs or CIMPs.	Clarification that TMDL monitoring shall continue during development of IMPs/CIMPs
TMDL	A summary of TMDL monitoring	Environmental	It would be unwieldy to include the details of all of the	None

Monitoring Plans	locations, frequencies and parameters should be included in the MRP or Fact Sheet. Merely referencing the Monitoring Plans makes review of the overall scope of the MRP in conjunction with the TMDL monitoring plans extremely difficult, as the monitoring provisions are not described in the permit itself.	Groups	TMDL monitoring plans in the MRP. Further, the MRP allows Permittees to modify the requirements of an approved TMDL Coordinated Monitoring Program to better integrate all monitoring requirements on a watershed basis, subject to public review and approval by the Executive Officer. The MRP requires that Permittees document how TMDL monitoring requirements are being met in their IMPs or CIMPs.	
<b><i>Receiving Water Monitoring</i></b>				
Part VI.C.1.b	Monitoring should be performed per approved IMP or CIMP or approved TMDL. The IMP and CIMP should identify rain gauges to use in the appropriate watershed.	LA Permit Group (Comment 19)	The Regional Board agrees.	Language has been changed to allow greater flexibility in selection of rain gauges.
Part VI.C.1.b.ii	Permittees should be allowed to utilize an alternative to the prescribed rainfall triggers for conducting wet weather monitoring. Permittees have been monitoring the LA region watersheds for years and have a good understanding of how each watershed responds to rainfall events under varying circumstances. As such, the Permit should allow Permittees to propose an alternative in the C/IMPs to the prescribed rainfall triggers.	City of Los Angeles (Comment 91)	The Regional Board agrees.	Language has been included to allow alternative triggers.
Part VI.C.1.d.iv & Part VIII.B.1.c.iv	Omit the requirement to monitoring for TSS and SSC. The TMDLs will specify if TSS or SSC monitoring is required, otherwise sediments are needed for beach replenishment and the naturally occurring transport of sediments should not be regulated.	LA Permit Group (Comment 20 & 28)	The Regional Board disagrees. In a highly urbanized area such as Los Angeles County, it is difficult to determine "naturally occurring transport of sediment." Further, TSS or SSC can impair beneficial uses and need to be monitored.	None
Part VI.D.1.a.	Omit the requirement for "One of the monitoring events shall be during the	LA Permit Group	The MRP has been revised to indicate that the Permittee may propose a month for the monitoring event based upon	Language revised.

	month with the historically lowest instream flows.” This data does not exist and it would be simpler to specify the historically driest month.	(Comment 22)	either historically lowest instream flow or historically driest month, subject to Executive Officer approval.	
Part VI.D.1.b.	Revise item i. and ii. to simply be on days with no measurable rain. There are sufficient days of no measurable rain in Southern California and any rain event could result in isolated stormwater runoff.	LA Permit Group (Comment 23)	The MRP has been revised to indicate that the Permittee may propose a day or time period for the monitoring event representative of dry weather conditions, subject to Executive Officer approval.	Language revised.
Receiving Water Monitoring	The Permit's Receiving Water Monitoring Program exceeds monitoring requirements authorized under Water Code sections 13225(c), 13267, and 13383. To the extent the Permit requires individual permittees to compile information beyond their jurisdictional control, they are unauthorized. The information requested by the Board, including the requirement to monitor authorized or unknown discharges, is also unreasonable.	Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, South El Monte, and Westlake Village	Like the other monitoring and reporting requirements, the receiving water monitoring program is included in the permit pursuant to the Board's authority under the Clean Water Act and its regulations (33 U.S.C. § 1318(a); 40 C.F.R. §§ 122.26(d)(2)(i)(F) & (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.), as well as California Water Code section 13383. The Clean Water Act specifically requires monitoring and reporting to determine whether any person is in violation of any effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance. (33 U.S.C. § 1318(a)(2).) Permittees are also required to: “Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions....” (40 C.F.R. § 122.26(d)(2)(i)(F).)  Water Code sections 13225 and 13267 do not apply to the monitoring requirements in this permit. Instead, Water Code section 13383 governs the permitting process here. The general authority to require monitoring and reporting afforded by Water Code sections 13225 and 13267 does not trump the more specific authority the Board has in the context of issuing NPDES permits. Because the monitoring and reporting program requirements are required by federal law, any conflicting state law is preempted. (See <i>Silkwood v. Kerr-McGee Corp.</i> (1984) 464 U.S. 238, 248 [“state law is still preempted . . . where	Clarifying language added. References to California Water Code section 13267 deleted.

			<p>the state law stands as an obstacle of the full purposes and objectives of Congress.”]; see also Wat. Code, §§ 13370, 13377.)</p> <p>Neither the Clean Water Act and its regulations, or Water Code section 13383, require a cost/benefit analysis prior to imposing monitoring and reporting requirements.</p> <p>The receiving water monitoring program is necessary to determine compliance with terms of the permit. The purposes of receiving water monitoring are to measure the effects of a permittee’s storm water and non-storm water discharges from the MS4 to the receiving water, to identify water quality exceedances, to evaluate compliance with TMDL WLAs and receiving water limitations, and to evaluate whether water quality is improving, staying the same, or declining.</p> <p>The commenters insinuate that only permittees with receiving waters located within their jurisdiction should be responsible for receiving water monitoring. The Board disagrees. Permittees may be required to compile and submit information based on monitoring of receiving waters regardless of whether those receiving waters are located within the jurisdiction of the permittee. Regardless of whether receiving waters are located within the jurisdiction of a permittee, a permittee is responsible for discharges from their MS4 and any resulting impacts to receiving waters. Requiring only permittees with receiving waters within their jurisdiction to monitor such receiving waters would unfairly place the burden and costs of such monitoring on a select number of permittees, even though discharges originating from permittees outside the jurisdiction would be reaching receiving waters. Accordingly, the receiving water monitoring requirements are reasonable.</p> <p>The requirement to monitor authorized or unknown discharges is not unreasonable and is required by federal</p>	
--	--	--	--	--

			<p>law. In accordance with section 402(p)(3)(B)(ii) of the Clean Water Act, the permit prohibits the discharge of unauthorized non-storm water to receiving waters. Federal regulations also require that permittees implement a program “to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer.” (40 C.F.R. § 122.26(d)(2)(iv)(B).) This program shall include: “A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system....” (40 C.F.R. § 122.26(d)(2)(iv)(B)(1).)</p> <p>References to Water Code section 13267 as authority to require monitoring and reporting were unnecessarily included in the tentative permit. In order to provide greater clarity concerning the Board’s authority to require monitoring and reporting, references to Water Code section 13267 have been deleted from the tentative permit, with the exception of references related to inspection and entry provisions.</p>	
Receiving Water Monitoring	<p>Toxicity monitoring for wet weather should be limited to once a year since aquatic toxicity has been well characterized through past monitoring activities under the current permit.</p> <p>Recommend revising VI.C.1.a. to read: “The receiving water shall be monitored a minimum of three times per year <u>during the wet weather season</u> for all parameters except aquatic toxicity, which must be monitored at least <del>twice</del> <u>once</u> per year, or more frequently if required by applicable TMDL CMPs.”</p>	County of Los Angeles (Comment 143)	It is important to have more than a single data point per year during wet weather conditions for aquatic toxicity at instream monitoring stations, as aquatic toxicity is a valuable tool for evaluating the cumulative effect of multiple pollutants and identifying impacts due to constituents of emerging concern that are not routinely monitored.	None

<p>Definition of “Wet Weather” for Receiving Water and Storm Water Outfall Based Monitoring</p>	<p>“Wet weather” is defined differently for discharges to marine water (0.1” of precipitation determined from at least 50% of LAC-controlled rain gauges in the watershed) and freshwater (20% greater than base flow or as defined by effective TMDLs within the watershed). The definition should be consistent in order to develop consistent monitoring programs with comparable results. The definition of “wet weather” should also be based on predicted precipitation, not base flow.</p> <p>Allow Permittees to agree upon and propose one method, consistent with TMDL requirements, to determine sampling trigger conditions for wet weather monitoring to ensure data are comparable across monitoring programs.</p>	<p>County of Los Angeles</p>	<p>The Tentative Order has been revised to allow Permittees to propose alternative thresholds/criteria for wet weather sampling through an IMP or CIMP. The Regional Board agrees that Permittees should come to consensus on one method, consistent with TMDL requirements, to determine the sampling trigger conditions for wet weather to ensure data comparability.</p>	<p>Attachment E-MRP revised</p>
<p>Coordinated receiving water and storm water outfall monitoring</p>	<p>The permit proposes to require taking receiving water samples within 6 hours of taking outfall samples. Coordinating trigger conditions between many outfall and receiving water sites will be time consuming and burdensome, requiring complex telemetry and data management systems to ensure that triggering times are coordinated. This section could also create conflicts if a Permittee decides to submit an IMP and other Permittees within the watershed submitted a CIMP. This requirements should be eliminated and allow affected agencies to coordinate trigger conditions between outfall and receiving water sites using an approach that is reasonable and practical. The</p>	<p>LACFCD (Comment 40); County of Los Angeles (Comment 145)</p>	<p>Establishing the relationship between outfall monitoring and receiving water quality is important. However, the Regional Board recognizes the logistical challenges of coordinating outfall and receiving water monitoring during a storm event. Attachment E-MRP of the Tentative Order has been revised to state that receiving water monitoring must begin as soon as possible after storm water outfall based monitoring in order to be reflective of potential impacts from MS4 discharges.</p>	<p>Language revised</p>

	IMP or CIMP would include recommendations on the start of receiving water monitoring in relation to the start of outfall-based monitoring.			
Dry Weather Receiving Water Monitoring – Minimum Requirements	It is unclear how many years of data are required to determine the “historically lowest” month referred to in VI.D.1.a.. The sampling point may be in a stream not equipped with stream gauges. If stream gauges records exist, it may be possible to have zero flows. This requirement should be deleted. Sampling during dry weather should be just that, “sampling during dry weather” as defined in the MRP. Alternatively, revise as follows: “One of the monitoring events shall be during the month with the historically lowest instream flows for the last 10 years, provided the instream data is available.”	County of Los Angeles	The Tentative Order has been revised to allow Permittees to use either flow data or precipitation data to determine the sampling month for the critical dry weather condition (i.e. lowest flows or least precipitation).	Language revised.
Definition of “Dry Weather” for Receiving Water Monitoring	“Dry weather” is defined differently for discharges to marine water (less than 0.1” of precipitation on days not less than three days after a rain event of 0.1 inch or greater, determined from at least 50% of LAC-controlled rain gauges in the watershed) and freshwater (less than 20 percent greater than the base flow or as defined by effective TMDLs within the watershed). The definition should be consistent in order to develop consistent monitoring programs with comparable results. The definition of “dry weather” should also be based on precipitation, not base flow. Recommendation	County of Los Angeles	The Tentative Order has been revised to allow Permittees to propose alternative thresholds/criteria for triggering dry weather sampling through an IMP or CIMP. The Regional Board agrees that Permittees should come to consensus on one method, consistent with TMDL requirements, to determine the sampling trigger conditions for dry weather to ensure data comparability.	Language revised

	Allow Permittees to agree upon and propose one method, consistent with TMDL requirements, to determine sampling trigger conditions for dry weather monitoring to ensure data are comparable across monitoring programs.			
Receiving Water Monitoring – Aquatic Toxicity & Monitoring Methods	Aquatic toxicity has been well characterized through past monitoring activities, and should not require more than one sampling each for wet and dry weather. Toxicity testing should not be applied to wet weather samples. Should toxicity testing during wet weather still be required, it should be limited to acute toxicity testing. Aquatic toxicity monitoring in the receiving water should be conducted twice per year, once each during wet and dry weather.	County of Los Angeles	The required frequency for receiving water monitoring of aquatic toxicity during dry weather has been reduced to once per year during the month with the historically lowest flows (or historically driest month, where flow data are not available), unless more frequent monitoring is required pursuant to TMDL provisions.	Language revised
Receiving Water Monitoring	The MRP should specify each water quality monitoring frequency. The Board should require minimum sampling of five times per week at the same beaches included in the 2001 permit that were identified to necessitate this more frequent sampling.	Environmental Groups	The number of outfall and receiving water monitoring events is specified in Part VI.C-D, Part VIII.B, and Part IX.G of Attachment E. Additionally, Attachment E-MRP requires that Permittees continue to conduct monitoring required by Order No. 01-182 until the Permittee’s IMP or CIMP has been approved by the Executive Officer.	Clarifying language added
Receiving Water Monitoring	The MRP should specify a minimum number and the exact locations of receiving water monitoring locations. The MRP should include a specific list and map of all receiving water monitoring locations, including the existing mass emissions stations and TMDL receiving water compliance points. The current mass emissions station monitoring locations should be	Environmental Groups	The permitting structure has moved from a system wide basis to a watershed approach. Representative receiving water monitoring locations will be determined during the development of IMPs and/or CIMPs. The Board is requiring the continuation of the current mass emissions and shoreline monitoring stations until approved IMPs and CIMPs are in place.	None

	maintained as is, to continue to assess trends over time. The option to justify the elimination of mass emissions station monitoring in Parts VI.A.1.b.v. and VI.B.3.b. should be eliminated.			
Receiving Water Monitoring	<p>The MRP should include additional receiving water monitoring parameters. The Receiving Water Monitoring requirements contain an insufficient number of monitoring parameters and inappropriately focus on only known impairments, rather than a comprehensive assessment of the waterbody.</p> <p>The Board should maintain the parameters that are currently monitored in the receiving water. This is particularly important for assessing trends over time. This same list of parameters should be mimicked in the outfall monitoring program.</p>	Environmental Groups	<p>The Board will require additional parameters during the first year of monitoring per approved IMPs and/or CIMPs. Specifically, receiving water monitoring stations shall be screened for all constituents identified in Table E-2 of the revised Attachment E-MRP, during the first sampled wet weather event and during the critical dry weather event. If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method it need not be further analyzed unless the observed occurrence shows concentrations greater than water quality objectives. If a constituent is detected exceeding the lowest applicable water quality objective then the constituent shall be analyzed for the remainder of the Order at the receiving water monitoring station where it was detected. Additionally, if parameters are detected exceeding the lowest applicable water quality objective then the corresponding outfall monitoring (i.e. storm water or non-storm water) at outfalls upstream of the receiving water monitoring station shall include that parameter also.</p>	Language revised.
Receiving Water Monitoring	<p>The wet weather thresholds should be clarified. The thresholds assume that distance (space) and time are uniform throughout the waterbody. In reality, rainfall may be much more significant in the lower portion of a watershed, for example, than the upper portion. If a disproportionate amount of rain gauges are in the upper portion of the watershed, it could lead to a mischaracterization of conditions. The Board should clarify how these differences will be accounted for when determining wet versus dry weather.</p>	Environmental Groups	<p>The CIMPs and IMPs will determine the appropriate thresholds and are subject to review and approval by the Executive Officer.</p>	Clarifying language added

Receiving Water Monitoring	The Regional Board has no legal authority to compel compliance with receiving water limitations through in-stream monitoring.	Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	<p>Monitoring by the owners and/or operators of MS4s is required pursuant to Clean Water Act section 308(a) and 40 CFR sections 122.41(h), (j)-(l), 122.44(i), 122.48, 122.26(d)(2)(i)(F), 122.26(d)(2)(iii)(D) and 122.42(c). Section 122.26(d)(2)(iii)(D) identifies monitoring at outfalls, field screening points, and in-stream stations and requires representative data collection. Receiving water monitoring (i.e. in-stream monitoring) is necessary to assist in the evaluation of the effects of MS4 discharges on in-stream water quality, including assessing trends in the effect of MS4 discharges on in-stream water quality over time as Permittees implement additional and/or enhanced BMPs and improve implementation of their illicit discharge detection and elimination programs. In-stream monitoring, referred to in the Tentative Order as receiving water monitoring, is also well established and supported by EPA's Part 2 MS4 permit application guide (EPA 833-B-92-002) and has been a part of the Los Angeles County MS4 program for more than ten years.</p> <p>Further, Permittees may demonstrate compliance with the receiving water limitations provisions through either outfall monitoring or receiving water monitoring. If a Permittee's discharge quality as measured at the outfall does not exceed applicable WQBELs or receiving water limitations, then that provides a demonstration that the discharge did not cause or contribute to an exceedance of receiving water limitations.</p>	None
Receiving Water Monitoring	Receiving water monitoring should be consistent with SWAMP protocols including the requirement that ambient monitoring be conducted two days following a storm event. Currently the receiving water monitoring is proposed to be conducted during storm events. Such an approach will not support the need to assess the receiving water quality consistent with the SWAMP approach that is used as the basis for	Cities of La Verne and Inglewood	Receiving water monitoring (i.e. in-stream monitoring) is necessary to assist in the evaluation of the effects of MS4 discharges on in-stream water quality, including assessing trends in the effect of MS4 discharges on in-stream water quality over time as Permittees implement additional and/or enhanced BMPs and improve implementation of their illicit discharge detection and elimination programs. Ambient monitoring conducted under SWAMP does not support these types of evaluation and would not be representative of the impacts of storm water discharges on the receiving waters. In-stream monitoring, referred to in	None

	303(d) listing		the Tentative Order as receiving water monitoring, is also well established and supported by EPA's Part 2 MS4 permit application guide (EPA 833-B-92-002) and has been a part of the Los Angeles County MS4 program for more than ten years.	
<b><i>Outfall Based Monitoring</i></b>				
Part VII.A.	Revise the description to include database, "The IMP and/or CIMP plan(s) shall include a map <b>and/or database</b> of the MS4 to include the following information:" GIS maps all come with database(s) that include much of the required information.  It will be very difficult to fit all the information listed in VII.A. on one map. Change "a map" to "maps."	LA Permit Group (Comment 24); County of Los Angeles (Comment 149)	The following underlined text has been added:  "The IMP and/or CIMP plan(s) shall include a map(s) <u>and database(s)</u> of the MS4 to include the following information:"	Change made as indicated.
Part VII.A.4	The City of Los Angeles has a comprehensive database of its stormwater collection system. However there is no dataset with Effective Impervious Area (EIA) overlay for our region. Also we don't have data on their consistency of having non-stormwater discharges. Furthermore occasionally we observe errors or missing and outdated data. Please understand that these discrepancies would not constitute a violation.	City of Los Angeles (Comment 92)	The EIA overlay is only required, if available. The Board anticipates that data on outfalls with significant non-storm water discharges will be added over the course of the permit term as a result of Permittees' outfall screening programs pursuant to Part IX.B.	None
MS4 MAP	The Fact Sheet states that the mapping requirements included land use, impervious area, and effective impervious area (if available). LACFCD requests removing "impervious area" from the mapping requirements.	LACFCD (Comment 65)	Effective impervious area is valuable to aid in determining the amount of runoff generated from the subwatershed drainage areas. However, as noted by the commenter, the EIA overlay is only required, if available.	None
Part VII.A.11	Requiring MS4s to photograph every	City of Los	Permittees may prioritize outfalls for photo-	Language

	outfall is extremely burdensome for large cities. This one component of the MRP would require significant resources of those MS4s that are adjacent to waterbodies, or in the case of the City waterbodies in multiple watersheds. Request that the photographs be included in the database “if available.”	Angeles (Comment 93)	documentation concurrently with their outfall screening program. The Board anticipates that photographs of outfalls would be added to the database over the course of the permit term. Permittees may propose specific milestones in the IMP or CIMP for Executive Officer approval. Where accessibility and safety are a concern, Permittees are not required to photograph the outfall. The permit has been revised to add “where possible” to this requirement.	revised
MS4 Map	“MS4 Map” appears to be a misnomer. MS4 also includes municipal streets, curb and gutters, ditches, etc. If only open channels and underground storm drains are required to be mapped, “MS4” map should be revised. LACFCD recommends revising to “Storm Drain and Channels Map.”	LACFCD (Comment 41)	The Board agrees and the labeling will be revised to “Storm Drains, Channels and Outfalls Map(s) and / or Database”.	Language revised per commenter suggestion
Open Channels and Underground Pipes	Many of the pipes connecting to LACFCD catch basins are 18 inches and greater, but would not need to be included on the map to get an accurate layout of the storm drain system. Recommendation Revise VII.A.6. to read: The location and length of all open channel and underground pipes 18 inches in diameter or greater (except for catch basin connector pipes).	County of Los Angeles	The Board agrees and has revised the language per commenter’s recommendation.	Language revised.
MS4 Map Elements – Major Outfall Catchment Areas	Determination of accurate catchment areas will require extensive review of project files, topography maps, and field surveys to confirm catchment boundaries. It will require more than six (6) months to a year to complete this task.	County of Los Angeles	The timeframe for submittal of a draft IMP or CIMP has been aligned with the submittal of draft WMPs, allowing Permittees additional time to complete this task.	Language revised.
<b><i>Storm Water Outfall Based Monitoring</i></b>				
Part VIII.A.1.	Sampling in manholes results in entering confined space, often in roads	City of Los Angeles	Permittees may propose sampling locations in the IMP and CIMP subject to Executive Officer approval.	None

	such as major arterials, which can be very expensive because of additional safety requirements for the crew and the need to coordinate with police regarding traffic impacts. Please add “where feasible given technical and safety constraints” following the word manhole.	(Comment 95); City of West Hollywood	Additionally, the Order notes in E.VIII: “The Permittee shall select outfalls with configurations that facilitate accurate flow measurement <u>and in consideration of safety of monitoring personnel.</u> ”	
Part VIII.A.2.a.	The current permit language requires each Permittee to select one site per jurisdiction per HUC-12 watershed. In the LA River watershed alone 108 sites would be required to meet this requirement. This requirement would result in a significant cost to Permittees without a commiserate benefit. The approach results in sites that have comingled discharges from multiple land uses making the data difficult if not impossible for Permittees to use in evaluating where to focus minimum control measures and source control BMPs as well as where to site and build structural controls to treat stormwater. Furthermore, the proposed approach would still require Permittees to extrapolate the data to calculate their total loads to receiving waters and evaluate the potential impact. However, this approach would be fraught with inaccuracies as one would have to try and desegregate land uses to apply the loadings to other outfalls within the Permittee’s jurisdiction. Flexibility should be provided such that an alternative approach could be submitted with the IMP or CIMP. Such an alternative could include the	City of Los Angeles (Comment 94); County of Los Angeles (Comment 153)	The Tentative Order has been revised to allow alternative approaches in the IMP or CIMP subject to Executive Officer approval.	Language revised

	monitoring of representative land use sites. A representative land use approach would provide Permittees the core data needed to evaluate their overall loading to receiving waters as well as utilize a modeling approach to identify problematic areas and develop and implement control strategies through the WMP.			
Storm Water Outfall Based Monitoring	The Board should require monitoring from more than one outfall in each watershed (HUC-12) drainage area. An associated receiving water monitoring location should be in proximity to this location. Further, the Board must ensure that appropriate land-use categories are monitored in order to be able to more readily determine if a MS4 is causing or contributing to a water quality objective exceedance, and if so, which Permittee. Drainages carrying stormwater from commercial, industrial, and high-use transportation should be prioritized.	Environmental Groups	Permittees must select representative monitoring locations in IMPs and CIMPs, subject to public review and Executive Officer approval. The Board will require compliance with the 4 <sup>th</sup> objective of the MRP which is to identify sources of pollutants in MS4 discharges. This objective requires a characterization of land uses in a watershed to determine pollutant sources.	None
Part VIII.A.2.e	Include the option to monitor “upstream of the actual outfall or downstream of a political boundary”. Sometimes the best location to do monitoring is at the next manhole downstream from a city boundary.	LA Permit Group (Comment 25)	This option is already addressed in Part VIII.A.2.c.	None
Part VIII.B.1.b	Omit the requirements ii. and iii. Monitoring should be performed per approved IMP or CIMP or approved TMDL.	LA Permit Group (Comment 27)	Attachment E-MRP has been revised to allow Permittees to propose alternative thresholds/criteria for triggering wet weather monitoring.	Language revised
Part VIII.B.1.c	Flow is a parameter that can easily and relatively accurately be estimated based on the drainage area, and the precipitation data for each outfall.	City of Los Angeles (Comment 97)	The Regional Water Board agrees that flow rates and volumes can be either measured specifically or can be estimated. Section III.F.5 of Attachment E only allowed flow estimation to be used at receiving water monitoring	Language revised

	Requiring flow measuring equipment for outfall measurement will further increase the cost to about \$30,000 per location. Consider deleting the flow measuring requirement.		stations where flow measurements are not in place. The MRP has been revised to also allow for the use of flow estimation of storm water discharges in instances where it is not practical or economically feasible, upon approval by the Executive Officer in an IMP or CIMP.	
Storm Water Outfall Based Monitoring	The MRP should determine the quality of a Permittee's discharge relative to Water Quality Standards and effluent limits, not municipal action levels (MALs). Also, the calculated MAL values are weak and completely inappropriate. Using the 25th percentile in developing the MAL values means that 75 percent of the time, BMPs performed better. The Board has not provided any justification for using the 25th percentile standard. Also, median performance values should be used for developing Treatment BMP Performance Standards as was done in the Ventura MS4.	Environmental Groups	Data reported per the MRP will be used to determine the quality of a Permittee's discharge relative to receiving water limitations and WQBELs. MALs are incorporated in the Order as benchmarks to trigger improvement(s) in storm water program implementation; MALs were set at the upper 25 <sup>th</sup> percentile to represent an "upset" value indicating a clear need for additional storm water controls to reduce the pollutant concentrations in the storm water discharges. This is one of several tools that can be used by Permittees to prioritize implementation actions.  With regard to the Treatment BMP Performance Standards, the median value of BMP effluent performance is used for the treatment BMP benchmarks included in the Order. Unlike the Ventura County MS4 Order, the treatment BMP values in the Order are based on the median value of the top six performing BMPs per pollutant instead of allowing any BMP to be used as long as it meets the median effluent value for the BMP in the ASCE database. The method used in the Order further helps to ensure appropriate BMPs are used for the pollutants expected to be discharged from a project.	BMP performance benchmarks have been revised in Part VI.D.7.c., Table 11.
Monitoring Locations	As written, the Permit allows for monitoring of continuous flows at manholes and in channels as a discharge from an outfall. The County disagrees with the concept of treating flows within a channel or manhole as an "outfall" discharge. Such locations should be considered "alternative monitoring locations."  <u>Recommendation</u>	County of Los Angeles	Attachment E-MRP has been revised for clarification consistent with the commenter's suggestion.	Language revised

	Revise as follows: “Storm water discharges from the MS4 shall be monitored at major outfalls, and/or alternative monitoring locations, such as manholes or in channels or storm drains at the Permittee’s jurisdictional boundary.”			
Definition of “Significant Non-Storm Water Discharges”	“Significant non-storm water discharges” should be defined.	County of Los Angeles	That term is best defined by Permittees as part of the IMP and CIMP development process.	None
Stormwater Outfall toxicity Monitoring	MS4 discharges are not the same as wastewater plant effluent which represents a single continuous discharge of typically consistent quality to receiving waters. Rather, urban runoff is episodic in nature. Furthermore, individual outfalls carry a minute percentage of the total flow in the receiving waters and as such toxicity observed in one outfall sample will likely have no affect on the receiving water. The current approach is appropriate for wastewater discharges but not urban runoff and they should be treated differently. The more appropriate approach for urban runoff is to identify whether toxicity exists in the receiving water, identify pollutants that are causing toxicity through toxicity identification evaluations (TIEs), and then incorporate monitoring of pollutants that are causing toxicity into the outfall monitoring. Please remove toxicity monitoring requirements from the stormwater outfall monitoring program.	City of Los Angeles (Comment 96)	Attachment E-MRP has been revised as suggested by the commenter.	Language revised

Frequency	<p>If repeated results from outfall monitoring do not exhibit aquatic toxicity, monitoring of aquatic toxicity should be discontinued.</p> <p><u>Recommendation</u> Revise as follows: “Storm water discharges shall be monitored a minimum of three times per year for all parameters except aquatic toxicity, which shall be monitored once per year (unless a proximate downstream receiving water monitoring location has not exhibited aquatic toxicity during the past two years, or the outfall monitoring location has not exhibited aquatic toxicity for three consecutive years).”</p>	County of Los Angeles	The requirement to monitor for aquatic toxicity at outfalls has been removed from the MRP, except where required by a TMDL or where a TIE conducted in the receiving water is inconclusive. Where a TIE is inconclusive, the MRP includes requirements for aquatic toxicity monitoring at the upstream outfalls.	Language revised
Frequency	<p>These are varying triggers to start monitoring for TMDLs or at the mass emission stations within each watershed. Therefore, data collected from each of these monitoring programs cannot be used for comparison purposes.</p> <p><u>Recommendation</u> Wet weather monitoring should be coordinated amongst outfalls, TMDLs, and mass emissions stations to ensure the results can be comparable.</p>	County of Los Angeles	Permittees may propose alternative thresholds/criteria as triggers in an IMP or CIMP to ensure consistency and data comparability.	None
Sampling Methods	Revise VIII.C.2. as follows for clarification: “If a Permittee is not participating in an IMP or CIMP, the a flow-weighted composite sample of the for a storm water discharge shall be taken with using a continuous sampler, or it shall be taken as a combination of a minimum of 3 sample aliquots, taken	County of Los Angeles	Part VIII.C.2 is consistent with the commenter’s suggestion.	None

	during in each hour of discharge within the first 24 hours of the discharge or for the entire discharge if the storm event is less than 24 hours. Each aliquot shall be being separated by a minimum of 15 minutes within each hour of discharge, unless the Regional Water Board Executive Officer approves an alternate protocol.”			
Stormwater Outfall Monitoring	The wet-weather WQBEL is based on a TMDL WLA in the receiving water that is non-ambient. As mentioned, federal regulations only require ambient monitoring in the receiving water, which by definition can never be deemed the same as wet weather monitoring. They are mutually exclusive. Regional Board staff has also incorrectly determined that a WQBEL may be the same as the TMDL WLA, thereby making it a “numeric effluent limitation.” Although numerous arguments may be marshaled against the conclusion, the most compelling of all is the State Water Resources Control Board’s clear opposition to numeric effluent limitations.	Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	Permits must include provisions consistent with the assumptions and requirements of TMDL wasteload allocations (WLAs). Further, 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.” TMDL WLAs are assigned to point source discharges to receiving waters to achieve the numeric targets of the TMDL. Section 130.2(h) of Title 40 of the Code of Federal Regulations defines a WLA as the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation. The WQBELs included in the Order were derived from and are consistent with the assumptions and requirements of the TMDL WLAs. Monitoring is required to measure compliance with WQBELs and other permit provisions.  The commenter also misunderstands the findings of the State Board’s panel on storm water. The panel’s conclusions focused on the variability in storm water BMP performance and concluded that numeric effluent limitations based on BMP performance were infeasible (i.e., technology based effluent limitations). However, the panel did not address the issue of deriving numeric water quality based effluent limitations from TMDL WLAs.	None
Stormwater Outfall	The determinant for a water quality standard exceedance is in the discharge	Cities of Baldwin Park,	Permittees may demonstrate compliance with the provisions of Part VI.E. and Attachments L-R in several	None

Monitoring	<p>from the outfall – not in the receiving water. The use of numeric WQBELs -- though incorrectly defined and established in this instance -- represents the compliance standard in discharges from the outfall. Adding a second compliance determinant in the receiving water is unnecessary and is not authorized under federal stormwater regulations because the receiving water lies outside the scope of the MS4.</p> <p>Recommended Corrective Action: Eliminate this requirement.</p>	Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	<p>ways, including at the outfall based on outfall monitoring and comparison to WQBELs or in the receiving water based on receiving water monitoring.</p> <p>Similarly, Permittees may conduct outfall monitoring and use those data to demonstrate that they did not cause or contribute to an exceedance of receiving water limitations.</p> <p>Monitoring by the owners and/or operators of MS4s is required pursuant to Clean Water Act section 308(a) and 40 CFR sections 122.41(h), (j)-(l), 122.44(i), 122.48, 122.26(d)(2)(i)(F), 122.26(d)(2)(iii)(D) and 122.42(c). Section 122.26(d)(2)(iii)(D) identifies monitoring at outfalls, field screening points, and in-stream stations and requires representative data collection. Receiving water monitoring (i.e. in-stream monitoring) is necessary to assist in the evaluation of the effects of MS4 discharges on in-stream water quality, including assessing trends in the effect of MS4 discharges on in-stream water quality over time as Permittees implement additional and/or enhanced BMPs and improve implementation of their illicit discharge detection and elimination programs.</p>	
Outfall Monitoring	<p>The requirements of the Outfall Based Monitoring are onerous. The Permit requires that “Storm water discharges from the MS4 shall be monitored at outfalls, manholes or in channels at the Permittee’s jurisdictional boundary.” There are no open channels or water bodies. The Permit does not provide a definition of “outfall.” However, the Outfall Based Monitoring section uses this term to describe a program of sampling storm water at the entry and exit from a jurisdictional boundary. “Outfall” is not simply being used as a term to describe a location where a pipe discharges to an open channel or water body.</p>	Cities of El Segundo and West Hollywood	<p>Monitoring at MS4 access points such as manholes is a valid option to monitor the MS4 discharge, and to assess storm water program effectiveness. The Regional Board will note the distinction between major outfalls and “alternative monitoring locations”.</p>	Language revised.

Outfall Monitoring	<p>Section VIII.A.2 Criteria for selecting outfalls</p> <p>The City requests that the Regional Board add an item 'f' providing that: "The selected outfall(s) for monitoring should be owned by the permittee where feasible."</p>	City of Malibu	Permittees may consider ownership when selecting outfalls for monitoring. It is not necessary to include this criterion in the MRP.	None
General	<p>Section VIII.B.1.a ... storm water discharges shall be monitored a minimum of three times per year</p> <p>There is no evidence that the current two times a year sampling regimen is not providing valid characteristic data. Additional costs of analyzing all the new analytes and labor associated with adding another round of sampling is unnecessary. Recommend retaining current two times a year sampling regimen.</p>	City of Santa Monica	The monitoring frequencies are consistent with those in the MRP (CI 6948) for Order No. 01-182 as amended, which requires monitoring of the first storm event and a minimum of two additional storm events for each season. This is also consistent with the monitoring requirements in the current Ventura County MS4 Permit, issued by this Board in 2010.	None
General	<p>Section III. F.2, VIII.C.2 states tentative permit states grab samples are prohibited and promotes composite sampling.</p> <p>No evidence that all the many years of grab samples collected for storm water to date were in any way not valid or characteristic. Further, the extreme variability in storm water discharges (turbulence, entrained solids, depth, flow velocity etc.) makes the use of composite sampling equipment impractical and infeasible, and not cost effective.</p>	City of Santa Monica	The USEPA (USEPA 2002) recommends that multiple samples be taken throughout a storm event to incorporate changes in concentration and discharge and therefore accurately represent the storm event. While grab samples are appropriate for certain constituents and low flow dry weather sampling, composite sampling presents a more accurate representation of what the pollutant loading is from the MS4.	None

***Non-Storm Water Outfall Based Screening and Monitoring***

Part IX.A.2.	Include “natural flows” or “natural sources” as a potential source of non-storm water flow.	LA Permit Group (Comment 30)	Natural flows have been added to the list consistent with Part III.A.1.d. of the Tentative Order.	Language revised
Part IX.E.	The permit provides flexibility to select the method by which Permittees determine significant non-stormwater discharges. Similar flexibility should be provided in setting priorities for source investigation. Flexibility should be provided such that an alternative approach could be submitted with the IMP or CIMP. It appears this flexibility is provided and we support this approach.	City of Los Angeles (Comment 98)	The Regional Board agrees that flexibility is already provided.	None
Part IX.E.2.	Revise last sentence to read, “100% of the outfalls <b>in the inventory</b> within 5 years...”	LA Permit Group (Comment 31)	Attachment E-MRP has been revised as suggested.	Language revised
Part IX.F.2.	Omit the requirement to report to the Regional Board “within 30 days of determination” because there are too many report submittals that could lead to a Notice of Violation that will have no impact on water quality. Reporting source identifications in the annual report provides central location for submittals.	LA Permit Group (Comment 32)	Attachment E-MRP has been revised as suggested.	Language revised
Part IX.F.3. & G	Requiring Permittees to monitor all significant non-stormwater discharges results in a disconnect between receiving water issues and monitoring, is inconsistent with some TMDL implementation schedules, and will result in Permittees being required to take action at drains that are not a priority as identified in the WMP. As an example of inconsistencies with receiving water issues, based on the data collected in Reaches 1, 3, 4, 5 and	City of Los Angeles (Comment 99)	The outfall-based monitoring does not require monitoring of all significant non-storm water discharges, only those non-essential non-storm water discharges whose source is unknown or are conditionally exempt. In addition, the outfall selection process is designed so that monitoring is not required at all outfalls at all times. With prioritization and adaptive management strategy, these outfall locations will shift over time. Furthermore, if after two years of monitoring, the MS4 is found not to be a source of the pollutant, the Permittee can request that the monitoring requirement be reduced or eliminated.	None

<p>the Burbank Western Channel (the reaches original listed in the TMDL), the LA River is meeting ammonia TMDL targets. Having MS4s in the LA River monitor for ammonia, as currently required, at all outfalls is not necessary since MS4 discharges are not causing an impairment as there is no impairment. Additionally, the Permit requires actions to be taken based on outfall data, even though there is no corresponding receiving water issue. As an example of inconsistency with a TMDL, the LA River Bacteria TMDL prioritizes outfall monitoring and implementation on a reach by reach basis. The intent was to require Permittees to focus efforts on the priorities as outlined in the TMDL. If outfall monitoring is required everywhere and action must be taken then there is no prioritization as required in the TMDL. Flexibility should be provided such that an alternative approaches could be submitted with the IMP or CIMP. Alternatives could include changes to the constituents monitored based on watershed priorities (i.e., not including constituents for which there is no receiving water impairment even though there is a TMDL or where a TMDL implementation schedule explicitly incorporates priorities). Additionally, alternatives to the monitoring approach could include conducting snap shot sampling events where all discharges over a short time period are sampled rather than spaced</p>		<p>The list of pollutants that must be monitored targets receiving water issues. Therefore, the outfall monitoring is directly connected to the receiving water. While outfall monitoring may not be specifically required within a TMDL, it may result in useful information on pollutant loading and will assist in implementing the permit requirement that all non-storm water discharges not otherwise authorized or conditionally exempt are prohibited from the MS4.</p> <p>The Regional Board disagrees that the “Permit requires actions to be taken based on outfall data, even though there is no corresponding receiving water issue”. The method of outfall selection and pollutants to be monitored are based on receiving water issues, such as indicated by past exceedances of receiving water limitations, 303(d) listing and TMDLs. Further action to control the pollutant in the discharge would then be required only if monitoring results show that the discharge from the outfall is contributing to the water quality problems.</p> <p>The above notwithstanding, Permittees may propose conditions under which significant non-storm water discharges will be monitored in its CIMP in conjunction with a Watershed Management Program, subject to Executive Officer approval.</p>	
---	--	---	--

	out quarterly as currently required.			
Parts IX.G.	MS4 discharges are not the same as wastewater plant effluent which represents a single continuous discharge of typically consistent quality to receiving waters. Rather, urban runoff is episodic in nature. Furthermore, individual outfalls carry a minute percentage of the total flow in the receiving waters and as such toxicity observed in one outfall sample will likely have no affect on the receiving water. The current approach is appropriate for wastewater discharges but not urban runoff and they should be treated differently. The more appropriate approach for urban runoff is to identify whether toxicity exists in the receiving water, identify pollutants that are causing toxicity through toxicity identification evaluations (TIEs), and then incorporate monitoring of pollutants that are causing toxicity into the outfall monitoring. Please remove toxicity monitoring requirements from the non-stormwater outfall monitoring program.	City of Los Angeles (Comment 100)	Toxicity monitoring of significant non-storm water discharges has been eliminated, unless required by a TMDL monitoring plan, or where a TIE conducted in the downstream receiving waters is inconclusive.	Language revised
Parts IX.G.3. & IX.G.4.	Outfalls not subject to dry weather TMDLs that have significant dry weather flows should have continuous flow monitoring done for a quarter with water quality sampling done once at the beginning of that time period. If the water quality sampling indicates pollutant concentrations that exceed water quality standards, then the IC/ID investigation procedures should begin. If no water quality standards are	LA Permit Group (Comment 33)	Routine monitoring of non-storm water discharges is not required until Permittees have completed efforts to identify the source of the significant non-storm water discharge. Where these efforts are successful, and the discharge is eliminated, no further monitoring is required.  However, where non-storm water discharges persistent, it is necessary to continue monitoring to track the quality of significant non-storm water discharges and their potential impact on receiving waters. Following one year of monitoring, the Permittee may submit a written request to	None

	exceeded or the IC/ID investigation eliminates the source of pollutants, then that flow has been demonstrated NOT to cause or contribute to pollutant loading and should be stopped. To continue monitoring a site that is known NOT to cause or contribute to pollutant loading is a waste of resources and an unfunded mandate.		<p>the Executive Officer of the Regional Water Board to reduce or eliminate monitoring of specified pollutants, based on an evaluation of the monitoring data demonstrating that the discharge has not exceeded applicable WQBELs, applicable non-storm water action levels, or water quality standards for other pollutants identified on the CWA section 303(d) list for the receiving water.</p> <p>This provision is required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees' discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate.</p>	
Screening and Monitoring Plan	<p>6 months is not sufficient to develop a stand-alone outfall screening and monitoring plan. The same time should be allotted to prepare the IMP or the CIMP, and the non-storm water outfall based screening and monitoring plan.</p> <p>Recommendation Delete the phrase, "or within six (6) months of effective date of this Order."</p>	County of Los Angeles	The Board agrees and will modify the time period to 1 year.	Language revised.
Definition of Significant Non-Storm Water Discharge	A one-time exceedance of an action level may occur due to a one-time discharge or conditions that may have caused or contributed to that exceedance. Since all major outfalls designated as having significant non-storm water discharges are prioritized for source identification, to minimize chasing after episodic exceedances, allow Permittees to focus resources on persistent discharges and exceedances.	County of Los Angeles	Permittees may propose as part of their non-storm water outfall screening and monitoring program, triggers for what constitutes a significant non-storm water discharge.	None

	<p>Recommendation</p> <p>b. Discharges for which existing monitoring data consistently exceeds (three or more consecutive exceedances) non-storm water Action Levels identified in Attachment G of this Order may be considered significant non-storm water discharges.</p>			
Inventory of MS4 Outfalls with Non-Storm Water Discharges	IX.D.2.d. Description of receiving water at the point of discharge – If the monitoring location is far from the receiving water and does not directly discharge into the receiving water, by CWA definition it would not be an outfall and must be noted as a monitoring location.	County of Los Angeles	Attachment E-MRP has been revised to clarify outfall versus alternative monitoring locations such as manholes.	Language revised.
Inventory of MS4 Outfalls with Non-Storm Water Discharges	IX.D.2.i. Photographs of significant discharge – If the monitoring location is at a manhole, photographing the significant non-storm water discharge or indicators of discharge will be very costly due to the need for traffic control. It may not be possible to visually confirm the flow and take a photograph.	County of Los Angeles	Although Permittees should be able to photo-document most outfalls, the permit includes the language “where possible” to relieve Permittees of photographic documentation if safety concerns exist at monitoring location.	Language revised.
Inventory of MS4 Outfalls with Non-Storm Water Discharges	IX.D.2.k. All diversions either upstream or downstream of the outfall – Clarify how far upstream or downstream of the major outfall the diversion should be to be for it to be included.	County of Los Angeles	The intent of the provision is to note all diversions that divert upstream discharges that would otherwise exit at the outfall.	None
Inventory of MS4 Outfalls with Non-Storm Water Discharges	IX.D.2.l. Observations regarding discharge characteristics – If the monitoring locations are at manholes, visual confirmation of the existence of debris and floatables will be very costly due to the need for traffic control. It may not be possible to make a visual	County of Los Angeles	If Permittees are able to visually determine that an outfall has significant non-storm water discharge, then the Board assumes that visual confirmation of floatables/debris is feasible.	None

	confirmation.			
Definition of “Other Outfalls”	<p>“Other outfalls” is used without a definition. “Outfall” is clearly defined per 40 CFR §122.26(b)(9). The Permit should not use “other outfalls” to refer to manholes or other potential points of monitoring.</p> <p>Recommendation Conform to the definition of “outfall in 40 CFR § 122.26(b)(9)</p>	County of Los Angeles	The Board will use a different term for monitoring locations that are not outfalls per the definition in 40 CFR section 122.26(b)(9).	Language revised.
Monitoring – Prioritized Source Identification	<p>Outfall inventory activities are ongoing and can change over time. Current language doesn't account for outfalls that may have new sources of non-stormwater discharges. For example, 50 outfalls are found in 2017. Does this mean all 50 have to be sourced ID'ed that same year, based on it being 5 years from the effective date of the order? This provision should be reworded as follows: "The schedule shall ensure that source IDs are conducted for no less than 25% of the outfalls in the inventory within three years of the effective date of this order 25% of outfalls are source ID'ed from date of inventory, and 100% of outfalls within 5 years of the effective date of this order are source ID'ed from date of inventory."</p>	LACFCD (Comment 42); County of Los Angeles (Comment 162)	<p>Section IX.E.2 reads;</p> <p><i>“Each Permittee shall develop a source identification schedule based on the prioritized list of outfalls exhibiting significant non-storm water discharges. The schedule shall ensure that source investigations are conducted for no less than 25% of the outfalls in the inventory within three years of the effective date of this Order and 100% of the outfalls within 5 years of the effective date of this Order.”</i></p> <p>However, Permittees may propose alternative schedules in conjunction with an IMP or CIMP to ensure that a source identification is conducted for all outfalls identified as having significant non-storm water discharges within the five year term of the Order.</p>	None
Monitoring Non-Storm Water Discharges Exceeding Criteria	<p>Monitoring of significant non-storm water outfall discharges that have significant non-storm water discharges within 90 days of identification or EO approval of CIMP or IMP may not be logistically feasible.</p> <p><u>Recommendation</u></p>	County of Los Angeles	<p>Section IX.E.3 reads;</p> <p><i>“Alternatively, a Permittee may request an alternative prioritization and schedule from the Regional Water Board if it can demonstrate an equivalent level of source investigation and abatement through an approved IMP or CIMP.”</i></p>	None

	Allow Permittees to determine a reasonable number of outfalls or alternative monitoring sites with significant non-storm water discharges to monitor each year, cover all watersheds over the Permit term, enough to perform parametric and non-parametric statistical analysis to determine trends. Based on the process and timeline discussed above, allow at least 30 months to begin monitoring.		The language addresses the commenter's concerns.  However, to postpone monitoring for two and a half years is too long. There will be insufficient time during the remainder of the permit term to collect adequate data on the characteristics of non-storm water discharges.	
Part IX.H.2	Collection of dry weather samples as composite samples rather than grab samples is unnecessary to characterize conditions during dry weather and will significantly increase the cost of sample collection without a commiserate benefit. Current Regional Board approved TMDL CMPs allow for grab samples during dry weather as do LA Region wastewater NPDES permit receiving water monitoring requirements. The requirement to collect flow-weighted composite samples should be removed.	City of Los Angeles (Comment 101)	In most cases, flow weighted composite samples provide for the most accurate determination of mass load and this method is consistent with how samples are collected at regional mass emissions stations. However, the Regional Board concurs with the comment. The MRP has been revised to clarify that in instances where grab samples are generally expected to be sufficient to characterize water quality conditions (primarily dry weather), that grab samples may be taken. Further, as already stated in IX.H.2, the Permittee can request the Executive Officer to approve an alternative sample collection protocol.	Language revised.
Non-Stormwater Outfall Based Monitoring	The identification of illicit discharges must adhere to the field screening requirements in CFR 40 §122.26. No non-stormwater discharge monitoring shall occur unless flow is first discovered at the outfall. This would trigger the implementation of additional requirements that the tentative order does not include.	Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	The outfall screening program is consistent with 40 CFR section 122.26(d)(2)(iv)(B)(2)-(3) – it first requires screening for significant non-storm water discharges, then a source identification process, and finally, monitoring only of those outfalls with continuing significant non-storm water discharge.	None
Non-Stormwater Monitoring	The focus and scope of non-stormwater monitoring is not commensurate with the environmental issues associated	City of La Verne	Water quality impairments during dry weather are pervasive throughout the coastal watersheds of Los Angeles County. TMDLs have identified non-storm water	None

	<p>with dry weather flows. We believe the non-stormwater monitoring should be to help identify illicit discharges and not for assessing the multitude of objectives noted in the MRP, II.E.a – c. Furthermore we would submit that the MS4s should focus its non-stormwater monitoring on discharges “into” the MS4 and not on discharges “through” or from our MS4s that may cause or contribute to exceedances of water quality standards. This is consistent with CWA section 402(p).</p>		<p>discharges as a source of pollutants leading to these water quality impairments. Clean Water Act section 402(p)(3)(B)(ii) requires the permit to effectively prohibit non-storm water discharges into the MS4. The permit includes such a prohibition and also provides for conditional exceptions to the prohibition. Any discharges of non-storm water from the MS4 that are not authorized or conditionally exempt from the prohibition would be a violation of the permit and are subject to requirements that apply to non-storm water. This includes conditionally exempt discharges that are found to be a source of pollutants to the MS4. Permittees are required to control discharges of pollutants from their MS4s. 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 establish requirements that are designed to reduce pollutants in non-storm water from the MS4 to receiving water and to ensure that non-storm water discharges from the MS4 do not cause or contribute to an exceedance of water quality standards. The requirements that address non-storm water are consistent with Section 402(p)’s prohibition on non-storm water discharges. Any discharge of non-storm water into the MS4 must be prohibited, so it follows that a non-storm water discharge into the MS4 that goes through the MS4 and into the receiving water resulting in violations of water quality standards would be a clear violation of the prohibition. Monitoring of non-storm water is essential to determine compliance with the prohibition, including the conditional exceptions to the prohibition.</p>	
--	--	--	--	--

<b><i>New Development/Re-Development Effectiveness Tracking</i></b>				
Part X.	This section should be moved to Section VI.D.6.d.iv. for clarity.	LA Permit Group (Comment 34)	Since this is a reporting requirement, it is appropriately included in Attachment E.	None

Part X.	This list of effectiveness tracking does not match with the information provided on Section VI.D.6.d.iv. Also delete item 11 from the list since this is not a site specific feature and can be easily mapped for our region using rain gage data.	City of Los Angeles (Comment 102)	<p>The development/re-development database required in Attachment E, section X is not intended to satisfy the post-construction BMP database requirements in Section VI.D.6.d.iv, although they may have similar components. The data required in Part X of Attachment E is necessary to evaluate the effectiveness of the Planning and Land Development provisions of the Order in terms of storm water retention, biofiltration and offsite mitigation.</p> <p>The requirement to provide the one-year, one-hour storm intensity as depicted on the most recently issued isohyetal map published by the Los Angeles County Hydrologist is necessary to ensure uniform design standards. The Regional Water Board cannot verify the accuracy of rain gauge data on a site-by-site basis.</p>	None
New Development/ Re-development Effectiveness Monitoring	<p>Without the determination of statistically significant exceedances of water quality standards, detected at the outfall, the imposition of runoff infiltration requirements is arbitrary. Further, there is nothing in federal stormwater regulations that require monitoring on private or public property. Monitoring, once again, is limited to effluent discharges at the outfall and to ambient monitoring in the receiving water.</p> <p>Beyond this, monitoring for BMP effectiveness poses a serious challenge to what determines “effectiveness” -- effective relative to what standard? It is also not clear how such monitoring is to be performed.</p> <p>Recommended Correction: Delete this requirement.</p>	Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	The Board has eliminated the BMP monitoring requirement proposed in earlier working proposals. This requirement is only focused on tracking implementation of the planning and land development requirements in Part VI.D.7.	None

Part XI.	Omit this section on Regional Studies. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform Pyrethroid and SCCWRP regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.	LA Permit Group (Comment 35)	<p>The MS4 system is regional in nature and its discharges can affect water quality region-wide. Regarding the Southern California Stormwater Monitoring Coalition Watershed Monitoring Program requirements, the objective of the Federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (CWA section 101(a)). The requirement for Permittees to assess biological impacts of MS4 discharges on receiving waters is consistent with this objective. Biological assessment of receiving waters is necessary to evaluate cumulative effects of multiple pollutants discharged from the MS4. The Board has proposed regional monitoring to allow Permittees to coordinate resources and reduce costs. However, the pyrethroid regional study requirement has been eliminated.</p> <p>This provision is required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate.</p>	Revisions to eliminate requirement to conduct a pyrethroid study.
Part XI.A.	Monitoring for Pyrethroids is a task that requires samples to be sent to special laboratories outside city/EMD that are equipped with instruments to analyze the eight compounds to detection levels as close to 1 ng/g dry weight. Therefore preparing the samples to be analyzed individually and reporting is not feasible in 90 days, and requires more time than analysis of the samples in-house. Request to reporting of the data to be extended to 150 days from sample collection date.	City of Los Angeles (Comment 103)	The requirement to conduct a pyrethroid study has been eliminated from the MRP.	Requirement removed.

Part XI.B.	SMC monitoring program requiring each MS4 to sample 6 sites from different land uses in their watershed and report on a common data base equates to 90 sites. This monitoring is very comprehensive in answering a) what is the conditions of streams in s. California, b) what are the stressors that affect stream condition. Any additional monitoring as prescribed in stormwater outfall based and non-stormwater outfall based monitoring (E-17 to E-20) may be already conducted as part of SMC. Subsequently, additional monitoring based on this permit may be found to be duplicative. If outfall monitoring is conducted as part of SMC program, it would be included as part of IMP or CIMP to regional board.	City of Los Angeles (Comment 104)	If existing monitoring is redundant of new requirements, substitution of these data can be proposed by the Permittee in its IMP or CIMP.	None
Regional Studies – Southern California Stormwater Monitoring Coalition	San Bernardino should be added as a county storm water agency.	County of Los Angeles	The Board agrees and will note San Bernardino County as well.	Language revised.
Regional Studies	The Board should include bioassessment monitoring that is sufficient for determining receiving water trends and stormwater impacts on specific aquatic communities. The Board must include a defined semi-annual or annual bioassessment monitoring program with at least six fixed sites per watershed in the Permit as part of the “Core Monitoring” requirements. The Board should also discuss how the bioassessment results	Environmental Groups	The MRP requires Permittees to participate in the comprehensive bioassessment monitoring program by the SMC, in which each participating group assesses its local watersheds and then contributes their portion to the overall regional assessment. The program was set up with intensive studies and input from recognized experts. It is not only technically sound to require Permittee to participate in the SMC study, it is also cost effective. Permittees must report the result of the bioassessment in their annual report(s), and use these to modify their jurisdictional storm water management program or Watershed Management Program accordingly.	None

	will be evaluated. If bioassessment results raise concern, the Permittee should be required to assess the impact and determine the source of impairment.			
Special Studies	Regarding regional studies (MRP XI.A – B), these studies should be conducted by the Regional or State Board. But if the permit does require special studies, the permit needs to establish the mechanism/option for permittees to participate in the studies without having to conduct the studies on an individual basis. Furthermore, the Regional Board should be the agency to lead and coordinate these studies. The MRP appears to read that each and every permittee must conduct the regional studies.	Cities of La Verne and Inglewood	The requirement to conduct a pyrethroid regional study has been eliminated.  The MRP requires participation in the SMC monitoring effort, but does not require the Permittees to develop and implement a bioassessment program on an individual basis.	None
Regional Studies	Regional studies also lie outside the scope of the MS4 permit. However, because federal regulations require ambient monitoring in the receiving water, a task performed by the Regional Board’s SWAMP, regional watershed monitoring for aforementioned target pollutants can be satisfied through ambient monitoring. This can be accomplished with little expense on the part of permittees by: (1) using ambient data generated by the Regional Board SWAMP; (2) re-setting the County’s mass emissions stations to collect samples 2 to 3 days following a storm event (instead of using a flow-based sampling trigger); and (3) using any data generated from existing coordinated monitoring programs (e.g.,	Cities of Baldwin Park, Carson, Covina, Duarte, Glendora, Irwindale, Lawndale, Pico Rivera, San Gabriel and West Covina	Regional Studies are designed to assess the impact MS4 discharges have on the receiving waters and associated habitat for wildlife. However, the Regional Board has eliminated the requirement for the pyrethroid special study.	Pyrethroid special study removed.

	Los Angeles River metals TMDL CMP), provided that the data is truly ambient.			
<b><i>Aquatic Toxicity Monitoring Methods</i></b>				
Aquatic Toxicity	The toxicity monitoring is inconsistent with the 2010 USEPA guidance on toxicity monitoring, guidance released from the State Water Board in anticipation of the statewide Toxicity Policy, and the California Ocean Plan. For instance, sample hold time, sample volume, and the procedure for species selection in brackish and freshwater should be consistent with the above-mentioned guidance and polices.	Environmental Groups	The monitoring program was developed in consultation with USEPA. Methodologies in the MRP have been revised to be consistent with USEPA guidance and State Board plans and policies addressing toxicity.	Language revised
Aquatic Toxicity	The MRP should include enhanced aquatic toxicity outfall monitoring requirements. A once-per-year sampling regime will likely not capture toxic discharge. The Board should require outfall monitoring for toxicity four times per year, at a minimum, at the same time that the receiving water monitoring location is sampled. Also, the toxicity tests should continue for the term of the permit. The Permittee should select dischargers that are chronically flowing and that represent high-impact land uses such as transportation and industrial.	Environmental Groups	The monitoring program was developed in consultation with USEPA with a focus on identifying toxicity in receiving waters, and follow-up to identify the constituents causing the toxicity through TIE procedures. The revised MRP includes a stepwise process that relies upon aquatic toxicity monitoring and TIEs in receiving water followed by monitoring for toxicants in outfall discharges, or where TIEs are inconclusive in the receiving water, aquatic toxicity testing followed by TIEs/TREs of the outfall discharge.	Language revised
Aquatic Toxicity	Consistent with the 2010 USEPA guidance and current drafts of the statewide Toxicity Policy, the MRP should require toxicity data to be reported for the Test of Significance Toxicity statistical method.	Environmental Groups	The toxicity requirements have been revised to require statistical analysis methods following the USEPA toxicity test hypothesis testing procedures for the t-test approach.	Language revised.
Aquatic Toxicity	The Board should clarify the TIE/TRE processes for acute and chronic	Environmental Groups	The revised toxicity language clarifies the TIE/TRE processes. These requirements also include TIE	Language revised.

	toxicity. Why does the Board not require a TIE for chronic toxicity? Logically, one should identify the cause of toxicity prior to efforts to reduce the toxicity.		procedures if chronic toxicity is found.	
Aquatic Toxicity monitoring methods	The toxicity monitoring methods required appear to be based on wastewater treatment plant toxicity testing requirements. The application of a wastewater approach is inappropriate for monitoring related to urban discharges and effects in receiving waters. Additionally, LA MS4 permits are the only MS4 permits we are aware of that require outfall toxicity monitoring and prescribe follow-up requirements that are essentially the same as wastewater plants. This section should be revised so that the approach is appropriate for addressing MS4 issues.	City of Los Angeles (Comment 105)	Methodologies in the MRP have been revised to be consistent with USEPA guidance and State Board plans and policies addressing toxicity.	Language revised.
Aquatic Toxicity of MS4 discharges is inappropriate	MS4 discharges are not the same as wastewater plant effluent which represents a single continuous discharge of typically consistent quality to receiving waters. Rather, urban runoff is episodic in nature. Furthermore, individual outfalls carry a minute percentage of the total flow in the receiving waters and as such toxicity observed in one outfall sample will likely have no affect on the receiving water. The current approach is appropriate for wastewater discharges but not urban runoff and they should be treated differently. The more appropriate approach for urban runoff is to identify whether toxicity	City of Los Angeles (Comment 106)	The monitoring program has been revised in consultation with USEPA with a focus on identifying toxicity in receiving waters, and follow-up to identify the constituents causing the toxicity through TIE procedures. The revised MRP includes a stepwise process that relies upon aquatic toxicity monitoring and TIEs in receiving water followed by monitoring for toxicants in outfall discharges, or where TIEs are inconclusive in the receiving water, aquatic toxicity testing followed by TIEs/TREs of the outfall discharge.	Language revised.

	exists in the receiving water, identify pollutants that are causing toxicity through toxicity identification evaluations (TIEs), and then incorporate monitoring of pollutants that are causing toxicity into the outfall monitoring. Please revise so that the toxicity monitoring requirements are only applicable to receiving water monitoring.			
Aquatic Toxicity Monitoring Methods	Using flow-weighted composite sampling protocols is reasonable and acceptable for wet weather events. For dry weather events, flow rates rarely vary much over time. Requiring flow-weighted composites for dry weather will cause costly and time consuming effort to calculate pace flow volumes for mostly previously unmonitored outfall sites. Recommendation Add language to allow affected agencies to utilize time-weighted composite non-storm water sampling.	County of Los Angeles	The Board agrees and has incorporated the suggested language. Grab samples may also be allowed for dry weather, where the grab sample will adequately characterize the sample event.	None
Aquatic Toxicity	Omit all the requirements for Aquatic Toxicity Monitoring. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform aquatic toxicity regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.	LA Permit Group (Comments 21, 26, 29, & 36)	The Board disagrees that this is a transfer of jurisdiction. Aquatic toxicity testing is required to ensure that MS4 discharges do not impair beneficial uses. However, the monitoring program has been revised in consultation with USEPA to focus on identifying toxicity in receiving waters, and follow-up to identify the constituents causing the toxicity through TIE procedures. The revised MRP includes a stepwise process that relies upon aquatic toxicity monitoring and TIEs in receiving water followed by monitoring for toxicants in outfall discharges, or where TIEs are inconclusive in the receiving water, aquatic toxicity testing followed by TIEs/TREs of the outfall discharge.	Attachment E-MRP (Aquatic Toxicity Monitoring) revised

			This provision is required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate.	
Part XII.F.1.	The MRP is not the appropriate place within a NPDES permit to assign receiving water and/or effluent limitations within a permit. Currently Part XII.F.1.a&b essentially sets toxicity effluent limitations. Part XII.F.1.a&b should be removed.	City of Los Angeles (Comment 107)	The Basin Plan contains water quality standards for toxicity. It is appropriate for the MRP to include monitoring to assess compliance with toxicity objectives to assess compliance with water quality standards and other permit provisions. The MRP does not set toxicity effluent limitations, but rather establishes thresholds for conducting a TIE.	None
Part XII.F.2.	Part XII.F does not clearly state under what flow conditions acute toxicity testing should be conducted. Additionally, Part XII.F.2.c states that Permittees may elect to report midpoint results from a chronic test as acute results. However, acute testing should only be conducted during wet weather and chronic testing should only be conducted during dry weather. Conducting a seven day (168 hours) toxicity test to evaluate the effects of storms in the LA region that typically only result in elevated flows for less than 48 hours provides no relevant information on receiving water conditions. Similarly, requiring acute testing during dry weather when conditions are stable provides no relevant information on receiving water conditions. Additionally, acute effects will be observed in chronic tests.	City of Los Angeles (Comment 108)	<p>The conditions under which toxicity testing should be conducted are the same as those for other parameters.</p> <p>Methodologies in the MRP have been revised to be consistent with USEPA guidance and State Board plans and policies addressing toxicity.</p> <p>Regarding the appropriateness of acute versus chronic toxicity testing of storm water samples, monitoring methods must be appropriate for identifying both acute and chronic impacts. In storm events, the concentration of concern is 100% storm water, therefore chronic is most protective of both acute and chronic impacts, as would be the case with a 100% effluent dominated scenario. The duration of the storm event does not need to match the duration of the toxicity test. In fact, there are several chronic toxicity tests that are less than 96 hours and utilize a single water sample. The duration of the toxicity test is necessary to elicit the biological endpoint, such as reduction in growth, reproduction, larval development, etc. Additionally, as cited in the Storm Water Effects Handbook, A Toolbox for Watershed Managers,</p>	Language revised.

	Please clarify that acute toxicity testing is to be conducted during wet weather. At a minimum, do not limit the ability of Permittees to use data generated during chronic tests to calculate acute endpoints to top smelt as currently proposed.		Scientists and Engineers by Burton and Pitt (2003), laboratory testing of storm water samples has been shown to have acute and chronic toxicity effects to a variety of species. Additionally, pesticide pulses from storm water discharges have been studied in different watersheds and have been shown to remain toxic for days to weeks after the runoff event (Kuivila and Foe, 1995; Werner et al. 2000). Therefore, the MRP has been revised to require only chronic toxicity tests.	
Part XII.F.2.c.i.	The proposed TIE triggers are based on wastewater permitting and are not appropriate for MS4 monitoring. The proposed thresholds should be replaced with a 50% mortality threshold consistent with the approach recommended in guidance published by USEPA for conducting TIEs (USEPA, 1996, Marine Toxicity Identification Evaluation. Phase I Guidance Document EPA/600/R-96/054), which recommends a minimum threshold of 50% mortality because the probability of completing a successful TIE decreases rapidly for samples with less than this level of toxicity. Additionally, experience in conducting TIEs in receiving waters in the region supports using a higher percent mortality trigger to provide a reasonable opportunity for a successful TIE. During TMDL monitoring in the Calleguas Creek Watershed (CCW) in 2003 and 2004, TIEs were initiated on samples exceeding the 50% threshold (the majority of which displayed 100% mortality. In that study, toxicity degraded in approximately 40% of the samples on which TIE procedures were	City of Los Angeles (Comments 109 & 113)	The methodologies, including triggers for conducting TIEs, have been updated in consultation with USEPA. The trigger for conducting a TIE is set at a Percent Effect Value (of either the sublethal endpoint or survival endpoint) equal to or greater than 50% at the Instream Waste Concentration (IWC), as suggested by the commenter.	Language revised.

	<p>conducted making the results inconclusive (and effectively useless in pinpointing specific toxicants). The Regional Board approved monitoring program for the CCW Toxicity TMDL utilizes a 50% threshold for TIE initiation. If a 50% threshold is an acceptable approach for a toxicity TMDL that focuses on receiving water issues as well as various types of discharges (i.e., MS4, agriculture, and wastewater) it should also be acceptable in a MS4 permit. The City is not opposed to conducting TIEs, rather, TIEs should be initiated where there is a reasonable chance of successfully identifying the pollutant(s) causing toxicity. As such, the proposed TIE trigger should be replaced with a threshold of 50% mortality.</p>			
Part XII.G.3.	<p>Part XII.G.3 does not clearly state under what flow conditions chronic toxicity testing should be conducted. Chronic testing should only be conducted during dry weather. Conducting a seven day (168 hours) chronic toxicity test to evaluate the effects of storms in the LA region that typically only result in elevated flows for less than 48 hours provides no relevant information on receiving water conditions. Similarly, requiring acute testing during dry weather when conditions are stable provides no relevant information on receiving water conditions. Additionally, acute effects will be observed in chronic tests. Please clarify that chronic toxicity</p>	<p>City of Los Angeles (Comment 110)</p>	<p>The conditions under which toxicity testing should be conducted are the same as those for other parameters.</p> <p>Methodologies in the MRP have been revised to be consistent with USEPA guidance and State Board plans and policies addressing toxicity.</p> <p>Regarding the appropriateness of acute versus chronic toxicity testing of storm water samples, monitoring methods must be appropriate for identifying both acute and chronic impacts. In storm events, the concentration of concern is 100% storm water, therefore chronic is most protective of both acute and chronic impacts, as would be the case with a 100% effluent dominated scenario. The duration of the storm event does not need to match the duration of the toxicity test. In fact, there are several chronic toxicity tests that are less than 96 hours and utilize a single water sample. The duration of the toxicity test is</p>	<p>Language revised.</p>

	testing is to be conducted during dry weather.		necessary to elicit the biological endpoint, such as reduction in growth, reproduction, larval development, etc. Additionally, as cited in the Storm Water Effects Handbook, A Toolbox for Watershed Managers, Scientists and Engineers by Burton and Pitt (2003), laboratory testing of storm water samples has been shown to have acute and chronic toxicity effects to a variety of species. Additionally, pesticide pulses from storm water discharges have been studied in different watersheds and have been shown to remain toxic for days to weeks after the runoff event (Kuivila and Foe, 1995; Werner et al. 2000). Therefore, the MRP has been revised to require only chronic toxicity tests during both wet weather and dry weather conditions.	
Part XII.G.3.	Notwithstanding the previous comments requesting the removal of outfall toxicity testing, the requirement to conduct three species testing at outfalls will result in a significant additional cost (essentially tripling of costs) without a demonstrated benefit. Furthermore, requiring re-screening every 24 months will result in screening every six wet weather and four dry weather events. Re-screening at this frequency is based on wastewater monitoring. Re-screening requirements are not included in the monitoring requirements for the Ventura County Waiver for Irrigated Lands which addresses discharges similar (i.e., episodic and transient) to MS4 discharges. Please remove the requirement for the three species testing and require Permittees to propose an appropriate species. At a minimum, remove the re-screening requirements such that screening is conducted only once within the permit	City of Los Angeles (Comment 111)	Three species screening to determine the most sensitive species is important. Three species need only be tested for 2 wet weather and 2 dry weather events. After this screening, subsequent aquatic toxicity testing only must be done on the most sensitive species.  The MRP has been revised to require re-screening only in the 4 <sup>th</sup> year in order to determine the most sensitive species for the next permit cycle.	Language revised.

	term.			
Part XII.G.3.a.viii	See above comments regarding the requirement for toxicity monitoring at the outfall. Remove Part XII.G.3.a.viii.	City of Los Angeles (Comment 112)	The permit has been revised in order to explain the limited scenarios under which outfall monitoring for toxicity shall occur.	Language revised.
TRE Requirements	It is inappropriate to place wastewater program elements such as the Toxicity Reduction Evaluation (TRE) in an MS4 permit. The MRP is focused on identifying individual constituents that are causing or contributing to receiving water impairments such that information is available to develop and implement control measures. Requiring Permittees to implement a TRE subverts the process by which they will identify and address water quality issues. Please remove all references to TREs.	City of Los Angeles (Comment 114)	TIE/TREs are appropriate in any NPDES permit in order to identify the toxicant(s) that are causing effects to organisms living in receiving waters. The MRP has been revised to explain under what circumstances these need to occur.	Language revised.
Part XII.G.4.	It is unclear if this provision is requiring Permittees to conduct accelerated monitoring. If so, it is inappropriate to place wastewater program elements such as accelerated monitoring into an MS4 permit. MS4 discharges are not the same as wastewater plant effluent which represents a continuous discharge of typically consistent quality. Rather, urban runoff is episodic in nature. The current approach is appropriate for wastewater discharges but not urban runoff and they should be treated differently. The more appropriate approach for urban runoff is to identify the cause of toxicity if observed to exceed an appropriate threshold through toxicity identification evaluations (TIEs). It is not to require	City of Los Angeles (Comment 115)	The MRP has been revised to explain the required follow-up when toxicity is observed in receiving waters.	Language revised.

	accelerated monitoring, particularly if toxicity is observed during a wet weather event. Please remove all references to additional/accelerated toxicity testing.			
Part XIII.I.	The MS4 Permittees conduct a TIE when sediment toxicity is observed as required by Toxics TMDL (e.g. Ballona Creek Estuary). TRE has been traditionally required for toxicity of effluent of POTWs. All of the BMPs included in the implementation plans discuss the adaptive measures implemented to reduce the toxics. Subsequently TRE will be unnecessary and will be a duplicative effort when TIE is conducted. Recommend to remove all provisions and requirements for TRE workplan in this section.	City of Los Angeles (Comment 116)	The Board disagrees. TIE/TREs are appropriate in any NPDES permit in order to identify the toxicant(s) that are causing acute or chronic effects to organisms living in receiving waters. The permit has been revised to explain under what circumstances these need to occur.	Language revised.
Toxicity Monitoring	Toxicity monitoring should be limited to the receiving water only and not at the outfalls. It's important to establish whether if toxicity is an issue in the receiving water before conducting expensive monitoring at the outfalls. Furthermore, recent Department of Pesticide Regulations has severely limited the use of pyrethroid based pesticides, thus calling into question the need for expensive toxicity monitoring, especially at outfalls. Finally, if a study is necessary, the Regional Board should lead the study	City of La Verne; City of Inglewood	The MRP has been revised to explain the monitoring requirements for toxicity in receiving waters and what triggers outfall monitoring. Further, the requirement to conduct a pyrethroid study has been eliminated.	Language revised.
Aquatic Toxicity Monitoring	The toxicity monitoring methods required appear to be based on wastewater treatment plant toxicity testing requirements. The application of a wastewater approach is	City of Los Angeles	The procedures and methodologies for aquatic toxicity monitoring and testing have been updated after consultation with USEPA and are consistent with USEPA guidance and State Board plans and policies addressing toxicity.	Language revised.

	inappropriate for monitoring related to urban discharges and effects in receiving waters. Additionally, LA MS4 permits are the only MS4 permits we are aware of that require outfall toxicity monitoring and prescribe follow-up requirements that are essentially the same as wastewater plants. This section should be revised so that the approach is appropriate for addressing MS4 issues.			
Toxicity Monitoring	<p>KLI further concluded that the toxicity monitoring requirements could have a large impact on costs because of the large sample volumes required to allow both toxicity and chemistry monitoring. They also questioned the capacity of bioassay laboratories in Southern California to handle the large volume of samples.</p> <p>In addition, KLI concluded that the present toxicity identification evaluation (TIE) requirements would add substantial costs to the program without providing useful information. They indicated that TIEs have served a purpose and will continue to play an important role in the identification of toxicants, but they argued that they should be used judiciously. KLI further suggested that simple measurements of chemicals currently known to be of concern are normally sufficient to identify problems without the added expense of numerous TIEs</p>	City of Signal Hill	The toxicity requirements have been revised to focus on the receiving water and move to outfall monitoring under defined conditions. This will provide substantial cost reductions while providing a logical path to identification and remediation of sources of toxicity. TIE requirements still serve a purpose and are necessary to identify the source of toxicity.	Language revised.
<b><i>Standard Monitoring and Reporting Provisions</i></b>				
Parts XIV.I.1 & XIV.I.2	It is not reasonable to force Permittees to make changes to approved	LA Permit Group	Any changes to the MRP would be conducted through an open and transparent process. The permit clearly states	Change made as indicated.

	Monitoring and Reporting Programs based on the whim of an “interested” party or “as deemed necessary by EO”. This provides unlimited power to interested parties or EO. Recommend these items be revised to include a caveat that there would be no additional costs or as approved by Regional Board, to make those changes open and transparent.	(Comment 37)	<p>that any changes to the MRP must be consistent with 40 CFR section 122.41 and only made by the Board or the Executive Officer after providing an opportunity for public comment. Because the permit requires this process before any changes to the MRP can be made, such changes will not be based on a “whim” and neither the Executive Officer or interested persons would have unlimited power. Additionally, this provision provides Permittees with the opportunity to request changes to the MRP.</p> <p>The Board generally has broad discretion to require monitoring and reporting requirements to ensure compliance with the permit. The Board may, however, increase or decrease monitoring and reporting requirements for good cause. A modification to monitoring requirements may result in increased costs or decreased costs. In addition, if the Executive Officer makes changes to the MRP that a permittee or interested person believes is technically or legally unsupported, Part VI.A.6. provides an “appeal” process to the Regional Water Board. Permittees and interested persons also have the right to file a petition with the State Water Board challenging any determinations made by the Executive Officer.</p>	
Part XIV.A.b.1.	This provision should state that, “This period may be extended by request of the Board Executive Officer or USEPA at any time <u>prior to the end of three years.</u> ”	County of Los Angeles (Comment 166)	The language is consistent with 40 CFR section 122.41(j)(2).	None
Parts XIV.L & XIV.M	Data should be required for submittal with annual reports. Requiring the submittal of data between 30 and 90 days will not allow Permittees to complete appropriate QA/QC of the data and provide additional information regarding the context of the data. Please remove the short term	City of Los Angeles (Comment 117)	The Board disagrees. Annual reports are summaries of MS4 activities and monitoring. Providing all monitoring data only in an annual report may allow too much time to lapse in those instances where an exceedance of a WQBEL, action level or a water quality objective is found. Submittal of monitoring data earlier will allow Permittees and the Regional Board to address water quality issues as they arise, leading to higher compliance	Language revised.

	turnaround requirements and require all data and supporting information be submitted with the annual reports.		rates and better water quality. This notwithstanding, the permit has been revised to require semi-annual reporting of data instead of the more frequent 30 to 90 day reporting, including highlighting all exceedances of water quality objectives.	
Part XIV.L.	The monitoring program required under this Permit would generate a very large amount of data including receiving water, TMDL, and outfall monitoring. To QA/QC, format, and analyze such a large amount of information is not feasible within 90 days of sample collection. Recommend increasing the time from 90 to 180 days.	County of Los Angeles (Comment 167)	The permit has been revised to require semi-annual reporting of data, including highlighting all exceedances of water quality objectives.	Language revised.
Part XIV.M.	Within 30 days of the determination and no later than 60 days after the receipt of the monitoring data is not sufficient time to do data analysis and determination. Recommend revising the language to read: “...within <del>30</del> <u>90</u> days of the determination and no later than <del>60</del> <u>120</u> days after receipt of the monitoring data”.	County of Los Angeles (Comment 168)	The permit has been revised to require semi-annual reporting of data, including highlighting all exceedances of water quality objectives.	Language revised.
Part XIV.M.	Omit section M. as it is redundant to section L.	LA Permit Group (Comment 38)	Sections L and M will be combined.	Language revised.
<b>ANNUAL REPORT SUBMITTAL TIMELINES</b>				
Part XV	As both the City and the Regional Board are working to increase e-submittals of materials please revise the submittal requirements for the annual report to be only via electronic.	City of Los Angeles (Comment 118)	The Order has been revised to allow only electronic submittals for the annual report.	Language revised.
<b>WATERSHED SUMMARY INFORMATION, ORGANIZATION AND CONTENT</b>				
Part XVII	The permit requires the submittal of watershed summary information in the	City of Los Angeles	The Order already allows Permittees participating in a WMP to submit the information in their draft WMP and	None

	first year. However, Permittees will still be developing the requested information as part of the WMP. Rather than providing the requested information in year one as part of the annual report, it would be more efficient for Permittees that are participating in a WMP to submit the same information as part of the WMP submittal and then every odd year thereafter. Permittees that are not participating in a WMP could still be required to submit the information in year 1.	(Comment 119)	any updates thereto in lieu of providing the information in Years 1, 3, and 5.	
Watershed Summary	<u>Section XVII Watershed Summary Information</u> The requested information shall be provided for each watershed within the permittees jurisdiction. Please clarify "watershed." Is this meant to be Watershed Management Area or subwatershed HUC-12?	City of Malibu	The Order reads at Section XVIII.A.1.a;  "The following information shall be included for each <i>Watershed Management Area</i> within the Permittee(s) jurisdiction, where not included in a WMPP."	None
<b><i>Annual Assessment and Reporting</i></b>				
Aquatic Toxicity	Omit requirements XVIII.A.5.b. & XVIII.A.5.c.. Regional monitoring should be done by County, State and Federal agencies that have jurisdiction over pollutants of concern. It is a waste of municipal resources to have 85 Permittees all perform aquatic toxicity regional studies. This imposing of State responsibilities beyond Federal requirements on local municipal governments is an unfunded mandate. Please provide legal justification for this transfer of jurisdiction.	LA Permit Group (Comment 39)	The MS4 is regional in nature and its discharges can affect water quality region-wide. Regarding the Southern California Stormwater Monitoring Coalition Watershed Monitoring Program requirements, the objective of the Federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (CWA section 101(a)). The requirement for Permittees to assess biological impacts of MS4 discharges on receiving waters is consistent with this objective. Biological assessment of receiving waters is necessary to evaluate cumulative effects of multiple pollutants discharged from the MS4. The permit proposes regional monitoring to allow Permittees to coordinate resources and reduce costs. However, the pyrethroid regional study requirement has been eliminated.	Revisions to Attachment E to eliminate requirement to conduct a pyrethroid regional study.

			This provision is required and/or authorized by federal law. (CWA section 308(a); 40 CFR sections 122.26(d)(2)(i)(F) and (d)(2)(iii)(D), 122.41(h), (j)-(l), 122.42(c), 122.44(i), and 122.48.) The Board has determined that this provision is necessary to determine compliance with the conditions of this permit and to determine the impacts of the permittees' discharges on receiving waters. Therefore, this requirement is not an unfunded state mandate.	
Estimated Baseline Percent of EIA	XVII.A.3.b. & XVIII.A.1.a. - The purpose for these requirements is not clear and the burden is substantial. The requirement to determine the EIA baseline and the cumulative change in EIA would be extremely difficult due to the large and highly dense urban area within Los Angeles County. Recommendation Delete these requirements.	County of Los Angeles	The connection between EIA and receiving water quality has been noted in many studies. Runoff volumes are directly impacted by changes in EIA and are an important metric that warrants reporting. The estimated Total Impervious Area may be reported in lieu of EIA.	Language revised.
Rain Gauge Data Availability	XVIII.A.2.a. - LACDPW maintains 148 manually observed non-mechanical (Standard) rain gages and 126 ALERT (Automatic Local Evaluation in Real Time)/Automatic rain gages. Only the ALERT gauges can provide the precipitation data being requested by the Board. However, the ALERT gages are not considered official or final rainfall data, can be prone to transmission errors, and there is no guarantee of accuracy of the data provided. It should also be noted that it is not the LACDPW's mission or mandate to collect and provide rainfall data to other public agencies or to the public. Including such a requirement in the Permit in effect requires the	LACFCD (Comment 43)	The language has been revised to indicate that Permittees may obtain the precipitation data from the Los Angeles County DPW.	Language revised.

	LACDPW to do so. In the event of diminished fiscal resources, the number of locations monitoring by ALERT gauges may be reduced. The language should be revised as follows: "Precipitation data shall be obtained may be requested from Los Angeles County Department of Public Works."			
Effectiveness Assessment of Storm Water Control Measures	XVIII.A.2.a. and XVIII.A.2.b – The MRP requires a rainfall summary that includes the highest "volume" event expressed in inches/24hrs. Inches of rainfall in a 24-hr period is not a "volume". Also, a watershed with high imperviousness can generate higher "runoff volumes" with lower "rainfall precipitation" than a watershed with low imperviousness and higher "rainfall precipitation". Recommendation Since it refers to a Rainfall Summary, revise to "event with the highest precipitation (inches/24hrs)."	County of Los Angeles	While the Board agrees that inches/24 hours alone is not a volumetric measurement, inches/24 hours over a drainage area does translate to a volumetric measurement. The language is adequate as-is.	None
Attachment E, XVIII.A.2.d, Effectiveness Assessment of Stormwater Controls	Part XVIII.A.2.d requires the following "For natural drainage systems, develop a reference watershed flow duration curve and compare it to a flow duration curve for the subwatershed under current conditions." This requirement is not appropriate for the City of Los Angeles, since only a very small part of the City drains into a natural drainage system and no reference subwatershed may be found since Los Angeles is substantially developed. The City of Los Angeles would accept in participating for a limited comparison study with other municipalities.	City of Los Angeles (Comment 120)	A natural drainage system is a drainage system that has not been improved (e.g., channelized or armored). The clearing or dredging of a natural drainage system does not cause the system to be classified as an improved drainage system. The Southern California Coastal Water Research Project has identified several natural watersheds in the Los Angeles Region that may serve as a reference watershed. The reference subwatershed does not need to be within the Permittee's jurisdiction. (See Hydromodification Assessment and Management in California, Technical Report 667 - April 2012, Eric D. Stein, Felicia Federico, Derek B. Booth, Brian P. Bledsoe, Chris Bowles, Zan Rubin, G. Mathias Kondolf, and Ashmita Sengupta.) Additionally, Permittees are encouraged to address this requirement cooperatively on a	None

	However we believe this condition will be applicable for permittees that have significant areas that drain to natural drainage systems.		watershed basis. However, if this is wholly inapplicable to a Permittee, because a Permittee does not have any area within a natural drainage system, the Permittee may indicate so in its annual report.	
Reference Watershed Flow Duration Curve for Natural Drainage System	XVIII.A.2.d - Stream gage information is necessary to develop a flow duration curve. Stream gauge information is limited to specific locations and is not available for all streams. Recommendation Revise as follows: "For natural drainage systems, develop a reference watershed flow duration curve and compare it to a flow duration curve for the subwatershed under current conditions, provided stream gauge information is available."	County of Los Angeles	For hydromodification control, flow information for natural drainage systems is crucial. Where necessary, a stream gauge may be installed.	None
Identifying Exceedances	XVIII.A.5.a - The reporting threshold should be set higher than a single exceedance (e.g., 3 exceedances in a row) to focus on persistent issues, not one time occurrences.	County of Los Angeles	All exceedences should be identified in the semi-annual transmittal of monitoring results and in the annual reports.	None
Annual Assessment and Reporting	<u>Section XVIII Annual Assessment Reporting</u> Does this requirement apply to Watershed Management Area or subwatershed HUC-12?	City of Malibu	The Order requires that the information in Part XVIII be provided for each watershed management area within a Permittee's jurisdiction. Where it is valuable to present this information by HUC-12 drainage area, Permittees are encouraged to do so.	None
<b>TMDL Reporting</b>				
Part XIX.B.	Only include schedules for IMP and CIMP for USEPA established TMDLs and revise those schedules to be 9 months for IMP and 24 months for CIMP. Having due dates for Monitoring and Reporting plans for IMP and CIMP past the due date established by the TMDL creates confusion.	LA Permit Group (Comment 40)	The permit allows the Permittees the flexibility to submit an IMP or CIMP, in lieu of a TMDL specific monitoring and reporting plan, which is the rationale for including the original TMDL deadlines and the deadlines for the IMP and CIMP which must be adhered to. The submittal schedules have been revised to align with the submittal dates for a Watershed Management Program, or 12 months.	Language revised.
TMDL	Section Monitoring & Reporting Santa	City of Malibu	The USEPA established TMDL contains wasteload	None

<p>Specific-SMB Toxics TMDL</p>	<p>Monica Bay TMDL for DDTs and PCBs This requirement is not justified. All of those listings which formed the basis for the TMDL should have been considered only after applying the current listing policy. Furthermore, a load based TMDL is ineffective for these beaches when the manufacture of PCBs is prohibited and federal EPA is considering further regulatory actions to control the release of PCBs. the sources or discharges of these contaminants seem to have dissipated and enforcing this TMDL upon agencies that had no evidence of causing or contributing to the water quality impairment is unjustified. Further, agencies not associated with the original discharge should not be held accountable for mitigation. The City of Malibu has no wastewater treatment plant outfall to discharge these pollutants and is certainly remote from point of discharge. It is troubling that this listing and TMDL exist based on a past Integrated Report placeholder with one LOE, but none of the data or information is available in the State's database. Review of the samples showed that none of the samples analyzed had detected any Chlorinated and Organophosphorous Pesticides, using EPA standard method 625, which includes analysis of DDT and PCB. The City, therefore, requests that additional monitoring and reporting requirements for DDT and PCB be removed.</p>		<p>allocations for MS4 discharges and therefore the WLA have been included in this Order as required. Permittees must conduct monitoring sufficient to determine compliance with permit provisions; therefore, monitoring of DDT and PCBs is necessary. If monitoring during the first two years indicates non-detectable levels of DDT and PCBs in MS4 discharges, Permittees may request a modification to the MRP to reduce the monitoring frequency for these constituents.</p>	
<p>SMBBB</p>	<p>The shoreline monitoring provisions of</p>	<p>South Bay</p>	<p>Permittees may propose changes to shoreline monitoring</p>	<p>None</p>

TMDL	<p>CI-6948 should be removed from the new permit monitoring program. At a minimum paragraph D.1.b should be removed and paragraph D.1.e.1 should be modified to remove stations S13 (SMB-5-1), S14 (SMB-5-3) S15 (SMB-5-5), S17 (SMB-6-5) and S18 (SMB-6-6).</p> <p>The following is proposed wording modification to Attachment E, Section IV.C.7:</p> <p>“7. Monitoring requirements pursuant to Order No. 01-182, except Section D.1.b is removed and Section D.1.e.1 is modified to removed sites S13, S14, S15, S17 and S18 of the Monitoring and Reporting Program - CI-6948, shall remain in effect until the Executive Officer of the Regional Water Board approves a Permittee(s) IMP and/or CIMP plan(s)</p>	Cities	in an IMP or CIMP. Until approval of the IMP and/or CIMP, the monitoring requirements pursuant to Order 01-182 remain in effect.	
<b>Costs</b>				
Costs	<p>KLI concluded that the proposed monitoring in Attachment E to the draft order would drastically increase monitoring costs, largely because of the proposed wet-weather stormwater outfall monitoring and toxicity testing requirements. Because of the requirement to monitor at least one major outfall per subwatershed drainage area within a Permittee’s jurisdiction, the total number of outfalls monitored could be 200 or more. If the equipment purchase, installation, and</p>	City of Signal Hill	<p>The MRP has been revised to allow Permittees additional flexibility to develop a customized monitoring program in conjunction with a Watershed Management Program that includes the core elements as identified in the MRP and complies with the 5 core objectives. This allows the Permittees the flexibility to create the most cost effective monitoring program. Additionally, the MRP has been revised to remove requirements for routine outfall toxicity monitoring, and instead includes a stepwise process of first monitoring for toxicity in the receiving water, then conducting a TIE where significant toxicity is observed, and finally monitoring for the toxicants identified in the TIE in the outfall discharge. Finally, the requirement to</p>	Language revised.

	operation of auto-sampler at 200 sites were to cost an average of \$75,000 each, there could be a first year cost of \$15 million for outfall monitoring. If each site were to cost \$100,000, the total cost to establish the stormwater outfall-based monitoring element of the monitoring program could be \$20 million		conduct a pyrethroid regional study has been eliminated.	
Cost	<p>KLI concluded that continuing and expanding on the current approach will tremendously inflate the costs of monitoring without substantially increasing the likelihood of making measurable progress of meeting the Clean Water Act goals of “fishable and swimmable waters.” Specifically, KLI recommended that continued intensive annual mass-emission sampling be conducted during alternating permit cycles to track long-term trends. Continual intensive monitoring for TMDLs should be limited to the constituents of concern. Savings from decreased mass-emission monitoring could be directed toward special studies to identify whether stormwater discharges are having measureable impacts on beneficial uses.</p> <p>The City of Signal Hill recommends that Regional Board staff meet with KLI and other monitoring consultants to refine the Monitoring and Reporting Program</p>	City of Signal Hill	<p>Improved monitoring requirements have been added to this permit in order to better assess compliance with permit conditions and the effects of MS4 discharges on receiving waters.</p> <p>Additional flexibility has been incorporated in the Order to allow Permittees to implement cost saving measures in the CIMP and IMP as long as the basic 5 objectives and elements of the MRP are met. This provides opportunities for efficiencies through coordinated monitoring and customization of monitoring requirements in conjunction with a Watershed Management Program. The toxicity monitoring program has also been streamlined, which offers significant cost savings. The pyrethroid study has also been eliminated.</p>	Revisions to Attachment E-MRP, Parts VIII.B.1.c.vi, IX.G.d, and XI.A. and Part VI.B of the Order

	to make it more practicable and less costly.			
Outfall Monitoring	The whole of the new outfall monitoring program represents an extremely expensive endeavor. This needs to be completely revised in order to make it economically viable. As part of one or more TMDL groups, the Cities are facing a shared cost of hundreds of thousands of dollars in monitoring costs. The costs for this additional outfall monitoring, which will include testing for post-construction treatment system evaluation and additional programs for pyrethroid studies, even if limited to HUC-12 units of approximately 20 square miles of tributary area will be economically unachievable. Attachment E should be listed as "items that could be included in a monitoring plan" and this program will then be developed over the next several years.	Cities of Temple City; Monterey Park (Comment 10); and Downey (Comment 13)	The CIMP compliance option allows Permittees the ability to collaborate on monitoring in a cost effective manner. Additional flexibility has also been incorporated in the Order to allow Permittees to implement cost saving measures in the CIMP and IMP as long as the basic 5 objectives and elements of the MRP are met. Furthermore, requirements to test (i.e., collect and analyze effluent samples) from post-construction treatment systems are not included in the order, and the requirement to conduct a pyrethroid study has been eliminated.	Language revised.
Costs	Attachment E represents an enormous cost and goes far beyond what would be required for an integrated TMDL monitoring program. More time is needed to provide detailed comments specific to the Palos Verdes Peninsula Recommend this Attachment be advisory in nature until permittees and the Regional Board can further discuss.	Peninsula Cities	Improved monitoring requirements have been added to this permit in order to better assess compliance with permit conditions and the effects on receiving waters.  Monitoring requirements have been reduced in the revised tentative order (e.g., significant reductions in the toxicity monitoring program, elimination of the pyrethroid special study) and opportunities for efficiencies through coordinated monitoring and customization of monitoring requirements in conjunction with a Watershed Management Program have been provided.	MRP revised
Costs	One component of the Tentative Order where staff included new and expanded requirements without serious	City of Signal Hill	Improved monitoring requirements have been added to this permit in order to better assess compliance and effects on receiving waters.	MRP revised

<p>consideration of costs is the Monitoring and Reporting Program. This component and the inclusion of TMDL implementation requirements are the major drivers of the increased costs associated with the new Los Angeles County MS4 permit(s). Our city was so concerned about the complexities and potential costs of the expanded Monitoring Program that we enlisted the assistance of Kinnetic Laboratories, Incorporated (KLI) to review the proposed new monitoring requirements and the proposed Municipal Action Levels. Their comments are found in Attachment 1 to this letter. Many of their comments relate to the cost impacts of the new requirements. KLI's overall assessment is that "The Draft Monitoring and Reporting Program in the tentative order will drastically increase monitoring costs." They go on to say that "We strongly believe that the programs, as currently specified, will only lead to magnification of current monitoring costs without any substantial improvements in addressing the real issue of assuring that beneficial uses are maintained in the receiving waters." KLI's specific comments on elements of the Monitoring Program are addressed below in the monitoring comments section of this letter.</p>		<p>The Regional Board has reduced some of the monitoring requirements (e.g., significant reductions in the toxicity monitoring program, elimination of pyrethroid special study) in the revised tentative and have provided opportunities for efficiencies through coordinated monitoring and customized monitoring programs submitted in conjunction with a Watershed Management Program.</p>	
---	--	--	--