

**California Regional Water Quality Control Board, Los Angeles Region**  
**Los Angeles County MS4 Permit**  
**Response to Comments on the Tentative Order**  
**MINIMUM CONTROL MEASURES MATRIX**

Section/Topic	Comment Summary	Commenter(s)	Response	Change Made
<b><i>Storm Water Quality Management Program Implementation</i></b>				
Industrial/ Construction Pollutant Control Programs	Waterboards should be the lead regulators for industrial and construction sites with a general NPDES permit	City of Los Angeles, Inglewood, Hidden Hills, Ventura Countywide Stormwater Quality Management Program	The legal authority and rationale for the requirements imposed on permittees related to pollutant control from industrial facilities and construction sites is described in the Fact Sheet, Parts VI.C.1.a, VI.C.5 and VI.C.7. In sum, federal regulations at 40 CFR section 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that MS4 permittees implement a program to monitor and control pollutants in discharges to the MS4 from industrial and commercial facilities that contribute pollutant loads to the MS4. Federal regulations at 40 CFR section 122.26(d)(2)(iv)(D) require a description of a program to implement and maintain structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the MS4. Further, the issue of responsibility for oversight of these facilities/sites has been previously litigated and settled. Both the Los Angeles County Superior Court and the California Court of Appeal have specifically rejected arguments that the State and Regional Water Boards improperly delegated to permittees its inspection duties and that permittees were being required to conduct inspections for facilities covered by other state-issued general NPDES permits. The courts noted that obligations under state-issued permits were separate and distinct, and that there was no duplication of efforts and no shifting of inspection responsibility in derogation of the Regional Board's responsibility. <i>In re L.A. Cnty. Mun. Storm Water Permit Litig.</i> (L.A. Super. Ct., No. BS 080548, Mar. 24, 2005), Statement of Decision from Phase II Trial on	None

			<p>Petitions for Writ of Mandate, pp. at 17-18 [“[r]equiring permittees to inspect commercial and industrial facilities and construction sites is authorized under the Clean Water Act, and both the Regional Board and the municipal permittees or the local government entities have concurrent roles in enforcing the industrial, construction and municipal permits. The Court finds that the Regional Board did not shift its inspection responsibilities to Petitioners”]; <i>City of Rancho Cucamonga v. Regional Water Quality Control Board- Santa Ana Region</i> (2006) 135 Cal.App.4th 1377, 1389-1390.)</p> <p>It is also noteworthy that in the ROWD application for the 2001 LA County MS4 Permit, inspections of construction sites by MS4 permittees were recommended by the Principal Permittee.</p>	
Customization of MCMs	The Permit should ultimately establish criteria that will be used to support any customization of MCMs.	LA Permit Group	The Order specifies that at a minimum, Permittees’ programs shall be consistent with 40 CFR section 122.26(d)(2)(iv)(A)-(D). In response to comments that the Order is overly prescriptive, specifying criteria could restrict customization within these categories of minimum control measures. The criterion to allow customization is based on showing equivalent effectiveness, for example, a municipality who has identified a group of facilities within their jurisdiction as the largest source of pollutants could be allowed to focus their inspection efforts on controlling the pollutants from this subset of facilities.	None
Time frame for MCM implementation	The LARWQCB should develop a timeline for implementation and phasing in of the Minimum Control Measures requirements. A 12 month time schedule is recommended in order to transition from the current efforts to the new MCM requirements.	Inglewood, Monterey Park, Peninsula Cities, Pomona, South Bay Cities, Temple City, Torrance, Vernon	For permittees that do not elect to develop Watershed Management Programs, the Board has extended the time period to commence implementation of new or enhanced measures in Part VI.D. from 30 days after the effective date of the permit to six months. For permittees that elect to develop Watershed Management Programs, between 12-18 months provided to submit a draft WMP; permittees must begin implementation of new, enhanced and	Revisions to time frames.

			customized programs identified in a WMP upon approval of the WMP. In both cases, permittees must continue to implement their existing storm water management programs, including programs in all six minimum control measure categories.	
Industrial and Construction Control Programs	The Permit requires the permittees to conduct additional enforcement action prior to referral to Regional Board. The Bureau recommends that violations of the Industrial and Construction General Permits can be immediate and there should not have to be inspected and sited by the permittees prior to the referral. Again these facilities are under the purview of the State. This Permit can be used as an opportunity to streamline the oversight of these facilities and improve the efficiency of both municipal and State inspection units.	LA Permit Group, La Verne, City of Los Angeles	The legal authority and rationale for the requirements imposed on permittees related to pollutant control from industrial facilities and construction sites is described in the Fact Sheet, Parts VI.C.1.a, VI.C.5 and VI.C.7. Federal regulations at 40 CFR section 122.26(d)(2)(iv)(A) and 40 CFR 122.26(d)(2)(iv)(C) require that MS4 permittees implement a program to monitor and control pollutants in discharges to the MS4 from industrial and commercial facilities that contribute pollutant loads to the MS4. The regulations require that permittees establish priorities and procedures for inspection of industrial facilities and commercial establishments. Federal regulations at 40 CFR section 122.26(d)(2)(iv)(D) require a description of a program to implement and maintain structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the MS4. It is noteworthy that in the ROWD application for the 2001 LA County MS4 Permit, inspections of construction sites by MS4 permittees were recommended by the Principal Permittee. The Permit does have a different system of tiering for sites covered under a State General NPDES Permit. For sites permitted under a statewide general permit, a permittee can refer sites to the Regional Board after one inspection and one written notice. For sites not regulated by a statewide NPDES permit, the threshold is two inspections and two written notices.	None
General	Generally, MCMs should not be detailed in the tentative order. Instead, specific BMPs and other information should be placed in the Stormwater Quality	Baldwin Park, Carson, Covina, Duarte, Lawndale, Pico Rivera, San Gabriel, West	The current Storm Water Quality Management Plan or Model Program maintained by LA County is nearly identical to the current LA County MS4 Permit and many sections of it just make reference to the current Permit. Since there is no longer a Principal Permittee,	None.

	Management Plan (SQMP), which is the case under the current MS4 permit.	Covina	which is responsible for the current SWMP, it is best to make the Permit a stand-alone mechanism for compliance. The addition of Watershed Management Programs allows greater flexibility and customization of Permit provisions to protect water quality and would be similar in a number of ways to the current SWMP.	
Progressive Enforcement and Interagency Coordination	Section VI.D.2.a.iii: This condition does not state a retention policy for records, just that a permittee shall retain records. How long does the Regional Board intend for a permittee to retain such records to comply with this requirement? Please clarify if there is a certain timeframe or if it just needs to be consistent with permittees' existing policies. Permittees have formal records retention policies and must be put on notice to modify those policies if necessary to comply with the Permit.	Malibu; Santa Clarita	The permit includes standard provisions in Attachment D. Provisions related to records retention are found in Part III of Attachment D. Permittees are required to retain records for a period of at least three years. So long as permittees' existing records retention policies are consistent or exceed this requirement, it is not the Board's intention to require permittees to alter their records retention policies.	Language revised for clarity.

Documentation and Reporting	The minimum control measures overall will require an inordinate amount of tracking and documentation, much of which may not lead to a demonstration that water quality is being protected. While an electronic system is ideal, it is not always available to a permittee, is a costly endeavor and should be an optional method of maintaining records, not mandatory.	Malibu	An electronic format may take many forms from a very simple spreadsheet, to a relational database, to a geographical information system (GIS). A permittee may select the type of electronic format based on its availability to the permittee.	None
Contractor Certification	Please allow for contractors to self-certify if they are under contract obligation to understand all these requirements. It's an additional cost to the City to have to pay a contractor to sit in a class to learn something they are already under contract to understand.	Santa Clarita	The permit has been revised to allow contractors to self-certify as long as the certification includes all applicable training required in the permit, and the contractor provides documentation that they have received the requisite training.	Revisions made to MCMs where applicable
Enforcement	What are formal enforcement and formal records? How is this different from progressive enforcement?	Santa Clarita	Formal enforcement and formal records refer to written enforcement actions.	None
General	Please remove the cause or contribute language from inventory language to allow for dealing with overall implementation	Santa Clarita	The provision cited by the commenter is a statement of the goal of the existing development retrofitting inventory. Further, a main objective of the permit as a whole is to ensure that discharges from the MS4 do not cause or contribute to exceedances of Receiving Water Limitations. Therefore, the Board finds this language appropriate.	None
General	Please remove the partnering information. It is unclear who the partners are and what the requirement is. Also, please clarify what "verifiably implement" means. Is this beyond	Santa Clarita	The intent of the inclusion of the partnering language is to have Permittees establish a relationship with entities who they feel could facilitate compliance with the Permit. The "partners" could be different depending on a municipality's needs. Information included in the Annual Report is a verification of implementation.	None

	what is in annual report?			
<b><i>Development Construction Program</i></b>				
General Construction Permit	Much of the proposed Permit language is taken from the General Construction Permit. However as a way of reducing the length of the text and prevent conflicting requirements please consider referring to the GCP and its SWPPP requirements.	City of Los Angeles	The permit has been written to be a complete document and as such, to contain all the requirements within the body of the document. The Board has resolved all conflicting requirements between the Tentative Order and the General Construction Permits noted by commenters.	None
General Construction Permit sites are under the purview of the State.	All these provisions refer to the construction sites than are greater than one acre. As such these sites are subject to the General Construction Permit provisions and within the authority of the State agencies. Towards ensuring compliance with these regulations, the State is collecting a significant fee that covers inspection and tracking of these facilities. We are disputing the need to establish an unnecessary parallel enforcement scheme for these sites. Please consider maintaining these sites under State purview.	Downey, LA Permit Group, City of Los Angeles, Monterey Park, Pomona	The legal authority and rationale for the requirements imposed on permittees related to pollutant control from construction sites is described in detail in the Fact Sheet, Parts VI.C.1.a and VI.C.7. Federal regulations at 40 CFR section 122.26(d)(2)(iv)(D) require a description of a program to implement and maintain structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the MS4. It is also noteworthy that in the ROWD application for the 2001 LA County MS4 Permit, inspections of construction sites by permittees were recommended by the Principal Permittee.	None
Checklist	Part VI.D.7.h.ii(9) requires permittees to develop and implement a checklist to be used to conduct and document review of each ESCP or SWPPP within thirty (30) days of the Permit's adoption. Currently there is no accepted standardized SWPPP review checklist for the State Construction General Permit. The burden of	Hidden Hills, Pomona	The legal authority and rationale for the requirements imposed on permittees related to pollutant control from construction sites is described in the Fact Sheet, Parts VI.C.1.a and VI.C.7. Federal regulations at 40 CFR section 122.26(d)(2)(iv)(D) require a description of a program to implement and maintain structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the MS4. It is also noteworthy that in the ROWD application for the 2001 LA County MS4 Permit, inspections of construction sites by permittees were recommended by the Principal	None

	developing such a checklist falls solely to the permittees. In addition, the City will be required to allocate already limited resources to perform the mandatory construction site inspections, which represent a two hundred percent (200%) increase in the number of inspections required for sites greater than one (1) acre.		Permittee.  The ESCP is a document only required under the MS4 permit and the Permittees can opt to use the State SWPPP in its place. Since this is a discrete MS4 checklist, it should be developed by MS4 Permittees.	
Erosion and Sediment Control Plan	The term Erosion and Sediment Control Plan is introduced in the Permit. There is no need to introduce a new document for construction sites that are subject to GCP's SWPPP requirements.	LA Permit Group, City of Los Angeles	A Permittee may choose to require an Erosion and Sediment Control Plan for sites less than an acre. In that case, the term provides distinction from a State SWPPP. In addition, for sites 1 acre and greater, though Permittees can use the State SWPPP to satisfy MS4 requirements, they can also require their own discrete document, which is easily distinguished from the State SWPPP using the term Erosion and Sediment Control Plan.	None
Table 12 Minimum BMPs	The draft Permit requires an effective combination of erosion and sediment control BMPs from Table 12. However, the title of the table, "Minimum Set of BMPs for All Construction Sites" implies that all the listed BMPs would be required on all construction sites. Not all of those BMPs such as a silt fence are applicable for all construction sites disturbing less than one acre of soil. Please consider replacing the title of the Table 12 to "Applicable Set of BMPs for Construction Sites"	County of Los Angeles; City of Los Angeles, Malibu	Table 12 serves as the "minimum BMPs" for all construction sites. As noted in your comment, Permittees are required to implement an effective combination of BMPs from Table 12 for sites less than an acre. For clarity the Board has revised the table title.	Table 12 relabeled to read, "Applicable Set of BMPs for Construction Sites"
General	It is unclear what "activities that require a permit" means. Does	County of Los Angeles	The language in the Tentative Order reads: "Each Permittee shall use an electronic system to	None

	this refer to Building and Grading Permits issued by the Permittee or is the database required to track permits issued by outside agencies, such as California Department of Fish and Game, RWQCB, etc.		inventory grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by the Permittee.” The language is specific in defining the permits, <i>issued by the permittee</i> , that are required to be inventoried.	
General	Please remove the requirement for permittees to verify Fish and Game permits and other permits issued by state agencies. This is only appropriate for planning approvals or grading permits, not building permits.	Santa Clarita	While verification to ensure other state or federal permits is recommended, the requirement to verify that permits have been obtained from DFG and ACOE is not directly tied into implementation of the Tentative Order.	Revisions made, deleting references to permits issued by DFG and ACOE.
Section VI.D.7.g.ii.5 Construction Site Inventory / Electronic Tracking System	The Permit requires that: “[e]ach Permittee shall complete an inventory and continuously update as new sites are permitted and sites are completed,” and it specifies that the current construction phase shall be included in the tracking database. It is unrealistic to require permittees to continuously update and be completely current, given the uncertain nature of construction schedules, delays in construction due to financing and other problems, etc. At best, a permittee may only be able to say a project is active or closed. Please either delete VI.D.7.g.ii.5 or revise it to say “where feasible.”	Malibu	The Board agrees that continuous tracking of all phases of construction projects can be challenging given the uncertainty in construction schedules. The order has been revised to indicate that the phase of construction should be included where feasible.	Section VI.D.7.g.ii.5 was revised to read “where feasible” for the current stage of construction.
Section VI.D.7.h.ii.5 Construction Plan Review	Requiring a Qualified SWPPP Developer (QSD) to prepare an ESCP is excessive, especially if the project is less than one acre.	Malibu	An ESCP is not required for sites under one acre.	None

and Approval Procedures on Pg. 86	The City suggests removing the requirement of a QSD to develop an ESCP.			
Development Construction Program	It is unclear if specific BMPs listed in Table 14 are intended to be minimum requirements of if they are suggested options. It is not always applicable to use these BMPs in concert with each other.	County of Los Angeles	The Order reads: <i>Permittees are encouraged to adopt respective BMPs from latest versions of either the California BMP Handbook, Construction, or Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practices (BMPs) Manual and addenda. Alternatively, Permittees are authorized to develop or adopt equivalent BMP standards consistent for Southern California and for the range of activities presented below in Tables 13 through 16.</i> BMPs listed in the Table are examples of specific BMPs for various activities. Permittees can use these or other equivalent BMPs per the Order language.	None
Inspection Frequencies	The inspection frequencies identified in Table 17 are in direct contradiction to the Construction General Permit (2009-0009-DWQ).	County of Los Angeles	The Board has reviewed the inspection frequencies from earlier working proposals to make them consistent with those in the Construction General Permit (2009-0009-DWQ).	None
Request for threshold	Consider introducing a minimum threshold for construction sites such as those for grading permits. As proposed, minor repair works or trivial projects will be considered construction projects and will unnecessarily be subject to these provisions.	LA Permit Group, Torrance, South Bay Cities	For sites less than an acre, the Permit requires require the implementation of an effective combination of erosion and sediment control BMPs from Table 12 to prevent erosion and sediment loss, and the discharge of construction wastes. If a project is trivial, the required BMP implementation will be minimal.	None
MEP	In the Development Construction section of the Permit, MEP should be changed to BAT and BCT for consistency with the State's General Construction Permit (GCASP).	LA Permit Group	Permits for storm water discharges associated with construction activity are subject to a different technology based standard than MS4 permits. The standard for MS4 permits is MEP not BAT/BCT, which is the standard for the General Construction Permit. Section 301(b)(1)(A) of the CWA and 40 CFR section 122.44(a) require that NPDES permits include technology based effluent limitations. In 1987, the	None

			CWA was amended to require that municipal storm water discharges “reduce the discharge of pollutants to the maximum extent practicable.” (CWA § 402(p)(3)(B)(iii).) The “maximum extent practicable” (MEP) standard is the applicable federal technology based standard that MS4 owners and operators must attain to comply with their NPDES permits. Thus, to comply with CWA sections 301 and 402 for MS4 discharges, MS4 permits must, at a minimum, include effluent limitations to meet the technology-based MEP standards. A technology based effluent limitation is based on the capability of a model treatment method to reduce a pollutant to a certain concentration (NPDES Permit Writer’s Manual, Appendix A). T states	
VI.D.7.j.ii.2.a Development Construction Program	Consider deleting this requirement as being unnecessary. The placement of BMPs may not be needed based on the season of construction and the planned construction phases. A better requirement would be to inspect sites at the beginning of the rain season such as the months of September and October.	County of Los Angeles	The Order does not require “placement” of BMPs prior to construction. The pre-construction inspection is to ensure that BMPs are <u>available</u> prior to land disturbance activities. Inspections are necessary throughout all stages of construction and during both wet and dry weather to protect water quality.	None
State permits	Under Section D.7.h.ii.(8), the verification that contractors have obtained various State permits (401, 404, 1600, etc.) should not be the responsibility of the City. As owner/operator of the flood control channels where the actual connections will be made, verification of these permits should be the responsibility the Army Corps of Engineers or the County Flood Control District.	Downey, Monterey Park, Temple City	This requirement is appropriately placed on the permittees, as they have ultimate authority and responsibility to prohibit, prevent, or otherwise control the discharges that enter and exit the portions of the MS4 for which they are owners and/or operators. This includes ensuring that, prior to issuing a grading or building permit, the construction site operators have the requisite permits s that discharge that reach receiving waters are regulated and/or monitored.  While verification to ensure other state or federal permits have been obtained is recommended, the	Revisions made.

			requirement to verify that permits from the DFG and ACOE have been obtained have been removed.	
Fire protection	Section VI. D.7.f (page 84): land clearing for fire protection should not be considered a construction activity.	Downey, Monterey Park, Peninsula Cities, Temple City	The Board finds it is possible to comply with land clearing for fire protection without triggering land disturbance thresholds. However, if land clearing for fire protection is being conducted such that sediment generation is an issue, appropriate measures should be in place to prevent the discharge of sediment to the MS4.	None
Erosion and Sediment Control Plan	The Permit will require projects of one (1) acre or greater to prepare an Erosion and Sediment Control Plan ("ESCP"). It is our understanding that the ESCP must include the same elements of a Stormwater Pollution Prevention Plan ("SWPPP").	Hidden Hills	This provision was written with the intent to have Permittees avoid approving the State SWPPP if they choose not to. An ESCP while similar to the State SWPPP does not have to be the same document and as such is a requirement unique to the MS4 Permittees.	None
Section VI.D.7.j.ii.2 Construction Site Inspection on Pg. 90	The Permit requires that permittees "inspect all phases of construction." Please clarify that this condition applies only to sites greater than or equal to one acre, perhaps by renaming the section to Construction Site Inspection for Sites Equal to or Greater than One Acre or a similar title.	Malibu	The Board agrees and will relabel the table on page 90 as inspection frequencies for sites 1 acre and greater.	Language revised.
Section VI.D.7 e-j Construction Site Requirements	Despite <i>C. Applicability</i> stating, "[t]he provisions contained in Part VI.D.7.d below apply exclusively to construction sites less than 1 acre. Provisions contained in Part VI.D.7.e – j, apply exclusively to construction sites 1 acre or greater," it is not clear in each individual condition, e through j, that this threshold applies. Please add language to these conditions that is more	Malibu	The Order specifies a size threshold for requirements based on project size. The tables are organized and clearly specify which conditions apply based on project size	None

	explicit in clarifying that it only applies to sites greater than one acre.			
	Need to exclude landscaping and gardening activities from the definition of construction. Because there is no size limit for construction sites in the draft permit and based on the description of construction activity in Part VI.D.7.f, a homeowner who is gardening or conducting landscape activities that do not require a building permit would be subject to the provisions of VI.D.7.	Peninsula Cities	For sites less than 1 acre appropriate implementation of sediment and erosion BMPs to prevent the discharge of sediment to the MS4 is the requirement. Typically, gardening and landscaping activities do not pose a threat and would not require any attention. If landscaping or gardening is being conducted where it poses a sediment and erosion threat BMPs should be in place to prevent sediment from being discharged.	None
General	The narrative in VI.D.7.f should be moved to the Applicability section at VI.D.7.c so that the applicability subsection actually discusses what types of activity constitute construction and are subject to the provisions of VI.D.7.	Peninsula Cities, Torrance	The Board agrees. The language has been revised to include the activities to which the Development Construction Program requirements apply in Part VI.D.8.c. "Applicability".	Revisions made.

Document Retention	<p>The requirement for Permittees to create an electronic tracking system for construction sites one acre and greater is redundant with the State Water Resources Control Board SMARTS tracking system under the General Construction permit. It is a waste of public funds to create a redundant database requirement, especially for largely built-out communities where very few construction projects are large enough to trigger this requirement—since the Permittees are already required by Part VI.D.7. h.(8) to ensure that coverage is obtained under the General Construction Permit so all such projects would be required to upload their information to the SMARTS system and that information is also readily accessible to Regional Board staff as well.</p> <p>Provide the option for permittees to meet this requirement by regularly accessing and using the Statewide SMARTS system to monitor the status of construction sites within their jurisdictions.</p>	Peninsula Cities, South Bay Cities, Torrance	<p>The Tentative Order states, <u>“Each Permittee shall use an electronic system to inventory grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by the Permittee.”</u></p> <p>For construction sites over an acre, The Board finds that it is appropriate to “use” the SMARTS system.</p>	None
Erosion and sediment control ordinance	Each Permittee shall establish for its jurisdiction an enforceable erosion and sediment control ordinance for all construction sites that disturb soil.	Vernon	The control of sediment from a construction site is a core requirement of the Statewide General Construction Permit and of the current and past LA County MS4 Permits. Overall objectives of the permit include controlling MS4 discharges so they do not cause or contribute to exceedances of water quality	None

	Concern- The receiving water for the City of Vernon is not impacted by, nor has a TMDL listed for sediment. This appears to be a superfluous provision for Permittees not impacted by sediment in their respective receiving water.		standards that have been established to protect beneficial uses and prevent degradation of water quality. Therefore it is important to control discharges to both remedy water quality impairments as well as protect against future water quality impairments. Further, sediment is both a pollutant in and of itself that must be controlled and a substance to which other pollutants adsorb – making it a vehicle by which other pollutants are transported to receiving waters. The development of an ordinance facilitating the control of sediment is crucial to achieving the control of sediment and other pollutants that adsorb to sediment to the MS4.	
ESCPs	The provision in Part VI.D.7.h.ii to review and approve ESCPs is clearly an attempt to relinquish SWPPP review and approval responsibility from the LARWQCB staff to the Permittees without allocating any funds collected through the State General Construction Permit to support the requirement. What is even more troubling is that the LARWQCB would like it to be a permit violation if we are unable to find the resources to implement this provision. This is obvious abuse of permitting authority.	Vernon	The ESCP is the planning document that ensures project proponents have considered potential water quality impacts from the site’s construction activities and have identified the non-structural and structural BMPs that will be implemented to prevent any impacts to water quality. MS4 permittees must have the legal authority to control discharges from construction sites to the MS4. The Board, in response to Permittees’ comments, has allowed a State SWPPP to substitute for an ESCP, in order to reduce paperwork.  The commenter provides no factual or legal support for its assertion that this requirement is an abuse of permitting authority.	None
<b>Public Agency Activities Program</b>				
Retrofit of catch basins in non-TMDL areas.	It is unreasonable to prescribe the installation of CB curb opening screens on catch basins that are located within a watershed that has not been identified as being impaired for trash. This requirement should be removed	Inglewood, LA Permit Group, La Verne, Malibu, City of Los Angeles, Norwalk, Pomona	The intent of the Permit is to implement appropriate trash control consistent with the MEP standard and to control MS4 discharges such that they do not cause or contribute to exceedances of water quality standards. Therefore it is important to control discharges to both remedy water quality impairments as well as protect against future water quality impairments.	None

	since if an impairment is identified it would be address through a TMDL.		The Order allows Permittees to implement alternative or enhanced BMPs (“such as but not limited to increased street sweeping, adding trash cans near trash generation sites, prompt enforcement of trash accumulation, increased trash collection on public property, increased litter prevention messages or trash nets within the MS4”) that provide substantially equivalent removal of trash in lieu of installation of trash excluders in areas identified as Priority A.	
Erosion and sediment control BMP’s	The Order states that for Permittee-owned projects that disturb less than one acre of soil, implement an effective combination of erosion and sediment control BMP’s from Table 13 on page 87. It is not clear that these requirements do not apply to maintenance work.	County of Los Angeles	If maintenance work being conducted presents a serious risk for discharge of sediment to the MS4 it is appropriate that effective BMPs are implemented to prevent the discharge of sediment to the MS4.	None
Public Facility Inventorying and Retrofitting Inventorying	Because the Order does not specify an implementation timeframe for such requirements as Public Facility Inventorying and Retrofitting Inventorying it is assumed that these provisions be implemented 30 days after the effective date of the Order.	Downey, Hidden Hills, County of Los Angeles	The Board agrees and will provide timeframes for all new Permit requirements where an implementation timeframe is not already specified. The Board has lengthened the timeframe to begin implementation of new and enhanced minimum control measures from 30 days after the effective date to six months after the order effective date. Between the order effective date and the deadline for beginning to implement new and enhanced minimum control measures, Permittees are required to continue to implement their existing minimum control measures as specified in Order No. 01-182 and their Storm Water Management Programs.	Revisions made.
Pesticides or fertilizers	The Permit states that no application of pesticides or fertilizers should occur (1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA, (2) within 48 hours of a ½-inch	County of Los Angeles	The Board agrees for certain types of pesticides the Order requirement is not applicable.	Revisions made.

	rain event, or (3) when water is flowing off the area where the application is to occur. This requirement does not apply to the application of aquatic pesticides. There are some herbicides, such as pre-emergent herbicides, that require rainfall for activation. The Permit needs to allow flexibility for application of such types of pesticides or herbicides.			
Clean out	<p>The Permit requires that catch basins, trash receptacles, and grounds in the event area be cleaned out within 24 hours subsequent to the event. Many of these events occur during the weekend when crews are not available.</p> <p><u>Recommendation</u> Revise to: “Provide clean out of catch basins, trash receptacles, and grounds in the event area within 24 hours <u>one business day</u> subsequent to the event.</p>	County of Los Angeles	The Board agrees; while the cleanup of the grounds should happen as soon as possible after a public event, the cleanout of catch basins and receptacles could be problematic during the weekend. The permit has been revised as suggested.	Revision made.
Trash excluders	The Permit requires trash excluders or equivalent devices be installed on catch basins in areas that are not subject to trash TMDL’s within two years of adoption of this Order. The two year time period is not feasible.	County of Los Angeles	The implementation timeframe has been changed to within four years of the effective date of the order.	Revision made.
Stockpile	The Permit requires various BMPs be implemented for Road Reconstruction work, including (11) Avoid stockpiling soil, sand, sediment, asphalt material and	County of Los Angeles	The Order reads “avoid stockpiling <i>in or near MS4 or receiving waters.</i> ” It does not prohibit it. Stockpiles should be protected with a cover or sediment barriers when rain is predicted to prevent discharge to the MS4 and receiving waters.	None

	<p>asphalt grinding materials or rubble in or near MS4 or receiving waters. (12) Protect Stockpiles must be protected with a cover or sediment barriers during a rain.</p> <p>For roads in mountainous areas, it is essential that we have the ability to stockpile native materials removed from the roads in selected areas adjacent to the roads for future maintenance needs. It is not practical to haul away these materials and purchase similar materials for later use.</p>			
Parking lots	<p>This requirement specifies the use of street sweeping equipment for maintaining parking facilities clean. This language is too prescriptive. Permittees should be allowed to select the means and methods to maintain their parking lots.</p> <p>Recommendation Revise to read: “Permittee-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned using street sweeping equipment no less than 2 times per month...”</p>	County of Los Angeles	The Board agrees; the permit has been revised as suggested.	Revision made.
Minor repairs	<p>Minor repairs may require more than one day to complete. It may take several days to assess the damages, gather materials and</p>	County of Los Angeles	The Board agrees; the permit has been revised as suggested to allow a self-waiver of the provisions of this order for repairs of essential public service systems and infrastructure in emergency situations that can be	Revision made.

	supplies, conduct the repair work, and clean-up the site.		completed within 3 days, rather than in one day.	
Training requirements	This provision requires training of employees and contractors no later than 1 year after Order adoption and annually thereafter before June 30. The language is not consistent with that under the Illicit Connections/Illicit Discharges Elimination Program, that provides Permittees the flexibility to provide the training themselves or include contractual requirements for training (VI.D.9.f.ii.).	County of Los Angeles, Peninsula Cities, South Bay Cities, Torrance, Ventura Countywide Stormwater Quality Management Program	The Board agrees; the training requirements in the public agency activities section have been revised to be consistent with the other sections in the Order.	Revisions made.
Retrofit provisions	We recommend that for this Permit term that the retrofit provision (i.e. inventory, screening, and prioritization) be limited to public right of ways lands only.	LA Permit Group, La Verne, Ventura Countywide Stormwater Quality Management Program	The Permit requires that retrofit opportunities shall be identified within the public right-of-way or in coordination with a TMDL implementation plan(s). The goals of the existing development retrofitting inventory are to address the impacts of existing development through regional or sub-regional retrofit projects that reduce the discharges of storm water pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards as defined in Part V.A, Receiving Water Limitations.	None

Storm water management facilities	The Permit states that each Permittee shall maintain an updated inventory of all Permittee- owned or operated facilities within its jurisdiction that are potential sources of storm water pollution, including storm water management facilities (e.g., detention basins). We do not agree that our stormwater management facilities themselves are potential sources of stormwater pollution. In addition, there are requirements under the Monitoring and Reporting Program to map open channels and underground pipes.	LACFCD	Improperly maintained, facilities such as vehicle storage and maintenance yards can be potential sources of pollutants. A separate section within Part VI.D. has been added to the permit identifying the minimum control measures and specific provisions within each minimum control measure category that are applicable to the LACFCD.	None
Public Agency Activities	Recommend you reference CASQA BMP Handbook Municipal for list of BMPs that should be employed by Public Agencies	Torrance	This was originally proposed as it is in the Ventura County MS4 Permit and was objected to by multiple Permittees because they wanted to ensure that they retained the flexibility to use their own BMP manuals. Permittees could still choose to use the CASQA Manual for BMP implementation and be compliant if BMPs are implemented per the manual for all pollutant generating activities.	None
Public Agency Activities	Omit sections VI.D.8.e. ii and VI.D.8.h.x.(3)(d).	Torrance	The provision in VI.D.8.e.ii is consistent with 40 CFR section 122.26(d)(2)(iv). The Board sees no merit in deleting subsection h.x(3)(d), regarding treatment of residual water from treatment BMPs.	None
Debris basin maintenance	Maintenance of debris basins is already regulated under separate permits including the California Regional Water Quality Control Board's Water Quality Certification for Proposed County Debris Basin Maintenance Project (159 Basins) (Corps' File No. 94-	LACFCD	The Board agrees and will remove language referring to debris basin maintenance in VI.D.9.h.viii (1) & (2).	Revisions made.

	01558-CSC), Los Angeles County (File No. 02-144-2008 Renewal), State Water Resources Control Board Order No. 2003-0017-DWQ General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification, US Army Corps of Engineers, Los Angeles District Regional General Permit SPL-2003-00411-KW, and the Department of Fish and Game Final Lake or Streambed Alteration Agreement Notification No. 1600-2008-0290-R5. The Water Quality Certification specifically authorizes sediment removal only under three conditions, based on the condition of the watershed or other special circumstances.			
VI.D.8.h.ii Public Agency Activities Program	The process by which the material removed from MS4 should not be allowed to reenter the MS4 is unnecessarily prescriptive. Additional option that the two listed for disposing liquid material exists and permittees should be these options. Consider including only the first sentence of this subsection.	City of Los Angeles	Cleanout from storm drains may contain high levels of pollutants due to runoff and spills. If cleanout handling facilities are insufficient, pollutants from stockpiles, storage, or treatment units may drain to nearby receiving waters. The Regional Water Board is obligated to ensure that Public Agency requirements do not result in a transfer or reintroduction of pollutants, as this undermines the purpose of controlling pollutant discharges to the receiving water. The options for disposal of storm drain cleanout are non-specific and are intended to protect the receiving waters.	None
VI.D.8.i.iv.1 Public Agency Activities Program	The requirement to clean a parking lot, once a month, even if inspection indicates no presence of debris or oil buildup, is unnecessary.	City of Los Angeles	Pollutants, present in fine particles, are generally not visible in parking lots. Based on information citing sweeping cycles and the sweeping effectiveness of cities such as Dana Point, CA, San Jose, CA and studies prepared for the Center of Watershed Protection	None

			and North Saint Paul, MN demonstrate the effectiveness of sweeping at no less than monthly intervals. Additionally, computer modeling conducted in the Pacific Northwest indicates that a frequency of once every week or every two weeks is optimum for pollutant removal. (Stormwater Treatment Northwest. Vol. 4, No. 4 November 1998. Co-editors Gary R. Minton, RPA, Bill Lief, Snohomish County SWM, Roger Sutherland, Pacific Water Resources.) The required frequency for cleaning of parking lots is appropriate. The permit states that this requirement only applies to parking lots exposed to storm water (i.e., uncovered lots).	
Sanitary Sewer	The entire section ix (page 103) dealing with sanitary sewers should be omitted. Sanitary sewer system operations and maintenance are already addressed by an existing WDR .	Downey, Monterey Park, Torrance	Infiltration from sanitary sewers to the MS4 is a serious concern. This requirement is consistent with requirements for a storm water management program identified in 40 CFR section 122.26(d)(2)(B)(7). The section correctly acknowledges sanitary sewer operations may already be addressed by a WDR.	None
Sanitary Sewer Systems	For municipalities to “provide for diversion of the entire flow to the sanitary sewer or provide treatment” with respect to an ongoing illicit discharge is not the appropriate language and implies that the MS4 permittee should bear the cost and responsibility for complying with this requirement which responsibility is properly borne by the discharger  Substitute “require the discharger to obtain an NPDES permit or connect the non-storm water discharge to the sanitary sewer system”	Peninsula Cities	Illicit discharges are prohibited under the Order. Once they are identified, Permittees have a responsibility to abate these discharges which could mean directing them to apply for an NPDES Permit or directing them to divert their discharge to a sanitary sewer system. The language provides Permittees with multiple options for addressing illicit discharges and is appropriate as written.	None
Section	This section details signage	Malibu	The Tentative states:	None

VI.D.8.h.vi.4 Catch Basin Labels and Open Channel Signage	requirements for drainage facilities. This requirement must be revised to explain that it only applies to facilities owned or operated by the Permittee.		<i>Each Permittee shall label all storm drain inlets that they own with a legible “no dumping” message. The Board finds that the provision that requires posting signs referencing local code(s) that prohibit littering and illegal dumping at designated public access points is adequately clear that it applies to permittees in whose jurisdictional area the public access point is located and the permittee with control over the access point.</i>	
Section VI.D.8.d.iv.1 Inventory of Existing Development for Retrofitting Opportunities	The Permit states, “The Permittee’s storm water management program: Highly feasible projects expected to benefit water quality should be given a high priority to implement source control and treatment control BMPs in a Permittee’s SQMP.” However, SQMP is not defined and seems to not be used anywhere else in the draft permit. The City assumes that the Regional Board intended to write SWMP. Please correct and clarify.	Malibu	The commenter’s assumption is correct and the language will be revised.	Revision made.
Public Agency Activities	Water removed by dewatering from solid material removed from the MS4 (including street sweeping material) could be disposed by percolation rather than requiring that the water be disposed via sanitary sewer—this would be analogous to the provision in VI.D.8.h.x(3)(b) where residual water from BMP treatment control devices can be “applied to the land without runoff”.	Peninsula Cities, South Bay Cities	The request is reasonable and the language has been revised to include this alternative.	Revision made.

	<p>Add a third disposal option to VI.D.8.h.ii as follows:</p> <p>(3) Applied to the land without runoff</p>			
Public Agency Activities	<p>The term “residual water” has a footnote number 35 stating that it is to be defined in Attachment A Definitions, however no definition of “residual water” is provided in Attachment A.</p> <p>Provide a definition of “residual water” in Attachment A.</p>	Peninsula Cities	Comment noted. A definition will be included in Attachment A for “residual water.”	Definition was added.
Public Agency Activities	<p>If there is now to be an effective requirement to prohibit public facility vehicle washing as a non-stormwater discharge without condition/pre-treatment and require existing facilities to retrofit, then municipalities must be given at least two years from the effective date of the permit to make this retrofit—30 days from the effective date of the permit is not a sufficient period of time. Also for small municipalities where the frequency of washing and amount of washwater can be reasonably managed by percolation into the ground, recommend providing a third option for preventing the discharge of wash waters from vehicle and equipment washing:</p> <p>(3) discharge the wash water onto a permeable surface where the wash water will percolate into the</p>	South Bay Cities, Ventura Countywide Stormwater Quality Management Program	<p>There is not a retrofit requirement, as the Order reads; <i>Each Permittee shall ensure that <u>any municipal facilities constructed, redeveloped, or replaced</u> shall not discharge wastewater from vehicle and equipment wash areas to the MS4 by plumbing all areas to the sanitary sewer in accordance with applicable waste water provider regulations, or self-containing all waste water/ wash water and hauling to a point of legal disposal.</i></p> <p>The example of a small municipality where there is adequate space and limited vehicle washing to make percolation viable is a unique situation and should be addressed by the BMP substitution process as there is still potential concern regarding discharge to groundwater.</p>	None

	ground and that is bermed or sloped to prevent discharge to the MS4, e.g., gravel surface or porous paving.			
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Trash Requirements	Please clarify what is meant by "when outfall trash capture is provided, revision of the schedule is required"	Santa Clarita	The Board's intent in including the provision was to address clean out frequency revisions that may result if Permittees install a trash capture device such as the "connector pipe screen" on an outfall. A change in the frequency of clean-out may be warranted depending on the type of device installed in the catch basin.	None
Section VI.D.8.c Public Facility Inventory	The Permit requires that "Each Permittee shall maintain an updated inventory of all Permittee-owned or operated (i.e., public) facilities within its jurisdiction that are potential sources of storm water pollution." There are many facilities owned by other agencies within the jurisdictional limits of another public agency (e.g., federal, state, county, school district, etc.), over which the permittee has no control over activities at the other agency's facility. Please include language that requires those agencies that are also permittees under this permit to provide this information to the City or jurisdictional lead where the facility is located. Additionally, please include language that would exempt facilities from the inventory requirement where the permittee city does not have authority over the agency and its facility and cannot require submittal of documentation.	Malibu	This provision is related to Permittee owned or operated facilities. Other provisions of the permit require inventories or tracking of other non-Permittee owned or operated facilities that may be a source of pollutants within the Permittee's jurisdiction. Permittees must have the legal authority to control discharges of pollutants to their MS4s. Requirements to track activities and facilities that may discharge pollutants to the Permittee's MS4 are consistent with 40 CFR section 122.26(d)(2)(i) and (iv).	None
<b><i>Public Information and Participation</i></b>				
General	The Permit requires that a PIPP must be implemented "that	LACFCD	The Board recognizes the concern raised and has revised the Order.	Revision made.

	includes, but is not limited to, the requirements listed in this part.” (emphasis supplied.) This is problematic language, because it purports to state that a PIPP must include unspecified additional requirements that could be found wanting by the RWQCB or a court.			
VI.D.4.d.3 Public Outreach	Please consider removing pharmacies from the list. Improper disposal of drugs are already been in the focus of municipal wastewater and refuse collection programs. Instead consider including paint stores to the list.	City of Los Angeles, Santa Clarita, South Bay Cities, Torrance	Pharmaceuticals and personal care products (PPCPs) are an emergent water quality concern and should be targeted for public education. However, the Regional Board recognizes that there are several public information and participation programs already in place within Los Angeles County that are addressing this issue, including the “No Drugs Down the Drain” campaign sponsored by the Los Angeles County Department of Public Works and the Los Angeles County Sanitation Districts; the City of Los Angeles’ Household Hazardous Waste (HHW) collection program, including its S.A.F.E. permanent collection centers; and the LA County Sheriff’s Department and Departments of Public Works and Public Health “Safe Drug Drop-Off” Program. Therefore, the draft tentative order is revised to remove “Pharmacies” from the list of points of purchase for activity specific storm water pollution prevention materials. However, where PPCPs are identified as a priority water quality issue resulting from storm water and/or non-storm water discharges from the MS4 within a particular watershed management area, Permittees should closely coordinate with the agencies and departments sponsoring these existing programs, and expand these programs where necessary through the Permittees’ PIPP to address the issue. The permit is also revised to include paint stores.	Revisions made.
<b><i>Industrial/Commercial Facilities Program</i></b>				
Nurseries	The draft Permit now includes nurseries and nursery centers as a	County of Los Angeles	Nationwide and statewide research and monitoring data has shown that nurseries are also a category of facilities	None

	critical source to be tracked. There is no clear justification for including these types of commercial facilities.		that tend to release a higher quantity of pollutants in stormwater runoff. Recognizing this class of facilities and activities as a potential source of pollutants, the Regional Board adopted a <i>Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands within the Los Angeles Region (Waiver)</i> , Order No. R4-2005-0080. Because the non-agricultural nurseries present in the urban environment can manifest the same characteristics as their agricultural counterparts, the nurseries under specified NAICS codes are proposed to be covered under the Tentative Order. This is consistent with requirements adopted by this Board in the current Ventura County MS4 permit.	
Inventory	The draft Permit requires the inventory to have the ability to denote if the facility is known to maintain coverage under the State Water Board's General NPDES Permit for the Discharge of Stormwater Associated with Industrial Activities (Industrial General Permit) or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.	County of Los Angeles	The State Board SMARTS system can be accessed by the public and provides real time information of the status of General Industrial and General Construction Permittees.	None
SMARTs	The exclusion of sites inspected by the Regional Board” provision requires each Permittee to review the State Water Board's Storm Water Multiple Application and Report Tracking System (SMARTS) database at defined intervals to determine if an industrial facility has recently been inspected by the Regional Water Board. We have had much	County of Los Angeles	Regional Board staff enters all inspection data and reports into SMARTS on a real-time basis (2-3 days after supervisor approval). These reports are available to Permittees and the public. The SMARTS system allows sites to be queried by WDID number, street address and other metrics. Permittees are not restricted to querying by City name alone.	None

	difficulty in extracting a listing of facilities within the unincorporated County areas since many times, the listed jurisdiction is not correct (for example, the site is listed as being within a particular city, but is actually within an unincorporated County area).			
General	The County of LA requests that the Regional Water Board maintain a list of the facilities within the region according to their proper jurisdiction and make it available to the Permittees. Regional Water Board should also provide the Permittees with a quarterly listing of facilities they have inspected.	County of Los Angeles	Regional Board staff enters all inspection data and reports into SMARTS on a real-time basis (2-3 days after supervisor approval). The State Board SMARTS system can be accessed by the public and provides real time information of the status of General Industrial and General Construction Permittees.	None
Industrial/ Commercial Facilities	VI.D.5.e.ii.3 states: “The Permittees shall require implementation of additional BMPs where storm water from the MS4 discharges to an environmentally sensitive area, a water body subject to TMDL Provisions in Part VI.E, or a CWA § 303(d) listed impaired water body. Likewise, if the specified BMPs are not adequately protective of water quality standards, a Permittee may require additional site-specific controls.” This seems to be repetitive of VI.D.5.g., which deals directly with	Malibu	The Board agrees; the redundant provision will be removed	Revision made.

	<p>SEAs and states, “For critical sources that discharge to MS4s that discharge to SEAs, each Permittee shall require operators to implement additional pollutant-specific controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality standards.” The City suggests deleting the repetitive language from VI.D.5.e.ii.3 and, instead, editing VI.D.5.g to be more inclusive.</p>			
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<p>Section VI.D.5.e.i.2 Exclusion of Facilities Previously Inspected by the Regional Water Board</p>	<p>The City supports this condition; however, if the State is collecting fees annually for the purposes of permitting these Industrial Facilities subject to the General permit, then the State should, at a minimum, inspect such facilities at least two times during the permit term. Alternatively, if the State is collecting inspection fees, then the municipal permittees should be allowed to recoup inspection costs from the State. Furthermore, it is imperative that the State promptly update the database to track its inspection of these facilities. This was not done during the term of the last permit for the one (now terminated) facility subject to the general permit within the City of Malibu. The City discovered that the State had indeed inspected, but only after the City conducted an inspection of the facility.</p>	<p>Malibu</p>	<p>The Regional Board’s inspection priority varies from year to year, and depending on this, certain facilities or sectors are prioritized for inspection as resources allow. The fees collected under the General Permit pay for the State inspections and State oversight of these General Industrial Permittees, which is a separate obligation from that of the municipalities MS4 obligations under federal law. Permittees also have the authority to levy fees for their MS4 inspection programs.</p> <p>Regional Board staff enters all inspection data and reports into SMARTS on a real-time basis (2-3 days after supervisor approval). The State Board SMARTS system can be accessed by the public and provides real time information of the status of General Industrial and General Construction Permittees.</p>	<p>None</p>
<p>Section VI.D.5.d.ii Inspect Critical Commercial Sources</p>	<p>The condition requires that: “Each Permittee shall inspect all commercial facilities identified in Part VI.D.5.b.” Please specify “critical” for commercial sources inspections, just so there is no question of the intent of this requirement and so that it is not misinterpreted to be <i>all</i> commercial facilities. Additionally, the Permit</p>	<p>Malibu</p>	<p>The Permit states the facilities to be inspected. The Order reads; <i>Each Permittee shall perform an initial mandatory compliance inspection at all commercial facilities identified in Part VI.D.6.b twice during the 5-year term of the Order...</i> <i>Part VI.D.6.b specifically refers to critical commercial sources.</i></p> <p>SEA is defined in Attachment A.</p>	<p>None</p>

	<p>requires: “Each Permittee shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA).” It is not clear if the term SEA is the same as Environmentally Sensitive Area (ESA) from the previous/current permit or if it is a new designation. It is mentioned several times throughout the Permit. Please clarify.</p>			
Inspections	<p>Concern- Despite the LARWQCB staff’s stated understanding that the inspection of General Industrial Permitted facilities is a common effort shared by both the LARWQCB and the Permittees, this provision clearly appears to be a one-way and one sided effort.</p> <p>Proposed Solution – Revised language stating that LARWQCB should notify the respective Permittee of inspections performed by its staff, especially if there are findings that may cause or contribute to an exceedance of water quality objectives and result in a violation to the Municipal Permittee.</p>	Vernon	<p>Regional Board staff typically inspects 400 facilities covered by the General Industrial Storm Water Permit annually. Regional Board staff enters all inspection data and reports into SMARTS on a real-time basis (2-3 days after supervisor approval). The State Board SMARTS system can be accessed by the public and provides real time information of the status of General Industrial and General Construction Permittees. The site contain the inspection findings which note whether a site was in compliance, what the water quality issues are, and what if any Regional Board enforcement action(s) were forth coming.</p>	None
Industrial/Commercial Facilities	<p>Recommend you reference the CASQA Stormwater BMP Handbook Industrial</p>	Torrance	<p>This was originally proposed as it is in the Ventura County MS4 Permit but was objected to by multiple Permittees. Permittees may still choose to use the</p>	None

	and Commercial		CASQA Manual for BMP implementation and be compliant if BMPs are implemented per the manual for all pollutant generating activities.	
<b><i>Illicit Connections and Illicit Discharges Elimination</i></b>				
General	The Permit requires written standard operating procedures, written spill response plans, for the IC/ID Elimination Program. During the 2001 Permit term, the Model Program for Stormwater Quality Management Program was allowed approximately 6 months to be updated. As the Permit will require inter-agency response and coordination, sufficient time is required to develop, update, and coordinate such procedures with various impacted municipalities and non-Permittee agencies.	County of Los Angeles	The permit has been revised to allow Permittees six months from the effective date to begin implementation of new or enhanced minimum control measures, including provisions under the Illicit Discharge Detection and Elimination Program.	Revisions made.
General	The Permit requires Permittee to initiate a permanent solution if the source of the illicit discharge cannot be traced, including diversion of the entire flow to the sanitary sewer or treatment.	County of Los Angeles, LACFCD	This requirement is consistent with the prohibition of illicit discharges to the MS4 required by CWA section 402(p)(3)(B)(ii) and 40 CFR section 122.26(d)(2)(i).	None
General	We recommend that the permit allow the Watershed Management Programs to guide the customization of the Numeric Action Levels (NAL) based on the highest water quality priorities in each watershed and to establish them at a level that would provide better assurance that illicit discharges can actually be found and not have every outfall become a high priority outfall.	La Verne	The NALs are triggers for verifying compliance with the requirement to effectively prohibit non-storm water discharges to the MS4 and receiving waters that are a source of pollutants. Therefore, they are appropriately set based on the applicable water quality standards for the receiving waters. With the exception of non-storm water discharges from authorized sources, no pollutants should be discharged in non-storm water. NALs are only used where there is not a non-storm water WQBEL for the pollutant. The Oder states, <i>“ To evaluate monitoring data, the Permittee shall either use applicable Interim or Final Water Quality</i>	None

			<i>Based Effluent Limitations or, if there are no applicable Interim or Final Water Quality Based Effluent Limitations for the pollutant, use applicable Action Levels provided in Attachment H.”</i>	
Section VI.D.9.f.v Illicit Connection and Illicit Discharge Education and Training	Clarify that new “targeted” permittee staff members, as identified in Section VI.D.9.f.i, will receive IC/ID training. While Malibu trains as many staff members as possible (regardless of their position), the Permit, as currently written, still would mandate that all new employees need this training.	Malibu, South Bay Cities	The Tentative reads; <i>Each Permittee must continue to implement a training program regarding the identification of IC/IDs for all municipal field staff, who, as part of their normal job responsibilities (e.g., street sweeping, storm drain maintenance, collection system maintenance, road maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to the MS4.</i>  The Order specifies the targeted staff.	None
Part VI.D.9.a-f. - Illicit Connections and Illicit Discharges Elimination Program	Concern – While Permittees are being tasked with controlling and enforcing illicit discharges, the Tentative Permit expects permittees to prevent and control all illicit discharges. This is not practical or possible. In the world of criminal activity, no local, State or Federal agency can prevent every crime or terrorist attack from occurring – it is the same situation with social behaviors and being tasked with preventing all illicit discharge activity. For instance, an industrial facility can wash down their parking lot during a weekend and wash down the oil, grease and metals deposits while in residential communities feces from lawns could be washed down versus a dog-owner picking it up and throwing it in the trash.	Vernon, Santa Clarita	The Permit is consistent with the requirement in CWA section 402(p)(B)(3)(ii). Non-storm water discharges are not subject to the MEP standard, as discussed in the Non-Storm Water Discharges response to comments matrix. The meaning of “effectively prohibit” is defined in footnote 18 as, “to not allow the non-storm water discharge through the MS4 unless the discharger obtains coverage under a separate NPDES permit prior to discharge to the MS4.” This definition is based on the 1990 federal storm water rulemaking in which USEPA describes its expectations regarding control of non-storm water discharges that are a source of pollutants to the MS4.  Federal law imposes this requirement on the permittees. Federal regulations at 40 CFR § 122.26(d)(2)(iv)(B) requires that MS4 permittees implement a program to detect and remove (or require the discharger to the MS4 to obtain a separate NPDES permit for) illicit discharges and improper disposal into the MS4.	None

	Proposed Solution – Language needs to be consistent throughout the permit and clearly state that the CWA provision requires this permit to “effectively prohibit non-storm water discharges.” As long as the Permittee is implementing appropriate BMPs the Permittee will not be in violation of this permit			
IC/ID	Illicit Connection Education and Training - having this in a separate section is duplicative and confusing. Please amend the public employee training section with information on ICID. Please also revise contractual services to include documentation from the contractor that they have trained their employees.	Santa Clarita, South Bay Cities	Training of appropriate staff is important enough to be called out in every minimum control measure category, though it creates some redundancy. The Board is assuming that if contractors are used to provide training, Permittees would request and provide a record of the training from the vendor.	None
<b><i>Municipal Action Levels</i></b>				
MALSS	Municipal Action Levels (MALs) established in Draft Order Attachment G, were "obtained by computing the upper 25th percentile for selected pollutants for Rain Zone 6." Despite this information, the Draft Permit does not provide transparency of how MALs were calculated (e.g. time period, land uses, etc. included in the calculation) and how non-detects were treated. The Program was not able to exactly reproduce the tentative MALs based on the National Stormwater Quality database,	Ventura Countywide Stormwater Quality Management Program	The MALs were obtained by calculating the upper 25 <sup>th</sup> percentile of selected pollutants for the entire Rain Zone 6 subset. No sampling events were eliminated except for those outside of Rain Zone 6. The MALs concept was introduced during the renewal process for the Ventura County MS4 Order and has been proposed at different levels as part of the permit development process. The Board finds that basing the MALs on the upper 10 <sup>th</sup> percentile is unnecessarily lenient and with the compliance strategy used (rolling 20% exceedance) the upper 25 <sup>th</sup> percentile is appropriate as a trigger for identifying drainage areas that should be prioritized for additional BMP implementation. Permittees may further prioritize within the set of drainage areas that exceed the MALs.	Attachment G was revised to clarify how the MAL values were calculated.

	although the 75th percentiles of all Rain Zone 6 data were similar in most cases (see Attachment 2). Furthermore the Draft Order MALs are lower compared to Orange County stormwater action levels, which introduce some inconsistency for no apparent reason between regions.			
<b><i>Treatment BMP Performance</i></b>				
Benchmarks	The proposed effluent benchmarks are not feasible and should be replaced by design parameters	City of Los Angeles, County of Los Angeles, LA Permit Group, Santa Clarita, Ventura Countywide Stormwater Quality Management Program, Contech	The intent of the inclusion of the treatment BMP benchmarks is to help ensure treatment BMPs are selected based on the class of pollutants expected to be discharged in significant quantities. The effluent performance of treatment BMPs is a key design parameter. The benchmarks are not effluent limits but are to be used as guidance in selecting treatment BMPs.	None
General	The Ventura County's NPDES MS4 permit requires the project developer to determine the pollutant of concern(s) for the development project and use this pollutant as the basis for selecting a top performing BMP. In the case of the Draft Order, there is no determination of the pollutant of concern for the development project. Instead post construction BMPs must meet all the benchmarks. Unfortunately, traditional post construction BMPs are not capable of meeting all the benchmarks and thus the developer will not be able to select a BMP. We recommend that provision VI.D.6.c.iv.(1)(a)	La Verne	The intent of the inclusion of the treatment BMP benchmarks is to help ensure treatment BMPs are selected based on the class of pollutants expected to be discharged in significant quantities. The effluent performance of treatment BMPs is a key design parameter. The benchmarks are not effluent limits but are to be used as guidance in selecting treatment BMPs. Additionally, the values have been recalculated based on the median values of the top six performing BMPs so that more than one BMP can achieve all the benchmark values.	Benchmark values recalculated.

	(page 74) be modified so that the selection of post construction BMPs is consistent with the Ventura permit and is based on the development site's pollutant of concern(s) and the corresponding top performing BMP(s) that can meet the Table 11 benchmarks			
<b><i>Planning and Land Development Program</i></b>				
Infiltration	The tentative draft establishes significantly more restrictive infeasibility thresholds (i.e., maximum application of green roof and rainwater harvesting and 0.15 inches per hour infiltration rate) that must be met to allow treated runoff to leave a site, without regard for its consequences on geotechnical stability, public health and safety, or use of recycled water.	Downey, Monterey Park, BIASC/CICWQ	<p>The Permit focuses on onsite retention as the preferred BMP and requires Permittees to consider all options before selecting other BMPs. This is consistent with State Board's Blue Ribbon Panel report which includes a suggested storm water control strategy as a combination of practices, with the first suggestion for the smaller storm events listed as:</p> <p><i>On-site stormwater reuse, evapotranspiration and infiltration for the smallest storms and up to specific targeted events, depending on site limitations (soil characteristics and groundwater contamination potential) (usually by conservation design emphasizing infiltration, disconnecting paved areas, etc.)</i></p> <p>The infiltration rate of 0.15"/hr is for saturated soil conditions in contrast with the 0.5"/hr listed in the Ventura County Technical Guidance manual which is for dry soil conditions. Nevertheless staff has included a safety factor of "2" and will revise the threshold to 0.3"/hr infiltration rate for saturated soils.</p>	The soil infiltration rate for infeasibility has been revised from 0.15"/hr saturated condition to 0.3"/hr saturated condition.

Infiltration	<p>Change lower infiltration rate feasibility threshold from 0.15 inches per hour to 0.5 inches per hour.</p> <p>The lower infiltration rate threshold of 0.15 inches per hour is extremely low. A 0.5 inch per hour lower rate would be more consistent with other permits in Southern California. Typically, factors of safety between 2 and 8 are applied to the measured infiltration rate to produce a design infiltration that is used to size the infiltration BMP. This factor of safety combined with a target infiltration rate of 48 hours could result in very large systems with allowable effective depths of as little as one inch.</p>	City of Los Angeles, Contech	<p>This criterion is specified to ensure the viability of infiltration systems. Infiltration BMPs are restricted to Hydrologic Soil Groups A and B, by other California storm water regulatory agencies. For example, in Region 2 the Contra Costa County Program’s Stormwater LID Design Guidebook prohibits routing of storm water runoff to a dry (infiltration) well, developed in Hydrologic Soil Groups C and D. Class B soils have an infiltration rate of about 0.5 in/hr when dry, but the rates decrease to between 0.3 to 0.15 in/hr when saturated (see <i>USEPA Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act</i>, December 2009, Appendix A). By applying a Factor of Safety of 2, as is applied in various locations in the Ventura County TGM, the saturated infiltration rate is raised to 0.3 in/hr. As listed above this is the upper limit of the minimum infiltration rate as stated in the EISA reference. The Order is revised accordingly.</p>	<p>The following change has been made for VI.D.6.c.ii.(2).(a) to read “The infiltration rate of saturated soils is less than 0.3 inch per hour”.... Revised Attachment H.4.a 2<sup>nd</sup> sentence, 3<sup>rd</sup> line to the following: “demonstrated infiltration rate under saturated conditions of no less than 0.30 inch per hour.”</p>
Biofiltration	<p>The tentative draft characterizes biofiltration as an alternative compliance practice rather than a recognizing that technically it is a viable, very effective LID treatment solution.</p>	BIASC/CICWQ	<p>The Permit focuses on onsite retention as the preferred BMP and requires Permittees to consider all options before selecting other BMPs. This is consistent with State Board’s Blue Ribbon Panel report which includes a suggested storm water control strategy as a combination of practices, with the first level of BMP implementation for the smaller storm events listed as: <i>On-site stormwater reuse, evapotranspiration and infiltration for the smallest storms and up to specific targeted events, depending on site limitations (soil characteristics and groundwater contamination potential) (usually by conservation design emphasizing infiltration, disconnecting paved areas, etc.)</i></p>	None
VI.D.6.a.i.(3) and (7) Storm Water Management	<p>We recommend providing clarifying language that implementing the green streets manual to the MEP fulfills and</p>	BIASC/CICWQ	<p>While the Board concurs with the intent of the second part of the comment, section 6.a.i.(3) and (7) are the not the appropriate locations for inclusion. A more appropriate location is located at section</p>	<p>The following was inserted after the first sentence in</p>

<p>Program Minimum Control Measures, 6. Planning and Land Development Program, a. Purpose, i.(3) and (7)</p>	<p>supersedes all other development / redevelopment requirements (i.e., LID and/or hydromodification control).</p> <p>We recommend providing clarifying language that the green streets provision applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.</p> <p>This roadway requirement is consistent with the approved Ventura County MS4 Permit Technical Guidance Manual.</p>		<p>VI.D.6.b.i.(1).(g) as below.</p> <p>(g) Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets<sup>27</sup> to the maximum extent practicable.</p> <p>This subsection would be expanded to clarify that green streets provision applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects. It is not appropriate however for implementation of green streets to replace all other development / redevelopment requirements (i.e., LID and/or hydromodification control).</p>	<p>VI.D.6.b.i.(1).(g) “Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.”</p>
<p>General</p>	<p>The tentative draft includes detailed LID design standards rather than establishing a requirement for the Permittee’s to develop technical guidance to implement the standards. Those standards depart significantly from the standards of the Ventura County MS4 Permit and TGM, requiring LID BMPs that must be significantly larger than those required under the adopted Ventura permit, and much more frequent implementation of substantially more expensive BMPs (green roofs and large cisterns/onsite use) regardless of regulatory impediments.</p>	<p>LA Permit Group, Inglewood, La Verne, BIASC/CICWQ</p>	<p>The Permit allows Permittees to submit alternative BMPs for Executive Officer approval if desired. This alternative is consistent with the Ventura County MS4 Technical Guidance Manual which required Executive Officer Approval prior to adoption. The design specifications are default requirements for Permittees who do not have or wish to pursue alternative design specifications. Further, many of these specifications are based on those contained in the Ventura County Technical Guidance Manual or others recently developed across California.</p>	<p>None</p>
<p>General</p>	<p>Recommend that residential developments of one or two units be excluded from the strict</p>	<p>Peninsula Cities</p>	<p>The project categories are identical to those in the current Ventura County MS4 Permit and for the most part, the current LA County MS4 Permit.</p>	<p>None</p>

	numeric design criteria in favor of a simpler LID approach.			
VI.D.6.c.i.(3) and (4) Storm Water Management Program Minimum Control Measures, 6. Planning and Land Development Program, c. New Development/R edevelopment Project Performance Criteria, i. Integrated Water Quality/Flow Reduction Resources Management Criteria (3)(4).	<p>The Tentative Order does not support the established hierarchy of LID BMP selection found in similar Phase I MS4 permits adopted in California since 2007, and as most recently as 2010. The Tentative Order establishes a zero discharge threshold for compliance with the Integrated Water Quality/Flow Reduction criteria in subpart (2) that is inconsistent with the application of LID technologies for stormwater management. The exclusion of LID biofiltration technologies in meeting the onsite capture standard is without merit or technical support.</p> <p>Design criteria for bioretention and biofiltration found in (3) should be deleted, and instead moved to technical guidance. In addition, delete (4) “consider the maximum potential for evapotranspiration from green roofs and rainfall harvest and use”, and instead address these options for application in technical guidance specific to LA County.</p>	BIASC/CICWQ	<p>LID strategies are designed to retain storm water runoff onsite by minimizing soil compaction and impervious surfaces, and by disconnecting storm water runoff from conveyances to the storm drain system. This Order establishes criteria for the volume of storm water to be retained onsite as required to meet water quality goals and to preserve pre-development hydrology in natural drainage systems.</p> <p>(2) Biofiltration is not inherently a volume capture BMP and is designed with an underdrain which may allow for the discharge of a significant portion of the design storm volume. Biofiltration is therefore used in the alternative compliance measures; however, the hierarchy and requirements for the use of Biofiltration are the same as those adopted by this Board in the Ventura County MS4 Permit.</p> <p>(3) The Permit allows Permittees to submit alternative BMPs for Executive Officer approval if desired. This alternative is consistent with the Ventura MS4 Technical Guidance Manual which required Executive Officer Approval prior to adoption. The design specifications are default requirements for Permittees who do not have or wish to pursue alternative design specifications.</p> <p>(4) Comment noted. The Board elected to set no specific criteria for maximum potential, and to instead allow developers to develop justification for green roofs and rainfall harvesting to the full extent at the discretion of the Permittees.</p>	Language was revised to make it clear alternative Biofiltration criteria could be used with Executive Officer approval.
VI.D.6.c.iii.1.b.i	The requirement for raised underdrain placement to achieve nitrogen removal is inconsistent with standard industry designs	City of Los Angeles	Placing the underdrain near the top of the gravel layer will maximize the amount of runoff that is captured and infiltrated into the ground, in adequately draining soils, as opposed to being discharged through the underdrain.	Replaced “Attachment I” with “Attachment H”

	<p>and is based on limited evidence that this change will improve nitrogen removal. Furthermore by raising the underdrain, other water quality problems may result such as low dissolved oxygen and bacterial growth due to the septic conditions that will be created. Also the second sentence should refer to Appendix H not I.</p>		<p>Additionally, research has shown that such a design provides enhanced nitrogen removal (<i>Biofiltration facilities have the added benefit of enhanced nitrogen removal due to the elevated underdrain. This allows for a fluctuating anaerobic/aerobic zone below the drain pipe. The intention is that denitrification within the anaerobic/anoxic zone is facilitated by microbes using forms of nitrogen (NO2 and NO3) instead of oxygen for respiration.</i>). Page 6-87, Ventura County Technical Guidance Manual for Stormwater Quality Control Measures July 13, 2011</p> <p>Language in Attachment H specifies that underdrains should be placed within 6 inches of the bottom of the gravel layer in poorly draining soils to prevent the retention of stagnant water.</p> <p>Regarding the reference to Appendix I, Order should state “Appendix H.” The Order is revised accordingly.</p>	<p>VI.D.6.c.iii.1.b.ii in second sentence.</p>
General	<p>The tentative draft permit seeks to force implementation of certain BMP technologies (e.g., green roofs, harvest and use), to the point of requiring local ordinance changes that are inconsistent with other current state building and public health regulations, rather than allowing a project to select BMPs to meet a performance-based standard established by the permit.</p>	<p>Temple City, BIASC/CICWQ</p>	<p>The Permit focuses on onsite retention as the preferred BMP and requires Permittees to consider all options before selecting other BMPs. This is consistent with State Board’s Blue Ribbon Panel report which includes a suggested storm water control strategy as a combination of practices, with the first suggestion for the smaller storm events listed as: On-site stormwater reuse, evapotranspiration and infiltration for the smallest storms and up to specific targeted events, depending on site limitations (soil characteristics and groundwater contamination potential) (usually by conservation design emphasizing infiltration, disconnecting paved areas, etc.)</p>	<p>None</p>
General	<p>The Tentative Draft Permit BMP implementation requirements are overly prescriptive and will constrain future improvements in BMPs.</p>	<p>BIASC/CICWQ</p>	<p>The Permit allows Permittees to submit alternative BMPs for Executive Officer approval if desired. This alternative is consistent with the Ventura County MS4 Technical Guidance Manual which required Executive Officer Approval prior to adoption. The design</p>	<p>None</p>

			specifications are default requirements for Permittees who do not have or wish to pursue alternative design specifications.	
General	The Permit should allow for the creation of Regional Stormwater Mitigation Plans.	BIASC/CICWQ	The Order allows offsite mitigation strategies such as the retrofit of existing developments and groundwater replenishment projects. These work in conjunction with onsite retention requirements which when combined are the equivalent of Regional Plans. The permit has been revised to also include the option for a permittee or group of permittees to implement a regional or sub-regional storm water mitigation program to substitute in whole or part for new and re-development requirements.	Revision made.
VI.D.6.c.i.(2) Storm Water Management Program Minimum Control Measures, 6. Planning and Land Development Program, c. New Development/Re-development Project Performance Criteria, i. Integrated Water Quality/Flow Reduction Resources Management Criteria (2).	The Staff working proposal MCM released in March 2012 provided an option for a project proponent to use an offsite location to manage an equivalent volume of stormwater if co-equal water quality and water supply objectives are established. In the Tentative Order the opportunity for regional groundwater replenishment has been relegated to an Alternative Compliance option. We request that this option be restored as co-equal to onsite management of the SWQDv.  Allow projects that are within the contributing watershed area of an “Opportunity for Regional Groundwater Replenishment” to “opt in” to the Regional Groundwater Replenishment Project as a compliance option that is co-equal to onsite	BIASC/CICWQ	The Board is revising this section to include a tiered system of alternative compliance; with all actions other than the onsite management of the SWQDv assigned co-equal second tier status. As the Permit is focused on water quality and the easiest method of demonstrating compliance is the onsite retention of the SWQDv.	A stand-alone section was created for Groundwater Replenishment Projects.

	management of the SWQDv per VI.D.6.c.i.(2)			
Offsite mitigation will be difficult to implement	Even without the proposed restrictions to offsite mitigation, the Bureau believes that this alternative will be rarely exercised. As part of the City's low impact Development, an in-lieu fee was considered and not incorporated and we view onsite mitigation as the most practical approach. The State's Mitigation Fee Act, California Code Section 66000-66008 has additional requirements for collecting mitigation fees for approving development projects. These restrictions create cumbersome, accounting, and legal consideration and the City may not be able to meet. For these reasons we encourage flexibility in implementing on-site BMPs, including allowing planter boxes with impermeable liner and treatment systems without the need of implementing offsite projects.	City of Los Angeles	The Board recognizes the complex watersheds within LA County and wanted to include as many options as reasonable for complying with New/Redevelopment provisions. While the Board has heard commenters state they would prefer not to use offsite mitigation, its possible there may be Permittees who may choose this option. The Board has revised the planter box definition such that onsite compliance is more attainable using planter boxes.	No change for the offsite mitigation option, but planter box definition has been revised such that onsite compliance is feasible using planter boxes.
Rehabilitation projects	We agree that watershed control measures may include stream and/or habitat rehabilitation or restoration projects where they will contribute to demonstrable improvements of the physical, chemical and biological receiving water conditions.  Please clarify that such projects	Peninsula Cities	As long as the projects comply with provisions of Section VI.D.6.c.iii.3, the Board has no issues with using rehabilitation type projects. The requirements are detailed in that section.	None

	are also appropriate candidates for retrofit for purposes of offsite volume mitigation by so indicating in VI.D.6.c.iii(4)(e).			
General	Recommend that VI.D.6.d.i.(1) be modified to read: “Documentation shall be submitted within 180 days after the effective date of this Order for local LID ordinances in effect at the time of adoption, and for local LID ordinances developed subsequent to the effective date of the permit a documentation of local equivalence shall be provided to the Regional Board Executive officer for approval prior to final adoption of the local LID ordinance.	Peninsula Cities, South Bay Cities, Torrance	Comment noted, but the Board finds the proposed language is appropriate in clarity and content.	None
Section VI.D.6.c.iii.4.b Offsite Project - Retrofit Existing Development	The City requests that the Regional Board add a footnote to explain where to find definitions and acronyms for HUCs and also include the information in Attachment A – Definitions since this is a new and unfamiliar term in this Permit.	Malibu	Comment noted. The Board has added a clarifying footnote per suggestion.	Language was revised per suggestion.
Biofiltration should be considered equivalent to retain on-site.	If the 1.5 x SWQDv requirements is kept that allows for the over-sizing of the biofiltration BMPs, please clarify that the biofiltration BMPs are considered as equivalent as “retain on site” BMPs. Biofiltration BMPs such as planter boxes allow for a significant loss of the stormwater runoff through evaporation and transpiration.	LA Permit Group, City of Los Angeles	In the Order, the Board has separated and specified all offsite project categories and requirements. To help provide clarity to the Section, The Board has revised the Order language for the biofiltration provision section. Provisions regarding planter boxes have also been revised.	Order language revised to read: Conditions for Onsite-Biofiltration

<p>Planning and Land Development</p>	<p>Groundwater replenishment is definitely not an option in most areas, as the City does not have a viable aquifer due to geological conditions. Retrofitting an existing developed site has limited options, as Malibu already has a high percentage of open and undeveloped space and existing developed space that is primarily low density and rural residential, and the City has few existing commercial properties. The only feasible option left for the very limited number projects that are in the City, which are already heavily regulated by the City's approved Local Coastal Plan, is the onsite biofiltration systems. However, requiring 1.5 times the SWQDv is excessive, arbitrarily assigned and without any substantiation that treating 1.5 the volume will significantly improve the water quality any more than a design using the SWQDv.</p>	<p>Malibu</p>	<p>Groundwater replenishment is not mandated, but an option Permittees can use to comply with New and Redevelopment requirements.</p> <p>Studies in the current Ventura County Technical Guidance manual indicate there is an improvement in water quality by biofiltrating 1.5 times the SWDQv required for onsite retention.</p>	<p>None</p>
<p>Biofiltration</p>	<p>The biofiltration definition limits the systems that allow incidental infiltration. Many municipal ordinances and established engineering practices will not allow even incidental infiltration if the planter boxes are located adjacent to a building structure. Thus, this definition will exclude the most common types of planter boxes which logically have to be placed next to the building to</p>	<p>LA Permit Group</p>	<p>Flow through Biofiltration is allowed to meet on site compliance but must be sized at 1.5 times the volume of runoff that is required to be retained on site.</p>	<p>None</p>

	collect roof runoff. For this reason, consider allowing biofiltration to include planter boxes without incidental infiltration since they may be the only applicable BMPs.			
Definition A-1 Biofiltration	Industry standards considers planter boxes are a form of biofiltration. Recommend incorporating the language from the planter boxes definition into the biofiltration. Depending on the soil conditions, biofiltration may or may not be infiltrated into the ground; regardless runoff will be infiltrated through a soil media.	City of Los Angeles	Comment noted. The definition of Planter Boxes in Attachment A – Definitions has been modified to reflect the requested change and also to reference the design criteria contained in Attachment H.	Revision to Attachment A – Definitions.  Planter boxes and other flow-through treatment BMPs To comply with the biofiltration requirements in part VI.D.6.c.iii(1) of this Order, Planter Boxes must be designed in accordance with the biofiltration criteria contained in Attachment H.
Offsite projects	The conditions listed for offsite projects are overly restrictive. Consider expanding the location of the offsite projects to within watershed or within the permittees jurisdiction so there will be better opportunities and flexibility for permittees.	City of Los Angeles	The Order allows the use of the HUC 10 subwatershed for offsite projects, which can be greater than 50 sq. miles without RB approval. The Order allows even more flexibility than this with Executive Officer approval.	None
Onsite retention	The emphasis of this permit should be focused on water quality. The requirement to place	Baldwin Park, Carson, Covina, Duarte, Lawndale,	The Board agrees and will revise the Order to emphasize the prioritization of onsite retention.	Order was revised to create a stand-alone

	projects to maximize ground water recharge benefit will not necessarily improve water quality.	City of Los Angeles, County of Los Angeles, Pico Rivera, San Gabriel, West Covina		section for Groundwater Replenishment Projects.
Onsite retention	As drafted, the tentative draft permit creates fewer hurdles and requirements for onsite retention than for Regional Groundwater Replenishment, and potentially makes offsite capture as difficult to implement as other types of alternative compliance solutions.	BIASC/CICWQ	The Permit intentionally emphasizes onsite retention as a priority. The Board finds it is important to provide adequate requirements to ensure offsite projects provide equivalent water quality benefits as onsite compliance strategies.	None
In-lieu fee is not feasible	Our experience when considering an in-lieu fee for untreated runoff was that there would not be enough fees collected to implement a project. In addition the proposed fee was scrutinized and challenged by the building industry and this condition may not be legally defensible. Please remove these conditions if offsite mitigation is kept as an alternative.	City of Los Angeles, County of Los Angeles	The Board in recognition of the complex watersheds within LA County wanted to include as many options as reasonable for complying with New/Redevelopment provisions. The in-lieu fee option may be feasible for some Permittees.	None
Erosion Potential	Erosion Potential (Ep) is not a widely used term in our region, and may not be the most appropriate term to be used as an indicator of the potential hydromodification impacts.	LA Permit Group, City of Los Angeles	Erosion Potential is used in the current Ventura County MS4 Order and is used in the SCCWRP Hydromodification manual that was recently released.	None
Erosion Potential	Clarify Ep formula, in addition, Ep Equation in Appendix J shall be checked for accuracy and the parameters and their units shall be adequately defined.	County of Los Angeles	The equation was corrected and revised for clarity.	Language was revised.
Hydromodification	The requirement to retain on site the 95 <sup>th</sup> percentile storm is	City of Los Angeles	The requirement to retain on site the 95 <sup>th</sup> percentile storm is one of several options for complying with the	None

	excessive and inconsistent with all other storm design parameters that appear in this order. It may also not be an appropriate storm in terms of soil deposits for the soil deprived streams such as Santa Clara Creek. Again consider referring to the statewide policy for a consistent and technical basis of the hydromodification requirements.		hydromodification requirements. It is not mandated that a Permittee utilize this option.	
Erosion Potential	Instead of using the Erosion Potential (Ep) method, the critical flow that triggers the movement of sediment can be computed. This critical flow shall be less than the 85 or 95 percentile values to achieve hydromodification.	County of Los Angeles	The Order allows multiple strategies to comply with interim Hydromodification requirements. Staff will allow Permittees to utilize findings from the recent SCCWRP Hydromodification study to come up with their final criteria for hydromodification requirements and another alternative was included to allow the use of the 2009 LACFCD LID Manual.	The Hydromodification section was revised.
Storm Event	I am unaware of any studies that have evaluated the use of the 2-yr, 24-hr storm event (as either an infiltration volume or as a basis for matching flow rates, volumes and durations) to determine its equivalence to an Erosion Potential metric or to a flow control criteria using a range of geomorphically significant flows. Options 1 and 2 do not appear to have any basis in the scientific literature.	Felicia Federico (UCLA)	The 2 year, 24 hour storm event was taken from the USEPA's guidance for Federal facilities which linked the storm event to hydromodification control. By having project proponents mimic predevelopment conditions for their project by retaining frequently occurring storm onsite, the impact of flow as a pollutant should be appropriately mitigated. . If State or Regional Water Board adopts a policy or criteria, this requirement may be amended to include the pertinent criteria.	None
HAS	The Ventura County MS4 Permit (finalized by the Los Angeles Regional Board in January 2010) contains requirements for a Hydromodification Analysis Study (HAS) for projects	Felicia Federico (UCLA)	The HAS requirement in the Ventura Order is a compliance option in the Tentative Order. Additionally, the permit allows options including onsite retention of the 2 year, 24 hour storm, and the matching of pre and post development runoff flow for the 2 year, 24 hour storm. . If State or Regional	None

	<p>disturbing 50 acres or greater. The HAS must demonstrate that post development conditions approximate pre-project erosive effects in receiving waters through the incorporation of an Erosion Potential or equivalent metric. I recommend that the Board modify the draft tentative order for Los Angeles County to be consistent with the Ventura County Permit hydromodification control criteria for projects of 50 acres or greater.</p>		<p>Water Board adopts a policy or criteria; the permit may be modified to include new hydromodification criteria.</p>	
Work equations	<p>I also suggest that Attachment J be modified to indicate that the Work equation shown is just one of several equations that could be used to calculate an Erosion Potential. Other options include sediment transport function such as the Brownlie equation or the Meyer-Peter and Muller equation<sup>5</sup>. Allowing additional options supported by the scientific literature will permit the use of equations most appropriate for the characteristics of the receiving channel.</p>	<p>Felicia Federico (UCLA)</p>	<p>The Board agrees and will include additional work equations.</p>	<p>Language was revised.</p>
	<p>Site retention of the 95 percentile storm was suggested to achieve modification. Specify the duration of the storm. For Water Quality purpose such as Hydromodification and TMDLs, the percentile is a preferred method. The 2-year 24-hour rainfall event is good for</p>	<p>County of Los Angeles</p>	<p>The Board agrees.</p>	<p>The Order language was revised to include storm duration.</p>

	analyzing extreme events like floods.			
VI.D.6.c.v.(1).(b).(iii) and (1).(c).(i).1 Storm Water Management Program Minimum Control Measures, 6. Planning and Land Development Program, c. New Development/Redevelopment Project Performance Criteria v. Hydromodification (Flow/Volume/Duration) Control Criteria (1)(b)(iii) and (1)(c)(i)1.	<p>We recommend providing a definition for pre-project condition.</p> <p>We recommend striking (1)(c)(i)1 and allowing projects less than 50 acres to install LID BMPs to the MEP per process described in Part VI.D.6.c.i, to meet interim hydromodification control standards. In addition, allow projects an additional option of complying with existing LA County Hydromodification Control Requirements found on pages 19 and 20 in the County of Los Angeles Low Impact Development Standards Manual, January 2009.</p>	BIASC/CICWQ	<p>Part VI.D.6.c.i includes the following LID option to satisfy Hydromodification requirements for sites less than 50 acres: <i>“The project is designed to retain on-site, through infiltration, evapotranspiration, and/or harvest and use, the storm water volume from the runoff of the 95th percentile storm”.</i></p> <p>The hydromodification specifications in the Order were developed on the basis of additional data and information on effective control of Hydromodification impacts that has become available since 2001, for example, SCCWRP Technical Report 667. If State or Regional Water Board adopts a policy or criteria, this requirement will be amended to include the pertinent criteria.</p>	Language in the Order was revised to allow the additional option of complying with existing LA County Hydromodification Control Requirements found on pages 19 and 20 in the County of Los Angeles Low Impact Development Standards Manual, January 2009.
Hydromodification	The draft permit should be revised to allow permittees to use currently adopted hydromodification control standards as an alternative to the Interim hydromodification Control Criteria proposed in the Tentative Order.	LA Permit Group, La Verne, Santa Clarita, BIASC/CICWQ	The hydromodification specifications in the Order were developed on the basis of additional data and information on effective control of Hydromodification impacts that has become available since 2001 (see, for example, SCCWRP Technical Report 667). A variety of options are available to Permittees; the permit has been revised to also allow the use of the existing LA County Hydromodification Control Requirements found on pages 19 and 20 in the County of Los Angeles Low Impact Development Standards Manual, January	Language in the Order was revised

			2009.	
Section VI.D.6.c.v.1.b Exemptions to Hydromodification Controls	This condition states, “Permittees may exempt the following New Development and Redevelopment projects from implementation of hydromodification controls where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse hydromodification effects to present and future beneficial uses of Natural Drainage Systems are unlikely.” Permittees have no means to determine what future beneficial uses may be, only what current beneficial use determinations have been established. Please delete “and future.”	Malibu	The Board agrees and will delete the “future” reference.	Language was revised.
Hydromodification	Exempt single family home projects of just one unit from the interim hydromodification requirement until the adoption of the State or Regional Water Board final hydromodification policy or criteria--this will provide for sufficient review time to consider what approach is appropriate for projects of one unit	Peninsula Cities	The Order only requires Hydromodification for projects 1 acre and above. For the single unit homes, that meet this threshold, the permit has been revised to include language similar to the Ventura County MS4 Permit that states, “LID implemented on single family homes will be sufficient to comply with interim Hydromodification criteria.”	Revision made.
Development Control Program	Erosion potential analysis for under an acre is unnecessarily strict and will require expertise these types of project proponents do not have. Please remove this requirement.	Santa Clarita	Hydromodification requirements apply to projects 1 acre or greater.	None
LID	Permittees that have adopted LID ordinances and corresponding	Downey, LA Permit Group, County of	The Order includes an LID Equivalence provision addressing the commenter’s suggestion.	None

	technical documents should be allowed to implement those existing requirements.	Los Angeles		
LID	As mentioned above, the City has a substantial LID program. Credit should be given to cities, such as Downey, that will have lowered the volume of runoff so that miniscule amounts of runoff that may from time to time exceed water quality standard not be considered violations (Water Quality Standards should be mass- bases as well as concentration-based.)	Downey	The Watershed Management Program has been revised to allow for Enhanced Watershed Management Programs that maximize retention of the 85 <sup>th</sup> percentile 24-hour storm, and to specify how compliance will be determined where Permittees elect to develop and implement such a program.	Revision made to Part VI.C.
VI.D.6.d.i Storm Water Management Program Minimum Control Measures, 6. Planning and Land Development Program. d. Implementation, i. Local Ordinance Equivalence	We recommend recognizing regional mitigation programs in addition to local ordinances that provide program equivalence  Local ordinances and regional mitigation programs provide greater program flexibility, allow jurisdictional specific water quality issues to be directly addressed at a local level, and allow regional projects to incorporate and achieve multiple benefits while meeting water quality standards.	BIASC/CICWQ	The permit has been revised to include the option for a permittee or group of permittees to implement a regional or sub-regional storm water mitigation program to substitute in whole or part for new and re-development requirements.	Revision made to Part VI.D.7.(c).
VI.D.6.c.vi. Storm Water Management Program Minimum Control Measures, 6.	We recommend moving this paragraph/clause to the section addressing alternative compliance measures when using LID BMPs.  There is a similar statement in Ventura County MS4 permit	BIASC/CICWQ	The Order is revised accordingly.	Language revised.

Planning and Land Development Program, c. New Development/Redevelopment Project Performance Criteria, vi. Watershed Equivalence	(July 2010), which appears on page 59 within Section III. New Development/Redevelopment Performance Criteria. 2.(d)			
Existing projects	Language of the draft Permit states that: (d) Existing Development or Redevelopment projects shall mean projects that have been constructed or for which grading or land disturbance permits have been submitted and deemed complete prior to the adoption date of this Order, except as otherwise specified in this Order.” The ideal time to incorporate LID into projects is during the early planning phases before tentative maps have been approved. Projects that are already past this stage should be considered to be existing projects.	County of Los Angeles, BIASC/CICWQ	The Board concurs.	The grandfathering language will be revised to be consistent with the current Ventura County MS4 Order.
Schedule	The schedule for third party petition of offsite projects or EO approval should not be open ended but limited to 30 days.	County of Los Angeles	The Board agrees the schedule for 3 <sup>rd</sup> party petition should not be open ended.	Staff will include language with a specific time frame for the public noticing of offsite projects.
BMP Treatment	Such requirements center on the treatment of stormwater runoff	County of Los Angeles	The BMP Treatment section is focused on BMP performance. Permittees have the legal authority to	Language revised.

	<p>from the project site, including meeting the pollutant specific benchmarks set forth in the attached table (Table 11) and <u>“ensure that the discharge does not cause or contribute to an exceedance of water quality standards at the Permittee’s downstream MS4 outfall.”</u> We have some concerns with respect to the second requirement. The requirement not to cause or contribute to exceedance of a water quality standard is not contained in the CWA, which only requires Permittees to effectively prevent non-stormwater discharges to the MS4 and to take steps to the MEP to address pollutants in discharges from the MS4. Additionally, more clarity is needed on the meaning of “Permittee’s downstream MS4 outfall.”</p>		<p>control discharges from new and redevelopment to their MS4s to ensure that such discharges do not contain pollutants at level that would cause MS4 discharges to result in exceedances of water quality standards in the receiving waters downstream of the project location. These Treatment BMP Performance Standards are intended to support Permittees’ ability to adequately control discharges of pollutants from new and re-development.</p> <p>The comment regarding the provisions requiring that discharges from the MS4 do not cause or contribute to exceedances of receiving water limitations is addressed in the response to comments on the Receiving Water Limitations provisions.</p>	
General	<p>Projects that treat water offsite through retention, infiltration or use should not also have to treat water onsite.</p>	<p>LA Permit Group, La Verne, City of Los Angeles, County of Los Angeles</p>	<p>This provision is consistent with the Los Angeles Water Board’s approach as adopted in the Ventura County MS4 Permit in 2010. Projects where on-site retention or biofiltration is not feasible, permittees, at a minimum, must still implement control measures to reduce the discharges of pollutants from the site to the maximum extent practicable.</p>	<p>None</p>
Maintenance agreements	<p>Requiring maintenance agreements for all LID practices is highly problematic. Most LID strategies will be implemented at the site level (including individual residents) and to require homeowners to enter into</p>	<p>Inglewood, LA Permit Group, La Verne, County of Los Angeles</p>	<p>The Board agrees regarding maintenance agreements for simple site level LID BMPs</p>	<p>The Order language will be revised to remove LID BMPs implemented within single-</p>

	<p>maintenance agreements for their LID practices is impractical and a huge cost implications. Rather the maintenance agreements should be limited to regional facilities and/or treatment control BMPs.</p>			<p>family residences from the maintenance agreement provision.</p>
<p>General</p>	<p>The annual requirement that each Permittee prepare a list of mitigation project descriptions and pollutant and flow reduction analyses comparing the expected aggregate results of alternative compliance projects to results that would otherwise have been achieved by retaining on site the SWQDv is a significant new undertaking and will require significant technical resources, most likely through outside expertise. Due to the timeframes associated with the mitigation programs, in particular the off-site mitigation projects, such an analysis should not be required every year, but more appropriately once every four-five years in line with the time frame for offsite mitigation timelines and in order to provide meaningful information.</p>	<p>Peninsula Cities</p>	<p>The Board agrees; the timeframe has been revised to 4 years after adoption of the Order for the complete analysis. However, contributing flows from projects that are addressed by offsite projects should be listed on an annual basis though, in order to verify the comprehensive report due at a later date.</p>	<p>The timeframe and respective language was revised to 4 years per commenter suggestion.</p>
<p>Attachment E Effectiveness tracking database</p>	<p>This list of effectiveness tracking does not match with the information provided on Section VI.D.6.d.iv on page 82. Also delete item 11 from the list since this is not a site specific feature and can be easily mapped for our</p>	<p>City of Los Angeles</p>	<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. While the purpose of the former is to maintain an up-to-date inventory of new projects, the post-construction BMP database will store data</p>	<p>None</p>

	region using rain gage data.		obtained during inspections.  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.	
Attachment E, XVIII.A.2.d, Pg. E-43 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. However we believe this condition will be applicable for permittees that Permittees that have significant areas that drain to natural drainage systems.	City of Los Angeles	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 City of Los Angeles. (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 watershed basis.	None
BMP inspection	BMP inspection based on a fixed time interval is arbitrary and poor use of resources. The Permittee should be allowed to prioritize inspection based on previous inspection history.	County of Los Angeles	The maintenance of BMPs is crucial to their performance and unless a regular interval is set, it is staff’s experience that many times the maintenance is not performed. Permittees can utilize the BMP substitution clause if they are able to demonstrate the specified level of maintenance is not necessary.	None

<p>VI.D.6.d.iv.(1).(c).(ii)  Planning and Land Development Program/Construction Inspection</p>	<p>Change inspection frequency to 2x per year at the beginning and end of rainy season or inspection per the CASQA Stormwater BMP Handbook for New Development and Redevelopment for the first two years of operation with future inspection frequency of up to 2 years allowed only if BMP demonstrates adequate performance without the need for maintenance during the first two years. If more frequent maintenance is required, at a greater than 2 year interval, inspection frequency should be 2x the required maintenance frequency.</p> <p>This section is critical for the long term operation and performance of BMPs. With failure rates in the range of 50% for biotreatment and infiltration BMPs within the first two years of construction, it is important that regular and frequent inspection be undertaken. Inspection results should become a basis for future inspection and maintenance frequency. Most landscape based BMPs require regular vegetation maintenance with replacement of mulch and clearing of debris and sediment at least annually.</p>	<p>Contech</p>	<p>Comment noted. This frequency was agreed upon by the Regional Water Board and the Permittees in recognition of the very large number of currently implemented post-construction BMPs and projected implementation in the future.</p>	<p>None</p>
<p>Annual report</p>	<p>The Tentative Permit requires annual reports by the other parties demonstrating proper maintenance and operations"</p>	<p>County of Los Angeles</p>	<p>The Board agrees that requiring annual reports by private property owners is difficult and requiring them to retain maintenance records on site is a practicable alternative.</p>	<p>Revised language to require record retention on site for private</p>

	This proposed language is not practical and is difficult to enforce on private property owners. As an alternative we recommend that private property owners should maintain their records on site, and make them available upon request.			property owners.
Performance criteria	The Draft Permit's Performance Criteria Appropriately Require New Development and Redevelopment Projects to Retain On-Site the 0.75-inch, 24-hour rain event or the 85th percentile, 24-hour rain event, whichever is larger.	Environmental Groups	The Board concurs.	None
Design volume	The Draft Order in Provision D.6.c.i (page 70) requires the developer to retain the stormwater quality design volume as calculated by either the 0.75 inch storm or the 85th percentile 24 hour storm whichever is greater.	LA Permit Group, Inglewood, La Verne	The 0.75" storm water quality design volume for SUSMP in the current LA County MS4 Permit is the 85 <sup>th</sup> percentile 24 hour storm event for the downtown LA rain gauge. It was accepted as the default to aid smaller project proponents in designing their SUSMP manual, because at that time the 2004 LA County hydrology manual with isohyetal maps for LA County was not in place. This provision requires the greater of the two thresholds to maintain the level of water quality protection required by the previous permit. The core requirement is based on the 85 <sup>th</sup> percentile 24 hour storm.	None
General	The Draft Permit's Planning and Land Use Program Fails to Meet the Requirements of the MEP Standard Due to its Unjustifiably Lenient Applicability Thresholds For New Development, is Hampered by a Lack of Clarity with respect to Alternative Compliance, Would Improperly Allow for Biofiltration to be Used	Environmental Groups	The project thresholds included in the Order are consistent with the Ventura County MS4 Order and with the majority of the MS4 Permits in the State. The thresholds are reasonable in light of the onsite retention requirement for project categories. The technical infeasibility discussion is reasonable as written.	None

	When On-Site Retention is Feasible, and Creates an Unlawful Self-Regulatory Scheme in Violation of the Clean Water Act.			
Threshold	The Applicability Threshold for New Development Projects is Set Unjustifiably High and Fails to Meet MEP	Environmental Groups	The project thresholds included in the Order are consistent with the Ventura County MS4 Order and with the majority of the MS4 permits in the State. The thresholds are reasonable in light of the onsite retention requirement. The technical infeasibility is reasonable as written.	None
Repaving	Repaving of Greater than 10,000 Square Feet of Surface Area on Publicly Owned Streets or Parking Lots Should Trigger Requirements to Meet Post-Construction Low Impact Development Standards	Environmental Groups	The Order exempts these categories if the original grade and line are kept because in order to ensure the soil has adequate infiltration capacity it would mean that the soil underneath the surface would have to be amended and prepped to ensure adequate runoff capacity is available and geological stability is maintained. This would turn routine maintenance projects into major construction.	None
Groundwater replenishment	The Draft Permit's Alternative Compliance Provisions Lack Clarity and Should: 1) Require That Mitigation be Tied to Water Supply; and 2) Distinguish Between Groundwater Replenishment Facilities that Convey Runoff From the Project Site (Hydrologically Connected) and Those that Are Hydrologically Unconnected From the Project Site	Environmental Groups	The Board agrees that ground water replenishment should be tied to an aquifer used for water or potential water supply. The Board does not feel there is a need to distinguish between projects that are and are not hydrologically connected as the Order specifies the water quality benefits have to be equivalent to those achieved by onsite retention and the land uses in projects that are not hydrologically connected have to be similar to the land uses where the development project is located.	Language will be included to specify ground water replenishment projects must be tied to aquifers used for water supply or with the potential to be used for water supply based on Beneficial Use designations.
Biofiltration	The Draft Permit's Alternative Compliance Provisions for Biofiltration are Insufficiently Protective of Water Quality and Would Improperly Allow Use Of	Environmental Groups	The Order requires a demonstration of infeasibility of onsite retention before on site biofiltration can be utilized. To compensate for the difference in pollutant removal a 1.5 multiplier, identical to the Ventura County MS4 Order, is used for the storm water design	None

	Biofiltration Off-site, Even Where On-Site Retention or Biofiltration were Feasible		volume to compensate for the differences in pollutant removal. Detailed biofiltration design specifications were included to maximize the performance of these systems.	
General	The Draft Permit's Local Ordinance Equivalence Provision Creates a Self Regulatory Scheme in Violation of the Clean Water Act	Environmental Groups	The Order was revised to specify criteria for the LID Ordinance.	Revision made.
Agency and Public Oversight	The Draft MS4 Permit Illegally Eliminates Essential Agency and Public Oversight	Environmental Groups	The Order allows the Executive Officer to approve certain documents but part of the Executive Officer approval process includes public review of the draft document(s) prior to approval.	None
SUSMP	The tentative order replaces the Development Planning/SUSMP with Planning and Land Development Program. However, the SUSMP is mandated through a precedent-setting WQO issued by the State Board.	Baldwin Park, Carson, Covina, Duarte, Lawndale, Pico Rivera, San Gabriel, West Covina	The program has been renamed but the current Planning and Development Program is an evolution of the SUSMP and is entirely based on the current SUSMP program. The storm water quality design volume sizing and core objectives are the same.	None
Retrofitting	Retrofitting existing developments through the Land Use Development Program is not authorized under federal stormwater regulations.	Baldwin Park, Carson, Covina, Duarte, Lawndale, Pico Rivera, Pomona, San Gabriel, West Covina, Ventura Countywide Stormwater Quality Management Program	The Permit requires the inventorying of suitable facilities for retrofitting opportunities, and allows retrofitting of existing development as an alternative within the Planning and Land Development section under certain circumstances, but does not mandate retrofitting anywhere in the Order.	None
Retrofitting	The Permit states: "Each Permittee shall develop an inventory of retrofitting opportunities that meets the requirements of this Part VI.8.D... The goals of the existing	LA Permit Group, Ventura Countywide Stormwater Quality Management Program	The Permit requires the inventorying of suitable facilities for retrofitting opportunities, but does not mandate retrofitting anywhere in the Order.	None

	<p>development retrofitting inventory are to address the impacts of existing development through regional or sub-regional retrofit projects that reduce the discharges of storm water pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards."</p> <p>This process would require land acquisition, a feasibility analysis, no impacts to existing infrastructure, proper soils, and support of various interested stakeholders. Additionally, if a property or area is being developed/redeveloped, retrofitting the site for water quality purposes makes sense, but not for an area where no development/redevelopment is planned. Finally, the LID provisions have already included provisions for off-site mitigation, in which we recommend that regional water quality projects be considered in lieu of local-scale water quality projects that will prove difficult to upkeep, maintain, and replace, let alone have existing sites evaluated as feasible. For these reasons, this requirement should be removed.</p>			
Local Ordinance Equivalence	The requirement of 180 days for the "Local Ordinance Equivalence" may be difficult to	LA Permit Group	The Permit requires a Permittee to submit documentation that their current LID Ordinance is equivalent to what is required in the Permit. This does	None

	be met due to the typical processing and public review period for changes to local municipal codes. Consider revising this provision to require immediate start of this effort instead.		not require any changes to local municipal ordinances.	
General	The stated objective of mimicking the predevelopment water balance is not consistent with the requirement that the entire design storm be managed onsite.	LA Permit Group, Peninsula Cities	There have been studies that show that runoff in undeveloped areas may not occur until over an inch of rainfall is received even in areas with clay soils. The SWDQV retention value (85 <sup>th</sup> percentile 24 hour storm) is within the range where many studies have shown no runoff would occur in a undeveloped area.	None
Hillside homes	Recommend that the special requirements for hillside homes be relocated to a different location within VI.D.6 such as under Vi.D.6.a.i. as item (8) so that such projects will not be included in the list of new development/ redevelopment projects requiring strict numerical volume runoff reduction.	Peninsula Cities	The section of the Permit does not specify strict numerical volume reduction as the current Order does. As such, the inclusion of hillside homes within the section is appropriate.	None
Economic feasibility	Economic considerations in evaluating and selecting LID BMPs for control of the stormwater quality design volume are absent.  We continue to emphasize including economic feasibility in selecting onsite or offsite LID BMPs, and include economic feasibility as part of the LID BMP feasibility determination process along with technical feasibility. The maximum extent practicable (MEP) standard expressly	BIASC/CICWQ	The Federal Clean Water Act requires controls to reduce the discharge of pollutants to the maximum extent practicable. Implementing regulations at 40 CFR section 122.26(d)(2)(iv) identify the core elements of a storm water management program, including measures to reduce the discharge of pollutants from MS4s that receive discharges from areas of new development and significant redevelopment (subsection (iv)(A)(2)). Low impact development (LID) has been shown to be a cost-effective way to reduce runoff volume and to reduce pollutants discharged to the MS4 from these areas. There are a broad range of LID BMPs from which to select, based on a hierarchy of options depending on site conditions, along with options for off-site mitigation under certain circumstances where	None

	includes the recognition of economic considerations when evaluating stormwater management options.		site conditions render LID BMPs technically infeasible. The flexibility provided in the draft tentative order along with the availability of alternative compliance approaches where there is a demonstration of technical infeasibility allows selection of BMPs that will be cost-effective.	
VI.D.6.c.i.(4) Planning and Land Development Program/New Development/Redevelopment Project Performance Criteria	"Maximum potential for rainwater harvest and use" is not defined in this order.  Feasibility criteria for rainwater harvest and use is not included in this order. Feasibility assessments should be based on the 30 day site demand including landscape irrigation and indoor nonpotable use where allowed, and should allow application of harvested water to landscaping area in excess of the agronomic demand as long as runoff is not created.	Contech	Comment noted. The Regional Water Board elected to set no specific criteria for maximum potential, and to instead allow developers to develop justification for green roofs and rainfall harvesting to the full extent at the discretion of the Permittees. An example is the Spec sheet for rainwater harvesting in the Ventura County TGM, which states "Rainwater harvesting is not required to be used if the available demands do not meet the volume required for 80% capture using a 72 hour drawdown time." A comparable requirement would be the SWQDv with a 72 hour drawdown.	None
VI.D.6.c.v.(1).(c).ii.1 Rainwater Harvesting	Modify existing text: "The site infiltrates or retains via rainwater harvest and use at least the runoff from the 2-year, 24-hour storm event..."  Additional text in red font should be added to reflect a wider range of runoff reduction BMPs that may be employed.	Contech	Rainwater harvesting would not be anticipated to be used to achieve the capture of the 2 year 24 hour storm for an area this large.	None
VI.D.6.c.ii.(2) Storm Water Management Program Minimum Control	A statement such as "the project applicant must demonstrate that the project cannot reliably retain 100 percent of the SWQDv onsite, even with the maximum application of green roofs and	BIASC/CICWQ	Comment noted. The Regional Water Board elected to set no specific criteria for maximum potential, and to instead allow developers to develop justification for green roofs and rainfall harvesting to the full extent at the discretion of the Permittees.	None

Measures, 6. Planning and Land Development Program, c. New Development/Redevelopment Project Performance Criteria, ii. Alternative Compliance for Technical Infeasibility or Opportunity for Regional Groundwater Replenishment	rainwater harvest and use....” is unclear given existing permit language, and is inconsistent with precedential language established in the Ventura County MS4 permit.		No permit adopted by the Board, including the Ventura County MS4 permit, is precedential. Each permit is case-specific.	
Section VI.D.6.a .i.6 Purpose	Drainage of a structural BMP within 96 hours at the end of rainfall may not be practical. The drainage of the BMP will most likely be used for landscape irrigation. Within 96 hours at the end of a rain event, landscape irrigation may not be needed. Other measures, such as recirculation, should be considered to minimize the potential for the breeding of vectors.	Malibu	The 96 hour drawdown time is consistent with guidance from the Vector Control agencies. Though other mosquito abatement techniques may be practicable, the Board decided to incorporate the most protective strategy.	None
New Development	Item (4) (page 70): this item should be eliminated. It forces an evaluation of green roofs for every project, whether or not a green roof is proposed.	Downey, Norwalk, Vernon	The purpose of this provision is to ensure dischargers look at all means to retain storm water on site before utilizing alternative compliance options.	None
VI.D.6.c.iv.(1)	This is an extremely onerous	BIASC/CICWQ	Federal regulations require that MS4 permittees	None

<p>through (3) Storm Water Management Program Minimum Control Measures, 6. Planning and Land Development Program, c. New Development/Redevelopment Project Performance Criteria, iv. Water Quality Mitigation Criteria (1-3)</p>	<p>requirement and questionably legal; we recommend striking much of this requirement and providing an alternative method of demonstrating that treatment control BMPs have been selected to adequately address pollutants of concern.</p> <p>During the July 9, 2012 staff workshop, staff clarified that the purpose of water quality mitigation criteria (Section 4.D.6.c.iv) is to guide the selection of treatment BMPs for projects that have been approved for offsite mitigation or groundwater replenishment to address the pollutants of concern for the project site. As written, however, this section appears create unnecessary legal liability in the treatment BMP selection process, as it requires that treatment BMPs be selected to achieve receiving water limitations and WQBELS at downstream MS4 outfalls.</p>		<p>develop, implement, and enforce controls to reduce the discharge of pollutants from MS4s that receive discharges from areas of new development and significant redevelopment. (40 CFR § 122.26(d)(2)(iv)(A)(2).) Treatment BMP benchmarks were established from the median effluent values of the top 6 performing BMPs per pollutants. The inclusion of the benchmarks is to ensure appropriate BMPs are selected for pollutants expected to be discharged from a completed project.</p>	
<p>Section VI.D.6d.iv.1.c.i. Tracking, Inspection, and Enforcement of Post-Construction BMPs</p>	<p>Please clarify if the “Post-construction BMP Maintenance Inspection checklist” is an item that will be provided by the Regional Board or if is an item that the permittees are required to develop.</p>	<p>Malibu</p>	<p>The intent of the requirement is to have Permittees develop a checklist that is appropriate for their use. Clarifying language will be added.</p>	<p>Revision made.</p>

	<p>For post-construction BMPs operated and maintained by parties other than the Permittee, the Permittee shall require annual reports by the other parties demonstrating proper maintenance and operations.</p> <p>Concern- This requirement appears to be superfluous and without substance in addition to lacking the technical details required to be included in such a report.</p> <p>Proposed Solution- Monitor and regulate the BMP maintenance through the Commercial/Industrial Inspection Program.</p>	Vernon	<p>The proper maintenance of BMPs is crucial to their continued performance and the Board’s intent is to ensure post construction BMPs are properly maintained. The permit has been revised to require the documentation of maintenance conducted and eliminate the annual report requirement for non-Permittees and instead require the documentation of BMP inspection and maintenance.</p>	Revisions made.
<p>Section VI.D.6.c.ii.(2)(f ) Alternative compliance for Technical Infeasibility or Opportunity for Regional Ground Water Replenishment</p>	<p>This section should include any dewatering wells that are used to reduce the geotechnical hazards. The City has several dewatering wells located throughout the City that are used to stabilize the hillsides and slopes and to mitigate landslide threats. These dewatering wells are used to avoid rising groundwater that could cause landslides and other geotechnical hazards. Allowing the replenishment of groundwater in these locations would increase the amount of dewatering beyond what the existing dewatering pumps can produce. This will cause instability in the existing geotechnical hazard area. Lastly,</p>	Malibu	<p>The example noted in the comment is captured within the technical infeasibility criteria as a location with potential geotechnical hazards. A site in such a location could utilize onsite biofiltration or retain the volume of runoff not captured onsite at an offsite location.</p>	None

	the groundwater would not be replenished in this area since the groundwater pumps would collect the water.			
Construction Requirements	<p>The requirement that offsite projects must be completed within 4 years of the certificate of occupancy for the first project that contributed funds toward the construction of the offsite project is an impossible expectation for offsite projects of any significant scale. Municipalities cannot implement retrofit-type offsite projects without a significant portion of the construction funds in hand or committed, so this requirement will effectively limit the scale and effectiveness of offsite projects to those that are very small and can be funded within a narrow window of time to allow for design and construction of the retrofit project within the 4-year window.</p> <p>Recommend that this requirement be changed to “within 4 years of the certificate of occupancy for the <i>last</i> project that contributed funds toward the construction of the offsite project”</p>	South Bay Cities	<p>The Permit states;</p> <p>“Offsite projects shall be completed as soon as possible, and at the latest, within 4 years of the certificate of occupancy for the first project that contributed funds toward the construction of the offsite project, <u>unless a longer period is otherwise authorized by the Executive Officer of the Regional Water Board.</u>”</p> <p>A longer implementation time is allowed with Executive Officer approval.</p>	None
Practicability of LID and treatment control standards	The Draft Permit and Fact Sheet fail to show any considered analysis and evaluation of the MEP factors with respect to the many new, and more stringent low impact development (LID)	BILD	The Board disagrees. As detailed in the Fact Sheet, although not required, the Board has considered the factors in section 13241 of the California Water Code, including costs. In that consideration, the Board specifically “recognizes that Permittees will incur costs in implementing this Order above and beyond the costs	

	<p>and treatment control standards and requirements proposed for inclusion in the permit. It does not appear that cost, technical feasibility or public acceptance of any those new standards or requirements have been analyzed to assure that they are consistent with treatment control to the MEP.</p>		<p>from the Permittees’ prior permit. Such costs will be incurred in complying with the post-construction, hydromodification, Low Impact Development, TMDL, and monitoring and reporting requirements of this Order.” (Fact Sheet, Section XIV.) Based on the economic considerations, the Board has provided permittees a significant amount of flexibility to choose how to implement the permit. The permit allows permittees the flexibility to address critical water quality priorities, but aims to do so in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act. For example, the inclusion of a watershed management program option allows Permittees to submit a plan, either individually or in collaboration with other Permittees, for Regional Water Board Executive Officer approval that would allow for actions to be prioritized based on specific watershed needs. In the end, it is up to the permittees to determine the effective BMPs and measures needed to comply with this Order. Permittees can choose to implement the least expensive measures that are effective in meeting the requirements of this Order.</p> <p>Further, there is an element of cost consideration inherent in the MEP standard. While the term “maximum extent practicable” is not specifically defined in the Clean Water Act or its implementing regulations, USEPA, courts, and the State Water Board have addressed what constitutes MEP. MEP is not a one-size fits all approach. Rather, MEP is an evolving, flexible, and advancing concept, which considers practicability. This includes technical and economic practicability. Compliance with the MEP standard involves applying BMPs that are effective in reducing or eliminating the discharge of pollutants in storm water to receiving waters. BMP development is a dynamic process, and the menu of BMPs may require changes over time as experience is gained and/or the</p>	
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			<p>state of the science and art progresses. MEP is the cumulative effect of implementing, evaluating, and making corresponding changes to a variety of technically appropriate and economically practicable BMPs, ensuring that the most appropriate controls are implemented in the most effective manner. The State Water Board has held that “MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the costs would be prohibitive.” (State Water Board Order WQ 2000-11.)</p> <p>The commenter has provided no evidence that the LID and treatment control standards and requirements are not technically or economically impracticable.</p>	
<p>Planning and Land Development Program</p>	<p>CEQA preempts the Planning and Land Development Program requirements. The assumption is that all runoff from a wide class of New Development and Redevelopment projects will result in significant adverse impacts on the environment, namely, water quality, and that such impacts must, therefore, be mitigated by those particular mitigation measures as mandated in the Permit. The permit dictates the terms and results of environmental review, without regard for CEQA's provisions, and eliminates a local governmental agency's discretion to consider and approve feasible alternatives or mitigation measures — even if alternative measures may have a lesser effect on the environment.</p>	<p>Signal Hill</p>	<p>The Planning and Land Development Program requirements are included in the permit pursuant to federal law. (See 40 C.F.R. § 122.26(d)(2)(iv)(A).) Any conflicting state laws, including CEQA, are preempted by federal law. (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.) Applying CEQA would stand as “an obstacle to the accomplishment of the full purposes and objectives of [the federal law].” (Silkwood, 464 at p. 248.)</p> <p>In addition, local land use planning must be consistent with general statewide laws. (<i>County of Los Angeles v. California State Water Resources Control Board</i> (2006) 143 Cal.App.4th 985, 1003.) Article 11, section 7, of the California Constitution states that a county or city may not enact laws that conflict with general laws. The Porter-Cologne Water Quality Control Act contains the California Legislature’s finding that water quality is a matter of state-wide concern, requiring a statewide program administered at a regional level. (See, e.g., Wat. Code, § 13000; see also generally</p>	<p>None</p>

			<p><i>Southern California Edison v. State Water Resources Control Board</i> (1981) 116 Cal.App.3d 751, 758.) Section 101 of the CWA has a companion policy statement, where Congress found that water quality is a matter of federal concern. The regional boards are explicitly granted the authority to issue NPDES permit to implement the Clean Water Act. The Clean Water Act requires that permits include controls to reduce pollutant discharge in areas of new development and significant redevelopment. The mandates in the permit such as the Planning and Land Development Program requirements result from those express legislative provisions.</p> <p>In addition, the permit does not restrict or control local land-use decision-making authority. Rather, the permit requires permittees to fulfill Clean Water Act requirements and protect water quality in their land use decisions. The requirements in the permit allow for flexibility in compliance options to the extent allowable under the Clean Water Act. Further, environmental regulation is not land use regulation, and therefore does not infringe upon local authority over land use decisions. (<i>California Coastal Commission v. Granite Rock</i> (1987) 480 U.S. 572; see also <i>In re Los Angeles County Municipal Storm Water Permit Litigation</i> (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 13-16.)</p> <p>Moreover, CEQA does not grant substantive regulatory authority to governmental agencies. Section 15040(b) &amp; (e) state that “CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws... [t]he exercise of discretionary powers for environmental protection shall be consistent with express or implied limitations provided by other laws.” CEQA also explicitly states that none of its provisions “is a limitation or restriction on the power or</p>	
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			<p>authority of any public agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer ...” (Cal. Pub. Res. Code § 21174.) Therefore, CEQA cannot preempt the Board’s authority to include permit terms that are protective of water quality.</p> <p>Lastly, Public Resources Code section 21003 demonstrates that the Legislature intended CEQA to be an environmental review process, not the only one. Given the powers vested in the Regional Water Board to implement water quality control and coordination under the Porter-Cologne Act, the Board can require additional environmental reviews consistent with this authority and it can specify and require action to ameliorate the impacts of polluted runoff without offending CEQA. (See, e.g., Pub. Resources Code, § 21174; <i>Bozung v. Local Agency Formation Com.</i> (1975) 13 Cal.3d 263, 274.)</p>	
Biofiltration	<p>The hierarchy of LID provisions relegates to a relatively inferior status the use of bio-filtration employed as a means to mimic the natural flow of diffuse storm water while benefitting water quality. If the Board were to formalize the final permit with such a hierarchy, it would run afoul of thousands of years of legal policy that favors the maintenance or mimicking of natural water flows. As proposed, the requirements would impose a generally-applicable presumptive requirement that almost no storm water (from a design storm) should be allowed to flow from a parcel that has been developed or</p>	BILD	<p>The capture of a given volume of storm water runoff with the pollutants associated with it is more easily quantified, is subject to far less uncertainty than the treatment of storm water runoff, and is subject to fewer design variables than using treatment processes to remove pollutants from storm water runoff. The natural flow and common enemy doctrines referenced by the commenter are common law doctrines that govern the rights and obligations of adjacent landowners with respect to the flow of diffuse surface water across their properties. The permit does not purport to alter the applicable rule in California regarding liability as between property owners with respect to diffuse surface flows. Rather, the permit’s retention requirements are based on the requirements of the federal Clean Water Act and its central goal to restore and maintain the natural integrity of waters. The minimization of effective impervious area and the on-site retention requirements are both important tools</p>	None

	redeveloped. The Board should reconsider and reject the universal retention doctrine.		<p>for restoring and maintaining the chemical, biological, and physical integrity of surface waters.</p> <p>Numerous studies have shown that development results in an increase in storm water runoff from a project site with a resulting increase in runoff discharging across property lines. The intent of the on-site retention requirement incorporated in the permit is to mitigate a significant portion of the increased flow resulting from new development and redevelopment and reduce pollutant discharge from a site as well as mitigate hydromodification impacts downstream. USEPA promotes the use of LID in areas where development has already occurred because of its value in reducing runoff volumes, pollutant loadings, and the overall impacts of existing development on the affected receiving waters.</p>	
New Development/ Redevelopment Performance Criteria	The Regional Board and State Board have the power to regulate new construction through the Construction General Permit (“CGP”). It seems unreasonable and arguably unlawful for the Board to effectively embellish the CGP’s requirements (albeit outside of the CGP) by mandating, through the MS4 permit, that MS4 permittees must impose new and different requirements on new development and construction. By doing so, the Board would deprive many landowners and others who might be interested in the CGP requirements of reasonably fair notice and an opportunity to comment on matters affecting their rights and the use of their property. In	BILD	Federal regulations require that MS4 permits include a program to reduce pollutants in run-off from construction sites. (See 40 C.F.R. § 122.26, subdivision (d)(2)(iv)(D) [permittees shall describe a “program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system.”]. MS4 permits must include controls for construction activities, even if construction sites are regulated under a general permit. This permit is consistent with the CGP. The CGP only covers construction sites of one acre or more. The Development and Construction Program requirements in this permit are intended, in part, to fill the gap between smaller sites not covered by the CGP. Further, Finding I.A.4. of the CGP specifically states that it does not preempt or supersede the authority of local storm water management agencies, such as the Regional Water Board, “to prohibit, restrict, or control storm water discharges to municipal separate storm sewer systems or other watercourses within their jurisdictions.” This permit also does not add to the	None

	<p>addition, the Board should not exercise its discretion in ways that infringe upon constitutionally and statutorily protected municipal powers to regulate land uses within their boundaries.</p>		<p>requirements of the CGP. The CGP is a statewide permit applicable to construction activities of a particular magnitude. In contrast, the requirements of the MS4 permit are specifically designed to address threats to water quality from storm water runoff, including that from construction activity at all construction sites in jurisdictions subject to this permit. Thus, the permit's Development and Construction Program is consistent with the CGP in that they regulate different entities and are not in conflict.</p> <p>A similar argument to that presented by the commenter was considered and rejected by the Los Angeles Superior Court during the litigation on the 2001 permit, Order No. 01-182. The Court upheld the requirements pertaining to the development and construction program and found that the CGP was not in conflict with such requirements. (See <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. 37-41.)</p> <p>Further, landowners and other members of the public have had an opportunity to comment on this permit both in written and oral form.</p> <p>The permit also does not restrict, control, or otherwise infringe upon local land use authority. Rather, the permit requires permittees to fulfill Clean Water Act requirements and protect water quality in their land use decisions. The requirements in the permit allow for flexibility in compliance options to the extent allowable under the Clean Water Act. Further, environmental regulation is not land use regulation, and therefore does not infringe upon local authority over land use decisions. (<i>California Coastal Commission v. Granite Rock</i> (1987) 480 U.S. 572; see also <i>In re Los Angeles County Municipal Storm Water Permit Litigation</i> (Sup.</p>	
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			<p>Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 13-16.)</p> <p>Lastly, local land use planning must be consistent with general statewide laws. (<i>County of Los Angeles v. California State Water Resources Control Board</i> (2006) 143 Cal.App.4th 985, 1003.) Article 11, section 7, of the California Constitution states that a county or city may not enact laws that conflict with general laws. The Porter-Cologne Water Quality Control Act contains the California Legislature’s finding that water quality is a matter of state-wide concern, requiring a statewide program administered at a regional level. (See, e.g., Wat. Code, § 13000; see also generally <i>Southern California Edison v. State Water Resources Control Board</i> (1981) 116 Cal.App.3d 751, 758.) Section 101 of the CWA has a companion policy statement, where Congress found that water quality is a matter of federal concern. The regional boards are explicitly granted the authority to issue NPDES permit to implement the Clean Water Act. The Clean Water Act requires that permits include controls to reduce pollutant in run-off from construction sites. The mandates in the permit such as the Development and Construction Program requirements result from those express legislative provisions.</p>	
New Development/ Redevelopment Performance Criteria/ Water Quality Mitigation Criteria	Part VI.D.6.c.iv (1)(b) - The requirement not to cause or contribute to exceedance of a water quality standard is not contained in the CWA, which only requires Permittees to effectively prevent non-stormwater discharges to the MS4 and to take steps to the MEP to address pollutants in discharges from the MS4. Additionally, more clarity is needed on the	County of Los Angeles	This comment is addressed in the responses to comments on Receiving Water Limitations provisions. The reference to a Permittee’s downstream outfall means the outfall(s) downstream of the project location from which discharges from the project would enter receiving waters.	None

	meaning of “Permittee’s downstream MS4 outfall.”			
<b>Definitions</b>				
Definitions A-1 to A-9	These terms are in the definitions section. They appear to be terms used for wastewater permit requirements and are not used anywhere in this permit language. They are Average Monthly Effluent Limitation (AMEL), Daily Discharge, Dilution Credit, Instantaneous Maximum Effluent Limitation, Instantaneous Minimum Effluent Limitation, Maximum Daily Effluent Limitation (MDEL), Mixing Zone, and Satellite Collection System. Please delete these terms from the Attachment A.	City of Los Angeles	In an effort to ensure consistent permit development across the State, the State Water Board encourages each Regional Water Board to follow a standardized template for all NPDES permits. In developing this tentative order, the Regional Water Board’s standardized permit template was used, which includes a set of standard definitions that are included in all NPDES permits. The Regional Water Board agrees that several terms are not applicable, and those terms will be removed in the final order.	Revisions made.
Definition A-4 Green Roof	Green roof means a roof that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier, subdrain, and irrigation system.	City of Los Angeles	Comment noted. This definition was taken in part from Order No. R2-2011-0083 and other state and federal sources.	None
Definition A-5 Infiltration	Downward movement of water through soil in-situ soils or amended soils. For consistency, if examples are going to be given, each BMP definition should be given examples. Recommend removing the 2 <sup>nd</sup> line of the current definition. Also provide definition for uncontaminated ground water infiltration that refers to the introduction of	City of Los Angeles	Comments noted. The Board has revised the Green Roof definition included in the Tentative. As noted by the commenter, uncontaminated ground water infiltration is already defined in the permit in Part III.A.	None

	groundwater to the MS4 system as defined on page 27 of the Order.			
Definition A-7	<p>Planter boxes and other high flow treatment BMPs</p> <p>Planter boxes should not be grouped with the high flow treatment BMPs. In the City of Los Angeles, we have been requiring planter boxes to have a flow-through velocity less than 5 inch/hour rate. Please define “high flow treatment BMPs” and a specific flow through rate. Also please accept planter boxes as one of the biofiltration options even if they do not allow for incidental infiltration. In the city of Los Angeles, planter boxes are one of the most common BMPs. This was reaffirmed with the recently implemented LID requirements that involved participation with Heal the Bay and other environmental advocacy organizations. Removing planter boxes as an option will make the land Development and Planning Requirements unattainable.</p>	City of Los Angeles	The definition of Planter Boxes in Attachment A – Definitions has been modified to reflect the requested change and also to reference the design criteria contained in Attachment H.	<p>Proposed Order Change: Attachment A – Definitions.</p> <p>Planter boxes and other flow-through treatment BMPs To comply with the biofiltration requirements in part VI.D.6.c.iii(1) of this Order, Planter Boxes must be designed in accordance with the biofiltration criteria contained in Attachment H.</p>
Definition A-8 Rainfall harvest and use	Definition should not limit capture only from the roof and it should be open to capture runoff from the entire site if feasible.	City of Los Angeles	Comment noted. It standard practice that rainfall harvesting be exclusive to the capture of rain water from roofs. The Board agrees that harvesting from other parts of a project area other than a roof is acceptable.	Language was revised to allow rainfall capture throughout the project.

Annual Report	The Permit requires: “Each Permittee shall provide in their annual report to the Regional Water Board a list of mitigation project descriptions and pollutant and flow reduction analyses (compiled from design specifications submitted by project applicants and approved by the Permittee(s)) comparing the expected aggregate results of alternative compliance projects to the results that would otherwise have been achieved by retaining on site the SWQDv.” It is not clear what the “mitigation project descriptions” includes. Please clarify if this means all planning project applications, only those for which construction is completed or something else. Further, is this only meant for offsite projects or groundwater replenishment projects?	Malibu	The mitigation project description refers to offsite mitigation and groundwater replenishment projects implemented in lieu of onsite retention.	None
New Development	VI.D.6.b.i.(1)(c) 68 Why is a strip mall being regulated but not other types of malls or commercial facilities? Revise (c) as follows, “Commercial malls 10,000 square feet or more surface area”	Torrance	The Board agrees the inclusion of the term “strip” is superfluous; the permit has been revised accordingly.	Revision made.
New Development	Please provide a more effective reference for the USEPA guidance document on Green Streets than a website link by referencing exact document title,	South Bay Cities, Torrance	The link when opened provides all the requested information. A copy of the document is also included in the Administrative Record for the permit.	None

	authors, year of publication and USEPA document ID number			
New Development	VI.D.6.b.i.(1) Cities can not change development requirements after a Developer obtains Planning Approval, without the Developer incurring financial hardship that could block the Development. Revise the projects subject to conditioning and approval to “prior to Planning approval of the project(s)...”	City of Los Angeles, Torrance	The Board agrees, and will include the language from the current Ventura County MS4 Order.	Language was revised.
Annual Reporting	Exclude single-family residential projects from annual reporting requirements i.e. from the requirements at VI.D.6.d.iv. (d), and (e). The Permittees would still maintain a record in the database of the project in accordance with (a) so that when future modifications to the project site occur via building permit, the permittee can verify the condition of the structural BMP as part of subsequent redevelopment projects on the property and ensure that the effectiveness is maintained over the long term without annual reporting by the homeowner	Peninsula Cities	The Board agrees and will exempt single family residences.	Language was revised.
Attachment A; Definitions	Attachment A; Definitions: Definition edits needed for: ii. Biofiltration iii. Bioretention viii. Infiltration xi. Planter boxes and other flow-through treatment BMPs	BIASC/CICWQ	The use of the word “bioinfiltration was an error. Biofiltration is the correct term. The Order is revised accordingly. All other portions of this comment are noted. Terms were included in the Order with the correct and exact definitions intended. A definition was included for the following:	On the 3 <sup>rd</sup> line of the definition for Biofiltration changed “bioinfiltration” to “biofiltration” (facilities

	<p>Definitions needed for:</p> <ol style="list-style-type: none"> <li>1) Bioinfiltration</li> <li>2) Project</li> <li>3) Total Project Area</li> </ol> <p>Some definitions provided are inconsistent with established knowledge and practice in infiltration and biotreatment system designs. In addition, we recommend including definitions for “bioinfiltration”, “project” and “total project area.”</p> <p>There are established definitions in the Ventura County MS4 Permit Technical Guidance Manual that clearly and succinctly define essential permit terms and conditions, in addition to those in the staff proposed MCM.</p>		<p>Project: development, redevelopment, and land disturbing activities. The term is not limited to “project” as defined under CEQA (Reference: California Public Resources Code § 21065).</p>	<p>designed for partial infiltration of runoff and partial biotreatment)” Definition also included for “Project”</p>
<p>Attachment A; Definitions Predevelopment</p>	<p>We recommend that the term “pre-development water balance” be eliminated or exceptions to this goal be explicitly recognized. This may be a reasonable goal in some cases, but may be more restrictive than is required to protect surface water and groundwater quality. For example, if recharge is needed, then why is it necessary to require water balance matching when it is actually desirable to increase recharge compared to natural conditions? Additionally it may be cost prohibitive to attempt to manage the entire water balance.</p>	<p>BIASC/CICWQ</p>	<p>The Board concurs and will replace “pre-development water balance” with “pre-development hydrology.” Draft Order is revised accordingly.</p> <p>Remaining portion of comment is noted.</p>	<p>Revised Part D.6.a.i(3) 4<sup>th</sup> line to replace “predevelopment water balance” with “pre-development hydrology”.</p>

	<p>We recommend combining (7) (a) and (b) into a single statement indicating LID BMP selection preference and deleting the reference to “bioretention.”</p> <p>County, Western and Southern Riverside County, and San Bernardino County recognize the use of LID BMPs as a means to potentially mimic “pre-development hydrology”.</p>			
Attachment A Biofiltration	<p>Bioswales must be removed from the definition of biofiltration.</p> <p>Bioswales, as defined in Appendix A of this order, are a "flow through" treatment system designed to convey a water quality flow rate, not to capture a runoff volume. Swales of this type are not as effective as media filters for TSS, nutrient or trash removal and may actually increase concentrations of bacteria and nutrients in treated water if conventional landscape maintenance practices are followed. They are less effective than planter boxes for all conventional pollutants. If swales are designed to infiltrate water through an amended soil layer instead of conveying it over a vegetated surface, they are much more effective. However, such designs are more accurately termed bioretention and could be</p>	Contech	<p>Comments noted. Bioswale is defined in Attachment A as “A LID BMP consisting of a shallow channel lined with grass or other dense, low-growing vegetation. Bioswales are designed to collect storm water runoff and to achieve a uniform sheet flow through the dense vegetation for a period of several minutes.”</p> <p>This definition is congruent with the biofiltration description of reducing storm water by intercepting rainfall on vegetative canopy, and through evapotranspiration, incidental infiltration, and filtration.</p>	None

	designed following Appendix H. Currently, there is no mention of swales in Appendix H.			
Attachment A Biofiltration	<p>Planter boxes should be included in the definition of Biofiltration.</p> <p>Biofilters without underdrains, or planter boxes are more effective for all conventional stormwater pollutants than bioswales. Including bioswales but excluding planter boxes prioritizes the use of less effective BMPs which is indefensible. The key difference is that planter boxes filter runoff through at least 18" of amended soils prior to discharge. Infiltration and filtration through soil is incidental in bioswales. The primary treatment mechanism is settling and filtration through vegetation as water flows to the outlet of the swale. Since swales can only be used where infiltration is infeasible, native soil infiltration rates will be &gt;0.15 inches per hour and infiltration rates will be negligible. Planter boxes must follow the Attachment H soil criteria and are designed to facilitate substantial evapotranspiration. Swales do not require amended soils and will provide relatively great evapotranspiration rates, but will also require much higher irrigation rates to maintain the robust vegetation necessary for</p>	Contech	The definition of Planter Boxes in Attachment A – Definitions has been modified to reflect the requested change and also to reference the design criteria contained in Attachment H.	<p>Order Change: Attachment A – Definitions.</p> <p>Planter boxes and other flow-through treatment BMPs To comply with the biofiltration requirements in part VI.D.6.c.iii(1) of this Order, Planter Boxes must be designed in accordance with the biofiltration criteria contained in Attachment H.</p>

	treatment.			
Attachment H-Bioretenion / Biofiltration Design Criteria	<p>Part 5 indicates the following:</p> <p>Waterproof barriers may not be placed on the bottom of the biofiltration unit, as this would prevent incidental infiltration which is critical to meeting the required pollutant load reduction.</p> <p>Concern- Part VI.D.6.c.ii.(2) specifies that alternative compliance, such as biofiltration, can be allowed if technical infeasibility demonstrates the project is situated in a (d) Brownfield development sites, (e) location where pollutant mobilization is a documented concern.</p> <p>The purpose of this alternative compliance option is to avoid the creation of a groundwater contamination catastrophe; however, if a waterproof barrier on the bottom of a biofiltration unit is restricted in a location where pollutant mobilization is a documented concern, the Tentative Permit potentially will be creating an even greater environmental problem for generations to come.</p> <p>Proposed Solution- Revise the Bioretention / Biofiltration Design Criteria to allow</p>	Vernon	<p>Without the incidental infiltration that is required in the On-site biofiltration section, even sizing the biofiltration 1.5 times the size of infiltration BMPs will not result in the same pollutant or volume reduction. The Board does realize that there are some unique circumstances such as the example you listed and has language in the Order that allows alternative biofiltration design criteria to be used with Executive Officer approval. Though that language was in the Tentative, the Board has repeated the language within other sections to make it more apparent.</p> <p>The Order has language to allow alternative biofiltration design criteria. The Order has been revised to make the provision more apparent.</p>	Language revised.

	waterproof barriers to be placed on the bottom of biofiltration units.			
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