Response to Comments
Section E: Minimum Control Measures (MCMs)

Sub-section #	Comments Category
E.1	General
E.2	Order, Part VIII.A – General
E.3	Order, Part VIII.B – Progressive Enforcement and Interagency Coordination
E.4	Order, Part VIII.C – Modifications/Revisions
E.5	Order, Part VIII.D – Public Information and Participation Program
E.6	Order, Part VIII.E – Industrial/Commercial Facilities Program
E.7	Order, Part VIII.F – Planning and Land Development Program
E.8	Order, Part VIII.G – Construction Program
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E.10	Order, Part VIII.I – Illicit Discharge Detection and Elimination Program

The below table includes all significant comments on the tentative permit sections described above and the corresponding Fact Sheet sections.

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E.1.1	Jeremy Hohnbaum	I have worked in both the private and public sector and have only come across Vector Control requirements and oversight on a couple of occasions. These occasions triggered their oversight when we were designing and installing harvest and use systems. Because harvest and use projects require coordination with the County Public Health and Safety Department, this department triggered coordination with Vector Control District when it came to our stormwater harvest and use projects. The projects that required the Vector Control	**No change**. Regional Water Board and State Water Board staff have been coordinating with Permittees and Vector Control Districts to initiate a process for the identification and abatement of vectors within treatment BMPs of concern. An appropriate arrangement to facilitate this process is best handled outside of a MS4 Permit. Regarding the specific sections identified by the commenter, sections VIII.D.2 and VIII.D.3 include requirements related to public

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		District's oversight were ones that included stormwater pretreatment BMP devices that contained permanent pools of water. These permanent pools are very common in hydrodynamic separators and other pretreatment devices. Although common, they are not consistently reviewed and regulated by Vector Control for all applications. There is no mention of vector control mitigation requirements and design considerations when it comes to these types of devices even though the permanent pools are breeding grounds for mosquitos. Incorporating requirements to mitigate for vector and/or coordinate with the appropriate Vector Control District when incorporating these BMPs into a project is critical. Sections VIII.D.2, VIII.D.3, and VIII.F.3.c.iii within the current Draft could be good locations to include Vector Control District oversight and vector mitigation and maintenance provisions. It is my understanding that the Regional Board is "delisting" some of these devices from the approved trash capture list due to vector concerns. I believe that incorporating language for vector mitigation into the MS4 Permit is appropriate as well.	information and participation, which are unrelated to requirements related to design and installation of BMPs. Section VIII.F.3.c.iii requires Permittees to develop a post-construction BMP maintenance inspection checklist; this checklist is an appropriate place for Permittees to address vector control. In addition, in accordance with the Trash Provisions (Amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California) adopted by the State Water Board, all Full Capture System devices are to be certified by the State Water Board Executive Director, or designee. The approved trash capture device list, the list of delisted devices and the certification application method can be found at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html. Requirements for Full Capture Devices include Vector Control Accessibility, which is a device design that allows for full visual access to all areas for presence of standing water,

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			and when necessary, allows for treatment of mosquitoes.
E.1.2	SGVCOG 2nd Letter and ULAR Group	Part VIII.E.5; Page 49, Part VIII.G.5.a; Page 67, Part VIII.G.6.b.ii.(c); and Page 69, Part VIII.H.3.a; Page 71. Recommend referencing a resource for Permittees to consider for applicable source control BMPs. (Such as the CASQA Handbooks.)	**No change.** These sections include tables that list BMPs, some of which are from the CASQA Handbooks (see Tables 6, 7, and 8 in the Tentative Order). Additionally, section IX, "Rationale for Storm Water Management Programs and MCMs," of the Tentative Fact Sheet discusses other resources for BMPs, including the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide* among others.
E.1.3	SGVCOG 2nd Letter and ULAR Group	Part VIII; Page 40-80. For all minimum control measures note development of recommendations/guidance for appropriate metrics for measuring effectiveness will be needed.	**No change.** Comment noted. Permittees are primarily responsible for developing metrics for measuring the effectiveness of the Public Information and Participation Program MCM (see Part VIII.D.4.a), since the permit provisions provide a range of options for implementing these program requirements. Los Angeles Water Board staff are available to discuss metrics for measuring effectiveness with Permittees, where required in Part VIII.
E.1.4	City of Port Hueneme, City of Simi Valley, City of Ventura,	Incorporate requested modifications to the Minimum Control Measures (MCMs).	**No change.** 40 CFR section 122.26(d)(2)(iv) establishes required elements of the Permittees' stormwater management program. The Tentative

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	City of Thousand Oaks, County of Ventura, and VCSQMP	As written, WMPs do not provide the same benefit for all watersheds. Permittees in watersheds with effective TMDLs may not opt for WMPs and therefore the MCMs will not be customizable.	Order, like previous MS4 permits, includes six categories of MCMs that are the baseline programmatic elements for meeting the requirements of 40 CFR section 122.26(d)(2)(iv). In some cases, flexibility is incorporated into these provisions (e.g. Part VIII.D, Public Information and Participation Program). However, generally, customization of these requirements is only available when addressed holistically through a WMP, which identifies the most effective management actions based on a comprehensive water quality characterization, source assessment, and water quality prioritization.
E.2.1	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 41. Part VIII.A.2. "Unless otherwise noted in this Part VIII, each Permittee that does not elect to develop or continue to implement a Watershed Management Program per Part IX shall implement the requirements contained in this Part VIII as of the effective date of this Order." Recommend 6 months to implement the MCMs if not developing a WMP. How does this apply to permittees with an existing WMP? Permittees need time to implement the new requirements of the Permit.	**Change made.** If a Permittee does not elect to develop a WMP or discontinues its participation in a WMP, the Permittee should continue implementation of its existing stormwater management program, including the six MCM programs, while incorporating new or modified requirements into its stormwater management program. The Board agrees that some time to incorporate new or modified requirements is appropriate. Part VIII.A.2. will now allow 6 months from the Order effective

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			date to implement new or modified MCM requirements.
E.2.2	SGVCOG 2nd Letter and ULAR Group	***Industrial General Permit (IGP) Training and Inspections:*** The Tentative Permit clarified from the Working Proposal that training requirements can continue utilizing existing resources. However, **additional clarity is still requested on which employees are required to take the training, as the current language of "pertinent staff" is vague and would benefit from more specificity**. It is not clear whether Permittees would be exempt from this training if the inspection work is outsourced to contractors, a point which requires clarification. **We recommend that the IGP training should only be required for those individuals who actually perform the inspections**.	**No change.** The requirement starts with "Each Permittee shall ensure that all staff whose primary job duties are related to implementing the industrial and commercial facilities program in Part VIII.E of this Order are adequately trained on an annual basis." There is no ambiguity. Inspection is not the only activity in this program that requires basic knowledge of the IGP. There is also the Business Assistance Program. Additionally, while a Permittee may outsource inspection work, there will still need to be a responsible municipal staff person whose primary job duties include overseeing the contractor's work.
E.2.3	SGVCOG 2nd Letter and ULAR Group	Part VIII.A.3.b; Page 41. If any of the requirements of this section (VIII.A.3.b) are redundant with training held by the Department of Pesticide Regulation or other agencies, it would be good to have such training referenced in this section as qualifying for satisfying the training requirement.	**No change.** Following a comment received on the Working Proposal, Board staff added the word "ensure" in response, i.e., Permittees need to ensure staff are trained. This could include confirming that training provided by another agency includes the required elements of a training program identified in Part VIII.A.3.b.
E.2.4	City of Long Beach	Section VIII.A.3, Page 42 Please clarify whether the training requirements apply only to contractors who use pesticides/fertilizer or all contractors.	**No change**. This Part is clear. Part VIII.A.3 is titled "Municipal Employee and Contractor Training". Subparts identify specific programmatic

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			areas/activities, e.g. subpart b is for all employees and contractors who use or have the potential to use pesticides and/or fertilizers, subpart f is for staff whose primary job duties are related to implementing the construction stormwater program, etc.
E.2.5	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 41. Part VIII.A.3.d. "New Permittee staff members must be provided with storm water training applicable to their position within 180 days of starting employment. Each Permittee must create and maintain a list of applicable positions and contractors which require specific MS4 Permit compliance training." New Permittee staff members should be trained when all others are trained for City cost-saving benefits. Most new employees will already have prior NPDES experience.	**No change**. The commenter's request would create the potential for new staff to go without the needed training to perform their job duties for a year.
E.3.1	City of Long Beach	Section VIII.B, Page 42 Sections VIII.B.1.d and VIII.B.1.e appear to be inconsistent. Please clarify whether violations apply to those in IGP/CGP or municipal ordinances pertinent to the following: "Referral of Violations of the Industrial and Construction General Permits, including Requirements to File a Notice of Intent or No Exposure Certification. For those facilities or site operators in violation of municipal storm water ordinances and subject to the Industrial and/or Construction General Permits."	**No change**. Part d refers to violations of facilities not subject to the IGP/CGP by stating "…site operators not subject to the Industrial and/or Construction General Permits…". Part e refers to IGP/CGP permittees by stating "….and subject to the Industrial and/or Construction General Permits…"

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E.3.2	SGVCOG 2nd Letter and ULAR Group	Part VIII.B.1.d-e; Page 42-43. Regarding facilities/sites that require an NOI or NEC: Recommend allowing a Permittee to skip the process of one inspection and one written notice prior to referral. Once identified by the Permittee, it would seem efficacious to notify the Board. Versus waiting for a Permittee's attempts to compel IGP/CGP enrollment. So that Board staff can begin the process of compelling IGP/CGP coverage from the operator. In addition, for certain light industrial operations, IGP coverage can be a matter of interpretation of the SIC Manual. In these instance it would be best for the Regional Board to make the determination from the start. In addition, recommend setting up a recommended frequency for notification of potential IGP non-filers. Context: After the issuance of the 2012 LA/2014 LB MS4 Permits, the 2015 IGP added a large swath of light industries to its coverage. Many of these businesses are small in both size and operations and as such 1) are much more common than heavy industries, and 2) start and cease operations much more frequently than heavy industries. This means that Permittees may come across new potential non-filers on a regular basis, primarily through business license and MS4 NPDES inspections. Taking this into consideration, a	**No change**. Part VIII.B.1.d does not apply to IGP/CGP permittees. Part VIII.B.1.e refers to all violations of the IGP/CGP and not only failure to enroll. The requirement to conduct one inspection and one written notice of violation is also appropriate as it provide a minimum amount of documentation regarding the violation to support referral to the Los Angeles Water Board. The provisions allow for periodic referral of IGP non-filers where a Permittee chooses to make referrals in batches; however, such referrals should be made promptly to allow for the most effective follow-up by the Los Angeles Water Board.

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		regular frequency of notification may streamline the process for both Permittees and Regional Board staff. (For example, under the North Orange County MS4 NPDES Permit, there is a quarterly notification process in place.)	
E.3.3	VCSQMP	Part VIII.B.1.e. Page 43. Under SB205, businesses subject to Industrial Stormwater General Permit are required to obtain coverage before Business License issuance. During 11/17/2020 SB205 workshop, Leslie Walther with LA-RWQCB explained that businesses subject to IGP should be referred to RWQCB and there is no need for an inspection/written notice. We would like to have one, instead of 2, referral processes. So once a business is referred under SB205 requirement, it should satisfy MS4 Permit requirement. Add underlined text to section VIII.B.1.e "Referral of Violations of the Industrial and Construction General Permits, including Requirements to File a Notice of Intent or No Exposure Certification. For those facilities or site operators in violation of municipal storm water ordinances and subject to the Industrial and/or Construction General Permits, Permittees may escalate referral of such violations to the Los Angeles Water Board (promptly via telephone or electronically43) after one inspection and one written notice of	**No change.** See response to comment # E.3.2.

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		violation (copied to the Los Angeles Water Board) to the facility or site operator regarding the violation." <u>Referral of Violations to file a Notice of Intent or No Exposure Certification (NEC) for the Industrial General Permit will be satisfied by referral to Los Angeles Water Board under the SB205.</u>	
E.4	---	No comments received.	---
E.5.1	City of Los Angeles	Main Body, Part VIII.D.2.c, and 4.b.vii Pages 44 and 46. In both 2.c and 4.b.vii, the Tentative Order references the term "culturally effective methods." LASAN recommends clarifying what is meant by "culturally effective methods." Or LASAN suggest moving this statement to 3b creating an item between b.i and b.ii stating that Permittees shall identify audiences based on demographics, language and/or cultural attributes and behaviors. Then identify and select outreach activities that would best align with the identified audiences.	**Change made**. A footnote has been added to Part VIII.D.2.c to provide guidance on the term “culturally effective methods”.
E.5.2	City of Los Angeles	Main Body, Part VIII.D.2.a, Page 44. This provision introduces a new requirement to achieve "widespread understanding about...local water resiliency" and "achieve broad support for storm water management programs and projects among residents in the region." The City has included water conservation and water resiliency and	**Change made**. This objective is similar to existing requirements per Part VI.D.5.a. of the 2012 LA County MS4 Permit. It is important for there to be understanding of and support for stormwater programs, including stormwater projects generally. The Board agrees, however, that the

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		sustainability in previous messaging so this is already being achieved. Including public education requirements specific to projects is a new requirement. Achieving broad support with some projects may be difficult and unclear as to how Permittees would measure broad support. This introduces a political element that has not traditionally been included in NPDES Permit PIPP requirements. LASAN suggests the following alternative language for objective a.: "Reach the general population and involve the range of socioeconomic groups and ethnic communities that make up the Los Angeles Region in Permittees' storm water management programs to ~~achieve~~ "educate residents about storm water management programs and projects in the region" or "achieve widespread understanding about the storm water management programs and projects among residents in the region."	requirement to achieve the objectives is not appropriate and the words "widespread" and "broad" are difficult to measure and the section has been amended in the revised Tentative Order.
E.5.3	City of Los Angeles	Main Body, Part VIII.D.3.a, Pages 44-45. The noted requirement currently reads: "Permittee(s) shall create opportunities for public engagement in storm water planning and program implementation and shall raise public awareness of storm water program benefits and needs. The Permittee may build upon past programs/activities such as the Don't Trash California campaign and the Measure W campaign, which featured many	**Change made.** As suggested, the Board has updated the *Don't Trash California* example to *Protect Every Drop.* Note that these are just examples and this provision allows Permittees to build upon other past or existing programs where consistent with the objectives of the Public Information and Participation Program requirements.

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		educational events conducted by multiple stakeholders and MS4 Permittees." Please consider changing "Don't Trash California" to Caltrans' current campaign "Protect Every Drop" campaign. Also, consider including LA County's "Water for LA" campaign, which is more relevant and aligned regionally.	
E.5.4	SGVCOG 2nd Letter and ULAR Group	Part VIII.D.4.a; Page 45. Recommend providing additional guidance on the metrics for measuring effectiveness of public education efforts, which otherwise could take many forms and vary significantly across Permittees.	**No change**. The provision allows for flexibility on how effectiveness will be measured in order to allow for customization of the unique programs in the region while also allowing for cooperation in metric development for programs that span the region. See also response to comment # E.1.3.
E.5.5	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 45. Part VIII.D.4.b. "Each Permittee shall, at a minimum, document and track the following information on Public Information and Participation activities implemented: ..." This was not a requirement of the 2012 Permit and may be difficult to gauge "effectiveness". This is subjective and could Involve a lot of work for a permittee to determine effectiveness. Recommend a lead agency, such as LACFCD, provide a workshop to guide permittees.	**Change made**. Documentation and tracking were requirements of the 2012 LA County MS4 Permit but were simply included in a different part of the permit. Regarding the commenter's concern about identifying a metric(s) for measuring effectiveness, the Board has revised Part VIII.D.1.b to clarify that both Part VIII.D.3 and Part VIII.D.4 may be implemented collaboratively. This is consistent with the 2012 LA County MS4 Permit requirement, Part VI.D.5.b.i., which allowed Permittees to work collaboratively.
E.6.1	SGVCOG 2nd Letter and ULAR Group	Part VIII.E.2.a.ii.(c); Page 46. Recommend providing a footnote that provides a hyperlink	**Change made**. While there is a Toxic Release Inventory (TRI) database, its focus is on disposal and/or release of

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		to the online database of such industrial facilities.	chemicals from facilities and not all facilities in covered sectors are required to report. However, the U.S. EPA has a number of resources available on its website to assist MS4 Permittees in identifying industrial facilities subject to section 313 “Toxic Release Inventory” reporting requirements. A link to U.S. EPA’s TRI Program webpage has been added to the revised Tentative Fact Sheet, section IX.E.2.
E.6.2	SGVCOG 2nd Letter and ULAR Group	Part VIII.E.2.a.iii; Page 46. Recommend listing the corresponding SIC codes for these facilities, and/or referring to the Attachment A definitions. Also for consistency with the industrial element of the Industrial/commercial Facilities Program, recommend defining these facilities in Attachment A using the SIC Code manual definition.	**No change**. Part VIII.E.2.a.iii is the requirement to identify Commercial Facilities that are critical sources of stormwater pollution. Subparts (a)-(d) provide some examples; however, Permittees have the flexibility to identify which Commercial Facilities are critical sources of stormwater pollution for their jurisdiction. Therefore, listing corresponding SIC codes for just these examples would be too limiting. Attachment A should always be used to clarify terms in the Order and Attachments; it is not necessary to reference Attachment A in every instance.
E.6.3	City of Long Beach	Section VIII.E.2.a.iv, Page 46 Please provide clarification on which facilities are included when stating: "All other facilities	**No change.** As stated, Permittees should use their local knowledge of industries in their jurisdiction and water quality conditions/priorities to determine

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		that the Permittee determines may contribute significant amounts of pollutants to the MS4."	if the facility contributes significant amounts of pollutants to the MS4.
E.6.4	SGVCOG 2nd Letter and ULAR Group	Part VIII.E.3; Page 47-48. This Tentative Permit updated the Working Proposal section on Requirements for Industrial Sources (VIII.E.4) to include in the Business Assistance Program that Permittees could refer businesses to the LA Regional Water Quality Control Board or State Board for further technical assistance and also updated the inspection frequency for sites that do not have exposure to stormwater to every 5 years. Recommend the same updates be made to the Requirements for Commercial Sources (VIII.E.3).	**No change**. The changes made to Part VIII.E.4 (Requirements for Industrial Sources) was based on the fact that those sources are regulated by the IGP and oversight of the IGP is provided by the Los Angeles Water Board and State Water Board. Part VIII.E.3 (Requirements for Commercial Sources) refers to facilities that do not have other permit coverage for stormwater discharges. As such, they are only routinely inspected by the MS4 Permittees.
E.6.5	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 47. Part VIII.E.3.b. Each Permittee shall implement a Business Assistance Program to provide technical information to businesses to facilitate their efforts to reduce the discharge of pollutants in storm water. Assistance shall be targeted to select business sectors or small businesses upon a determination that their activities may be contributing substantial amounts of pollutants to the MS4 or receiving water. Assistance may include technical guidance and provision of educational materials. The Program may include:" How is this different from "Outreach" under Part VI.VIII.E.3.a? Suggest including	**No change**. Outreach requires Permittees to take action to ensure at least once in 5 years that all commercial facilities are aware of BMP requirements. It can be tied to their inspection requirement. Business Assistance requires permittees to provide general technical information to businesses to facilitate their efforts to reduce the discharge of pollutants in stormwater. Unlike the "Outreach" requirement, there is no time-based requirement (e.g. once every 5 years).

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		"Outreach" under the Business Assistance Program.	
E.6.6	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.E.3.b/ Pg. 47. Commercial Business Assistance Program – The Tentative Order states "*Assistance shall be targeted to select business sectors or small businesses upon a determination that their activities may be contributing substantial amounts of pollutants to the MS4 or receiving water.*" Please clarify how an MS4 permittee can determine which commercial facilities are contributing substantial amounts of pollutants to the MS4 or receiving water. Can the Regional Board provide the list?	**No change**. This language leaves flexibility for the Permittee to use its knowledge of business activities within its jurisdiction and water quality conditions/priorities to determine, select, and target more potentially harmful activities.
E.6.7	Los Angeles County and LACFCD 2nd Letter and City of Malibu	Order/ Part VIII.E.3.b.ii/ Pg. 47-48. Mobile Business - The Tentative Order requires distribution of educational materials to "***mobile sources*** *including automobile/equipment repair, washing, or detailing; power washing services; mobile carpet, drape, or upholstery cleaning services; swimming pool, water softener, and spa services; portable sanitary services; and commercial applicators and distributors of pesticides, herbicides and fertilizers, if present.*" While we can distribute educational materials at stationary businesses (such as retail stores, auto shops, restaurants, etc.), it is practically difficult to do the same for mobile businesses listed above. The addresses of these mobile businesses are generally unknown as they are not permitted	**No change**. Part VIII.E.3.b states "The Program may include: the mobile sources as quoted in the comment. Also, the Business Assistance Program does not require Permittees to seek such businesses.

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		by the City, and without knowing the address of a business, it is not possible to distribute educational materials to the business. The Permittees request that the above requirement with reference to mobile businesses be removed.	
E.6.8	City of Long Beach	Section VIII.E.3 & E.4., Page 47 The current City of Long Beach MS4 permit requires inspections for "critical" commercial/industrial sources. We respectfully request to keep "critical" in Part VIII.E.3 and E.4.	**No change**. Parts VIII.E.3 & E.4 explicitly refer to facilities listed in Part VIII.E.2. Part VIII.E.2, includes an inventory or database for "…critical sources of storm water pollution…".
E.6.9	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.E.4.a/ Pg. 48. Industrial Business Assistance Program – The Tentative Order states "*Assistance shall be targeted to select business sectors or small businesses upon a determination that their activities may be contributing substantial amounts of pollutants to the MS4 or receiving water.*" Please clarify how an MS4 permittee can determine which industrial facilities are contributing substantial amounts of pollutants to the MS4 or receiving water. Can the Regional Board provide the list?	**No change**. See response to comment # E.6.6. This language leaves flexibility for the Permittee to use its knowledge of business activities within its jurisdiction and water quality conditions/priorities to determine, select, and target more potentially harmful activities. The Permittee can determine contribution of substantial amounts of pollutants to the MS4 or receiving water by comparing their discharge/water quality with the applicable limits.
E.6.10	City of Los Angeles	Main Body, Part VIII.E.4.b.i, Page 48. The City is a large agency with approximately 26,352 facilities potentially meeting the requirements to be inspected as part of the Industrial/Commercial Facilities Program. Inspecting that number of facilities on the frequency prescribed in the 2012 Permit of	**No change**. The requirement to inspect once every two years, for a 5-year permit term, is twice per permit term – the same as the 2012 LA County MS4 Permit.

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		"twice during the 5-year term of the Order" is already a massive undertaking. The Tentative Order increases the inspection frequency to "every two years". Although this might seem like a minor change, it would require a major change to the City's operations given the number of facilities potentially required to be inspected. LASAN requests that the inspection frequency included within the 2012 Permit be carried over into the Tentative Order. At a minimum, Permittees with over 10,000 facilities in their inventory should retain the inspection frequency included within the 2012 Permit.	
E.6.11	City of Beverly Hills	In the same note of financial feasibility, the City recognizes that the Tentative Permit increased the frequency of inspection for commercial and industrial facilities to complete inventory inspection within two years of the effective date and have a six (6)-month frequency. This new requirement will be additional costs for Permittees to implement and would take away funding and time resources to other critical inspection programs such as illicit connection, illicit discharge and construction inspections. The City of Beverly Hills recommend that the inspection frequency be reduced to annual inspection for commercial and industrial sites and retain the monthly frequency for construction sites. In the last two permit cycles, the City has implemented annual	**No change**. The frequency has not been increased. It is directly from the 2012 LA County MS4 Permit. Permittees are required to complete an inspection of the facilities in the Permittee's inventory within two years of the effective date of the Order with a minimum interval of 6 months between the compliance inspections (not a 6-month frequency).

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		inspection and finds it very effective as we have not seen substantial problems from these facilities in Beverly Hills.	
E.6.12	City of Los Angeles	Main Body, Part VIII.E.4.b.iii, Page 49. The 2018 Amended Industrial General Permit (IGP) requires facility operators to collect industrial storm water samples for TMDL-related pollutants, as well as incentivizes storm water capture as a compliance option for onsite BMP installation or participation in regional projects. If this compliance option is chosen by the facility operators, it is LASAN's understanding that the facility will be deemed in compliance with the IGP requirements, including TMDL requirements. As such, LASAN requests that Permittees be exempt from inspecting facilities which can document that they are meeting these IGP requirements.	**No change**. IGP permittees are deemed in compliance with their effluent and receiving water limitations if they implement a stormwater capture compliance option. They are not deemed compliance with the entire IGP.
E.7.1	Nina Danza	Groundwater Recharge…Does the current regional permit drop required on-site retention of 85 percentile stormwater for new and redevelopment? If so, this requirement should be reinstated to address needed groundwater recharge, and in fact, an increase to at least the 50-yr or more storm frequency is better. The current LID type rule typically means a segregated single-use, unvegetated detention area or swale within a housing or commercial project. Multi-benefits are rejected by owners because they will not spend to add features outside of absolute	**No change.** The Tentative Permit continues the onsite retention requirements of the 2012 LA County MS4 Permit, 2014 City of Long Beach MS4 Permit, and 2010 Ventura County MS4 Permit.

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		minimum requirements. Therefore, very little surface water conservation is achieved, little or no enhancements such as vegetation is included and habitat or climate change reduction potential is sacrificed. I suggest a much more vigorous requirement with a greater volume of rainwater be retained on site for infiltration, and much more substantial multi-benefits to be required.	
E.7.2	Construction Industry Coalition on Water Quality	Part VIII.F.1. Previous VC and Los Angeles MS4 Permits only required discretionary permitted projects to design and implement post-construction controls. There is no language in the working draft that note discretionary only projects. This would mean all ministerial permitted projects would also be subject – ministerial are not subject to conditioning typically. See suggested language request. "Priority Development Projects are land development projects that fall under the Permittee's planning and building authority <u>for discretionary permit conditioning and approval</u> which the Permittee must impose specific requirements, including the implementation of structural BMPs to meet the performance requirements described in Part VI.D.6.d and VI.D.6.e of this Order." [Part references above are to the Working Proposal]	**No change.** The reference to projects that fall under the Permittee's planning and building authority has a similar meaning to the reference to projects subject to Permittee conditioning and approval in the prior permits. Regarding the suggested language, the commenter seems to be combining two different provisions from the prior permits. The reference to discretionary permit projects is used exclusively in the section of the 2012 LA County MS4 Permit that specifically defines what is meant by an *Existing* Development or Redevelopment project in order to distinguish which projects would be subject to the 2012 LA County MS4 Permit's "New Development/ Redevelopment Project Performance Criteria" as compared to projects subject to the prior permit's performance criteria. Further, it is unlikely that the priority projects subject

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			to post-construction BMP implementation would be ministerial projects. The priority projects are ones that represent potential threats to water quality and post-construction BMP implementation is appropriate for those types of projects.
E.7.3	County of Ventura	Add exemption for single-family homes under "Definition of Priority Development Projects" in the Part F.1.a "Planning and Land Development Program". County also noted that Tentative Order does not provide an exemption for the single-family homes under "Definition of Priority Development Projects" in the Part F.1.a "Planning and Land Development Program" on page 50. **<u>Requested Action</u>** County requests that the following exemption from the 2010 Ventura Permit, Part E.II.2, is included in the Tentative Order's Part F.1.a "Planning and Land Development Program" on page 50: "Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area."	**No change.** There is no need to explicitly call out single family homes that are below the threshold for post post-construction BMP implementation in the Order. The following language, is applicable to single family dwellings as well as other types of projects, already exists in the Tentative Order: New development projects… *Projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet or more of impervious surface area (collectively over the entire project site)* Redevelopment projects… *Projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site) on any of the following:*

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			Existing sites of 10,000 square feet or more of impervious surface area Single family residence projects exceeding this these thresholds should be subject to post post-construction BMP implementation.
E.7.4	City of Beverly Hills	Lastly, the City recognizes that the Permit removed the LID exception for single-family homes. The current permit exempts single-family residential (SFR) projects from implementing LID BMPs if it doesn't create, replace or add 10,000 square feet of impervious surface area. The Permit removed those exemptions and effectively lowered the threshold to 5,000 square-feet for LID requirement. Lowering the LID threshold will have water quality benefits. It will also affect the Permittees SFR development growth. Lowering the threshold will also affect residential owners who will now be incurring annual O&M costs for those BMPs. For this requirement to be successful, Permittees will need to enhance its current programs to provide residential assistance for pre and post construction BMP maintenance and increase post construction inspections for SFR properties. It would be beneficial for Permittees to see the Fact	**No change.** See response to comment # E.7.3.

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		Sheet provide economic impacts for lowering the SFR LID threshold.	
E.7.5	RWG Law on behalf of various Permittees	**The Land Development Provisions Remove an LID Exception for Single-Family Homes Without Justification.** The Fact Sheet represents that the categories of development projects designated as “Priority Development Projects” are the same categories that were subject to low-impact development (“LID”) requirements in the 2012 Permit. [footnote] 48 However, the Tentative Permit eliminates an existing exemption from the Permit’s LID requirements for single-family homes that do not create, add, or replace 10,000 square feet of impervious surface area. [footnote] 49 The Tentative Permit would effectively reduce the threshold to 5,000 square feet of impervious surface area for single-family home redevelopment projects. [footnote] 50 This reduction in the applicable LID threshold for single-family homes could unduly affect single-family residences in certain jurisdictions. The Cities recognize that there may be water quality benefits achieved by lowering the threshold, but the Fact Sheet must provide a justification for this change so that they can evaluate its merits. [footnote 48]: Tentative Permit, Fact Sheet Part IX.F.3., pg. F-189. [footnote 49]: 2012 LA County Permit, Part VI.D.7.b.ii.(c)(ii), pg. 97.	**No change.** See response to comment # E.7.3.

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		[footnote 50]: Tentative Permit, Part VIII.F.1.a.ii., pg. 51.	
E.7.6	VCSQMP	Part VIII.F.1.a. Page 51. The Tentative Draft states, "Priority Development Projects include the following: i. New development projects that are in any of the following categories: (a) Projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet or more of impervious surface area (collectively over the entire project site)…" Permittees feel that within Ventura County there are many new development projects that add 10,000 square feet of impervious surface but are under the 1 acre of disturbed land threshold. By excluding these projects, a big opportunity is potentially missed to improve surface water quality under the Land Development Program. It is requested that this section be revised: (a) ~~Projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet or more of impervious surface area (collectively over the entire project site)~~ (a) <u>New development projects that create 10,000 square feet or more of impervious surface (collectively over the entire project site).</u>	**No change.** Municipalities have the land use authority to require post-construction BMP implementation for the types of projects noted in the comment if warranted.

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E.7.7	The Nature Conservancy	**Part VIII.F.1.a. Definition of Priority Development Projects**. "Priority Development Projects include the following: i. New development projects that are in any of the following categories: (a) Projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet or more of impervious surface area (collectively over the entire project site) (b) Industrial parks of 10,000 square feet or more of surface area (c) Commercial malls of 10,000 square feet or more of surface area" We strongly recommend reconsidering the proposed addition to Section VIII.F.1.a, "Definition of Priority Projects", which increases the site size threshold from none to 1-acre. This loosening of regulation allows more projects to proceed without stormwater controls and reduces the effectiveness of the permit. In order to seriously address compliance, and as we have previously commented in earlier drafts, we strongly recommend lowering the permit "trigger" thresholds significantly across all project types. The language "equal to 1 acre or greater of disturbed area" has been added to the permit and significantly dilutes it's effectiveness. The Nature Conservancy is of the opinion that 1	**No change.** The size threshold for new development projects is not new or a loosening of regulation. This threshold has been carried over from the three previous MS4 permits. Further, the priority development projects are categories that generally represent a threat to water quality and post-construction BMP implementation is appropriate. Permittees can choose to use lower thresholds for post-construction BMPs on a case-by-case basis to address site-specific water quality threats or to address water quality in the watershed or sub-watershed as a whole. See also response to comment # E.7.6. Other MS4 permits have lower thresholds but include language that allows project proponents to avoid onsite implementation. For example, the King County, Washington ordinance cited requires "drainage review" for projects adding or resulting in 2,000 square feet of impervious area but that does not mean those projects will automatically be subject to post-construction BMP implementation. Projects that are part of large urban projects are exempt from onsite controls under the ordinance.

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		acre or greater of disturbed area is far too high a threshold for triggering stormwater compliance measures for new development projects and creates a serious issue with this current draft version of the permit. We believe this language should be removed entirely and that the trigger should be based solely on the square footage of added impervious area as per our comments to earlier drafts (September 2019). Regarding the proposed 10,000 square foot threshold, while in line with many seen around the country, in the context of current best practice, there are a number of examples of cities adopting lower thresholds. In Portland, Oregon for example the threshold is 500 square feet. If the new permit is to take a serious stance on helping L.A. achieve compliance we suggest significantly lowering this value. This is especially important for new projects on greenfield sites as any impervious surface will be replacing pervious surfaces entirely. Link to Portland's Stormwater management manual here: https://www.portlandoregon.gov/bes/64040 In another example, in King County, Washington, thresholds that trigger the local stormwater ordinance are set at 2,000 square feet of new impervious surface,	

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		replaced impervious surface, or new plus replaced impervious surface. The ordinance goes further to include projects that propose 7,000 square feet or more of land disturbing activities. A link to the King County stormwater design manual is provided here. https://your.kingcounty.gov/dnrp/library/water-and-land/stormwater/surface-water-design-manual/SWDM%202016%20complete%20document%20FINAL%20first%20errata%206%2015%202016.pdf In another example, the entire State of Florida has implemented thresholds for all new development and redevelopment projects of 4000 square feet of impervious and semi-impervious surface areas subject to vehicular traffic or more than 9,000 square feet of impervious and semi-impervious area. If these places are able to address their stormwater challenges effectively, and use more stringent criteria, surely Los Angeles can do better than the proposed 1-acre and 10,000 square foot thresholds. TNC strongly recommends reducing this value to be in the range of 500 to 2000 square feet for all land use and disturbance types. Lets get serious about compliance. For reasons previously stated, the Nature Conservancy believes the threshold for	

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		industrial parks and commercial malls should be reduced to be in the range of 500 to 2000 square feet.	
E.7.8	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.F.1.a/ Pg. 51. How to define “industrial parks” and “commercial malls”? For example, a developer who is developing a ‘warehouse’ or a ‘hotel’ can argue that the project is not a ‘park’ or ‘mall’. To avoid ambiguity, we suggest replacing with a more general term (e.g., ‘industrial sites’ and ‘commercial sites’).	**No change.** Commercial malls and industrial parks are defined in Attachment A of the Tentative Order.
E.7.9	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 51. Part VIII.F.1.a.i. "Industrial parks of 10,000 square feet or more of surface area” Does "surface area" imply impervious surface area or total surface area of project site?	**No change.** No distinction for impervious area is included in the definition of industrial parks. The size threshold is for total surface area.
E.7.10	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 51. Part VIII.F.1.a.i. "Commercial malls of 10,000 square feet or more of surface area” Does "surface area" imply impervious surface area or total surface area of project site?	**No change.** No distinction for impervious area is included in the definition of commercial malls. The size threshold is for total surface area.

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E.7.11	Los Angeles County and LACFCD 2nd Letter and City of Malibu	Order/ Part VIII.F.1.a.ii(a)/ Pg. 51. We believe that the 1-acre threshold was left out unintentionally and should be included. We request revising it as follows: *(a) Existing sites of 1-acre or greater of disturbed area and 10,000 square feet or more of impervious surface area.*	**No change.** The 1-acre threshold was not unintentionally omitted. The redevelopment projects do not include this acreage threshold. This is consistent with the 2012 LA County MS4 Permit, which also did not include a 1-acre threshold for redevelopment projects. (See Part VI.D.7.b.ii).
E.7.12	The Nature Conservancy	**Part VIII.F.1.a.ii.** "Redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site) on any of the following: (a) Existing sites of 10,000 square feet or more of impervious surface area (b) Industrial parks 10,000 square feet or more of surface area (c) Commercial malls 10,000 square feet or more of surface area" Section VIII.F.1.a.ii creates a loophole whereby some large redevelopment projects might not trigger the permit if they have less than 10,000 square feet of existing impervious surface, despite being on large parcels. It is good to see this "create and/or replace" language here. Please add "in the aggregate" to the end of this phrase to indicate that it is not either/or but a combination of creating and replacing. In addition, for reasons	**No change.** See response to comment # E.7.7.

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		previously stated, the Nature Conservancy believes this threshold should be reduced to be in the range of 500 to 2000 square feet. The Nature Conservancy believes that the inclusion of this threshold which only requires mitigation on existing sites with 10,000 square feet or more of impervious surface (or surface area in the case of industrial parks and commercial malls) severely dilutes the intention and effectiveness of this section. For example, as currently written, a 50,000 square foot parcel with 9,000 square feet of existing impervious surface could create 20,000 square feet of new impervious surface without triggering the permit. We believe this is a shortcoming and suggest eliminating items (a),(b), and (c) here such that only the "create and/or replace" trigger is relevant, not the size of the existing parcel or impervious surface.	
E.7.13	The Nature Conservancy	**Part VIII.F.1.a.iii.** "New development and redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site) and support one or more of the following uses:" For reasons previously stated, the Nature Conservancy believes this threshold should be reduced to be in the range of 500 to 2000 square feet.	**No change.** See response to comment # E.7.7.

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E.7.14	The Nature Conservancy	**Part VIII.F.1.a.iv.** "New development and redevelopment projects that create and/or replace 2,500 square feet or more of impervious area; discharge storm water that is likely to impact a sensitive biological species or habitat; and are located in or directly adjacent to or are discharging directly to an ASBS, "Sensitive Ecological Area" in Los Angeles County,47 or "Environmentally Sensitive Area" in Ventura County." For reasons previously stated, the Nature Conservancy believes this threshold should be reduced to between 500 and 2000 square feet.	**No change.** See response to comment # E.7.7.
E.7.15	VCSQMP	Part VIII.F.1.a.iv Footnote 48. Page 51. Footnote 48 refers to Order # R4-2010-0108 for the definition of an "Environmentally Sensitive Area", and for clarity, the definition should also be included as a definition in the new Order. Include definition of "Environmentally Sensitive Area" from Order # R4-2010-0108 in Attachment A - Definitions.	**No change.** Environmentally Sensitive Area is a narrowly used term used exclusively by the Ventura County MS4 Permittees and, therefore, is not appropriate to include in Appendix A.
E.7.16	Construction Industry Coalition on Water Quality	Part VIII.F.1.a.iv. "Discharging directly" needs to be defined in Attachment A of working draft.	**No change.** "Direct discharge" is defined in Attachment A. Permittees can determine when projects are in, adjacent to, or directly discharging to an ASBS, Sensitive Ecological Area, or Environmentally Sensitive Area using the definitions in Attachment A in

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			conjunction with GIS or maps where necessary.
E.7.17	The Nature Conservancy	**Part VIII.F.1.a.v.** "Street and road construction of 10,000 square feet or more of impervious surface area shall follow U.S. EPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects. …" Streets and roadways have been shown to be highly polluting surfaces, particularly if they are high traffic areas. The Nature Conservancy recognizes that very small roadway projects (on the order of 500-2000 square feet may have difficulty managing runoff with BMPs. However, we believe the 10,000 square foot threshold here is not aggressive enough and that this should be reduced to about 5,000 square feet.	**No change**. This is the same threshold that was included in the 2012 LA County MS4 Permit (see Part VI.D.7.b.i.(1)(g) of the 2012 LA County MS4 Permit) and the Los Angeles Water Board continues to find that it is appropriate.
E.7.18	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.F.1.a.v/ Pg. 51. Please clarify if standalone bike path and/or sidewalk along a road (entirely separate from the road) fall under part VIII.F.1.a.v. If not already, we request that these features be included under VIII.F.1.a.v.	**No change.** Municipalities have the land use authority to address bike paths and sidewalks as part of any green streets project.
E.7.19	Construction Industry	Part VIII.F.1.a.v.	**No change.** The strikeout language is not part of the Tentative Order.

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	Coalition on Water Quality	"Street and road construction of 10,000 square feet or more of impervious surface area shall follow U.S. EPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets (December 2008 EPA- 833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects~~, and also applies to streets within larger projects~~. Projects under this category are exempt from the Priority Development Structural BMP Performance Requirements in Part VI.D.6.d and VI.D.6.e of this Order." [Part references above are to the Working Proposal]	
E.7.20	Newhall Land and Farming Company	The Los Angeles Regional Water Quality Board ("Los Angeles Water Board") previously approved the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan, a comprehensive storm water mitigation plan for the Newhall Ranch Resource Management and Development Plan ("RMDP"), as a substitute for the standard Development Planning Program requirements under the Los Angeles County MS4 permit. Further, development of the RMDP has been authorized by the Los Angeles Water Board under Waste Discharge Requirements, Order # R4-2012-0139 ("Newhall Ranch WDRs"), which	**Change made.** The exemption for Newhall Ranch in the redevelopment section the 2012 LA County MS4 Permit was added to the revised Tentative Order's redevelopment section. Specifically, the Newhall Ranch Project Phases I and II (a.k.a. the Landmark and Mission Village projects) are deemed to be an existing development that will at a minimum, be designed to comply with the Specific LID Performance Standards attached to the Waste Discharge Requirements (Order No. R4-2012-0139).

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		reference the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan and establish a comprehensive set of low impact development ("LID") performance standards for the RMDP. In Section VI.D.7.b.ii.(1) of the 2012 MS4 Permit, each Permittee (as defined in the 2012 MS4 Permit) is required to implement a Planning and Land Development Program for all New Development and Redevelopment projects (each as defined in the 2012 MS4 Permit). However, the 2012 MS4 Permit includes exceptions to this requirement, including the following exception for development within the RMDP: Specifically, the Newhall Ranch Project Phases I and II (a.k.a. the Landmark and Mission Village projects) are deemed to be an existing development that will at a minimum, be designed to comply with the Specific LID Performance Standards attached to the Waste Discharge Requirements (Order # R4-2012-0139). All subsequent phases of the Newhall Ranch Project constructed during the term of this Order shall be subject to the requirements of this Order. (Section VI.D.7.b.ii.(1)(e)) This exception is consistent with the provision of the Newhall Ranch WDRs	

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		requiring development areas within the RMDP to comply with applicable requirements of the Los Angeles County MS4 permit in place at the time a project-specific water quality technical report is prepared, unless an equivalent provision of the Newhall Ranch WDRs is more stringent. It reflects that the water quality technical reports for Newhall Ranch Project Phases I and II had already been prepared and reviewed by Los Angeles Water Board staff at the time the 2012 MS4 Permit was adopted. Like the 2012 MS4 Permit, the Tentative Permit provides in Section VIII.F that "[e]ach Permittee except LACFCD and VCWPD must use their land use and planning authorities to implement a Planning and Land Development Program." However, the exception for development of Newhall Ranch Project Phases I and II is not included. Newhall believes the exception for Newhall Ranch Project Phases I and II should be retained in the Tentative Permit. In adopting the Newhall Ranch WDRs, the Los Angeles Water Board recognized that, once a water quality technical report was approved for a development area within the RMDP, that phase should not be subjected to different development standards even if an	

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		MS4 permit containing different standards were later adopted. [footnote] 2 Applying different standards would disrupt the comprehensive, watershed-based storm water mitigation plan and consistent LID standards developed in coordination with the Los Angeles Water Board staff and would be unduly burdensome in light of the extensive planning and design work undertaken for this advanced watershed-based approach. The 2012 MS4 Permit reflected the same understanding. While Newhall understands the new planning and land development standards in the Tentative Permit would not apply to Newhall Ranch Project Phases I and II, retaining the explicit exception for those developments will improve clarity. [footnote 2]: Newhall Ranch WDRs, Condition 3.0-10. Accordingly, Newhall respectfully requests the Los Angeles Water Board add the following new Section VIII.F.1.a.vi to the Tentative Permit: Implementation of the Newhall Ranch Resource Management and Development Plan (RMDP) is subject to Waste Discharge Requirements (Order # R4-2012-0139). Order # R4-2012-0139 recognizes that development within the RMDP is subject to a comprehensive sub-regional storm water	

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		mitigation plan that utilizes a watershed-based approach. Order # R4-2012-0139 also includes a specific LID Performance Standard that clarifies the LID standards that will be applied to the phased development contemplated in the RMDP. The Newhall Ranch Project Phases I and II (a.k.a. the Landmark and Mission Village projects) are deemed to be existing developments that have been designed to comply with the specific LID Performance Standard attached to the Waste Discharge Requirements (Order # R4-2012-0139) and are not Priority Development Projects.	
E.7.21	The Nature Conservancy	**Part VIII.F.1.b.i.(a). "**Where redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development the entire project must be mitigated." The term "project" might be misconstrued to mean just the new works. Suggest changing to "project including old, replaced and new impervious surfaces"	**No change.** "Project" is defined in Attachment A.
E.7.22	Contech Engineered Solutions, LLC	**Section: VIII.F.1.c.i – Local ordinance equivalence** "A Permittee that has adopted a local LID ordinance prior to the adoption of this Order, and which includes a retention requirement numerically equal to the 0.75-inch, 24-hour rain event or the 85th percentile, 24-hour rain event, whichever is greater, may submit	**No change.** Retain and retention are used in the common sense of the word.

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		documentation to the Los Angeles Water Board that the alternative requirements in the local ordinance will provide equal or greater reduction in storm water discharge pollutant loading and volume as would have been obtained through strict conformance with Part VIII.F.4 and Part VIII.F.5 of this Order and, if applicable, Part VIII.F.2 of this Order." Please clarify that only programs with local ordinances that require full retention of the design storm without discharge, without exception, be exempt from structural BMP performance requirements of the permit. Further, please define "retain" or "retention requirement" in the Appendix A of the permit as "capture of runoff from the design storm without release as overland flow, piped effluent or other discharge. Captured runoff may be infiltrated, harvested for use on site or evapotranspired." Permittees can apply for exemption from the priority development project structural BMP performance requirements if they have a local ordinance including a "retention requirement numerically equal to the 0.75 inch 24 hour rain event or the 85th percentile 24 hour rain even whichever is greater". However, "retention requirement" is not defined in the permit. This could be interpreted to mean that permittees that have	

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		a retention requirement as described, but that also allow flow through treatment under "alternative compliance" provisions in their ordinances may be exempted from structural BMP performance requirements in this permit.	
E.7.23	Newhall Land and Farming Company	Newhall also requests the Tentative Permit be revised to provide that the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan, as modified by the LID Performance Standard found in the Newhall Ranch WDRs, is an approved Regional Storm Water Mitigation Program that substitutes for the Priority Development Project Structural BMP Performance Requirements in Part VIII.F.5 of the Tentative Permit pursuant to Section VIII.F.1.c.ii of the Tentative Permit. The Newhall Ranch LID Performance Standard meets or exceeds the substantive requirements for such a program because, among other reasons, it requires retention of the runoff from the 85th percentile, 24-hour rain event (which is greater than 0.75 inches), provides a variety of benefits to storm water quality and stream habitat protection as determined by the Los Angeles Water Board in approving the Newhall Ranch WDRs, and results from a collaborative effort that included the U.S. EPA, the Los Angeles Water Board, Newhall and members of the public. [footnote] 3	**No change.** Per the response to Comment # E.7.20, the Newhall Ranch Project Phases I and II (a.k.a. the Landmark and Mission Village projects) are deemed to be an existing development that will at a minimum, be designed to comply with the Specific LID Performance Standards attached to the Waste Discharge Requirements (Order No. R4-2012-0139) but approval of the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan, as modified by the LID Performance Standard found in the Newhall Ranch WDRs, as an approved Regional Storm Water Mitigation Program will need to be done as a separate process.

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		[footnote 3]: See Newhall Ranch WDRs, Finding C.17. As a comprehensive approach for all of Newhall Ranch, implementation of the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan may not be completed within five years. It will, however, be completed during the life of the Newhall Ranch WDRs, which will remain in effect for the duration of the RMDP implementation. [footnote] 4 Recognizing the Plan and LID Performance Standard as an approved Regional Storm Water Mitigation Program for the longer-term build out of the Newhall Ranch Project under the Tentative Permit will ensure equal or greater protection of stormwater quality while promoting consistency in implementation over the life of the Newhall Ranch Project. In particular, this recognition will avoid potential confusion by allowing application of the technical criteria and demonstration methods for infeasibility and alternative compliance that are specified in the LID Performance Standard and which were developed specifically to address the RMDP development conditions, rather than the generic methods and criteria specified in the Tentative Permit. Accordingly, Newhall respectfully requests the Los Angeles Water Board add the following new Section VIII.F.1.c.ii.h to the Tentative Permit:	

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		[footnote 4]: See Newhall Ranch WDRs, Condition 5.0. Implementation of the Newhall Ranch Resource Management and Development Plan (RMDP) is subject to Waste Discharge Requirements (Order # R4-2012-0139). Order # R4-2012-0139 recognizes that development within the RMDP is subject to the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan, which utilizes a comprehensive a watershed-based approach. Order # R4-2012-0139 also includes a LID Performance Standard that imposes additional low impact development requirements on development within the RMDP. The Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan, as augmented by the LID Performance Standard, meets or exceeds the substantive requirements of the Structural BMP Performance Requirements in Part VIII.F.5 of this Order, is technically valid and appropriate, and is hereby deemed a Regional Storm Water Mitigation Program for purposes of this Order.	
E.7.24	City of Santa Clarita	**Stormwater Mitigation Program** The alternative stormwater mitigation program to create a development mitigation process may be helpful in moving forward a more watershed focused water quality	**No change.** Comment noted.

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		improvement process more quickly. Thank you for this flexibility. Page 53. Section C.ii. Thank you for the flexibility with the Stormwater Mitigation Program	
E.7.25	The Nature Conservancy	**Part VIII.F.1.c.ii. "Regional Storm Water Mitigation Program.** Permittees may apply for approval of a regional or sub-regional storm water mitigation program to substitute in part of wholly for new development and redevelopment requirements for proposed areas. Upon review and a determination by the Los Angeles Water Board Executive Officer that the proposal is technically valid and appropriate, the Los Angeles Water Board may consider for approval such a program if its implementation meets all of the following requirements:" We recommend adding language to sections VIII.F.1.c.ii and VIII.F.1.d to allow for an option to create regional or subregional market-based programs such as mitigation banks or post construction stormwater trading programs. We believe such programs have enormous potential to create environmental and social co-benefits beyond typical on-site mitigation. Our comments to the alternative compliance sections also reflect this thinking.	**Change made.** Comment noted and change made to "or wholly". Regarding the commenter's suggestion to add language about options for market-based programs, the language is already adequately broad to allow this option.

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		The Nature Conservancy is supportive of properly designed stormwater trading markets. We suggest explicitly adding language here such as "Permittees may apply for approval of a regional or sub-regional storm water mitigation program including but not limited to, for example, a post-construction storm water trading market, or mitigation banking, ..." "Such programs may grant Permittees the right to use off-site mitigation which may preclude the "Priority Development Project Structural BMP Performance Requirements" defined in the next section (VIII.F.1.d)" Need to change “of wholly” to “or wholly.”	
E.7.26	Construction Industry Coalition on Water Quality	Part VIII.F.1.c.ii, Page 53. **Potential effects to Anaheim SCP of Permit Language if used in SAR** The language is beneficial to the SCP as it encourages a regional stormwater program and encourages the retention of the 85th percentile storm event. The language “(c) Protects stream habitat” could be a concern, however retention of the 85th percentile would be protective of stream habitat. This language could be trying to address hydromodification, which would be an entirely different standard a project would need to address.	**Change made.** Section F.1.c.ii (c) was revised per the suggested language as the hydromodification requirements in the Order effectively require the protection of habitat for natural drainage systems.

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		Proposed Comment Section F.1.c.ii (b) requires some clarification as improvement in water quality should be based in removal/reduction of mass pollutants. Section F.1.c.ii (c) “Protects stream habitat” is ambiguous and should be tied to the hydromodification standard in Section VIII.F.2 if applicable for the development. Additionally, Section F.1.c.ii (d) “Promotes cooperative problem solving by diverse interests;” is ambiguous and should be modified to promotes integrated water resources management, which inherently is cooperative in nature. Section F.1.c.ii (e) is intended to ensure the long-term viability and maintenance of BMPs and so the language should eb updated to reflect this. **Proposed redline/strikeout language changes** Regional Storm Water Mitigation Program. Permittees may apply for approval of a regional or sub-regional storm water mitigation program to substitute in part of wholly for new development and redevelopment requirements for proposed areas. Upon review and a determination by the Los Angeles Water Board Executive Officer that the proposal is technically valid and appropriate, the Los Angeles Water Board may consider for approval such a	

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		program if its implementation meets all of the following requirements: (a) Retains the runoff from the 85th percentile, 24-hour rain event or the 0.75 inch, 24-hour rain event, whichever is greater; (b) Results in improved storm water quality through removal/ reduction of the mass of pollutants; (c) ~~Protects stream habitat~~ Meets the hydromodification management requirements in Section VIII.F.2. if applicable; (d) Promotes cooperative problem solving by diverse interests integrated water resources management; (e) Is fiscally sustainable and has secure funding for operation and maintenance of the BMP; and (f) Is completed in five years including the construction and start-up of treatment facilities. (g) Nothing in this provision shall be construed as to delay the implementation of requirements for new development and redevelopment, as approved in this Order.	
E.7.27	The Nature Conservancy	The Regional Board should consider adding language [to Part VIII.F.1.d.] to reinforce that a market based program such as a mitigation bank or stormwater market may preclude the need to follow this hierarchy if it is established as a "by-right" option (meaning a developer does not have to demonstrate	**No change.** The language in Part VIII.F.1.c.ii is adequately broad to address this comment.

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		infeasibility before choosing to purchase capacity from such a program). The Nature Conservancy suggests the following additional language. **"Where and if a regional storm water mitigation or market based program is available, development and redevelopment projects may purchase capacity from such programs rather than following the hierarchy defined here."**	
E.7.28	Construction Industry Coalition on Water Quality	Part VIII.F.1.d, Page 53. **Potential effects to Anaheim SCP of Permit Language if used in SAR** This section requires onsite implementation if infiltration, bioretention and/or rainfall harvest and use is feasible, which is consistent with the SCP, however if we want a more flexible program to implement regional credit generating facilities without the constraint of onsite feasibility the language should be changed. **Proposed Comment** Section VIII.F.1.d. requires the implementation of onsite infiltration, bioretention and/or rainfall harvest and use if technically feasible, however implementation of onsite BMPs may not always be as beneficial to a watershed as implementation of regional BMPs and their associated benefits such as groundwater replenishment.	**No change.** See response to comments # E.7.26 and # E.7.27.

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		The requirement of onsite BMPs in all cases is an antiquated approach to management of stormwater where offsite regional BMPs in many cases can provide more benefit to the watershed and a more sustainable stormwater management approach. Centralized regional BMPs in many cases provide the opportunity for implementation of more effective BMPs than those that can be placed on a development site, which can be constrained by space and other limitations that limit their effectiveness. Additionally, centralized regional BMPs consolidate the responsibility for their operation and maintenance into a single entity, usually a public entity, where there is a higher likelihood of effective and timely maintenance, where distributed private onsite BMPs historically have had maintenance issues. Continued implementation of distributed onsite BMPs for Priority Development Projects also can be seen as an inconsistent approach with the regional BMP approach identified in the EWMPs and WMPs, where the implementation of onsite BMPs may have little effect on water quality if tributary to a regional BMP project being implemented as part of an EWMP or WMP. The implementation of a regional BMP approach also has the benefit of realizing integrated water resources management as regional BMP locations can be identified to	

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		achieve groundwater recharge or provide local stormwater capture and use, both providing a water supply benefit. Finally, centralized regional BMPs can be implemented at a scale that provides other community benefits, such as open space and recreation. The section should be modified to identify onsite BMPs are required unless offsite BMPs with groundwater replenishment or capture and use can be utilized. This will allow for a more integrated water resources approach and sustainable stormwater management approach for the Planning and Land Development Program. **Proposed redline/strikeout language changes** **Priority Development Project Structural BMP Performance Requirements.** Each Permittee shall require all Priority Development Projects identified in Part VIII.F.1.a of this Order to meet the Structural BMP Performance Requirements contained in Part VIII.F.4 and Part VIII.F.5 of this Order in the following order of preference: i. On-site infiltration, bioretention and/or rainfall harvest and use, <u>or off-site groundwater replenishment or capture and use that can be achieved in the same watershed</u>. ii. If subpart i above is infeasible, on-site biofiltration, off-site groundwater	

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		replenishment or capture and use that can be achieved in the same watershed, and/or off-site retrofit, or iii. If subpart ii above is infeasible, on-site treatment, where all the above options are infeasible.	
E.7.29	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.F.1.d.iii/ Pg. 53. We think the reference to an "on-site treatment" is a typo-error. It should be an "off-site treatment" instead. If so, please correct it. If not, please clarify it.	**No change.** Part VIII.F.4.c.ii of the revised Tentative Order states: *If a Permittee determines that on-site biofiltration and off-site alternative compliance measures are not technically feasible, the Permittee may request the Executive Officer allow the use of on-site flow-based BMPs.* This is the on-site treatment referenced in your citation. As such, the language is correct.
E.7.30	City of Long Beach	Section VIII.F.2, Page 53 Please provide a definition of "natural drainage system," and confirmation whether any part of the Los Angeles Estuary and the Long Beach Harbor waters is considered a natural drainage system.	**No change.** Natural drainage system is defined in Attachment A.
E.7.31	The Nature Conservancy	**Part VIII.F.2.** "**Hydromodification Management Requirements.** Permittees must require (i) Priority Development Projects within natural drainage systems in Los Angeles County and (ii) Priority Development Projects disturbing land areas of 50 acres or	**No change.** The hydromodification requirements including runoff retention, matching pre-development hydrology, and controlling erosion potential are adequate to address hydromodification

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		greater in Ventura County to implement hydrological control measures to prevent accelerated downstream erosion and protect stream habitat. a. **Definition of Natural Drainage Systems**. Natural drainage systems that are subject to the hydromodification assessments and control include all drainages that have not been modified using engineering controls or drainages that are tributary to a natural drainage system. Examples of engineering modifications to a drainage include channelization, armoring with concrete, and application of rip-rap. The clearing or dredging of a natural drainage system does not constitute a "modification" for purposes of these provisions." As written, Section VIII.F.2 on hydro-modification management is insufficient, allowing for continued and only minimally checked increases in peak flows to modified and natural streams and channels. Our comments describe in detail how this is a slippery path which could limit or eliminate the potential to restore our compromised natural systems, improve habitat quality, and provide community aesthetic, health and safety benefit now and in the future.	impacts from priority development projects.

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		While, at face value, requiring hydro-modification management only in "natural drainage systems" seems to make sense as these would be most prone to downstream erosion and habitat impacts, The Nature Conservancy is of the strong opinion that it is irresponsible to continue to allow for increased peak flows, even in catchments that are highly modified. Allowing continued peak flow increases will limit or even eliminate the ability to fully or partially restore channelized rivers and streams to improve habitat and aesthetics over the years to come and could further increase flood risk, which is likely to be further exacerbated by the effects of climate change on both rainfall intensity and sea level. We must be good stewards of the natural resources within the Counties which include both channelized and non-channelized rivers. This important rule should be supportive of future restoration efforts and community safety. In it's current form it is not. As such, the Nature Conservancy urges the Regional Board to eliminate the limitation of this rule to only "natural drainage systems" by deleting this language and further suggests that the language for Ventura County should be similar or the same as our suggestion for Los Angeles County.	

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		"50 acres or greater" is a very high threshold which would only affect a small proportion of parcels within Ventura County. It therefore has limited value as a strategy to reduce the hydrologic impacts of urbanization and densification. It is our opinion that this high threshold will allow for further densification and increases in overall impervious cover throughout Ventura County as parcels under 50 acres become increasingly built-out. This could result in further increases in peak flows in rivers and channels which would limit or perhaps eliminate the possibility of restoring natural hydrology and channel morphology in the future. The Nature Conservancy believes it is irresponsible to set such a high threshold for hydromodification. There are numerous examples from California and beyond which use significantly lower thresholds. Just one example, Alameda County, has a threshold of 1 acre. See Alameda County Clean Water Program hydromodification requirements here: https://www.cleanwaterprogram.org/images/uploads/C3TG_v6_Oct_2017_Chapter_7.pdf The Nature Conservancy strongly urges the County to either mirror our suggestion for requiring hydromodification in Los Angeles County (see previous comment) or reduce the threshold for hydromodification from 50 to	

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		1 acre and believes this would be more responsible, providing better stewardship for our local rivers and channels and community safety. Base on our comment above, we believe the definition of a "Natural Drainage System" is not required and should be removed from the permit.	
E.7.32	SGVCOG 2nd Letter and ULAR Group	Part VIII.F.2.b; Page 54. In addition to the specific projects listed, exemptions to hydromodification controls should include an option for Permittees to prove no adverse hydromodification effects occur to beneficial uses in the Natural Drainage System.	**No change.** Appropriate specificity is necessary to address hydromodification concerns within natural drainage areas. Nonetheless the "specific projects listed" are actually broad categories that are adequate to cover the appropriate exemptions from the hydromodification control requirements.
E.7.33	The Nature Conservancy	**Part VIII.F.2.b. "Exemptions to Hydromodification Controls.** Permittees may exempt the following New Development and Redevelopment projects from implementation of hydromodification controls <u>where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse hydromodification effects to beneficial uses of Natural Drainage Systems are unlikely:</u> i. Projects that are replacement, maintenance or repair of a Permittee's existing flood control facility, storm drain, or transportation network.	**No change.** See response to comment # E.7.31.

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		ii. Redevelopment Projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions. iii. Projects that have any increased discharge directly or via a storm drain to a sump, lake, area under tidal influence, into a waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to hydromodification impacts. iv. Projects that discharge directly or via a storm drain into concrete or otherwise engineered (not natural) channels (e.g., channelized or armored with rip rap, shotcrete, etc.), which, in turn, discharge into receiving water that is not susceptible to hydromodification impacts (as in Parts VIII.F.2.b.i-iii above). v. LID BMPs implemented on single family homes are sufficient to comply with Hydromodification criteria." For the reasons stated previously, The Nature Conservancy believes that exempting hydromodification requirements when it is "unlikely" to cause adverse hydromodification effects to beneficial uses is a backwards approach to watershed management and stewardship. Rather, we see downstream modified and channelized systems as being	

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		full of potential for habitat restoration, improved community aesthetics, health and safety. By disregarding this potential and allowing for continued increases in peak flow to our already modified rivers and streams, the opportunity for future revitalization and restoration is disregarded, further limited or perhaps eliminated. We strongly urge the Regional Board to change this language to "where the following conditions apply" and to further remove and modify the exemptions noted in our comments below. We agree with these exemptions [b.i through b.iii] to the hydromodification requirements. The text “or other receiving water that is not susceptible to hydromodification impacts” is vague and could be construed to mean a channelized river such as Ballona Creek or the Los Angeles River. We believe that allowing for continued increases in peak flows to either of these, or similar, systems is irresponsible. Please either delete this language or provide clarification on what specific type(s) of "other receiving water" is to be considered. For reasons stated previously, The Nature Conservancy believes that all rivers and	

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		channels, natural or highly modified, should be protected from increased peak flow which could impact existing or future beneficial uses and reduce or eliminate opportunities for restoration. Please delete this exemption [b.iv]. While we recognize that the level of engineering effort to design a BMP to address hydromodification for a single family home may be more costly, we disagree that LID BMPs implemented on single family homes are, in fact sufficient to comply with hydromodification criteria. Just consider one hypothetical example where a new single family home is built on a green field site. Even with implementation of standard BMPs, there will still be increased peak flows to receiving natural or man-made drainage systems during any event larger than the 85th percentile. This statement “are sufficient to comply with Hydromodification criteria” is therefore untrue and should be removed. Further, the importance of good regulation on single family homes in Los Angeles County in particular cannot be understated as a large portion of the land area is made up of this land use type. We believe that single family homes should not be exempted from hydromodification. So long as they trigger the	

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		ordinance, they should be required to comply with hydromodification management.	
E.7.34	The Nature Conservancy	**Part VIII.F.2.c.i.** "Projects disturbing an area less than or equal to 1 acre must implement controls meeting applicable performance requirements in Part VIII.F.4 and Part VIII.F.5 of this Order." The requirements of VIII.F.4 and VIII.F.5 do not go any further to improve upon standard water quality controls and address hydromodification. Therefore, this clause effectively exempts any project disturbing 1-acre or less from hydromodification requirements. The Nature Conservancy believes that 1-acre is too high a threshold for hydromodification, particularly as the vast majority of parcels in Los Angeles County are less than 1-acre. This rule lacks teeth and potentially puts the regions existing natural and channelized rivers and streams at risk of degradation and loss of future restoration potential. Our suggestion is to require all development and redevelopment projects that trigger the ordinance to also achieve at least the next level of hydromodification management defined in item ii. below.	**No change.** See response to comment # E.7.31.
E.7.35	The Nature Conservancy	**Part VIII.F.2.c.ii.(a)-(b)** "Projects disturbing an area <u>greater than 1 acre, but</u> less than 50 acres will be presumed to meet pre-	**No change.** See response to comment # E.7.31.

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		development hydrology if one of the following demonstrations are made: **(a)** The project is designed to retain onsite the runoff of the 95th percentile, 24-hour storm; or **(b)** The runoff flow rate, volume, velocity, and duration for the post-development condition do not exceed the pre-development condition for the 2-year, 24-hour storm event. This condition may be substantiated by simple screening models, including those described in Hydromodification Effects on Flow Peaks and Durations in Southern California Urbanizing Watersheds or other models acceptable to the Executive Officer of the Los Angeles Water Board; or" Suggest delete this text "greater than 1 acre, but" per our previous comment. The "95th percentile" is a very small increase from the 85th percentile event and will do little to reduce peak flow impacts of additional impervious space. We suggest that for this, first level, of hydromodification, permittees should design projects to retain onsite the 2-year 24 hour event. Suggest changing [2-year] to 5-year.	
E.7.36	The Nature Conservancy	This section [Part VIII.F.2.c.ii.(c)] creates a major loophole that could exempt the vast	**No change.** See response to comment # E.7.31

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		majority of projects that would otherwise trigger hydromodification requirements. It is far too easy for even a moderately large project that is tributary to a very large river, for example, the Los Angeles River, to develop calculations showing an Ep of "approximately" 1. This clause will cause "peak flow" creep such that over a long period of time, with many developments claiming exemption from hydromodification management because of this "Erosion Potential" clause, peak flows in all or many of the regions rivers and streams, both channelized and natural, would creep higher and higher. Granted the change would be very minor on a project by project basis, but the cumulative effects could, and we believe are likely, to significantly impact existing ecosystems, future planned restoration and revitalization projects, and human health and safety. This is not a good outcome and inclusion of this clause erodes the intention of the permit and is irresponsible. The Nature Conservancy strongly suggests and urges removal of this entire section (c) on Erosion Potential.	
E.7.37	The Nature Conservancy	**Part VIII.F.2.c.iii.** "Projects disturbing 50 acres or more will be presumed to meet pre-development hydrology based on the	**No change.** See response to comment # E.7.31

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		successful demonstration of one of the following conditions: (a) The site infiltrates onsite the runoff from a 2-year, 24-hour storm event; or (b) The runoff flow rate, volume, velocity, and duration for the post-development condition does not exceed the pre-development condition for the 2-year, 24-hour storm event. These conditions must be substantiated by hydrologic modeling acceptable to the Los Angeles Water Board Executive Officer; or (c) The Erosion Potential (Ep) in the receiving water is approximately 1." These large parcels should be held to a higher standard than smaller ones. The Nature Conservancy suggests changing [2-year, 24-hour in (a)] to the 5-year, 24-hour event. Larger parcels should be held to a higher standard than smaller ones. The Nature Conservancy suggests changing [2-year, 24-hour storm event in (b)] to the 10-year, 24-hour storm event. Suggest delete [(c)] per previous comment in Section VIII.F.2.c.ii.(c).	
E.7.38	Los Angeles County and	Order/ Part VIII.F.2.c.iii(c)/Pg. 55. Erosion Potential (EP) – For streams that are not stable, having the EP value set to 1 may	**No change.** Part VIII.F.2.d of the Order outlines the appropriate hydromodification alternatives and

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	LACFCD 2nd Letter	cause the design to be unstable. Thus, in situations where EP of 1 causes instability, the Regional Board should allow an alternative approach. Please clarify that the following alternative language, which is provided under part VIII.F.2.c.ii(c), also applies to part VIII.F.2.c.iii(c). "*Alternatively, Permittees can demonstrate that an Ep of approximately 1 has been achieved in the receiving water as determined by a Hydromodification Analysis Study or opt to use other work equations to demonstrate that an Ep of approximately 1 has been achieved for Los Angeles Water Board Executive Officer approval. Additionally, Permittees can use a sediment transport function such as the Brownlie equation or the Meyer-Peter and Muller equation (US Department of Agriculture, Natural Resources Conservation Service, 2007. Part 654 Stream Restoration Design, National Engineering Handbook, August 2007) to demonstrate appropriate Hydromodification control.*"	allows the development of a hydromodification control plan, which allows an alternate Erosion Potential other than 1 if the alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as the result of flow increases from impervious surfaces and prevent damage to stream habitat in natural drainage system tributaries. Additionally. Permittees are allowed to implement the hydromodification strategies in the current County of Los Angeles Low Impact Development Manual and/or Ventura County Hydromodification Control Plan as an alternative.
E.7.39	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.F.2.d.i/ Pg. 56. LID Manual – The LA County's LID manual may be updated to reflect the new requirements of this permit, as needed. To allow the validity of the manual after update, we recommend removing the reference to the year when the	**Change made**. Language revised to state "current" LID manual.

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		manual was developed and adding the phrase “as updated.”.	
E.7.40	The Nature Conservancy	Based on all of our above, previous comments to the hydromodification management section, and after reviewing the Los Angeles Low Impact Development Manual (2014) and the Ventura County Hydromodification Control Plan (2013), it is apparent that these documents contain some, if not all, of the same flaws as described in our previous comments. As such, this section [VIII.F.2.d.i] should be deleted. The process of developing new HCPs as described in section [VIII.F.2.d.ii] below will create documents that can be used in place of those defined in this section. We do, however, appreciate that the "frequency analysis" required in the LID Manual is an additional requirement of that compliance method.	**No change.** Comment noted.
E.7.41	Stormwater Equipment Manufacturers Association	**Section: VIII.F.3.a.i – Project Coordination** We strongly suggest that a detailed review of the blanket acceptance of non-proprietary compost-based biofiltration media for pollutants of concern including nutrients. Particularly, we question whether these practices are well suited for nutrient sensitive watersheds given the growing body of data demonstrating that they often serve as net exporters of nutrients.	**No change**. The Tentative Order does not continue the Board approval of biofiltration BMPs but relies on the TAPE approved BMPs.

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		Additionally, we encourage the acceptance of TAPE approved BMPs approved under the Washington Department of Ecology's Technology Acceptance Program – Ecology (TAPE), which have been proven effective for the pollutants of concern. TAPE is a nationally recognized verification process and will be serving as the foundation for the national verification program currently being developed by diverse industry stakeholders with support from USEPA.	
E.7.42	Contech Engineered Solutions, LLC	**Section: VIII.F.3.a.i – Project Coordination** Each permittee shall perform a "detailed LID site design and BMP review" including "pollutant removal performance". Please revise this section to direct permittees to collaborate on BMP performance evaluation efforts that utilize current, peer reviewed resources like the International Stormwater BMP Database and the TAPE program. Rather than requiring each permittee to conduct their own review of BMP pollutant removal performance, a coordinated effort amongst all permittees would be much more efficient for permittees. It would also help to avoid the development of disparate approval standards between permittees which could be confusing for developers and engineers. Such an effort should draw from available	**No change.** Comment noted. Additionally, see response to comment # E.7.41.

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		resources like the International Stormwater BMP Database for public domain BMPs and from the Washington State Department of Ecology (Ecology) Technology Assessment Protocol – Ecology (TAPE) program for the evaluation of innovative stormwater BMPs. TAPE is a nationally recognized stormwater treatment system verification program with treatment standards for total suspended solids (TSS), phosphorus and dissolved copper and zinc. In addition to these parameters, field data is also required to be collected for other parameters including nitrogen species, total metals, bacteria and particle size distribution. The TAPE program will be serving as the foundation for The National Center for Stormwater Testing and Evaluation for Products and Practices (STEPP), a program being developed by diverse industry stakeholders with support from USEPA. Furthermore, rather than simply assuming that LID BMPs are effective for all pollutants, BMPs should be selected on projects based on their demonstrated ability to control pollutants of concern on those projects as determined by evaluation of receiving water vulnerabilities (303(d) listings and TMDLs) and evaluation of pollutants likely to be generated on site in significant quantities. This is particularly important in nutrient	

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		sensitive watersheds where the use of BMPs containing compost should be limited to avoid increasing nitrogen and phosphorus concentrations in receiving waters.	
E.7.43	VCSQMP	Part VIII.F.3.b. Page 57. The Tentative Draft states, "… each Permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements, with the exception of simple LID BMPs implemented on single family residences, provide an operation and maintenance plan …" It is requested that the underlined portion of this sentenced be clarified. How is a "simple LID BMP" defined? Add a definition with examples of "simple LID BMPs" to Attachment A - Definitions.	**No change.** The definition of "simple LID BMP" is best left to the discretion of Permittees; however, it is generally assumed that LID BMPs that are implemented for a single family residence will include simpler LID BMPs such as rooftop runoff disconnection, rain barrels and rain gardens.
E.7.44	City of San Fernando, City of Agoura Hills, City of La Puente, City of La Cañada Flintridge, City of Hidden Hills, and Aleshire & Wynder, LLP	Page 57. Part VIII.F.3.c. "Each Permittee shall implement a tracking system and an inspection and enforcement program for new development and redevelopment post-construction storm water no later than 60 days after Order adoption date." Replace "Order adoption date" with "Permit effective date."	**No change.** This is an existing requirement that has been continued over from the prior permit so 60 days after adoption date is a reasonable period of time.
E.7.45	City of Los Angeles	Main Body, Part VIII.F.3.c.i(b), Page 57. LASAN requests that "Project Acreage" be replaced by "Project Mitigation Acreage" to reflect the BMP drainage area rather than the project "footprint".	**No change.** Comment noted.

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E.7.46	City of Santa Clarita	Page 57 Section C i – v. Please simplify, collecting these details are excessive to the need of water quality and will require unnecessary additional effort.	**No change.** Tracking, inspection, including verification of proper operation and maintenance, and enforcement are all critical to ensure the effectiveness of post-construction BMPs in protecting water quality.
E.7.47	Santa Ana Region MS4 Permittees	Modify Parts VIII.F.4 to allow for offsite mitigation in a larger geographical area to provide the most flexibility for implementation of multi-benefit and multi-partner regional watershed improvement projects that provide a greater benefit towards watershed improvement than onsite BMPs and help to achieve an integrated water resource management approach.	**Change made.** See response to comment # E.7.55. Note, however, that locating offsite mitigation projects in the same watershed as the onsite development is necessary to ensure the water quality benefits of the offsite project are realized in the vicinity of the onsite development. However, the Tentative Permit already allows Permittees to consider locations outside of the HUC-12 but within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 or if greater pollutant reductions and/or groundwater replenishment can be achieved at a location within the larger HUC-10 subwatershed (see Part VIII.F.4.c.iv.(d) of the revised Tentative Order).
E.7.48	Construction Industry Coalition on Water Quality	**Section XIII. F. Planning and Land Development Program, # 4. Priority Development Project Structural BMP Performance Requirements for Ventura County Permittees** We maintain a strong working relationship with Ventura County Watershed Protection	**Change made.** The EIA limitation requirements have been removed in response to comment # E.7.75 and this comment.

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		District and support the District's comments and suggestions for improvements in the Draft MS4 Permit. Specifically, we want to point out and support proposed redline comment suggestions made by the District concerning Section XIII F. Planning and Land Development Program, # 4. d., and attach those comments provided to CICWQ on the record here. We support removing effective impervious area (EIA) as a performance metric used for volume determination or in an alternative compliance (AC) program as described in Section F. 4. e. iii.	
E.7.49	Stormwater Equipment Manufacturers Association	**Section: VIII.F.4.a-c – Ventura Permittee BMP Requirements** The permit states in subpart b that if retention is infeasible, "an on-site biofiltration system that achieves equivalent storm water volume and pollutant load reduction as would have been achieved by on-site retention shall satisfy the EIA limitation. An on-site biofiltration system that releases above the design volume shall achieve 1.5 times the amount of storm water volume and pollutant load reduction as would have been achieved by on-site retention and, thereby, shall satisfy the EIA limitation." This requirement does not seem feasible or logical. If a biofilter "achieves equivalent storm water volume and pollutant load reduction as would have been achieved by	**Change made.** Note that the EIA limitation requirements have been removed in response to comment # E.7.75. The requirement related to on-site biofiltration of 1.5 times the on-site retention design volume and pollutant load reduction is feasible and appropriate and is consistent with the prior permits. Additionally, the alternative use of TAPE approved treatment BMPs when onsite retention is not achievable is now allowed in the Tentative Order.

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		on-site retention" it's not really a biofilter, it's a retention BMP. Influent loads for some pollutants, like nutrients and bacteria, for which there are multiple TMDLs in the Ventura region, which are not likely to be removed by conventional biofiltration at levels comparable to retention BMPs even when sized to treat 1.5x the design capture volume. In fact, nutrients are more likely to be exported than removed by conventional sand/compost biofiltration described in the current Ventura Technical Guidance Manual. The meaning of the phrase "releases above the design volume" is not clear. It is also impossible for a biofiltration system to "achieve 1.5 times the amount of storm water volume and pollutant load reduction" as compared to retention BMPs. This entire section should be removed. Instead, a simple requirement that retention of the design storm be required where technical feasible should be stated. Where full retention of the design storm is infeasible, BMPs with demonstrated effectiveness for the pollutants of concern on the project should be required. Evidence of nutrient removal should be demonstrated as a TAPE GULD for Phosphorus treatment. Bacteria removal evidence should be demonstrated as a TAPE GULD for Basic Treatment in a	

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		vegetated treatment system where biological processes can assist with bacteria removal between storm events. Conventional biofiltration systems using sand and compost should not be allowed in watersheds with nutrient TMDLs given their tendency to leach nutrients.	
E.7.50	Contech Engineered Solutions, LLC	**Section: VIII.F.4.a-c - Ventura Permittee BMP requirements** "If on-site retention is determined to be technically infeasible pursuant to Part VIII.F.4.e.ii below, an on-site biofiltration system that achieves equivalent storm water volume and pollutant load reduction as would have been achieved by on-site retention shall satisfy the EIA limitation. An on-site biofiltration system that releases above the design volume shall achieve 1.5 times the amount of storm water volume and pollutant load reduction as would have been achieved by on-site retention and, thereby, shall satisfy the EIA limitation." Subsections (a-c) should be removed and replaced with a simple requirement stating that retention of the design storm is required where technical feasible. Where full retention of the design storm is infeasible, BMPs with demonstrated effectiveness for the pollutants of concern on the project should be required. On projects, where nutrients are not a pollutant of concern, treatment may be	**Change made.** See response to comment # E.7.49.

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		provided by conventional biofiltration or by innovative BMPs that have achieved a General Use Level Designation (GULD) for Basic Treatment from the Washington State Department of Ecology (Ecology). Where nutrients are a pollutant of concern, evidence of nutrient removal should be demonstrated in the form of an Ecology GULD for Phosphorus Treatment, or equivalent performance for public domain BMPs. Where bacteria is a pollutant of concern, evidence of removal capability should be demonstrated as a GULD for Basic Treatment from Ecology, or equivalent performance for public domain BMPs, in a vegetated treatment system where biological processes can assist with bacteria removal between storm events. Conventional biofiltration systems using sand and compost should not be allowed in watersheds with nutrient TMDLs given their tendency to leach nutrients. Although the fact sheet explanation of the meaning of this section is clear, the language quoted above does not seem feasible or logical. If a biofilter "achieves equivalent storm water volume and pollutant load reduction as would have been achieved by on-site retention" it's not really a biofilter, it's a retention BMP. The second sentence also seems to set up an impossible hurdle by requiring "An on-site biofiltration system that	

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		releases above the design volume shall achieve 1.5 times the amount of storm water volume and pollutant load reduction" as compared to retention BMPs. This seems to be a different standard than the "equivalent" load reduction required in the first sentence. It is also unclear what "releases above the design volume" means in this context. Similarly confusing language appears in subsection (c) with the phrase "or in the case of biofiltration with release above the design volume 1.5 times the volume of water". Making the suggested change above will replace this confusing language with a simple directive to retain stormwater runoff where technically feasible and will align treatment technologies with pollutants of concern on land development sites in instances where retention is not technically feasible.	
E.7.51	Oldcastle Infrastructure	**Section: VIII.F.4.a-c – PDP Structural BMP Performance Requirements for Ventura County Permittees** Section a: EIA Limitation We suggest verbiage is revised to clarify importance of EIA and methods of exemption from project. One possibility is as follows: *EIA Limitation: Except as provided in Part VIII.F.1.c, Part VIII.F.2, or Part VIII.F.4.e of this Order, Ventura County Permittees shall require all Priority Development Projects identified in Part VIII.F.1.a of this Order to*	**Change made.** The EIA limitation requirements have been removed in response to comment # E.7.75.

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		control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces using infiltration, storage for reuse, evapotranspiration, or bioretention/biofiltration. In addition, PDP's are required to reduce the percentage of Effective Impervious Area (EIA) to 5 percent or less of the total project area. For the purposes of this provision, EIA is defined as the portion of the surface area that is hydrologically connected via sheet flow over a hardened conveyance or impervious surface without any intervening medium to mitigate flow volume.	
E.7.52	Oldcastle Infrastructure	**Section: VIII.F.4.a-c – PDP Structural BMP Performance Requirements for Ventura County Permittees** Section b: Rendering Impervious Surfaces Ineffective Filtration of a design storm can never be equivalent to retention in terms of volume. According to Attachment A, Bioretention may not include an underdrain because all design storm runoff must be evapotranspired or infiltrated; otherwise, it is considered biofiltration. Therefore, the permit defines retention as the treatment of stormwater on-site through infiltration and evapotranspiration while filtration is simply the treatment of stormwater prior to discharge from a BMP. This section would benefit from clear objectives and simplified	**Change made.** The EIA limitation requirements have been removed in response to comment # E.7.75.

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		use of previously defined terms. One possibility is as follows: *Impervious surfaces may be rendered "ineffective", and thus not count toward the 5 percent EIA limitations, if the storm water runoff from those surfaces is fully retained onsite for the design storm event specified in Part VIII.F.4.c below. To satisfy the EIA limitation and low-impact development requirements, Ventura County Permittees must require storm water runoff to be infiltrated, reused, or evapotranspired on-site through a storm water management technique allowed under the terms of this permit and implementing documents. If on-site retention is determined to be technically infeasible pursuant to Part VIII.F.4.e.ii below, an on-site biofiltration system that treats 1.5 times the amount of storm water volume and pollutant load as would have been achieved by on-site retention shall satisfy the EIA limitation.*	
E.7.53	Oldcastle Infrastructure	**Section: VIII.F.4.a-c – PDP Structural BMP Performance Requirements for Ventura County Permittees** Section c: Design Volume We suggest clarification, or removal, of the phrase "…with release above the design volume…".	**Change made.** The EIA limitation requirements have been removed in response to # E.7.75.

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E.7.54	Construction Industry Coalition on Water Quality	Part VIII.F.4.a-c. **Priority Development Project Structural BMP Performance Requirements for Ventura County Permittees** ~~**i. EIA Limitation:** Except as provided in Part VI.D.6.d.v below, Ventura County Permittees shall require all Priority Development Projects identified in Part VI.D.6.a of this Order to control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through infiltration, storage for reuse, evapotranspiration, or bioretention/biofiltration by reducing the percentage of Effective Impervious Area (EIA) to 5 percent or less of the total project area. For the purposes of this provision, EIA is defined as the portion of the surface area that is hydrologically connected via sheet flow over a hardened conveyance or impervious surface without any intervening medium to mitigate flow volume.~~ ~~**ii. Rendering Impervious Surfaces Ineffective**: Impervious surfaces may be rendered "ineffective", and thus not count toward the 5 percent EIA limitations, if the storm water runoff from those surfaces is fully retained on-site for the design storm event specified in Part VI.D.6.d.iii below.~~ **Water Quality / Flow Reduction / Resource Management Criteria:** To satisfy ~~the EIA limitation and~~ low-impact development requirements, Ventura County Permittees	**Change made.** The EIA limitation requirements have been removed in response to # E.7.75.

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		must require storm water runoff to be infiltrated, reused, or evapotranspired on-site through a storm water management technique allowed under the terms of this permit and implementing documents. If on-site retention is determined to be technically infeasible pursuant to Part VI.D.6.d.iv.(b) below, an on-site biofiltration system that achieves equivalent storm water volume and pollutant load reduction as would have been achieved by on-site retention is required ~~shall satisfy the EIA limitation~~. An on-site biofiltration system that releases above the design volume shall achieve **i.** 1.5 times the amount of storm water volume and pollutant load reduction as would have been achieved by on-site retention ~~and, thereby, shall satisfy the EIA limitation~~. ~~**iii.ii.**~~ **Design Volume**: Each Ventura County Permittee shall require Priority Development Projects to treat onsite the design volume through postconstruction controls that are properly sized to infiltrate, store for reuse, or evapotranspire, without any runoff at least the volume of water, or in the case of biofiltration with release above the design volume, 1.5 times the volume of water, that results from:~~Ventura County Permittees shall require all features constructed or otherwise utilized to render impervious surfaces "ineffective", as described in Part VI.D.6.d.ii, above, to be properly sized to infiltrate, store	

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		~~for reuse, or evapotranspire, without any runoff at least the volume of water, or in the case of biofiltration with release above the design volume, 1.5 times the volume of water, that results from~~: [part references above are to the Working Proposal]	
E.7.55	Construction Industry Coalition on Water Quality	Part VIII.F.4.d. ~~iv.iii.~~ **Impervious Surface Mitigation**: To address any ~~impervious surfaces that may not be rendered "ineffective"~~ of the design volume that was not retained and treated or biofiltered onsite through post-construction controls, ~~surface discharge of storm water runoff if any,~~ that results from Priority Development Projects identified in Part VI.D.6.a.i of this Order which have complied with Part VI.D.6.d.iii above, shall be mitigated in accordance with Part VI.D.6.d.v~~i.~~a.2. of this Order, at the approval of Ventura County Permittees. [part references above are to the Working Proposal]	**Change made.** The Ventura County-specific Priority Development Project Structural BMP Performance Requirements have been removed in response to comments such that all Permittees are subject to the Priority Development Project Structural BMP Performance Requirements in Part VIII.F.5 (renumbered as Part VIII.F.4 in the revised Tentative Order).
E.7.56	Construction Industry Coalition on Water Quality	Part VIII.F.4.e.i. ~~v.iv.~~ **Alternative Compliance for Technical Infeasibility** **(a).** To encourage smart growth and infill development of existing urban centers where	**Change made.** See response to comment # E.7.55.

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		on-site compliance with post-construction requirements may be technically infeasible, Ventura County Permittees may allow projects that are unable to meet the volumetric treatment control requirement ~~Integrated Water Quality/Flow Reduction/Resources Management Criteria~~ in Water Quality Mitigation Criteria Part VI.D.6.d.v.a.1.~~i, above~~, to comply with this permit ~~through the alternative compliance measures described in Part VI.D.6.d.v.(c) of this Order~~ by implementing flow based treatment control requirements in Part VI.D.6.d.v.a.2.. Furthermore, in the instance a project has been determine to provide an opportunity for offsite mitigation or replenish ground water supplies at an offsite location, each Ventura County Permittee may allow projects to comply with this Order through the alternative compliance measures in Part VI.D.6.d.iv.(c) – (e). [part references above are to the Working Proposal]	
E.7.57	The Nature Conservancy	**Part VIII.F.4.e.** "**Alternative Compliance ~~for~~ Technical Infeasibility~~**~~ i. To encourage smart growth and infill development of existing urban centers ~~where on-site compliance with post-construction requirements may be technically infeasible~~, Ventura County Permittees may allow projects ~~that are~~	**Change made.** See response to comment # E.7.27 and # E.7.55.

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		~~unable to meet the Integrated Water Quality/Flow Reduction/Resources Management Criteria in Part VIII.F.4.c, above,~~ to comply with this permit through the alternative compliance measures described in Part VIII.F.4.e.iii of this Order." Suggest the Alternative Compliance Section (For L.A. and Ventura) should elaborate a bit on the ability for developers and permittees to utilize alternative compliance when a market "strategy" has been put in place by permittees.	
E.7.58	The Nature Conservancy	The Nature Conservancy is of the opinion that alternative compliance mechanisms such as mitigation banks and post construction stormwater trading market programs should be "by-right" such that Permittees do not have to demonstrate infeasibility before choosing to pay into such programs or purchase "credits" from suppliers. Our rationale is that, if developed correctly, these programs provide additional environmental, community, and financial benefits beyond those provided always requiring on-site compliance first. Such programs can transfer stormwater management capacity to where it is most needed and provides the most community benefit rather than relying on development patterns to dictate such need. The	**No change.** See response to comment # E.7.27.

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		stormwater retention credit (SRC) trading program in Washington DC is an example of a successful "by-right" alternative compliance mechanism. As such, we suggest prefacing this section [VIII.F.4.e.ii.] with the following language. "Demonstration of technical infeasibility is only required in the absence of an approved Regional Stormwater Mitigation Program(s) (See Section VIII.F.1.c.ii) that grants Permittees the right to participate in off-site mitigation through, for example mitigation banks, or post construction stormwater credit trading programs."	
E.7.59	The Nature Conservancy	**Part VIII.F.4.e.iii.** "Alternative Compliance Measures. ~~When a Ventura County Permittee finds that a project applicant has demonstrated technical infeasibility,~~ the permittee shall identify alternative compliance measures that the project will need to comply with as a substitute for the otherwise applicable post-construction requirements listed in Part VIII.F.4 of this Order. The Ventura County Technical Guidance Manual shall include alternative compliance measures that are consistent with the following requirements:" For reasons described in our previous comment we suggest removing this language [as shown in strikethrough above] such that	**Change made.** See response to comment # E.7.55.

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		all permittees have the right to participate in off-site alternative compliance measures.	
E.7.60	Construction Industry Coalition on Water Quality	Strikeout Part VIII.F.4.e.iii.(a).	**Change made.** See also response to comment # E.7.55. The implementation of an EIA standard for the Planning and Land Development for Ventura County has been removed and project sizing/planning requirements have been made consistent throughout the region.
E.7.61	The Nature Conservancy	We believe that the first item here [Part VIII.F.4.e.iii.(a)] should be "(a) participation in an Approved Regional Stormwater Mitigation Program according to the rules and requirements of such Program(s). Such programs may grant Permittees the right to use off-site compliance mechanisms approved by the Regional Board."	**Change made.** See response to comment # E.7.27 and # E.7.55.
E.7.62	Construction Industry Coalition on Water Quality	Part VIII.F.4.e.iii.(b). ~~(2)~~**(1) Off-site mitigation volume.** The difference in volume between the amount of storm water infiltrated, reused, and/ or evapotranspired and/or biofiltered by the project on-site and the otherwise applicable requirements of Parts VI.D.6.d.i through IV.D.6.d.iii of this Order (the "offsite mitigation volume'), above, must be mitigated by the project applicant either by performing offsite mitigation that is approved by the Ventura County Permittee or by providing sufficient funding for public or private offsite	**Change made.** See response to comment # E.7.55.

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		mitigation to achieve equivalent storm water volume and pollutant load reduction through infiltration, reuse, evapotranspiration and/or biofiltration. Mitigation of payment in lieu must be paid for 1.5 times the amount of storm water not managed on site. ~~**(i)** For projects with demonstrable technical infeasibility that cannot reduce the Effective Impervious Area to 5 % or less of the total project, but are able to reduce the Effective Impervious Area to no more than 30 percent of the total project, mitigation or payment in lieu must be equivalent to the amount of storm water not managed on site.~~ ~~**(ii)** For projects with demonstrable technical infeasibility that cannot reduce the Effective Impervious Area to 30% of the total project or less, mitigation or payment in lieu must be for 1.5 times the amount of storm water not managed on site.~~ ~~**(3)**~~**(2)** Location of offsite mitigation. Offsite mitigation projects must be located in the same sub-watershed (defined as… [Part references above are to the Working Proposal]	
E.7.63	The Nature Conservancy	Part VIII.F.4.e.iii. "(b) Off-site mitigation volume… (1) For projects with demonstrable technical infeasibility that cannot reduce the Effective Impervious Area to 5% or less of the total project, but are able to	**Change made.** See response to comment # E.7.27 and # E.7.55.

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		reduce the Effective Impervious Area to no more than 30 percent of the total project, mitigation or payment in lieu must be equivalent to the amount of storm water not managed on site. (2) For projects <u>with</u> demonstrable technical infeasibility that cannot reduce the Effective Impervious Area to 30% of the total project or less, mitigation or payment in lieu must be for 1.5 times the amount of storm water not managed on site." To promote "by-right" market mechanisms we suggest [replacing "with" in (1) and (2)] adding: "which are not or cannot participate in an approved Regional Stormwater Mitigation Program, and which have"	
E.7.64	Construction Industry Coalition on Water Quality	Part VIII.F.4.e.iii.(c), Page 60. **Potential effects to Anaheim SCP of Permit Language if used in SAR** Mitigation projects in the same sub-watershed would limit the flexibility for the Anaheim SCP. Based on review of Basin Plan, it appears hydrologic area is equivalent to the HUC-12 watershed. **Proposed Comment** The location of offsite mitigation projects should be consistent with similar offsite mitigation programs in other parts of the	**Change made.** See response to comment # E.7.47.

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		country that provide that offsite mitigation is allowed within a larger watershed boundary. Use of watersheds consistent with the existing or planned Watershed Management Plan watersheds or the HUC-10 watershed would provide additional flexibility, and be consistent with the watershed planning that has already occurred in Los Angeles County. **Proposed redline/strikeout language changes** (c) **Location of offsite mitigation**. Offsite mitigation projects must be located in the same ~~sub-~~watershed ~~(defined as draining to the same hydrologic area in the Basin Plan)~~ (consistent with existing or planned Watershed Management Plan watersheds or the HUC-10 watershed) as the new development or redevelopment project.	
E.7.65	The Nature Conservancy	**Part VIII.F.4.e.iii.(d),** "**Timing and Reporting Requirements for Offsite Mitigation Projects.** Ventura County Permittee(s) shall develop a schedule for the completion of offsite mitigation projects, including milestone dates to identify fund, design, and construct the projects. <u>Offsite mitigation 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 mitigation project, unless a longer period is otherwise authorized by the</u>	**Change made.** See response to comment # E.7.55.

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		Executive Officer. For public offsite mitigation projects, Ventura County Permittees must document the total offsite mitigation funds raised to date, location(s), general design concept(s), volume of water expected to be retained, and total estimated budget of all pending public offsite mitigation projects. Funding sufficient to address the offsite mitigation volume must be transferred to the Ventura County Permittee (for public offsite mitigation projects) or to an escrow account (for private offsite mitigation projects) within one year of the initiation of construction." TNC strongly recommends that off-site projects be completed prior to receipt of funds from project applicants (developers). This is particularly important in the case of post-construction stormwater credit trading markets and perhaps less so in the case of In-Lieu fee's being paid by the applicant. In all stormwater markets that we are aware of including Washington DC, Cook County, IL, and Chatanooga TN, supply projects must be complete before they can be used to mitigate permitted developments.	
E.7.66	Construction Industry Coalition on Water Quality	Part VIII.F.4.e.iii.(d)-(e) and iv. ~~(4)~~(3) **Timing and Reporting Requirements for Offsite Mitigation Projects.** Ventura County Permittee(s) shall develop a schedule	**Change made.** See response to comment # E.7.55.

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		for the completion of offsite mitigation projects, including milestone dates to identify fund, design, and construct the projects. Offsite mitigation 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 mitigation project, unless a longer period is otherwise authorized by the Executive Officer. For public offsite mitigation projects, Ventura County Permittees must document the total offsite mitigation funds raised to date, location(s), general design concept(s), volume of water expected to be retained, and total estimated budget of all pending public offsite mitigation projects. Funding sufficient to address the offsite mitigation volume must be transferred to the Ventura County Permittee (for public offsite mitigation projects) or to an escrow account (for private offsite mitigation projects) within one year of the initiation of construction. ~~**(5)** The project applicant must demonstrate that the EIA achieved on-site is as close to 5 percent EIA as technically feasible, given the site's constraints.~~ **(d) Watershed equivalence.** Regardless of the methods through which Ventura County Permittees allow project applicants to implement alternative compliance measures, the sub-watershed-wide (defined as draining	

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		to the same hydrologic area in the Basin Plan) result of all development must be at least the same level of water quality protection as would have been achieved if all projects utilizing these alternative compliance provisions had complied with Parts VI.D.6.d.i through VI.D.6.d.iii~~v~~ of this Order. [Part references above are to the Working Proposal]	
E.7.67	Construction Industry Coalition on Water Quality	Part VIII.F.4.e.iii.(e), Page 61. **Potential effects to Anaheim SCP of Permit Language if used in SAR** This requirement ties metrics for LID site design onsite, which would mean that "SCP" credit users would be required to meet this metric onsite. **Proposed Comment** If offsite mitigation is met at the same or greater volumes as would be needed onsite the additional metric for EIA should not be required onsite. LID site designs should be required onsite, however with more flexibility, otherwise the offsite mitigation provision, and the benefits it affords will not be utilized. **Proposed redline/strikeout language changes** (e) The project applicant must implement applicable LID site designs and source	**Change made.** See response to comments # E.7.48 and # E.7.75.

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		controls ~~demonstrate that the EIA achieved on-site is as close to 5 percent EIA~~ as technically feasible, given the site's constraints.	
E.7.68	The Nature Conservancy	**Part VIII.F.4.e.iv.** "**Watershed equivalence.** Regardless of the methods through which Ventura County Permittees allow project applicants to implement alternative compliance measures, the sub-watershed-wide (defined as draining to the same hydrologic area in the Basin Plan) result of all development must be at least the same level of water quality protection as would have been achieved if all projects utilizing these alternative compliance provisions had complied with Parts VIII.F.4.a through VIII.F.4.d of this Order." Great - this is a good caveat that places a boundary on the types of offsite alternative compliance programs that can be implemented.	**Change made.** See response to comment # E.7.55. The location of offsite alternative compliance measures is addressed for all Permittees in Part VIII.F.5.c of the Tentative Order (renumbered as Part VIII.F.4.c in the revised Tentative Order).
E.7.69	Construction Industry Coalition on Water Quality	Part VIII.F.4.f. **(e) Ground Water Replenishment Projects**: Ventura County Permittees may propose regional projects to replenish regional ground water supplies at offsite location, provided the ground water supply has a designated beneficial use in the Basin Plan. **(1)** Regional ground water replenishment projects must use infiltration, ground water	**Change made.** See response to comment # E.7.55. Ventura County Permittees have the same opportunities as all other Permittees to propose groundwater replenishment projects where an alternative compliance measure is employed to meet Priority Development Project Structural BMP Performance Requirements in Part VIII.F.4.

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		replenishment, or bioretention BMPs to intercept a volume of storm water runoff equal to the volumetric treatment control BMP requirement in Part VI.D.6.d.v. for new development and redevelopment projects, subject to Ventura County Permittee conditioning and approval for the design and implementation of post-construction controls, within the approved project area, and **(2)** Provide pollutant reduction (treatment) of the storm water runoff discharged from development projects, within the project area, subject to Ventura County Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.6.d.v. of this Order. **(3)** Ventura County Permittees implementing a regional ground water replenishment project in lieu of onsite controls shall ensure the volume of runoff captured by the project shall be equal to the mitigation volume calculated in Part VI.D.6.d.v. of this Order. ~~(d)~~**(4)** Regional ground water replenishment projects must be located in the same sub-watershed (HUC-12) as the new development or redevelopment project which did not fully retain the volumetric requirement onsite. Ventura County Permittees may consider locations outside of the HUC-12 but	

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		within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Los Angeles Water Board. ~~vi.~~**v. Water Quality Mitigation Criteria:** Each Ventura County Permittee shall require all Priority Development Projects to implement post-construction storm water treatment BMPs and control measures to mitigate storm water pollution as follows:… [part reference above are to the Working Proposal]	
E.7.70	Construction Industry Coalition on Water Quality	Part VIII.F.4.f.i.(b). **(2) Flow Based Treatment Control BMP**: If a Ventura County Permittee determines that on-site infiltration, store for reuse, evapotranspiration or biofiltration under Part VI.D.6.d.iv.b of this Order is not technically feasible, then the Ventura County Permittee may allow the Priority Development Project to utilize flow based treatment control BMPs to treat runoff leaving the site, and mitigate for the design capture volume not reliably	**Change made.** See response to comment # E.7.55.

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		retained onsite pursuant to Part VI.D.6.d.i – ii. [part references above are to the Working Proposal]	
E.7.71	SGVCOG 2nd Letter and ULAR Group	Part VIII.F.4-5; Page 58-66. May consider integrating aspects of the Priority Development Project Structural BMP Performance Requirements for Ventura County Permittees (VIII.F.4) to integrate options for Los Angeles County Permittees (VIII.F.5) and vice-versa.	**Change made.** See response to comment # E.7.55.
E.7.72	Aleshire & Wynder, LLP	**Modify the Planning and Land Development Requirements** The Cities support the Regional Storm Water Mitigation Program option in the Tentative Order to allow a Permittee to exempt themselves from the more specific requirements in Parts VIII.F.4 and 5. However, a Regional Program may take some time to develop and until then, the specific requirements in Parts VIII.F.4 and 5 might apply. Cities request modification of Parts VIII.F.4 and 5 to remove barriers to implementing multi-benefit regional projects by allowing for alternative compliance to be utilized without demonstrating technical infeasibility or requiring on-site treatment for parcels that use alternative compliance.	**No change.** The allowance to propose a Regional Stormwater Mitigation Program in Part VIII.F.1.c.ii does not require a demonstration of technical infeasibility.

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E.7.73	Santa Ana Region MS4 Permittees	**Modify the Planning and Land Development Requirements** The Santa Ana Region MS4 Permittees support the Regional Storm Water Mitigation Program option in the Tentative Order to allow a Permittee to exempt themselves from the more specific requirements in Parts VIII.F.4 and 5. However, the Santa Ana Region MS4 Permittees are concerned that a Regional Program may take some time to develop and until then, the specific requirements in Parts VIII.F.4 and 5 would apply. The specific provisions create unnecessary challenges to using the alternative compliance provisions to support development of regional multi-benefit projects. As a result, the Santa Ana Region MS4 Permittees recommend that the specific provisions either be removed or be modified to address barriers to implementing multi-benefit regional projects to address the planning and land development requirements. *Considerations for revising the Tentative Order:* The Santa Ana Region MS4 Permittees recommend the following changes: Modify Parts VIII.F.1, F.4, and F.5 to remove barriers to implementing multi-benefit regional projects by allowing for alternative	**Change made.** See response to comments # E.7.75 and # E.7.72.

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		compliance to be utilized without demonstrating technical infeasibility or requiring on-site treatment of the 5 percent Effective Impervious Area standard for parcels that use alternative compliance. Alternatively, applicable onsite source controls and applicable LID site designs should be required onsite for parcels that use alternative compliance.	
E.7.74	BizFed	We would also like to address the Alternative Compliance portion of the draft order. We support the idea of alternatives to on-site compliance by creating a regional project, a retrofit project or paying into a fund that pays for regional or retrofit projects. Unfortunately for the 10 years that this language has been in the permit the program has been unworkable because the permit language does not support development of a program and in fact creates several barriers to its creation. The current two criteria are quite different, not complimentary [sic] and are both unsupportive of our goals for a truly alternative compliance pathway. As currently drafted the requirement for a costly technical feasibility analysis in addition to ultimately having to install flow thru proprietary BMPs, make such alternative considerations financially infeasible. A credit trading program much like that outlined by Orange County Public Works would make far more sense and achieve pollution reductions faster	**No change.** The Board disagrees that the language does not support development of Regional Stormwater Mitigation Programs related to the permit's new development and redevelopment requirements.

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		and more cost effectively. We would encourage you to consider such a program for this Permit.	
E.7.75	VCSQMP	*Modify Planning and Land Development Section Language in Accordance with Recommended Language in Attachment 1* In order to streamline and simplify the design volume calculations and more closely align with existing Los Angeles County requirements, the Ventura County Permittees request that the requirement to reduce the percentage of Effective Impervious Area (EIA) to five percent or less of the total project area be removed. <u>Recommendation:</u> Incorporate recommended language changes proposed in Attachment 1. [Attachment 1 – Part VIII.F.4] **6. Planning and Land Development Program** **a. Priority Development Project Structural BMP Performance Requirements for Ventura County Permittees** ~~**i. EIA Limitation:** Except as provided in Part VI.D.6.d.v below, Ventura County Permittees shall require all Priority Development Projects identified in Part VI.D.6.a of this Order to control pollutants,~~	**Change made.** Board staff initially carried over [into the Tentative Order] the planning and land development requirements of the 2010 Ventura County MS4 Permit at the request of the Ventura County Permittees. In response to this comment, the Board has removed the implementation of an EIA standard for the Planning and Land Development for Ventura County (Part VIII.F.4 – for Ventura County Permittees) and project sizing/planning requirements are consistent throughout the region (new Part VIII.F.4).

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		~~pollutant loads, and runoff volume emanating from impervious surfaces through infiltration, storage for reuse, evapotranspiration, or bioretention/biofiltration by reducing the percentage of Effective Impervious Area (EIA) to 5 percent or less of the total project area. For the purposes of this provision, EIA is defined as the portion of the surface area that is hydrologically connected via sheet flow over a hardened conveyance or impervious surface without any intervening medium to mitigate flow volume.~~ **~~i. Rendering Impervious Surfaces Ineffective:~~** ~~Impervious surfaces may be rendered "ineffective", and thus not count toward the 5 percent EIA limitations, if the storm water runoff from those surfaces is fully retained on-site for the design storm event specified in Part VI.D.6.d.iii below.~~ **Water Quality / Flow Reduction / Resource Management Criteria:** To satisfy ~~the EIA limitation~~ and low-impact development requirements, Ventura County Permittees must require storm water runoff to be infiltrated, reused, or evapotranspired on-site through a storm water management	

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		technique allowed under the terms of this permit and implementing documents. If onsite retention is determined to be technically infeasible pursuant to Part VI.D.6.d.iv.(b) below, an on-site biofiltration system that achieves equivalent storm water volume and pollutant load reduction as would have been achieved by on-site retention is required ~~shall satisfy the EIA limitation~~. An on-site biofiltration system that releases above the design volume shall achieve 1.5 times the amount of storm water volume and pollutant load reduction as would have been achieved by on-site retention ~~and, thereby, shall satisfy the EIA limitation~~. **ii. Design Volume:** Each Ventura County Permittee shall require Priority Development Projects to treat onsite the design volume through post-construction controls that are properly sized to infiltrate, store for reuse, or evapotranspire, without any runoff at least the volume of water, or in the case of biofiltration with release above the design volume, 1.5 times the volume of water, that results from: ~~Ventura County Permittees shall require all features~~	

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		~~constructed or otherwise utilized to render impervious surfaces "ineffective", as described in Part VI.D.6.d.ii, above, to be properly sized to infiltrate, store for reuse, or evapotranspire, without any runoff at least the volume of water, or in the case of biofiltration with release above the design volume, 1.5 times the volume of water, that results from:~~… **iii. Impervious Surface Mitigation:** To address any impervious surfaces that may not be rendered "ineffective" of the design volume that was not retained and treated or biofiltered onsite through post-construction controls, ~~surface discharge of storm water runoff if any~~, that results from Priority Development Projects identified in Part VI.D.6.a.i of this Order which have complied with Part VI.D.6.d.ii above, shall be mitigated in accordance with Part VI.D.6.d.~~vi~~.a.2. of this Order, at the approval of Ventura County Permittees. **iv. Alternative Compliance for Technical Infeasibility** **(a)** To encourage smart growth and infill development of existing urban centers where on-site	

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		compliance with post-construction requirements may be technically infeasible, Ventura County Permittees may allow projects that are unable to meet the volumetric treatment control requirement ~~Integrated Water Quality/Flow Reduction/Resources Management Criteria~~ in Water Quality Mitigation Criteria Part VI.D.6.d.v.a.1.~~i, above~~, to comply with this permit ~~through the alternative compliance measures described in Part VI.D.6.d.v.(c) of this Order~~ by implementing flow based treatment control requirements in Part VI.D.6.d.v.a.2.. Furthermore, in the instance a project has been determine to provide an opportunity for offsite mitigation or replenish ground water supplies at an offsite location, each Ventura County Permittee may allow projects to comply with this Order through the alternative compliance measures in Part VI.D.6.d.iv.(c) – (e)… **(c) Alternative Compliance Measures.** When a Ventura	

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		County Permittee finds that a project applicant has demonstrated technical infeasibility, the permittee shall identify alternative compliance measures that the project will need to comply with as a substitute for the otherwise applicable post- construction requirements listed in Part VI.D.6.d of this Order. The Ventura County Technical Guidance Manual shall include alternative compliance measures that are consistent with the following requirements: ~~**(1) Minimum on-site requirement.** The project must take all feasible measures to reduce the percentage of Effective Impervious Area to no more than 30 percent of the total project area and treat all remain in runoff pursuant to the design and sizing requirements of Parts VI.D.6.d.ii through VI.D.6.d.iv of this Order.~~ **(2) Off-site mitigation volume.** The difference in volume between the amount	

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		of· storm water infiltrated, reused, and/ or evapotranspired and/or biofiltered by the project on-site and the otherwise applicable requirements of Parts VI.D.6.d.i through IV.D.6.d.ii of this Order (the "offsite mitigation volume'), above, must be mitigated by the project applicant either by performing offsite mitigation that is approved by the Ventura County Permittee or by providing sufficient funding for public or private offsite mitigation to achieve equivalent storm water volume and pollutant load reduction through infiltration, reuse, evapotranspiration and/or biofiltration. Mitigation of payment in lieu must be paid for 1.5 times the amount of storm water not managed on site. ~~**(i)** For projects with demonstrable technical infeasibility that cannot reduce the Effective Impervious Area to 5 %~~	

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		~~or less of the total project, but are able to reduce the Effective Impervious Area to no more than 30 percent of the total project, mitigation or payment in lieu must be equivalent to the amount of storm water not managed on site.~~ ~~**(ii)** For projects with demonstrable technical infeasibility that cannot reduce the Effective Impervious Area to 30% of the total project or less, mitigation or payment in lieu must be for 1.5 times the amount of storm water not managed on site.~~… ~~**(5)** The project applicant must demonstrate that the EIA achieved onsite is as close to 5 percent EIA as technically feasible, given the site's constraints.~~… **(e) Ground Water Replenishment Projects:** Ventura County Permittees may propose regional projects to	

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		replenish regional ground water supplies at offsite location, provided the ground water supply has a designated beneficial use in the Basin Plan. (1) Regional ground water replenishment projects must use infiltration, ground water replenishment, or bioretention BMPs to intercept a volume of storm water runoff equal to the volumetric treatment control BMP requirement in Part VI.D.6.d.v. for new development and redevelopment projects, subject to Ventura County Permittee conditioning and approval for the design and implementation of post-construction controls, within the approved project area, and **(2)** Provide pollutant reduction (treatment) of the storm water runoff discharged from development projects, within the project area, subject to Ventura County Permittee conditioning and approval for	

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		the design and implementation of post-construction controls to mitigate storm water pollution in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.6.d.v. of this Order. **(3)** Ventura County Permittees implementing a regional ground water replenishment project in lieu of onsite controls shall ensure the volume of runoff captured by the project shall be equal to the mitigation volume calculated in Part VI.D.6.d.v. of this Order. **(4)** Regional ground water replenishment projects must be located in the same sub-watershed (HUC-12) as the new development or redevelopment project which did not fully retain the volumetric requirement onsite. Ventura County Permittees may consider locations outside of the HUC-12 but within the HUC-10 subwatershed area if there are no opportunities	

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		within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Los Angeles Water Board.… **v. Water Quality Mitigation Criteria:**… **(a) Projects disturbing land areas less than 50 acres** **(1) Volumetric Treatment Control BMP**… **(2) Flow Based Treatment Control BMP:** If a Ventura County Permittee determines that on-site infiltration, store for reuse, evapotranspiration or biofiltration under Part VI.D.6.d.iv.b of this Order is not technically feasible, then the Ventura County Permittee may allow the Priority Development Project to utilize flow based	

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		treatment control BMPs to treat runoff leaving the site, and mitigate for the design capture volume not reliably retained onsite pursuant to Part VI.D.6.d.i – ii. [Part references above are to the Working Proposal]	
E.7.76	Construction Industry Coalition on Water Quality	**Section XIII. F. Planning and Land Development Program, # 5. Priority Development Project Structural BMP Performance Requirements for Los Angeles County Permittees** We appreciate the elimination of an individual, case-by-case Executive Officer determination for a City (and PDP within a City) to use flow thru proprietary devices sized appropriately to meet the Water Quality Mitigation Criteria, in Section XIII F. 5. d. Certification in the Washington State Department of Ecology's TAPE program or by an appropriate future BMP certification developed by the State (as described in F. 5. D. ii.) is supported by CICWQ and all of our stormwater management BMP vendor members. The other area where we offer constructive suggestions for permit improvement is to allow greater ability and flexibility for PDPs to meet the Water Quality Mitigation Criteria, in	**Change made.** See response to comments # E.7.47, E.7.55, and E.7.75.

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		Section XIII F. 5. d., by modifying the AC pathways described for both Ventura County and Los Angeles County in Draft MS4 Permit Sections XIII. F. 4 and 5. First, we respectfully ask that the Regional Board and permittees adopt one set of consistent regulatory direction and guidance on AC for permittees to use, rather than the proposed 2-county separate requirements found in Section XIII F. 4 and 5. Second, we note several other areas within Sections XIII. F. 4. and 5., which could be consolidated, changed and improved. The permit language, as currently written, regarding the AC program elements should be: 1) uniformly organized--there is a regional program discussion (for each County) along with allowance for some sort of on-site compliance equivalency (again, for each County), which should be joined in describing the program elements and how they could work together, such as for a fee in lieu program or water quality credit trading; and 2) focused on as large a watershed area as possible and should create incentives to participate. As written, the AC program will only allow programs in small watersheds--HUC 12 or smaller; AC	

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		programs, especially those using fee in lieu or water quality credit trading, should be implemented on as large a scale as possible to allow widespread participation and use. And, we note that the requirements to participate in an AC program still requires a PDP who wants to use an AC program (such as fee in lieu or Water Quality Credit Trading) to install flow-thru BMPs in addition to presumably paying into an in lieu fee program or purchasing water quality credits generated elsewhere in the region by a credit generating project. This provision is a disincentive to participate. And finally, from our interpretation, the AC program would still require a PDP to perform a costly and detailed technical feasibility analysis to use an AC program, such as fee in lieu or participating in Water Quality Credit Trading. This too is a disincentive for participation; opportunity areas can be identified up front by the co-permittees, both for areas to generate credits for fee in lieu or trading and buying or using credits created.	
E.7.77	City of Santa Clarita	Page 62 Page 5.b. Please remove HUC 12 and change to within a reach boundary	**No change.** See response to comment # E.7.47.
E.7.78	Construction Industry Coalition on Water Quality	Part VIII.F.5.b.i, Page 62. **Potential effects to Anaheim SCP of Permit Language if used in SAR**	**No change.** See response to comment # E.7.47.

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		The opportunity for groundwater replenishment requires that it be in the same sub-watershed (HUC-12) which would affect the flexibility of the Anaheim SCP. **Proposed Comment** The location of alternative compliance projects should be consistent with similar alternative compliance programs in other parts of the country that provide that alternative compliance projects must be within the same watershed. At a minimum, the HUC-10 or watershed consistent with existing watershed management plan delineations or groundwater basin should be used. Additionally, implementation of onsite BMPs may not always be as beneficial to a watershed as implementation of regional BMPs and their associated benefits such as groundwater replenishment and so it is recommended that the technical feasibility language be removed, which will allow for a more integrated water resources approach. **Proposed redline/strikeout language changes** i. ~~In instances of technical infeasibility or w~~ Where a project has been determined to provide an opportunity to replenish regional ground water supplies at an offsite location within the same ~~sub-~~watershed (HUC-10~~-2~~ or consistent with existing watershed	

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		management plan delineations) or the same groundwater basin as the new development or redevelopment project, each Los Angeles County Permittee may allow projects to comply with this Order through the alternative compliance measures as described in Part VIII.F.5.c of this Order.	
E.7.79	The Nature Conservancy	Part VIII.F.5.b.i. "~~In instances of technical infeasibility or where a project has been determined to provide an opportunity to replenish regional ground water supplies at an offsite location within the same sub-watershed (HUC-12) as the new development or redevelopment project, each~~ Los Angeles County Permittee may allow projects to comply with this Order through the alternative compliance measures as described in Part VIII.F.5.c of this Order." Insert text [above] - "Project applicants must demonstrate technical infeasibility only if they are located within a local jurisdiction that require the same. Off-site compliance programs may preclude the need for demonstrating technical infeasibility. Such programs must demonstrate equivalent or greater benefit by allowing offsite compliance."	**No change.** The Board finds that the language as proposed provides adequate flexibility.
E.7.80	The Nature Conservancy	**Part VIII.F.5.b.ii. Technical Infeasibility Demonstration.**	**No change.** The Board finds that the language as proposed is adequately clear regarding the flexibility provided.

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		For reasons previously described for Ventura County, we suggest prefacing this section [VIII.F.5.b.ii] with the following language. "Demonstration of technical infeasibility is only required in the absence of an approved Regional Stormwater Mitigation Program(s) (See Section VIII.F.1.c.ii) that grants Permittees the right to participate in off-site mitigation through, for example mitigation banks, or post construction stormwater credit trading programs or in-lieu fee programs. In the absence of such programs the project applicant is required to demonstrate technical infeasibility in order to participate in other alternative compliance approaches"	
E.7.81	The Nature Conservancy	**Part VIII.F.5.b.iii. "Alternative Compliance for Ground Water Replenishment Opportunities."** We suggest prefacing this section [VIII.F.5.b.iii] with the following language. "Demonstration of technical infeasibility to replenish groundwater is only required in the absence of an approved Regional Stormwater Mitigation Program(s) (See Section VIII.F.1.c.ii) that grants Permittees the right to participate in off-site mitigation through, for example mitigation banks, post construction stormwater credit trading programs or in lieu fee programs. In the absence of such programs, ...	**No change.** The Board finds that the language as proposed is adequately clear regarding the flexibility provided.

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E.7.82	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.F.5.c/ Pg. 63. Alternative Compliance Measures for LID requirements – Please include an option to implement a "fee in-lieu" program as one of the alternatives to comply with LID requirements as indicated in the 2012 MS4 Permit.	**No change.** The Board finds that the language as proposed is adequately clear regarding the flexibility provided.
E.7.83	Contech Engineered Solutions, LLC	**Section: VIII.F.5.c.i.a - On-site Biofiltration** "Biofiltration systems shall, at a minimum, meet design specifications provided in the Los Angeles County LID Manual." Please clarify that high-rate biofiltration systems are acceptable alternatives to conventional biofiltration, provided that they meet specific water quality performance criteria and are sized following the pollutant load reduction equivalency framework that was established in the "Filterra® Equivalency Analysis and Design Criteria" report and replicated in subsequent high-rate biofilter applications. Adequate performance shall be demonstrated by providing a General Use Level Designation (GULD) for Basic Treatment from the Washington State Department of Ecology as a minimum criteria for approval. Where pollutants of concern on a project include nutrients, metals or other pollutants, a GULD must be provided for the most appropriate corresponding treatment standard, including Phosphorus and Enhanced Treatment.	**No change.** The Tentative Order already requires Permittees to update their programs consistent with the Regional Permit requirements. See, for example, Part VI.D.1. See also response to comment # E.7.41.

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		If the currently proposed language referring to the Los Angeles County LID Manual is retained, please require that the Los Angeles County LID Manual be updated to be consistent with the comment above. The draft language may be preferable to the current process, but only with major updates to the LA County LID manual. The current Los Angeles County LID Manual describes biofiltration in fact sheet "BIO-1: Biofiltration" on page E-53. This fact sheet describes conventional biofiltration systems comprised of sand and compost media that have design infiltration rates between 5 and 12 inches per hour with no mention of allowing innovative alternatives. Biofiltration systems with similar designs have been shown to be effective for sediment removal but to export nutrients on average as demonstrated in the 2020 summary report of the International Stormwater BMP Database and Appendices C and D of the Filterra Equivalency Analysis and Design Criteria report. They also have highly variable performance for TSS and dissolved and total metals as compared to manufactured high rate biofiltration systems that have been awarded General Use Level Designations for Basic, Phosphorus and Enhanced Treatment by the Washington State Department of Ecology under their program for evaluation of innovative	

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		technologies. The draft permit and accompanying fact sheet contain no new field monitoring data supporting the use of conventional biofiltration utilizing sand and compost based media and no recognition of recent advances in innovative biofiltration system design and performance verification programs. The Los Angeles County LID manual does include the fact sheet "T-6: Proprietary Treatment Control Measures" which describes a range of proprietary stormwater BMPs, from catch basin inserts to high rate bioretention systems. It does not clearly allow proprietary high rate biofiltration systems as an alternative to "BIO-1: Biofiltration". Instead, following the approval pathway established in the current Los Angeles MS4 permit, Los Angeles County made an application to the Los Angeles Regional Water Quality Control Board (Regional Board) for approval of the Filterra® Bioretention System as an alternative biofiltration specification. The Regional Board approved the County's Filterra application and stipulated that systems must be sized following the equivalency framework contained in the 2015 "Filterra Equivalency Analysis and Design Criteria" report authored by Geosyntec Consultants. That report showed that the Filterra system performs similarly or better as	

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		compared to conventional sand and compost based biofiltration for all common pollutants of concern and that the difference in runoff reduction between larger conventional systems and smaller Filterra systems could be compensated for by either increasing the Filterra size or by adding supplemental infiltration volume. Subsequent to the Filterra approval, at least two other manufactured high-rate biofilters have been approved for use by select permittees. There is no technically defensible basis for including conventional biofiltration as described in the Ventura Technical Guidance Manual (TGM) and the Los Angeles County LID manual as an acceptable LID BMPs while excluding those high-rate biofiltration systems that have received General Use Level Designations for Basic, Phosphorus and Enhanced Treatment from the Washington State Department of Ecology provided that they are designed and sized following the equivalency framework established under the current permit term.	
E.7.84	Oldcastle Infrastructure	**Section: VIII.F.5.c.i.a – Alternative Compliance Measures; On-site Biofiltration** *"Biofiltration systems shall, at a minimum, meet design specifications provided in the Los Angeles County LID Manual."* We suggest that innovative biofiltration systems are required to obtain a TAPE	**No change.** See response to comments # E.7.41 and # E.7.83.

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		GULD for basic treatment standards and performance goals. High flow rate, proprietary systems allow designers the flexibility to meet stormwater quality requirements under tight, urban site conditions. It is imperative that a clear path to approval be established to ensure performance standards and environmental benefits are upheld. Individual permittees should not be responsible for validating innovative technologies and their performance claims. Rather, verified testing to a standard protocol should be required by the MS4 permit to ensure functional standards and consistency. Additional requirements can be implemented by permittees through local BMP regulations when necessary. TAPE “Basic Treatment” GULD is highly recommended as the basis for this approval as their standards are clearly explained, tested, and proven. All technologies receiving a GULD will have demonstrated equivalent performance results under certified 3rd party rules and regulations. It should be further considered that proprietary biofiltration systems should demonstrate an equivalency to a standard biofiltration basin. This approval process should be provided as the Los Angeles County LID Manual does not currently offer a clear path to approval. It is preferable to have a standard for all systems set in place by this	

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		permit which would provide a foundation for the permittees to build their plan checking processes. Relying on the nationally recognized TAPE program as a standard will ensure that communities are using only state-of-the-art proprietary stormwater treatment solutions.	
E.7.85	Stormwater Equipment Manufacturers Association	**Section: VIII.F.5.c.i.a – Biofiltration Standards** "Biofiltration systems shall, at a minimum, meet design specifications provided in the Los Angeles County LID Manual." This is preferable to the current process, but the LA County LID manual is outdated and some direction should be provided to LA County by the LA Water Board that innovative biofiltration systems must have a TAPE GULD for Basic Treatment as a minimum criteria for approval. Where pollutants of concern on a project include nutrients, metals or other pollutants, a TAPE GULD must be provided for the most appropriate corresponding treatment standards. This direction can happen in the permit, in the fact sheet, or can be in some other order.	**No change.** See response to comments # E.7.41 and # E.7.83.
E.7.86	City of Los Angeles	Main Body, Part VIII.F.5.c.i.(a), Page 63. The Tentative Order requires that biofiltration system meet design specifications in the County LID manual; however, the City has its own LID handbook which was based on the	**Change made.** The phrase "consistent with those" was added prior to "those provided in the Los Angeles County LID Manual" in Part VIII.F.4.c.i.(a) of the revised Tentative Order.

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		2012 Permit and appears to have more stringent requirements in certain areas. The City's LID handbook was designed to address some of the specific challenges associated with the variety of development that occurs. As such, LASAN requests that the following phrase be added to the end of this Permit provision: "Biofiltration systems shall meet design specifications provided in the Los Angeles County LID Manual or the City of Los Angeles LID handbook."	References to the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions), or equivalent LID Manual were added to the end of the sentence.
E.7.87	Stormwater Equipment Manufacturers Association	**Section: VIII.F.5.c.i.b – Nutrient Reduction** "Biofiltration systems discharging to a receiving water that is included on the Clean Water Act section 303(d) list of impaired water quality-limited water bodies due to nitrogen compounds or related effects shall be designed and maintained to achieve enhanced nitrogen removal capacity." We feel this language represents a good start but also encourage consideration of phosphorus removal capability in applicable watersheds. Conventional biofiltration as described in the current LA permit is ineffective for nutrient removal. It is more likely to result in a net increase of nutrient concentrations and loads. Conventional biofiltration utilizing compost should not be allowed where pollutants of concern on a project include phosphorus or nitrogen.	**No change.** The Board has concluded that no change to the proposed language is necessary at this time.

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E.7.88	Contech Engineered Solutions, LLC	**Section: VIII.F.5.c.i.b – On-site biofiltration** "Biofiltration systems discharging to a receiving water that is included on the Clean Water Act section 303(d) list of impaired water quality-limited water bodies due to nitrogen compounds or related effects shall be designed and maintained to achieve enhanced nitrogen removal capacity." Please clarify that biofiltration media substitution to eliminate phosphorus and nitrogen leaching components (compost) is an adequate means of achieving enhanced nitrogen and/or phosphorus removal capacity. Specify that conventional biofiltration utilizing compost should not be allowed where pollutants of concern on a project include nitrogen or phosphorus. Clarify that pollutants of concern on a particular project must be based on receiving water vulnerabilities (303(d) listings and TMDLs) and pollutants likely to be generated in significant quantities on site according to land use. This language appropriately links biofiltration design to pollutants of concern. Conventional biofiltration systems utilizing sand and compost based media have been shown to export nitrogen and phosphorus on average in the most recent International Stormwater BMP Database summary report and the	**No change.** See response to comment # E.7.87.

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		Filterra® Equivalency Analysis and Design Criteria report. The effectiveness of an internal water storage zone or other design improvement to improve nitrogen removal will be limited unless biofiltration media material substitutions are also made for the compost content. Innovative high-rate biofiltration options are widely available that do not use compost and have demonstrated much better performance for nitrogen and phosphorus than conventional compost/sand systems. Furthermore, biofiltration systems discharging to a receiving water that is included on the Clean Water Act section 303(d) list of impaired water quality-limited water bodies due to phosphorus or nutrients or related effects should be designed to achieve enhanced phosphorus removal capacity.	
E.7.89	Stormwater Equipment Manufacturers Association	**Section: VIII.F.5.c.ii – Flow-Based BMP Standards** "If a Los Angeles County Permittee determines that on-site biofiltration and off-site alternative compliance measures are not technically feasible, the Permittee may request the Executive Officer allow the use of on-site flow-based BMPs. In the request, Permittees must outline why none of the other alternative compliance measures are feasible. Approval will only be granted to areas where other alternative compliance	**No change.** The Board expects these situations to be relatively infrequent and the Tentative Order is adequately specific about the design and sizing of the flow-through BMPs.

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		measures are not feasible due to significant technical issues." We appreciate that there is a pathway for compliance using on-site treatment systems, but feel additional clarity is needed regarding the performance standard that must be met for EO approval? Rather than create another unclear and inefficient EO Approval process, why not just establish criterial for on-site treatment in these cases so that permittees can make the call?	
E.7.90	Oldcastle Infrastructure	**Section: VIII.F.5.c.ii – Alternative Compliance Measures; On-site Flow-based BMP** *"If a Los Angeles County Permittee determines that on-site biofiltration and off-site alternative compliance measures are not technically feasible, the Permittee may request the Executive Officer allow the use of on-site flow-based BMPs. In the request, Permittees must outline why none of the other alternative compliance measures are feasible. Approval will only be granted to areas where other alternative compliance measures are not feasible due to significant technical issues."* This approval process is inconsistent with other previously mentioned paths to	**No change.** TAPE certified BMPs are required under the Tentative Order for onsite treatment BMPs so the request amounts to a demonstration of why the other alternatives are not feasible. See also response to comment # E.7.89.

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		approval. Although notably for an exemption, this is a path to receiving approval for an innovative technology and it confuses the matter that this path requires approval from the Water Boards while other paths are granted through the LID Manual or Los Angeles County Department of Building and Safety. We suggest that one path be provided for approval of any innovative technology, or proprietary BMP. Oldcastle further suggests that approval is contingent on the performance standards of TAPE "basic treatment" GULD to ensure equivalent systems will be used throughout all permittee installations.	
E.7.91	Contech Engineered Solutions, LLC	**Section: VIII.F.5.c.ii – On-site flow-based BMPs** "If a Los Angeles County Permittee determines that on-site biofiltration and off-site alternative compliance measures are not technically feasible, the Permittee may request the Executive Officer allow the use of on-site flow-based BMPs. In the request, Permittees must outline why none of the other alternative compliance measures are feasible. Approval will only be granted to areas where other alternative compliance measures are not feasible due to significant technical issues." Rather than create another unclear and inefficient Executive Officer approval process	**No change.** See response to comments # E.7.89 and # E.7.90.

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		similar to the alternative biofiltration approval process in the current permit, please establish baseline performance criteria for on-site treatment BMPs that must be met and allow permittees to approve technologies meeting these criteria without Executive Officer approval. A compliance pathway using on-site treatment systems is a welcome change. However, there is no clear performance standard identified that must be met for Executive Officer approval.	
E.7.92	Lisa Naslund Consulting	**Part VIII.F.5.c.ii On-site Flow-based BMPs** second paragraph, "If approved, the Los Angeles County Permittee may allow the Priority Development Project to utilize flow-through treatment control BMPs to treat runoff leaving the site, *and* mitigate for the design capture volume not reliably retained onsite pursuant to Part VIII.F.5.d of this Order." [The word "*and*" above is circled and says]: must do both (a) below AND Part VIII.F.5.d. Must a flow treatment BMP comply with both sections Part VIII.F.5.c.ii and Part VIII.F.5.d?	**Change made.** The Part (renumbered as Part VIII.F.4.c.ii in the revised Tentative Order) was revised to state; *and mitigate for the design capture volume not reliably retained onsite pursuant to Part VIII.F.4.a of this Order.* Part VIII.F.4.a in the revised Tentative Order, defines what reliably retained on site means.
E.7.93	Los Angeles County and LACFCD 2nd Letter	Order/ Part VIII.F.5.c.ii/ Pg. 63. On-Site Flow-Based BMPs – The time it takes to process approval of project-specific BMPs by the Regional Board could cause project delays.	**No change.** See response to comment # E.7.89.

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		We request the removal of the approval requirement from this section. In addition, we recommend defining what constitutes "technical infeasibility" for on-site biofiltration and off-site infiltration.	
E.7.94	City of Los Angeles	Main Body, Part VIII.F.5.c.ii. Pages 63-64. VIII.F.5.c.ii (On-site Flow-based BMPs) was not included in the 2012 Permit. This proposed approach is against the spirit of the MS4 permit since the establishment of the SUSMP. It does not allow for any volume reduction; the flow would be passing through an engineered media with filtration rate ranging from 50 inches per hour to 100 inches per hour. The footprint of such a system would not exceed 100 SF for flow draining one acre impervious development. Since October 2006, the City has been successful in working with developers to find volume-based mitigation measures (i.e., infiltration, capture and use, biofiltration, or a combination). Adopting the proposed approach could potentially create a paradigm shift in normal compliance strategies by the developers and engineers, as the flow through modular treatment system will become an easy fix, but without any impact on volume reduction. LASAN requests 1) the On-site Flow-based BMPs provisions be removed and 2) carry over the 2012 Permit approach that biofiltration systems which do not meet the design specifications of the	**No change.** Flow-based BMPs can only be used under this provision if onsite biofiltration and offsite alternative compliance measures are not technically feasible. If requesting permission to use a flow-based BMP for a project, the Permittee must document to the Los Angeles Water Board why none of the other alternative compliance measures are feasible. See also response to # E.7.89.

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		MS4 Permit be required to obtain approval from the Regional Board Executive Officer.	
E.7.95	Lisa Naslund Consulting	Alternative Compliance Measures **Sections Part VIIIF.5.c.ii On-site Flow BMPs** and **Part VIIIF.5.d.ii of Water Quality Mitigation Criteria** seem to conflict. **Part VIII.F.5.c.ii** "**On-site Flow-based BMPs:** If a Los Angeles County Permittee determines that on-site biofiltration and off-site alternative compliance measures are not technically feasible, the Permittee may request the Executive Officer allow the use of on-site flow-based BMPs." **Part VIII.F.5.d.ii** "Each Los Angeles County Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems that are certified for "Basic Treatment" under the Washington State Department of Ecology's TAPE Program; or an appropriate future BMP certification developed by the State of California." Section VIII.F.5.c.ii states Executive Officer approval is required. Whereas, in Section VIII.F.5.d.ii it seems to say the permittee can themselves approve. This is confusing. Please consider eliminating the mention of one or the other as appropriate.	**No change.** Part VIII.F.5.c.ii (renumbered as Part VIII.F.4.c.ii in the revised Tentative Order) addresses an exception to the Water Quality / Flow Reduction / Resource Management Criteria and requires case-by-case review and approval by the Executive Officer.

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E.7.96	Lisa Naslund Consulting	Consider allowing Permittee approval of On-site Flow-based BMPs and not requiring Executive Officer approval. This permit sets much more specific requirements (than in past permits) for the flow treatment BMPs. It seems that this would provide sufficient guidance for the permittee to be able to approve these BMPs for projects where 1) it is technically infeasible to retain or biofilter and 2) the BMP meets the permit's requirements. Obtaining approval of the Executive Officer by the Permittee is time-consuming for both especially when both are strained by staff shortages and budget shortfalls. Most agencies are expected to do an insurmountable amount of work with no additional staff and less budget without additional funding for additional permit requirements.	**No change.** See response to comments # E.7.89 and # E.7.95.
E.7.97	Lisa Naslund Consulting	**Part VIII.F.5.c.ii.(b)** "Be certified for "Enhanced Treatment" under the Washington State Department of Ecology's TAPE Program; or an appropriate future BMP certification developed by the State of California." **Part VIII.F.5.d.ii** "Each Los Angeles County Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems that are certified for "Basic Treatment" under the	**No change.** Part VIII.F.5.c.ii (renumbered as Part VIII.F.4.c.ii in the revised Tentative Order) refers to the requirements for an exception using flow-based BMPs to the Water Quality / Flow Reduction / Resource Management Criteria; therefore, the "Enhanced Treatment" certification is appropriate. Section VIII.F.5.d.ii (renumbered as Part VIII.F.4.d.ii in the revised Tentative Order) refers to projects that have their primary compliance met by an offsite project

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		Washington State Department of Ecology's TAPE Program; or an appropriate future BMP certification developed by the State of California." Part VIIIF.5.c.ii.(b) requires Enhanced TAPE certification whereas in Section VIIIF.5.d.ii requires Basic TAPE certification. Are both required?	but still must ensure treatment of stormwater runoff from the site; therefore, "Basic Treatment" certification is appropriate.
E.7.98	Lisa Naslund Consulting	**Part VIII.F.5.c.ii On-site Flow-based BMPs** second paragraph, "… Flow-through treatment control BMPs must be sized and designed to: (a) Filter or treat either: [# 1] (1) The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event; or [# 2] (2) The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of a storm event), as determined from the local historical rainfall record, multiplied by a factor of two;" **Part VIII.F.5.d.ii** "…The sizing of the flow through treatment device shall be based on a rainfall intensity of: [# 3] (a) 0.2 inch per hour, or [# 4] (b) The one year, one-hour rainfall intensity as determined from the most recent Los Angeles County isohyetal map, whichever is greater."	**No change.** See response to comment # E.7.97.

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		Are sizing requirements of both section VIII.F.5.c.ii and section VIII.F.5.d.ii required? There are two sizing requirements in each section for a total of 4 requirements. Is the larger of the four required? Please clarify.	
E.7.99	The Nature Conservancy	**Part VIII.F.5.c.iii. "Off-site Infiltration:** Projects may use infiltration or bioretention BMPs to intercept a volume of storm water runoff equal to the SWQDV, less the volume of storm water runoff reliably retained on-site, at an approved offsite project located within the same sub-watershed (HUC-12) as the new development or redevelopment project, and provide pollutant reduction (treatment) of the stormwater runoff discharged from the project site in accordance with the Water Quality Mitigation Criteria provided in Part VIII.F.5.d of this Order. The required offsite mitigation volume (M_v) shall be calculated by the equation below: Equation 4: $M_v = SWQVD - R_v$" It is good to see this guidance is included as part of the permit. To be clear about the intention of our previous comments to this section, we believe that use of off-site infiltration projects should be the right of all project applicants, regardless of on-site feasibility, if there is an established and approved Regional Stormwater Mitigation	**No change.** See response to comment # E.7.25.

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		Program that sets up, for example, a mitigation bank or post construction stormwater trading market and includes all of the relevant rules and policies that such programs need to function effectively. This might, for example, mirror what has been implemented in Washington D.C. with great success.	
E.7.100	Stormwater Equipment Manufacturers Association	**Section: VIII.F.5.d – TAPE** "Each Los Angeles County Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems that are certified for "Basic Treatment" under the Washington State Department of Ecology's TAPE Program; or an appropriate future BMP certification developed by the State of California" We offer our full support for the on-site use of TAPE Basic Treatment BMPs where off-site alternative compliance options are being pursued. We also suggest clarifying that GULD is required.	**No change.** Comment noted.
E.7.101	Construction Industry Coalition on Water Quality	Part VIII.F.5.d.i, Page 65. **Potential effects to Anaheim SCP of Permit Language if used in SAR** This provision requires implementation of onsite treatment controls for those projects using offsite mitigation or alternative compliance. This is similar to the San Diego	**No change.** It is appropriate to require a base level of onsite treatment of stormwater runoff for the Priority Development Projects and not just rely totally on the larger offsite projects.

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		Permit requirement and would be a non-starter for the Anaheim SCP. **Proposed Comment** Offsite mitigation projects and alternative compliance projects and the benefits those projects provide will not be utilized if treatment controls are required onsite in addition to the offsite and alternative compliance projects. If onsite treatment controls are required sites will just implement structural controls that meet the retention requirements or implement biofiltration systems. This provision essentially makes offsite mitigation and alternative compliance projects and the benefits they provide such as groundwater replenishment, not viable. A similar requirement for onsite treatment controls for sites using offsite mitigation is included in the San Diego Regional Permit and the result has been no development projects using the offsite mitigation option. What should be applicable for onsite for development projects using offsite mitigation is the implementation of applicable LID site designs and source controls. **Proposed redline/strikeout language changes** i. Each Los Angeles County Permittee shall require all Priority Development Projects that have been approved for offsite mitigation or	

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		ground water replenishment projects as defined in Part VIII.F.6.b through Part VIII.F.5.c of this Order to also ~~provide treatment of storm water runoff from~~ implement applicable LID site designs and source controls for the project site. ~~Each Los Angeles County Permittee shall require these projects to design and implement post-construction storm water BMPs and control measures to reduce pollutant loading as necessary to ensure that the controls implemented on the site are designed so that the discharge does not cause or contribute to an exceedance of receiving water limitations at the Los Angeles County Permittee's downstream MS4 outfall.~~	
E.7.102	Oldcastle Infrastructure	**Section: VIII.F.5.d.ii – Water Quality Mitigation Criteria** "*Each Los Angeles County Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems that are certified for "Basic Treatment" under the Washington State Department of Ecology's TAPE Program; or an appropriate future BMP certification developed by the State of California."* Oldcastle strongly supports using TAPE "Basic Treatment" as a performance standard for proprietary BMP treatment systems. However, we suggest that	**No change.** California established a certification in the past and it is possible that a replacement will be established again. Leaching of nutrients is not limited to sand filters and has been documented with proprietary BMPs as well.

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		reference to a “future BMP certification” be removed. The State of California does not have a BMP certification process; therefore, it is unknown if performance criteria will meet current standards maintained by the County of Los Angeles. Oldcastle also respectfully requests that sand filters not be accepted as equivalent to a TAPE Basic Treatment certified system due to multiple studies and articles released in recent years clearly revealing the tendency of such systems to leach nutrients into receiving waters. Biofiltration or planter boxes that have been tested according to TAPE and show proven success at nutrient reduction would be appropriate substitutes for sand filters under this requirement.	
E.7.103	Contech Engineered Solutions, LLC	**Section: VIII.F.5.d.ii – Water Quality Mitigation Criteria** “Each Los Angeles County Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems that are certified for “Basic Treatment” under the Washington State Department of Ecology’s TAPE Program; or an appropriate future BMP certification developed by the State of California” Please clarify that General Use Level Designation for Basic Treatment is required.	**No change.** See response to comment # E.7.100.

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		We strongly support the on-site use of TAPE Basic Treatment BMPs where off-site alternative compliance options are being pursued, however it should be clarified that that General Use Level Designation (GULD) for Basic Treatment is required. TAPE Use Level Designations are described in the TAPE Process Overview document. GULD is the final approval status and signifies that the technology has met the applicable treatment standard in field testing conducted following the TAPE protocol. Other use level designations, (Pilot and Conditional Use Level Designations) are preliminary certifications issued for technologies that have completed some lab or field testing but that have not yet satisfied all TAPE requirements.	
E.7.104	Contech Engineered Solutions, LLC	Under the current Los Angeles MS4 permit term, I have worked with you and your staff to develop a pathway for approval of innovative biofiltration systems that produce similar or greater pollutant load reductions as compared to conventional systems as described in Attachment H of the current permit. That framework was developed in collaboration with Geosyntec Consultants and has been a model for other innovative biofilter providers to follow. To date, there are at least three innovative biofilters that have been approved by the Water Board for use by various permittees in the Los Angeles	**No change.** The Board recognized the need to streamline the process for approval of biofiltration systems. To address this need, the Tentative Permit uses the TAPE Program as described in response to comment # E.7.41. See also response to comment # E.7.83.

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		region. While we appreciate the opportunity to make these applications for alternative biofiltration specifications, the process has highlighted several issues that should be addressed in this permit. First, the process been grossly inefficient for all involved. Each permittee has been required to make a unique application for each technology that they are considering approving in their land development plan review process. Each application must be publicly noticed on the Water Board web site and responded to by your staff. With 84 permittees and several potential technologies, it is no wonder that the "MS4 Items for Public Notice" page on your web site has been dominated by these requests in the last permit term. This is unnecessary. Each application is very similar in content, and all rely on similar equivalency framework logic as was originally developed to support a Filterra application by Los Angeles County. It is noteworthy that under the current permit in the Ventura Region, as well as in the Santa Ana and San Diego Region permits, innovative biofilters can be used without this submittal and approval process. Second, the process of establishing equivalency started with an assessment of the water quality and performance	

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		capabilities of conventional biofilters as described in Attachment H of the current permit. At the time of the analysis, there was no publicly available data from southern California on performance of such systems. And, although similar designs have been used in the San Francisco Bay area and the Pacific Northwest for over 15 years, there was very little data available from these regions either regarding pollutant removal capabilities or volume reduction capabilities. So, we performed a literature search and conducted detailed hydrologic and hydraulic modeling to develop a baseline performance estimate. The results are captured in the Filterra Equivalency Analysis and Design Criteria report. In short summary, conventional biofilters utilizing compost and sand media effectively remove sediment and total metal loads. However, they are more likely to increase nutrient concentrations than reduce them and have highly variable performance for dissolved metals and bacteria. As you know, these are important pollutants in the Los Angeles and Ventura areas where there are multiple TMDLs for nitrogen, nutrients and bacteria. On the volume reduction question, the results were also interesting. In an average year, a	

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		typical conventional biofilter will lose about 4% of incoming stormwater flows to evapotranspiration. Depending on native soil permeability and other site constraints, the total percentage of runoff that will be infiltrated ranges from zero to a high of 31 % on sites where biofiltration would be applicable. Considering the demand for potable water in the dry season and between storm events to keep these systems hydrated, the water balance benefits are not likely to be nearly as great as in other regions where rainfall is more intermittent throughout the year or where rainfall patterns are characterized by long duration, low intensity storm events. The main differences between innovative biofilters like the Filterra System and conventional biofiltration are twofold: • Innovative biofilters are typically designed with a much higher hydraulic loading rate and are therefore much smaller than conventional systems. Filterra, for example is designed with an infiltration rate between 100 and 175 inches per hour as compared to conventional biofiltration at infiltration rates between 5 and 12 inches per hour. • Innovative biofilters are manufactured, modular and scalable. This allows a much greater level of quality control in design,	

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		construction and activation as compared to conventional systems which are often constructed out of locally available landscaping materials that may or may not be designed for the purpose of stormwater biofiltration. In an urban environment, these benefits are crucial. Compact, high-rate biofilters can be integrated into virtually any site, from pedestal buildings to infill sites to roadway retrofits. They offer a reliable level of performance and due to their smaller size, require less potable water, are less expensive to maintain and can be easily connected to subsurface storage and infiltration systems. These are solutions that engineers and developers in the Los Angeles region are asking for and are using where permitted. We had hoped that the Tentative Los Angeles Regional Permit would set clear performance requirements for such systems and would streamline the approval process across the region. Instead, the permit defers any such decision to an out of date LID manual from Los Angeles County without giving update instructions. … build on progress made in the last Los Angeles Region MS4 Permit term and will	

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		ensure that there is a pathway for the use of innovative systems in the region that improves water quality by linking stormwater management system selection and design to the specific pollutants of concern expected on each project.	
E.7.105	Lisa Naslund Consulting	Clarify whether proprietary biofiltration is part of the Onsite Biofiltration section (**Part VIIIF.5.c.i**) or should be evaluated as part of the On-Site Flow-based BMP section (**Part VIIIF.5.c.ii**).	**No change.** Proprietary biofiltration BMPs are addressed as part of the On-Site Flow-based BMP section (Part VIII.F.5.c.ii, renumbered as Part VIII.F.4.c.ii in the revised Tentative Order). Onsite biofiltration BMPs are required to address 1.5 times the SWQDV and must be built consistent with the Los Angeles County or Ventura County LID manual per project location. Through proper design, onsite biofiltration BMPs are anticipated to have a significant amount of incident infiltration in contrast to On-site flow based BMPs.
E.7.106	Lisa Naslund Consulting	Are current approvals from the Board for proprietary BMPs, such as MWS and Filterra still valid under this new permit.	**No change.** There is no requirement to retrofit BMPs but going forward the TAPE certification will be the standard.
E.8.1	City of Los Angeles	Main Body, Part VIII.G.1.a, Page 66. The language at the end of this provision stating "or any other activity that results in a land disturbance" is too broad. This requirement is very broad and nondefinitive. For clarity, LASAN requests that this language be removed and all activities covered by the requirements within this part be listed.	**No change**. Land disturbance potentially mobilizes soil, which is a threat to water quality. The 2012 LA County MS4 Permit uses “soil disturbance.” This Order uses “land disturbance” to be more aligned with the CGP; also, to better capture all types of construction activities.

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E.8.2	VCSQMP	Part VIII.G.3. Page 66. A modification is requested to allow Permittees to continue enforcing erosion and sediment control measures under existing municipal codes that are equivalent to an erosion and sediment control ordinance. Ventura County Permittees already have existing ordinances that address erosion and sediment control for stormwater, as required. It is requested that the underlined portion of this sentence be added: "Each Permittee shall establish for its jurisdiction an enforceable erosion and sediment control ordinance or equivalent municipal code language for all construction sites that disturb land."	**Change made**. The Board agrees that other municipal codes may be relied upon where they address erosion and sediment control. The commenter's suggestion has been made.
E.8.3	VCSQMP	Part VIII.G.4.b. Page 66. As written, VIII.G.4.b requires very detailed record keeping for all construction projects; however, many small construction sites (i.e., less than one acre) are not applicable to most of the required inventory information. These small construction sites are already tracked by other regulating departments and present a low risk to stormwater quality. The reporting burden for tracking information for sites less than one acre is significant and provides minimal benefit for stormwater quality.	**Change made.** The entire Part VIII.G.4 (Construction Site Inventory / Electronic Tracking System) is moved to the new Part VIII.G.5.b (Construction Sites One Acre or Greater). Also, Part IX.G.3 of the Fact sheet was updated accordingly. Additionally, Attachment H was updated to move the question 6.5a to the new 6.5b.

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		It is requested that the underlined portion of this sentence be added: "Each Permittee shall continuously update the inventory as new sites <u>one acre or greater</u> are permitted and <u>those</u> sites are completed. The inventory / tracking system shall contain, at a minimum:"	
E.8.4	VCSQMP	Part VIII.G.4.b. Page 66. The construction site inventory requirements in VIII.G.4.b require a level of detail that is excessive and redundant, which creates an unnecessary burden for Permittees. It is requested that the requirements in VIII.G.4.b.iv and VIII.G.4.b.ix be removed, as this information is readily available from other sources. Information related to a site's risk level is readily available in a project's SWPPP, which is easily accessible in SMARTS or from project submittal documents. A description of a project's post-construction BMPs is included in the post-construction plan for projects subject to the requirements in VIII.F, which Permittees require for permit issuance. It is requested that the requirements in VIII.G.4.b.iv and VIII.G.4.b.ix be removed from the tentative permit.	**No change**. The project risk level under the Construction Site Inventory / Electronic Tracking System requirements is an important factor for projects larger than an acre and Permittees should be aware of it. Because this information is readily available as the commenter has mentioned, it should not be a burden to compile it. The post construction information in the Construction Site Inventory / Electronic Tracking System section may not be in the SWPPP since the CGP does not require it for projects within an MS4-covered area. That information is to be reviewed by the municipalities.
E.8.5	PVP Group	The Tentative Regional MS4 Permit increases and prescribes tracking requirements for construction sites disturbing less than one acre and requires the creation of a database with specific fields to be	**Change made**. See the response to comment # E.8.3.

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		tracked, e.g., dates of site inspections, lists of LID project features, pre- and post-runoff volumes, size of project, and area of soil disturbance. In jurisdictions where the majority of construction sites are less than one acre, this will create a significant additional administrative effort. Permittees will need to modify their building permit tracking systems (or create an entirely separate tracking system for stormwater inspections) to enable tracking of prescribed data fields that are not currently tracked or available in existing building permit tracking software used by Permittees. The Tentative Regional MS4 Permit will also require Permittees to keep track of BMP violations for annual reporting purposes at construction sites less than one (1) acre whereas under the 2012 LA MS4 Permit this is only required for sites one acre or greater. We do not believe that the additional administrative burden associated with increased tracking and documentation of small construction site BMPs will result in meaningful data. Furthermore, the increased cost associated with establishing and implementing these tracking processes will not yield dividends in terms of water quality improvement. The Peninsula WMG has found that monitoring total suspended solids in stormwater outfalls and evaluating results in comparison with Municipal Action Levels, as currently required	

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		by the Peninsula Coordinated Integrated Monitoring Program, provides sufficient data by which to evaluate the effectiveness of construction site BMP implementation and strongly petitions modifying the Tentative Regional MS4 Permit to revert back to the 2012 LA MS4 Permit requirements for construction sites less than one acre of disturbed area.	
E.8.6	SGVCOG 2nd Letter and ULAR Group	Part VIII.G.4.b.ix; Page 67. Recommend removing the post-construction BMP description as it is already logged through the tracking requirements of VIII.F.3.c.i. Also, consider moving the "comparison of pre-storm water runoff volume to post-construction runoff volume" tracking to VIII.F.3.c.i.	**No change.** To ensure inspectors have the relevant information available to support inspections of construction sites, it is important to include this information on post-construction BMPs. Note however that a Permittee could link the inventory of construction sites with the tracking system under Part VIII.F.3.c.i. Additionally, Part VIII.F.3.c.ii allows post-construction BMP inspections to be combined with other inspections.
E.8.7	City of Los Angeles	Main Body, Part VIII.G.5.a. Table 7, Page 67. Inclusion of the term "Appropriate" in front of the majority of BMPs creates ambiguity. Also, the linear sediment control BMP requirements segmented by slope percentage will result in a high cost of BMP implementation. LASAN requests removal of the term "Appropriate" from all instances within Table 7 and removal of the "Appropriate linear sediment controls along the face and toe of slopes (every 20 feet for	**Change made**. The word "appropriate" has been removed since it is redundant with the requirement that refers to Table 7, which states "the Permittee shall require the implementation of *an effective* combination of erosion and sediment control BMPs from Table 7 and/or Table 8 …". Additionally, Table 7 is changed to be more aligned with the 2012 LA County MS4 Permit.

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		0-25% slopes, every 15 feet for 25-50% slopes, and every 10 feet for slopes greater than 50%)" sediment control BMP requirement.	
E.8.8	SGVCOG 2nd Letter and ULAR Group	Part VIII.G.5.b; Page 68. Currently construction sites are inspected once a month during rainy season, unless a follow-up inspection is required due to a deficiency. Please clarify what "inspect as needed" means.	**No change**. The provision lists factors for the permittee to use in determining the "needed" frequency.
E.8.9	VCSQMP	Part VIII.G.6.a. Page 68. The tentative permit includes a general statement to require implementation of an effective combination of erosion and sediment control BMPs for sites less than one acre; however, it does not include similar language for sites one acre and greater. Adding a similar general statement for sites one acre and greater would allow Permittees to require implementation of BMPs consistently for all sites. It is requested that the language provided in VIII.G.5.a be applied to all construction sites. It is requested that the following sentence be added as a third note in VIII.G.6.a (i.e., as VIII.G.6.a.iii): "Through the use of the Permittee's erosion and sediment control ordinance and/or building permit, the Permittee shall require the implementation of an effective combination of erosion and sediment control BMPs from Table 7 and/or	**No change**. The sites covered in Part VIII.G.6 are sites subject to the CGP. There is language in the Order that says "the CGP is the primary regulating permit for these sites." This Part is written such that it is aligned with the CGP, which requires site-specific SWPPPs that describe the combination of BMPs that will be used at the construction site to effectively control erosion and sediment loss from the site. In contrast, construction sites less than one acre are generally not subject to the CGP and, therefore, do not have the requirement to prepare a SWPPP identifying the BMPs that will be implemented at the site. Therefore, the difference in the permit language is appropriate.

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		Table 8 of this Order (where applicable) to prevent erosion and sediment loss, and the discharge of construction wastes."	
E.8.10	City of Los Angeles	Main Body, Part VIII.G.6.a, Page 68. The phrase "or any pertinent permit" is ambiguous. LASAN requests that this language be removed and all applicable permits be specified.	**No change**. "Any pertinent permits" refers to permits relevant or applicable to the construction site/activities issued by the MS4 Permittee.
E.8.11	VCSQMP	Part VIII.G.6.a.i. Page 68. Remove the requirement for Permittees to evaluate if a construction site is subject to the State Water Board 401 Water Quality Certification. While this requirement is typically part of Permittee's development review processes, the requirement lies outside the responsibility of the stormwater programs. Review of the applicability of the State Water Board 401 Water Quality Certification is not required by 40CFR126.22 and accordingly is not a current requirement under Order R4-2010-0108. The Permittees request removal of this requirement, remaining consistent with current Permit requirements. It is requested that the stricken text be removed: "… Permittee shall verify that the construction site operators have existing coverage under applicable permits, including, but not limited to the Construction General Permit, ~~and State Water Board 401 Water Quality Certification.~~"	**No change**. This is not a new requirement but rather a clarification of the specific permits that would be considered applicable permits. It is appropriate and in the Permittee's interest to ensure that construction sites are subject to regulation under applicable discharge permits prior to the commencement of construction activities.

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E.8.12	VCSQMP	Part VIII.G.6.a.ii. Page 68. A modification is requested that clarifies that post-construction plans are only required for construction sites that are subject to the post-construction requirements in Part VIII.F. As written, the permit indicates that construction sites one acre or greater that are not subject to the requirements of Part VIII.F would also be required to prepare and submit a post-construction plan prior to issuance of a grading or building permit. It is requested that the underlined portion of this sentence be added: "Prior to issuing a grading or building permit (or any pertinent permits), each Permittee shall require each operator of a construction activity <u>subject to post-construction requirements in Part VIII.F</u> within its jurisdiction to prepare and submit a post-construction plan prior to the disturbance of land for the Permittee's review and written approval."	**No change**. Part Viii.G.6 applies to construction sites subject to the CGP. All construction sites subject to the CGP require post-construction plans.
E.8.13	City of Santa Clarita	Page 69 Section b.i. Please removal additional inspections (twice monthly instead of monthly). Additional inspections for all sites will not fundamentally improve water quality and will detract from other important inspections, such adaptive management.	**No change**. Subpart b.i.(c) already allows Permittees to reduce the frequency of inspections under certain conditions.
E.8.14	VCSQMP	Part VIII.G.6.b.i.(a). Page 69. The tentative permit states, "For construction sites that are determined to be a significant threat to water quality and construction sites that discharge	**No change.** Consistent with the approach in the CGP, this applies to construction sites within the watershed of a 303(d)-listed waterbody impaired

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		to a 303(d)-listed waterbody impaired for sediment or turbidity, the Permittee shall conduct an inspection." Does the underlined portion of this requirement apply only to construction sites that discharge directly to a 303(d)-listed waterbody (if so, see recommendation 1)? Or does it also apply to non-impaired waterbodies within the greater watershed of a 303(d)-listed waterbody (if so, see recommendation 2)? (1) It is requested that the underlined portion of this sentence be added: "For construction sites that are determined to be a significant threat to water quality and construction sites that directly discharge to a 303(d)-listed waterbody impaired for sediment or turbidity, the Permittee shall conduct an inspection." (2) It is requested that non-impaired waterbodies subject to this requirement be defined (e.g., waterbodies within a specified distance of an impaired waterbody, direct tributaries of an impaired waterbody, etc.).	for sediment or turbidity. See also response to comment # E.8.13.
E.8.15	VCSQMP	Part VIII.G.6.b. Page 69. The tentative permit states, "for all other construction sites, the Permittee shall conduct monthly inspections." This is a significantly increased inspection frequency, as compared to the existing permit. During a recent meeting, RWQCB staff indicated that inspection requirements could be met by the QSD/QSP inspections	**Change made.** Permittees can use QSD/QSP inspection to satisfy the site inspection requirements. Permittees are responsible for verifying the findings of the inspection report and validity of the report. Permittees are also responsible for any follow-up actions and corrective actions.

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		required by the Construction General Permit; however, as written, the permit specifically requires Permittees to conduct the inspections. Duplicate inspections by both the project QSD/QSP and Permittees will result in financial burden for projects due to the significant increase in labor. It is requested that the terminology of "Permittee" be modified in this section (i.e., VIII.G.6.b) to clarify that the inspections may be completed by project personnel. It is requested that all instances of "Permittee" in VIII.G.6.b be changed to "Permittee or the project proponent's Qualified SWPPP Developer (QSD) or Qualified SWPPP Practitioner (QSP) or personnel or consultants who are Certified Professionals in Erosion and Sediment Control (CPESC)" to clarify the intent of the tentative permit, as indicated by RWQCB staff.	
E.8.16	VCSQMP	Part VIII.G.6.b.i.(c). Page 69. The tentative permit states, "If following a site inspection, the Permittee deems the site in compliance with the requirements listed in Part VIII.G.6.b.ii below, the Permittee may reduce the inspection frequency as necessary to a minimum of once during wet weather and once during dry weather." As written, the Permittees understand this requirement apply to all construction sites that meet the	**No change.** Inspection frequency reduction applies to all sites (i.e. the stated interpretation is correct).

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		criteria of VIII.G.6.b.i.(a) and VIII.G.6.b.i.(b). It is requested that the intent be clarified if this understanding is incorrect.	
E.8.17	City of Los Angeles	Main Body, Part VIII.G.6.b.ii.(b), Page 68. For greater clarity regarding expectations, LASAN requests a revision as follows: A SWPPP is developed, and available at the site, and accessible to construction crew and personnel.	**No change.** The current language says "A SWPPP is developed and available at the site." Available means "able to be used or obtained; at someone's disposal"; as such, the language is adequate to convey that the SWPPP must be accessible to site personnel.
E.9.1	City of Los Angeles	Main Body, Part VIII.H.2.a, Pages 70-71. LASAN requests the removal of the following facilities as they are covered under the Industrial General Permit requirements and as such are redundant in this list from: (vi) Hazardous Waste Disposal Facilities, (vii) Hazardous Waste Handling and Transfer facilities, (viii) Incinerators, (ix) Landfills.	**No change**. Requirements are not redundant as specified by Part VIII.H.3.g.
E.9.2	City of Los Angeles	Main Body, Part VIII.H.3.a, Page 71. The following language from the 2012 Permit (page 127) was removed from the Tentative Order: "permittee owned facilities that have obtained coverage under the Industrial General Permit are not required to implement and maintain the activity specific BMPs". This deletion creates duplication of tracking. LASAN requests that the language from the 2012 Permit be carried over into the Tentative Order to streamline tracking efforts.	**No change**. This request is already reflected in the Tentative Permit; see Part VIII.H.3.g.
E.9.3	County of Ventura	In addition to supporting the Program's comments the County requests a modification of the Vehicle and Equipment	**No change.** Vehicle and equipment washing discharges are not allowed and were never allowed to go into the

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		Washing requirements in Part VIII.H "Public Agency Activities Program" of the Tentative Order, to be consistent with the requirements of the 2010 Ventura County MS4 Permit. Modify Vehicle and Equipment Washing requirements to be consistent with the requirements of the 2010 Ventura County MS4 Permit. Vehicle and Equipment Washing requirements for the Public Agency Activities program proposed in the Tentative Order (VIII.H.4.b; page 74), modify 2010 Ventura Permit's requirements as follows: "Each Permittee shall ~~eliminate~~ prevent discharges of wash waters from vehicle and equipment washing ~~no later than (365 days after Order adoption date)~~ to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas: i. ~~(1)~~ Self-contain, and haul off for disposal; ii. ~~(2)~~ Equip with a clarifier; or ~~(3) Equip~~ with an alternative pre-treatment device~~; or~~ and ~~(4) P~~plumb to the sanitary sewer in accordance with applicable wastewater provider regulations; or iii. Infiltrate with no discharge off-site."	storm drain. The prior Ventura County MS4 Permit stated, "Each Permittee shall *eliminate discharges of wash waters* from vehicle and equipment washing no later than (365 days after Order adoption date) …" (Order No. R4-2010-0108, Part 4.G.3(a)). Discharges from a clarifier or alternative pre-treatment device are always intended to discharge to the sanitary sewer system. The current proposed language clarifies this.

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		In Tentative Order, combining options # 2, 3, and 4 into one requirement option to “Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable wastewater provider regulations”, cause a significant compliance change from the requirements of the 2010 Ventura County MS4 Permit. This change in the Tentative Order will prohibit treated discharges to the MS4, which are allowable under the 2010 Ventura County MS4 Permit. As currently proposed in the Tentative Order, several County facilities may require additional, often infeasible, retrofits to comply. Following adoption of the 2010 Ventura County MS4 Permit, all County agencies evaluated wash water needs at the County’s properties and where deemed necessary to have on-site vehicle washing, the necessary planning, design and construction of best management practices (BMPs) was completed including 30 County fire stations. The highest priority was to connect to sanitary sewer; however, in many cases it was not possible or acceptable by the Agencies responsible for sanitary sewer treatment systems. Next preferred BMP was based on infiltration to also eliminate any wash water discharge from the fire station properties. Total of 19 out of 30 fire stations	

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		were able to achieve wash water discharge elimination; for remaining 11, infiltration and/or sanitary sewer connection was either technically infeasible or unavailable option after initial denial from the POTWs. Technical infeasibility included low infiltration rates, and/or lack of available surface area or space at the small parcels in residential areas. Therefore, alternative treatment (e.g., biofiltration or infiltration with an overflow) was implemented to treat runoff from vehicle and equipment wash areas prior to their discharge to the MS4. As previously communicated to the LA-RWQCB, retrofit of 30 fire stations for over $2M in consulting and construction contracts, and providing on-going maintenance is a significant financial investment and best faith effort by the County of Ventura. All BMPs are subject to inspection program and as of the latest completed in spring of 2020, all BMPs are fully operational. The County believes that the good faith effort to achieve compliance with 2010 Ventura Permit can be recognized and allowed compliance status for all completed retrofits. Such ongoing compliance for these facilities is needed because site-specific constraints make sanitary sewer connection or filtration and technically infeasible or unavailable. As	

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		written, the Tentative Order would not provide a path to compliance for about 11 County facilities. **<u>Requested Action</u>** The County requests that the Vehicle and Equipment Washing requirements of the Tentative Order be revised as follows to allow treated discharge to the MS4, consistent with the 2010 Ventura County MS4 Permit: "Each Permittee shall prevent discharges of wash waters from vehicle and equipment washing to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas: i. Self-contain, and haul off for disposal; ii. Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable wastewater provider regulations; or iii. Infiltrate with no discharge off-site; <u>or</u> <u>iv. Provide best water quality treatment feasible."</u>	
E.9.4	SGVCOG 2nd Letter and ULAR Group	Part VIII.H.5.a; Page 74. If any of the requirements of VI.D.8.e.ii and VI.D.8.e.iii are equivalent to requirements of CCR Chapter 4, Subchapters 3, 4, and 5, recommend identifying them as such. So that it is clear	**No change**. Incorrect Part references and same comment as below with correct references. See comment # E.9.5.

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		which requirements are specific to the MS4 Permit.	
E.9.5	SGVCOG 2nd Letter and ULAR Group	Part VIII.H.5.b-c; Page 74-85. If any of the requirements of VIII.H.5.b and VIII.H.5.c are equivalent to requirements of CCR Chapter 4, Subchapters 3, 4, and 5, recommend identifying them as such. So that it is clear which requirements are specific to the MS4 Permit.	**No change**. The permit is not an appropriate place to present a comparison of requirements.
E.9.6	City of Santa Paula	Minimum Control Measures (MCMs). As described in the VC SW Program's letter under *Comment #9*, the Ventura County Permittees have identified a number of requested modifications to the MCMs in Part VIII that will provide clarity and are better aligned with our experience implementing existing stormwater programs in Ventura County. For example, there is a new requirement not included in the 2010 Permit under Part VIII.H.9 (page 77 of Tentative Order) Parking Facilities Maintenance which states: "*Permittee-owned parking lots exposed to storm water shall be inspected at least twice per month. If debris and/or oil is observed during the inspection, the parking lot shall be cleaned. At a minimum, parking lots must be cleaned once per month.*" No justification for this new additional requirement was found in the Tentative Order's Fact Sheet (page F199). It is important to note that to a small	**Change made.** The Fact Sheet acknowledges that parking areas were not specifically identified with BMPs in the 2010 Ventura County MS4 Permit. However, specified BMPs for parking lots are practices that the Los Angeles Water Board considers necessary to control pollutant discharge and are based on section 402(p)(3)(B) of the CWA. The Fact Sheet also discusses the importance of parking lot cleaning and its importance to water quality. See comment # E.9.7 below, for changes made to the Parking Facilities Maintenance requirements in the revised Tentative Order based on the comments received.

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		City such as ours, even seemingly minor additional MCMs in the Tentative Order as this Parking Facilities Maintenance requirement can be burdensome and costly. Therefore, we strongly support the requested modifications to the MCMs (including the Parking Facilities Maintenance provision) provided in the VC SW Program's letter and attachments.	
E.9.7	VCSQMP	Part VIII.H.9. Page 77. The requirements for Permittee-owned parking lots are an unnecessary increase in requirements over the current permit. The Ventura County Permittees request that the requirements be modified to better reflect a sequential process from inspection through cleaning based on the results of the inspection. Permittee-owned parking lots exposed to storm water shall be visually inspected at least ~~twice~~ once per month. If trash, debris, and/or free standing oil/grease spills/leaks are ~~is~~ observed ~~during the inspection~~, the parking lot ~~shall~~ will be cleaned. ~~At a minimum~~, Parking lots ~~must~~ are to be cleaned ~~once per month~~ as necessary based on monthly inspections. For parking lots with a gravel/sediment base, Permittees shall also implement and maintain BMPs to prevent the discharge of gravel and sediment to the MS4.	**Change made**. The Board acknowledges the need to phase in Permittee-owned parking lot cleaning requirements for Ventura County Permittees. The revised Tentative Order has been changed to include an applicability threshold for parking lots greater than 1 acre or any parking lot used for heavy vehicle storage.

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E.10.1	PVP Group	The MS4 Permit should acknowledge, as reported recently in the Los Angeles Times, that considerable and widespread illegal dumping of thousands of 55-gallon drums containing DDT and DDT-related materials off the Palos Verdes Peninsula coastline occurred decades ago. PVP Permittees should explicitly not be responsible for conducting investigations that may be triggered by or as a result of detection of elevated levels of DDT and related materials in the ocean receiving waters.	**No change**. The Illicit Discharge Detection and Elimination Program addresses illicit discharges from the MS4. This is very different than the ocean dumping referred to by the commenter.
E.10.2	VCSQMP	Part VIII.I.1.d. Page 78. The General requirement for Permittees in this section to address oil or oily materials is unclear. Permittees have authority to implement these actions on their property, provide outreach and education to prevent these materials from being transported in stormwater, and to use their authorities to address identified spills, but cannot meet the specified requirements for private property in their jurisdictions. The language should clearly articulate the Permittee responsibilities regarding this provision. Modify the Provision as follows: "<u>Permittees shall incorporate program elements to notify dischargers to the MS4 that</u> oil or oily material, chemicals, refuse, or other pollution causing materials shall not be stored or deposited in areas where they may be picked	**No change.** The suggested language to notify the responsible party is already in Part VIII.I.3.a of the Tentative Order.

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		up by rainfall and carried off of the property and/or discharged to surface waters. Any such spill of such materials shall be contained and removed immediately."	
E.10.3	VCSQMP	Part VIII.I.2.a. Page 78. Source investigation procedures should be included in Part I. IDDEP of the Order instead of Att. E MRP; In addition, any customization of the IDDEP-related procedures can be documented in the Each Permittee's IDDE Program written documentation instead of CIMP or IMP. Multiple documentation is not effective for program implementation. Move source investigation procedures from Att. E MRP to Part I IDDEP of the Order.	**No change**. IDDE program is complementary to the MRP and relies heavily upon the coordination of the two.
E.10.4	VCSQMP	Part VIII.I.2.a. Page 78. It appears that the provision contains a typo, omitting reference to "significant" non-stormwater discharges. Recommend including "significant" to ensure that Permittees are able to prioritize outfalls for follow-up, consistent with proposed Monitoring and Reporting Program in Attachment E. "Each Permittee shall conduct an investigation to identify the location and source of all reported illicit discharges. For significant non-stormwater discharges from outfalls, the Permittee....."	**No change**. This provision is applicable to all non-stormwater discharges from outfalls and references the MRP where prioritization is described in those procedures.
E.10.5	VCSQMP	Part VIII.I.3.c. Page 78. “If the Permittee determines that the sources of the illicit	**No change.** This provision is not duplicative. The provision does not

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		discharge originates within an upstream jurisdiction, the Permittee shall notify the upstream jurisdiction and the Los Angeles Water Board within 30 days of such determination and provide all information collected regarding efforts to identify its source." Ventura County MS4 Permittees and other NPDES Permittees have been working closely on addressing and responding to illicit discharge reports. Our MS4 Systems are mostly separated from each other by open space or agricultural fields; however, if it is determined that discharge originates from jurisdiction other than the one who received report, it is being referred within less than 24 hrs. for further investigation and reports. MS4 Permittees do not conduct discharge investigations within each other jurisdictions, but focus on its own jurisdiction per Permittee's Progressive Enforcement procedures. All reports and investigations are reported to Los Angeles Regional Water Board annually in Ventura Annual Stormwater Report. Please remove this requirement for Ventura County MS4s, because it is duplicative and unnecessary effort. Please remove the following requirement for Ventura County Permittees:	require investigations outside of the Permittee's jurisdiction, rather it requires the Permittee only provide the information to the Los Angeles Water Board and upstream jurisdiction that led to the Permittee's determination.

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		"If the Permittee determines that the sources of the illicit discharge originates within an upstream jurisdiction, the Permittee shall notify the upstream jurisdiction and the Los Angeles Water Board within 30 days of such determination and provide all information collected regarding efforts to identify its source."	
E.10.6	VCSQMP	Part VIII.I.3.d. Page 78. In the event the Permittee is unable to eliminate an ongoing illicit discharge [...], the Permittee shall provide for elimination through diversion to the sanitary sewer or, alternatively, provide treatment at the location of the identified discharge. [...] notify Los Angeles Water Board in writing within 30 days of such determination. The requirement to divert illicit discharges to the sanitary sewer or provide treatment and to notify the Regional Water Board of the schedule for implementing this diversion or treatment within 30 days is onerous and does not account for whether or not the discharge is a source of pollutants that is impacting receiving waters. In addition, it is in many cases infeasible for Ventura County MS4 who are not in charge of sewer collection systems. Many POTWs have limited capacity and are reluctant to accept nuisance flows. Ventura County MS4 Permittees believe that	**No change**. This is an existing requirement that takes effect in the event the Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy. Furthermore, this provision requires the Permittee to notify the Los Angeles Water Board within 30 days of determining that the illicit discharge will be eliminated through diversion to the sanitary sewer system or, alternatively, provide treatment at the location.

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		future Regional MS4 Permit should be consistent with current 2010 Ventura MS4 Permit requiring referral to Los Angeles Regional Water Board for enforcement in case Permittee is unable to eliminate the discharge. In addition, regarding requirement to notify Los Angeles Water Board in writing within 30 days is inconsistent with Permittee's timeline per Progressive Enforcement procedures. Please make the following modification: "… the Permittee shall ~~provide for elimination of the illicit discharge through diversion to the sanitary sewer or, alternatively, provide treatment at the location of the identified discharge. In either instance, the Permittee shall notify~~ refer to the Los Angeles Water Board or other regulating agencies in writing as soon as possible ~~within 30 days of such determination~~ and shall provide a written description of the efforts that have been undertaken to eliminate the illicit discharge, the actions to be undertaken, anticipated costs, and a schedule for completion." It is requested that the stricken text in this section be removed and the underlined text be added.	
E.10.7	City of Los Angeles	Main Body, Part VIII.I.3.d, Page 78. The language in this provision potentially requires the elimination of an ongoing illicit discharge	**No change**. As noted by the commenter, this is an existing requirement that takes effect in the

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		by diversion to the sanitary sewer or providing treatment at the location of the identified discharge. It is presumed that these measures must be implemented at the expense of the Permittee. The decision to construct a diversion or treatment BMP cannot be made within 30 days from a Permittee determining that an ongoing illicit discharge cannot be eliminated following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, including the inability to find the responsible party(ies). Budgetary and project approvals have to be obtained and these actions alone may take over a year. LASAN requests that the written notification and written description of the efforts that have been undertaken to eliminate the illicit discharge, the actions to be undertaken, anticipated costs, and a schedule for completion be required to be provided within 18 months from the Permittees making such a determination.	event the Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy. This provision requires the Permittee to notify the Los Angeles Water Board within 30 days of determining that the illicit discharge will need to be eliminated through diversion to the sanitary sewer system or, alternatively, be treated at the location. The written description can be preliminary and may be updated as planned actions become more specific.
E.10.8	VCSQMP	Part VIII.I.4. Page 79. "40CFR122.26(d)(2)(iv)(B)(7) requires that MS4 Permittees include, as part of their stormwater management program ""A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary"". This requirement is to be	**No change**. The reference to implementation of a Sewer System Management Plan in Part VIII.I.4.b is not imposing this implementation as a requirement of the MS4 permit, rather it is stating that the federal requirement to limit infiltration of seepage from municipal sanitary sewers to MS4s can

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		incorporated into MS4 Permits and should be focused on the responsibilities of the MS4, and should not include requirements related to the sanitary sewer, regardless of agency responsibility. The inclusion of requirements to maintain the sanitary sewer is above and beyond the federal requirements for stormwater permits. Regulation of the sanitary sewer collections system is addressed by Waste Discharge Requirements (WDR) issued by the State Water Resources Control Board in Order # 2006-0003-DWQ. The WDR contains discharge prohibitions related to sewage and extensive requirements related to operations and maintenance of the sanitary sewer collections system. Including similar requirements in the MS4 Permit is inappropriate. Through current requirements within the MS4 Permit, our agencies are regularly coordinating with sewer agencies, but under our MS4 Permit, Permittees should not bear the responsibility for maintenance of the sanitary sewer that could be prescribed in a different way under a separate regulatory permit. " The Permittees recommend that Provision VIII.I.4 in the Tentative Order be revised to	be fulfilled through the implementation of a Sewer System Management Plan in accordance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems where a MS4 Permittee is also an enrollee in the Statewide WDRs for Sanitary Sewer Systems.

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		reflect the requirements in 40CFR122.26. Provision I.4 should be replaced in its entirety with the following: "Each Permittee shall provide a description of the controls it will implement to limit infiltration of seepage from municipal sanitary sewers to their MS4 where necessary." Alternatively, Provision I.4 should be revised on include only I.4.a and I.4.c, removing the requirements related to sanitary sewer maintenance currently contained in I.4.b.	
E.10.9	SGVCOG 2nd Letter and ULAR Group	Part VIII.I.8.b; Page 80. Recommend exemption of tracking for discharges of negligible impact that do not enter a storm drain inlet. For example, the standard could be, "Tracking is not required for discharges of less than X gallons that do not reach a storm drain inlet." The reason for this requested exemption is that the administrative cost of this tracking outweighs the value of the data recorded. (The time could be better spent addressing other MS4 Permit requirements.)	**Change made**. The purpose of this provision is to track illicit discharges as defined in 40 C.F.R. § 122.26(b)(2) and in Attachment A. An illicit discharge is any discharge into the MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes any non-stormwater discharge, except authorized non-stormwater discharges; conditionally exempt non-stormwater discharges; and non-stormwater discharges resulting from natural flows specifically identified in the Order. The provision has been revised to clarify this intent.

Miscellaneous Modifications

1. Revised Tentative Attachment F, Part IX.D.5. Removal of requirements referring to a fourth-year program effectiveness assessment for consistency with requirements in the Tentative Order and revised Tentative Order.