

Draft Alternative Compliance Pathway for Receiving Water Limitations
Revised May 14, 2015

Insert the following as Provision B.3.c:

C. DISCHARGE PROHIBITIONS AND RECEIVING WATER LIMITATIONS COMPLIANCE OPTION

Each Copermittee has the option to utilize the implementation of the Water Quality Improvement Plan to demonstrate compliance with the requirements of Provisions A.1.a, A.1.c and A.2.a within a Watershed Management Area. A Copermittee will be deemed to be in compliance with Provisions A.1.a, A.1.c and A.2.a within a Watershed Management Area when the following conditions are met:

(1) ~~The Copermittees may utilize implementation of the water quality improvement strategies in the Water Quality Improvement Plan to demonstrate compliance with the requirements of Provisions A.1.a, A.1.c and A.2.a. For each Copermittee in t~~The Water Quality Improvement Plan for a Watershed Management Area that chooses to utilize this option, the Copermittee will be in compliance with Provisions A.1.a, A.1.c and A.2.a if must incorporate the following:

(a) Numeric goals and schedules developed pursuant to Provision B.3.a that include the following ~~numeric goals:~~

(i) ~~Water quality based effluent limitations (WQBELs) expressed as concentration-based or load-based effluent limitations applicable to the Watershed Management Area~~ established by the TMDLs in Attachment E to this Order applicable to the Copermittee's jurisdiction within the Watershed Management Area; and

(ii) Numeric goals applicable to the Copermittee's MS4 discharges within the Watershed Management Area expressed as numeric concentration-based or load-based ~~goals~~ effluent limitations for all other pollutants listed on the Clean Water Act Section 303(d) List of Water Quality Impaired Segments¹ for the receiving waters in the Watershed Management Area that do not have a TMDL developed and incorporated into Attachment E to this Order; and

(iii) Numeric goals applicable to the Copermittee's MS4 discharges within the WMA for which Copermittees seek Alternative Compliance status expressed as numeric concentration or load-based goals for all persistent pollutants not subject to a TMDL and not listed on the CWA Section 303(d) List of Water Quality Impaired Segments for the receiving waters in the WMA; and

(iv) Numeric goals for receiving waters that will ~~protect~~ result in chemical, physical, and biological conditions of the receiving waters that will be protective of the beneficial uses within the Watershed Management Area under the Copermittee's jurisdiction . and attain water quality standards.

Comment [M1]: Removed "or" from "and/or". Clean Water Act requires protection and restoration of chemical, physical, and biological conditions.

(v) In addition to the numeric goals required in c.(1)(a)(i)-(iv), Copermittees shall identify numeric goals, strategies, schedules, and dates for their achievement to control MS4 discharges such that they do not cause or contribute to exceedances of receiving water limitations in the timeframe(s) that reflects a realistic assessment of the shortest practicable time required. The time between dates shall not exceed one year.

Comment [M2]: The idea behind these optional language sections is to require Copermittees to provide a clear blueprint for achievement of RWLs with annual numeric goals, strategies, schedules, and dates that must be provided and achieved. Section 3 (A)-(C) (below) refers to achievement of these goals and when Alt Compliance is no longer applicable.

OR

(v) A schedule for achieving annual interim numeric targets that reflects progress towards the numeric goals described in c.(1)(a)(i)-(iv). The schedule must include a realistic assessment of the shortest practicable time required to ensure target pollutant(s) will not cause or contribute to exceedances of receiving water limitations.

(b) An analysis utilizing a watershed model or other watershed analytical tools ~~is performed. The results must be included in the Water Quality Improvement Plan that meets the following conditions:~~

~~(i) The analysis must to~~ quantitatively demonstrate that the implementation of the water quality improvement strategies required under Provision B.3.b will achieve the numeric goals within the established schedules required ~~under to be developed pursuant to~~ Provisions B.3.a and B.3.c.(1)(a).

~~(ii) The development of the analysis must include a public participation process which allows the public to review and provide comments on the analysis methodology utilized and the assumptions included in the analysis. Public comments and responses must be included as part of the analysis documentation included in the Water Quality Improvement Plan.~~

~~(iii) The analysis may be performed by an individualy Copermittee only for its jurisdiction within the Watershed Management Area, or jointly by two or more of any of the Copermittees choosing to utilize this option for their jurisdictions within the same Watershed Management Area.~~

~~(iv) , and Subject to section 3 below, the analysis~~ must be updated as part of the iterative approach and adaptive management process required under Provisions B.5.a-b.

Comment [M3]: This addition requires update of analysis, but points to Section 3 below that says such update may not necessarily be done under protection of Alt Compliance if Copermittee has not properly implemented their requirements. Essentially it's meant to differentiate the ongoing iterative, adaptive management process from the Alt Compliance process of updating analyses.

¹ ~~2002-2010~~ and subsequent 303(d) Lists

- (c) ~~The Water Quality Improvement Plan s~~pecifices the monitoring and assessments included in the monitoring and assessment program required pursuant to Provision B.4 (i.e. MS4 outfall discharge, receiving water, and/or special studies) that will be performed by the Copermittee to ~~confirm the 1)~~ demonstrate that the implementation of the water quality improvement strategies within its jurisdiction is making progress toward achieving the numeric goals in accordance with the established schedules developed pursuant to Provisions B.3.a and B.3.c.(1)(a), and 2) determine whether interim and final numeric goals have been achieved. ~~The monitoring and assessments must be incorporated into the monitoring and assessment program required pursuant to Provision B.4.~~ Subject to section 3 below, the specific monitoring and assessments must be updated as part of the iterative approach and adaptive management process required under Provision B.5.c.
- (d) Documentation that ~~T~~he numeric goals proposed pursuant to Provision B.3.c.(1)(a), the analysis performed pursuant to Provision B.3.c.(1)(b), and the specific monitoring and assessments proposed pursuant to Provision B.3.c.(1)(c) have been reviewed by the Water Quality Improvement Consultation Panel (see Provision F.1.a.(1)(b)) for any recommendations. Updates must be reviewed by the Water Quality Improvement Consultation Panel for any recommendations.
- (2) Each Copermittee that chooses to utilize this option will, for the pollutant/water body combinations ~~covered by~~ included in the analysis performed pursuant to Provision B.3.c.(1)(b), be deemed in compliance with Provisions A.1.a, A.1.c and A.2.a when the Water Quality Improvement Plan, incorporating the requirements of Provision B.3.c.(1), and subject to B.3.c.B., is accepted by the San Diego Water Board
- (3) The Copermittee will, for the pollutant/water body combinations ~~covered by~~ included in the analysis performed pursuant to Provision B.3.c.(1)(b), remain in compliance with Provisions A.1.a, A.1.c and A.2.a during the term of this Order as long as:
- (A)
- (a) The results of the analysis performed pursuant to Provision B.3.c.(1)(~~b~~) is accepted by the San Diego Water Board Executive Officer as part of the Water Quality Improvement Plan and as part of subsequent updates to the Water Quality Improvement Plan; AND
- (b) The Copermittee continues to implement the water quality improvement strategies within its jurisdiction developed pursuant to Provision B.3.b.(1) in accordance with the schedules for implementing the strategies established pursuant to Provision B.3.b.(3)(a); AND

(c) The Copermittee continues to perform the monitoring and assessments specified in the Water Quality Improvement Plan, developed and implemented pursuant to Provision B.3.c.(1)(c), to demonstrate its progress toward achieving the numeric goals applicable to its MS4 discharges in accordance with the interim and final dates for achieving the numeric goals established pursuant to Provision B.3.a.(2); AND

(d) The Copermittee continues to implement the requirements of Provision A.4.a.

(B) Failure to comply with and to achieve the numeric goals, schedules, strategies, and/or dates under c(1)(a)(i)-(v) for any two consecutive reporting periods will automatically result in that Copermittee's forfeiture of RWL Alternative Compliance status.

(C) Copermittees who no longer qualify for RWL Alternative Compliance due to nonattainment of numeric goals, dates, strategies and/or schedules may again qualify for RWL Compliance coverage only upon submittal of an approved updated analysis described in c(1)(b) that addresses the deficiencies that led to nonattainment of numeric goals, dates, strategie, and/or schedule attainment.

Comment [M4]: The idea behind this section is to disqualify a Copermittee with Alt Compliance coverage from protection if they fail to achieve what they set out to do to achieve RWL for two consecutive years. They automatically lapse back into status quo/iterative/adaptive mgmt.

Comment [M5]: Allows for reapplication for Alt Compliance coverage only once deficiencies are addressed. This may need to be a Section 4 instead of under 3.