



# County of San Diego

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## DEPARTMENT OF PUBLIC WORKS

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January 8, 2013

Wayne Chiu, P.E.  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

Dear Mr. Chiu:

SAN DIEGO COPERMITTEE COMMENT SUBMITTAL – TENTATIVE ORDER NO. R9-2013-0001, REGIONAL MS4 PERMIT, PLACE ID 786088WCHIUI

Thank you for the opportunity to comment on Tentative Order No. R9-2013-0001, NPDES No. CAS0109266, *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Tentative Order). The County of San Diego, as Principal Permittee, submits the attached comments on behalf of the 21 Copermittees subject to Regional Water Quality Control Board (Regional Board) Order 2007-0001, the existing San Diego County MS4 Permit.

These comments were developed jointly with the San Diego Copermittees and should be considered to represent a general group consensus. However, although we have strived to obtain unanimity in our comments and proposed permit revisions, individual Copermittees do sometimes have differing opinions. These will be expressed in separate written comments provided by individual Copermittees.

We greatly appreciate the public process employed to date toward the development of a new and improved permit for the San Diego Region, as well as the openness of staff and Regional Water Quality Control Board (Regional Board) members in listening to the issues and concerns put forth by the County and numerous other interested parties. The San Diego Copermittees' recommended edits to the Tentative Order are attached. The supporting rationale for each is provided in a separate comment table. Most edits are in the form of redline-strikeout changes.

Mr. Chiu  
January 8, 2013  
Page 2

Again, thank you for the opportunity to participate in the development of a new permit for the San Diego Region. We look forward to continued discussion of the issues raised above. If you have questions, please contact Todd Snyder, Land Use & Environmental Planning Manager, at (858) 694-3482, or [todd.snyder@sdcounty.ca.gov](mailto:todd.snyder@sdcounty.ca.gov).

Sincerely,



CID TESORO, Manager  
Department of Public Works

CT:js

Attachments: San Diego Copermittee Recommended Edits to Tentative Order R9-2013-0001  
San Diego Copermittee Comment Table

CC: Todd Snyder, Department of Public Works

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**TENTATIVE  
ORDER NO. R9-2013-0001  
NPDES NO. CAS0109266**

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT  
AND WASTE DISCHARGE REQUIREMENTS FOR  
DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)  
DRAINING THE WATERSHEDS WITHIN THE SAN DIEGO REGION**

The San Diego County Copermittees in [Table 1a](#) are subject to waste discharge requirements set forth in this Order.

**Table 1a. San Diego County Copermittees**

City of Carlsbad	City of Oceanside
City of Chula Vista	City of Poway
City of Coronado	City of San Diego
City of Del Mar	City of San Marcos
City of El Cajon	City of Santee
City of Encinitas	City of Solana Beach
City of Escondido	City of Vista
City of Imperial Beach	County of San Diego
City of La Mesa	San Diego County Regional Airport Authority
City of Lemon Grove	San Diego Unified Port District
City of National City	

After the San Diego Water Board receives and considers the Orange County Copermittees' Report of Waste Discharge and makes any necessary changes to the Order, the Orange County Copermittees in [Table 1b](#) will become subject to waste discharge requirements set forth in this Order after expiration of Order No. R9-2009-0002, NPDES No. CAS0108740 on or after December 16, 2014.

**Table 1b. Orange County Copermittees**

City of Aliso Viejo	City of Rancho Santa Margarita
City of Dana Point	City of San Clemente
City of Laguna Beach	City of San Juan Capistrano
City of Laguna Hills	City of Laguna Woods
City of Laguna Niguel	County of Orange
City of Lake Forest	Orange County Flood Control District
City of Mission Viejo	

After the San Diego Water Board receives and considers the Riverside County Copermittees' Report of Waste Discharge and makes any necessary changes to this Order, the Riverside County Copermittees in [Table 1c](#) will become subject to waste discharge requirements set forth in this Order after expiration of Order No. R9-2010-0016, NPDES No. CAS0108766 on or after November 10, 2015.

**Table 1c. Riverside County Copermittees**

City of Murrieta	County of Riverside
City of Temecula	Riverside County Flood Control and Water Conservation District
City of Wildomar	

The Orange County Copermittees and Riverside County Copermittees may become subject to the requirements of this Order at a date earlier than the expiration date of their current Orders subject to the conditions described in Provision [F.6](#) of this Order if the Copermittees in the respective county receive a notification of coverage from the San Diego Water Board.

The term Copermittee in this Order refers to any San Diego County, Orange County, or Riverside County Copermittee covered under this Order, unless specified otherwise.

This Order provides permit coverage for the Copermittee discharges described in [Table 2](#).

**Table 2. Discharge Locations and Receiving Waters**

Discharge Points	Locations throughout San Diego Region
Discharge Description	Municipal Separate Storm Sewer System (MS4) Discharges
Receiving Waters	Inland Surface Waters, Enclosed Bays and Estuaries, and Coastal Ocean Waters of the San Diego Region

**Table 3. Administrative Information**

This Order was adopted by the San Diego Water Board on:	<b>Month Day, 2013</b>
This Order will become effective on:	<b>Month Day, 2013</b>
This Order will expire on:	<b>Month Day, 2018</b>
The Copermittees must file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, as application for issuance of new waste discharge requirements no later than 180 days in advance of the Order expiration date.	

I, David W. Gibson, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on Month Day, 2013.

**TENTATIVE**

David W. Gibson  
Executive Officer

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## I. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), finds that:

### *JURISDICTION*

- 1. MS4 Ownership or Operation.** Each of the Copermitees owns or operates an MS4, through which it discharges storm water and non-storm water into waters of the U.S. within the San Diego Region. These MS4s fall into one or more of the following categories: (1) a medium or large MS4 that services a population of greater than 100,000 or 250,000 respectively; or (2) a small MS4 that is "interrelated" to a medium or large MS4; or (3) an MS4 which contributes to a violation of a water quality standard; or (4) an MS4 which is a significant contributor of pollutants to waters of the U.S.
- 2. Legal and Regulatory Authority.** This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations (Code of Federal Regulations [CFR] Title 40, Part 122 [40 CFR 122]) adopted by the United States Environmental Protection Agency (USEPA), and chapter 5.5, division 7 of the California Water Code (CWC) (commencing with section 13370). This Order serves as an NPDES permit for discharges from MS4s to surface waters. This Order also serves as waste discharge requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the CWC (commencing with section 13260).

The San Diego Water Board has the legal authority to issue a regional MS4 permit pursuant to its authority under CWA section 402(p)(3)(B) and 40 CFR 122.26(a)(1)(v). The USEPA also made it clear that the permitting authority, in this case the San Diego Water Board, has the flexibility to establish system- or region-wide permits (55 Federal Register [FR] 47990, 48039-48042). The regional nature of this Order will ensure consistency of regulation within watersheds and is expected to result in overall cost savings for the Copermitees and San Diego Water Board.

The federal regulations make it clear that the Copermitees need only comply with permit conditions relating to discharges from the MS4s for which they are operators (40 CFR 122.26(a)(3)(vi)). This Order does not require the Copermitees to manage storm water outside of their jurisdictional boundaries, but rather to work collectively to improve storm water management within watersheds.

- 3. CWA NPDES Permit Conditions.** Pursuant to CWA section 402(p)(3)(B), NPDES permits for storm water discharges from MS4s must include requirements to effectively prohibit non-storm water discharges into MS4s, and require controls to reduce the discharge of pollutants ~~in storm water~~ to the maximum extent practicable (MEP), and to require other provisions as the San Diego Water Board determines are appropriate to control such pollutants. This Order prescribes conditions to assure

compliance with the CWA requirements for owners and operators of MS4s to effectively prohibit non-storm water discharges in to the MS4s, and require controls to reduce the discharge of pollutants in storm water from the MS4s to the MEP.

- 4. CWA and CWC Monitoring Requirements.** CWA section 308(a) and 40 CFR 122.41(h),(j)-(l) and 122.48 require that NPDES permits must specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also specify additional monitoring and reporting requirements in 40 CFR 122.26(d)(1)(iv)(D), 122.26(d)(1)(v)(B), 122.26(d)(2)(i)(F), 122.26(d)(2)(iii)(D), 122.26(d)(2)(iv)(B)(2) and 122.42(c). CWC section 13383 authorizes the San Diego Water Board to establish monitoring, inspection, entry, reporting and recordkeeping requirements. This Order establishes monitoring and reporting requirements to implement federal and State requirements.
- 5. Total Maximum Daily Loads.** CWA section 303(d)(1)(A) requires that “[e]ach state shall identify those waters within its boundaries for which the effluent limitations...are not stringent enough to implement any water quality standard applicable to such waters.” The CWA also requires states to establish a priority ranking of impaired water bodies known as Water Quality Limited Segments and to establish Total Maximum Daily Loads (TMDLs) for such waters. This priority list of impaired water bodies is called the Clean Water Act Section 303(d) List of Water Quality Limited Segments, commonly referred to as the 303(d) List. The CWA requires the 303(d) List to be updated every two years.

TMDLs are numerical calculations of the maximum amount of a pollutant that a water body can assimilate and still meet water quality standards. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point sources (waste load allocations or WLAs) and non-point sources (load allocations or LAs), background contribution, plus a margin of safety. Discharges from MS4s are point source discharges. The federal regulations (40 CFR 122.44(d)(1)(vii)(B)) require that NPDES permits to incorporate water quality based effluent limitations (WQBELs) developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, consistent with the assumptions and requirements of any available WLA for the discharge. Requirements of this Order implement the TMDLs adopted by the San Diego Water Board and approved by USEPA.

- 6. Non-Storm Water Discharges.** Pursuant to CWA section 402(p)(3)(B)(ii), this Order requires each Copermittee to effectively prohibit discharges of non-storm water into its MS4. Nevertheless, non-storm water discharges into and from the MS4s continue to be reported to the San Diego Water Board by the Copermittees and other persons. Monitoring conducted by the Copermittees, as well as the 303(d) List, have identified dry weather, non-storm water discharges from the MS4s as a source of pollutants causing or contributing to receiving water quality impairments in the San Diego Region. The federal regulations (40 CFR 122.26(d)(2)(iv)(B)(1)) require the Copermittees to have a program to prevent illicit discharges to the MS4. The federal regulations, however, allow for specific categories of non-storm water discharges or flows to be addressed as illicit discharges only where such discharges

are identified as sources of pollutants to waters of the U.S.

- 7. In-Stream Treatment Systems.** Pursuant to federal regulations (40 CFR 131.10(a)), in no case shall a state adopt waste transport or waste assimilation as a designated use for any waters of the U.S. Authorizing the construction of a runoff treatment facility within a water of the U.S., or using the water body itself as a treatment system or for conveyance to a treatment system, would be tantamount to accepting waste assimilation as an appropriate use for that water body. Runoff treatment must occur prior to the discharge of runoff into receiving waters. Treatment control best management practices (BMPs) must not be constructed in waters of the U.S. Construction, operation, and maintenance of a pollution control facility in a water body can negatively impact the physical, chemical, and biological integrity, as well as the beneficial uses, of the water body.

#### *DISCHARGE CHARACTERISTICS AND RUNOFF MANAGEMENT*

- 8. Point Source Discharges of Pollutants.** Discharges from the MS4s may contain waste, as defined in the CWC, and pollutants that adversely affect the quality of the waters of the state. A discharge from an MS4 is a “discharge of pollutants from a point source” into waters of the U.S. as defined in the CWA. Storm water and non-storm water discharges from the MS4s may contain pollutants that cause or threaten to cause a violation of surface water quality standards, as outlined in the Water Quality Control Plan for the San Diego Basin (Basin Plan). ~~Storm water and non-storm water discharges from the MS4s are subject to the conditions and requirements established in the Basin Plan for point source discharges.~~
- 9. Potential Beneficial Use Impairment.** The discharge of pollutants and/or increased flows from MS4s may cause or threaten to cause the concentration of pollutants to exceed applicable receiving water quality objectives and impair or threaten to impair designated beneficial uses resulting in a condition of pollution, contamination, or nuisance.
- 10. Pollutants Generated by Land Development.** Land development has created and continues to create new sources of non-storm water discharges and pollutants in storm water discharges as human population density increases. This brings higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, pet wastes, and trash. Pollutants from these sources are dumped or washed off the surface by non-storm water or storm water flows into and from the MS4s. When development converts natural vegetated pervious ground cover to impervious surfaces such as paved highways, streets, rooftops, and parking lots, the natural absorption and infiltration abilities of the land are lost. Therefore, runoff leaving a developed area without BMPs that can maintain pre-development conditions will contain greater pollutant loads and have significantly greater runoff volume, velocity, and peak flow rate than pre-development runoff from the same area.

**11. Runoff Discharges to Receiving Waters.** The MS4s discharge runoff into lakes, drinking water reservoirs, rivers, streams, creeks, bays, estuaries, coastal lagoons, the Pacific Ocean, and tributaries thereto within the eleven hydrologic units comprising the San Diego Region. Historic and current development makes use of natural drainage patterns and features as conveyances for runoff. ~~Rivers, streams and creeks in developed areas used in this manner are part of the Copermittees' MS4s regardless of whether they are natural, anthropogenic, or partially modified features. In these cases, the rivers, streams and creeks in the developed areas of the Copermittees' jurisdictions are both an MS4 and receiving water.~~ Numerous receiving water bodies and water body segments have been designated as impaired by the San Diego Water Board pursuant to CWA section 303(d).

**12. Pollutants in Runoff.** The most common pollutants in runoff discharged from the MS4s include total suspended solids, sediment, pathogens (e.g., bacteria, viruses, protozoa), heavy metals (e.g., cadmium, copper, lead, and zinc), petroleum products and polynuclear aromatic hydrocarbons, synthetic organics (e.g., pesticides, herbicides, and PCBs), nutrients (e.g., nitrogen and phosphorus), oxygen-demanding substances (e.g., decaying vegetation, animal waste), detergents, and trash. As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not effectively prohibit or otherwise control. These discharges may cause or contribute to a condition of pollution or a violation of water quality standards.

**13. Human Health and Aquatic Life Impairment.** Pollutants in runoff discharged from the MS4s can threaten and adversely affect human health and aquatic organisms. Adverse responses of organisms to chemicals or physical agents in runoff range from physiological responses such as impaired reproduction or growth anomalies to mortality. Increased volume, velocity, rate, and duration of storm water runoff greatly accelerate the erosion of downstream natural channels. This alters stream channels and habitats and can adversely affect aquatic and terrestrial organisms.

**14. Water Quality Effects.** The Copermittees' water quality monitoring data submitted to date documents persistent exceedances of Basin Plan water quality objectives for runoff-related pollutants at various watershed monitoring stations. Persistent toxicity has also been observed at several watershed monitoring stations. In addition, bioassessment data indicate that the majority of the monitored receiving waters have Poor to Very Poor Index of Biological Integrity (IBI) ratings. These findings indicate that runoff discharges are causing or contributing to water quality impairments, and are a leading cause of such impairments in the San Diego Region. Non-storm water discharges from the MS4s have been shown to contribute significant levels of pollutants and flow in arid, developed Southern California watersheds, and contribute significantly to exceedances of applicable receiving water quality objectives.

**15. Non-Storm Water and Storm Water Discharges.** ~~Non-storm water discharges from the MS4s are not considered storm water discharges and therefore are not subject to the MEP standard of CWA section 402(p)(3)(B)(iii), which is explicitly for “Municipal ... Stormwater Discharges (emphasis added)” from the MS4s.~~ Pursuant to CWA 402(p)(3)(B)(ii), non-storm water discharges into the MS4s must be effectively prohibited. “Permits for discharges from municipal storm sewers... shall require controls to reduce the discharge of pollutants to the maximum extent practicable...” 402(p)(3)(B)(iii).

**16. Best Management Practices.** Waste and pollutants which are deposited and accumulate in MS4 drainage structures will be discharged from these structures to waters of the U.S. unless they are removed. These discharges may cause or contribute to, or threaten to cause or contribute to, a condition of pollution in receiving waters. For this reason, pollutants in storm water discharges from the MS4s can be and must be effectively reduced in runoff by the application of a combination of pollution prevention, source control, and treatment control BMPs. Pollution prevention is the reduction or elimination of pollutant generation at its source and is the best “first line of defense”. Source control BMPs (both structural and non-structural) minimize the contact between pollutants and runoff, therefore keeping pollutants onsite and out of receiving waters. Treatment control BMPs remove pollutants that have been mobilized by storm water or non-storm water flows.

**17. BMP Implementation.** Runoff needs to be addressed during the three major phases of development (planning, construction, and use) in order to reduce the discharge of storm water pollutants to the MEP, effectively prohibit non-storm water discharges, and protect receiving waters. Development which is not guided by water quality planning policies and principles can result in increased pollutant load discharges, flow rates, and flow durations which can negatively affect receiving water beneficial uses. Construction sites without adequate BMP implementation result in sediment runoff rates which greatly exceed natural erosion rates of undisturbed lands, causing siltation and impairment of receiving waters. Existing development can generate substantial pollutant loads which are discharged in runoff to receiving waters. Retrofitting areas of existing development with storm water pollutant control and hydromodification management BMPs is necessary to address storm water discharges from existing development that may cause or contribute to a condition of pollution or a violation of water quality standards.

**18. Long Term Planning and Implementation.** Federal regulations require municipal storm water permits to expire 5 years from adoption, after which the permit must be renewed and reissued. The San Diego Water Board recognizes that the degradation of water quality and impacts to beneficial uses of the waters in the San Diego Region occurred over several decades. The San Diego Water Board further recognizes that a decade or more may be necessary to realize demonstrable improvement to the quality of waters in the Region. This Order includes a long term planning and implementation approach that will require more than a single permit term to complete.

## WATER QUALITY STANDARDS

**19. Basin Plan.** The San Diego Water Board adopted the Water Quality Control Plan for the San Diego Basin (Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for receiving waters addressed through the plan. The Basin Plan was subsequently approved by the State Water Resources Control Board (State Water Board) on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Board. Requirements of this Order implement the Basin Plan.

The Basin Plan identifies the following existing and potential beneficial uses for inland surface waters in the San Diego Region: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply (PROC), Industrial Service Supply (IND), Ground Water Recharge (GWR), Contact Water Recreation (REC1), Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), Freshwater Replenishment (FRSH), Hydropower Generation (POW), and Preservation of Biological Habitats of Special Significance (BIOL). The following additional existing and potential beneficial uses are identified for coastal waters of the San Diego Region: Navigation (NAV), Commercial and Sport Fishing (COMM), Estuarine Habitat (EST), Marine Habitat (MAR), Aquaculture (AQUA), Migration of Aquatic Organisms (MIGR), Spawning, Reproduction, and/or Early Development (SPWN), and Shellfish Harvesting (SHELL).

**20. Ocean Plan.** The State Water Board adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (Ocean Plan) in 1972 and amended it in 1978, 1983, 1988, 1990, 1997, 2000, and 2005. The State Water Board adopted the latest amendment on April 21, 2005 and it became effective on February 14, 2006. The Ocean Plan is applicable, in its entirety, to point source discharges to the ocean. Requirements of this Order implement the Ocean Plan.

The Ocean Plan identifies the following beneficial uses of ocean waters of the state to be protected: Industrial water supply; water contact and non-contact recreation, including aesthetic enjoyment; navigation; commercial and sport fishing; mariculture; preservation and enhancement of designated Areas of Special Biological Significance; rare and endangered species; marine habitat; fish spawning and shellfish harvesting

**21. Sediment Quality Control Plan.** On September 16, 2008, the State Water Board adopted the Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality (Sediment Quality Control Plan). The Sediment Quality Control Plan became effective on August 25, 2009. The Sediment Quality Control Plan

establishes: 1) narrative sediment quality objectives for benthic community protection from exposure to contaminants in sediment and to protect human health, and 2) a program of implementation using a multiple lines of evidence approach to interpret the narrative sediment quality objectives. Requirements of this Order implement the Sediment Quality Control Plan.

**22. National Toxics Rule and California Toxics Rule.** USEPA adopted the National Toxics Rule (NTR) on December 22, 1992, and later amended it on May 4, 1995 and November 9, 1999. About forty criteria in the NTR applied in California. On May 18, 2000, USEPA adopted the California Toxics Rule (CTR). The CTR promulgated new toxics criteria for California and, in addition, incorporated the previously adopted NTR criteria that were applicable in the state. The CTR was amended on February 13, 2001. These rules contain water quality criteria for priority pollutants.

**23. Antidegradation Policy.** This Order is in conformance with the federal Antidegradation Policy described in 40 CFR 131.12, and State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters in California*. Federal regulations at 40 CFR 131.12 require that the State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. State Water Board Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. State Water Board Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies.

#### CONSIDERATIONS UNDER FEDERAL AND STATE LAW

**24. Coastal Zone Act Reauthorization Amendments.** Section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states with approved coastal zone management programs to address non-point source pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point source pollution: agriculture, silviculture, urban, marinas, and hydromodification. This Order addresses the management measures required for the urban category, with the exception of septic systems. The runoff management programs developed pursuant to this Order fulfill the need for coastal cities to develop a runoff non-point source plan identified in the Non-Point Source Program Strategy and Implementation Plan. The San Diego Water Board addresses septic systems through the administration of other programs.

**25. Endangered Species Act.** This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the Federal Endangered Species Act (16 USC sections 1531 to 1544). This Order requires compliance with receiving water limits, and other requirements to protect the beneficial uses of

waters of the State. The Copermittees are responsible for meeting all requirements of the applicable Endangered Species Act.

**26. Report of Waste Discharge Process.** The waste discharge requirements set forth in this Order are based upon the Report of Waste Discharge submitted by the San Diego County Copermittees prior to the expiration of Order No. R9-2007-0001 (NPDES No. CAS0109266). The Orange County and Riverside County Copermittees are not immediately covered by the waste discharge requirements in this Order. The San Diego Water Board understands that each municipality is unique although the Counties share watersheds and geographical boundaries. The Order will continue to use the Report of Waste Discharge process prior to initially making Orange County or Riverside County Copermittees subject to the requirements of this Order.

The federal regulations (40 CFR 122.21(d)(2)) and CWC section 13376 impose a duty on the Copermittees to reapply for continued coverage through submittal of a Report of Waste Discharge no later than 180 days prior to expiration of a currently effective permit. This requirement is set forth in the Orange County Copermittees' and Riverside County Copermittees' currently effective permits at Provisions K.2.b and K.2.c, respectively. The Orange County Permit, Order No. R9-2009-0002 (NPDES No. CAS0108740) expires on December 16, 2014 and the Riverside County MS4 Permit, Order No. R9-2010-0016 (NPDES No. CAS0108766) expires on November 10, 2015.

Unless the Orange County or Riverside County Copermittees apply for and receive early coverage under this Order, the Orange County Copermittees' and the Riverside County Copermittees' respective permits will be superseded by this Order upon expiration of their respective permits, subject to any necessary revisions to the requirements of this Order made after the San Diego Water Board considers their respective Reports of Waste Discharge through the public process provided in 40 CFR 124.

**27. Integrated Report and Clean Water Act Section 303(d) List.** The San Diego Water Board and State Water Board submit an Integrated Report to USEPA to comply with the reporting requirements of CWA sections 303(d), 305(b) and 314, which lists the attainment status of water quality standards for water bodies in the San Diego Region. USEPA issued its *Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act* on July 29, 2005, which advocates the use of a five category approach for classifying the attainment status of water quality standards for water bodies in the Integrated Report. Water bodies included in Category 5 in the Integrated Report indicate at least one beneficial use is not being supported or is threatened, and a TMDL is required. Water bodies included in Category 5 in the Integrated Report are placed on the 303(d) List.

Water bodies with available data and/or information that indicate at least one beneficial use is not being supported or is threatened, but a TMDL is not required, are included in Category 4 in the Integrated Report. Impaired surface water bodies

may be included in Category 4 if a TMDL has been adopted and approved (Category 4a); if other pollution control requirements required by a local, state or federal authority are stringent enough to implement applicable water quality standards within a reasonable period of time (Category 4b); or, if the failure to meet an applicable water quality standard is not caused by a pollutant, but caused by other types of pollution (Category 4c).

Implementation of the requirements of this Order ~~will~~may allow the San Diego Water Board to include surface waters impaired by discharges from the Copermittees' MS4s in Category 4 in the Integrated Report for consideration during the next 303(d) List submittal by the State to USEPA.

**28. Economic Considerations.** The California Supreme Court has ruled that although CWC section 13263 requires the State and Regional Water Boards (collectively Water Boards) to consider factors set forth in CWC section 13241 when issuing an NPDES permit, the Water Board may not consider the factors to justify imposing pollutant restrictions that are less stringent than the applicable federal regulations require. (*City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4<sup>th</sup> 613, 618, 626-627.) However, when pollutant restrictions in an NPDES permit are more stringent than federal law requires, CWC section 13263 requires that the Water Boards consider the factors described in CWC section 13241 as they apply to those specific restrictions.

As noted in the following finding, the San Diego Water Board finds that the requirements in this permit are not more stringent than the minimum federal requirements. Therefore, a CWC section 13241 analysis is not required for permit requirements that implement the effective prohibition on the discharge of non-storm water into the MS4 or for controls to reduce the discharge of pollutants in storm water to the MEP, or other provisions that the San Diego Water Board has determined appropriate to control such pollutants, as those requirements are mandated by federal law. Notwithstanding the above, the San Diego Water Board has developed an economic analysis of the requirements in this Order. The economic analysis is provided in the Fact Sheet.

~~**29. Unfunded Mandates.** This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following:~~

- ~~a. This Order implements federally mandated requirements under CWA section 402 (33 USC section 1342(p)(3)(B)).~~
- ~~b. The local agency Copermittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental and new dischargers who are issued NPDES permits for storm water and non-storm water discharges.~~
- ~~c. The local agency Copermittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order.~~
- ~~d. The Copermittees have requested permit coverage in lieu of compliance with the~~

~~complete prohibition against the discharge of pollutants contained in CWA section 301(a) (33 USC section 1311(a)) and in lieu of numeric restrictions on their MS4 discharges (i.e. effluent limitations).~~

~~e. The local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under State law predates the enactment of Article XIII B, Section (6) of the California Constitution.~~

~~f. The provisions of this Order to implement TMDLs are federal mandates. The CWA requires TMDLs to be developed for water bodies that do not meet federal water quality standards (33 USC section 1313(d)). Once the USEPA or a state develops a TMDL, federal law requires that permits must contain water quality based effluent limitations consistent with the assumptions and requirements of any applicable wasteload allocation (40 CFR 122.44(d)(1)(vii)(B)).~~

~~See the Fact Sheet for further discussion of unfunded mandates.~~

**30-29. California Environmental Quality Act.** The issuance of waste discharge requirements and an NPDES permit for the discharge of runoff from MS4s to waters of the U.S. is exempt from the requirement for preparation of environmental documents under the California Environmental Quality Act (CEQA) (Public Resources Code, Division 13, Chapter 3, section 21000 et seq.) in accordance with CWC section 13389.

#### STATE WATER BOARD DECISIONS

**31-30. Compliance with Prohibitions and Limitations.** The receiving water limitation language specified in this Order is consistent with language recommended by the USEPA and established in State Water Board Order WQ 99-05, *Own Motion Review of the Petition of Environmental Health Coalition to Review Waste Discharge Requirements Order No. 96-03, NPDES Permit No. CAS0108740*, adopted by the State Water Board on June 17, 1999. The receiving water limitation language in this Order requires storm water discharges from MS4s to not cause or contribute to a violation of water quality standards, which is to be achieved through an iterative approach requiring the implementation of improved and better-tailored BMPs over time. Implementation of the iterative approach to comply with receiving water limitations based on applicable water quality standards is necessary to ensure that storm water discharges from the MS4 will not ultimately cause or contribute to violations of water quality standards and will not create conditions of pollution, contamination, or nuisance.

**32-31. Special Conditions for Areas of Special Biological Significance.** On March 20, 2012, the State Water Board approved Resolution No. 2012-0012 approving an exception to the Ocean Plan [effective](#) prohibition against discharges to Areas of Special Biological Significance (ASBS) for certain nonpoint source discharges and NPDES permitted municipal storm water discharges. State Water Board Resolution No. 2012-0012 requires monitoring and

testing of marine aquatic life and water quality in several ASBS to protect California's coastline during storms when rain water overflows into coastal waters. Specific terms, [effective](#) prohibitions, and special conditions were adopted to provide special protections for marine aquatic life and natural water quality in ASBS. The City of San Diego's municipal storm water discharges to the San Diego Marine Life Refuge in La Jolla, and the City of Laguna Beach's municipal storm water discharges to the Heisler Park ASBS are subject terms and conditions of State Water Board Resolution No. 2012-0012. The Special Protections contained in Attachment B to Resolution No. 2012-0012, applicable to these discharges, are hereby incorporated into this Order as if fully set forth herein.

#### ADMINISTRATIVE FINDINGS

~~33-32.~~ **Executive Officer Delegation of Authority.** The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to CWC section 13223. Therefore, the Executive Officer is authorized to act on the San Diego Water Board's behalf on any matter within this Order unless such delegation is unlawful under CWC section 13223 or this Order explicitly states otherwise.

~~34-33.~~ **Standard Provisions.** Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR 122.42, are provided in [Attachment B](#) to this Order.

~~35-34.~~ **Fact Sheet.** The Fact Sheet for this Order contains background information, regulatory and legal citations, references and additional explanatory information and data in support of the requirements of this Order. The Fact Sheet is hereby incorporated into this Order and constitutes part of the Findings of this Order.

~~36-35.~~ **Public Notice.** In accordance with State and federal laws and regulations, the San Diego Water Board notified the Copermitees, and interested agencies and persons of its intent to prescribe waste discharge requirements for the control of discharges into and from the MS4s to waters of the U.S. and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet.

~~37-36.~~ **Public Hearing.** The San Diego Water Board held a public hearing on Month Day, 2013 and heard and considered all comments pertaining to the terms and conditions of this Order. Details of the public hearing are provided in the Fact Sheet.

~~38-37.~~ **Effective Date.** This Order serves as an NPDES permit pursuant to CWA section 401 or amendments thereto, and becomes effective fifty (50) days after the date of its adoption, provided that the Regional Administrator,

USEPA, Region IX, does not object to this Order.

**39-38.** \_\_\_\_\_ **Review by the State Water Board.** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, sections 2050, et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the San Diego Water Board action, except that if the thirtieth day following the action falls on a Saturday, Sunday or State holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

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**THEREFORE, IT IS HEREBY ORDERED** that the Copermitees, in order to meet the provisions contained in division 7 of the CWC and regulations adopted thereunder, and the provisions of the CWA and regulations adopted thereunder, must each comply with the following:

## II. PROVISIONS

### A. PROHIBITIONS AND LIMITATIONS

The purpose of this provision is to describe the conditions under which storm water and non-storm water discharges into and from MS4s are effectively prohibited or limited. The goal of the effective prohibitions and limitations is to protect the water quality and designated beneficial uses of waters of the state-U.S. from adverse impacts caused or contributed to by MS4 discharges. This goal will be accomplished through the implementation of water quality improvement strategies and runoff management programs that effectively prohibit non-storm water discharges into the Copermitees' MS4s, and reduce pollutants in storm water discharges from the Copermitees' MS4s to the MEP. The process for determination of compliance with the Discharge Prohibitions (A.1), Receiving Water Limitations (A.2), and Effluent Limitations (A.3) is defined in Provision A.4.

#### 1. Discharge Prohibitions

- a. Discharges from MS4s in a manner causing, or threatening to cause, a condition of pollution, contamination, or nuisance in receiving waters of the state U.S. are effectively prohibited, unless such discharges are addressed by the Copermitee through A.1.d, A.3.b or A.4.
- b. Non-storm water discharges into MS4s are to be effectively prohibited, unless such discharges are either authorized by a separate NPDES permit, or the discharge is a category of non-storm water discharges or flows that must be addressed pursuant to Provisions E.2.a.(1)-(5) of this Order.
- c. Discharges from MS4s are subject to all waste discharge prohibitions in the Basin Plan, included in Attachment A to this Order, unless such discharges are addressed by the Copermitee through A.1.d, A.3.b, or A.4.
- d. Storm water discharges from the City of San Diego's MS4 to the San Diego Marine Life Refuge in La Jolla, and the City of Laguna Beach's MS4 to the Heisler Park ASBS are authorized under this Order subject to the Special Protections contained in Attachment B to State Water Board Resolution No. 2012-0012 applicable to these discharges, included in Attachment A to this Order. All other discharges from the Copermitees' MS4s to ASBS are prohibited.

## 2. Receiving Water Limitations

a. Discharges from MS4s must not cause or contribute to the violation of water quality standards in any receiving waters, including but not limited to set forth in all applicable provisions contained in: below, unless such discharges are addressed by the Copermittee through A.1.d, A.3.b, or A.4:

- (1) The San Diego Water Board's Basin Plan, including beneficial uses, water quality objectives, and implementation plans;
- (2) State Water Board plans for water quality control including the following:
  - (a) Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries (Thermal Plan), and
  - (b) The Ocean Plan, including beneficial uses, water quality objectives, and implementation plans;
- (3) State Water Board policies for water and sediment quality control including the following:
  - (a) Water Quality Control Policy for the Enclosed Bays and Estuaries of California,
  - (b) Sediment Quality Control Plan which includes the following narrative objectives for bays and estuaries:
    - (i) Pollutants in sediments shall not be present in quantities that, alone or in combination, are toxic to benthic communities, and
    - (ii) Pollutants shall not be present in sediments at levels that will bioaccumulate in aquatic life to levels that are harmful to human health,
  - (c) The Statement of Policy with Respect to Maintaining High Quality of Waters in California;<sup>1</sup>
- (4) Priority pollutant criteria promulgated by the USEPA through the following:
  - (a) National Toxics Rule (NTR)<sup>2</sup> (promulgated on December 22, 1992 and amended on May 4, 1995), and
  - (b) California Toxics Rule (CTR).<sup>3,4</sup>

<sup>1</sup> State Water Board Resolution No. 68-16

<sup>2</sup> 40 CFR 131.36

<sup>3</sup> 65 Federal Register 31682-31719 (May 18, 2000), adding Section 131.38 to 40 CFR

- b.** Discharges from MS4s composed of storm water runoff must not alter natural ocean water quality in an ASBS.

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<sup>4</sup> If a water quality objective and a CTR criterion are in effect for the same priority pollutant, the more stringent of the two applies.

### 3. Effluent Limitations

#### a. TECHNOLOGY BASED EFFLUENT LIMITATIONS

Pollutants in ~~storm water~~ discharges from MS4s must be reduced to the MEP.<sup>5</sup>

#### b. WATER QUALITY BASED EFFLUENT LIMITATIONS

This Order establishes water quality based effluent limitations (WQBELs) consistent with the assumptions and requirements of all available TMDL waste load allocations (WLAs) assigned to discharges from the Copermittees' MS4s. Each Copermittee must comply with applicable WQBELs established for the TMDLs in [Attachment E](#) to this Order, pursuant to the applicable TMDL compliance schedules.

### 4. Compliance with Discharge Prohibitions and Receiving Water Limitations

Each Copermittee must achieve compliance with Provisions [A.1.a](#), [A.1.c](#) and [A.2.a](#) of this Order through timely implementation of [strategies](#), control measures and other actions as specified in Provisions [B](#) and [E](#) of this Order, including any modifications. The Water Quality Improvement Plans required under Provision [B](#) must be designed and adapted to ultimately achieve compliance with Provisions [A.1.a](#), [A.1.c](#) and [A.2.a](#), and may be used for compliance determination as described in Provision [B.3.a\(3\)](#).

- a. If exceedance(s) of water quality standards persist in receiving waters notwithstanding implementation of this Order, the Copermittees must comply with the following procedures:
- (1) For exceedance(s) of a water quality standard in the process of being addressed by the Water Quality Improvement Plan, the Copermittee(s) must implement the Water Quality Improvement Plan as accepted by the San Diego Water Board, and update the Water Quality Improvement Plan, as necessary, pursuant to Provision [F.2.c](#);
  - (2) Upon a determination by either the Copermittees or the San Diego Water Board that discharges from the MS4 are causing or contributing to ~~a new~~ persistent indications of an exceedance of an applicable water quality standard not addressed by the Water Quality Improvement Plan, the Copermittees must submit the following updates to the Water Quality Improvement Plan pursuant to Provision [F.2.c](#) or as part of the Annual Report

<sup>5</sup> This does not apply to MS4 discharges which receive subsequent treatment to reduce pollutants in ~~storm water~~ discharges to the MEP prior to entering receiving waters (e.g., low flow diversions to the sanitary sewer). Runoff treatment must occur prior to the discharge of runoff into receiving waters per Finding 7.

required under Provision [F.3.b](#), unless the San Diego Water Board directs an earlier submittal:

- (a) The water quality improvement strategies being implemented that are effective and will continue to be implemented,
- (b) Water quality improvement strategies (i.e. BMPs, retrofitting projects, stream and/or habitat rehabilitation or restoration projects, adjustments to jurisdictional runoff management programs, etc.) that will be implemented to reduce or eliminate any pollutants or conditions that are causing or contributing to the exceedance of water quality standards,

(c) For Copermittees who are implementing the Water Quality Improvement Plan compliance option pursuant to Provision [B.3.a.\(3\)](#), the updated Water Quality Improvement Plan must provide reasonable assurance the updated strategies will address the new exceedance(s).

~~(e)~~(d) Updates to the schedule for implementation of the existing and additional water quality improvement strategies, and

~~(d)~~(e) Updates to the monitoring and assessment program to track progress toward achieving compliance with Provisions [A.1.a](#), [A.1.c](#) and [A.2.a](#) of this Order;

- (3) The San Diego Water Board may require the incorporation of additional modifications to the Water Quality Improvement Plan required under Provision [B](#). The applicable Copermittees must submit any modifications to the update to the Water Quality Improvement Plan within 90 days of notification that additional modifications are required by the San Diego Water Board, or as otherwise directed;
  - (4) Within 90 days of the San Diego Water Board determination that the update to the Water Quality Improvement Plan meets the requirements of this Order, the applicable Copermittees must revise the jurisdictional runoff management program documents to incorporate the updated water quality improvement strategies that have been and will be implemented, the implementation schedule, and any additional monitoring required; and
  - (5) Each Copermittee must implement the updated Water Quality Improvement Plan.
- b.** The procedure set forth above to achieve compliance with Provisions [A.1.a](#), [A.1.c](#) and [A.2.a](#) of this Order do not have to be repeated for continuing or recurring exceedances of the same water quality standard(s) following implementation of scheduled actions unless directed to do otherwise by the San Diego Water Board.

PROVISION A: PROHIBITIONS AND LIMITATIONS

A.4. Compliance with Discharge Prohibitions and Receiving Water Limitations

~~c. Nothing in Provisions A.4.a and A.4.b prevents the San Diego Water Board from enforcing any provision of this Order while the applicable Copermitees prepare and implement the above update to the Water Quality Improvement Plan and jurisdictional runoff management programs.~~

**B. WATER QUALITY IMPROVEMENT PLANS**

The purpose of this provision is to develop Water Quality Improvement Plans that guide the Copermittees’ jurisdictional runoff management programs towards achieving the outcome of improved water quality in MS4 discharges and receiving waters. The goal of the Water Quality Improvement Plans is to protect, preserve, enhance 1) effectively prohibit non-storm water discharges into the MS4s, 2) reduce pollutants in discharges from the MS4s to the MEP, and ~~restore the~~ 3) support the attainment and reasonable protection, preservation, and enhancement of water quality and designated beneficial uses of waters of the state. This goal will be accomplished through an adaptive planning and management process that identifies the highest priority water quality conditions within a watershed and implements strategies through the jurisdictional runoff management programs to achieve improvements in the quality of discharges from the MS4s and receiving waters. Therefore, implementation of the Water Quality Improvement Plans also provides the basis for complying with Provisions A.1, A.2 and A.3, as described in Provision B.3.a.(3).

**1. Watershed Management Areas**

The Copermittees must develop a Water Quality Improvement Plan for each of the Watershed Management Areas in [Table B-1](#). A total of ten Water Quality Improvement Plans must be developed for the San Diego Region.

Development of the Water Quality Improvement Plan for the Santa Margarita River Watershed Management Area shall commence upon notification of coverage of the Riverside County Copermittees under this Order. Until this time, the County of San Diego shall use the water quality priorities in the Santa Margarita River Watershed Urban Runoff Management Plan, developed pursuant to Order No. R9-2007-0001, to guide implementation of Provisions D and E within its jurisdiction.

**Table B-1. Watershed Management Areas**

Hydrologic Unit(s)	Watershed Management Area	Major Surface Water Bodies	Responsible Copermittees
San Juan (901.00)	South Orange County	<ul style="list-style-type: none"> <li>- Aliso Creek</li> <li>- San Juan Creek</li> <li>- San Mateo Creek</li> <li>- Pacific Ocean</li> <li>- Heisler Park ASBS</li> </ul>	<ul style="list-style-type: none"> <li>- City of Aliso Viejo<sup>1</sup></li> <li>- City of Dana Point<sup>1</sup></li> <li>- City of Laguna Beach<sup>1</sup></li> <li>- City of Laguna Hills<sup>1</sup></li> <li>- City of Laguna Niguel<sup>1</sup></li> <li>- City of Laguna Woods<sup>1</sup></li> <li>- City of Lake Forest<sup>1</sup></li> <li>- City of Mission Viejo<sup>1</sup></li> <li>- City of Rancho Santa Margarita<sup>1</sup></li> <li>- City of San Clemente<sup>1</sup></li> <li>- City of San Juan Capistrano<sup>1</sup></li> <li>- County of Orange<sup>1</sup></li> <li>- Orange County Flood Control District<sup>1</sup></li> </ul>

**Table B-1. Watershed Management Areas**

Hydrologic Unit(s)	Watershed Management Area	Major Surface Water Bodies	Responsible Copermittees
Santa Margarita (902.00)	Santa Margarita River	- Murrieta Creek - Temecula Creek - Santa Margarita River - Santa Margarita Lagoon - Pacific Ocean	- City of Murrieta <sup>2</sup> - City of Temecula <sup>2</sup> - City of Wildomar <sup>2</sup> - County of Riverside <sup>2</sup> - County of San Diego <sup>3</sup> - Riverside County Flood Control and Water Conservation District <sup>2</sup>
San Luis Rey (903.00)	San Luis Rey River	- San Luis Rey River - San Luis Rey Estuary - Pacific Ocean	- City of Oceanside - City of Vista - County of San Diego
Carlsbad (904.00)	Carlsbad	- Loma Alta Slough - Buena Vista Lagoon - Agua Hedionda Lagoon - Batiquitos Lagoon - San Elijo Lagoon - Pacific Ocean	- City of Carlsbad - City of Encinitas - City of Escondido - City of Oceanside - City of San Marcos - City of Solana Beach - City of Vista - County of San Diego
San Dieguito (905.00)	San Dieguito River	- San Dieguito River - San Dieguito Lagoon - Pacific Ocean	- City of Del Mar - City of Escondido - City of Poway - City of San Diego - City of Solana Beach - County of San Diego
Penasquitos (906.00)	Penasquitos	- Los Penasquitos Lagoon - Pacific Ocean	- City of Del Mar - City of Poway - City of San Diego - County of San Diego
	Mission Bay	- Mission Bay - Pacific Ocean - San Diego Marine Life Refuge ASBS	- City of San Diego
San Diego (907.00)	San Diego River	- San Diego River - Pacific Ocean	- City of El Cajon - City of La Mesa - City of San Diego - City of Santee - County of San Diego
Pueblo San Diego (908.00) Sweetwater (909.00) Otay (910.00)	San Diego Bay	- Sweetwater River - Otay River - San Diego Bay - Pacific Ocean	- City of Chula Vista - City of Coronado - City of Imperial Beach - City of La Mesa - City of Lemon Grove - City of National City - City of San Diego - County of San Diego - San Diego County Regional Airport Authority - San Diego Unified Port District
Tijuana (911.00)	Tijuana River	- Tijuana River - Tijuana Estuary - Pacific Ocean	- City of Imperial Beach - City of San Diego - County of San Diego

Notes:

1. The Orange County Copermittees will be covered under this Order after expiration of Order No. R9-2009-0002, or earlier if the Orange County Copermittees meet the conditions in Provision F.6.
2. The Riverside County Copermittees will be covered under this Order after expiration of Order No. R9-2010-0016, or earlier if the Riverside County Copermittees meet the conditions in Provision F.6.
3. The County of San Diego is required to implement the requirements of Provision B for its jurisdiction within the Santa

Margarita River Watershed Management Area until the Riverside County Copermittees have been notified of coverage under this Order.

## 2. Priority Water Quality Conditions

The Copermittees must identify the water quality priorities within each Watershed Management Area that will be addressed by the Water Quality Improvement Plan. Where appropriate, Watershed Management Areas may be separated into subwatersheds to focus water quality prioritization and jurisdictional runoff management program implementation efforts by receiving water.

### a. ASSESSMENT OF RECEIVING WATER CONDITIONS

The Copermittees must consider the following, at a minimum, to identify water quality priorities based on impacts of MS4 discharges on receiving water beneficial uses:

- (1) Receiving waters listed as impaired on the CWA Section 303(d) List of Water Quality Limited Segments (303(d) List);
- (2) TMDLs adopted and under development by the San Diego Water Board;
- (3) Receiving waters recognized as sensitive or highly valued by the Copermittees, including estuaries designated under the National Estuary Program under CWA section 320, wetlands defined by the State or U.S. Fish and Wildlife Service's National Wetlands Inventory as wetlands, and receiving waters identified as ASBS subject to the provisions of Attachment B to State Water Board Resolution No. 2012-0012 ([Attachment A](#));
- (4) The receiving water limitations of Provision [A.2](#);
- (5) Known historical versus current physical, chemical, and biological water quality conditions;
- (6) Available, relevant, and appropriately collected and analyzed physical, chemical, and biological receiving water monitoring data, including, but not limited to, data describing:
  - (a) Chemical constituents,
  - (b) Water quality parameters (i.e. pH, temperature, conductivity, etc.),
  - (c) Toxicity Identification Evaluations for both receiving water column and sediment,
  - (d) Trash impacts,
  - (e) Bioassessments, and
  - (f) Physical habitat;

- (7) Available evidence of erosional impacts in receiving waters due to accelerated flows (i.e. hydromodification);
- (8) Available evidence of adverse impacts to the chemical, physical, and biological integrity of receiving waters; and
- (9) The potential improvements in the overall condition of the Watershed Management Area that can be achieved.

**b. ASSESSMENT OF IMPACTS FROM MS4 DISCHARGES**

The Copermittees must consider the following, at a minimum, to identify the potential impacts to receiving waters that may be caused or contributed to by discharges from the Copermittees' MS4s:

- (1) The discharge prohibitions of Provision [A.1](#) and effluent limitations of Provision [A.3](#); and
- (2) Available, relevant, and appropriately collected and analyzed storm water and non-storm water monitoring data from the Copermittees' MS4 outfalls;
- (3) Locations of each Copermittee's MS4 outfalls that discharge to receiving waters;
- (4) Locations of MS4 outfalls that are known to persistently discharge non-storm water to receiving waters likely causing or contributing to impacts on receiving water beneficial uses;
- (5) Locations of MS4 outfalls that are known to discharge pollutants in storm water causing or contributing to impacts on receiving water beneficial uses; and
- (6) The potential improvements in the quality of discharges from the MS4 that can be achieved.

**c. IDENTIFICATION OF PRIORITY WATER QUALITY CONDITIONS**

- (1) The Copermittees must use the information gathered for Provisions [B.2.a](#) and [B.2.b](#) to develop a list of priority water quality conditions as pollutants, stressors and/or receiving water conditions that are the highest threat to receiving water quality or that most adversely affect the physical, chemical, and biological integrity of receiving waters. The list must include the following information for each priority water quality condition:

- (a) The beneficial use(s) associated with the priority water quality condition;
  - (b) The geographic extent of the priority water quality condition within the Watershed Management Area, if known;
  - (c) The temporal extent of the priority water quality condition (e.g., dry weather and/or wet weather);
  - (d) The Copermittees with MS4s discharges that may cause or contribute to the priority water quality condition; and
  - (e) An assessment of the adequacy of and data gaps in the monitoring data to characterize the conditions causing or contributing to the priority water quality condition, including a consideration of spatial and temporal variation.
- (2) The Copermittees must identify the highest priority water quality conditions to be addressed by the Water Quality Improvement Plan, and provide a rationale for selecting a subset of the water quality conditions identified pursuant to Provision [B.2.c.\(1\)](#) as the highest priorities.

**d. IDENTIFICATION OF MS4 SOURCES OF POLLUTANTS AND/OR STRESSORS**

The Copermittees must identify and prioritize known and suspected sources of storm water and non-storm water pollutants and/or other stressors associated with MS4 discharges that cause or contribute to the highest priority water quality conditions identified under Provision [B.2.c](#). The identification of known and suspected sources of pollutants and/or stressors that cause or contribute to the highest priority water quality conditions as identified for Provision [B.2.c](#) must consider the following:

- (1) Pollutant generating facilities, areas, and/or activities within the Watershed Management Area, including:
  - (a) Each Copermittee's inventory of construction sites, commercial facilities or areas, industrial facilities, municipal facilities, and residential areas,
  - (b) Publicly owned parks and/or recreational areas,
  - (c) Open space areas, [and](#)
  - (d) All currently operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, [and](#)
  - ~~(e) Areas not within the Copermittees' jurisdictions (e.g., Phase II MS4s, tribal lands, state lands, federal lands) that are known or suspected to be discharging to the Copermittees' MS4s;~~

(2) Locations of the Copermittees' MS4s, including the following:

- (a) All MS4 outfalls that discharge to receiving waters, and
- (b) Locations of major structural controls for storm water and non-storm water (e.g., retention basins, detention basins, major infiltration devices, etc.);

~~(3) Other known and suspected sources of non-storm water or pollutants in storm water discharges to receiving waters within the Watershed Management Area, including the following:~~

- ~~(a) Other MS4 outfalls (e.g., Phase II Municipal and Caltrans),~~
- ~~(b) Other NPDES permitted discharges,~~
- ~~(c) Any other discharges that may be considered point sources (e.g., private outfalls), and~~
- ~~(d) Any other discharges that may be considered non-point sources (e.g., agriculture, wildlife or other natural sources);~~

~~(4)~~(3) Review of available data, including but not limited to:

- (a) Findings from the Copermittees' illicit discharge detection and elimination programs,
- (b) Findings from the Copermittees' MS4 outfall discharge monitoring,
- (c) Findings from the Copermittees' receiving water monitoring,
- (d) Findings from the Copermittees' MS4 outfall discharge and receiving water assessments, and
- (e) Other available, relevant, and appropriately collected data, information, or studies related to pollutant sources and/or stressors that contribute to the highest priority water quality conditions as identified for Provision [B.2.c](#).

~~(5)~~(4) The adequacy of the available data to identify and prioritize sources and/or stressors associated with MS4 discharges that cause or contribute to the highest priority water quality conditions identified under Provision [B.2.c](#).

**e. NUMERIC GOALS AND SCHEDULES**

The Copermittees must develop and incorporate interim and final numeric goals<sup>6</sup> and schedules into the Water Quality Improvement Plan. Numeric goals must be used to support Water Quality Improvement Plan implementation and measure progress towards addressing the highest priority water quality conditions identified under Provision B.2.c. [Numeric goals are not enforceable compliance standards, effluent limitations, or receiving water limitations.](#) When establishing numeric goals and corresponding schedules, the Copermittees must consider the following:

- (1) Final numeric goals must be based on measureable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges for the highest priority water quality conditions which will be capable of demonstrating the achievement of the restoration and/or protection of water quality standards in receiving waters;<sup>7</sup>
- (2) Interim numeric goals must be based on measureable criteria or indicators capable of demonstrating incremental progress toward achieving the final numeric goals in the receiving waters and/or MS4 discharges; and
- (3) Schedules must be adequate for measuring progress toward achieving the interim and final numeric goals required for Provisions B.2.e.(1) and B.2.e.(2). Schedules must incorporate the following:
  - (a) Interim dates for achieving the interim numeric goals,
  - (b) Compliance schedules for any applicable TMDLs in [Attachment E](#) to this Order,
  - (c) Compliance schedules for any ASBS subject to the provisions of Attachment B to State Water Board Resolution No. 2012-0012 (see [Attachment A](#)),
  - (d) Achievement of the final numeric goals in the receiving waters and/or MS4 discharges for the highest water quality priorities must be as soon as possible, and

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<sup>6</sup> Interim and final numeric goals may take a variety of forms such as TMDL established WQBELs, action levels, pollutant concentration, load reductions, number of impaired water bodies delisted from the List of Water Quality Impaired Segments, Index of Biotic Integrity (IBI) scores, or other appropriate metrics. Interim and final numeric goals are not necessarily limited to one criterion or indicator, but may include multiple criteria and/or indicators. Except for TMDL established WQBELs, interim and final numeric goals and corresponding schedules may be revised through the adaptive management process under Provision B.5.

<sup>7</sup> [Achievement of final numeric goals within 10 years represents progress towards attainment of water quality standards, but is not a requirement to fully attain all applicable water quality standards or all priority receiving water conditions within 10 years.](#)

- (e) Final dates for achieving the final numeric goals must not initially extend more than 10 years beyond the effective date of this Order, unless a longer period of time is authorized by the San Diego Water Board Executive Officer or the schedule includes an applicable TMDL in [Attachment E](#) to this Order.

### 3. Water Quality Improvement Strategies and Schedules

The Copermittees must develop specific water quality improvement strategies to address the highest priority water quality conditions identified within a Watershed Management Area. The water quality improvement strategies must address the highest priority water quality conditions by ~~preventing or eliminating effectively prohibiting~~ non-storm water discharges to ~~and from~~ the MS4, reducing pollutants in ~~storm water~~ discharges from the MS4 to the MEP, and restoring and/or protecting the water quality standards of receiving waters.

#### a. WATER QUALITY IMPROVEMENT STRATEGIES

The Copermittees must identify and prioritize water quality improvement strategies based on their likely effectiveness and efficiency, and implement strategies to effectively prohibit non-storm water discharges to the MS4, reduce pollutants in ~~storm water~~ discharges from the MS4 to the MEP, improve the physical, chemical, and biological receiving water conditions, and achieve the interim and final numeric goals in accordance with the schedules required for Provision [B.2.e.\(3\)](#). The following water quality improvement strategies must be included and described in the Water Quality Improvement Plan:

- (1) Specific strategies and/or activities that may be implemented by one or more Copermittees within their jurisdictions through the jurisdictional runoff management programs that will address the highest priority water quality conditions within the Watershed Management Area, in accordance with the following requirements:
  - (a) Strategies and/or activities must, at a minimum, be described for each jurisdictional runoff management program component where strategies to address the highest priority water quality conditions are required under Provision [E](#);
  - (b) The Water Quality Improvement Plan must describe the circumstances or conditions when and where the strategies or/activities should be or will be implemented, but specific details about how each Copermittee will implement the strategies and/or activities within its jurisdiction are not required; and
  - (c) Descriptions of strategies and/or activities must include any monitoring, information collection, special studies, and/or data analysis that is necessary to assess the effectiveness of the strategy and/or activity toward addressing the highest priority water quality conditions.

(2) Additional strategies and/or activities that may be implemented within the Watershed Management Area on a jurisdictional, sub-watershed, or watershed scale by one or more Copermittees, not specifically required under Provision E, which are designed to achieve the interim and final numeric goals identified in Provisions B.2.e.(1) and B.2.e.(2);

(3) Copermittees may elect to develop their Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism for the discharge prohibitions (A.1), receiving water limitations (A.2), and effluent limitations (A.3). To utilize the Water Quality Improvement Plan-based compliance option, Permittees shall conduct a Reasonable Assurance Analysis. The objective of the Reasonable Assurance Analysis shall be to demonstrate the strategies and activities of the Water Quality Improvement Plan will ultimately result in attainment of the discharge prohibitions (A.1), receiving water limitations (A.2), and effluent limitations (A.3).

In order for a Copermittee to utilize the Water Quality Improvement Plan-based compliance option, the Regional Board Executive Officer must determine the following conditions are met:

- (a) The Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board as described in Provision F.1.(a); AND
- (b) The submitted Water Quality Improvement Plan includes a Reasonable Assurance Analysis that demonstrates that the strategies and activities in the Water Quality Improvement Plan will attain the applicable discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3); AND
- (c) The submitted Water Quality Improvement Plan includes a schedule as outlined in Provision B.3.b that provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner.

If a Water Quality Improvement Plan-based compliance option is approved by the Regional Board Executive Officer, then in instances when the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) are not met, the implementation of the strategies and activities contained in the Water Quality Improvement Plan will be used for determination of compliance with Provision A. That is, any determination of a

Copermittee's compliance with Provision A shall be based on the following conditions:

- (a) The strategies and activities of the Water Quality Improvement Plan are implemented per the approved schedule outlined pursuant to Provision B.3.b and adapted pursuant to Provisions B.5, F.1, and F.2; AND
- (b) If exceedances persist notwithstanding implementations of the strategies and activities in the approved Water Quality Improvement Plan, then Responsible Copermittees revise the Water Quality Improvement Plan pursuant to Provision A.4.a, and implement the revised Water Quality Improvement Plan including additional or alternative activities per the schedule submitted with the revised Water Quality Improvement Plan.

For cases when applicable discharge prohibitions (A.1), receiving water limitations (A.2), or effluent limitations (A.3) are not attained during the time period between a Copermittee's notification of intent to utilize a Water Quality Improvement Plan-based compliance option, pursuant to Provision F.1.(a), and Regional Board Executive Officer approval of the submitted Water Quality Improvement Plan, determination of a Copermittee's compliance with Provision A shall be based on the following conditions:

- (a) All deadlines for development of a Water Quality Improvement Plan pursuant to Provision F.1.(a) and (b) are met; AND
- (b) The Water Quality Improvement Plan ultimately receives final approval.

#### **b. IMPLEMENTATION SCHEDULES**

- (1) The Copermittees must develop schedules for implementing the water quality improvement strategies identified under Provision B.3.a to achieve the interim and final numeric goals identified under Provision B.2.e.(1) and B.2.e.(2). Schedules must be developed for both the water quality improvement strategies implemented by each Copermittee within its jurisdiction and for strategies that the Copermittees choose to implement on a collaborative basis.
- (2) The Copermittees must incorporate the implementation compliance schedules for any ASBS subject to the provisions of Attachment B to State Water Board Resolution No. 2012-0012 (see Attachment A).

#### 4. Water Quality Improvement Monitoring and Assessment Program

- a. The Copermittees in each Watershed Management Area must develop and incorporate an integrated monitoring and assessment program into the Water Quality Improvement Plan that assesses: 1) the progress toward achieving the numeric goals and schedules, 2) the progress toward addressing the highest priority water quality conditions for each Watershed Management Area, and 3) each Copermittee's overall efforts to implement the Water Quality Improvement Plan.
- b. The monitoring and assessment program must incorporate the monitoring and assessment requirements of Provision [D](#), which may allow the Copermittees to modify the program to be consistent with and focus on the highest priority water quality conditions for each Watershed Management Area.
- c. For Watershed Management Areas with applicable TMDLs, the monitoring and assessment program must incorporate the specific monitoring and assessment requirements of [Attachment E](#).
- d. For Watershed Management Areas with any ASBS, the water quality monitoring and assessment program must incorporate the monitoring requirements of [Attachment B](#) to State Water Board Resolution No. 2012-0012 (see [Attachment A](#)).

#### 5. Iterative Approach and Adaptive Management Process

The Copermittees in each Watershed Management Area must implement the iterative approach pursuant to Provision [A.4](#) to adapt the Water Quality Improvement Plan, monitoring and assessment program, and jurisdictional runoff management programs to become more effective toward achieving compliance with Provisions [A.1.a](#), [A.1.c](#) and [A.2.a](#), and must include the following:

##### a. RE-EVALUATION OF PRIORITY WATER QUALITY CONDITIONS

The priority [receiving](#) water quality conditions, and numeric goals and corresponding schedules, included in the Water Quality Improvement Plan pursuant to Provisions [B.2.c](#) and [B.2.e](#), may be re-evaluated by the Copermittees as needed during the term of this Order as part of the Annual Report. Re-evaluation and recommendations for modifications to the priority water quality conditions, and numeric goals and corresponding schedules must be provided in the Report of Waste Discharge, and must consider the following:

- (1) Achieving the outcome of improved water quality in MS4 discharges and receiving waters through implementation of the water quality improvement strategies identified in the Water Quality Improvement Plan;
- (2) Progress toward achieving interim and final numeric goals in receiving waters and/or MS4 discharges for the highest priority water quality conditions in the

PROVISION B: WATER QUALITY IMPROVEMENT PLANS

B.4. Water Quality Improvement Monitoring and Assessment Program

B.5. Iterative Approach and Adaptive Management Process

## Watershed Management Area,

- (3) Progress toward achieving outcomes according to established schedules;
- (4) New information developed when the requirements of Provisions B.2.a-c have been re-evaluated;
- (5) New policies or regulations that may affect identified numeric goals;
- (6) Spatial and temporal accuracy of monitoring data collected to inform prioritization of water quality conditions and implementation strategies to address the highest priority water quality conditions;
- (7) Availability of new information and data from sources other than the jurisdictional runoff management programs within the Watershed Management Area that informs the effectiveness of the actions implemented by the Copermittees;
- (8) San Diego Water Board recommendations; and
- (9) Recommendations for modifications solicited through a public participation process.

**b. ADAPTATION OF STRATEGIES AND SCHEDULES**

The water quality improvement strategies and schedules, included in the Water Quality Improvement Plan pursuant to Provisions B.3, must be re-evaluated and adapted as new information becomes available to result in more effective and efficient measures to achieve the numeric goals established pursuant to Provision B.2.e. Re-evaluation of and modifications to the water quality improvement strategies must be provided in the Annual Report, and must consider the following:

- (1) Modifications to the priority water quality conditions, and numeric goals and corresponding schedules based on Provision B.5.a;
- (2) Measurable or demonstrable reductions of non-storm water discharges to ~~and from~~ each Copermittee's MS4;
- (3) Measurable or demonstrable reductions of pollutants in ~~storm-water~~ discharges from each Copermittee's MS4 to the MEP;
- (4) New information developed when the requirements of Provisions B.2.b and B.2.d have been re-evaluated;
- (5) Efficiency in implementing the Water Quality Improvement Plan;
- (6) San Diego Water Board recommendations; and

(7) Recommendations for modifications solicited through a public participation process.

**c. ADAPTATION OF MONITORING AND ASSESSMENT PROGRAM**

The water quality improvement monitoring and assessment program, included in the Water Quality Improvement Plan pursuant to Provisions B.4, must be re-evaluated and adapted when new information becomes available. Re-evaluation and recommendations for modifications to the monitoring and assessment program, pursuant to the requirements of Provision D, may be provided in the Annual Report, but must be provided in the Report of Waste Discharge.

**6. Water Quality Improvement Plan Submittal, Updates, and Implementation**

- a. The Copermitees must submit the Water Quality Improvement Plans in accordance with the requirements of Provision F.1.
- b. The Copermitees must submit proposed updates to the Water Quality Improvement Plan for acceptance by the San Diego Water Board Executive Officer in accordance with the requirements of Provision F.2.c.
- c. The Copermitees must commence with implementation of the Water Quality Improvement Plans immediately after acceptance by the San Diego Water Board, in accordance with the schedules, or subsequently updated schedules, within the Water Quality Improvement Plan.

**C. ACTION LEVELS**

The purpose of this provision is for the Copermittees to incorporate numeric action levels in the Water Quality Improvement Plans. The goal of the action levels is to guide Water Quality Improvement Plan implementation efforts and measure progress towards the protection of water quality and designated beneficial uses of waters of the state from adverse impacts caused or contributed to by MS4 discharges. This goal will be accomplished through monitoring and assessing the quality of the MS4 discharges during the implementation of the Water Quality Improvement Plans.

**1. Non-Storm Water Action Levels<sup>8</sup>**

The Copermittees must develop and incorporate numeric non-storm water action levels (NALs) into the Water Quality Improvement Plan to: 1) support the development and prioritization of water quality improvement strategies for addressing non-storm water discharges to and from the MS4s, 2) assess the effectiveness of the water quality improvement strategies toward addressing MS4 non-storm water discharges, required pursuant to Provision D.4.b.(1), and 3) support the detection and elimination of non-storm water and illicit discharges to and from the MS4, required pursuant to Provision E.2.<sup>9</sup>

- a. The following NALs must be incorporated if the Copermittees do not establish numeric action levels within the Water Quality Improvement Plan based on watershed priorities:

(1) Non-Storm Water Discharges from MS4s to Ocean Surf Zone

**Table C-1. Non-Storm Water Action Levels for Discharges from MS4s to Ocean Surf Zone**

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Total Coliform	MPN/100 ml	1,000	-	10,000/1,000 <sup>1</sup>	OP
Fecal Coliform	MPN/100 ml	200 <sup>2</sup>	-	400	OP
<i>Enterococci</i>	MPN/100 ml	35	-	104 <sup>3</sup>	OP

Abbreviations/Acronyms

AMAL – average monthly action level  
 OP – Ocean Plan water quality objective

MDAL – maximum daily action level  
 MPN/100 ml – most probable number per 100 milliliters

Notes:

- 1. Total coliform density NAL is 1,000 MPN/100 ml when the fecal/total coliform ratio exceeds 0.1.
- 2. Fecal coliform density NAL is 200 MPN per 100 ml during any 30 day period.
- 3. This value has been set to the Basin Plan water quality objective for saltwater “designated beach areas.”

<sup>8</sup> NALs are not considered by the San Diego Water Board to be enforceable limitations.

<sup>9</sup> The Copermittees may utilize NALs or other benchmarks currently established by the Copermittees as interim NALs until the Water Quality Improvement Plans are accepted by the San Diego Water Board Executive Officer.

(2) Non-Storm Water Discharges from MS4s to Bays, Harbors, and Lagoons/Estuaries

**Table C-2. Non-Storm Water Action Levels for Discharges from MS4s to Bays, Harbors, and Lagoons/Estuaries**

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Turbidity	NTU	75	-	225	OP
pH	Units	Within limit of 6.0 to 9.0 at all times			OP
Fecal Coliform	MPN/100 ml	200 <sup>1</sup>	-	400 <sup>2</sup>	BP
<i>Enterococci</i>	MPN/100 ml	35	-	104 <sup>3</sup>	BP
Priority Pollutants	ug/L	See <a href="#">Table C-3</a>			

Abbreviations/Acronyms:

AMAL – average monthly action level  
 OP – Ocean Plan water quality objective  
 NTU – Nephelometric Turbidity Units  
 ug/L – micrograms per liter

MDAL – maximum daily action level  
 BP – Basin Plan water quality objective  
 MPN/100 ml – most probable number per 100 milliliters

Notes:

1. Based on a minimum of not less than five samples for any 30-day period.
2. The NAL is reached if more than 10 percent of total samples exceed 400 MPN per 100 ml during any 30 day period.
3. This value has been set to the Basin Plan water quality objective for saltwater “designated beach areas” and is not applicable to waterbodies that are not designated with the water contact recreation (REC-1) beneficial use.

**Table C-3. Non-Storm Water Action Levels for Priority Pollutants**

Parameter	Units	Freshwater (CTR)		Saltwater (CTR)	
		MDAL	AMAL	MDAL	AMAL
Cadmium	ug/L	**	**	16	8
Copper	ug/L	*	*	5.8	2.9
Chromium III	ug/L	**	**	-	-
Chromium VI	ug/L	16	8.1	83	41
Lead	ug/L	*	*	14	2.9
Nickel	ug/L	**	**	14	6.8
Silver	ug/L	*	*	2.2	1.1
Zinc	ug/L	*	*	95	47

Abbreviations/Acronyms:

CTR – California Toxic Rule  
 AMAL – average monthly action level  
 ug/L – micrograms per liter  
 MDAL – maximum daily action level

Notes:

- \* Action levels developed on a case-by-case basis (see below)
- \*\* Action levels developed on a case-by-case basis (see below), but calculated criteria are not to exceed Maximum Contaminant Levels (MCLs) under the California Code of Regulations, Title 22, Division 4, Chapter 15, Article 4, Section 64431

The Cadmium, Copper, Chromium (III), Lead, Nickel, Silver and Zinc NALs for MS4 discharges to freshwater receiving waters will be developed on a case-by-case basis because the freshwater criteria are based on site-specific water quality data (receiving water hardness). For these priority pollutants, [refer to the following equations \(40 CFR 131.38.b.2\) will be required for details:](#)

[Cadmium \(Total Recoverable\) = exp\(0.7852\[ln\(hardness\)\] - 2.715\)](#)  
[Chromium III \(Total Recoverable\) = exp\(0.8190\[ln\(hardness\)\] + 0.6848\)](#)  
[Copper \(Total Recoverable\) = exp\(0.8545\[ln\(hardness\)\] - 1.702\)](#)  
[Lead \(Total Recoverable\) = exp\(1.273\[ln\(hardness\)\] - 4.705\)](#)  
[Nickel \(Total Recoverable\) = exp\(-.8460\[ln\(hardness\)\] + 0.0584\)](#)  
[Silver \(Total Recoverable\) = exp\(1.72\[ln\(hardness\)\] - 6.52\)](#)  
[Zinc \(Total Recoverable\) = exp\(0.8473\[ln\(hardness\)\] + 0.884\)](#)

(3) Non-Storm Water Discharges from MS4s to Inland Surface Waters

**Table C-4. Non-Storm Water Action Levels for Discharges from MS4s to Inland Surface Waters**

Parameter	Units	AMAL	MDAL	Instantaneous Maximum	Basis
Dissolved Oxygen	mg/L	Not less than 5.0 in WARM waters and not less than 6.0 in COLD waters			BP
Turbidity	NTU	-	20	See MDAL	BP
pH	Units	Within limit of 6.5 to 8.5 at all times			BP
Fecal Coliform	MPN/100 ml	200 <sup>1</sup>	-	400 <sup>2</sup>	BP
<i>Enterococci</i>	MPN/100 ml	33	-	61 <sup>3</sup>	BP
Total Nitrogen	mg/L	-	1.0	See MDAL	BP
Total Phosphorus	mg/L	-	0.1	See MDAL	BP
MBAS	mg/L	-	0.5	See MDAL	BP
Iron	mg/L	-	0.3	See MDAL	BP
Manganese	mg/L	-	0.05	See MDAL	BP
Priority Pollutants	ug/L	See <a href="#">Table C-3</a>			

Abbreviations/Acronyms:

- |   |   |
|---|---|
| AMAL – average monthly action level           | MDAL – maximum daily action level                     |
| BP – Basin Plan water quality objective       | WARM – warm freshwater habitat beneficial use         |
| COLD – cold freshwater habitat beneficial use | MBAS – Methylene Blue Active Substances               |
| NTU – Nephelometric Turbidity Units           | MPN/100 ml – most probable number per 100 milliliters |
| mg/L – milligrams per liter                   | ug/L – micrograms per liter                           |

Notes:

1. Based on a minimum of not less than five samples for any 30-day period.
2. The NAL is reached if more than 10 percent of total samples exceed 400 MPN per 100 ml during any 30 day period.
3. This value has been set to the Basin Plan water quality objective for freshwater “designated beach areas” and is not applicable to waterbodies that are not designated with the water contact recreation (REC-1) beneficial use.

b. ~~If not identified in Provision C.1.a,~~ NALs must be identified, developed and incorporated in the Water Quality Improvement Plan for any pollutants or waste constituents that cause or contribute, or are threatening to cause or contribute to a condition of pollution or nuisance in waters of the state associated with the highest priority water quality conditions related to non-storm water discharges from the MS4s. NALs must be based on:

- (1) Applicable water quality standards which may be dependent upon site-specific or receiving water-specific conditions or assumptions to be identified by the Copermittees; or
- (2) Applicable numeric WQBELs required to meet the WLAs established for the TMDLs in [Attachment E](#) to this Order.

c. For the NALs incorporated into the Water Quality Improvement Plan, the Copermittees may develop and incorporate secondary NALs specific to the Watershed Management Area at levels greater than the NALs required by Provisions [C.1.a](#) and [C.1.b](#) which can be utilized to further refine the prioritization and assessment of water quality improvement strategies for addressing non-storm water discharges to and from the MS4s, as well as the detection and elimination of non-storm water and illicit discharges to and from the MS4. The secondary NALs may be developed using an approach acceptable to the San Diego Water Board.

- d. Dry weather monitoring data from MS4 outfalls collected in accordance with Provision [D.2.b](#) may be utilized to develop or revise NALs based on watershed-specific data, subject to San Diego Water Board Executive Officer approval.

**2. Storm Water Action Levels<sup>10</sup>**

The Copermittees must develop and incorporate numeric storm water action levels (SALs) in the Water Quality Improvement Plans to: 1) support the development and prioritization of water quality improvement strategies for reducing pollutants in storm water discharges from the MS4s, and 2) assess the effectiveness of the water quality improvement strategies toward reducing pollutants in storm water discharges, required pursuant to Provision [D.4.b.\(2\)](#).<sup>11</sup>

- a. The following SALs for discharges of storm water from the MS4 must be incorporated if the Copermittees do not establish numeric action levels within the Water Quality Improvement Plan based on watershed priorities:

**Table C-5. Storm Water Action Levels for Discharges from MS4s to Receiving Waters**

Parameter	Units	Action Level
Turbidity	NTU	126
Nitrate & Nitrite (Total)	mg/L	2.6
Phosphorus (Total P)	mg/L	1.46
Cadmium (Total Cd)*	µg/L	3.0
Copper (Total Cu)*	µg/L	127
Lead (Total Pb)*	µg/L	250
Zinc (Total Zn)*	µg/L	976

Abbreviations/Acronyms:  
 NTU – Nephelometric Turbidity Units  
 mg/L – milligrams per liter  
 µg/L – micrograms per liter

Notes:  
 \* The sampling must include a measure of receiving water hardness at each MS4 outfall. If a total metal concentration exceeds the corresponding metals SAL in [Table C-5](#), that concentration must be compared to the California Toxics Rule criteria and the USEPA 1-hour maximum concentration for the detected level of receiving water hardness associated with that sample. If it is determined that the sample's total metal concentration for that specific metal exceeds that SAL, but does not exceed the applicable USEPA 1-hour maximum concentration criterion for the measured level of hardness, then the sample result will not be considered above the SAL for that measurement.

- b. ~~If not identified in Provision C.2.a,~~ SALs must be identified, developed and incorporated in the Water Quality Improvement Plan for pollutants or waste

<sup>10</sup> SALs are not considered ~~by the San Diego Water Board~~ to be enforceable limitations.

<sup>11</sup> The Copermittees may utilize SALs or other benchmarks currently established by the Copermittees as interim SALs until the Water Quality Improvement Plans are accepted by the San Diego Water Board Executive Officer.

constituents that cause or contribute, or are threatening to cause or contribute to a condition of pollution or nuisance in waters of the state associated with the highest water quality priorities related to storm water discharges from the MS4s. SALs must be based on:

- (1) Federal and State water quality guidance and/or water quality standards; and
  - (2) Site-specific or receiving water-specific conditions; or
  - (3) Applicable numeric WQBELs required to meet the WLAs established for the TMDLs in [Attachment E](#) to this Order.
- c.** For the SALs incorporated into the Water Quality Improvement Plan, the Copermittees may develop and incorporate secondary SALs specific to the Watershed Management Area at levels greater than the SALs required by Provisions [C.2.a](#) and [C.2.b](#) which can be utilized to further refine the prioritization and assessment of water quality improvement strategies for reducing pollutants in storm water discharges from the MS4s. The secondary SALs may be developed based on the approaches recommended by the State Water Board's Storm Water Panel<sup>12</sup> or using an approach acceptable to the San Diego Water Board.
- d.** Wet weather monitoring data from MS4 outfalls collected in accordance with Provision [D.2.c](#) may be used to develop or revise SALs based upon watershed-specific data, subject to San Diego Water Board Executive Officer approval.

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<sup>12</sup> Storm Water Panel Recommendations to the California State Water Resources Control Board: The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006)

## D. MONITORING AND ASSESSMENT PROGRAM REQUIREMENTS

The purpose of this provision is for the Copermittees to monitor and assess the impact on the chemical, physical, and biological conditions of receiving waters caused by discharges from the Copermittees' MS4s under wet weather and dry weather conditions. The goal of the monitoring and assessment program is to inform the Copermittees about the nexus between the health of receiving waters and the water quality condition of the discharges from their MS4s. This goal will be accomplished through monitoring and assessing the conditions of the receiving waters, discharges from the MS4s, pollutant sources and/or stressors, and effectiveness of the water quality improvement strategies implemented as part of the Water Quality Improvement Plans.

### 1. Receiving Water Monitoring Requirements

The Copermittees must develop and conduct a program to monitor the condition of the receiving waters in each Watershed Management Area during dry weather and wet weather. Following acceptance of the Water Quality Improvement Plans [and schedule for implementation of monitoring](#) for each Watershed Management Area, the Copermittees must conduct long-term receiving water monitoring during implementation of the Water Quality Improvement Plan to assess the long term trends and determine if conditions in receiving waters are improving. Any available monitoring data not collected specifically for this Order that meet the quality assurance criteria of the Copermittees and the monitoring requirements of this Order may be utilized by the Copermittees. The Copermittees must conduct the following receiving water monitoring procedures:

#### a. TRANSITIONAL RECEIVING WATER MONITORING

Until the monitoring requirements [and implementation schedule for monitoring](#) of Provisions [D.1.b-e](#) are incorporated into a Water Quality Improvement Plan that is accepted by the San Diego Water Board pursuant to Provision [F.1](#), the Copermittees must conduct the following receiving water monitoring in the Watershed Management Area:

- (1) Continue the receiving water monitoring programs required in Order Nos. R9-2007-0001 ([Attachment A, Section II. A. 1-5](#)), R9-2009-0002, and R9-2010-0016;
- (2) Continue the monitoring in the Hydromodification Management Plans approved by the San Diego Water Board;
- (3) Participate in the following regional receiving water monitoring programs, as applicable to the Watershed Management Area:
  - (a) Storm Water Monitoring Coalition Regional Monitoring,

- (b) Southern California Bight Regional Monitoring, and
- (c) Sediment Quality Monitoring;
- (4) Implement the monitoring programs developed as part of any implementation plans or load reduction plans (e.g. Bacteria Load Reduction Plans, Comprehensive Load Reduction Plans) for the TMDLs in [Attachment E](#) to this Order; and
- (5) For Watershed Management Areas with ASBS, implement the monitoring requirements of Attachment B to State Water Board Resolution No. 2012-0012, included in [Attachment A](#) to this Order.

**b. LONG-TERM RECEIVING WATER MONITORING STATIONS**

The Copermittees must select at least one long-term receiving water monitoring station from among the existing mass loading stations, temporary watershed assessment stations, bioassessment stations, and stream assessment stations previously established by the Copermittees to be representative of the receiving water quality in the Watershed Management Area. Additional long-term receiving water monitoring stations must be selected where necessary to support the implementation and adaptation of the Water Quality Improvement Plan.

**c. DRY WEATHER RECEIVING WATER MONITORING**

During the term of the Order, the Copermittees must perform monitoring during at least three dry weather monitoring events at each of the long-term receiving water monitoring stations. At least one monitoring event must be conducted during the dry season (May 1 – September 30) and at least one monitoring event must be conducted during a dry weather period during the wet season (October 1 – April 30), after the first wet weather event of the season, with an antecedent dry period of at least 72 hours following a storm event producing measureable rainfall of greater than 0.1 inch.

**(1) Dry Weather Receiving Water Field Observations**

For each dry weather monitoring event, the Copermittees must record field observations consistent with [Table D-1](#) at each long-term receiving water monitoring station.

**Table D-1. Field Observations for Receiving Water Monitoring Stations**

Field Observations
<ul style="list-style-type: none"> <li>• Station identification and location</li> <li>• Presence of flow, or pooled or ponded water</li> <li>• If flow is present:                             <ul style="list-style-type: none"> <li>- Flow estimation (i.e. width of water surface, approximate depth of water, approximate flow velocity, flow rate)</li> <li>- Flow characteristics (i.e. presence of floatables, surface scum, sheens, odor, color)</li> </ul> </li> <li>• If pooled or ponded water is present:                             <ul style="list-style-type: none"> <li>- Characteristics of pooled or ponded water (i.e. presence of floatables, surface scum, sheens, odor, color)</li> </ul> </li> <li>• Station description (i.e. deposits or stains, vegetation condition, structural condition, and observable biology)</li> <li>• Presence and assessment of trash in and around station</li> </ul>

(2) Dry Weather Receiving Water Field Monitoring

For each dry weather monitoring event, if conditions allow the collection of the data, the Copermittees must monitor and record the parameters in [Table D-2](#) at each long-term receiving water monitoring station.

**Table D-2. Field Monitoring Parameters for Receiving Water Monitoring Stations**

Parameters
<ul style="list-style-type: none"> <li>• pH</li> <li>• Temperature</li> <li>• Specific conductivity</li> <li>• Dissolved oxygen</li> <li>• Turbidity</li> </ul>

(3) Dry Weather Receiving Water Analytical Monitoring

For each dry weather monitoring event, the Copermittees must collect and analyze samples from each long-term receiving water monitoring station as follows:

- (a) Analytes that are field measured are not required to be analyzed by a laboratory;
- (b) The Copermittees must implement consistent sample collection methods for regional comparability of data, unless site-specific conditions indicate the need for alternate methods;
- (c) Grab samples may be collected for pH, temperature, specific conductivity, dissolved oxygen, turbidity, hardness, and indicator bacteria;

- (d) For all other constituents, composite samples must be collected for a duration adequate to be representative of changes in pollutant concentrations and runoff flows using one of the following techniques:
  - (i) Time-weighted composites composed of 24 discrete hourly samples, which may be collected through the use of automated equipment, or
  - (ii) Flow-weighted composites collected over a typical 24-hour period, which may be collected through the use of automated equipment;
- (e) Only one analysis of the composite of aliquots is required;
- (f) Analysis for the following constituents is required:
  - (i) Constituents contributing to the highest priority water quality conditions identified in the Water Quality Improvement Plan,
  - (ii) Constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA section 303(d) List,
  - (iii) Constituents for implementation plans or load reduction plans (e.g. Bacteria Load Reduction Plans, Comprehensive Load Reduction Plans) developed for watersheds where the Copermittees are listed responsible parties under the TMDLs in [Attachment E](#) to this Order,
  - (iv) Applicable NAL constituents, and
  - (v) Constituents listed in [Table D-3](#).

**Table D-3. Analytical Monitoring Constituents for Receiving Water Monitoring Stations**

Conventionals, Nutrients	Metals (Total and Dissolved)	Pesticides	Indicator Bacteria
<ul style="list-style-type: none"> <li>• Total Dissolved Solids</li> <li>• Total Suspended Solids</li> <li>• Turbidity</li> <li>• Total Hardness</li> <li>• Total Organic Carbon</li> <li>• Dissolved Organic Carbon</li> <li>• Sulfate</li> <li>• Methylene Blue Active Substances (MBAS)</li>   <li>• Total Phosphorus</li> <li>• Orthophosphate</li> <li>• Nitrite<sup>1</sup></li> <li>• Nitrate<sup>1</sup></li> <li>• Total Kjeldhal Nitrogen</li> <li>• Ammonia</li> </ul>	<ul style="list-style-type: none"> <li>• Arsenic</li> <li>• Cadmium</li> <li>• Chromium</li> <li>• Copper</li> <li>• Iron</li> <li>• Lead</li> <li>• Mercury</li> <li>• Nickel</li> <li>• Selenium</li> <li>• Thallium</li> <li>• Zinc</li> </ul>	<ul style="list-style-type: none"> <li>• Organophosphate Pesticides</li> <li>• Pyrethroid Pesticides</li> </ul>	<ul style="list-style-type: none"> <li>• Total Coliform</li> <li>• Fecal Coliform<sup>2</sup></li> <li>• <i>Enterococcus</i></li> </ul>

Notes:  
 1. Nitrite and nitrate may be combined and reported as nitrite+nitrate.  
 2. *E. Coli* may be substituted for Fecal Coliform.

## (4) Dry Weather Receiving Water Toxicity Monitoring

For each dry weather monitoring event, the Copermitees must collect grab or composite samples from each long-term receiving water monitoring station to be analyzed for toxicity in accordance with [Table D-4](#):

**Table D-4. Dry Weather Toxicity Testing for Receiving Water Monitoring Stations**

Freshwater Organism	Test Approach	USEPA Protocol <sup>2</sup>
<i>Pimephales promelas</i>	1 acute 1 chronic <sup>1</sup>	EPA-821-R-02-012
<i>Hyalella Azteca</i>	1 acute 1 chronic <sup>1</sup>	EPA-821-R-02-012
<i>Psuedokirchneriella subcapitata</i>	1 acute 1 chronic <sup>1</sup>	EPA-821-R-02-013

Notes:

1. Chronic toxicity testing is not required at receiving water monitoring stations located at mass loading stations if the channel flows are diverted year-round during dry weather conditions to the sanitary sewer for treatment.
2. USEPA protocols must be utilized for toxicity testing unless alternate toxicity testing protocols have been approved by the San Diego Water Board.

## (5) Dry Weather Receiving Water Bioassessment Monitoring

Bioassessment monitoring for each long-term receiving water monitoring station is required at least once during the term of this Order. The Copermitees must conduct bioassessment monitoring during at least one dry weather monitoring event at each long-term receiving water monitoring station as follows:

- (a) The following bioassessment samples and measurements must be collected:
  - (i) Macroinvertebrate samples must be collected in accordance with the "Reachwide Benthos (Multihabitat) Procedure" in the most current Surface Water Ambient Monitoring Program (SWAMP) Bioassessment Standard Operating Procedures (SOP), and amendments, as applicable;<sup>13</sup>
  - (ii) The "Full" suite of physical habitat characterization measurements must be collected in accordance with the most current SWAMP Bioassessment SOP, and as summarized in the SWAMP Stream Habitat Characterization Form – Full Version;<sup>14</sup> and
  - (iii) Freshwater algae samples must be collected in accordance with the SWAMP Standard Operating Procedures for Collecting Algae

<sup>13</sup> Ode, P.R.. 2007. Standard operating procedures for collecting macroinvertebrate samples and associated physical and chemical data for ambient bioassessments in California. California State Water Resources Control Board Surface Water Ambient Monitoring Program (SWAMP) Bioassessment SOP 001. [http://www.swrcb.ca.gov/water\\_issues/programs/swamp/tools.shtml#monitoring](http://www.swrcb.ca.gov/water_issues/programs/swamp/tools.shtml#monitoring)

<sup>14</sup> Available at: [http://www.waterboards.ca.gov/water\\_issues/programs/swamp/docs/reports/fieldforms\\_fullversion052908.pdf](http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/reports/fieldforms_fullversion052908.pdf)

Samples.<sup>15</sup> Analysis of samples must include algal taxonomic composition (diatoms and soft algae) and algal biomass.

- (b) The bioassessment samples, measurements, and appropriate water chemistry data must be used to calculate the following:
- (i) An Index of Biological Integrity (IBI) for macroinvertebrates for each monitoring station where bioassessment monitoring was conducted, based on the most current calculation method;<sup>16</sup> and
  - (ii) An IBI for algae for each monitoring station where bioassessment monitoring was conducted, when a calculation method is developed.<sup>17</sup>
- (c) In lieu of the requirements of Provision [D.1.c.\(5\)\(a\)](#), the Copermittees may conduct the bioassessment monitoring in accordance with the “Triad” assessment approach<sup>18</sup> to calculate the IBIs required for Provision [D.1.c.\(5\)\(b\)](#). The Copermittees must conduct sampling, analysis, and reporting of specified in-stream biological and habitat data according to the protocols specified in the SCCWRP Technical Report No. 539, or subsequent protocols, if developed.

#### (6) Dry Weather Receiving Water Hydromodification Monitoring

In addition to the hydromodification monitoring conducted as part of the Copermittees’ Hydromodification Management Plans, hydromodification monitoring for each long-term receiving water monitoring station is required at least once during the term of this Order. The Copermittees must collect the following hydromodification monitoring observations and measurements within an appropriate domain of analysis during at least one dry weather monitoring event for each long-term receiving water monitoring station:

(a) Channel conditions, including:

- (i) Channel dimensions,

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<sup>15</sup> Fetscher et al. 2009. Standard Operating Procedures for Collecting Stream Algae Samples and Associated Physical Habitat and Chemical Data for Ambient Bioassessments in California.

<sup>16</sup> The most current calculation method at the time the Order was adopted is outlined in “A Quantitative Tool for Assessing the Integrity of Southern California Coastal Streams” (Ode, et al. 2005. Environmental Management. Vol. 35, No. 1, pp. 1-13). If an updated or new calculation method is developed, either both (i.e. current and updated/new) methods must be used, or historical IBIs must be recalculated with the updated or new calculation method.

<sup>17</sup> When a calculation method is developed, IBIs must be calculated for all available and appropriate historical data.

<sup>18</sup> Stormwater Monitoring Coalition Model Monitoring Technical Committee, 2004. Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California. Technical Report #419. August 2004.

- (ii) Hydrologic and geomorphic conditions, and
  - (iii) Presence and condition of vegetation and habitat;
- (b) Location of discharge points;
- (c) Habitat integrity;
- (d) Photo documentation of existing erosion and habitat impacts, with location (i.e. latitude and longitude coordinates) where photos were taken;
- (e) Measurement or estimate of dimensions of any existing channel bed or bank eroded areas, including length, width, and depth of any incisions; and
- (f) Known or suspected cause(s) of existing downstream erosion or habitat impact, including flow, soil, slope, and vegetation conditions, as well as upstream land uses and contributing new and existing development.

**d. WET WEATHER RECEIVING WATER MONITORING**

During the term of the Order, the Copermittees must perform monitoring during at least three wet weather monitoring events at each long-term receiving water monitoring station. At least one wet weather monitoring event must be conducted during the first wet weather event of the wet season (October 1 – April 30), and at least one wet weather monitoring event during a wet weather event that occurs after February 1.

(1) Wet Weather Receiving Water Field Observations

For each wet weather monitoring event, the following narrative descriptions and observations must be recorded at each long-term receiving water monitoring station:

- (a) A narrative description of the station that includes the location, date and duration of the storm event(s) sampled, rainfall estimates of the storm event, and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;
- (b) The flow rates and volumes measured or estimated (data from nearby USGS gauging stations may be utilized, or flow rates may be measured or estimated in accordance with the [USEPA Storm Water Sampling Guidance Document](#) (EPA-833-B-92-001), section 3.2.1, or other method proposed by the Copermittees that is acceptable to the San Diego Water Board);
- (c) Station condition (i.e. deposits or stains, vegetation condition, structural condition, observable biology); and

(d) Presence and assessment of trash in and around station.

(2) Wet Weather Receiving Water Field Monitoring

For each wet weather monitoring event, the Copermitees must monitor and record the parameters in [Table D-2](#) at each long-term receiving water monitoring station.

(3) Wet Weather Receiving Water Analytical Monitoring

For each wet weather monitoring event, the Copermitees must collect and analyze samples from each long-term receiving water monitoring station as follows:

- (a) Analytes that are field measured are not required to be analyzed by a laboratory;
- (b) The Copermitees must implement consistent sample collection methods for regional comparability of data, unless site-specific conditions indicate the need for alternate methods;
- (c) Grab samples may be collected for pH, temperature, specific conductivity, dissolved oxygen, turbidity, hardness, and indicator bacteria;
- (d) For all other constituents, composite samples must be collected for a duration adequate to be representative of changes in pollutant concentrations and runoff flows using one of the following techniques:
  - (i) Time-weighted composites composed of 24 discrete hourly samples, which may be collected through the use of automated equipment, or
  - (ii) Flow-weighted composites collected over the length of the storm event or a typical 24-hour period, which may be collected through the use of automated equipment;
- (e) Only one analysis of the composite of aliquots is required;
- (f) Analysis for the following constituents is required:
  - (i) Constituents contributing to the highest priority water quality conditions identified in the Water Quality Improvement Plan,
  - (ii) Constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA section 303(d) List,

- (iii) Constituents for implementation plans or load reduction plans (e.g. Bacteria Load Reduction Plans, Comprehensive Load Reduction Plans) developed for watersheds where the Copermittees are listed responsible parties under the TMDLs in [Attachment E](#) to this Order,
- (iv) Applicable SAL constituents, and
- (v) Constituents listed in [Table D-3](#).

(4) Wet Weather Receiving Water Toxicity Monitoring

For each wet weather monitoring event, the Copermittees must collect grab or composite samples from each long-term receiving water monitoring station to be analyzed for toxicity in accordance with [Table D-5](#):

**Table D-5. Wet Weather Toxicity Testing for Receiving Water Monitoring Stations**

Freshwater Organism	Test Approach	USEPA Protocol <sup>1</sup>
<i>Pimephales promelas</i>	1 acute	EPA-821-R-02-012
<i>Hyalella Azteca</i>	1 acute	EPA-821-R-02-012
<i>Psuedokirchneriella subcapitata</i>	1 acute	EPA-821-R-02-013

Notes:

1. USEPA protocols must be utilized for toxicity testing unless alternate toxicity testing protocols have been approved by the San Diego Water Board.

**e. OTHER RECEIVING WATER MONITORING REQUIREMENTS**

(1) Regional Monitoring

The Copermittees must participate in the following regional receiving waters monitoring programs, as applicable to the Watershed Management Area:

- (a) Storm Water Monitoring Coalition Regional Monitoring; and
- (b) Southern California Bight Regional Monitoring.

(2) Sediment Quality Monitoring

The Copermittees must perform sediment monitoring to assess compliance with sediment quality receiving water limits applicable to MS4 discharges to enclosed bays and estuaries. The monitoring may be performed either by individual or multiple Copermittees to assess compliance with receiving water limits, or through participation in a water body monitoring coalition. The Copermittees must identify sediment sampling stations that are spatially representative of the sediment within the water body segment or region of interest. Sediment quality monitoring must be conducted in conformance with the monitoring requirements set forth in the State Water Board Sediment Quality Control Plan.

### (3) ASBS Monitoring

For Watershed Management Areas with ASBS, the Copermittees must implement the monitoring requirements of Attachment B to State Water Board Resolution No. 2012-0012, included in [Attachment A](#) to this Order.

#### f. ALTERNATIVE WATERSHED MONITORING REQUIREMENTS

The San Diego Water Board may direct the Copermittees to participate in an effort to develop alternative watershed monitoring with other regulated entities, other interested parties, and the San Diego Water Board to refine, coordinate, and implement regional monitoring and assessment programs to determine the status and trends of water quality conditions in 1) coastal waters, 2) enclosed bays, harbors, estuaries, and lagoons, and 3) streams.

## 2. MS4 Outfall Discharge Monitoring Requirements

The Copermittees must develop and conduct a program to monitor the discharges from the MS4 outfalls in each Watershed Management Area during dry weather and wet weather. Following acceptance of the Water Quality Improvement Plans [and schedule for implementation of monitoring](#) for each Watershed Management Area, the Copermittees must conduct MS4 outfall discharge monitoring during implementation of the Water Quality Improvement Plan to assess the effectiveness of their jurisdictional runoff management programs toward effectively prohibiting non-storm water discharges and reducing pollutants in storm water discharges to and from their MS4s. Any available monitoring data not collected specifically for this Order that meet the quality assurance criteria of the Copermittees and the monitoring requirements of this Order may be utilized by the Copermittees. The Copermittees must conduct the following MS4 outfall monitoring procedures:

#### a. TRANSITIONAL MS4 OUTFALL DISCHARGE MONITORING

Until the monitoring requirements of Provisions [D.2.b-c](#) are incorporated into a Water Quality Improvement Plan [and schedule for implementation of monitoring](#) that is accepted by the San Diego Water Board pursuant to Provision [F.1](#), the Copermittees must conduct the following MS4 outfall discharge monitoring in the Watershed Management Area:

##### (1) MS4 Outfall Discharge Monitoring Station Inventory

Each Copermittee must identify all major MS4 outfalls that discharge directly to receiving waters within its jurisdiction and geo-locate those outfalls on a map of the MS4 pursuant to Provision [E.2.b.\(1\)](#). This information must be compiled into a MS4 outfall discharge monitoring station inventory, and must include the following information:

#### PROVISION D: MONITORING AND ASSESSMENT PROGRAM REQUIREMENTS

##### D.1. Receiving Water Monitoring Requirements

##### D.2. MS4 Outfall Discharge Monitoring Requirements

- (a) Latitude and longitude of MS4 outfall point of discharge;
- (b) Watershed Management Area;
- (c) Hydrologic subarea;
- (d) Outlet size;
- (e) Accessibility (i.e. safety and without disturbance of critical habitat);
- (f) Approximate drainage area; and
- (g) Classification of whether the MS4 outfall is known to have persistent dry weather flows, transient dry weather flows, no dry weather flows, or unknown dry weather flows.

(2) Transitional Dry Weather MS4 Outfall Discharge Field Screening Monitoring

Until the monitoring requirements [and the monitoring implementation schedule described in](#) ~~of~~ Provision [D.2.b](#) are incorporated into a Water Quality Improvement Plan that is accepted by the San Diego Water Board pursuant to Provision [F.1](#), each Copermittee must perform dry weather MS4 outfall field screening monitoring to identify non-storm water and illicit discharges within its jurisdiction in accordance with Provision [E.2.c](#), to determine which discharges are transient flows and which are persistent flows, and prioritize the dry weather MS4 discharges that will be investigated and eliminated in accordance with Provision [E.2.d](#). Each Copermittee must conduct the following dry weather MS4 outfall discharge field screening monitoring within its jurisdiction:

(a) Transitional Dry Weather MS4 Outfall Discharge Field Screening Monitoring Frequency

Each Copermittee must field screen the MS4 outfalls in its inventory developed pursuant to Provision [D.2.a.\(1\)](#) as follows:

- (i) For Copermittees with less than 125 major MS4 outfalls that discharge to receiving waters within a Watershed Management Area, at least 80 percent of the outfalls must be visually inspected two times per year during dry weather conditions. [For Copermittees with jurisdiction in more than one WMA, this requirement is limited to 500 inspections annually per Provision D.2.a.\(2\)\(a\)\(iv\).](#)
- (ii) For Copermittees with 125 major MS4 outfalls or more, but less than or equal to 500, that discharge to receiving waters within a Watershed Management Area all the outfalls must be visually

inspected at least annually during dry weather conditions. [For Copermittees with jurisdiction in more than one WMA, this requirement is limited to 500 inspections annually per Provision D.2.a.\(2\)\(a\)\(iv\).](#)

- (iii) For Copermittees with more than 500 major MS4 outfalls that discharge to receiving waters within a Watershed Management Area, at least 500 outfalls must be visually inspected at least annually during dry weather conditions. Copermittees with more than 500 major MS4 outfalls within a Watershed Management Area must identify and prioritize at least 500 outfalls to be inspected considering the following:
- [a] Assessment of connectivity of the discharge to a flowing receiving water;
  - [b] Reported exceedances of NALs in water quality monitoring data;
  - [c] Surrounding land uses;
  - [d] Presence of constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA section 303(d) List; and
  - [e] Flow rate.

[For Copermittees with jurisdiction in more than one WMA, this requirement is limited to 500 inspections annually, per Provision D.2.a.\(2\)\(a\)\(iv\).](#)

- (iv) For Copermittees with more than 500 major MS4 outfalls within its jurisdiction that are located in more than one Watershed Management Area, at least 500 major MS4 outfalls within its inventory must be visually inspected at least annually during dry weather conditions. Copermittees with more than 500 major MS4 outfalls in more than one Watershed Management Area must identify and prioritize at least 500 outfalls to be inspected considering the following:
- [a] Assessment of connectivity of the discharge to a flowing receiving water;
  - [b] Reported exceedances of NALs in water quality monitoring data;
  - [c] Surrounding land uses;
  - [d] Presence of constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA section 303(d) List; and
  - [e] Flow rate.
- (v) Inspections of major MS4 outfalls conducted in response to public reports and staff or contractor reports and notifications may count toward the required visual inspections of MS4 outfall discharge monitoring stations.

(b) Transitional Dry Weather MS4 Outfall Discharge Field Screening Visual Observations

- (i) An antecedent dry period of at least 72 hours following any storm event producing measurable rainfall greater than 0.1 inch is required prior to conducting field screening visual observations during a field screening monitoring event.
- (ii) During the field screening monitoring event, each Copermittee must record visual observations consistent with [Table D-6](#) at each MS4 outfall discharge monitoring station inspected.

**Table D-6. Field Screening Visual Observations for MS4 Outfall Discharge Monitoring Stations**

Field Observations
<ul style="list-style-type: none"> <li>• Station identification and location</li> <li>• Presence of flow, or pooled or ponded water</li> <li>• If flow is present:                             <ul style="list-style-type: none"> <li>- Flow estimation (i.e. width of water surface, approximate depth of water, approximate flow velocity, flow rate)</li> <li>- Flow characteristics (i.e. presence of floatables, surface scum, sheens, odor, color)</li> <li>- Flow source(s) suspected or identified from non-storm water source investigation</li> <li>- Flow source(s) eliminated during non-storm water source identification</li> </ul> </li> <li>• If pooled or ponded water is present:                             <ul style="list-style-type: none"> <li>- Characteristics of pooled or ponded water (i.e. presence of floatables, surface scum, sheens, odor, color)</li> <li>- Known or suspected source(s) of pooled or ponded water</li> </ul> </li> <li>• Station description (i.e. deposits or stains, vegetation condition, structural condition, observable biology)</li> <li>• Presence and assessment of trash in and around station</li> <li>• Evidence or signs of illicit connections or illegal dumping</li> </ul>

- (iii) Each Copermittee must implement the requirements of Provisions [E.2.d.\(2\)\(c\)-\(e\)](#) based on the field observations.
- (iv) Each Copermittee must evaluate field observations together with existing information available from prior reports, inspections and monitoring results to determine whether any observed flowing, pooled, or ponded waters are likely to be transient or persistent flow.<sup>19</sup>

(c) Transitional Dry Weather MS4 Outfall Discharge Field Screening Monitoring Records

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<sup>19</sup> Persistent flow is defined as the presence of flowing, pooled, or ponded water more than 72 hours after a measureable rainfall event of 0.1 inch or greater during three consecutive monitoring and/or inspection events. All other flowing, pooled, or ponded water is considered transient.

Based upon the results of the transitional dry weather MS4 outfall discharge field screening monitoring conducted pursuant to [Provisions D.2.a.\(2\)\(a\)-\(b\)](#), each Copermittee must update its MS4 outfall discharge monitoring station inventory, compiled pursuant to [Provision D.2.a.\(1\)](#), with any new information on the classification of whether the MS4 outfall produces persistent flow, transient flow, or no dry weather flow.

### (3) Transitional Wet Weather MS4 Outfall Discharge Monitoring

Until the monitoring [requirements and the monitoring implementation schedule described in](#) ~~requirements of~~ [Provision D.2.c](#) are incorporated into a Water Quality Improvement Plan that is accepted by the San Diego Water Board pursuant to [Provision F.1](#), the Copermittees must conduct the following wet weather MS4 outfall discharge monitoring within the Watershed Management Area:

#### (a) Transitional Wet Weather MS4 Outfall Discharge Monitoring Stations

The Copermittees must select at least five wet weather MS4 outfall discharge monitoring stations from the inventories developed pursuant to [Provision D.2.a.\(1\)](#) that are representative of storm water discharges from areas consisting primarily of residential, commercial, industrial, and typical mixed-use land uses present within the Watershed Management Area.

[The County of San Diego shall select at least two \(2\) transitional wet weather MS4 outfall discharge monitoring stations for the portion of the Santa Margarita River Watershed Management Area within its jurisdiction until the Riverside Copermittees are enrolled under this Order. After the Riverside Copermittees are enrolled, the Watershed Management Area Copermittees shall select at least five \(5\) transitional wet weather MS4 outfall discharge monitoring stations consistent with the requirements above.](#)

#### (b) Transitional Wet Weather MS4 Outfall Discharge Monitoring Frequency

Each wet weather MS4 outfall discharge monitoring station selected pursuant to [Provision D.2.a.\(3\)\(a\)](#) must be monitored twice during the wet season (October 1 – April 30) [in the transitional period](#). ~~One~~ [The](#) wet weather monitoring events [shall be selected to be representative of the range of hydrological conditions experienced in the region. At least 10% of samples](#) must be conducted during the first wet weather event of the wet season, [to include at least one such sample in each Watershed Management Area](#) ~~and one wet weather monitoring event at least a month after the first wet weather event of the wet season.~~

#### (c) Transitional Wet Weather MS4 Outfall Discharge Field Observations

For each wet weather monitoring event, the following narrative descriptions and observations must be recorded at each wet weather MS4 outfall discharge monitoring station:

- (i) A narrative description of the station that includes the location, date and duration of the storm event(s) sampled, rainfall estimates of the storm event, and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and
  - (ii) The flow rates and volumes measured or estimated (data from nearby USGS gauging stations may be utilized, or flow rates may be measured or estimated in accordance with the [USEPA Storm Water Sampling Guidance Document](#) (EPA-833-B-92-001), section 3.2.1, or other method proposed by the Copermittees that is acceptable to the San Diego Water Board);
  - (iii) Station condition (i.e. deposits or stains, vegetation condition, structural condition, observable biology); and
  - (iv) Presence and assessment of trash in and around station.
- (d) Transitional Wet Weather MS4 Outfall Discharge Field Monitoring

For each wet weather monitoring event, the Copermittees must monitor and record the parameters in [Table D-2](#) at each wet weather MS4 outfall discharge monitoring station.

(e) Transitional Wet Weather MS4 Outfall Discharge Analytical Monitoring

For each wet weather monitoring event, the Copermittees must collect and analyze samples from each wet weather MS4 outfall discharge monitoring station as follows:

- (i) Analytes that are field measured are not required to be analyzed by a laboratory;
- (ii) The Copermittees must implement consistent sample collection methods for regional comparability of data, unless site-specific conditions indicate the need for alternate methods;
- (iii) Grab samples may be collected for pH, temperature, specific conductivity, dissolved oxygen, turbidity, and indicator bacteria;
- (iv) For all other constituents, composite samples must be collected for a duration adequate to be representative of changes in pollutant concentrations and runoff flows using one of the following techniques:

- [a] Time-weighted composites composed of 24 discrete hourly samples, which may be collected through the use of automated equipment, or
  - [b] Flow-weighted composites collected over the length of the storm event or a typical 24 hour period, whichever is shorter, which may be collected through the use of automated equipment, or
  - [c] If automated compositing is not feasible, a composite sample may be collected using a minimum of 4 grab samples, collected during the first 24 hours of the storm water discharge, or for the entire storm water discharge if the storm event is less than 24 hours;
- (v) Only one analysis of the composite of aliquots is required;
- (vi) The samples must be analyzed for the following constituents:
- [a] Constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA section 303(d) List,
  - [b] Constituents for implementation plans or load reduction plans (e.g. Bacteria Load Reduction Plans, Comprehensive Load Reduction Plans) developed for watersheds where the Copermittees are listed responsible parties under the TMDLs in [Attachment E](#) to this Order, and
  - [c] Constituents listed in ~~in~~ [Table D-7](#).

**Table D-7. Analytical Monitoring Constituents for Wet Weather MS4 Outfall Discharge Monitoring Stations**

Conventionals, Nutrients	Metals (Total and Dissolved)	Indicator Bacteria
<ul style="list-style-type: none"> <li>• Total Dissolved Solids</li> <li>• Total Suspended Solids</li> <li>• Turbidity</li> <li>• Total Hardness</li> <li>• Total Organic Carbon</li> <li>• Dissolved Organic Carbon</li> <li>• Sulfate</li> <li>• Methylene Blue Active Substances (MBAS)</li> <li>• Total Phosphorus</li> <li>• Orthophosphate</li> <li>• Nitrite<sup>1</sup></li> <li>• Nitrate<sup>1</sup></li> <li>• Total Kjeldhal Nitrogen</li> <li>• Ammonia</li> </ul>	<ul style="list-style-type: none"> <li>• Arsenic</li> <li>• Cadmium</li> <li>• Chromium</li> <li>• Copper</li> <li>• Iron</li> <li>• Lead</li> <li>• Nickel</li> <li>• Selenium</li> <li>• Thallium</li> <li>• Zinc</li> </ul>	<ul style="list-style-type: none"> <li>• Total Coliform</li> <li>• Fecal Coliform<sup>2</sup></li> <li>• <i>Enterococcus</i></li> </ul>

Notes:

1. Nitrite and nitrate may be combined and reported as nitrite+nitrate.
2. *E. Coli* may be substituted for Fecal Coliform.

(f) Other Transitional Wet Weather MS4 Outfall Discharge Monitoring

The San Diego County Copermittees must continue the wet weather MS4 outfall monitoring program developed under Order No. R9-2007-0001, as approved by the San Diego Water Board, through its planned completion.

**b. DRY WEATHER MS4 OUTFALL DISCHARGE MONITORING**

Each Copermittee must perform dry weather MS4 outfall monitoring to identify non-storm water and illicit discharges within its jurisdiction pursuant to Provision [E.2.c](#), and to prioritize the dry weather MS4 discharges that will be investigated and eliminated pursuant to Provision [E.2.d](#). Each Copermittee must conduct the following dry weather MS4 outfall discharge monitoring within its jurisdiction:

(1) Dry Weather MS4 Outfall Discharge Field Screening Monitoring

Each Copermittee must continue to perform the dry weather MS4 outfall discharge field screening monitoring in accordance with the requirements of Provision [D.2.a.\(2\)](#). The Copermittee may adjust the field screening monitoring frequencies and locations for the MS4 outfalls in its inventory, as needed, to identify and eliminate sources of persistent flow non-storm water discharges in accordance with the highest priority water quality conditions identified in the Water Quality Improvement Plan, provided the number of visual inspections performed is equivalent to the number of visual inspections required under Provision [D.2.a.\(2\)\(a\)](#).

## (2) Non-Storm Water Persistent Flow MS4 Outfall Discharge Monitoring

Each Copermittee must perform non-storm water persistent flow MS4 outfall discharge monitoring to determine which persistent non-storm water discharges contain concentrations of pollutants below NALs, and which persistent non-storm water discharges impact receiving water quality during dry weather. Each Copermittee must conduct the following non-storm water persistent flow MS4 outfall discharge monitoring within its jurisdiction:

### (a) Prioritization of Non-Storm Water Persistent Flow MS4 Outfalls

Based upon the dry weather MS4 outfall discharge field screening monitoring records developed pursuant to Provision [D.2.a.\(2\)\(c\)](#), each Copermittee must identify and prioritize the MS4 outfalls with persistent flows based on the highest priority water quality conditions identified in the Water Quality Improvement Plan and any additional criteria developed by the Copermittee, which may include historical data and data from sources other than what the Copermittee collects.

### (b) Non-Storm Water Persistent Flow MS4 Outfall Discharge Monitoring Frequency

- (i) Based on the prioritization of major MS4 outfalls developed under Provision [D.2.b.\(2\)\(a\)](#), each Copermittee must identify, at a minimum, the ~~10~~5 highest priority major MS4 outfalls with non-storm water persistent flows that the Copermittee will monitor within each Watershed Management Area within its jurisdiction. [If a Copermittee has less than 5 major outfalls within a WMA, the Copermittee shall monitor all of its major outfalls with persistent flows within that WMA.](#) The location of the highest priority non-storm water persistent flow MS4 outfall monitoring stations must be identified on the map required pursuant to Provision [E.2.b.\(1\)](#).
- (ii) Each of the highest priority non-storm water persistent flow MS4 outfall monitoring stations identified pursuant to Provision [D.2.b.\(2\)\(b\)\(i\)](#) must be monitored under dry weather conditions at least semi-annually until one of the following occurs:
  - [a] The non-storm water discharges have been effectively eliminated (i.e. no flowing, pooled, or ponded water) for three consecutive dry weather monitoring events; or
  - [b] The source(s) of the persistent flows has been identified as a category of non-storm water discharges that does not require an NPDES permit and does not have to be addressed as an illicit discharge because it was not identified as a source of pollutants (i.e. constituents in non-storm water discharge do not exceed

- NALs), and the persistent flow can be re-prioritized to a lower priority; or
- [c] The constituents in the persistent flow non-storm water discharge do not exceed NALs, and the persistent flow can be re-prioritized to a lower priority; or
  - [d] The source(s) of the persistent flows has been identified as a non-storm water discharge authorized by a separate NPDES permit.
- (iii) Where the criteria under Provision [D.2.b.\(2\)\(c\)\(ii\)](#) are not met, but the threat to water quality has been reduced by the Copermittee, the highest priority persistent flow MS4 outfall monitoring stations may be reprioritized accordingly for continued dry weather MS4 outfall discharge field screening monitoring required pursuant to Provision [D.2.b.\(1\)](#).
- (iv) Each Copermittee must document removal or re-prioritization of the highest priority persistent flow MS4 outfall monitoring stations identified under Provision [D.2.b.\(2\)\(b\)](#) in the Annual Report. Persistent flow MS4 outfall monitoring stations that have been removed must be replaced with the next highest prioritized [major](#) MS4 ~~major~~ outfall in the Watershed Management Area within its jurisdiction, unless there are no remaining qualifying major MS4 outfalls within the Copermittee's jurisdiction in the Watershed Management Area.

(c) Non-Storm Water Persistent Flow MS4 Outfall Discharge Field Observations

During each semi-annual monitoring event, each Copermittee must record field observations consistent with [Table D-6](#) at each of the highest priority persistent flow MS4 outfall monitoring stations within its jurisdiction.

(d) Non-Storm Water Persistent Flow MS4 Outfall Discharge Field Monitoring

During each semi-annual monitoring event, if conditions allow the collection of the data, each Copermittee must monitor and record the parameters in [Table D-2](#) at each of the highest priority persistent flow MS4 outfall monitoring stations within its jurisdiction.

(e) Non-Storm Water Persistent Flow MS4 Outfall Discharge Analytical Monitoring

During each semi-annual monitoring event in which measurable flow is present, each Copermittee must collect and analyze samples from each of the highest priority persistent flow MS4 outfall monitoring stations within its jurisdiction as follows:

- (i) Analytes that are field measured are not required to be analyzed by a laboratory;
- (ii) The Copermittees must implement consistent sample collection methods for regional comparability of data, unless site-specific conditions indicate the need for alternate methods;
- (iii) During development of the Water Quality Improvement Plan, for each WMA, consider the following sources to select constituents for collection of grab or composite samples to be analyzed at a qualified analytical laboratory for the following constituents:
  - [a] Constituents contributing to the highest priority water quality conditions identified in the Water Quality Improvement Plan,
  - [b] Constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA section 303(d) List,
  - [c] Constituents for implementation plans or load reduction plans (e.g. Bacteria Load Reduction Plans, Comprehensive Load Reduction Plans) developed for watersheds where the Copermittees are listed responsible parties under the TMDLs in Attachment E to this Order,
  - [d] Applicable NAL constituents, and
  - [e] Constituents listed in Table D-8, unless the Copermittees may adjust the analytical list for a given WMA in successive monitoring events. Copermittee has to add or eliminate constituents based on historical data that can demonstrate or provide justification that regarding the need or lack of need for analysis of the specific constituents is not necessary.
- (iv) Copermittees may adjust the analytical list for a given WMA in successive monitoring events. Copermittee has to add or eliminate constituents based on historical data that can demonstrate or provide justification that regarding the need or lack of need for analysis of the specific constituents is not necessary.

**Table D-8. Analytical Monitoring Constituents for Persistent Flow MS4 Outfall Discharge Monitoring Stations**

Conventionals, Nutrients	Metals (Total and Dissolved)	Indicator Bacteria
<ul style="list-style-type: none"> <li>• Total Dissolved Solids</li> <li>• Total Suspended Solids</li> <li>• Total Hardness</li> <li>• Total Phosphorus</li> <li>• Orthophosphate</li> <li>• Nitrite<sup>1</sup></li> <li>• Nitrate<sup>1</sup></li> <li>• Total Kjeldhal Nitrogen</li> <li>• Ammonia</li> </ul>	<ul style="list-style-type: none"> <li>• Cadmium</li> <li>• Copper</li> <li>• Lead</li> <li>• Zinc</li> </ul>	<ul style="list-style-type: none"> <li>• Total Coliform</li> <li>• Fecal Coliform<sup>2</sup></li> <li>• <i>Enterococcus</i></li> </ul>

Notes:

- 1. Nitrite and nitrate may be combined and reported as nitrite+nitrate.
- 2. *E. Coli* may be substituted for Fecal Coliform.

- (v) If the Copermittee identifies and eliminates the source of the persistent flow non-storm water discharge, analysis of the sample is not required.

**c. WET WEATHER MS4 OUTFALL DISCHARGE MONITORING**

The Copermittees must perform wet weather MS4 outfall monitoring to identify ~~sources of~~ pollutants in storm water discharges from the MS4s in the Watershed Management Area, and provide information to help guide source identification efforts. The Copermittees must conduct the following wet weather MS4 outfall discharge monitoring within the Watershed Management Area:

**(1) Wet Weather MS4 Outfall Discharge Monitoring Stations**

The Copermittees may adjust the wet weather MS4 outfall discharge monitoring locations and frequencies in the Watershed Management Area, as needed, to identify ~~sources of~~ pollutants in storm water discharges from MS4s in the Watershed Management Area in accordance with the highest priority water quality conditions identified in the Water Quality Improvement Plan, provided the number of stations is at least equivalent to the number of stations required under Provision [D.2.a.\(3\)\(a\)](#).

**(2) Wet Weather MS4 Outfall Discharge Monitoring Frequency**

The Copermittees must monitor the wet weather MS4 outfall discharge monitoring stations in the Watershed Management Area at an appropriate frequency to identify ~~sources of~~ pollutants in storm water discharges from the MS4s causing or contributing to the highest priority water quality conditions identified in the Water Quality Improvement Plan.

**(3) Wet Weather MS4 Outfall Discharge Field Observations**

For each wet weather monitoring event, the following narrative descriptions and observations must be recorded at each wet weather MS4 outfall discharge monitoring station:

- (a) A narrative description of the station that includes the location, date and duration of the storm event(s) sampled, rainfall estimates of the storm event, and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and
- (b) The flow rates and volumes measured or estimated (data from nearby USGS gauging stations may be utilized, or flow rates may be measured or estimated in accordance with the [USEPA Storm Water Sampling Guidance Document](#) (EPA-833-B-92-001), section 3.2.1, or other method proposed by the Copermittees that is acceptable to the San Diego Water Board);
- (c) Station condition (i.e. deposits or stains, vegetation condition, structural

condition, observable biology); and

(d) Presence and assessment of trash in and around station.

#### (4) Wet Weather MS4 Outfall Discharge Field Monitoring

For each wet weather monitoring event, the Copermittees must monitor and record the parameters in [Table D-2](#) at each wet weather MS4 outfall discharge monitoring station.

#### (5) Wet Weather MS4 Outfall Discharge Analytical Monitoring

For each wet weather monitoring event, the Copermittees must collect and analyze samples from each wet weather MS4 outfall discharge monitoring station as follows:

- (a) Analytes that are field measured are not required to be analyzed by a laboratory;
- (b) The Copermittees must implement consistent sample collection methods for regional comparability of data, unless site-specific conditions indicate the need for alternate methods;
- (c) Grab samples may be collected for pH, temperature, specific conductivity, dissolved oxygen, turbidity, hardness, and indicator bacteria;
- (d) For all other constituents, composite samples must be collected for a duration adequate to be representative of changes in pollutant concentrations and runoff flows using one of the following techniques:
  - (i) Time-weighted composites composed of 24 discrete hourly samples, which may be collected through the use of automated equipment, or
  - (ii) Flow-weighted composites collected over the length of the storm event or a typical 24 hour period, whichever is shorter, which may be collected through the use of automated equipment, or
  - (iii) If automated compositing is not feasible, a composite sample may be collected using a minimum of 4 grab samples, collected during the first 24 hours of the storm water discharge, or for the entire storm water discharge if the storm event is less than 24 hours.
- (e) Only one analysis of the composite of aliquots is required;

(f) Analysis for the following constituents is required:

- (i) Constituents contributing to the highest priority water quality conditions identified in the Water Quality Improvement Plan,
- (ii) Constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA section 303(d) List,
- (iii) Constituents for implementation plans or load reduction plans (e.g. Bacteria Load Reduction Plans, Comprehensive Load Reduction Plans) developed for watersheds where the Copermittees are listed responsible parties under the TMDLs in [Attachment E](#) to this Order, and
- (iv) Applicable SAL constituents.

### 3. Special Studies

a. Within the term of this Order, the Copermittees must ~~develop and implement~~initiate the following special studies:

- (1) At least ~~two three~~ special studies in each Watershed Management Area to address pollutant and/or stressor data gaps and/or develop information necessary to more effectively address the pollutants and/or stressors that cause or contribute to highest priority water quality conditions identified in the Water Quality Improvement Plan.
- (2) At least ~~one two~~ special studies for the San Diego Region to address pollutant and/or stressor data gaps and/or develop information necessary to more effectively address the pollutants and/or stressors that are impacting receiving waters on a regional basis in the San Diego Region.
- (3) One of the ~~two three~~ special studies in each Watershed Management Area may be replaced by a special study implemented pursuant to Provision [D.3.a.\(2\)](#).

b. The special studies must, at a minimum, be in conformance with the following criteria:

- (1) The special studies must be related to the highest priority water quality conditions identified by the Copermittees in the Watershed Management Area and/or for the entire San Diego Region;
- (2) The special studies developed pursuant to Provision [D.3.a.\(1\)](#) must:
  - (a) Be implemented within the applicable Watershed Management Area, and

- (b) Require some form of participation by all the Copermittees within the Watershed Management Area;
- (3) The special studies developed pursuant to Provision [D.3.a.\(2\)](#) must:
  - (a) Be implemented within the San Diego Region, and
  - (b) Require some form of participation by all Copermittees covered under the requirements of this Order.
- c. Special studies developed to identify sources of pollutants and/or stressors should be pollutant and/or stressor specific and based on historical monitoring data and monitoring performed pursuant to Provisions [D.1](#) and [D.2](#). Development of source identification special studies should include the following:
  - (1) A compilation of known information on the specific pollutant and/or stressor, including data on potential sources and movement of the pollutant and/or stressor within the watershed. Data generated by the Copermittees and others, as well as information available from a literature research on the pollutant and/or stressor should be compiled and analyzed as appropriate.
  - (2) An identification of data gaps, based on the compiled information generated on the specific pollutant and/or stressor in Provision [D.3.d.\(1\)](#). Source identification special studies should be developed to fill identified data gaps.
  - (3) A monitoring plan that will collect and provide data the Copermittees can utilize to do the following:
    - (a) Quantify the relative loading or impact of a pollutant and/or stressor from a particular source or pollutant generating activity;
    - (b) Improve understanding of the fate of a pollutant and/or stressor in the environment;
    - (c) Develop an inventory of known and suspected sources of a pollutant and/or stressor in the Watershed Management Area; and/or
    - (d) Prioritize known and suspected sources of a pollutant and/or stressor based on relative magnitude in discharges, geographical distribution (i.e., regional or localized), frequency of occurrence in discharges, human health risk, and controllability.
- d. Special studies initiated prior to the ~~acceptance of the Water Quality Improvement Plan~~[term of this Order](#) that meet the requirements of Provision [D.3.b](#) and are ~~completed~~[implemented](#) during the term of this Order may be utilized to fulfill the special study requirements of Provision [D.3.a](#).

- e. The Copermittees must submit the monitoring plans for the special studies in the Water Quality Improvement Plans required pursuant to Provision [F.1](#).
- f. The Copermittees are encouraged to share the results of the special studies regionally among the Copermittees to provide information useful in improving and adapting the management of non-storm water and storm water runoff through the implementation of the Water Quality Improvement Plans.

#### 4. Assessment Requirements

Each Copermittee must evaluate the data collected pursuant to Provisions [D.1](#), [D.2](#) and [D.3](#), and information collected during the implementation of the jurisdictional runoff management programs required pursuant to Provision [E](#), to assess the progress of the water quality improvement strategies in the Water Quality Improvement Plan toward achieving compliance with Provisions [A.1.a](#), [A.1.c](#) and [A.2.a](#). Assessments must be performed as described in the following provisions:

##### a. RECEIVING WATERS ASSESSMENTS

- (1) The Copermittees must assess and report the conditions of the receiving waters in the Watershed Management Area as follows:
  - (a) Based on data collected pursuant to Provision [D.1.a](#), the assessments under Provision [D.4.a.\(2\)](#) must be included in the first Annual Report required pursuant to Provision [F.3.b.\(1\)](#).
  - (b) Based on the data collected pursuant to Provisions [D.1.a-e](#), the assessments required under Provision [D.4.a.\(2\)](#) must be included in the Report of Waste Discharge required pursuant to Provision [F.5.b](#).
- (2) The Copermittees must assess the status and trends of receiving water quality conditions in 1) coastal waters, 2) enclosed bays, harbors, estuaries, and lagoons, and 3) streams under dry weather and wet weather conditions. For each of the three types of receiving waters in each Watershed Management Area the Copermittees must:
  - (a) Determine whether or not the conditions of the receiving waters are protective of the designated beneficial uses;
  - (b) Identify the most critical beneficial uses that must be protected or restored to ensure overall health of the receiving water;
  - (c) Determine whether or not those critical beneficial uses are being protected and where those beneficial used must be restored;
  - (d) Identify short-term and/or long-term improvements or degradation of those

critical beneficial uses;

- (e) Identify data gaps in the monitoring data necessary to assess Provisions [D.4.a.\(2\)\(a\)-\(d\)](#).

## **b. MS4 OUTFALL DISCHARGES ASSESSMENTS**

### (1) Non-Storm Water Discharges Reduction Assessments

- (a) Each Copermittee must assess and report the progress of its illicit discharge detection and elimination program, required to be implemented pursuant to Provision [E.2](#), toward reducing and effectively prohibiting non-storm water and illicit discharges into the MS4 within its jurisdiction as follows:
- (i) Based on data collected pursuant to Provisions [D.2.a.\(2\)](#), the assessments under Provision [D.4.b.\(1\)\(b\)](#) must be included in the first Annual Report required pursuant to Provision [F.3.b.\(1\)](#).
  - (ii) Based on the data collected pursuant to Provisions [D.2.b](#), the assessments required under Provision [D.4.b.\(1\)\(c\)](#) must be included when complete in the first Annual Report required pursuant to Provision [F.3.b.\(1\)](#), and annually thereafter.
  - (iii) Based on the data collected pursuant to Provisions [D.2.b](#), the assessment required under Provision [D.4.b.\(1\)\(c\)](#) must be included in the Report of Waste Discharge required pursuant to [F.5.b](#).
- (b) Based on the transitional dry weather MS4 outfall discharge field screening monitoring required pursuant to Provision [D.2.a.\(2\)](#), each Copermittee must assess and report the following:
- (i) Identify the known and suspected controllable sources (e.g. facilities, areas, land uses, pollutant generating activities) of transient and persistent flows within the Copermittee's jurisdiction in the Watershed Management Area;
  - (ii) Identify sources of transient and persistent flows within the Copermittee's jurisdiction in the Watershed Management Area that have been reduced or eliminated; and
  - (iii) Identify modifications to the field screening monitoring locations and frequencies for the MS4 outfalls in its inventory necessary to identify and eliminate sources of persistent flow non-storm water discharges pursuant to Provision [D.2.b.\(1\)](#).

- (c) Based on the dry weather MS4 outfall discharge field screening monitoring required pursuant to Provision [D.2.b](#), each Copermittee must assess and report the following:
- (i) The assessments required pursuant to Provision [D.4.b.\(1\)\(b\)](#);
  - (ii) Based on the data collected and applicable NALs in the Water Quality Improvement Plan, rank the MS4 outfalls in the Copermittee's jurisdiction according to potential threat to receiving water quality, and produce a prioritized list of major MS4 outfalls for follow-up action to update the Water Quality Improvement Plan, with the goal of eliminating persistent flow non-storm water discharges and/or pollutant loads in order of the ranked priority list through targeted programmatic actions and source investigations;
  - (iii) For the highest priority major MS4 outfalls with persistent flows that are in exceedance of NALs, identify the known and suspected sources within the Copermittee's jurisdiction in the Watershed Management Area that may cause or contribute to the NAL exceedances;
  - (iv) Each Copermittee must analyze the data collected pursuant to Provision [D.2.b](#), and utilize a model or other method, to calculate or estimate the non-storm water volumes and pollutant loads [collectively](#) discharged from all the major MS4s outfalls in its jurisdiction identified as having persistent dry weather flows during the monitoring year. These calculations or estimates must be updated annually. [Each Copermittee must calculate or estimate:](#)
    - [a] [Each Copermittee must calculate or estimate:](#)  
Annual non-storm water volumes and pollutant loads [collectively](#) discharged from the Copermittee's major MS4 outfalls to receiving waters within the Copermittee's jurisdiction, ~~with an estimate of the percent contribution from each known and suspected source for each MS4 outfall;~~
    - [b] ~~Each Copermittee must Annual non-storm water volumes and pollutant loads identify and quantify, where feasible, sources of non-stormwater flows from areas or facilities subject to not subject to~~ the Copermittee's legal authority that are discharged from the Copermittee's major MS4 outfalls to downstream receiving waters.
  - (v) Each Copermittee must review the data collected pursuant to Provision [D.2.b](#) and findings from the assessments required pursuant to Provision [D.4.b.\(1\)\(c\)\(i\)-\(iv\)](#) ~~on an annual basis to~~ [once per Permit term to](#):

- [a] Identify reductions and progress in achieving reductions in non-storm water and illicit discharges to the Copermittee's MS4 in the Watershed Management Area;
- [b] Assess the effectiveness of water quality improvement strategies being implemented by the Copermittees within the Watershed Management Area toward reducing or eliminating non-storm water and pollutant loads discharging from the MS4 to receiving waters within its jurisdiction, with an estimate, if possible, of the non-storm water volume and/or pollutant load reductions attributable to specific water quality strategies implemented by the Copermittee; and
- [c] Identify modifications necessary to increase the effectiveness of the water quality improvement strategies implemented by the Copermittee in the Watershed Management Area toward reducing or eliminating non-storm water and pollutant loads discharging from the MS4 to receiving waters within its jurisdiction.

- (vi) Identify data gaps in the monitoring data necessary to assess Provisions [D.4.b.\(2\)\(c\)\(i\)-\(v\)](#).

## (2) Storm Water Pollutant Discharges Reduction Assessments

- (a) The Copermittees must assess and report the progress of the water quality improvement strategies, required to be implemented pursuant to Provisions [B](#) and [E](#), toward reducing pollutants in storm water discharges from the MS4s within the Watershed Management Area as follows:
  - (i) Based on data collected pursuant to Provisions [D.2.a.\(3\)](#), the assessments under Provision [D.4.b.\(2\)\(b\)](#) must be included in the first Annual Report required pursuant to Provision [F.3.b.\(1\)](#).
  - (ii) Based on the data collected pursuant to Provisions [D.2.c](#), the assessments required under Provisions [D.4.b.\(2\)\(c\)\(i\) and \(ii\)](#) must be included when complete in the ~~first~~ Annual Report required pursuant to Provision [F.3.b.\(1\)](#), and annually thereafter.
  - (iii) Based on the data collected pursuant to Provisions [D.2.c](#), the assessment required under Provisions [D.4.b.\(2\)\(c\)-\(d\)](#) must be included in the Report of Waste Discharge required pursuant to [F.5.b](#).
- (b) Based on the transitional wet weather MS4 outfall discharge monitoring required pursuant to Provision [D.2.a.\(3\)](#) the Copermittees must assess and report the following:
  - (i) ~~The Copermittees must a~~Analyze the monitoring data collected pursuant to Provision [D.2.a.\(3\)](#), and utilize a watershed model or other method, to calculate or estimate storm water volumes and pollutant loads discharged from the MS4s in each Copermittee's

jurisdiction within the Watershed Management Area. The Copermittees must calculate or estimate the following for each monitoring year:

- [a] The average storm water runoff coefficient for each land use type within the Watershed Management Area;
- [b] The volume of storm water and pollutant loads discharged from each of the Copermittee's major-monitored MS4 outfalls in its jurisdiction to receiving waters within the Watershed Management Area for each storm event with measurable rainfall greater than 0.1 inch;

~~[c]—The pollutant loads discharged from each of the Copermittee's major MS4 outfalls in its jurisdiction to receiving waters within the Watershed Management Area for each storm event with measurable rainfall greater than 0.1 inch; and~~

~~[d]—The percent contribution of storm water volumes and pollutant loads discharged from each land use type within the drainage basin to each of the Copermittee's major MS4 outfalls in its jurisdiction to receiving waters within the Watershed Management Area for each storm event with measurable rainfall greater than 0.1 inch.~~

[c] The total flow volume and pollutant loadings discharged from the Copermittee's jurisdiction within the Watershed Management Area over the course of the wet season, extrapolated from the data produced from the monitored outfalls.

- (ii) Identify modifications to the wet weather MS4 outfall discharge monitoring locations and frequencies necessary to identify sources pollutants in storm water discharges from the MS4s in the Watershed Management Area pursuant to Provision D.2.c.(1).
- (c) Based on the wet weather MS4 outfall discharge monitoring required pursuant to Provision D.2.c the Copermittees must assess and report the following:
- (i) The assessments required pursuant to Provision D.4.b.(2)(b);
  - (ii) Based on the data collected and applicable SALs in the Water Quality Improvement Plan, analyze and compare the monitoring data to the analyses and assumptions used to develop the Water Quality Improvement Plans, including strategies developed per Provision B.3, and evaluate whether those analyses and assumptions should be updated as a component of the adaptive management efforts under Provision B.5, rank the MS4 outfalls in the Watershed Management Area according to potential threat to receiving water quality, and produce a prioritized list of major MS4 outfalls for follow-up action to update the Water Quality Improvement Plan;
  - (iii) The Copermittees must review the data collected pursuant to Provision D.2.c and findings from the assessments required pursuant to Provisions D.4.b.(2)(c)(i)-(ii) ~~on an annual basis once per Permit term~~ to:

- [a] Identify reductions and progress in achieving reductions in pollutant concentrations and/or pollutant loads from different land uses and/or drainage areas discharging from the Copermittees' MS4s in the Watershed Management Area;
  - [b] Assess the effectiveness of water quality improvement strategies being implemented by the Copermittees within the Watershed Management Area toward reducing pollutants in storm water discharges from the MS4s to receiving waters within the Watershed Management Area to the MEP, with an estimate, if possible, of the pollutant load reductions attributable to specific water quality strategies implemented by the Copermittees; and
  - [c] Identify modifications necessary to increase the effectiveness of the water quality improvement strategies implemented by the Copermittees in the Watershed Management Area toward reducing pollutants in storm water discharges from the MS4s to receiving waters in the Watershed Management Area to the MEP.
- (iv) Identify data gaps in the monitoring data necessary to assess Provisions [D.4.b.\(2\)\(c\)\(i\)-\(iii\)](#).
- (d) The Copermittees must evaluate all the data collected pursuant to Provision [D.2.c](#), and incorporate new outfall monitoring data into time series plots for each long-term monitoring constituent for the Watershed Management Area, and perform statistical trends analysis on the cumulative long-term wet weather MS4 outfall discharge water quality data set.

#### **c. SPECIAL STUDIES ASSESSMENTS**

The Copermittees must annually evaluate the results and findings from the special studies developed and implemented pursuant to Provision [D.3](#), and assess their relevance to the Copermittees' efforts to characterize receiving water conditions, understand sources of pollutants and/or stressors, and control and reduce the discharges of pollutants from the MS4 outfalls to receiving waters in the Watershed Management Area. The Copermittees must report the results of the special studies assessments applicable to the Watershed Management Area, and identify any necessary modifications or updates to the Water Quality Improvement Plan based on the results in the Annual Reports required pursuant to Provision [F.3.b](#).

#### **d. INTEGRATED ASSESSMENT OF WATER QUALITY IMPROVEMENT PLAN**

As part of the iterative approach and adaptive management process required for the Water Quality Improvement Plan pursuant to Provision [B.5](#), the Copermittees in each Watershed Management Area must integrate the data collected pursuant to Provisions [D.1-D.3](#), the findings from the assessments required pursuant to Provisions [D.4.a-c](#), and information collected during the implementation of the

jurisdictional runoff management programs required pursuant to Provision E to assess the effectiveness of, and identify necessary modifications to, the Water Quality Improvement Plan as follows:

- (1) The Copermittees must re-evaluate the priority water quality conditions and numeric goals for the Watershed Management Area, as needed, during the term of this Order pursuant to Provision B.5.a. The re-evaluation and recommendations for modifications to the priority water quality conditions, and/or numeric goals and corresponding schedules may be provided in the Annual Reports required pursuant to Provision F.3.b, but must at least be provided in the Report of Waste Discharge pursuant to Provision F.5.b. The priority water quality conditions and numeric goals for the Watershed Management Area must be re-evaluated as follows:
  - (a) Re-evaluate the receiving water conditions in the Watershed Management Area in accordance with Provision B.2.a;
  - (b) Re-evaluate the impacts on receiving waters in the Watershed Management Area from MS4 discharges in accordance with Provision B.2.b;
  - (c) Re-evaluate the identification of MS4 sources of pollutants and/or stressors in accordance with Provision B.2.d;
  - (d) Identify beneficial uses of the receiving waters that are protected or must be restored in accordance with Provision D.4.a;
  - (e) Evaluate the progress toward achieving the interim and final numeric goals for restoring impacted beneficial uses in the receiving waters.
- (2) The Copermittees must re-evaluate the water quality improvement strategies for the Watershed Management Area during the term of this Order pursuant to Provision B.5.b. The re-evaluation and recommendations for modifications to the water quality improvement strategies and schedules must be provided in the ~~Annual Reports required pursuant to Provision F.3.b, and provided in the~~ Report of Waste Discharge pursuant to Provision F.5.b. The water quality improvement strategies for the Watershed Management Area must be re-evaluated as follows:
  - (a) Identify the non-storm water and storm water pollutant loads from the Copermittees' MS4 outfalls in the Watershed Management Area, calculated or estimated pursuant to Provisions D.4.b;
  - (b) Identify the non-storm water and storm water pollutant load reductions, or other improvements to receiving water or water quality conditions, that are necessary to attain the interim and final numeric goals for restoring impacted beneficial uses in the receiving waters;

- (c) Identify the non-storm water and storm water pollutant load reductions, or other improvements to the quality of MS4 discharges, that are necessary for the Copermittees to demonstrate that non-storm water and storm water discharges from their MS4s are not causing or contributing to exceedances of receiving water limitations;
  - (d) Evaluate the progress of the water quality improvement strategies toward achieving the interim and final numeric goals for restoring impacted beneficial uses in the receiving waters.
- (3) The Copermittees must re-evaluate and adapt the water quality monitoring and assessment program for the Watershed Management Area when new information becomes available to improve the monitoring and assessment program pursuant to Provision [B.5.c](#). The re-evaluation and recommendations for modifications to the monitoring and assessment program may be provided in the Annual Reports required pursuant to Provision [F.3.b](#), but must at least be provided in the Report of Waste Discharge pursuant to Provision [F.5.b](#). Modifications to the water quality monitoring and assessment program must be consistent with the requirements of Provision [D.1-D.3](#). The re-evaluation of the water quality monitoring and assessment program for the Watershed Management Area must consider the data gaps identified by the assessments required pursuant to Provisions [D.4.a-b](#), and results of the special studies implemented pursuant to Provision [D.4.c](#).

## 5. Monitoring Provisions

Each Copermittee must comply with all the monitoring, reporting, and recordkeeping provisions of the Standard Permit Provisions and General Provisions contained in [Attachment B](#) to this Order.

## E. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS

The purpose of this provision is for each Copermittee to implement a program to control the contribution of pollutants to and the discharges from the MS4 with in its jurisdiction. The goal of the jurisdictional runoff management programs is to implement strategies that effectively prohibit non-storm water discharges to the MS4 and reduce the discharge of pollutants from the MS4 in storm water to the MEP. This goal will be accomplished through implementing the jurisdictional runoff management programs in accordance with the strategies identified in the Water Quality Improvement Plans. For the Santa Margarita River Watershed Management Area, the County of San Diego shall use the water quality priorities in the Santa Margarita River Watershed Urban Runoff Management Plan (developed pursuant to Order No. R9-2007-0001) to guide jurisdictional runoff management program implementation until notified by the San Diego Water Board that the Water Quality Improvement Plan developed in conjunction with the Riverside Copermittees has been approved.

Each Copermittee must update its jurisdictional runoff management program document, in accordance with Provision F.2.a, to incorporate all the requirements of Provision E. Until the Copermittee has updated its jurisdictional runoff management program document with the requirements of Provision E, the Copermittee must continue implementing its current jurisdictional runoff management program.

### Modification of Jurisdictional Runoff Management Program Requirements

Modifications shall be considered and where selected, proposed according to the process in Provision B.5. Proposed modifications may increase, decrease, and/or replace minimum requirements identified in Provision E.

#### 1. Legal Authority Establishment and Enforcement

- a. Each Copermittee must establish, maintain, and enforce adequate legal authority within its jurisdiction to control pollutant discharges into and from its MS4 through statute, ordinance, permit, contract, order, or similar means. This legal authority must, at a minimum, authorize the Copermittee to:

- (1) Effectively Prohibit and eliminate all illicit discharges and illicit connections to its MS4;
- (2) Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to its MS4 and control the quality of runoff from industrial and construction sites that do not, including industrial and construction sites which have coverage under the statewide General Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit) or General Permit for Discharges of Storm Water Associated with Construction Activities (Construction General Permit), as well as to those sites which do not;

(3) Control the discharge of spills, dumping, or disposal of materials other than storm water into its MS4;

~~(4) Coordinate, as possible, with other agencies to minimize the contribution of pollutant discharges from the Copermittee's portion of the MS4 to portions of the MS4 under another agency's jurisdiction and from other agency's portions of the MS4 to the portion of the MS4 under the Copermittee's jurisdictionControl through interagency agreements among Copermittees the contribution of pollutants from one portion of the MS4 to another portion of the MS4;~~

~~Control, by coordinating and cooperating with other owners of the MS4 such as Caltrans, the U.S. federal government, or sovereign Native American Tribes through interagency agreements, where possible, the contribution of pollutants from their portion of the MS4 to the portion of the MS4 within the Copermittee's jurisdiction;~~

~~(5)~~(4) Require compliance with conditions in its statutes, ordinances, permits, contracts, orders, or similar means to hold dischargers to its MS4 accountable for their contributions of pollutants and flows;

~~(6)~~(5) Require the use of BMPs to prevent or reduce the discharge of pollutants in ~~storm water~~ from its MS4 to the MEP;

~~(7)~~(6) Require documentation on the effectiveness of BMPs implemented to prevent or reduce the discharge of pollutants ~~in storm water~~ from its MS4 to the MEP;

~~(8)~~(7) Utilize enforcement mechanisms to require compliance with its statutes, ordinances, permits, contracts, orders, or similar means; and

~~(9)~~(8) Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with its statutes, ordinances, permits, contracts, orders, or similar means and with the requirements of this Order, including the effective prohibition of illicit discharges and connections to its MS4; the Copermittee must also have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from industrial facilities, including construction sites, discharging into its MS4.

- b.** With the first Annual Report required pursuant to Provision [F.3.b](#), each Copermittee must submit a statement certified by its Principal Executive Officer, Ranking Elected Official, or Duly Authorized Representative that the Copermittee has taken the necessary steps to obtain and maintain full legal authority within its jurisdiction to implement and enforce each of the requirements contained in this Order.

## 2. Illicit Discharge Detection and Elimination

Each Copermittee must implement a program to actively detect and eliminate illicit discharges and improper disposal into the MS4, or otherwise require the discharger to apply for and obtain a separate NPDES permit. The illicit discharge detection and elimination program must be implemented in accordance with the strategies identified in the Water Quality Improvement Plan and include, at a minimum, the following requirements:

### a. NON-STORM WATER DISCHARGES

To the extent allowable by law, Each Copermittee must address all non-storm water discharges as illicit discharges, where the likelihood exists that they are a source of pollutants to waters of the U.S., unless a non-storm water discharge is either identified as a discharge authorized by a separate NPDES permit, or identified as a category of non-storm water discharges or flows that must be addressed pursuant to the following requirements:

(1) Discharges of non-storm water to the MS4 from uncontaminated pumped groundwater the following categories must be addressed as illicit discharges where there is evidence that suggests that they are the source of pollutants to waters of the U.S., unless the discharge has coverage under NPDES Permit No. CAG919001 (Order No. R9-2007-0034, or subsequent order) for discharges to San Diego Bay, or NPDES Permit No. CAG919002 (Order No. R9-2008-0002, or subsequent order) for discharges to surface waters other than San Diego Bay:

~~(a) Uncontaminated pumped ground water;~~

~~(b) Discharges from foundation drains;<sup>20</sup>~~

~~(c) Water from crawl space pumps; and~~

~~(d) Water from footing drains.<sup>19</sup>~~

(2) Discharges of non-storm water from water line flushing and water main breaks to the MS4 must be addressed as illicit discharges unless the discharge has coverage under a valid NPDES Permit No. CAG 679001 (Order No. R9-2010-0003, (Order No. R9-2010-0003, or a subsequent order). This category includes water line flushing and water main break discharges from water purveyors under the Copermittee's jurisdiction that have been issued a water supply permit by the California Department of Public Health or

<sup>20</sup> ~~Provision E.2.a.(1) only applies to this category on non-storm water if the system is designed to be located at or below the highest historical groundwater table to actively or passively extract groundwater during any part of the year.~~

federal military installations. Discharges from recycled or reclaimed water lines to the MS4 must be addressed as illicit discharges, unless the discharges have coverage under a separate NPDES permit.

(3) Discharges of non-storm water to the MS4 from the following categories must be addressed by the Copermittee as illicit discharges only if the Copermittee or the San Diego Water Board identifies the discharge as a source of pollutants to receiving waters:

- (a) Diverted stream flows;
- (b) Rising ground waters;
- (c) Uncontaminated ground water infiltration to MS4s;
- (d) Springs;
- (e) Flows from riparian habitats and wetlands;
- (f) Discharges from potable water sources;
- (g) Discharges from foundation drains;<sup>24</sup> ~~and~~
- (h) Discharges from footing drains:-<sup>20</sup> and
- (h)(i) ~~\_\_\_\_\_~~ Water from crawl space pumps.

(4) Discharges of non-storm water to the MS4 from the following categories must be controlled by the requirements given below through statute, ordinance, permit, contract, order, or similar means where the Copermittees or the San Diego Water Board identifies those discharges are a source of pollutants to waters of the U.S.- Discharges of non-storm water to the MS4 from the following categories not controlled by the requirements given below through statute, ordinance, permit, contract, order, or similar means must be addressed by the Copermittee as illicit discharges.

(a) Air conditioning condensation

The discharge of air conditioning condensation ~~must~~ should be directed to landscaped areas, ~~or~~ other pervious surfaces where feasible, or to the sanitary sewer.

(b) Individual residential vehicle washing

<sup>24</sup> ~~Provision E.2.a.(3) only applies to this category of non-storm water discharge if the system is designed to be located above the highest historical groundwater table at all times of the year, and the system is only expected to discharge non-storm water under unusual circumstances.~~

(i) —The discharge of wash water must be encouraged through public outreach and education;

(i) to be directed to landscaped areas or other pervious surfaces where feasible; and

(ii) to mMinimize the use of water for vehicle washing, use as little washing detergent and other vehicle wash products as possible, wash vehicles at commercial wash facilities, and implement other practices or behaviors that will prevent the discharge of pollutants associated with individual residential vehicle washing from entering the MS4.

(c) Dechlorinated swimming pool discharges should be managed as to:

(i) Eliminate residual chlorine, algaecide, filter backwash, or other pollutants from swimming pools prior to discharging to the MS4; and

(ii) The discharge of saline swimming pool water must be directed to the sanitary sewer, landscaped areas, or other pervious surfaces that can accommodate the volume of water, unless the saline swimming pool water can be discharged via a pipe or concrete channel directly to a naturally saline water body (e.g. Pacific Ocean).

(5) Firefighting discharges to the MS4 must be addressed by the Copermittee as illicit discharges only if the Copermittee or the San Diego Water Board identifies the discharge as a significant source of pollutants to receiving waters. Firefighting discharges to the MS4 not identified as a significant source of pollutants to receiving waters, must be addressed, at a minimum, as follows:

(a) Non-emergency firefighting discharges

(i) Building fire suppression system maintenance discharges (e.g., sprinkler line flushing) to the MS4 must be addressed as illicit discharges unless BMPs are implemented to prevent the discharge of pollutants to the MS4.

(ii) Non-emergency firefighting discharges (i.e., discharges from controlled or practice blazes, firefighting training, and maintenance activities not associated with building fire suppression systems) must be addressed by a program, to be developed and implemented by the Copermittee, to reduce or eliminate pollutants in such discharges from entering the MS4.

(b) Emergency firefighting discharges

Each Copermittee should develop and encourage implementation of BMPs to reduce or eliminate pollutants in emergency firefighting discharges to the MS4s and receiving waters within its jurisdiction. During emergency situations, priority of efforts should be directed toward life, property, and the environment (in descending order). BMPs should not interfere with immediate emergency response operations or impact public health and safety.

- (6) If the Copermittee or San Diego Water Board identifies any category of non-storm water discharges listed under Provisions [E.2.a.\(1\)-\(4\)](#) as a source of pollutants to receiving waters, the category must be ~~prohibit~~[effectively prohibited](#) through ordinance, order, or similar means and addressed as an illicit discharge.
- (7) Each Copermittee must, where feasible, reduce or [effectively](#) eliminate non-storm water discharges listed under Provisions [E.2.a.\(1\)-\(4\)](#) into its MS4 ~~whether or not the non-storm water discharge has been identified as an illicit discharge~~, unless a non-storm water discharge is identified as a discharge authorized by a separate NPDES permit.

**b. PREVENT AND DETECT ILLICIT DISCHARGES AND CONNECTIONS**

Each Copermittee must include the following measures within its program to prevent and detect illicit discharges to the MS4:

- (1) Each Copermittee must maintain an updated map of its entire MS4 and the corresponding drainage areas. The accuracy of the MS4 map must be confirmed during the field screening required pursuant to Provision [E.2.c](#). The MS4 map must be included as part of the jurisdictional runoff management program document. Any geographic information system (GIS) layers or files used by the Copermittee to maintain the MS4 map must be made available to the San Diego Water Board upon request. The MS4 map must identify the following:
  - (a) All segments of the MS4 owned, operated, and maintained by the Copermittee;
  - (b) All known locations of inlets that discharge and/or collect runoff into the Copermittee's MS4;
  - (c) All known locations of connections with other MS4s not owned or operated by the Copermittee (e.g. Caltrans MS4s);
  - (d) All known locations of [Major](#) MS4 outfalls and private outfalls that discharge runoff collected from areas within the Copermittee's jurisdiction;
  - (e) All segments of receiving waters within the Copermittee's jurisdiction that

receive and convey runoff discharged from the Copermittee's MS4 outfalls;

- (f) Locations of the MS4 outfalls, identified pursuant to Provision [D.2.a.\(1\)](#), within its jurisdiction; and
  - (g) Locations of the non-storm water persistent flow MS4 outfall discharge monitoring stations, identified pursuant to Provision [D.2.b.\(2\)\(b\)](#), within its jurisdiction.
- (2) Each Copermittee must use Copermittee personnel and contractors to assist in identifying and reporting illicit discharges and connections during their daily employment activities.
- (3) Each Copermittee must promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges to or from the MS4, including the following methods for public reporting:
- (a) Operate a public hotline, which can be Copermittee-specific or shared by the Copermittees, and must be capable of receiving reports in both English and Spanish 24 hours per day and seven days per week; and
  - (b) Designate an e-mail address for receiving electronic reports from the public, which can be Copermittee-specific or shared by the Copermittees, and must be prominently displayed on the Copermittee's webpage and the Regional Clearinghouse required pursuant to Provision [F.4](#).
- (4) Each Copermittee must implement practices and procedures (including a notification mechanism) to prevent, respond to, contain, and clean up any spills that may discharge into the MS4 within its jurisdiction from any source. The Copermittee must coordinate, to the extent possible, with spill response teams to prevent entry of spills into the MS4, and prevent contamination of surface ~~waters of the U.S. water, ground water, and soil~~. The Copermittee must coordinate spill prevention, containment, and response activities throughout all appropriate Copermittee departments, programs, and agencies.
- (5) Each Copermittee must implement practices and procedures to prevent and limit infiltration of seepage from sanitary sewers (including private laterals and failing septic systems) to the MS4.
- (6) Each Copermittee ~~must~~ shall coordinate, when necessary, with upstream Copermittees and/or entities to prevent illicit discharges from upstream sources into the MS4 within its jurisdiction.

**c. FIELD SCREENING**

Each Copermittee must conduct field screening (i.e. visual observations, field testing, and/or analytical testing) of MS4 outfalls and other portions of its MS4 within its jurisdiction to detect non-storm water and illicit discharges and connections to the MS4 in accordance with the dry weather MS4 outfall discharge monitoring requirements in Provisions [D.2.a.\(2\)](#) and [D.2.b.\(1\)](#).

**d. INVESTIGATE AND ELIMINATE ILLICIT DISCHARGES AND CONNECTIONS**

Each Copermittee must include the following measures within its program to investigate and eliminate illicit discharges to the MS4:

(1) Each Copermittee must prioritize and determine when follow-up investigations will be performed in response to visual observations and/or water quality monitoring data collected during an investigation of a detected non-storm water or illicit discharge to or from the MS4. The criteria for prioritizing investigations must consider the following:

- (a) Pollutants identified as causing or contributing to the highest water quality priorities identified in the Water Quality Improvement Plan;
- (b) Pollutants identified as causing or contributing, or threatening to cause or contribute to impairments in water bodies on the 303(d) List and/or in environmentally sensitive areas (ESAs), located within its jurisdiction;
- (c) Pollutants identified from sources or land uses known to exist within the area, drainage basin, or watershed that discharges to the portion of the MS4 within its jurisdiction included in the investigation;
- (d) Pollutants identified as causing or contributing to an exceedance of a NAL in the Water Quality Improvement Plan [where the source has not been identified as natural](#); and
- (e) Pollutants identified as a threat to human health or the environment.

(2) Each Copermittee must implement procedures to investigate and inspect portions of its MS4 that, based on reports or notifications, field screening, or other appropriate information, indicate a reasonable potential of [receiving, containing, or](#) discharging pollutants due to illicit discharges, illicit connections, or other sources of non-storm water. The procedures must include the following:

- (a) Each Copermittee must develop criteria to:
  - (i) Assess the validity of each report or notification received; and

- (ii) Prioritize the response to each report or notification received.
- (b) Each Copermittee must prioritize and respond to each valid report or notification (e.g., public reports, staff or contractor reports and notifications, etc.) of an incident in a timely manner.
- (c) In accordance with the procedures defined in Provision E.2.d.(1), Each Copermittee must investigate and seek to identify the source(s) of discharges of non-storm water where flows are observed in and from the MS4 during the field screening required pursuant to Provision D.2.b.(1) as follows:
  - (i) Obvious illicit discharges (i.e., unusual color or odor) must be immediately investigated to identify the source(s) of non-storm water discharges;
  - (ii) The investigation must include field investigations to identify sources or potential sources for the discharge, unless the source or potential source has already been identified during previous investigations; and
  - (iii) The investigation may include follow-up field investigations and/or reviewing Copermittee inventories and other land use data to identify potential sources of the discharge.
- (d) Each Copermittee must maintain records and a database of the following information:
  - (i) Location of incident, including hydrologic subarea, portion of MS4 receiving the non-storm water or illicit discharge, and point of discharge or potential discharge from MS4 to receiving water;
  - (ii) Source of information initiating the investigation (e.g., public reports, staff or contractor reports and notifications, field screening, etc.);
  - (iii) Date the information used to initiate the investigation was received;
  - (iv) Date the investigation was initiated;
  - (v) Dates of follow-up investigations;
  - (vi) Identified or suspected source of the illicit discharge or connection, if determined;
  - (vii) Known or suspected related incidents, if any;
  - (viii) Result of the investigation; and
  - (ix) If a source cannot be identified and the investigation is not continued, document the response per the requirements of Provision E.2.d.(3)-a rationale for why a discharge does not pose a threat to water quality

~~and/or does not require additional investigation.~~

- (e) Each Copermittee must track document and, if readily identifiable in accordance with Provision E.2.d.(1) procedures, seek to identify the source(s) of non-storm water discharges from the MS4 where there is evidence of non-storm water having been discharged into or from the MS4 (e.g., peeled-flowing water), in accordance with MS4 outfall discharge monitoring requirements in Provisions D.2.a.(2) and D.2.b.
- (3) Each Copermittee must initiate the implementation of procedures, in a timely manner, to eliminate all detected and identified illicit discharges and connections within its jurisdiction. The procedures must include the following responses:
- (a) Each Copermittee must enforce its legal authority, as required under Provision E.1, to eliminate illicit discharges and connections to the MS4.
- (b) If the Copermittee identifies the source as a controllable source of non-storm water or illicit discharge or connection, the Copermittee must implement its Enforcement Response Plan pursuant to Provision E.6 and enforce its legal authority to effectively prohibit and eliminate illicit discharges and connections to its MS4.
- (c) If the Copermittee identifies the source of the discharge as a category of non-storm water discharges in Provision E.2.a, and the discharge is in exceedance of NALs in the Water Quality Improvement Plan, then the Copermittee must determine if: (1) this is an isolated incident or set of circumstances that will be addressed through its Enforcement Response Plan pursuant to Provision E.6, or (2) the category of discharge must be addressed through the effective prohibition of that category of discharge as an illicit discharge pursuant to Provision E.2.a.(6).
- (d) If the Copermittee suspects the source of the non-storm water discharge as natural in origin (i.e. non-anthropogenically influenced) and in conveyance into the MS4, then the Copermittee must document and provide the data and evidence necessary to demonstrate to the San Diego Water Board that it is natural in origin and does not require further investigation.
- (e) If the Copermittee is unable to identify and document the source of a recurring non-storm water discharge to or from the MS4, then the Copermittee must address the discharge as an illicit discharge and update its jurisdictional runoff management program to address the common and suspected sources of the non-storm water discharge within its jurisdiction in accordance with the Copermittee's priorities.
- (4) Each Copermittee must submit a summary of the non-storm water discharges

and illicit discharges and connections investigated and eliminated within its jurisdiction with each Annual Report required under Provision [F.3.b](#) of this Order.

**e. STRATEGIES TO ADDRESS THE HIGHEST PRIORITY WATER QUALITY CONDITIONS**

Each Copermittee must describe in its jurisdictional runoff management program document the strategies and/or activities that will be implemented as part of the illicit discharge detection and elimination program to address non-storm water and illicit discharges and connections that the Copermittee has identified as potential sources of pollutants and/or stressors that contribute to the highest priority water quality conditions in the Watershed Management Area as follows:

- (1) Provide specific details about how the strategies and/or activities will be implemented (e.g. designate additional BMPs, focus education, and/or increase/decrease frequency of inspections in specific areas); and
- (2) The strategies and/or activities must be consistent with the requirements of Provisions [E.2.a-d](#) and the strategies identified in the Water Quality Improvement Plan.

**3. Development Planning**

Each Copermittee- [within their respective jurisdictions and to the extent that they may lawfully impose requirements](#), must ~~use their land use and planning authorities to~~ implement a development planning program in accordance with the strategies identified in the Water Quality Improvement Plan and includes, at a minimum, the following requirements:

**a. BMP REQUIREMENTS FOR ALL DEVELOPMENT PROJECTS**

Each Copermittee, [as practical and feasible](#), must prescribe the following BMP requirements during the planning process (i.e. prior to project approval and issuance of local permits) for all development projects (regardless of project type or size), where local permits are issued, including unpaved roads and flood management projects, [except emergency projects implemented for the protection of persons and property](#):

(1) General Requirements

- (a) Onsite BMPs must be located so as to remove pollutants from runoff prior to its discharge to any receiving waters, and as close to the source as possible; and
- (b) Structural BMPs must not be constructed within a waters of the U.S. [unless authorized by the San Diego Water Board Executive Officer](#)

~~waters of the state.~~

## (2) Source Control BMP Requirements

The following source control BMPs must be implemented at all development projects where applicable and feasible:

- (a) Prevention of illicit discharges into the MS4;
- (b) Storm drain system stenciling or signage;
- (c) Properly designed outdoor material storage areas;
- (d) Properly designed outdoor work areas;
- (e) Properly designed trash storage areas; and
- (f) Any additional BMPs necessary to minimize pollutant generation at each project.

## (3) Low Impact Development (LID) BMP Requirements

The following LID BMPs must be implemented at all development projects where applicable and feasible:

- (a) Maintenance or restoration of natural storage reservoirs and drainage corridors (including topographic depressions, areas of permeable soils, natural swales, and ephemeral and intermittent streams),<sup>22</sup>
- (b) Buffer zones for natural water bodies (where buffer zones are technically infeasible, require project applicant to include other buffers such as trees, access restrictions, etc.);
- (c) Conservation of natural areas within the project footprint including existing trees, other vegetation, and soils;
- (d) Construction of streets, sidewalks, or parking lot aisles to the minimum widths necessary, provided public safety is not compromised;
- (e) Minimization of the impervious footprint of the project;
- (f) Minimization of soil compaction to landscaped areas;

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<sup>22</sup> Development projects proposing to dredge or fill materials in waters of the U.S. must obtain a CWA Section 401 Water Quality Certification. Projects proposing to dredge or fill waters of the state must obtain waste discharge requirements.

- (g) Disconnection of impervious surfaces through distributed pervious areas;
- (h) Landscaped or other pervious areas designed and constructed to effectively receive and infiltrate, retain and/or treat runoff from impervious areas, prior to discharging to the MS4;
- (i) Small collection strategies located at, or as close as possible to, the source (i.e. the point where storm water initially meets the ground) to minimize the transport of runoff and pollutants to the MS4 and receiving waters;
- (j) Use of permeable materials for projects with low traffic areas and appropriate soil conditions;
- (k) Landscaping with native or drought tolerant species; and
- (l) Harvesting and using precipitation.

#### **b. PRIORITY DEVELOPMENT PROJECTS**

##### (1) Definition of Priority Development Project

Priority Development Projects include the following:

- (a) All new development projects that fall under the Priority Development Project categories listed under Provision [E.3.b.\(2\)](#) (where a new development project feature, such as a parking lot, falls into a Priority Development Project category, the entire project footprint is subject to Priority Development Project requirements); and
- (b) Those redevelopment projects that create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site, and the redevelopment project is a Priority Development Project category listed under Provision [E.3.b.\(2\)](#) (where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing development and was not subject to previous Priority Project Development requirements, and the existing development was not subject to Priority Development Project requirements, the performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) apply only to the addition or replacement, and not to the entire development; where redevelopment results in an increase of more than fifty percent of the impervious surfaces of a previously existing development, the performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) apply to the entire development).
- ~~(b)~~(c) Projects where redevelopment results in an increase of more than fifty percent of impervious surfaces of a previously existing development.

and the existing development was subject to previous Priority Project Development Requirements, only the altered portion of development is subject to the new Priority Development Project requirements.

(2) Priority Development Project Categories

- (a) New development projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site). This category includes commercial, industrial, residential, mixed-use, and public development projects on public or private land which fall under the planning and building authority of the Copermittee.
- ~~(b) Automotive repair shops. This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.~~
- ~~(c) Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is 5,000 square feet or more.~~
- ~~(d) Hillside development projects. This category includes any development which creates 5,000 square feet or more of impervious surface which is located in an area with known erosive soil conditions, where the development will grade on any natural slope that is twenty five percent or greater.~~
- ~~(e) Environmentally sensitive areas (ESAs). This category includes any development located within, directly adjacent to, or discharging directly to an ESA, which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10 percent or more of its naturally occurring condition. "Directly adjacent to" means situated within 200 feet of the ESA. "Discharging directly to" means outflow from a drainage conveyance system that collects runoff from the subject development or redevelopment site and terminates at or in receiving waters within the ESA.~~
- ~~(f) Parking lots. This category is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce that has 5,000 square feet or more of impervious surface.~~
- ~~(g) Streets, roads, highways, freeways, and driveways. This category is defined as any paved impervious surface that is 5,000 square feet or more~~

~~used for the transportation of automobiles, trucks, motorcycles, and other vehicles.~~

~~(h) Retail gasoline outlets (RGOs). This category includes RGOs that meet the following criteria: (a) 5,000 square feet or more or (b) a projected Average Daily Traffic (ADT) of 100 or more vehicles per day.~~

(b) Development projects that create 5,000 square feet or more of impervious surfaces (collectively over the entire project site), and support one or more of the following uses (see Appendix C for definitions):

(i) Automotive repair shop

(ii) Restaurant

(iii) Parking lot

(iv) Street, road, highway, freeway and driveway

(v) Retail gasoline outlet (RGO)

~~(i)(c)~~ Development projects that create 2,500 square feet or more of impervious surfaces (collectively over the entire project site) and where the project will directly discharge to an Environmentally Sensitive Area (see Appendix C for definitions).

~~(i)(d)~~ Large development projects. This category includes any post-construction pollutant-generating new development projects that result in the disturbance of one acre or more of land.

### (3) Priority Development Project Exemptions

Each Copermittee has the discretion to exempt the following projects from being defined as Priority Development Projects:

(a) New paved sidewalks, bicycle lanes, driveways, or trails that meet the following criteria:

(i) Designed and constructed to direct storm water runoff to adjacent vegetated areas, or other non-erodible permeable areas; OR

(ii) Designed and constructed to be hydraulically disconnected from paved streets or roads; OR

(iii) Designed and constructed with permeable pavements or surfaces in accordance with USEPA Green Streets guidance.<sup>23</sup>

<sup>23</sup> See "Managing Wet Weather with Green Infrastructure – Municipal Handbook: Green Streets" (USEPA, 2008).

(b) Any paved impervious surface that is 5,000 square feet or more used for the transportation of automobiles, trucks, motorcycles, and other vehicles that follows the USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets, or equivalent standards, to the maximum extent practicable.

~~(b) Retrofitting of existing paved alleys, streets or roads that meet the following criteria:~~

~~(i) Must be two lanes or less; AND~~

~~(ii) Must be a retrofitting project implemented as part of an alternative compliance project option under Provision E.3.c.(3)(b)(v) to achieve the performance requirements of Provisions E.3.c.(1) and/or E.3.c.(2) for a Priority Development Project; AND~~

~~(iii) Designed and constructed in accordance with the USEPA Green Streets guidance.<sup>24</sup>~~

(c) New single family residences that meet the following criteria:

(i) Must not be constructed as part of a larger development or proposed subdivision; AND

(ii) Designed and constructed to meet requirements for certification to be certified under the U.S. Green Building Council (USGCB) Leadership in Energy and Environmental Design (LEED) for Homes green building certification program, receiving at least four (4) Surface Water Management credits under the Sustainable Sites category;<sup>25</sup> or other locally accepted certification of equivalent effectiveness; OR

~~(iii)~~ Designed and constructed with ~~structural~~ BMPs that will achieve ~~the equivalent~~ performance to the requirements of Provisions E.3.c.(1) and E.3.c.(2) onsite, OR

~~(iii)(iv)~~ Designed and constructed with structural BMPs that meet minimum performance standards, as outlined in the BMP Design Manual.

(d) Redevelopment of existing single family residences that meet the following criteria:

(i) Designed and constructed to meet requirements for certification to be certified under the USGCB LEED for Homes green building certification program, receiving at least four (4) Surface Water

<sup>24</sup> ~~Ibid.~~

<sup>25</sup> See LEED for Homes rating system at <http://www.usgbc.org>

Management credits under the Sustainable Sites category;<sup>26</sup> or other locally accepted certification of equivalent effectiveness. OR

(ii) Designed and constructed with structural BMPs that will achieve the equivalent performance to the requirements of Provisions E.3.c.(1) and E.3.c.(2) onsite. OR

(iii) Designed and constructed with structural BMPs that meet minimum performance standards, as outlined in the BMP Design Manual.

#### **C. PRIORITY DEVELOPMENT PROJECT STRUCTURAL BMP PERFORMANCE REQUIREMENTS**

In addition to the BMP requirements listed for all development projects under Provision E.3.a, Priority Development Projects must also implement structural BMPs that conform to performance requirements below. Alternatively, watershed-specific performance requirements may be developed as part of a Water Quality Improvement Plan; these requirements would replace the general performance requirements below. Watershed-specific requirements must provide at least equivalent protection as the general performance requirement below.

##### **(1) Storm Water Pollutant Control BMP Requirements**

Each Copermittee must require each Priority Development Project to implement onsite structural BMPs to control pollutants in storm water that may be discharged from a project as follows:

- (a) Each Priority Development Project must be required to implement LID BMPs that are designed to retain (i.e. intercept, store, infiltrate, evaporate, and evapotranspire) onsite the pollutants contained in the design capture volume. The design capture volume is equivalent to:
- (i) The volume of storm water produced from a 24-hour 85<sup>th</sup> percentile storm event;<sup>27</sup> OR
  - (ii) The volume of storm water that would be retained onsite prior to the project if the site was fully undeveloped and naturally vegetated, as determined using continuous simulation modeling or other techniques based on site-specific soil conditions and typical native vegetative cover.

<sup>26</sup> See LEED for Homes rating system at <http://www.usgbc.org>

<sup>27</sup> This volume is not a single volume to be applied to all areas covered by this Order. The size of the 85<sup>th</sup> percentile storm event is different for various parts of the San Diego Region. The Copermittees are encouraged to calculate the 85<sup>th</sup> percentile storm event for each of its jurisdictions using local rain data pertinent to its particular jurisdiction. In addition, isopluvial maps may be used to extrapolate rainfall data to areas where insufficient data exists in order to determine the volume of the local 85<sup>th</sup> percentile storm event in such areas. Where the Copermittees will use isopluvial maps to determine the 85<sup>th</sup> percentile storm event in areas lacking rain data, the Copermittees must describe their method for using isopluvial maps in its BMP Design Manuals. The volume is a single event-based volume that occurs after an extended dry period.

- (b) A Priority Development Project may be allowed to utilize alternative compliance under Provision [E.3.c.\(3\)](#) to comply with the storm water pollutant control BMP performance requirements of Provision [E.3.c.\(1\)\(a\)](#).
- (c) If a Priority Development project is allowed to utilize alternative compliance pursuant to Provisions [E.3.c.\(1\)\(b\)](#), flow-thru conventional treatment control BMPs must be implemented to treat the portion of the design capture volume that is not retained onsite. Additionally, project applicants must mitigate for the portion of the pollutant load in the design capture volume that is not retained onsite through one or more alternative compliance options under Provision [E.3.c.\(3\)](#). Conventional treatment control BMPs must be sized and designed to:
- (i) Remove pollutants from storm water to the MEP;
  - (ii) Filter or treat either: 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) the maximum flow rate of runoff produced by the 85<sup>th</sup> 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;
  - (iii) Be ranked with high or medium pollutant removal efficiency for the Priority Development Project's most significant pollutants of concern. Conventional treatment control BMPs with a low removal efficiency ranking must only be approved by a Copermittee when a feasibility analysis has been conducted which exhibits that implementation of conventional treatment control BMPs with high or medium removal efficiency rankings are infeasible for a Priority Development Project or portion of a Priority Development Project.

## (2) Hydromodification Management BMP Requirements

Each Copermittee must require each Priority Development Project to implement onsite structural BMPs to manage hydromodification that may be caused by storm water runoff discharged from a project as follows:

- (a) Post-project runoff flow rates and durations must not exceed pre-[project development \(naturally occurring\)](#) runoff flow rates and durations by more than 10 percent (for the range of flows that result in increased potential for erosion, or degraded instream habitat conditions downstream of Priority Development Projects).
- (i) In evaluating the range of flows that results in increased potential for erosion of natural (non-hardened) channels, the lower boundary must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks.

~~(ii) For artificially hardened channels, analysis to identify the lower boundary must use characteristics of a natural stream segment similar to that found in the watershed. The lower boundary must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or erodes the toe of the channel banks.~~

~~(iii)(ii)~~ The Copermittees may use monitoring results collected pursuant to Provision D.1.a.(2) to re-define the range of flows resulting in increased potential for erosion, or degraded instream habitat conditions, as warranted by the data.

~~(b) In accordance with the BMP Design Manual, projects shall preserve or provide compensation for significant losses of sediment supply anticipated as a result of development. Post-project runoff flow rates and durations must compensate for the loss of sediment supply due to the development project, should loss of sediment supply occur as a result of the development project.~~

(c) A Priority Development Project may be allowed to utilize alternative compliance under Provision E.3.c.(3) to comply with the performance requirements of Provisions E.3.c.(2)(a)-(b).

(d) Exemptions

Each Copermittee has the discretion to exempt a Priority Development Project from the hydromodification management BMP performance requirements of Provisions E.3.c.(2)(a)-(b) where the project:

(i) Discharges storm water runoff into existing underground storm drains discharging directly to water storage reservoirs, lakes, enclosed embayments, tidally influenced waters, or the Pacific Ocean;

~~(ii)~~ Discharges stormwater runoff into conveyance channels whose bed and bank are stabilized (e.g. concrete lined, an engineering interlocking paver, gabion system, etc.) all the way from the point of discharge to water storage reservoirs, lakes, enclosed embayments, tidally influenced waters, or the Pacific Ocean;

~~(ii)(iii)~~ Is a redevelopment Priority Development Project that meets the alternative compliance requirements of Provision E.3.c.(3)(b)(ii); or

~~(iii)(iv)~~ Discharges storm water runoff into other areas identified by the San Diego Water Board as exempt, including those exemptions recognized in the 2010 San Diego Hydromodification Plan, approved by the San Diego Water Board Resolution No. R9-2010-0066, from the requirements of Provisions E.3.c.(2)(a)-(b).

(3) Alternative Compliance to Onsite Structural BMP Performance Requirements

Alternative compliance is an optional program for each jurisdiction to utilize if it is determined to provide an equivalent or greater benefit to the watershed than onsite compliance. Where alternative compliance is allowed, the determination of the responsible party to execute the onsite alternative compliance is at the jurisdiction's discretion and in accordance with policies set in place in the individual jurisdiction or in coordination with other jurisdictions, agencies, or Copermittees:

(a) Applicability

At the discretion of each Copermittee, Priority Development Projects may be allowed to utilize an alternative option to comply with the onsite structural BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) under the following conditions:

- (i) The Copermittee must determine that implementation of the alternative compliance option will have an equal or greater overall water quality benefit for the Watershed Management Area than fully complying with the performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) onsite;
- (ii) The alternative compliance options must be designed by a registered professional engineer, geologist, architect, biologist, hydrologist, or landscape architect, or other appropriate certified professional;
- (iii) The alternative compliance options must be implemented within the same hydrologic unit Watershed Management Area as the Priority Development Project, and preferably within the same hydrologic subarea;
- ~~(iv) Receiving waters must not be utilized to convey storm water runoff to the alternative compliance options;~~
- ~~(v) The pollutants in storm water runoff from the Priority Development Project must be treated to the MEP by the alternative compliance options prior to being discharged to receiving waters;~~
- ~~(vi)~~(iv) Unless otherwise allowed by Provision [E.3.c.\(3\)\(b\)](#), the alternative compliance options must have a net result of at least the same level of pollutant removal as would have been achieved if the Priority Development Project had fully complied with the storm water pollutant control BMP performance requirements of Provision [E.3.c.\(1\)](#) onsite;
- ~~(vii)~~(v) Unless otherwise allowed by Provision [E.3.c.\(3\)\(b\)](#), the alternative compliance options must have a net result of at least the same level of protection from potential downstream and upstream erosion in the receiving water as would have been achieved if the Priority

Development Project had fully complied with the hydromodification management BMP performance requirements of Provision [E.3.c.\(2\)](#) onsite; and

(viii)(vi) \_\_\_\_\_ The alternative compliance options utilized by the Priority Development Project to comply with the performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) must have reliable sources of funding for operation and maintenance.

(b) Alternative Compliance Project Options

The Copermittee may allow implementation of one or more of the following project options as part of an alternative approach to complying with the onsite structural BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#):

(i) *Onsite LID Biofiltration Treatment Control BMPs*

The Copermittee may allow Priority Development Projects to utilize onsite LID biofiltration treatment control BMPs to comply with the storm water pollutant control BMP performance requirements of Provision [E.3.c.\(1\)](#). Onsite LID biofiltration treatment control BMPs must be sized and designed to:

- [a] Remove pollutants from storm water to the MEP; AND
- [b] Have an appropriate surface loading rate to prevent erosion, scour and channeling within the BMP; AND
- [c] Biofilter at least 1.5 times the design capture volume that is not reliably retained onsite; OR
- [d] Biofilter up to the design capture volume that is not reliably retained onsite, AND 1) treat the remaining portion of the design capture volume not retained onsite with conventional treatment control BMPs in accordance with Provision [E.3.c.\(1\)\(c\)](#), and 2) if necessary, mitigate for the portion of the pollutant load in the design capture volume not retained onsite through one or more alternative compliance project, in-lieu fee and/or water quality credit system options below.

(ii) *LEED Certified Redevelopment Projects*

The Copermittee may ~~allow exempt~~ redevelopment Priority Development Projects ~~to comply with from~~ the hydromodification management BMP performance requirements of Provision [E.3.c.\(2\)](#) where the project is designed and constructed to be certified under the USGCB LEED for New Construction and Major Renovations green building certification program or other locally accepted certification of equivalent effectiveness. The Priority Development Project must receive at least one (1) Site Design credit and two (2)

Stormwater Design credits under the Sustainable Sites category.<sup>28</sup> In addition, the existing and future configuration of the receiving water must not be unnaturally altered or adversely impacted by storm water flow rates and durations discharged from the site.

(iii) *Watershed-Based Planned Development Projects*

The Copermittee may allow Priority Development Projects greater than 100 acres in total project size (or smaller than 100 acres in size yet part of a larger common plan of development that is over 100 acres) to comply with the onsite structural BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) ~~under The Priority Development Project must comply with~~ the following conditions:

- [a] The Priority Development Project was planned utilizing watershed and/or subwatershed based water quality, hydrologic, and fluvial geomorphologic planning principles that implement regional LID BMPs in accordance with the performance and location criteria of this Order and acceptable to the San Diego Water Board;
- [b] Regional LID BMPs may be used provided that the BMPs capture and retain the volume of runoff produced from the design capture volume defined in Provision [E.3.c.\(1\)\(a\)\(i\)](#) and that such controls are located upstream of receiving waters;
- [c] Regional LID BMPs must clearly exhibit that they will not result in a net impact from pollutant loadings over and above the impact caused by capture and retention of the design capture volume;
- [d] Any portion of the design capture volume that is not retained by the regional LID BMPs must be treated using biofiltration BMPs; and
- [e] Where regional LID BMPs are demonstrated to the Copermittee as technically infeasible to retain the entire design capture volume, any volume up to and including the design capture volume not retained by regional LID BMPs, nor treated by biofiltration BMPs, must be treated using conventional treatment control BMPs and the project applicant must implement additional alternative compliance project, in-lieu fee and/or water quality credit system options below.

(iv) *Offsite Regional BMPs*

- [a] The Copermittee may allow Priority Development Projects to utilize offsite regional BMPs to comply with the storm water pollutant control BMP performance requirements of Provision [E.3.c.\(1\)](#) if the offsite regional BMPs have the capacity to receive and retain at least 1.1 times the design capture volume that is not reliably retained onsite.

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<sup>28</sup> See LEED for New Construction and Major Renovations rating system at <http://www.usgbc.org>

[b] The Copermittee may allow Priority Development Projects to utilize offsite regional BMPs to comply with the hydromodification management BMP performance requirements of Provision [E.3.c.\(2\)](#) if the offsite regional BMPs ~~have the capacity to manage the storm water flows rates and durations from the site such that the receiving waters are protected from the potential for increased erosion that would be caused if the unmanaged portion of the runoff was discharged from the site~~ will have a greater overall receiving water benefit within the Watershed Management Area than implementation of the hydromodification controls onsite.

(v) *Offsite Retrofitting Projects*

The Copermittee may allow Priority Development Projects to utilize offsite retrofitting projects to comply with the storm water pollutant control and hydromodification management BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) if the retrofitting projects have been identified within the strategies included in the Water Quality Improvement Plan, or identified as potential retrofitting projects by the Copermittee pursuant to Provision [E.5](#).

(vi) *Offsite Channel, Stream, or Habitat Rehabilitation Projects*

The Copermittee may allow Priority Development Projects to utilize offsite channel, stream, or habitat rehabilitation projects to comply with the hydromodification management BMP performance requirements of Provision [E.3.c.\(2\)](#) if the rehabilitation projects have been identified within the strategies included in the Water Quality Improvement Plan, or identified as potential channel rehabilitation projects by the Copermittee pursuant to Provision [E.5](#). The channel, stream, or habitat rehabilitation project cannot be utilized for pollutant treatment ~~except unless constructed with an artificial wetland where artificial wetlands are constructed and located upstream of receiving waters~~.

(vii) *Offsite Regional Water Supply Augmentation Projects*

The Copermittee may allow Priority Development Projects to utilize offsite regional water supply augmentation projects (i.e. groundwater recharge, recycled water, storm water harvesting) to comply with the storm water pollutant control and hydromodification management BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) if the projects have been identified within the strategies included in the Water Quality Improvement Plan.

(viii) *Project Applicant Proposed Alternative Compliance Projects*

The Copermittee may allow one or more Priority Development Project applicant(s) to propose and implement alternative compliance

projects to comply with the storm water pollutant control and hydromodification management BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#) if the alternative compliance projects are consistent with, and will address the highest water quality priorities of the Water Quality Improvement Plan, and comply with the requirements of Provision [E.3.c.\(3\)\(a\)](#).

(c) Alternative Compliance In-Lieu Fee Option

The Copermittee may develop and implement an alternative compliance in-lieu fee option, individually or with other Copermittees and/or entities, as a means for designing, developing, constructing, operating and/or maintaining offsite alternative compliance projects under Provision [E.3.c.\(3\)\(b\)](#). Priority Development Projects allowed to utilize the alternative compliance in-lieu fee option must comply with the following conditions:

- (i) The in-lieu fee must be transferred to the Copermittee (for public projects) or an escrow account (for private projects) prior to the [construction initiation](#) date ~~construction~~ of the Priority Development Project ~~is initiated~~.
- (ii) If the in-lieu fee is applied to the development, design, [and](#) construction, [operation and maintenance](#) of offsite alternative compliance projects, the following conditions must be met:
  - [a] The offsite alternative compliance projects must allow the Priority Development Project to comply with the onsite BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#);
  - [b] The offsite alternative compliance projects must be constructed as soon as possible, but no later than [4-8](#) years after the certificate of occupancy is granted for the first Priority Development Project that contributed funds toward the construction of the offsite alternative compliance projects, unless a longer period of time is authorized by the San Diego Water Board Executive Officer;
  - ~~[c] The in-lieu fee for the Priority Development Project must include mitigation of the pollutant loads and increased storm water flow rates and durations that are allowed to discharge from the site before the offsite alternative compliance projects are constructed; and~~
  - [d] The in-lieu fee must ~~also~~ include the cost to operate and maintain the offsite alternative compliance projects [for the anticipated life of the constructed priority development project](#).
- (iii) If the in-lieu fee ~~is applied~~ [applies only](#) to the operation and maintenance of offsite alternative compliance projects that have

already been constructed, the offsite alternative compliance projects must allow the Priority Development Project to comply with the onsite structural BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#).

(d) Alternative Compliance Water Quality Credit System Option

The Copermittee may develop and implement an alternative compliance water quality credit system option, individually or with other Copermittees and/or entities, provided that such a credit system clearly exhibits that it will not allow discharges from Priority Development Projects to cause or contribute to a net impact over and above the impact caused by projects meeting the onsite structural BMP performance requirements of Provisions [E.3.c.\(1\)](#) and [E.3.c.\(2\)](#). Any credit system that a Copermittee chooses to implement must be submitted to the San Diego Water Board Executive Officer for review and acceptance as part of the Water Quality Improvement Plan.

| ~~(3)~~(4) Long-Term Structural BMP Maintenance

Each Copermittee must require the project applicant to submit proof of the mechanism under which ongoing long-term maintenance of all structural BMPs will be conducted.

| ~~(4)~~(5) Infiltration and Groundwater Protection

(a) Structural BMPs designed to primarily function as large, centralized infiltration devices (such as large infiltration trenches and infiltration basins) must not cause or contribute to an exceedance of an applicable groundwater quality objective. At a minimum, such infiltration BMPs must be in conformance with the design criteria listed below, unless the development project applicant demonstrates to the Copermittee that one or more of the specific design criteria listed below are not necessary to protect groundwater quality. The design criteria listed below do not apply to small infiltration systems dispersed throughout a development project.

- (i) Runoff must undergo pretreatment such as sedimentation or filtration prior to infiltration;
- (ii) Pollution prevention and source control BMPs must be implemented at a level appropriate to protect groundwater quality at sites where infiltration BMPs are to be used;
- (iii) Infiltration BMPs must be adequately maintained to remove pollutants in storm water to the MEP;
- (iv) The vertical distance from the base of any infiltration BMP to the seasonal high groundwater mark must be at least 10 feet. Where

groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained;

- (v) The soil through which infiltration is to occur must have physical and chemical characteristics (e.g., appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of runoff for the protection of groundwater beneficial uses;
  - (vi) Infiltration BMPs must not be used for areas of industrial or light industrial activity, and other high threat to water quality land uses and activities as designated by each Copermittee, unless runoff does not exceed Basin Plan water quality standards or runoff is first treated or filtered to remove pollutants prior to infiltration; and
  - (vii) Infiltration BMPs must be located a minimum of 100 feet horizontally from any water supply wells.
- (b) The Copermittee may develop, individually or with other Copermittees, alternative mandatory design criteria to that listed above for infiltration BMPs which are designed to primarily function as centralized infiltration devices. Before implementing the alternative design criteria in the development planning process the Copermittee(s) must:
- (i) Notify the San Diego Water Board of the intent to implement the alternative design criteria submitted; and
  - (ii) Comply with any conditions set by the San Diego Water Board.

#### **d. BMP DESIGN MANUAL UPDATE**

Each Copermittee must update its BMP Design Manual<sup>29</sup> pursuant to Provision [F.2.b](#). Until the Copermittee has updated its BMP Design Manual with the requirements of Provisions [E.3.a-c](#), the Copermittee must continue implementing its current BMP Design Manual. Unless directed otherwise by the San Diego Water Board, the Copermittee must implement the BMP Design Manual within 180 days of completing the update. The update of the BMP Design Manual must include the following:

- (1) Updated procedures to determine the nature and extent of storm water requirements applicable to a potential development or redevelopment projects. These procedures must inform project applicants of the storm water management requirements applicable to their project including, but not limited to, general requirements for all development projects, structural BMP design procedures and requirements, hydromodification management requirements, requirements specific to phased projects, and procedures specific to private

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<sup>29</sup> The BMP Design Manual was formerly known as the Standard Storm Water Mitigation Plan under Order Nos. R9-2007-0001, R9-2009-0002, and R9-2010-0016.

- developments and public improvement projects;
- (2) Updated procedures to identify pollutants and conditions of concern for selecting the most appropriate structural BMPs that consider, at a minimum, the following:
    - (a) Receiving water quality (including pollutants for which receiving waters are listed as impaired under the CWA section 303(d) List);
    - (b) Pollutants, stressors, and/or receiving water conditions that cause or contribute to the highest priority water quality conditions identified in the Water Quality Improvement Plan;
    - (c) Land use type of the project and pollutants associated with that land use type; and
    - (d) Pollutants expected to be present onsite.
  - (3) Updated procedures for designing structural BMPs, including any updated performance requirements to be consistent with the requirements of Provision [E.3.c](#) for all structural BMPs listed in the BMP Design Manual;
  - (4) Long-term maintenance criteria for each structural BMP listed in the BMP Design Manual; and
  - (5) Alternative compliance criteria, in accordance with the requirements under Provision [E.3.c.\(3\)](#), if the Copermittee elects to allow Priority Development Projects within its jurisdiction to utilize alternative compliance.

**e. PRIORITY DEVELOPMENT PROJECT BMP IMPLEMENTATION AND OVERSIGHT**

Each Copermittee must implement a program that requires and confirms structural BMPs on all Priority Development Projects are designed, constructed, and maintained to remove pollutants in storm water to the MEP.

- (1) Structural BMP Approval and Verification Process
  - (a) Each Copermittee must require and confirm that for all Priority Development Project applications that have not received prior lawful approval by the Copermittee by 18 months after the commencement of coverage under this Order, the requirements of Provision [E.3](#) are implemented. For project applications that have received prior lawful approval by 18 months after the commencement of coverage under this Order, the Copermittee may allow previous land development requirements to apply.
  - (b) Each Copermittee must identify the roles and responsibilities of various municipal departments in implementing the structural BMP requirements,

including each stage of a project from application review and approval through BMP maintenance and inspections.

- (c) Each Copermittee must require and confirm that appropriate easements and ownerships are properly recorded in public records ~~and the information is conveyed to all appropriate parties when there is a change in project or site ownership.~~
- (d) Each Copermittee must require and confirm that prior to occupancy and/or intended use of any portion of the Priority Development Project, each structural BMP is inspected to verify that it has been constructed and is operating in compliance with all of its specifications, plans, permits, ordinances, and the requirements of this Order.

## (2) Priority Development Project Inventory and Prioritization

- (a) Each Copermittee must develop, maintain, and update at least annually/regularly, a watershed-based database to track and inventory all Priority Development Projects and associated structural BMPs within its jurisdiction. Inventories must be accurate and complete beginning from January 2002 for the San Diego County Copermittees, February 2003 for the Orange County Copermittees, and July 2005 for the Riverside County Copermittees, where data is available. The use of an automated database system, such as GIS, is highly recommended. The database must include, at a minimum, the following information:
  - (i) Priority Development Project location (address and hydrologic subarea);
  - (ii) Descriptions of structural BMP type(s);
  - (iii) Date(s) of construction;
  - (iv) Party responsible for structural BMP maintenance;
  - (v) Dates and findings of structural BMP maintenance verifications; and
  - (vi) Corrective actions and/or resolutions when applicable.
- (b) Each Copermittee must prioritize the Priority Development Projects with structural BMPs within its jurisdiction. The designation of Priority Development Projects as high priority must consider the following:
  - (i) The highest water quality priorities identified in the Water Quality Improvement Plan;
  - (ii) Receiving water quality;
  - (iii) Number and sizes of structural BMPs;
  - (iv) Recommended maintenance frequency of structural BMPs;

- (v) Likelihood of operation and maintenance issues of structural BMPs;
- (vi) Land use and expected pollutants generated; and
- (vii) Compliance record.

### (3) Structural BMP Maintenance Verifications and Inspections

Each Copermittee is required to verify that structural BMPs on each Priority Development Project are adequately maintained, and continue to operate effectively to remove pollutants in storm water to the MEP through inspections, self-certifications, surveys, or other equally effective approaches.

- (a) All (100 percent) of the structural BMPs at Priority Development Projects that are designated as high priority must be inspected directly by the Copermittee annually prior to each rainy season;
- (b) For verifications performed through a means other than direct Copermittee inspection, adequate documentation must be required by the Copermittee to provide assurance that the required maintenance of structural BMPs at each Priority Development Project has been completed; and
- (c) Appropriate follow-up measures (including re-inspections, enforcement, etc.) must be conducted to ensure that structural BMPs at each Priority Development Project continue to reduce pollutants in storm water to the MEP as originally designed.

#### **f. DEVELOPMENT PROJECT ENFORCEMENT**

Each Copermittee must enforce its legal authority established pursuant to Provision [E.1](#) for all development projects, as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision [E.6](#).

#### **g. STRATEGIES TO ADDRESS THE HIGHEST PRIORITY WATER QUALITY CONDITIONS**

Each Copermittee must describe in its jurisdictional runoff management program document the strategies and/or activities that will be implemented as part of the development planning program to address development and redevelopment projects that may become sources of pollutants and/or stressors that contribute to the highest priority water quality conditions in the Watershed Management Area as follows:

- (1) Provide specific details about how the strategies and/or activities will be implemented (e.g. designate additional BMPs, focus education, increase frequency of verifications and/or inspections, alternative compliance options);
- (2) Each Copermittee must identify areas within its jurisdiction where Priority

Development Projects may be allowed or should be encouraged to implement or contribute toward the implementation of alternative compliance retrofitting and/or stream, channel, or habitat rehabilitation projects;

- (3) Each Copermittee should collaborate and cooperate with other Copermittees and/or entities in the Watershed Management Area to identify regional alternative compliance projects that Priority Development Projects may be allowed or should be encouraged to implement or participate in implementing; and
- (4) The strategies and/or activities must be consistent with the requirements of Provisions [E.3.a-c](#) and [E.3.e-f](#) and the strategies identified in the Water Quality Improvement Plan.

#### 4. Construction Management

Each Copermittee must implement a construction management program in accordance with the strategies identified in the Water Quality Improvement Plan and includes, at a minimum, the following requirements:

##### a. CONSTRUCTION PROGRAM MANAGEMENT

Each Copermittee must define in the Jurisdictional Runoff Management Plan the following:

- (1) Define construction sites to be inventoried, such as sites that involve any ground disturbance or soil disturbing activities.
- (2) Define a process for confirming adequate construction BMP implementation for non-inventoried sites. Non-inventoried sites involve minor construction activities that are not anticipated to create storm water pollution such as interior improvements, plumbing, electrical and mechanical work.

##### h.b. PROJECT APPROVAL PROCESS

Prior to issuance of any local permit(s) that allows the commencement of construction projects that involve ground disturbance or soil disturbing activities that can potentially generate pollutants in storm water runoff, each Copermittee must:

- (1) Require a site-specific Pollution Control, construction BMP, and/or erosion and sediment control plan, to be submitted by the project applicant to the Copermittee;
- (2) Confirm the Pollution Control, construction BMP, and/or erosion and sediment control plan, complies with the local grading ordinance, other applicable local

ordinances, and the requirements of this Order;

- (3) Confirm the Pollution Control, construction BMP, and/or erosion and sediment control plan, includes seasonally appropriate and effective BMPs and management measures described in Provision E.4.c, as applicable to the project; and
- (4) Verify that the project applicant has obtained coverage under ~~applicable permits, including, but not limited to the Construction General Permit, Clean Water Act Section 401 Water Quality Certification and Section 404 Permit, and California Department of Fish and Game Streambed Alteration Agreement.~~

#### **i.c. CONSTRUCTION SITE INVENTORY AND TRACKING**

- (1) Each Copermittee must maintain, and update at least monthly, a watershed-based inventory of all construction projects issued a local permit that allows ground disturbance or soil disturbing activities that can potentially generate pollutants in storm water runoff. The use of an automated database system, such as GIS, is highly recommended. The inventory must include:
  - (a) Relevant contact information for each site (e.g., name, address, phone, and email for the owner and contractor);
  - (b) The basic site information including location (address and hydrologic subarea), Waste Discharge Identification (WDID) number (if applicable), size of the site, and approximate area of disturbance;
  - (c) Whether or not the site is considered a high threat to water quality, as defined in Provision E.4.b.(2) below;
  - (d) The project start and ~~anticipated completion~~ completed dates;
  - (e) Current construction phase;
  - (f) The required inspection frequency, as defined in the Copermittee's jurisdictional runoff management program document;
  - (g) The date the Copermittee accepted and/or approved the site-specific pollution control, construction BMP, and/or erosion and sediment control plan; and
  - (h) Whether or not there are ongoing enforcement actions administered to the site.
- (2) Each Copermittee must identify all construction sites within its jurisdiction that represent a high threat to downstream surface water quality. The designation of construction sites as high threat to water quality must consider the

following:

- (a) Sites located within a hydrologic subarea where sediment is known or suspected to contribute to the highest priority water quality conditions identified in the Water Quality Improvement Plan;
- (b) Sites located within the same hydrologic subarea and tributary to a water body segment listed as impaired for sediment on the CWA section 303(d) List;
- (c) Sites located within, directly adjacent to, or discharging directly to a receiving water within an ESA; and
- (d) Other sites determined by the Copermittees or the San Diego Water Board as a high threat to water quality.

**j.d. CONSTRUCTION SITE BMP IMPLEMENTATION**

Each Copermittee must implement, or require the implementation of effective BMPs to reduce discharges of pollutants in storm water from construction sites to the MEP, and prevent non-storm water discharges from construction sites into the MS4. These BMPs must be site specific, seasonally appropriate, and construction phase appropriate. BMPs must be implemented at each construction site year round. Dry season BMP implementation must plan for and address unseasonal rain events that may occur during the dry season (May 1 through September 30). Copermittees must implement, or require the implementation of, BMPs in the following categories:

- (1) Project Planning;
- (2) Good Site Management "Housekeeping", including waste management;
- (3) Non-storm Water Management;
- (4) Erosion Control;
- (5) Sediment Control;
- (6) Run-on and Run-off Control; and
- (7) Active/Passive Sediment Treatment Systems, where applicable.

**k.e. CONSTRUCTION SITE INSPECTIONS**

Each Copermittee must conduct construction site inspections to require and confirm compliance with its local permits and applicable local ordinances, and the requirements of this Order. Priority for site inspections must consider threat to water quality pursuant to Provision [E.4.b](#) as well as the nature of the construction

activity, topography, and the characteristics of soils and receiving water quality.

(1) Inspection Frequency

- (a) Each Copermittee must conduct inspections at all inventoried sites, including high threat to water quality sites, at an appropriate frequency for each phase of construction to ~~ensure~~ confirm the site reduces the discharge of pollutants in storm water from construction sites to the MEP, and prevents non-storm water discharges from entering the MS4.
- (b) Each Copermittee must establish appropriate inspection frequencies for high threat to water quality sites, and all other sites, for each phase of construction. Inspection frequencies appropriate for addressing the highest water quality priorities identified in the Water Quality Improvement Plan, and for complying with the requirements of this Order must be identified in each Copermittee's jurisdictional runoff management program document.
- (c) Based upon inspection findings, each Copermittee must implement all follow-up actions (i.e., re-inspection, enforcement) necessary to require and confirm site compliance with its local permits and applicable local ordinances, and the requirements of this Order.

(2) Inspection Content

Inspections of construction sites by the Copermittee must include, at a minimum:

- (a) Verification of coverage under the Construction General Permit (Notice of Intent (NOI) and/or WDID number) during initial inspections, when applicable;
- (b) Assessment of compliance with its local permits and applicable local ordinances related to pollution prevention, including the implementation and maintenance of applicable BMPs;
- (c) Assessment of BMP adequacy and effectiveness;
- (d) Visual observations of actual non-storm water discharges;
- (e) Visual observations of actual or potential discharge of sediment and/or construction related materials from the site;
- (f) Visual observations of actual or potential illicit connections; and
- (g) If any violations are found and BMP corrections are needed, inspectors must take and document appropriate actions in accordance with the

Enforcement Response Plan pursuant to Provision [E.6](#).

(3) Inspection Tracking and Records

Each Copermittee must track all inspections and re-inspections at all inventoried construction sites. The Copermittee must retain all inspection records in an electronic database or tabular format, which must be made available to the San Diego Water Board upon request. Inspection records must include, at a minimum:

- (a) Site name, location (address and hydrologic subarea), and WDID number (if applicable);
- (b) Inspection date;
- (c) ~~Approximate amount of rainfall since last inspection~~ Weather condition during inspection;
- (d) Description of problems observed with BMPs and indication of need for BMP addition/repair/replacement and any scheduled re-inspection, and date of re-inspection;
- (e) Descriptions of any other specific inspection comments which must, at a minimum, include rationales for longer compliance time;
- (f) Description of enforcement actions issued in accordance with the Enforcement Response Plan pursuant to Provision [E.6](#); and
- (g) Resolution of problems noted and date problems fixed.

**h.f. CONSTRUCTION SITE ENFORCEMENT**

Each Copermittee must enforce its legal authority established pursuant to Provision [E.1](#) for all its inventoried construction sites, as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision [E.6](#).

**m.g. STRATEGIES TO ADDRESS THE HIGHEST PRIORITY WATER QUALITY CONDITIONS**

Each Copermittee must describe in its jurisdictional runoff management program document the strategies and/or activities that will be implemented as part of the construction management program to address construction sites that the Copermittee has identified as potential sources of pollutants and/or stressors that contribute to the highest priority water quality conditions in the Watershed Management Area as follows:

- (1) Provide specific details about how the strategies and/or activities will be

implemented (e.g. designate additional BMPs, focus education, and/or increase/decrease frequency of inspections for specific types of sites and/or activities); and

- (2) The strategies and/or activities must be consistent with the requirements of Provisions [E.4.c-e](#) and the strategies identified in the Water Quality Improvement Plan.

## 5. Existing Development Management

Each Copermittee must implement an existing development management program in accordance with the strategies identified in the Water Quality Improvement Plan and includes, at a minimum, the following requirements:

### a. EXISTING DEVELOPMENT INVENTORY AND TRACKING

Each Copermittee must maintain, and update at least annually, a watershed-based inventory of the existing development within its jurisdiction that [may has the reasonable potential to](#) discharge a pollutant load to and from the MS4. The use of an automated database system, such as GIS, is highly recommended. The inventory must, at a minimum, include:

- (1) Name, location (hydrological subarea and address, if applicable) of the following types of existing development with its jurisdiction:
  - (a) Commercial facilities or areas;
  - (b) Industrial facilities;
  - (c) Municipal facilities, including:
    - (i) MS4 and related structures,<sup>30</sup>
    - (ii) Roads, streets, and highways,
    - (iii) Parking facilities,
    - (iv) Municipal airfields,
    - (v) Parks and recreation facilities,
    - (vi) Flood management and flood control devices and structures,
    - (vii) Operating or closed municipal landfills,
    - (viii) Publicly owned treatment works (including water and wastewater treatment plants) and sanitary sewer collection systems,

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<sup>30</sup> The inventory may refer to the MS4 map required to be maintained pursuant to Provision [E.2.b.\(1\)](#).

- (ix) Corporate yards, including maintenance and storage yards for materials, waste, equipment, and vehicles,
  - (x) Hazardous waste collection facilities,
  - (xi) Other treatment, storage or disposal facilities for municipal waste, and
  - (xii) Other municipal facilities that the Copermittee determines may contribute a significant pollutant load to the MS4; and
- (d) Residential areas, which may be designated by one or more of the following:
- (i) Residential management area,
  - (ii) Drainage basin or area,
  - (iii) Land use (e.g., single family, multi-family, rural),
  - (iv) Neighborhood,
  - (v) Common Interest Area,
  - (vi) Home Owner Association, and/or
  - ~~(vii) Mobile home park, and/or~~
  - ~~(viii)~~(vii) Other designations accepted by the San Diego Water Board Executive Officer.
- (2) A description of the facility or area, including the following information:
- (a) Classification as commercial, industrial, municipal, or residential;
  - (b) Status of facility or area as active or inactive;
  - (c) Identification if a business is a mobile business;
  - (d) SIC Code or NAICS Code, if applicable;
  - (e) Industrial General Permit NOI and/or WDID number, if applicable;
  - (f) ~~Identification if a residential area is or includes a~~ Common Interest Areas (CIAs) / Home Owner Associations (HOAs), ~~or mobile home park;~~
  - (g) Identification of pollutants generated and potentially generated by the facility or area;
  - (h) Whether the facility or area is adjacent to an ESA;

- (i) Whether the facility or area is tributary to and within the same hydrologic subarea as a water body segment listed as impaired on the CWA section 303(d) List and generates pollutants for which the water body segment is impaired; and
  - (j) Whether the facility or area contributes or potentially contributes to the highest priority water quality conditions identified in the Water Quality Improvement Plan.
- (3) An annually updated map showing the location of inventoried existing development, watershed boundaries, and water bodies.

**b. EXISTING DEVELOPMENT BMP IMPLEMENTATION AND MAINTENANCE**

Each Copermittee must designate a minimum set of BMPs required for all inventoried existing development [with the reasonable potential to discharge pollutant loads to their MS4](#), including special event venues. The designated minimum BMPs must be specific to facility or area types and pollutant generating activities, as appropriate.

(1) Commercial, Industrial, and Municipal Facilities and Areas

(a) Pollution Prevention

Each Copermittee must [require promote](#) the use of pollution prevention methods by the commercial, industrial, and municipal facilities and areas in its inventoried existing development [through public outreach](#).

(b) BMP Implementation

Each Copermittee must implement, or require the implementation of, designated BMPs at commercial facilities and areas, industrial facilities, and municipal facilities in its inventoried existing development.

(c) BMP Operation and Maintenance

- (i) Each Copermittee must properly operate and maintain, or require the proper operation and maintenance of designated BMPs at commercial facilities and areas, industrial facilities, and municipal facilities in its inventoried existing development.
- (ii) Each Copermittee must implement a schedule of operation and maintenance activities for its MS4 and related structures (including but not limited to catch basins, storm drain inlets, detention basins, etc.), and verify proper operation of all its municipal structural treatment controls designed to reduce pollutants (including floatables) in storm water discharges to or from its MS4s and related drainage structures. Operation and maintenance activities may

include, but is not limited to, the following:

- [a] Inspections of the MS4 and related structures;
- [b] Cleaning of the MS4 and related structures; and
- [c] Proper disposal of materials removed from cleaning of the MS4 and related structures.

- (iii) Each Copermittee must implement a schedule of operation and maintenance for public streets, unpaved roads, paved roads, and paved highways and freeways within its jurisdiction to minimize pollutants that can be discharged in storm water.
- (iv) Each Copermittee must implement controls to prevent infiltration of sewage into the MS4 from leaking sanitary sewers. Copermittees that operate both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate seeping sewage from infiltrating the MS4. Copermittees that do not operate both a municipal sanitary sewer system and a MS4 must coordinate with sewerage agencies to keep themselves informed of relevant and appropriate maintenance activities and sanitary sewage projects in their jurisdiction that may cause or contribute to seepage of sewage into the MS4.

(d) Pesticides, Herbicides, and Fertilizers BMPs

Each Copermittee must implement BMPs, or require the implementation of BMPs, to reduce pollutants in storm water discharges to the MEP and effectively prohibit non-storm water discharges associated with the application, storage, and disposal of pesticides, herbicides and fertilizers from commercial facilities and areas, industrial facilities, and municipal facilities in its inventoried existing development. Such BMPs must include, as appropriate, educational activities, permits, certifications and other measures for applicators and distributors.

(2) Residential Areas

(a) Pollution Prevention

Each Copermittee must promote and encourage the use of pollution prevention methods, where appropriate, by the residential areas in its inventoried existing development.

(b) BMP Implementation

Each Copermittee must promote and encourage the implementation of designated BMPs at residential areas in its inventoried existing development.

(c) BMP Operation and Maintenance

Each Copermittee must properly operate and maintain, or require the proper operation and maintenance of designated BMPs at residential areas in its inventoried existing development.

(d) Pesticides, Herbicides, and Fertilizers BMPs

Each Copermittee must promote and encourage the implementation of BMPs to reduce pollutants in storm water discharges to the MEP and effectively prohibit non-storm water discharges associated with the application, storage, and disposal of pesticides, herbicides and fertilizers from residential areas in its inventoried existing development.

**c. EXISTING DEVELOPMENT INSPECTIONS**

Each Copermittee must conduct inspections of inventoried existing development [that have been identified by the Copermittee as having the reasonable potential to discharge pollutant loads from their MS4](#) to ensure compliance with applicable local ordinances and permits, and the requirements of this Order.

(1) Inspection Frequency

(a) Each Copermittee must establish appropriate inspection frequencies for inventoried existing development in accordance with the following requirements:

- (i) At a minimum, inventoried existing development [that has been identified by the Copermittee as having the reasonable potential to discharge pollutant loads to and from their MS4](#) must be inspected once ~~during the permit term every five years~~ utilizing one or more of the following methods:
  - [a] Drive-by inspections by Copermittee municipal and contract staff,
  - [b] Onsite inspections by Copermittee municipal and contract staff, and/or
  - [c] Inspections by volunteer monitoring or patrol programs trained by the Copermittee;
- (ii) The frequency of inspections must be appropriate to confirm that BMPs are being implemented to reduce the discharge of pollutants in storm water from the MS4 to the MEP and effectively prohibit non-storm water discharges to the MS4;
- (iii) The frequency of inspections must be based on the potential for a facility or area to discharge non-storm water and pollutants in storm water, and should reflect the priorities set forth in the Water Quality Improvement Plan;
- (iv) Each Copermittee must annually perform onsite inspections of an equivalent of at least 20 percent of the commercial facilities and

areas, industrial facilities, and municipal facilities in its inventoried existing development;<sup>31</sup> and

- (v) Inventoried existing development must be inspected by the Copermittee, as needed, in response to valid public complaints and findings from the Copermittee's municipal and contract staff ~~or volunteer monitoring or patrol program~~ inspections.

- (b) Based upon inspection findings, each Copermittee must implement all follow-up actions (i.e. education and outreach, re-inspection, enforcement) necessary to require and confirm compliance with its applicable local ordinances and permits and the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision E.6.

## (2) Inspection Content

- (a) Inspections of existing development by the Copermittee or volunteer monitoring or patrol programs must include, at a minimum:

- (i) Visual inspections for actual non-storm water discharges, if present;
- (ii) Visual inspections for actual or potential discharge of pollutants, if present;
- (iii) Visual inspections for actual or potential illicit connections, if present; and
- (iv) Verification that the description of the facility or area in the inventory, required pursuant to Provision E.5.a.(2), has not changed.

- (b) Onsite inspections of existing development by the Copermittee must include, at a minimum:

- (i) Assessment of compliance with its applicable local ordinances and permits related to non-storm water and storm water discharges and runoff;
- (ii) Assessment of the implementation of the designated BMPs;
- (iii) Verification of coverage under the Industrial General Permit, when applicable; and
- (iv) If any problems or violations are found, inspectors must take and document appropriate actions in accordance with the Enforcement Response Plan pursuant to Provision E.6.

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<sup>31</sup> If any commercial, industrial, or municipal facilities or areas require multiple onsite inspections during any given year, those additional inspection may count toward the total annual inspection requirement. This requirement excludes linear municipal facilities (i.e., MS4, streets, roads and highways).

### (3) Inspection Tracking and Records

Each Copermittee must track all inspections and re-inspections at all inventoried existing development. The Copermittee must retain all inspection records in an electronic database or tabular format, which must be made available to the San Diego Water Board upon request. Inspection records must include, at a minimum:

- (a) Name and location of facility or area (address and hydrologic subarea) consistent with the inventory name and location, pursuant to Provision [E.5.a.\(1\)](#);
- (b) Inspection and re-inspection date(s);
- (c) Inspection method(s) (i.e. drive-by, onsite);
- (d) Observations and findings from the inspection(s);
- (e) For onsite inspections of existing development by Copermittee municipal or contract staff, the records must also include, as applicable:
  - (i) Description of any problems or violations found during the inspection(s),
  - (ii) Description of enforcement actions issued in accordance with the Enforcement Response Plan pursuant to Provision [E.6](#), and
  - (iii) The date problems or violations were resolved.

#### **d. EXISTING DEVELOPMENT ENFORCEMENT**

Each Copermittee must enforce its legal authority established pursuant to Provision [E.1](#) for all its inventoried existing development identified by the Copermittee as having the reasonable potential to discharge pollutant loads from the MS4 within their jurisdiction, as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision [E.6](#).

#### **e. STRATEGIES TO ADDRESS THE HIGHEST PRIORITY WATER QUALITY CONDITIONS**

Each Copermittee must implement the water quality improvement strategies, where necessary, to address areas of existing development within its jurisdiction that are identified as sources of pollutants and/or stressors contributing to the highest priority water quality conditions in the Watershed Management Area. For the existing development management program, the following strategies must be implemented:

##### (1) Specific Existing Development Management Program Strategies

Each Copermittee must describe in its jurisdictional runoff management program document the strategies and/or activities that will be implemented within its jurisdiction to address areas of existing development that the Copermittee has identified as sources of pollutants and/or stressors that contribute to the highest priority water quality conditions in the Watershed Management Area as follows:

- (a) Provide specific details about how the strategies and/or activities will be implemented (e.g. designate additional BMPs, focus education, and/or increase/decrease frequency of inspections for specific types of facilities, areas and/or activities);
- (b) The facilities and/or areas within the Copermittee's jurisdiction where the strategies and/or activities will be implemented; and
- (c) The strategies and/or activities must be consistent with the requirements of Provisions [E.5.b-d](#) and the strategies identified in the Water Quality Improvement Plan.

## (2) Retrofitting Areas of Existing Development

Each Copermittee must describe in its jurisdictional runoff management program document, a program to retrofit areas of existing development within its jurisdiction to address identified sources of pollutants and/or stressors that contribute to the highest priority water quality conditions in the Watershed Management Area. The program must be implemented as follows:

- (a) Each Copermittee must identify areas of existing development as candidates for retrofitting, focusing on areas where retrofitting will address pollutants and/or stressors that contribute to the highest priority water quality conditions identified in the Water Quality Improvement Plan;
- (b) Candidates for retrofitting projects may be utilized to reduce pollutants that may be discharged in storm water from areas of existing development, and/or address storm water runoff flows and durations from areas of existing development that cause or contribute to hydromodification in receiving waters;
- (c) Each Copermittee must develop a strategy to facilitate the implementation of retrofitting projects in areas of existing development identified as candidates;
- (d) Each Copermittee should identify areas of existing development where Priority Development Projects may be allowed or should be encouraged to implement or contribute toward the implementation of alternative compliance retrofitting projects; and

- (e) Where retrofitting projects within specific areas of existing development are determined to be infeasible to address the highest priority water quality conditions in the Water Quality Improvement Plan, the Copermittee should collaborate and cooperate with other Copermittees and/or entities in the Watershed Management Area to identify, develop, and implement regional retrofitting projects (i.e. projects that can receive and/or treat storm water from one or more areas of existing development and will result in a net benefit to water quality and the environment) adjacent to and/or downstream of the areas of existing development.

(3) Stream, Channel and/or Habitat Rehabilitation in Areas of Existing Development

Each Copermittee must describe in its jurisdictional runoff management program document, a program to rehabilitate streams, channels, and/or habitats in areas of existing development within its jurisdiction to address the highest priority water quality conditions in the Watershed Management Area. The program must be implemented as follows:

- (a) Each Copermittee must identify streams, channels, and/or habitats in areas of existing development as candidates for rehabilitation, focusing on areas where stream, channel, and/or habitat rehabilitation projects will address the highest priority water quality conditions identified in the Water Quality Improvement Plan;
- (b) Candidates for stream, channel, and/or habitat rehabilitation projects may be utilized to address storm water runoff flows and durations from areas of existing development that cause or contribute to hydromodification in receiving waters, rehabilitate channelized or hydromodified streams, restore wetland and riparian habitat, restore watershed functions, and/or restore beneficial uses of receiving waters;
- (c) Each Copermittee must develop a strategy to facilitate the implementation of stream, channel, and/or habitat rehabilitation projects in areas of existing development identified as candidates;
- (d) Each Copermittee should identify areas of existing development where Priority Development Projects may be allowed or should be encouraged to implement or contribute toward the implementation of alternative compliance stream, channel, and/or habitat rehabilitation projects; and
- (e) Where stream, channel, and/or habitat rehabilitation projects within specific areas of existing development are determined to be infeasible to address the highest priority water quality conditions in the Water Quality

Improvement Plan, the Copermittee should collaborate and cooperate with other Copermittees and/or entities in the Watershed Management Area to identify, develop, and implement regional stream, channel, and/or habitat rehabilitation projects (i.e. projects that can receive storm water from one or more areas of existing development and will result in a net benefit to water quality and the environment).

(4) Upon Regional Board approval and in lieu of monitoring during any given year, the Copermittees may reallocate resources originally authorized for water quality monitoring for retrofit and/or rehabilitation project(s), if those projects occur at a location where monitoring is conducted, for a maximum of two nonconsecutive years during the permit term.

## 6. Enforcement Response Plans

Each Copermittee must develop and implement an Enforcement Response Plan as part of its jurisdictional runoff management program document. The Enforcement Response Plan must describe the applicable approaches and options to enforce its legal authority established pursuant to Provision E.1, as necessary, to achieve compliance with the requirements of this Order. The Enforcement Response Plan must include the following:

### a. ENFORCEMENT RESPONSE PLAN COMPONENTS

The Enforcement Response Plan must include the following individual components:

- (1) Illicit Discharge Detection and Elimination Enforcement Component;
- (2) Development Planning Enforcement Component;
- (3) Construction Management Enforcement Component; and
- (4) Existing Development Enforcement Component.

### b. ENFORCEMENT RESPONSE APPROACHES AND OPTIONS

Each component of the Enforcement Response Plan must describe the enforcement response approaches that the Copermittee will implement to compel compliance with its statutes, ordinances, permits, contracts, orders, or similar means, and the requirements of this Order. The description must include the protocols for implementing progressively stricter enforcement responses. The enforcement response approaches must include appropriate sanctions to compel compliance, including, at a minimum, the following tools or their equivalent:

- (1) Verbal and written notices of violation;
- (2) Cleanup requirements;
- (3) Fines;
- (4) Bonding requirements;
- (5) Administrative and criminal [\(if intentional or criminally negligent\)](#) penalties;
- (6) Liens;
- (7) Stop work orders; and
- (8) Permit and occupancy denials.

**c. CORRECTION OF VIOLATIONS**

- (1) Violations must be corrected in a timely manner with the goal of correcting the violations within 30 calendar days after the violations are discovered, or prior to the next predicted rain event, whichever is sooner.
- (2) If more than 30 calendar days are required to achieve compliance, then a rationale must be recorded in the applicable electronic database or tabular system used to track violations.

**d. ESCALATED ENFORCEMENT**

- (1) The Enforcement Response Plan must include a definition of “escalated enforcement.” Escalated enforcement must include any enforcement scenario where a violation or other non-compliance is determined to cause or contribute to the highest priority water quality conditions identified in the Water Quality Improvement Plan. Escalated enforcement may be defined differently for development planning, construction sites, commercial facilities or areas, industrial facilities, municipal facilities, and residential areas.
- (2) Where the Copermittee determines escalated enforcement is not required, a rationale must be recorded in the applicable electronic database or tabular system used to track violations.
- (3) Escalated enforcement actions must continue to increase in severity, as necessary, to compel compliance as soon as possible.

**e. REPORTING OF NON-COMPLIANT SITES**

- (1) Each Copermittee must notify the San Diego Water Board in writing within [2](#)

~~working days~~ 5 calendar days of issuing escalated enforcement (as defined in the Copermittee's Enforcement Response Plan) to a construction site that poses a significant threat to water quality as a result of violations or other non-compliance with its permits and applicable local ordinances, and the requirements of this Order. Written notification may be provided electronically by email.

- (2) Each Copermittee must notify the San Diego Water Board of non-filers under the Industrial General Permit and Construction General Permit by email to [Nonfilers\\_R9@waterboards.ca.gov](mailto:Nonfilers_R9@waterboards.ca.gov).

## 7. Public Education and Participation

Each Copermittee must implement, individually or with other Copermittees, a public education and participation program in accordance with the strategies identified in the Water Quality Improvement Plan to promote and encourage the development of programs, management practices, and behaviors that reduce the discharge of pollutants ~~from the MS4 in storm water~~ to the MEP, prevent controllable non-storm water discharges from entering the MS4, and protect water quality standards in receiving waters.

### a. PUBLIC EDUCATION

The public education program component implemented within the Copermittee's jurisdiction must include, at a minimum, the following:

- (1) Educational activities, public information activities, and other appropriate outreach activities intended to reduce pollutants ~~associated with the application of pesticides, herbicides and fertilizer and other pollutants of concern in storm water discharges of concern to and from its the~~ MS4 to the MEP. Activities shall be determined and prioritized by Copermittees by jurisdiction and/or watershed (Provision B) to address the highest threats to water quality (such as pesticides, herbicides and fertilizers, used oil, toxic waste, etc.; and to facilitate the proper management and disposal of used oil and toxic waste, etc.) as determined and prioritized by the Copermittee(s) by jurisdiction and/or watershed to address the highest priority water quality conditions identified in the Water Quality Improvement Plan;
- ~~(2) Educational activities, public information activities, and other appropriate outreach activities to facilitate the proper management and disposal of used oil and toxic materials; and~~

~~(3)~~(2) Appropriate education and training measures for specific target audiences, such as construction site operators, residents, underserved target audiences and school-aged children, as determined and prioritized by the Copermittee(s) by jurisdiction and/or watershed, based on high risk behaviors and pollutants of concern.

**b. PUBLIC PARTICIPATION**

The public participation program component implemented within the Copermittee's jurisdiction must include, at a minimum, the following:

- (1) A process for members of the public to participate in updating the highest priority water quality conditions, numeric goals, and water quality improvement strategies in the Water Quality Improvement Plan.
- (2) Opportunities for members of the public to participate in providing the Copermittee recommendations for improving the effectiveness of the water quality improvement strategies implemented within its jurisdiction.
- (3) Opportunities for members of the public to participate in programs and/or activities that can result in the prevention or elimination of non-storm water discharges to the MS4, reduction of pollutants in storm water discharges from the MS4, and/or restoration and protection of the quality of receiving waters.

**c. STRATEGIES TO ADDRESS THE HIGHEST PRIORITY WATER QUALITY CONDITIONS**

Each Copermittee must describe in its jurisdictional runoff management program document the strategies and/or activities that will be implemented within its jurisdiction, as applicable, to educate the public and encourage public participation to address potential sources of pollutants and/or stressors that contribute to the highest priority water quality conditions in the Watershed Management Area as follows:

- (1) The target audiences and/or areas within the Copermittee's jurisdiction where the strategies and/or activities will be implemented;
- (2) Provide specific details about how the strategies and/or activities will be implemented (e.g. educational topics, materials and/or activities, public outreach and participation programs and/or opportunities);
- (3) Each Copermittee should collaborate and cooperate with other Copermittees and/or entities in the Watershed Management Area to identify and implement regional public education and participation activities, programs and opportunities;
- (4) Each Copermittee must incorporate a mechanism for evaluating and

assessing educational and other public outreach activities, as needed, to identify progress and incorporate modifications necessary to increase the effectiveness of the public education and participation program.

## **8. Fiscal Analysis**

- a.** Each Copermittee must secure the resources necessary to meet all the requirements of this Order.
- b.** Each Copermittee must conduct an annual fiscal analysis of its jurisdictional runoff management program in its entirety. The fiscal analysis must include the following:
  - (1) Identification of the various categories of expenditures necessary to implement the requirements of this Order, including a description of the specific capital, operation and maintenance, and other expenditure items to be accounted for in each category of expenditures;
  - (2) The staff resources needed and allocated to meet the requirements of this Order, including any development, implementation, and enforcement activities required;
  - (3) The estimated expenditures for Provisions [E.8.b.\(1\)](#) and [E.8.b.\(2\)](#) for the current fiscal year; and
  - (4) The source(s) of funds that are proposed to meet the necessary expenditures described in Provisions [E.8.b.\(1\)](#) and [E.8.b.\(2\)](#), including legal restrictions on the use of such funds, for the current fiscal year and next fiscal year.
- c.** Each Copermittee must submit a summary of the annual fiscal analysis with each Annual Report required pursuant to Provision [F.3.b.](#)
- d.** Each Copermittee must provide the documentation used to develop the summary of the annual fiscal analysis upon request by the San Diego Water Board.

## F. REPORTING

The purpose of this provision is to determine and document compliance with the requirements set forth in this Order. The goal of reporting is to communicate to the San Diego Water Board and the people of the State of California the implementation status of each jurisdictional runoff management program and compliance with the requirements of this Order. This goal is to be accomplished through the submittal of specific deliverables to the San Diego Water Board by the Copermittees.

### 1. Water Quality Improvement Plans

The Copermittees for each Watershed Management Area must develop and submit the Water Quality Improvement Plan in accordance with the following requirements:

#### a. WATER QUALITY IMPROVEMENT PLAN DEVELOPMENT

Each Water Quality Improvement Plan must be developed in accordance with the following process:

(1) Priority Water Quality Conditions and [Potential Strategies Numeric Goals](#)

- (a) The Copermittees must implement a public participation process to solicit data and information to be utilized in the development and identification of the priority water quality conditions for the Watershed Management Area.
- (b) The Copermittees are encouraged to involve the public and key stakeholders as early and often as possible during the development of the priority water quality conditions and ~~numeric goals~~ [potential strategies](#) to be included in the Water Quality Improvement Plan.
- (c) Within 6 months after the commencement of coverage under this Order, the Copermittees must develop and submit the Water Quality Improvement Plan requirements of Provision [B.2.a-d](#) and [a list of potential strategies that will be considered for the draft Water Quality Improvement Plan](#) to the San Diego Water Board. [Each Copermittee selecting the option to develop a Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism per Provision B.3.a.\(3\) must also indicate their intent to pursue the option in the submittal.](#) The San Diego Water Board will issue a public notice and solicit public comments on the Water Quality Improvement Plan for a minimum of 60 days.
- (d) The Copermittees must [consider revise-revisions to](#) the priority water quality conditions ~~and numeric goals~~ based on comments received [and must respond to and/or](#) recommendations or direction from the San Diego Water Board Executive Officer.

(2) [Numeric Goals and](#) Water Quality Improvement Strategies and Schedules

- (a) The Copermittees are encouraged to involve the public and key stakeholders as early and often as possible during the development of the [numeric goals and](#) water quality improvement strategies and schedules to be included in the Water Quality Improvement Plan.
- (b) Within [9-16](#) months after the commencement of coverage under this Order, the Copermittees must develop and submit the Water Quality Improvement Plan requirements of Provisions [B.2.e and B.3](#) to the San Diego Water Board. [Each Copermittee selecting the option to develop a Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism per Provision B.3.a.\(3\) must also submit a draft Reasonable Assurance Analysis.](#) The San Diego Water Board will issue a public notice and solicit public comments on the Water Quality Improvement Plan for a minimum of 60 days.
- (c) The Copermittees must [consider revisions to revise](#) the [numeric goals and](#) water quality improvement strategies and schedules based on [public](#) comments received [and/or and must respond to](#) recommendations or direction from the San Diego Water Board Executive Officer.

#### **b. WATER QUALITY IMPROVEMENT PLAN SUBMITTAL**

- (1) Within [18-24](#) months after the commencement of coverage under this Order, the Copermittees for each Watershed Management Area must submit a complete Water Quality Improvement Plan in accordance with the requirements of Provision [B](#) to the San Diego Water Board. [Each Copermittees selecting the option to develop a Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism per Provision B.3.a.\(3\) must also submit a final Reasonable Assurance Analysis. The Santa Margarita River Watershed Management Area must submit a complete Water Quality Improvement Plan in accordance with the requirements of Provision B to the San Diego Water Board 18 months after the Riverside Copermittees are covered under this Order.](#) The San Diego Water Board will issue a public notice and solicit public comments on the Water Quality Improvement Plan for a minimum of 30 days.
- (2) Based on the comments received, the San Diego Water Board will determine whether to hold a public hearing or to limit public input to submittal of written comments. If no hearing is held the San Diego Water Board will notify the Copermittees within 6 months that the Water Quality Improvement Plan has been accepted as complete following its review and determination that the Water Quality Improvement Plan meets the requirements of this Order.
- (3) The Copermittees must [consider revisions to revise](#) the Water Quality Improvement Plan based on [public](#) comments received [and/or and must](#)

[respond to](#) recommendations or direction from the San Diego Water Board Executive Officer.

- (4) The Water Quality Improvement Plan must be made available on the Regional Clearinghouse required pursuant to Provision [F.4](#) within 30 days of acceptance by the San Diego Water Board.
- (5) [Copermittees must commence with implementation of the Water Quality Improvement Plan no later than the fiscal year \(July 1\) following San Diego Water Board approval of the Water Quality Improvement Plan.](#)

## **2. Updates**

### **a. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM DOCUMENT UPDATES**

Each Copermittee must update its jurisdictional runoff management program document in accordance with the following requirements:

- (1) Each Copermittee is encouraged to involve the public and key stakeholders as early and often as possible to solicit recommendations for updates to its jurisdictional runoff management program document.
- (2) Each Copermittee must update its jurisdictional runoff management program document to incorporate the requirements of Provision [E](#) no later than ~~18~~[24](#) months after the commencement of coverage under this Order.
- (3) Each Copermittee must submit updates to its jurisdictional runoff management program, with a rationale for the modifications, either in the Annual Report required pursuant to Provision [F.3.b](#), or as part of the Report of Waste Discharge required pursuant to Provision [F.5.b](#).
- (4) The Copermittee must revise the modifications as directed by the San Diego Water Board Executive Officer.
- (5) Updated jurisdictional runoff management program documents must be made available on the Regional Clearinghouse required pursuant to Provision [F.4](#) within 30 days of submitting the Annual Report.

### **b. BMP DESIGN MANUAL UPDATES**

Each Copermittee must update its BMP Design Manual in accordance with the following requirements:

- (1) Each Copermittee must update its BMP Design Manual to incorporate the requirements of Provisions [E.3.a-d](#) no later than ~~18~~[24](#) months after the commencement of coverage under this Order.

- (2) Subsequent updates must be consistent with the requirements of Provisions [E.3.a-d](#) and must be submitted as part of the Annual Reports required pursuant to Provision [F.3.b](#), or as part of the Report of Waste Discharge required pursuant to Provision [F.5.b](#).
- (3) Updated BMP Design Manuals must be made available on the Regional Clearinghouse required pursuant to Provision [F.4](#) within 30 days of completing the update.

### **c. WATER QUALITY IMPROVEMENT PLAN UPDATES**

The Water Quality Improvement Plans must be updated in accordance with the following process:

- (1) The Copermittees must implement a public participation process to solicit data and information to be utilized in updating the Water Quality Improvement Plan.
- (2) The Copermittees are encouraged to involve the public and key stakeholders as early and often as possible during the updates to the Water Quality Improvement Plan.
- (3) The Copermittees for each Watershed Management Area must submit requested updates to the Water Quality Improvement Plan, with the public input received and the rationale for the requested updates, either in the Annual Reports required pursuant to Provision [F.3.b](#), or as part of the Report of Waste Discharge required pursuant to Provision [F.5.b](#). The requested updates are considered accepted by the San Diego Water Board if no response is provided to the Copermittee after 3 months of submitting the request.
- (4) The Copermittees must revise the requested updates as directed by the San Diego Water Board Executive Officer.
- (5) Updated Water Quality Improvement Plans must be made available on the Regional Clearinghouse required pursuant to Provision [F.4](#) within 30 days of acceptance of the requested updates by the San Diego Water Board.

## **3. Progress Reporting**

### **a. PROGRESS REPORT PRESENTATIONS**

The Copermittees for each Watershed Management Area must appear before the San Diego Water Board, as requested by the San Diego Water Board, to provide progress reports on the implementation of the Water Quality

Improvement Plan and jurisdictional runoff management programs.

**b. ANNUAL REPORTS**

(1) The Copermittees for each Watershed Management Area must submit an Annual Report for each reporting period no later than January 31 of the following year. The annual reporting period consists of two periods: 1) July 1 to June 30 of the following year for the jurisdictional runoff management programs, 2) October 1 to September 30 of the following year for the monitoring and assessment programs. The first Annual Report must be prepared for the reporting period beginning July 1 after commencement of coverage under this Order, and upon San Diego Water Board determination that the Water Quality Improvement Plan meets the requirements of this Order to June 30 in the following year for the jurisdictional runoff management programs. The first Annual Report must be prepared for the reporting period beginning 50 days after adoption of this Order and the January 31<sup>st</sup> following the first September 30<sup>th</sup> (conclusion of monitoring season) after the San Diego Water Board determines that the Water Quality Improvement Plan meets the requirements of this Order and September 30 in the following year for the monitoring and assessment programs. Annual Reports must be made available on the Regional Clearinghouse required pursuant to Provision F.4. Each Annual Report must include the following:

- (a) The receiving water and MS4 outfall discharge monitoring data collected pursuant to Provisions D.1 and D.2, summarized and presented in tabular and graphical form;
- (b) Progress of the special studies required pursuant to Provision D.3, and the results or findings when a special study, or each phase of a special study, is completed;
- (c) The findings from the assessments required pursuant to Provision D.4;
- (d) The progress of implementing the Water Quality Improvement Plan, including, but not limited to, the following:
  - (i) The progress toward achieving the interim and final numeric goals for the highest water quality priorities for the Watershed Management Area,
  - (ii) The water quality improvement strategies that were implemented and/or no longer implemented by each of the Copermittees during the reporting period and previous reporting periods, and are planned to be implemented during the next reporting period,
  - (iii) Proposed modifications to the water quality improvement strategies, with public input received and rationale for the proposed

modifications,

- (iv) Previously proposed modifications or updates incorporated into the Water Quality Improvement Plan and/or each Copermittee's jurisdictional runoff management program document and implemented by the Copermittees in the Watershed Management Area, and
  - (v) Proposed modifications or updates to the Water Quality Improvement Plan and/or each Copermittee's jurisdictional runoff management program document;
- (d) A completed Jurisdictional Runoff Management Program Annual Report Form ([Attachment D](#) or accepted revision) for each Copermittee in the Watershed Management Area, certified by a Principal Executive Officer, Ranking Elected Official, or Duly Authorized Representative.
- (2) Each Copermittee must complete and submit a Jurisdictional Runoff Management Program Annual Report Form ([Attachment D](#) or accepted revision) no later than October 31 of each year until the first Annual Report is required to be submitted. Each Copermittee must submit the information on the Jurisdictional Runoff Management Program Annual Report Form specific to the area within its jurisdiction in each Watershed Management Area.
- (3) Each Copermittee must provide any data or documentation utilized in developing the Annual Report upon request by the San Diego Water Board. [Any Copermittee](#) monitoring data utilized in developing the Annual Report must be uploaded to the California Environmental Data Exchange Network (CEDEN).<sup>32</sup> Any [Copermittee](#) monitoring and assessment data utilized in developing the Annual Report must be provided on the Regional Clearinghouse required pursuant to Provision [F.4](#).

#### ~~C. REGIONAL MONITORING AND ASSESSMENT REPORT~~

- ~~(1) The Copermittees must submit a Regional Monitoring and Assessment Report no later than 180 days in advance of the expiration date of this Order. The Regional Monitoring and Assessment Report may be submitted as part of the Report of Waste Discharge required pursuant to Provision [F.5.b](#). The Copermittees must review the receiving water and MS4 outfall discharge monitoring data collected pursuant to Provisions [D.1](#) and [D.2](#), and findings from the assessments required pursuant to Provision [D.4](#), to assess the following:~~

- ~~(a) The beneficial uses of the receiving waters within the San Diego Region~~

<sup>32</sup> Data must be uploaded to CEDEN Southern California Regional Data Center (<http://www.sccwrp.org/Data/DataSubmission/SouthernCaliforniaRegionalDataCenter.aspx>) using the templates provided on the CEDEN website.

~~that are protected or must be restored;~~

~~(b) The progress toward restoring impacted beneficial uses in the receiving waters within the San Diego Region; and~~

~~(c) Pollutants or conditions of emerging concern that may impact beneficial uses in the receiving waters within the San Diego Region.~~

~~(2) The Regional Monitoring and Assessment Report must include recommendations for improving the implementation and assessment of the Water Quality Improvement Plans and jurisdictional runoff management programs.~~

~~(3) Each Copermittee must provide any data or documentation utilized in developing the Regional Monitoring and Assessment Report upon request by the San Diego Water Board. Any monitoring and assessment data utilized in developing the Regional Monitoring and Assessment Report must be provided on the Regional Clearinghouse required pursuant to Provision F.4.~~

#### 4. Regional Clearinghouse

The Copermittees must develop, update, and maintain an internet-based Regional Clearinghouse that is made available to the public no later than 18 months after the effective date of this Order.<sup>33</sup>

a. The Copermittees, through the Regional Clearinghouse, must make the following documents and data available, organized by Watershed Management Area, which may be linked to other internet-based data portals and databases where the original documents are stored:

(1) Water Quality Improvement Plan for the Watershed Management Area, and all updated versions with date of update;

(2) Annual Reports for the Watershed Management Area;

(3) Jurisdictional Runoff Management Program document for each Copermittee within the Watershed Management Area, and all updated versions with date of update;

(4) BMP Design Manual for each Copermittee within the Watershed Management Area, and all updated versions with date of update;

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<sup>33</sup> [The Copermittee may elect to develop and maintain the clearinghouse\(s\) provided by other Copermittees or agencies.](#)

- (5) Reports from special studies (e.g. source identification, BMP effectiveness assessment) conducted in the Watershed Management Area;
  - (6) Monitoring data collected pursuant to Provision D for each Watershed Management Area must be uploaded to CEDEN,<sup>34</sup> with links to the uploaded data; and
  - (7) Available GIS data, layers, and/or shapefiles used to develop the maps generated and maintained by the Copermittees for the Water Quality Improvement Plans, Annual Reports, and jurisdictional runoff management program documents.
- b.** The Copermittees, through the Regional Clearinghouse, must make the following information and documents available:
- (1) Contact information (point of contact, phone number, email address, and mailing address) for each Copermittee;
  - (2) Public hotline number for reporting non-storm water and illicit discharges for each Copermittee;

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<sup>34</sup> Data must be uploaded to CEDEN Southern California Regional Data Center (<http://www.sccwrp.org/Data/DataSubmission/SouthernCaliforniaRegionalDataCenter.aspx>) using the templates provided on the CEDEN website.

- (3) Email address for reporting non-storm water and illicit discharges for each Copermittee;
- (4) Link to each Copermittee's website, if available, where the public may find additional information about the Copermittee's storm water management program and for requesting records for the implementation of its program;
- (5) Information about opportunities for the public to participate in programs and/or activities that can result in the prevention or elimination of non-storm water discharges to the MS4, reduction of pollutants in storm water discharges from the MS4, and/or restoration and protection of the quality of receiving waters; and
- (6) Reports from regional monitoring programs in which the Copermittees participate (e.g. Southern California Monitoring Coalition, Southern California Coastal Water Research Project Bight Monitoring);
- (7) Regional Monitoring and Assessment Reports; and
- (8) Any other information, data, and documents the Copermittees determine as appropriate for making available to the public.

## 5. Report of Waste Discharge

- a. The Orange County Copermittees and the Riverside County Copermittees are required to submit a complete Report of Waste Discharge pursuant to the requirements of their current Orders. The San Diego Water Board will review and consider the Reports of Waste Discharge to determine whether modification to this Order, pursuant to the requirements of Provision H, will be required prior the Orange County Copermittees and/or Riverside County Copermittees becoming covered under this Order. The current Orders for the Orange County Copermittees and Riverside County Copermittees are rescinded upon notification of coverage under this Order except for enforcement purposes.
- b. The Copermittees subject to the requirements of this Order must submit to the San Diego Water Board a complete Report of Waste Discharge as an application for the re-issuance of this Order and NPDES permit. The Report of Waste Discharge must be submitted no later than 180 days in advance of the expiration date of this Order. The Report of Waste Discharge must contain the following minimum information:
  - (1) Names and addresses of the Copermittees;
  - (2) Names and titles of the primary contacts of the Copermittees;

- (3) Proposed changes to the Copermittees' Water Quality Improvement Plans and the supporting justification;
- (4) Proposed changes to the Copermittees' jurisdictional runoff management programs and the supporting justification;
- (5) Any other information necessary for the re-issuance of this Order;
- (6) Any information to be included as part of the Report of Waste Discharge pursuant to the requirements of this Order; and
- (7) Any other information required by federal regulations for NPDES permit reissuance.

## 6. Application for Early Coverage

- a. The Orange County Copermittees, collectively, or Riverside County Copermittees, collectively, may apply for early coverage under this Order by submitting a Report of Waste Discharge [Form 200](#), with a written request for early coverage under this Order.
- b. The San Diego Water Board will review the application for early coverage. A notification of coverage under this Order will be issued to the Copermittees in the respective county by the San Diego Water Board upon completion of the early coverage application requirements. The effective coverage date will be specified in the notification of coverage. The Copermittees in the respective county are authorized to have MS4 discharges pursuant to the requirements of this Order starting on the effective coverage date specified in the notification of coverage. The existing Order for the respective county is rescinded upon the effective coverage date specified in the notification of coverage except for enforcement purposes.

## 7. Reporting Provisions

Each Copermittee must comply with all the reporting and recordkeeping provisions of the Standard Permit Provisions and General Provisions contained in [Attachment B](#) to this Order.

**G. PRINCIPAL WATERSHED COPERMITTEE RESPONSIBILITIES**

1. The Copermittees within each Watershed Management Area must designate a Principal Watershed Copermittee and notify the San Diego Water Board of the name of the Principal Watershed Copermittee. ~~An individual Copermittee should not be designated a Principal Watershed Copermittee for more than two Watershed Management Areas.~~ The notification may be submitted with the Water Quality Improvement Plan required pursuant to Provision [F.1](#) of this Order.
2. All Copermittees have some level of commitment, not just the Principal Watershed Copermittee. The Principal Watershed Copermittee is responsible for, at a minimum, the following:
  - a. Serving as liaison between the Copermittees in the Watershed Management Area and the San Diego Water Board on general permit issues, and when necessary and appropriate, representing the Copermittees in the Watershed Management Area before the San Diego Water Board.
  - b. Facilitating the development of the Water Quality Improvement Plan in accordance with the requirements of Provision [B](#) of this Order
  - c. Coordinating the submittal of the deliverables required by Provisions [F.1](#), [F.2](#), [F.3.a](#), and [F.3.b](#) of this Order.
  - d. Coordinating and developing, with the other Principal Watershed Copermittees, the requirements of Provisions [F.3.c](#), [F.4](#), and [F.5.b](#) of this Order.

## H. MODIFICATION OF PROGRAMS

1. Modifications of the Order may be initiated by the San Diego Water Board or by the Copermittees. Requests by Copermittees must be made to the San Diego Water Board.
2. Minor modifications to the Order may be made by the San Diego Water Board where the proposed modification complies with all the effective prohibitions and limitations, and other requirements of this Order.
3. Proposed modifications to the Order outside of the Water Quality Improvement Plan process that are not minor require amendment of this Order in accordance with this Order's rules, policies, and procedures.
4. The San Diego Water Board may re-open and modify this Order at any time prior to its expiration, after opportunity for public comment and a public hearing, if the State Water Board determines that revisions are warranted to those provisions of the Order addressing compliance with water quality standards in the receiving water and/or those provisions of the Order establishing an iterative process for implementation of management practices to assure compliance with water quality standards in the receiving water.
- 4.5. The San Diego Water Board may re-open and modify this order at any time prior to its expiration, after opportunity for public comment and a public hearing, if the Basin Plan Amendments for any of the TMDLs in Attachment E are revised by the San Diego Regional Board. Should a TMDL Basin Plan Amendment be revised and adopted by the Regional Board, then the Regional Board will re-open this Order as soon as possible to update the TMDL requirements in Attachment E to reflect the revised Basin Plan Amendment.

## **I. STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS**

Each Copermittee must comply with all the Standard Permit Provisions and General Provisions contained in [Attachment B](#) to this Order.

**ATTACHMENT A****DISCHARGE PROHIBITIONS AND SPECIAL PROTECTIONS****1. Basin Plan Waste Discharge Prohibitions**

California Water Code Section 13243 provides that a Regional Water Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste or certain types of waste is not permitted. The following waste discharge prohibitions in the Water Quality Control Plan for the San Diego Basin (Basin Plan) are applicable to any person, as defined by Section 13050(c) of the California Water Code, who is a citizen, domiciliary, or political agency or entity of California whose activities in California could affect the quality of waters of the state within the boundaries of the San Diego Region.

1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited.
2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited.
3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by a National Pollutant Discharge Elimination System (NPDES) permit or a dredged or fill material permit (subject to the exemption described in California Water Code Section 13376) is prohibited.
4. Discharges of recycled water to lakes or reservoirs used for municipal water supply or to inland surface water tributaries thereto are prohibited, unless this San Diego Water Board issues a NPDES permit authorizing such a discharge; the proposed discharge has been approved by the State Department of Health Services (DHS) and the operating agency of the impacted reservoir; and the discharger has an approved fail-safe long-term disposal alternative.
5. The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the San Diego Water Board. Consideration would include streamflow data, the degree of treatment provided and safety measures to ensure reliability of facility performance. As an example, discharge of secondary effluent would probably be permitted if streamflow provided 100:1 dilution capability.
6. The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the San Diego Water Board.

7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the San Diego Water Board.
8. Any discharge to a storm water conveyance system that is not composed entirely of "*storm water*" is effectively prohibited unless authorized by the San Diego Water Board. [The federal regulations, 40 CFR 122.26(b)(13), define storm water as storm water runoff, snow melt runoff, and surface runoff and drainage. 40 CFR 122.26(b)(2) defines an illicit discharge as any discharge to a storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities.] [§122.26 amended at 56 FR 56553, November 5, 1991; 57 FR 11412, April 2, 1992].
9. The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited.
10. The discharge of industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in California Water Code Section 13264, is prohibited.
11. The discharge of radioactive wastes amenable to alternative methods of disposal into the waters of the state is prohibited.
12. The discharge of any radiological, chemical, or biological warfare agent into waters of the state is prohibited.
13. The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the San Diego Water Board.
14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
15. The discharge of treated or untreated sewage from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, or other small boat harbors is prohibited.
16. The discharge of untreated sewage from vessels to San Diego Bay is prohibited.
17. The discharge of treated sewage from vessels to portions of San Diego Bay that are less than 30 feet deep at mean lower low water (MLLW) is prohibited.
18. The discharge of treated sewage from vessels, which do not have a properly functioning US Coast Guard certified Type I or Type II marine sanitation device, to portions of San Diego Bay that are greater than 30 feet deep at mean lower low water (MLLW) is prohibited.

## **2. Attachment B to State Water Board Resolution 2012-0012**

### **Special Protections for Areas of Special Biological Significance, Governing Point Source Discharges of Storm Water and Nonpoint Source Waste Discharges**

#### **I. PROVISIONS FOR POINT SOURCE DISCHARGES OF STORM WATER AND NONPOINT SOURCE WASTE DISCHARGES**

The following terms, prohibitions, and special conditions (hereafter collectively referred to as special conditions) are established as limitations on point source storm water and nonpoint source discharges. These special conditions provide Special Protections for marine aquatic life and natural water quality in Areas of Special Biological Significance (ASBS), as required for State Water Quality Protection Areas pursuant to California Public Resources Code Sections 36700(f) and 36710(f). These Special Protections are adopted by the State Water Board as part of the California Ocean Plan (Ocean Plan) General Exception.

The special conditions are organized by category of discharge. The State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) will determine categories and the means of regulation for those categories [e.g., Point Source Storm Water National Pollutant Discharge Elimination System (NPDES) or Nonpoint Source].

#### **A. PERMITTED POINT SOURCE DISCHARGES OF STORM WATER**

##### **1. General Provisions for Permitted Point Source Discharges of Storm Water**

- a. Existing storm water discharges into an ASBS are allowed only under the following conditions:
  - (1) The discharges are authorized by an NPDES permit issued by the State Water Board or Regional Water Board;
  - (2) The discharges comply with all of the applicable terms, prohibitions, and special conditions contained in these Special Protections; and
  - (3) The discharges:
    - (i) Are essential for flood control or slope stability, including roof, landscape, road, and parking lot drainage;
    - (ii) Are designed to prevent soil erosion;
    - (iii) Occur only during wet weather;

- (iv) Are composed of only storm water runoff.
- b. Discharges composed of storm water runoff shall not alter natural ocean water quality in an ASBS.
- c. The discharge of trash is prohibited.
- d. Only discharges from existing storm water outfalls are allowed. Any proposed or new storm water runoff discharge shall be routed to existing storm water discharge outfalls and shall not result in any new contribution of waste to an ASBS (i.e., no additional pollutant loading). "Existing storm water outfalls" are those that were constructed or under construction prior to January 1, 2005. "New contribution of waste" is defined as any addition of waste beyond what would have occurred as of January 1, 2005. A change to an existing storm water outfall, in terms of re-location or alteration, in order to comply with these special conditions, is allowed and does not constitute a new discharge.
- e. Non-storm water discharges are prohibited except as provided below:
  - (1) The term "non-storm water discharges" means any waste discharges from a municipal separate storm sewer system (MS4) or other NPDES permitted storm drain system to an ASBS that are not composed entirely of storm water.
  - (2) (i) The following non-storm water discharges are allowed, provided that the discharges are essential for emergency response purposes, structural stability, slope stability or occur naturally:
    - (a) Discharges associated with emergency fire fighting operations.
    - (b) Foundation and footing drains.
    - (c) Water from crawl space or basement pumps.
    - (d) Hillside dewatering.
    - (e) Naturally occurring groundwater seepage via a storm drain.
    - (f) Non-anthropogenic flows from a naturally occurring stream via a culvert or storm drain, as long as there are no contributions of anthropogenic runoff.
  - (ii) An NPDES permitting authority may authorize non-storm water discharges to an MS4 with a direct discharge to an ASBS only to the extent the

NPDES permitting authority finds that the discharge does not alter natural ocean water quality in the ASBS.

- (3) Authorized non-storm water discharges shall not cause or contribute to a violation of the water quality objectives in Chapter II of the Ocean Plan nor alter natural ocean water quality in an ASBS.

2. Compliance Plans for Inclusion in Storm Water Management Plans (SWMP) and Storm Water Pollution Prevention Plans (SWPPP).

The discharger shall specifically address the prohibition of non-storm water runoff and the requirement to maintain natural water quality for storm water discharges to an ASBS in an ASBS Compliance Plan to be included in its SWMP or a SWPPP, as appropriate to permit type. If a statewide permit includes a SWMP, then the discharger shall prepare a stand-alone compliance plan for ASBS discharges. The ASBS Compliance Plan is subject to approval by the Executive Director of the State Water Board (statewide permits) or Executive Officer of the Regional Water Board (for permits issued by Regional Water Boards).

- a. The Compliance Plan shall include a map of surface drainage of storm water runoff, showing areas of sheet runoff, prioritize discharges, and describe any structural Best Management Practices (BMPs) already employed and/or BMPs to be employed in the future. Priority discharges are those that pose the greatest water quality threat and which are identified to require installation of structural BMPs. The map shall also show the storm water conveyances in relation to other features such as service areas, sewage conveyances and treatment facilities, landslides, areas prone to erosion, and waste and hazardous material storage areas, if applicable. The SWMP or SWPPP shall also include a procedure for updating the map and plan when changes are made to the storm water conveyance facilities.
- b. The ASBS Compliance Plan shall describe the measures by which all non-authorized non-storm water runoff (e.g., dry weather flows) has been eliminated, how these measures will be maintained over time, and how these measures are monitored and documented.
- c. For Municipal Separate Storm Sewer System (MS4s), the ASBS Compliance Plan shall require minimum inspection frequencies as follows:
  - (1) The minimum inspection frequency for construction sites shall be weekly during rainy season;
  - (2) The minimum inspection frequency for industrial facilities shall be monthly during the rainy season;

- (3) The minimum inspection frequency for commercial facilities (e.g., restaurants) shall be twice during the rainy season; and
  - (4) Storm water outfall drains equal to or greater than 18 inches (457 mm) in diameter or width shall be inspected once prior to the beginning of the rainy season and once during the rainy season and maintained to remove trash and other anthropogenic debris.
- d. The ASBS Compliance Plan shall address storm water discharges (wet weather flows) and, in particular, describe how pollutant reductions in storm water runoff, that are necessary to comply with these special conditions, will be achieved through BMPs. Structural BMPs need not be installed if the discharger can document to the satisfaction of the State Water Board Executive Director (statewide permits) or Regional Water Board Executive Officer (Regional Water Board permits) that such installation would pose a threat to health or safety. BMPs to control storm water runoff discharges (at the end-of-pipe) during a design storm shall be designed to achieve on average the following target levels:
- (1) Table B Instantaneous Maximum Water Quality Objectives in Chapter II of the Ocean Plan; or
  - (2) A 90% reduction in pollutant loading during storm events, for the applicant's total discharges. The baseline for the reduction is the effective date of the Exception. The baseline for these determinations is the effective date of the Exception, and the reductions must be achieved and documented within four (4) years of the effective date.
- e. The ASBS Compliance Plan shall address erosion control and the prevention of anthropogenic sedimentation in ASBS. The natural habitat conditions in the ASBS shall not be altered as a result of anthropogenic sedimentation.
- f. The ASBS Compliance Plan shall describe the non-structural BMPs currently employed and planned in the future (including those for construction activities), and include an implementation schedule. The ASBS Compliance Plan shall include non-structural BMPs that address public education and outreach. Education and outreach efforts must adequately inform the public that direct discharges of pollutants from private property not entering an MS4 are prohibited. The ASBS Compliance Plan shall also describe the structural BMPs, including any low impact development (LID) measures, currently employed and planned for higher threat discharges and include an implementation schedule. To control storm water runoff discharges (at the end-of-pipe) during a design storm, permittees must first consider using LID practices to infiltrate, use, or evapotranspirate storm water runoff on-site.
- g. The BMPs and implementation schedule shall be designed to ensure that natural water quality conditions in the receiving water are achieved and maintained by

either reducing flows from impervious surfaces or reducing pollutant loading, or some combination thereof.

- h. If the results of the receiving water monitoring described in IV.B. of these special conditions indicate that the storm water runoff is causing or contributing to an alteration of natural ocean water quality in the ASBS, the discharger shall submit a report to the State Water Board and Regional Water Board within 30 days of receiving the results.
- (1) The report shall identify the constituents in storm water runoff that alter natural ocean water quality and the sources of these constituents.
  - (2) The report shall describe BMPs that are currently being implemented, BMPs that are identified in the SWMP or SWPPP for future implementation, and any additional BMPs that may be added to the SWMP or SWPPP to address the alteration of natural water quality. The report shall include a new or modified implementation schedule for the BMPs.
  - (3) Within 30 days of the approval of the report by the State Water Board Executive Director (statewide permits) or Regional Water Board Executive Officer (Regional Water Board permits), the discharger shall revise its ASBS Compliance Plan to incorporate any new or modified BMPs that have been or will be implemented, the implementation schedule, and any additional monitoring required.
  - (4) As long as the discharger has complied with the procedures described above and is implementing the revised SWMP or SWPPP, the discharger does not have to repeat the same procedure for continuing or recurring exceedances of natural ocean water quality conditions due to the same constituent.
  - (5) Compliance with this section does not excuse violations of any term, prohibition, or condition contained in these Special Protections.

### 3. Compliance Schedule

- a. On the effective date of the Exception, all non-authorized non-storm water discharges (e.g., dry weather flow) are effectively prohibited.
- b. Within one year from the effective date of the Exception, the discharger shall submit a written ASBS Compliance Plan to the State Water Board Executive Director (statewide permits) or Regional Water Board Executive Officer (Regional Water Board permits) that describes its strategy to comply with these special conditions, including the requirement to maintain natural water quality in the affected ASBS. The ASBS Compliance Plan shall include a time schedule to implement appropriate non-structural and structural controls (implementation

schedule) to comply with these special conditions for inclusion in the discharger's SWMP or SWPPP, as appropriate to permit type.

- c. Within 18 months of the effective date of the Exception, any non-structural controls that are necessary to comply with these special conditions shall be implemented.
- d. Within four (4) years of the effective date of the Exception, any structural controls identified in the ASBS Compliance Plan that are necessary to comply with these special conditions shall be operational.
- e. Within four (4) years of the effective date of the Exception, all dischargers must comply with the requirement that their discharges into the affected ASBS maintain natural ocean water quality. If the initial results of post-storm receiving water quality testing indicate levels higher than the 85th percentile threshold of reference water quality data and the pre-storm receiving water levels, then the discharger must re-sample the receiving water, pre- and post-storm. If after re-sampling the post-storm levels are still higher than the 85th percentile threshold of reference water quality data, and the pre-storm receiving water levels, for any constituent, then natural ocean water quality is exceeded. See attached Flowchart.
- f. The Executive Director of the State Water Board (statewide permits) or Executive Officer of the Regional Water Board (Regional Water Board permits) may only authorize additional time to comply with the special conditions d. and e., above if good cause exists to do so. Good cause means a physical impossibility or lack of funding.

If a discharger claims physical impossibility, it shall notify the Board in writing within thirty (30) days of the date that the discharger first knew of the event or circumstance that caused or would cause it to fail to meet the deadline in d. or e. The notice shall describe the reason for the noncompliance or anticipated noncompliance and specifically refer to this Section of this Exception. It shall describe the anticipated length of time the delay in compliance may persist, the cause or causes of the delay as well as measures to minimize the impact of the delay on water quality, the measures taken or to be taken by the discharger to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance. The discharger shall adopt all reasonable measures to avoid and minimize such delays and their impact on water quality.

The discharger may request an extension of time for compliance based on lack of funding. The request for an extension shall require:

- (1) for municipalities, a demonstration of significant hardship to discharger ratepayers, by showing the relationship of storm water fees to annual

- household income for residents within the discharger's jurisdictional area, and the discharger has made timely and complete applications for all available bond and grant funding, and either no bond or grant funding is available, or bond and/or grant funding is inadequate; or
- (2) for other governmental agencies, a demonstration and documentation of a good faith effort to acquire funding through that agency's budgetary process.

## **B. NONPOINT SOURCE DISCHARGES**

*[NOT INCLUDED]*

*[PROVISIONS FOR NONPOINT SOURCE DISCHARGES NOT APPLICABLE]*

## **II. ADDITIONAL REQUIREMENTS FOR PARKS AND RECREATION FACILITIES**

*[NOT INCLUDED]*

*[ADDITIONAL REQUIREMENTS FOR PARKS AND RECREATION FACILITIES NOT APPLICABLE]*

## **III. ADDITIONAL REQUIREMENTS – WATERFRONT AND MARINE OPERATIONS**

*[NOT INCLUDED]*

*[ADDITIONAL REQUIREMENTS FOR WATERFRONT AND MARINE OPERATIONS NOT APPLICABLE]*

## **IV. MONITORING REQUIREMENTS**

Monitoring is mandatory for all dischargers to assure compliance with the Ocean Plan. Monitoring requirements include both: (A) core discharge monitoring, and (B) ocean receiving water monitoring. The State and Regional Water Boards must approve sampling site locations and any adjustments to the monitoring programs. All ocean receiving water and reference area monitoring must be comparable with the Water Boards' Surface Water Ambient Monitoring Program (SWAMP).

Safety concerns: Sample locations and sampling periods must be determined considering safety issues. Sampling may be postponed upon notification to the State and Regional Water Boards if hazardous conditions prevail.

Analytical Chemistry Methods: All constituents must be analyzed using the lowest minimum detection limits comparable to the Ocean Plan water quality objectives. For metal analysis, all samples, including storm water effluent, reference samples, and ocean receiving water samples, must be analyzed by the approved analytical method with the lowest minimum detection limits (currently Inductively Coupled Plasma/Mass Spectrometry) described in the Ocean Plan.

**A. CORE DISCHARGE MONITORING PROGRAM**

## 1. General sampling requirements for timing and storm size:

Runoff must be collected during a storm event that is greater than 0.1 inch and generates runoff, and at least 72 hours from the previously measurable storm event. Runoff samples shall be collected when post-storm receiving water is sampled, and analyzed for the same constituents as receiving water and reference site samples (see section IV B) as described below.

## 2. Runoff flow measurements

- a. For municipal/industrial storm water outfalls in existence as of December 31, 2007, 18 inches (457mm) or greater in diameter/width (including multiple outfall pipes in combination having a width of 18 inches, runoff flows must be measured or calculated, using a method acceptable to and approved by the State and Regional Water Boards.
- b. This will be reported annually for each precipitation season to the State and Regional Water Boards.

## 3. Runoff samples – storm events

- a. For outfalls equal to or greater than 18 inches (0.46m) in diameter or width:
  - (1) samples of storm water runoff shall be analyzed during the same storm as receiving water samples for oil and grease, total suspended solids, and, within the range of the southern sea otter indicator bacteria or some other measure of fecal contamination, ; and
  - (2) samples of storm water runoff shall be analyzed for critical life stage chronic toxicity (one invertebrate or algal species) at least once during each storm season when receiving water is sampled in the ASBS
  - (3) If an applicant has no outfall greater than 36 inches, then storm water runoff from the applicant's largest outfall shall be further analyzed during the same storm as receiving water samples for Ocean Plan Table B metals for protection of marine life, Ocean Plan polynuclear aromatic hydrocarbons (PAHs), current use pesticides (pyrethroids and OP pesticides), and nutrients (ammonia, nitrate and phosphates).
- b. For outfalls equal to or greater than 36 inches (0.91m) in diameter or width:
  - (1) samples of storm water runoff shall be analyzed during the same storm as receiving water samples for oil and grease, total suspended solids, and,

- within the range of the southern sea otter indicator bacteria or some other measure of fecal contamination; and
- (2) samples of storm water runoff shall be further analyzed during the same storm as receiving water samples for Ocean Plan Table B metals for protection of marine life, Ocean Plan polynuclear aromatic hydrocarbons (PAHs), current use pesticides (pyrethroids and OP pesticides), and nutrients (ammonia, nitrate and phosphates) and
  - (3) samples of storm water runoff shall be analyzed for critical life stage chronic toxicity (one invertebrate or algal species) at least once during each storm season when receiving water is sampled in the ASBS.
- c. For an applicant not participating in a regional monitoring program [see below in Section IV (B)] in addition to (a.) and (b.) above, a minimum of the two largest outfalls or 20 percent of the larger outfalls, whichever is greater, shall be sampled (flow weighted composite samples) at least three times annually during wet weather (storm event) and analyzed for all Ocean Plan Table A constituents, Table B constituents for marine aquatic life protection (except for toxicity, only chronic toxicity for three species shall be required), DDT, PCBs, Ocean Plan PAHs, OP pesticides, pyrethroids, nitrates, phosphates, and Ocean Plan indicator bacteria. For parties discharging to ASBS in more than one Regional Water Board region, at a minimum, one (the largest) such discharge shall be sampled annually in each Region.
4. The Executive Director of the State Water Board (statewide permits) or Executive Officer of the Regional Water Board (Regional Water Board permits) may reduce or suspend core monitoring once the storm runoff is fully characterized. This determination may be made at any point after the discharge is fully characterized, but is best made after the monitoring results from the first permit cycle are assessed.

## **B. OCEAN RECEIVING WATER AND REFERENCE AREA MONITORING PROGRAM**

In addition to performing the Core Discharge Monitoring Program in Section II.A above, all applicants having authorized discharges must perform ocean receiving water monitoring. In order to fulfill the requirements for monitoring the physical, chemical, and biological characteristics of the ocean receiving waters within their ASBS, dischargers may choose either (1) an individual monitoring program, or (2) participation in a regional integrated monitoring program.

1. Individual Monitoring Program: The requirements listed below are for those dischargers who elect to perform an individual monitoring program to fulfill the requirements for monitoring the physical, chemical, and biological characteristics of the ocean receiving waters within the affected ASBS. In addition to Core Discharge Monitoring, the following additional monitoring requirements shall be met:

- a. Three times annually, during wet weather (storm events), the receiving water at the point of discharge from the outfalls described in section (IV)(A)(3)(c) above shall be sampled and analyzed for Ocean Plan Table A constituents, Table B constituents for marine aquatic life, DDT, PCBs, Ocean Plan PAHs, OP pesticides, pyrethroids, nitrates, phosphates, salinity, chronic toxicity (three species), and Ocean Plan indicator bacteria.

The sample location for the ocean receiving water shall be in the surf zone at the point of discharges; this must be at the same location where storm water runoff is sampled. Receiving water shall be sampled at approximately the same time prior to (pre-storm) and during (or immediately after) the same storm (post storm). Reference water quality shall also be sampled and analyzed for the same constituents pre-storm and post-storm, during the same storms when receiving water is sampled. Reference stations will be determined by the State Water Board's Division of Water Quality and the applicable Regional Water Board(s).

- b. Sediment sampling shall occur at least three times during every five (5) year period. The subtidal sediment (sand or finer, if present) at the discharge shall be sampled and analyzed for Ocean Plan Table B constituents for marine aquatic life, DDT, PCBs, PAHs, pyrethroids, and OP pesticides. For sediment toxicity testing, only an acute toxicity test using the amphipod *Eohaustorius estuarius* must be performed.
- c. A quantitative survey of intertidal benthic marine life shall be performed at the discharge and at a reference site. The survey shall be performed at least once every five (5) year period. The survey design is subject to approval by the Regional Water Board and the State Water Board's Division of Water Quality. The results of the survey shall be completed and submitted to the State Water Board and Regional Water Board at least six months prior to the end of the permit cycle.
- d. Once during each five (5) year period, a bioaccumulation study shall be conducted to determine the concentrations of metals and synthetic organic pollutants at representative discharge sites and at representative reference sites. The study design is subject to approval by the Regional Water Board and the State Water Board's Division of Water Quality. The bioaccumulation study may include California mussels (*Mytilus californianus*) and/or sand crabs (*Emerita analoga* or *Blepharipoda occidentalis*). Based on the study results, the Regional Water Board and the State Water Board's Division of Water Quality, may adjust the study design in subsequent permits, or add or modify additional test organisms (such as shore crabs or fish), or modify the study design appropriate for the area and best available sensitive measures of contaminant exposure.
- e. Marine Debris: Representative quantitative observations for trash by type and source shall be performed along the coast of the ASBS within the influence of the

discharger's outfalls. The design, including locations and frequency, of the marine debris observations is subject to approval by the Regional Water Board and State Water Board's Division of Water Quality.

- f. The monitoring requirements of the Individual Monitoring Program in this section are minimum requirements. After a minimum of one (1) year of continuous water quality monitoring of the discharges and ocean receiving waters, the Executive Director of the State Water Board (statewide permits) or Executive officer of the Regional Water Board (Regional Water Board permits) may require additional monitoring, or adjust, reduce or suspend receiving water and reference station monitoring. This determination may be made at any point after the discharge and receiving water is fully characterized, but is best made after the monitoring results from the first permit cycle are assessed.
2. Regional Integrated Monitoring Program: Dischargers may elect to participate in a regional integrated monitoring program, in lieu of an individual monitoring program, to fulfill the requirements for monitoring the physical, chemical, and biological characteristics of the ocean receiving waters within their ASBS. This regional approach shall characterize natural water quality, pre- and post-storm, in ocean reference areas near the mouths of identified open space watersheds and the effects of the discharges on natural water quality (physical, chemical, and toxicity) in the ASBS receiving waters, and should include benthic marine aquatic life and bioaccumulation components. The design of the ASBS stratum of a regional integrated monitoring program may deviate from the otherwise prescribed individual monitoring approach (in Section IV.B.1) if approved by the State Water Board's Division of Water Quality and the Regional Water Boards.
    - a. Ocean reference areas shall be located at the drainages of flowing watersheds with minimal development (in no instance more than 10% development), and shall not be located in CWA Section 303(d) listed waterbodies or have tributaries that are 303(d) listed. Reference areas shall be free of wastewater discharges and anthropogenic non-storm water runoff. A minimum of low threat storm runoff discharges (e.g. stream highway overpasses and campgrounds) may be allowed on a case-by-case basis. Reference areas shall be located in the same region as the ASBS receiving water monitoring occurs. The reference areas for each Region are subject to approval by the participants in the regional monitoring program and the State Water Board's Division of Water Quality and the applicable Regional Water Board(s). A minimum of three ocean reference water samples must be collected from each station, each from a separate storm. A minimum of one reference location shall be sampled for each ASBS receiving water site sampled per responsible party. For parties discharging to ASBS in more than one Regional Water Board region, at a minimum, one reference station and one receiving water station shall be sampled in each region.
    - b. ASBS ocean receiving water must be sampled in the surf zone at the location where the runoff makes contact with ocean water (i.e. at "point zero"). Ocean

receiving water stations must be representative of worst-case discharge conditions (i.e. co-located at a large drain greater than 36 inches, or if drains greater than 36 inches are not present in the ASBS then the largest drain greater than 18 inches.) Ocean receiving water stations are subject to approval by the participants in the regional monitoring program and the State Water Board's Division of Water Quality and the applicable Regional Water Board(s). A minimum of three ocean receiving water samples must be collected during each storm season from each station, each from a separate storm. A minimum of one receiving water location shall be sampled in each ASBS per responsible party in that ASBS. For parties discharging to ASBS in more than one Regional Water Board region, at a minimum, one reference station and one receiving water station shall be sampled in each region.

- c. Reference and receiving water sampling shall commence during the first full storm season following the adoption of these special conditions, and post-storm samples shall be collected when annual storm water runoff is sampled. Sampling shall occur in a minimum of two storm seasons. For those ASBS dischargers that have already participated in the Southern California Bight 2008 ASBS regional monitoring effort, sampling may be limited to only one storm season.
  - d. Receiving water and reference samples shall be analyzed for the same constituents as storm water runoff samples. At a minimum, constituents to be sampled and analyzed in reference and discharge receiving waters must include oil and grease, total suspended solids, Ocean Plan Table B metals for protection of marine life, Ocean Plan PAHs, pyrethroids, OP pesticides, ammonia, nitrate, phosphates, and critical life stage chronic toxicity for three species. In addition, within the range of the southern sea otter, indicator bacteria or some other measure of fecal contamination shall be analyzed.
3. Waterfront and Marine Operations: In addition to the above requirements for ocean receiving water monitoring, additional monitoring must be performed for marinas and boat launch and pier facilities:
- a. For all marina or mooring field operators, in mooring fields with 10 or more occupied moorings, the ocean receiving water must be sampled for Ocean Plan indicator bacteria, residual chlorine, copper, zinc, grease and oil, methylene blue active substances (MBAS), and ammonia nitrogen.
    - (1) For mooring field operators opting for an individual monitoring program (Section IV.B.1 above), this sampling must occur weekly (on the weekend) from May through October.
    - (2) For mooring field operators opting to participate in a regional integrated monitoring program (Section IV.B.2 above), this sampling must occur monthly from May through October on a high use weekend in each month. The Water

Boards may allow a reduction in the frequency of sampling, through the regional monitoring program, after the first year of monitoring.

- b. For all mooring field operators, the subtidal sediment (sand or finer, if present) within mooring fields and below piers shall be sampled and analyzed for Ocean Plan Table B metals (for marine aquatic life beneficial use), acute toxicity, PAHs, and tributyltin. For sediment toxicity testing, only an acute toxicity test using the amphipod *Eohaustorius estuarius* must be performed. This sampling shall occur at least three times during a five (5) year period. For mooring field operators opting to participate in a regional integrated monitoring program, the Water Boards may allow a reduction in the frequency of sampling after the first sampling effort's results are assessed.

Tentative Order No. R9-2013-0001

Month Day, 2013

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## ATTACHMENT B

### STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS

#### 1. Standard Permit Provisions

Code of Federal Regulations Title 40 Section 122.41 (40 CFR 122.41) includes conditions, or provisions, that apply to all National Pollutant Discharge Elimination System (NPDES) permits. Additional provisions applicable to NPDES permits are in 40 CFR 122.42. All applicable provisions in 40 CFR 122.41 and 40 CFR 122.42 must be incorporated into this Order and NPDES permit. The applicable 40 CFR 122.41 and 40 CFR 122.42 provisions are as follows:

**a. DUTY TO COMPLY** [40 CFR 122.41(a)]

The Copermittee must comply with all of the provisions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (1) The Copermittee must comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement. [40 CFR 122.41(a)(1)]
- (2) The CWA provides that any person who violates Section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the CWA, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The CWA provides that any person who *negligently* violates Section 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA, or any requirement imposed in a pretreatment program approved under Section 402(a)(3) or 402(b)(8) of the CWA, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates Section 301, 302, 303, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of

not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

[40 CFR 122.41(a)(2)]

- (3) Any person may be assessed an administrative penalty by the San Diego Regional Water Quality Control Board (San Diego Water Board), State Water Resources Control Board (State Water Board), or United States Environmental Protection Agency (USEPA) for violating Section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

[40 CFR 122.41(a)(3)]

**b. DUTY TO REAPPLY** [40 CFR 122.41(b)]

If a Copermittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Copermittee must apply for and obtain a new permit.

**c. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE** [40 CFR 122.41(c)]

It shall not be a defense for a Copermittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**d. DUTY TO MITIGATE** [40 CFR 122.41(d)]

The Copermittee must take all reasonable steps to minimize or prevent any discharge or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

**e. PROPER OPERATION AND MAINTENANCE** [40 CFR 122.41(e)]

The Copermittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Copermittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a Copermittee only when the operation is necessary to achieve compliance with the conditions of this permit.

**f. PERMIT ACTIONS** [40 CFR 122.41(f)]

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Copermittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**g. PROPERTY RIGHTS** [40 CFR 122.41(g)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

**h. DUTY TO PROVIDE INFORMATION** [40 CFR 122.41(h)]

The Copermittee must furnish to the San Diego Water Board, State Water Board, or USEPA within a reasonable time, any information which the San Diego Water Board, State Water Board, or USPEA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Copermittee must also furnish to the San Diego Water Board, State Water Board, or USPEA upon request, copies of records required to be kept by this permit.

**i. INSPECTION AND ENTRY** [40 CFR 122.41(i)]

The Copermittee must allow the San Diego Water Board, State Water Board, USEPA, and/or their authorized representative (including an authorized contractor acting as their representative), upon presentation of credentials and other documents as may be required by law, to:

- (1) Enter upon the Copermittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit; [40 CFR 122.41(i)(1)]
- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit; [40 CFR 122.41(i)(2)]
- (3) Inspect and photograph at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; [40 CFR 122.41(i)(3)] and
- (4) Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location. [40 CFR 122.41(i)(4)]

**j. MONITORING AND RECORDS** [40 CFR 122.41(j)]

- (1) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity. [40 CFR 122.41(j)(1)]
- (2) Except for records of monitoring information required by this permit related to the Copermittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five (5) years (or longer as required by 40 CFR Part 503), the

Copermittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the San Diego Water Board at any time. [40 CFR 122.41(j)(2)]

- (3) Records for monitoring information must include: [40 CFR 122.41(j)(3)]
- (a) The date, exact place, and time of sampling or measurements; [40 CFR 122.41(j)(3)(i)]
  - (b) The individual(s) who performed the sampling or measurements; [40 CFR 122.41(j)(3)(ii)]
  - (c) The date(s) analyses were performed; [40 CFR 122.41(j)(3)(iii)]
  - (d) The individual(s) who performed the analyses; [40 CFR 122.41(j)(3)(iv)]
  - (e) The analytical techniques or methods used; [40 CFR 122.41(j)(3)(v)] and
  - (f) The results of such analyses. [40 CFR 122.41(j)(3)(vi)]
- (4) Monitoring must be conducted according to test procedures under 40 CFR Part 136 unless another method is required under 40 CFR Subchapters N or O. [40 CFR 122.41(j)(4)]
- In the case of pollutants for which there are no approved methods under 40 CFR Part 136 or otherwise required under 40 CFR Subchapters N and O, monitoring must be conducted according to a test procedure specified in the permit for such pollutants. [40 CFR 122.44(i)(1)(iv)]
- (5) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. [40 CFR 122.41(j)(5)]

**k. SIGNATORY REQUIREMENT** [40 CFR 122.41(k)]

- (1) All applications, reports, or information submitted to the San Diego Water Board, State Water Board, or USEPA must be signed and certified. (See 40 CFR 122.22) [40 CFR 122.41(k)(1)]
- (a) *For a municipality, State, Federal, or other public agency.* [All applications must be signed] [b]y either a principal executive officer or ranking elected official. [40 CFR 122.22(a)(3)]
  - (b) All reports required by permits, and other information requested by the San Diego Water Board, State Water Board, or USEPA must be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if: [40 CFR 122.22(b)]

- (i) The authorization is made in writing by a person described in paragraph (a) of this section; [40 CFR 122.22(b)(1)]
  - (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) [40 CFR 122.22(b)(2)] and,
  - (iii) The written authorization is submitted to the San Diego Water Board and State Water Board. [40 CFR 122.22(b)(3)]
- (c) *Changes to authorization.* If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications to be signed by an authorized representative. [40 CFR 122.22(c)]
- (d) *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.” [40 CFR 122.22(d)]
- (2) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both. [40 CFR 122.41(k)(2)]

#### **I. REPORTING REQUIREMENTS** [40 CFR 122.41(l)]

- (1) *Planned changes.* The Copermittee must give notice to the San Diego Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when: [40 CFR 122.41(l)(1)]
- (a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); [40 CFR 122.41(l)(1)(i)] or
  - (b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which

are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).  
[40 CFR 122.41(l)(1)(ii)]

- (c) The alteration or addition results in a significant change in the Copermitttee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. [40 CFR 122.41(l)(1)(iii)]
- (2) *Anticipated noncompliance.* The Copermitttee must give advance notice to the San Diego Water Board or State Water Board of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. [40 CFR 122.41(l)(2)]
  - (3) *Transfers.* This permit is not transferable to any person except after notice to the San Diego Water Board. The San Diego Water Board may require modification or revocation and reissuance of the permit to change the name of the Copermitttee and incorporate such other requirements as may be necessary under the CWA. [40 CFR 122.41(l)(3)]
  - (4) *Monitoring reports.* Monitoring results must be reported at the intervals specified elsewhere in this permit. [40 CFR 122.41(l)(4)]
    - (a) Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the San Diego Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. [40 CFR 122.41(l)(4)(i)]
    - (b) If the Copermitttee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or another method required for an industry-specific waste stream under 40 CFR Subchapters N or O, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the San Diego Water Board or State Water Board. [40 CFR 122.41(l)(4)(ii)]
    - (c) Calculations for all limitations which require averaging of measurements must utilize an arithmetic mean unless otherwise specified in the permit. [40 CFR 122.41(l)(4)(iii)]
  - (5) *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date. [40 CFR 122.41(l)(5)]

(6) *Twenty-four hour reporting.*

- (a) The Copermittee must report any noncompliance that may endanger health or the environment. Any information must be provided orally within 24 hours from the time the Copermittee becomes aware of the circumstances. A written submission must also be provided within five (5) days of the time the Copermittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. [40 CFR 122.41(l)(6)(i)]
- (b) The following must be included as information which must be reported within 24 hours under this paragraph: [40 CFR 122.41(l)(6)(ii)]
  - (i) Any unanticipated bypass that exceeds any effluent limitation in the permit (See 40 CFR 122.41(g)). [40 CFR 122.41(l)(6)(ii)(A)]
  - (ii) Any upset which exceeds any effluent limitation in the permit. [40 CFR 122.41(l)(6)(ii)(B)] and,
  - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the San Diego Water Board in the permit to be reported within 24 hours. (See 40 CFR 122.44(g)) [40 CFR 122.41(l)(6)(ii)(C)]
- (c) The San Diego Water Board may waive the above-required written report on a case-by-case basis if the oral report has been received within 24 hours. [40 CFR 122.41(l)(6)(iii)]

(7) *Other noncompliance.* The Copermittee must report all instances of noncompliance not reported in accordance with the standard provisions required under 40 CFR 122.41(l)(4), (5), and (6), at the time monitoring reports are submitted. The reports must contain the information listed in the standard provisions required under 40 CFR 122.41(l)(6). [40 CFR 122.41(l)(7)]

(8) *Other information.* When the Copermittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the San Diego Water Board, State Water Board, or USEPA, the Copermittee must promptly submit such facts or information. [40 CFR 122.41(l)(8)]

~~m. BYPASS [40 CFR 122.41(m)]~~~~(1) Definitions:~~

- ~~(a) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. [40 CFR 122.41(m)(1)(i)] or~~
- ~~(b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be~~

~~expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.  
[40 CFR 122.41(m)(1)(ii)]~~

~~(2) *Bypass not exceeding limitations.* The Copermittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the standard provisions required under 40 CFR 122.41(m)(3) and (4).  
[40 CFR 122.41(m)(2)]~~

~~(3) *Notice.*~~

~~(a) *Anticipated bypass.* If the Copermittee knows in advance of the need for a bypass, it must submit a notice, if possible at least ten days before the date of the bypass. [40 CFR 122.41(m)(3)(i)] or~~

~~(b) *Unanticipated bypass.* The Copermittee must submit notice of an unanticipated bypass in accordance with the standard provisions required under 40 CFR 122.41(l)(6) (24-hour notice).  
[40 CFR 122.41(m)(3)(ii)]~~

~~(4) *Prohibition of Bypass.*~~

~~(a) Bypass is prohibited, and the San Diego Water Board may take enforcement action against a Copermittee for bypass, unless:  
[40 CFR 122.41(m)(4)(i)]~~

~~(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; [40 CFR 122.41(m)(4)(i)(A)]~~

~~(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance;  
[40 CFR 122.41(m)(4)(i)(B)] and,~~

~~(iii) The Copermittee submitted notice in accordance with the standard provisions required under 40 CFR 122.41(m)(3).  
[40 CFR 122.41(m)(4)(i)(C)]~~

~~(b) The San Diego Water Board may approve an anticipated bypass, after considering its adverse effects, if the San Diego Water Board determines that it will meet the three conditions listed above.  
[40 CFR 122.41(m)(4)(ii)]~~

~~n.m.~~ **UPSET** [40 CFR 122.41(n)]

(1) *Definition.* "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Copermittee. An upset does not

include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. [40 CFR 122.41(n)(1)]

- (2) *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the standard provisions required under 40 CFR 122.41(n)(3) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. [40 CFR 122.41(n)(2)]
- (3) *Conditions necessary for a demonstration of upset.* A Copermittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:  
[40 CFR 122.41(n)(3)]
- (a) An upset occurred and that the Copermittee can identify the cause(s) of the upset; [40 CFR 122.41(n)(3)(i)]
  - (b) The permitted facility was at the time being properly operated;  
[40 CFR 122.41(n)(3)(ii)] and
  - (c) The Copermittee submitted notice of the upset in accordance with the standard provisions required under 40 CFR 122.41(l)(6)(ii)(B) (24-hour notice).  
[40 CFR 122.41(n)(3)(iii)]
  - (d) The Copermittee complied with any remedial measures pursuant to the standard provisions required under 40 CFR 122.41(d).  
[40 CFR 122.41(n)(3)(iii)]
- (4) *Burden of proof.* In any enforcement proceeding, the Copermittee seeking to establish the occurrence of an upset has the burden of proof.  
[40 CFR 122.41(n)(4)]

**e-n. STANDARD PERMIT PROVISIONS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

[40 CFR 122.42(c)]

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the San Diego Water Board or State Water Board under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report must include:

- (1) The status of implementing the components of the storm water management program that are established as permit conditions; [40 CFR 122.42(c)(1)]
- (2) Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes must be consistent with 40 CFR 122.26(d)(2)(iii); [40 CFR 122.42(c)(2)] and
- (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR 122.26(d)(2)(iv) and (v);  
[40 CFR 122.42(c)(3)]

- (4) A summary of data, including monitoring data, that is accumulated throughout the reporting year; [40 CFR 122.42(c)(4)]
- (5) Annual expenditures and budget for year following each annual report; [40 CFR 122.42(c)(5)]
- (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; [40 CFR 122.42(c)(6)]
- (7) Identification of water quality improvements or degradation. [40 CFR 122.42(c)(7)]

~~p.o.~~ **STANDARD PERMIT PROVISIONS FOR STORM WATER DISCHARGES** [40 CFR 122.42(d)]

The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR 122.26(e)(7) must require compliance with the conditions of the permit as expeditiously as practicable, but in no event later than three years after the date of issuance of the permit.

## 2. General Provisions

In addition to the standard provisions required to be incorporated into the Order and NPDES permit pursuant to 40 CFR 122.41 and 40 CFR 122.42, several other general provisions apply to this Order. The general provisions applicable to this Order and NPDES permit are as follows:

### a. DISCHARGE OF WASTE IS A PRIVILEGE

No discharge of waste into the waters of the State, whether or not such discharge is made pursuant to waste discharge requirements, shall create a vested right to continue such discharge. All discharges of waste into waters of the State are privileges, not rights. [CWC Section 13263(g)]

### b. DURATION OF ORDER AND NPDES PERMIT

- (1) *Effective date.* This Order and NPDES permit becomes effective on the 50<sup>th</sup> day after its adoption provided the USEPA has no objection. If the USEPA objects to its issuance, this Order shall not become effective until such objection is withdrawn. This Order supersedes Order No. R9-2007-0001 upon the effective date of this Order, and supersedes Order Nos. R9-2009-0002 and R9-2010-0016 upon their expiration or earlier notice of coverage.
- (2) *Expiration.* This Order and NPDES permit expires five years after its effective date. [40 CFR 122.46(a)]
- (3) *Continuation of expired order.* After this Order and NPDES permit expires, the terms and conditions of this Order and NPDES permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits (40 CFR 122.6) are complied with.

ATTACHMENT B: STANDARD PERMIT PROVISIONS AND GENERAL PROVISIONS

1. Standard Permit Provisions
2. General Provisions

**c. AVAILABILITY**

A copy of this Order must be kept at a readily accessible location and must be available to on-site personnel at all times.

**d. CONFIDENTIALITY OF INFORMATION**

Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this Order will be considered confidential, and all such information and documents shall be available for review by the public at the San Diego Water Board office.

Claims of confidentiality for the following information will be denied:  
[40 CFR 122.7(b)]

- (1) The name and address of any permit applicant or Copermittee;  
[40 CFR 122.7(b)(1)] and
- (2) Permit applications and attachments, permits, and effluent data.  
[40 CFR 122.7(b)(2)]

**e. EFFLUENT LIMITATIONS**

- (1) *Interim effluent limitations.* The Copermittee must comply with any interim effluent limitations as established by addendum, enforcement action, or revised waste discharge requirements which have been, or may be, adopted by the San Diego Water Board.
- (2) *Other effluent limitations and standards.* If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the San Diego Water Board shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition. [40 CFR 122.44(b)(1)].

**f. DUTY TO MINIMIZE OR CORRECT ADVERSE IMPACTS**

The Copermittee must take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

**g. PERMIT ACTIONS**

The filing of a request by the Copermittee for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order. (See 40 CFR

122.41(f)) In addition, the following provisions apply to this Order:

- (1) Upon application by any affected person, or on its own motion, the San Diego Water Board may review and revise the requirements in this Order. All requirements must be reviewed periodically. [CWC Section 13263(e)]
- (2) This Order may be terminated or modified for cause, including, but not limited to, all of the following: [CWC Section 13381]
  - (a) Violation of any condition contained in the requirements of this Order. [CWC Section 13381(a)]
  - (b) Obtaining the requirements in this Order by misrepresentation, or failure to disclose fully all relevant facts. [CWC Section 13381(b)]
  - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. [CWC Section 13381(c)]
- (3) When this Order is transferred to a new owner or operator, such requirements as may be necessary under the CWC may be incorporated into this Order.

#### **h. NPDES PERMITTED NON-STORM WATER DISCHARGES**

The San Diego Water Board has, in prior years, issued a limited number of individual NPDES permits for non-storm water discharges to MS4s. The San Diego Water Board or State Water Board may in the future, upon prior notice to the Copermittee(s), issue an NPDES permit for any non-storm water discharge (or class of non-storm water discharges) to an MS4. [A Copermittee will not be held responsible for pollutants in its MS4 discharge originating from an NPDES-permitted non-storm water discharge.](#)

#### **i. MONITORING**

In addition to the standard provisions required under 40 CFR 122.41(j) and (l)(4), the following general monitoring provisions apply to this Order:

- (1) Where procedures are not otherwise specified in Order, sampling, analysis and quality assurance/quality control must be conducted in accordance with the Quality Assurance Management Plan (QAMP) for the State of California's Surface Water Ambient Monitoring Program (SWAMP), adopted by the State Water Resources Control Board (State Water Board).
- ~~(2) Pursuant to 40 CFR 122.41(j)(2) and CWC Section 13383(a), each Copermittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report or application. This period may be extended by request of the San Diego Water Board at any time.~~
- ~~(3)(2)~~ All chemical, bacteriological, and toxicity analyses must be conducted at a

laboratory certified for such analyses by the California Department of Public Health or a laboratory approved by the San Diego Water Board.

(4)(3) For priority toxic pollutants that are identified in the California Toxics Rule (CTR) (65 Fed. Reg. 31682), the Copermittees must instruct their laboratories to establish calibration standards that are equivalent to or lower than the Minimum Levels (MLs) published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP). If a Copermittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR Part 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Copermittee must submit documentation from the laboratory to the San Diego Water Board for approval prior to raising the ML for any priority toxic pollutant.

**j. ENFORCEMENT**

- (1) The San Diego Water Board is authorized to enforce the terms of this Order under several provisions of the CWC, including, but not limited to, CWC Sections 13385, 13386, and 13387.
- (2) Nothing in this Order shall be construed to protect the Copermittee from its liabilities under federal, state, or local laws.
- (3) The CWC provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the CWA.
- (4) Except as provided in the standard conditions required under 40 CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the Copermittee from civil or criminal penalties for noncompliance.
- (5) Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties to which the Copermittee is or may be subject to under Section 311 of the CWA.
- (6) Nothing in this Order shall be construed to preclude institution of any legal action or relieve the Copermittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authoring preserved by Section 510 of the CWA.

**k. SEVERABILITY**

The provisions of this Order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.

**l. APPLICATIONS**

Any application submitted by a Copermittee for reissuance or modification of this Order

must satisfy all applicable requirements specified in federal regulations as well as any additional requirements for submittal of a Report of Waste Discharge specified in the CWC and the California Code of Regulations.

**m. IMPLEMENTATION**

All plans, reports and subsequent amendments submitted in compliance with this Order must be implemented immediately (or as otherwise specified). All submittals by Copermittees must be adequate to implement the requirements of this Order.

**n. REPORT SUBMITTALS**

- (1) All report submittals must include an executive summary, introduction, conclusion, recommendations, and signed certified statement.
- (2) Each Copermittee must submit a signed certified statement covering its responsibilities for each applicable submittal.
- (3) The Principal Watershed Copermittee(s) must submit a signed certified statement covering its responsibilities for each applicable submittal and the sections of the submittals for which it is responsible.
- (4) Unless otherwise directed, the Copermittees must submit one hard copy and one electronic copy of each report required under this Order to the San Diego Water Board, and one electronic copy to the USEPA.
- (5) The Copermittees must submit reports and provide notifications as required by this Order to the following:

EXECUTIVE OFFICER  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION  
9174 SKY PARK COURT, SUITE 100  
SAN DIEGO CA 92123-4340  
Telephone: (858) 467-2952 Fax: (858) 571-6972

EUGENE BROMLEY  
US ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
PERMITS ISSUANCE SECTION (W-5-1)  
75 HAWTHORNE STREET  
SAN FRANCISCO CA 94105

**ATTACHMENT C****ACRONYMS AND ABBREVIATIONS**

AMAL	Average Monthly Action Level
ASBS	Area(s) of Special Biological Significance
BMP	Best Management Practice
Basin Plan	Water Quality Control Plan for the San Diego Basin
CEQA	California Environmental Quality Act
CCR	California Code of Regulations
CFR	Code of Federal Regulations
CWA	Clean Water Act
CWC	California Water Code
CZARA	Coastal Zone Act Reauthorization Amendments of 1990
ESAs	Environmentally Sensitive Areas
GIS	Geographic Information System
IBI	Index of Biological Integrity
LID	Low Impact Development
MDAL	Maximum Daily Action Level
MEP	Maximum Extent Practicable
MS4	Municipal Separate Storm Sewer System
NAL	Non-Storm Water Action Level
NAICS	North American Industry Classification System
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
ROWD	Report of Waste Discharge (application for NPDES reissuance)
SAL	Storm Water Action Level
San Diego Water Board	California Regional Water Quality Control Board, San Diego Region
SIC	Standard Industrial Classification Code
State Water Board	State Water Resources Control Board
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency
WDID	Waste Discharge Identification Number
WLA	Waste Load Allocation
WQBEL	Water Quality Based Effluent Limitation

## DEFINITIONS

**Active/Passive Sediment Treatment** - Using mechanical, electrical or chemical means to flocculate or coagulate suspended sediment for removal from runoff from construction sites prior to discharge.

**Anthropogenic Litter** – Trash generated from human activities, not including sediment.

**Automotive Repair Shop** – [a facility that is categorized in any one of the following Standard Industrial Classification \(SIC\) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539 or equivalent NAICS code.](#)

**Average Monthly Action Level** – The highest allowable average of daily discharges over a calendar month.

**Beneficial Uses** - The uses of water necessary for the survival or wellbeing of man, plants, and wildlife. These uses of water serve to promote tangible and intangible economic, social, and environmental goals. “Beneficial Uses” of the waters of the State that may be protected include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. “Beneficial Uses” are equivalent to “Designated Uses” under federal law. [California Water Code Section 13050(f)].

**Best Management Practices (BMPs)** - Defined in 40 CFR 122.2 as schedules of activities, [effective](#) prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. [In the case of municipal discharge permits, BMPs may be used in the place of numeric effluent limits.](#)

**Bioassessment** - The use of biological community information to evaluate the biological integrity of a water body and its watershed. With respect to aquatic ecosystems, bioassessment is the collection and analysis of samples of the benthic macroinvertebrate community together with physical/habitat quality measurements associated with the sampling site and the watershed to evaluate the biological condition (i.e. biotic integrity) of a water body.

**Biofiltration** - Practices that use vegetation and amended soils to detain and treat runoff from impervious areas. Treatment is through filtration, infiltration, adsorption, ion exchange, and biological uptake of pollutants.

**Biological Integrity** - Defined in Karr J.R. and D.R. Dudley. 1981. Ecological perspective on water quality goals. *Environmental Management* 5:55-68 as: “A balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of natural habitat of the region.” Also referred to as ecosystem health.

**BMP Design Manual** – A plan developed to eliminate, reduce, or mitigate the impacts of runoff

from development projects, including Priority Development Projects.

**Channel Rehabilitation and Improvement** – Remedial measures or activities for the purpose of improving or restoring the environmental health of streams, channels or river systems. Techniques may vary from in-stream restoration techniques to off-line stormwater management practices installed in the system corridor or upland areas. Rehabilitation techniques may include, but are not limited to the following: riparian zone restoration, constructed wetlands, bank stabilization, channel modifications, and day lighting of drainage systems. Effectiveness may be measured in various manners, included: assessment of habitat, reduced stream bank erosion, and restoration of water and sediment transport balance.

**Clean Water Act Section 303(d) Water Body** - An impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology based pollution controls required by the CWA. The discharge of runoff to these water bodies by the Copermittees is significant because these discharges can cause or contribute to violations of applicable water quality standards.

**Construction Site** – Any project, including projects requiring coverage under the Construction General Permit, that involves soil disturbing activities greater than 10,000 square feet including, but not limited to, clearing, grading, disturbances to ground such as stockpiling, and excavation. This does not include interior construction activities such as interior remodeling, plumbing, electrical, or mechanical work.

**Contamination** - As defined in the Porter-Cologne Water Quality Control Act, contamination is “an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. ‘Contamination’ includes any equivalent effect resulting from the disposal of waste whether or not waters of the State are affected.”

**Copermittee** – An incorporated city within the County of Orange, County of Riverside, or County of San Diego in the San Diego Region (Region 9), the County of Orange, the County of Riverside, the County of San Diego, the Orange County Flood Control District, the Riverside County Water Conservation and Flood Control District, the San Diego Regional Airport Authority, or the San Diego Unified Port District.

**Copermittees** – All of the individual Copermittees, collectively.

**Critical Channel Flow (Qc)** – The channel flow that produces the critical shear stress that initiates bed movement or that erodes the toe of channel banks. When measuring Qc, it should be based on the weakest boundary material – either bed or bank.

**Daily Discharge** – Defined as either: (1) the total mass of the constituent discharged over the calendar day or any 24 hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g. concentration.)

The Daily Discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day, or other 24 hour period other than a day), or by the arithmetic mean of analytical results from one or more grab samples taken over the course of a day.

**Development Projects** - Construction, rehabilitation, redevelopment, or reconstruction of any public or private ~~residential~~ projects involving land disturbance activities, industrial, commercial, or any other projects.

**Direct Discharge to an Environmentally Sensitive Area** – Flow that is conveyed overland a distance of 200 ft or less from the development to the ESA, or conveyed in a pipe any amount of distance as an isolated flow from the development to the ESA (i.e. not commingled with flows from adjacent lands).

**Dry Season** – May 1 to September 30.

**Dry Weather** – Weather is considered dry if the preceding 72 hours has been without measurable precipitation (>0.1 inch).

**Enclosed Bays** – Enclosed bays are indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost bay works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays do not include inland surface waters or ocean waters.

**Erosion** – When land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.

**Environmentally Sensitive Areas (ESAs)** - Areas that include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Board and San Diego Water Board; State Water Quality Protected Areas; water bodies designated with the RARE beneficial use by the State Water Board and San Diego Water Board; areas designated as preserves or their equivalent under the Natural Communities Conservation Program within the Cities and County of Orange; and any other equivalent environmentally sensitive areas which have been identified by the Permittees.

**Estuaries** – Waters, including coastal lagoons, located at the mouth of streams that serve as areas of mixing fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and ocean water. Estuaries do not include inland surface waters or ocean waters.

**Existing Development** – Any area that has been developed and exists for municipal, commercial, industrial, or residential purposes, uses, or activities. May include areas that are not actively used for its originally developed purpose, but may be re-purposed or redeveloped for another use or activity.

**Flow Duration** – The long-term period of time that flows occur above a threshold that causes significant sediment transport and may cause excessive erosion damage to creeks and streams (not a single storm event duration). The simplest way to visualize this is to consider a histogram

of pre- and post-project flows using long-term records of hourly data. To maintain pre-development flow duration means that the total number of hours (counts) within each range of flows in a flow-duration histogram cannot increase between the pre- and post-development condition. Flow duration within the range of geomorphologically significant flows is important for managing erosion.

**Grading** - The cutting and/or filling of the land surface to a desired slope or elevation.

**Hazardous Material** – Any substance that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the USEPA in 40 CFR 116 to be reported if a designated quantity of the material is spilled into the waters of the U.S. or emitted into the environment.

**Hazardous Waste** - Hazardous waste is defined as “any waste which, under Section 600 of Title 22 of this code, is required to be managed according to Chapter 30 of Division 4.5 of Title 22 of this code” [CCR Title 22, Division 4.5, Chapter 11, Article 1].

**Household Hazardous Waste** – Paints, cleaning products, and other [hazardous](#) wastes generated during home improvement or maintenance activities.

**Hydromodification** – The change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, and groundwater flow) caused by urbanization or other land use changes that result in increased stream flows and sediment transport. In addition, alteration of stream and river channels, such as stream channelization, concrete lining, installation of dams and water impoundments, and excessive streambank and shoreline erosion are also considered hydromodification, due to their disruption of natural watershed hydrologic processes.

**Illicit Connection** – Any connection to the MS4 that conveys an illicit discharge.

**Illicit Discharge** - Any discharge to the MS4 that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities [40 CFR 122.26(b)(2)].

**Inactive Areas** – Areas of construction activity that are not active and those that have been active and are not scheduled to be re-disturbed for at least 14 days.

**Infiltration** – Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow [40 CFR 35.2005(20)].

**Inland Surface Waters** – Includes all surface waters of the [U.S. State](#) that do not include the ocean, enclosed bays, or estuaries.

**Jurisdictional Runoff Management Program Document** – A written description of the specific jurisdictional runoff management measures and programs that each Copermittee will implement to comply with this Order and ensure that storm water pollutant discharges in runoff are reduced to the MEP and do not cause or contribute to a violation of water quality standards.

**Low Impact Development (LID)** – A storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

**Low Impact Development Best Management Practices (LID BMPs)** – LID BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States through storm water management and land development strategies that emphasize conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions. LID BMPs include retention practices that do not allow runoff, such as infiltration, rain water harvesting and reuse, and evapotranspiration. LID BMPs also include flow-through practices such as biofiltration that may have some discharge of storm water following pollutant reduction.

**Major Outfall** – As defined in the Code of Federal Regulations, a major outfall is a MS4 outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (i.e. discharge from a single conveyance other than a circular pipe which is associated with a drainage area of more than 50 acres); or, for MS4s that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or equivalent), a MS4 outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (i.e. discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

**Maximum Daily Action Level (MDAL)** –The highest allowable daily discharge of a pollutant, over a calendar day (or 24 hour period). For pollutants with action levels expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with action levels expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

**Maximum Extent Practicable (MEP)** – The technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) for [storm water discharges of pollutants](#) that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their runoff management programs. Their total collective and individual activities conducted pursuant to the runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the San Diego Water Board, the San Diego Water Board defines MEP.

In a memo dated February 11, 1993, entitled "Definition of Maximum Extent Practicable," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

*“To achieve the MEP standard, municipalities must employ whatever Best Management*

*Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:*

- a. Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*
- b. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
- c. Public Acceptance: Does the BMP have public support?*
- d. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
- e. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc.?*

*The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP based solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented.”*

**Monitoring Year** – October 1 to September 30

**Municipal Separate Storm Sewer System (MS4)** – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; (iv) Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2226. [Copermittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.” 40 CFR §122.21\(a\)\(vi\).](#)

**National Pollutant Discharge Elimination System (NPDES)** - The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of

the CWA.

**Non-Storm Water** - All discharges to and from a MS4 that do not originate from precipitation events (i.e., all discharges from a MS4 other than storm water). Non-storm water includes illicit discharges and NPDES permitted discharges and the discharges described in Provision E(2)(a)(3)-(5).

**Nuisance** - As defined in the Porter-Cologne Water Quality Control Act, a nuisance is “anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes.”

**Ocean Waters** – the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Board’s California Ocean Plan.

**Order** – Unless otherwise specified, refers to this Order, Order No. R9-2013-0001 (NPDES No. CAS0109266)

**Outfall** - Outfall means a point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. 40 C.F.R. 122.26(b)(9).

**Parking Lot** – a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

**Persistent Flow** - Persistent flow is defined as the presence of flowing, pooled, or ponded water more than 72 hours after a measureable rainfall event of 0.1 inch or greater during three consecutive monitoring and/or inspection events. All other flowing, pooled, or ponded water is considered transient.

**Person** - A person is defined as an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof [40 CFR 122.2].

**Point Source** - Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

**Pollutant** - Any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

**Pollution** - As defined in the Porter-Cologne Water Quality Control Act, pollution is “the alteration of the quality of the waters of the State by waste, to a degree that unreasonably affects the either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses.” Pollution may include contamination.

**Pollution Prevention** - Pollution prevention is defined as practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control BMPs, treatment control BMPs, or disposal.

**Pre-Development Pre-Project Runoff Conditions** – Runoff conditions that existed onsite immediately before the existing development was constructed, or exists onsite before planned development activities occur. Pre-project is not intended to be interpreted as that period before any human-induced land disturbance has occurred. 64 FR 68761.

**Priority Development Projects** - New development and redevelopment projects defined under Provision E.3.b of Order No. R9-2012-0011.

**Properly Designed** – Designed in accordance with the Copermittee’s BMP Design Manual and/or any appropriate design requirements set forth by the Copermittee and based on widely accepted design criteria.

**Public Education, Outreach and Participation** – Programs to educate residents, businesses and visitors about the importance of water quality and water quality programs so that they will support local efforts and understand their role in protecting receiving waters. The Education and Outreach Program will increase knowledge and awareness, improve attitudes toward storm pollution prevention, and provide a foundation for changing behaviors that contribute to storm water pollution.

**Rainy Season (aka Wet Season)** –October 1 to April 30

**Receiving Waters** – Waters of the United States.

**Receiving Water Limitations** - Waste discharge requirements issued by the San Diego Water Board typically include both: (1) “Effluent Limitations” (or “Discharge Limitations”) that specify the technology-based or water-quality-based effluent limitations; and (2) “Receiving Water Limitations” that specify the water quality objectives in the Basin Plan as well as any other limitations necessary to attain those objectives. In summary, the “Receiving Water Limitations” provision is the provision used to implement the requirements of CWA section 402(p)(3)(B).

**Redevelopment** - The creation, addition, and or replacement of impervious surface on an already developed site through construction or alteration of the existing footprint. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of impervious surfaces. Replacement of impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing existing roadways; resurfacing, cutting and reconfiguring of surface parking lots; new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

**Reporting Period** – The period of information that is reported in the Annual Report. The

reporting period consists of two components: 1) July 1 to June 30, consistent with the fiscal year, for the implementation of the jurisdictional runoff management programs, and 2) October 1 to September 30, consistent with the monitoring year for the monitoring and assessment programs. Together, these two time periods constitute the reporting year for the Annual Report due January 31 following the end of the monitoring year.

**Restaurant** – A facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812).

**Retail gasoline outlet (RGO)** – A business that sells automotive or truck fuel to the general public.

**Retain** –Keep or hold in a particular place, condition, or position without discharge to surface waters.

**Retrofitting** – Storm water management practice put into place after development has occurred in watersheds where the practices previously did not exist or are ineffective. Retrofitting of developed areas is intended to improve water quality, protect downstream channels, reduce flooding, or meet other specific objectives. Retrofitting developed areas may include, but is not limited to replacing roofs with green roofs, disconnecting downspouts or impervious surfaces to drain to pervious surfaces, replacing impervious surfaces with pervious surfaces, installing rain barrels, installing rain gardens, and trash area enclosures.

**Runoff** - All flows in a storm water conveyance system that consists of the following components: (1) storm water (wet weather flows) and (2) non-storm water including dry weather flows.

**San Diego Water Board** – As used in this document the term "San Diego Water Board" is synonymous with the term "Regional Board" as defined in Water Code section 13050(b) and is intended to refer to the California Regional Water Quality Control Board for the San Diego Region as specified in Water Code Section 13200.

**Sediment** - Soil, sand, and minerals washed from land into water. Sediment resulting from anthropogenic sources (i.e. human induced land disturbance activities) is considered a pollutant. This Order regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. Sediment can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.

**Source Control BMP** – Land use or site planning practices, or structural or nonstructural measures that aim to prevent runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and runoff.

**Street, Road, Highway, Freeway and Driveway** – Any paved impervious surface that is used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

**Storm Water** – Per 40 CFR 122.26(b)(13), means storm water runoff, snowmelt runoff and surface runoff and drainage. Surface runoff and drainage pertains to runoff and drainage resulting from precipitation events.

**Stream, Channel, or Habitat Rehabilitation** -- Measures or activities for the purpose of improving or restoring the environmental health (i.e. physical, chemical and biological integrity) of streams, channels, or river systems. Rehabilitation techniques may include, but are not limited to, riparian zone restoration, constructed wetlands, bank stabilization, channel reconfiguration, and daylighting drainage systems.

**Structural BMPs** - A subset of BMPs which detains, retains, filters, removes, or prevents the release of pollutants to surface waters from development projects in perpetuity, after construction of a project is completed.

**Total Maximum Daily Load (TMDL)** - The maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) and still maintain water quality standards. Under CWA section 303(d), TMDLs must be developed for all water bodies that do not meet water quality standards after application of technology-based controls.

**Toxicity** - Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies). The water quality objectives for toxicity provided in the Basin Plan, state in part...“All waters shall be free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life....The survival of aquatic life in surface waters subjected to a waste discharge or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge”.

**Treatment Control BMP** – Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

**Unpaved Road** – Any long, narrow stretch without pavement used for traveling by motor passenger vehicles between two or more points. Unpaved roads are generally constructed of dirt, gravel, aggregate or macadam and may be improved or unimproved.

**Waste** - As defined in CWC Section 13050(d), “waste includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.”

Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system that applies to solid and semi-solid waste, which cannot be discharged directly or indirectly to water of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, non-hazardous solid waste, and inert waste.

**Water Quality Objective** - Numerical or narrative limits on constituents or characteristics of water designated to protect designated beneficial uses of the water. [California Water Code Section 13050 (h)]. California's water quality objectives are established by the State and Regional Water Boards in the Water Quality Control Plans. Numeric or narrative limits for pollutants or characteristics of water designed to protect the beneficial uses of the water. In

other words, a water quality objective is the maximum concentration of a pollutant that can exist in a receiving water and still generally ensure that the beneficial uses of the receiving water remain protected (i.e., not impaired). Since water quality objectives are designed specifically to protect the beneficial uses, when the objectives are violated the beneficial uses are, by definition, no longer protected and become impaired. This is a fundamental concept under the Porter Cologne Act. Equally fundamental is Porter Cologne's definition of pollution. A condition of pollution exists when the water quality needed to support designated beneficial uses has become unreasonably affected or impaired; in other words, when the water quality objectives have been violated. These underlying definitions (regarding beneficial use protection) are the reason why all waste discharge requirements implementing the federal NPDES regulations require compliance with water quality objectives. (Water quality objectives are also called water quality criteria in the CWA.)

**Water Quality Standards** - Water quality standards, as defined in Clean Water Act section 303(c) consist of the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.,) of a water body and criteria (referred to as water quality objectives in the California Water Code) necessary to protect those uses. Under the Water Code, the water boards establish beneficial uses and water quality objectives in water quality control or basin plans. Together with an anti-degradation policy, these beneficial uses and water quality objectives serve as water quality standards under the Clean Water Act. In Clean Water Act parlance, state beneficial uses are called "designated uses" and state water quality objectives are called "criteria." Throughout this Order, the relevant term is used depending on the statutory scheme.

**Waters of the State** - Any water, surface or underground, including saline waters within the boundaries of the State [CWC section 13050 (e)]. The definition of the Waters of the State is broader than that for the Waters of the United States in that all water in the State is considered to be a Waters of the State ~~regardless of circumstances or condition~~.

**Waters of the United States** - As defined in the 40 CFR 122.2, the Waters of the U.S. are defined as: "(a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA."

**Watershed** - That geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

**Wet Season (aka Rainy Season)** –October 1 to April 30

**Wet Weather** – Weather is considered wet if there is a storm event of 0.1 inches and greater and the following 72 hours, unless otherwise defined by another regulatory mechanism.

Tentative Order No. R9-2013-0001

Month Day, 2013

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**ATTACHMENT D**

**JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM  
ANNUAL REPORT FORM**

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**JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM  
ANNUAL REPORT FORM  
FY \_\_\_\_\_**

<b>I. COPERMITTEE INFORMATION</b>	
Copermittee Name:	
Copermittee Primary Contact Name:	
Copermittee Primary Contact Information:	
Address:	
City:	County:
State:	Zip:
Telephone:	Fax:
Email:	
<b>II. LEGAL AUTHORITY</b>	
Has the Copermittee established adequate legal authority within its jurisdiction to control pollutant discharges into and from its MS4 that complies with Order No. R9-2013-0001?	YES <input type="checkbox"/> NO <input type="checkbox"/>
A Principal Executive Officer, Ranking Elected Official, or Duly Authorized Representative has certified that the Copermittee obtained and maintains adequate legal authority?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>III. JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM DOCUMENT UPDATE</b>	
Was an update of the jurisdictional runoff management program document required or recommended by the San Diego Water Board?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If YES to the question above, did the Copermittee update its jurisdictional runoff management program document and make it available on the Regional Clearinghouse?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>IV. ILLICIT DISCHARGE DETECTION AND ELIMINATION PROGRAM</b>	
Has the Copermittee implemented a program to actively detect and eliminate illicit discharges and connections to its MS4 that complies with Order No. R9-2013-0001?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Number of non-storm water discharges reported by the public	
Number of non-storm water discharges detected by Copermittee staff or contractors	
Number of non-storm water discharges investigated by the Copermittee	
Number of sources of non-storm water discharges identified	
Number of non-storm water discharges eliminated	
Number of sources of illicit discharges or connections identified	
Number of illicit discharges or connections eliminated	
Number of enforcement actions issued	
Number of escalated enforcement actions issued	
<b>V. DEVELOPMENT PLANNING PROGRAM</b>	
Has the Copermittee implemented a development planning program that complies with Order No. R9-2013-0001?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Was an update to the BMP Design Manual required or recommended by the San Diego Water Board?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If YES to the question above, did the Copermittee update its BMP Design Manual and make it available on the Regional Clearinghouse?	YES <input type="checkbox"/> NO <input type="checkbox"/>
Number of proposed development projects in review	
Number of Priority Development Projects in review	
Number of Priority Development Projects approved	
Number of approved Priority Development Projects exempt from any BMP requirements	
Number of approved Priority Development Projects allowed alternative compliance	
Number of Priority Development Projects granted occupancy	
Number of completed Priority Development Projects in inventory	
Number of high priority Priority Development Project structural BMP inspections	
Number of Priority Development Project structural BMP violations	
Number of enforcement actions issued	
Number of escalated enforcement actions issued	

**JURISDICTIONAL RUNOFF MANAGEMENT PROGRAM  
ANNUAL REPORT FORM  
FY \_\_\_\_\_**

**VI. CONSTRUCTION MANAGEMENT PROGRAM**

Has the Copermittee implemented a construction management program that complies with Order No. R9-2013-0001? YES   
NO

Number of construction sites in inventory	
Number of active construction sites in inventory	
Number of inactive construction sites in inventory	
Number of construction sites closed/completed during reporting period	
Number of construction site inspections	
Number of construction site violations	
Number of enforcement actions issued	
Number of escalated enforcement actions issued	

**VII. EXISTING DEVELOPMENT MANAGEMENT PROGRAM**

Has the Copermittee implemented an existing development management program that complies with Order No. R9-2013-0001? YES   
NO

	Municipal	Commercial	Industrial	Residential
Number of facilities or areas in inventory				
Number of existing development inspections				
Number of follow-up inspections				
Number of violations				
Number of enforcement actions issued				
Number of escalated enforcement actions issued				

**VIII. PUBLIC EDUCATION AND PARTICIPATION**

Has the Copermittee implemented a public education program component that complies with Order No. R9-2013-0001? YES   
NO

Has the Copermittee implemented a public participation program component that complies with Order No. R9-2013-0001? YES   
NO

**IX. FISCAL ANALYSIS**

Has the Copermittee attached to this form a summary of its fiscal analysis that complies with Order No. R9-2013-0001? YES   
NO

**X. CERTIFICATION**

I [ Principal Executive Officer  Ranking Elected Official  Duly Authorized Representative] certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email

**ATTACHMENT E****SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS  
APPLICABLE TO ORDER NO. R9-2013-0001**

These provisions implement Total Maximum Daily Loads (TMDLs), adopted by the San Diego Water Board and approved by USEPA under Clean Water Act section 303(c), which are applicable to discharges regulated under this Order. The provisions and schedules for implementation of the TMDLs described below must be incorporated into the Water Quality Improvement Plans, required pursuant to Provision B of this Order, for the specified Watershed Management Areas.

1. Total Maximum Daily Load for Diazinon in Chollas Creek Watershed
2. Total Maximum Daily Loads for Dissolved Copper in Shelter Island Yacht Basin
3. Total Maximum Daily Loads for Total Nitrogen and Total Phosphorus in Rainbow Creek Watershed
4. Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek
5. Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay
6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)

**1. Total Maximum Daily Load for Diazinon in Chollas Creek Watershed**

**a. APPLICABILITY**

- (1) TMDL Basin Plan Amendment: Resolution No. R9-2002-0123
- (2) TMDL Adoption and Approval Dates:
  - San Diego Water Board Adoption Date: August 14, 2002
  - State Water Board Approval Date: July 16, 2003
  - Office of Administrative Law Approval Date: September 11, 2003
  - US EPA Approval Date: November 3, 2003
- (3) TMDL Effective Date: September 11, 2003
- (4) Watershed Management Area: San Diego Bay
- (5) Water Body: Chollas Creek
- (6) Responsible Copermittees: City of La Mesa, City of Lemon Grove, City of San Diego, County of San Diego, San Diego Unified Port District

**b. FINAL TMDL COMPLIANCE REQUIREMENTS~~WATER QUALITY BASED EFFLUENT LIMITATIONS~~**

Final TMDL compliance requirements~~The WQBELs~~ for Chollas Creek consist of the following:

(1) Receiving Water Limitations

Discharges from the MS4s must not cause or contribute to the ~~violation~~ exceedance of the following receiving water limitations by the end of the compliance schedule under Specific Provision ~~1.aaa~~:

**Table 1.1**  
*Receiving Water Limitations as Concentrations in Chollas Creek*

Constituent	Exposure Duration	Receiving Water Limitation	Averaging Period
Diazinon	Acute	0. <del>1608</del> µg/L	1 hour
	Chronic	0. <del>1005</del> µg/L	4 days

(2) Final Water Quality Based Effluent Limitations

~~Discharges from the MS4s must not contain concentrations that exceed the following effluent limitations by the end of the compliance schedule under Specific Provision 1.c:~~

In the case that receiving water limitations are exceeded after the end of the compliance schedules under Specific Provision 1.b.(4), effluent limitations will be used to determine whether MS4 discharges are causing or contributing to exceedances of receiving water quality limitations. To demonstrate MS4 discharges are not causing or contributing to an exceedance of receiving

[water quality limitations, MS4 discharges must meet the concentration-based effluent limitations in Table 1.2.](#)

**Table 1.2**

*Effluent Limitations as Concentrations in MS4 Discharges to Chollas Creek*

Constituent	Exposure Duration	Effluent Limitation	Averaging Period
Diazinon	Acute	0.072-144 µg/L	1 hour
	Chronic	0.045-09 µg/L	4 days

[1. Concentrations shall be determined on a flow-weighted basis across all outfalls within a jurisdiction, not outfall-by-outfall.](#)

### (3) Best Management Practices

The following BMPs for Chollas Creek must be incorporated into the Water Quality Improvement Plan for the San Diego Bay Watershed Management Area and implemented by the Responsible Copermittees:

- (a) The Responsible Copermittees must implement BMPs to support the achievement of the WQBELs under Specific Provision 1.b for Chollas Creek.
- (b) The Responsible Copermittees must implement the Diazinon Toxicity Control Plan and Diazinon Public Outreach/Education Program as described in the report titled, *Technical Report for Total Maximum Daily Load for Diazinon in Chollas Creek Watershed, San Diego County*, dated August 14, 2002, including subsequent modifications, in order to achieve the WQBELs under Specific Provision 1.b.
- (c) [The Responsible Copermittees should coordinate any BMPs implemented to address this TMDL with Caltrans as possible.](#)
- (d) [For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:](#)
  - (1) [A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions \(A.1\), receiving water limitations \(A.2\), and/or effluent limitations \(A.3\) in the letter of submittal to the San Diego Water Board;](#)
  - (2) [Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the final receiving water limitations or final WQBELs under Specific Provision 1.b;](#)
  - (3) [The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow](#)

the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND

(4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

**g.** COMPLIANCE SCHEDULE

(4) Final Compliance Dates

The Responsible Copermittees are required to achieve their respective WLAs by December 31, 2010. The Responsible Copermittees must be in compliance with the final receiving water limitations or final WQBELs under Specific Provision 1.b.

(5) Final Compliance Determination

Compliance with final compliance requirements of Specific Provision 1.b may be demonstrated by a Responsible Copermittee via one of the following methods:

- (a) There is no direct or indirect discharge from the Responsible Copermittees' MS4s to the receiving water; OR
- (b) There are no exceedances of the applicable receiving water limitations under Specific Provision 1.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR
- (c) There are no exceedances of the applicable effluent limitations under Specific Provision 1.b.(2) at the Responsible Copermittee's MS4 outfalls; OR
- (d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 1.b.(1) in the receiving water are due to loads from non-MS4 sources; OR
- (e) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 1.b.(3).d.

**d-c.** SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS

- (1) The Responsible Copermittees must implement the monitoring and assessment requirements issued under Investigation Order No. R9-2004-0277, *California Department of Transportation and San Diego Municipal*

*Separate Storm Sewer System Copermittees Responsible for the Discharge of Diazinon into the Chollas Creek Watershed.* The monitoring reports required under Investigation Order No. R9-2004-0277 must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

- (2) The Responsible Copermittees must monitor the effluent of the MS4 outfalls for diazinon within the Chollas Creek watershed, and calculate or estimate the annual diazinon loads, in accordance with the requirements of Provisions [D.2](#), [D.4.b.\(1\)](#), and [D.4.b.\(2\)](#) of this Order. The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

**~~e. COMPLIANCE DETERMINATION~~**

~~Compliance with WQBELs of Specific Provision 1.b may be demonstrated via one of the following methods:~~

- ~~(1) There is no direct or indirect discharge from the Responsible Copermitees' MS4s to the receiving water;~~
- ~~(2) There are no exceedances of the applicable receiving water limitations under Specific Provision 1.b.(1) in the receiving water at, or downstream of the Responsible Copermitees' MS4 outfalls; OR~~
- ~~(3) There are no violations of the applicable effluent limitations under Specific Provision 1.b.(2) at the Responsible Copermitees' MS4 outfalls.~~

**2. Total Maximum Daily Loads for Dissolved Copper in Shelter Island Yacht Basin**

**a. APPLICABILITY**

(1) TMDL Basin Plan Amendment: Resolution No. R9-2005-0019

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date:	February 9, 2005
State Water Board Approval Date:	September 22, 2005
Office of Administrative Law Approval Date:	December 2, 2005
US EPA Approval Date:	February 8, 2006

(3) TMDL Effective Date: December 2, 2005

(4) Watershed Management Area: San Diego Bay

(5) Water Body: Shelter Island Yacht Basin

(6) Responsible Copermittee: City of San Diego

**b. FINAL TMDL COMPLIANCE REQUIREMENTS WATER QUALITY BASED EFFLUENT LIMITATIONS**

The WQBELs-Final TMDL compliance requirements for Shelter Island Yacht Basin consist of the following:

(1) Final Receiving Water Limitations

Discharges from the MS4s must not cause or contribute to the exceedance violation of the following receiving water limitations by the end of the compliance schedule under Specific Provision 2.eb(4):

**Table 2.1**

*Receiving Water Limitations as Concentrations in Shelter Island Yacht Basin*

Constituent	Exposure Duration	Receiving Water Limitation	Averaging Period
Dissolved Copper	Acute	4.8 x <u>WER</u> µg/L	1 hour
	Chronic	3.1 x <u>WER</u> µg/L	4 days

Notes:

\* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

(2) Final Water Quality Based Effluent Limitations

In the case that receiving water limitations are exceeded after the end of the compliance schedule under Specific Provision 2.b.(4), Discharges from the MS4s must not contain pollutant loads that exceed the following effluent limitations will be used to determine whether MS4 discharges are causing or contributing to exceedances of receiving water quality limitations by the end of the compliance schedule under Specific Provision 2.c.: To demonstrate MS4 discharges are not causing or contributing to exceedances of receiving water quality limitations, MS4 discharges must meet the load-based effluent limitations in Table 2.2.

**Table 2.2**

*Effluent Limitations as Annual Loads in MS4 Discharges to Shelter Island Yacht Basin*

Constituent	Effluent Limitation
Dissolved Copper	30 x WER kg/yr

Notes:

\* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

(3) Final Best Management Practices

The Responsible Copermittee must implement BMPs to support the achievement of the WQBELs under Specific Provision 2.b for Shelter Island Yacht Basin

(a) The Responsible Copermittee must implement BMPs to support the achievement of the final receiving water limitations or final WQBELs under Specific Provision 2.b.

(b) The Responsible Copermittees should coordinate any BMPs implemented to address this TMDL with other responsible parties as possible.

(c) For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:

(1) A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance in the letter of submittal to the San Diego Water Board;

(2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the final receiving water limitations or final WQBELs under Specific Provision 2.b;

(3) The submitted schedule as outlined in Provision B.3 provides sufficient

detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND

(4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

(4) Final Compliance Schedule

The Responsible Copermittee is required to achieve the MS4 WLA by December 2, 2005. The Responsible Copermittee must be in compliance with the final receiving water limitations or final WQBELs under Specific Provision 2.b.

(5) Final Compliance Determination

Compliance with final compliance requirements of Specific Provision 2.b.(1) may be demonstrated by a Responsible Copermittee via one of the following methods:

- (a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water; OR
- (b) There are no exceedances of the applicable receiving water limitations under Specific Provision 1.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR
- (c) There are no exceedances of the applicable effluent limitations under Specific Provision 2.b.(2) at the Responsible Copermittee's MS4 outfalls; OR
- (d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 2.b.(1) in the receiving water are due to loads from non-MS4 sources; OR
- (e) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 2.b.(3).c.

**c. SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS**

The Responsible Copermittee must monitor the effluent of its MS4 outfalls for dissolved copper, and calculate or estimate the monthly and annual dissolved copper loads, in accordance with the requirements of Provisions D.2, D.4.b.(1),

and D.4.(b)(2) of this Order. The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

~~d. COMPLIANCE DETERMINATION~~

~~Compliance with WQBELs of Specific Provision 2.b may be demonstrated via one of the following methods:~~

- ~~(1) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water;~~
- ~~(2) There are no exceedances of the applicable receiving water limitations under Specific Provision 2.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR~~
- ~~(3) There are no violations of the applicable effluent limitations under Specific Provision 2.b.(2) at the Responsible Copermittee's MS4 outfalls.~~

**3. Total Maximum Daily Loads for Total Nitrogen and Total Phosphorus in Rainbow Creek Watershed**

**a. APPLICABILITY**

(1) TMDL Basin Plan Amendment: Resolution No. R9-2005-0036

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date:	February 9, 2005
State Water Board Approval Date:	November 16, 2005
Office of Administrative Law Approval Date:	February 1, 2006
US EPA Approval Date:	March 22, 2006

(3) TMDL Effective Date: February 1, 2006

(4) Watershed Management Area: Santa Margarita River

(5) Water Body: Rainbow Creek

(6) Responsible Copermittee: County of San Diego

**b. FINAL TMDL COMPLIANCE REQUIREMENTS WATER QUALITY BASED EFFLUENT LIMITATIONS**

The WQBELs Final TMDL compliance requirements for Rainbow Creek consist of the following:

(1) Final Receiving Water Limitations

Discharges from the MS4s must not cause or contribute to the violation exceedance of the following receiving water limitations by the end of the compliance schedule under Specific Provision 3.b(4)c-(1):

**Table 3.1**

*Receiving Water Limitations as Concentrations in Rainbow Creek*

Receiving Water Limitation	
Constituent	Limitation
Nitrate (as N)	10 mg/L
Total Nitrogen	1 mg/L
Total Phosphorus	0.1 mg/L

(2) Final Water Quality Based Effluent Limitations

- (a) In the case that receiving water limitations are exceeded after the end of the compliance schedules under Specific Provision 3.b.(4), Discharges from the MS4s must not contain concentrations that exceed the following effluent limitations will be used to determine whether MS4 discharges are causing or contributing to exceedances of receiving water quality limitations. by the end of the compliance schedule under Specific Provision 3.c.(1): To demonstrate MS4 discharges are not causing or contributing to exceedances of receiving water quality limitations, MS4 discharges must meet either the concentration-based effluent limitations in Table 3.2 or the load-based effluent limitations in Table 3.3.

**Table 3.2**

*Effluent Limitations as Concentrations in MS4 Discharges to Rainbow Creek*

Constituent	Effluent Limitation
Nitrate (as N)	10 mg/L
Total Nitrogen	1 mg/L
Total Phosphorus	0.1 mg/L

1. Concentrations shall be determined on a flow-weighted basis across all outfalls within a jurisdiction, not outfall-by-outfall.

- (b) Pollutant loads from given land uses discharging to and from the MS4s must not exceed the following effluent limitations by the end of the compliance schedule under Specific Provision 3.c.(1):

**Table 3.3**

*Effluent Limitations as Annual Loads in MS4 Discharges to Rainbow Creek*

Land Use	Total N	Total P
Commercial nurseries	116 kg/yr	3 kg/yr
Park	3 kg/yr	0.1 kg/yr
Residential areas	149 kg/yr	12 kg/yr
Urban areas	27 kg/yr	6 kg/yr

Interim effluent limitations expressed as pollutant loads are given in the compliance schedule under Specific Provision 3.0.

(3) Final Best Management Practices

- (a) The Responsible Copermittee must implement BMPs to support the achievement of the final receiving water limitations or final WQBELs under Specific Provision 3.b for Rainbow Creek.
- (b) The Responsible Copermittee should coordinate any BMPs implemented to address this TMDL with Caltrans and other sources as possible.

- (c) For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve

as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:

- (1) A Responsible Copermitttee requests that the Water Quality Improvement Plan be approved as the basis for compliance in the letter of submittal to the San Diego Water Board;
- (2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the final receiving water limitations or final WQBELs under Specific Provision 3.b;
- (3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND
- (4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

**c. COMPLIANCE SCHEDULE****(5) Final Compliance Date**

The Responsible Copermittee must be in compliance with the final receiving water limitations or final WQBELs under Specific Provision 3.b, by December 31, 2021.

**(6) Final Compliance Determination**

Compliance with final compliance requirements of Specific Provision 3.b.(1) may be demonstrated by a Responsible Copermittee via one of the following methods:

- (a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water; OR
- (b) There are no exceedances of the applicable receiving water limitations under Specific Provision 3.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR
- (c) There are no exceedances of either the applicable numeric or load based effluent limitations under Specific Provision 3.b.(2) at the Responsible Copermittee's MS4 outfalls; OR
- (d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 3.b.(1).a in the receiving water are due to loads from natural sources or non-MS4 sources; OR
- (e) The Responsible Copermittee is using its legal authority to reduce nutrient discharges from the land uses identified under Specific Provision 3.b.(2).b to the maximum extent practicable; OR
- (f) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 3.b.(3).d.

**c. INTERIM COMPLIANCE REQUIREMENTS****(6) Interim Compliance Requirements**

Interim TMDL compliance requirements consist of the following:

**(1) Interim Water Quality Based Effluent Limitations**

Discharges from the MS4s must not exceed the interim WQBELs presented in

Table 3.4 by the end of the interim compliance schedule as presented in Table 3.4.

**Table 3.4**

*Interim Effluent Limitations as Annual Loads in MS4 Discharges from Specific Land Uses to Rainbow Creek*

Land Use	Total N Interim Effluent Limitations (kg/yr)			Total P Interim Effluent Limitations (kg/yr)		
	Interim Compliance Date			Interim Compliance Date		
	2009	2013	2017	2009	2013	2017
Commercial nurseries	390	299	196	20	16	10
Park	5	3	3	0.15	0.10	0.10
Residential areas	507	390	260	99	74	47
Urban areas	40	27	27	9	6	6

(2) Interim Best Management Practices

- (a) The Responsible Copermittee must implement BMPs to support the achievement interim effluent limitations under Specific Provision 3.c.(1).
- (b) The Responsible Copermittees should coordinate any BMPs implemented to address this TMDL with other responsible parties as possible.
- (c) For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:
- (1) A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board;
- (2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the interim load requirements under Specific Provision 3.c.(1);
- (3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND
- (4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

(3) Interim Compliance Determination

Compliance with interim compliance requirements of Specific Provision 3.c may be demonstrated via one of the following methods:

- (a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water; OR
- (b) There are no exceedances of the applicable final receiving limitations under Specific Provision 3.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR
- (c) The Responsible Copermittee demonstrates applicable interim WQBELs under Specific Provision 3.c.(1) have been achieved; OR
- (d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 3.b.(1) are due to loads from natural sources or non-MS4 sources; OR
- (e) The Responsible Copermittee is using its legal authority to reduce nutrient discharges from the land uses identified under Specific Provision 3.b.(2).(b) to the maximum extent practicable; OR
- (f) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan, that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 3.c.(2).c.

**d. SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS**

The Responsible Copermittee must implement the Sampling and Analysis Plan for Rainbow Creek Nutrient Reduction TMDL Implementation Water Quality Monitoring, dated January 2010. The results of any monitoring conducted during the reporting period, and assessment of whether the interim and final WQBELs have been achieved must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

**~~e. COMPLIANCE DETERMINATION~~**

- ~~(1) Compliance with interim compliance requirements of Specific Provision 3.c.(2) may be demonstrated via one of the following methods:~~
- ~~(a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water;~~

- ~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 3.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls;~~
  - ~~(c) There are no violations of the applicable effluent limitations under Specific Provision 3.b.(2)(a) at the Responsible Copermittee's MS4 outfalls;~~
  - ~~(d) The pollutant loads from given land uses discharging to and from the MS4s do not exceed the applicable effluent limitations under Specific Provision 3.b.(2)(b); OR~~
  - ~~(e) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan, accepted by the San Diego Water Board, which provides reasonable assurance that the interim compliance requirements will be achieved by the interim compliance dates.~~
- ~~(2) Compliance with WQBELs of Specific Provision 3.b may be demonstrated via one of the following methods:~~
- ~~(a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water;~~
  - ~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 3.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls;~~
  - ~~(c) There are no violations of the applicable effluent limitations under Specific Provision 3.b.(2)(a) at the Responsible Copermittee's MS4 outfalls; OR~~
  - ~~(d) The pollutant loads from given land uses discharging to and from the MS4s do not exceed the applicable effluent limitations under Specific Provision 3.b.(2)(b).~~

**4. Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek**

**a. APPLICABILITY**

(1) TMDL Basin Plan Amendment: Resolution No. R9-2007-0043

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date: June 13, 2007  
 State Water Board Approval Date: July 15, 2008  
 Office of Administrative Law Approval Date: October 22, 2008  
 US EPA Approval Date: December 18, 2008

(3) TMDL Effective Date: October 22, 2008

(4) Watershed Management Area: San Diego Bay

(5) Water Body: Chollas Creek

(6) Responsible Copermittees: City of La Mesa, City of Lemon Grove, City of San Diego, County of San Diego, San Diego Unified Port District

**b. FINAL TMDL COMPLIANCE REQUIREMENTS ~~WATER QUALITY BASED EFFLUENT LIMITATIONS~~**

The WQBELs-Final TMDL compliance requirements for Chollas Creek consist of the following:

(1) Final Receiving Water Limitations

Discharges from the MS4s must not cause or contribute to the violation exceedance of the following receiving water limitations by the end of the compliance schedule under Specific Provision 4.b.(4)e.(1):

**Table 4.1**  
*Receiving Water Limitations as Concentrations in Chollas Creek*

Constituent	Exposure Duration	Receiving Water Limitation (µg/L)	Averaging Period
Dissolved Copper	Acute	$(0.96) \times e^{[0.9422 \times \ln(\text{hardness}) - 1.700]} \times \text{WER}^*$	1 hour
	Chronic	$(0.96) \times e^{[0.8545 \times \ln(\text{hardness}) - 1.702]} \times \text{WER}^*$	4 days
Dissolved Lead	Acute	$[1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 1.460]} \times \text{WER}^*$	1 hour
	Chronic	$[1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 4.705]} \times \text{WER}^*$	4 days
Dissolved Zinc	Acute	$(0.978) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	1 hour
	Chronic	$(0.986) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	4 days

Notes:

\* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

(2) Final Water Quality Based Effluent Limitations

In the case that receiving water limitations are exceeded after the end of the compliance schedules under Specific Provision 4.b.(4), Discharges from the MS4s must not contain pollutant loads that exceed the following effluent limitations will be used to determine whether MS4 discharges are causing or contributing to exceedances of receiving water quality limitations. by the end of the compliance schedule under Specific Provision 4.c.(1): To demonstrate MS4 discharges are not causing or contributing to exceedances of receiving water quality limitations, MS4 discharges must meet the concentration-based effluent limitations in Table 4.2.

**Table 4.2**

*Effluent Limitations as Concentrations in MS4 Discharges to Chollas Creek*

Constituent	Exposure Duration	Effluent Limitation (µg/L)	Averaging Period
Dissolved Copper	Acute	$90\% \times (0.96) \times e^{[0.9422 \times \ln(\text{hardness}) - 1.700]} \times \text{WER}^*$	1 hour
	Chronic	$90\% \times (0.96) \times e^{[0.8545 \times \ln(\text{hardness}) - 1.702]} \times \text{WER}^*$	4 days
Dissolved Lead	Acute	$90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 1.460]} \times \text{WER}^*$	1 hour
	Chronic	$90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 4.705]} \times \text{WER}^*$	4 days
Dissolved Zinc	Acute	$90\% \times (0.978) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	1 hour
	Chronic	$90\% \times (0.986) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	4 days

Notes:

\* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

(3) Final Best Management Practices

(a) The Responsible Copermittees must implement BMPs to support the achievement of the final receiving water limitations or final WQBELs under Specific Provision 4.b.(1) for Chollas Creek.

(b) The Responsible Copermittees should coordinate any BMPs implemented to address this TMDL with Caltrans and the U.S. Navy as possible.

(c) For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:

(1) A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the

discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board;

(2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the final receiving water limitations or final WQBELs under Specific Provision 4.b;

(3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND

(4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

#### **G. COMPLIANCE SCHEDULE**

##### (4) Final WLA Compliance Date

The Responsible Copermittees ~~are required to achieve the WLA, thus~~ must be in compliance with the final receiving water limitation or final WQBELs under Specific Provision 4.b, by October 22, 2028.

##### (5) Final Compliance Determination

Compliance with final compliance requirements of Specific Provision 4.b.(1) may be demonstrated by a Responsible Copermittee via one of the following methods:

(a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water; OR

(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 4.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR

(c) There are no exceedances of the applicable effluent limitations under Specific Provision 4.b.(2) at the Responsible Copermittee's MS4 outfalls; OR

(d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 4.b.(1) in the receiving water are due to loads from natural sources or non-MS4 sources; OR

(e) The Responsible Copermitttee has submitted and is fully implementing an Enhanced Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 4.b.(3).c.

**d.c. INTERIM COMPLIANCE REQUIREMENTS**

Interim TMDL compliance requirements consist of the following:

(1) Interim Water Quality Based Effluent Limitations

Discharges from the MS4s must not exceed the interim WQBELs by the interim compliance schedule under Specific Provision 4.c.(3). The Responsible Copermitttee must comply with the following interim WQBELs by the interim compliance date:

**Table 4.3**

*Interim Effluent Limitations as Concentrations in MS4 Discharges to Chollas Creek*

Interim Compliance Date	Constituent	Exposure Duration	Effluent Limitation (µg/L)	Averaging Period
October 22, 2018	Dissolved Copper	Acute	$1.2 \times 90\% \times (0.96) \times e^{[0.9422 \times \ln(\text{hardness}) - 1.700]} \times \text{WER}^*$	1 hour
		Chronic	$1.2 \times 90\% \times (0.96) \times e^{[0.8545 \times \ln(\text{hardness}) - 1.702]} \times \text{WER}^*$	4 days
	Dissolved Lead	Acute	$1.2 \times 90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 1.460]} \times \text{WER}^*$	1 hour
		Chronic	$1.2 \times 90\% \times [1.46203 - 0.145712 \times \ln(\text{hardness})] \times e^{[1.273 \times \ln(\text{hardness}) - 4.705]} \times \text{WER}^*$	4 days
	Dissolved Zinc	Acute	$1.2 \times 90\% \times (0.978) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	1 hour
		Chronic	$1.2 \times 90\% \times (0.986) \times e^{[0.8473 \times \ln(\text{hardness}) + 0.884]} \times \text{WER}^*$	4 days

Notes:

\* The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER.

(2) Interim Best Management Practices

(a) The Responsible Copermitttee must implement BMPs to support the achievement interim effluent limitations under Specific Provision 4.c.(1).

(b) The Responsible Copermitttees should coordinate any BMPs implemented to address this TMDL with other responsible parties as possible.

(c) For Copermitttees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:

(1) A Responsible Copermitttee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board;

(2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the interim WQBELs under Specific Provision 4.c.(1);

(3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND

(4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

(3) Interim Compliance Date

The Responsible Copermittees must be in compliance with the interim WQBELs under Specific Provision 4.c, by October 22, 2018.

(4) Interim Compliance Determination

Compliance with interim compliance requirements of Specific Provision 4.c may be demonstrated via by a Responsible Copermittee one of the following methods:

(a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water; OR

(b) There are no exceedances of the applicable final receiving limitations under Specific Provision 4.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR

(c) The Responsible Copermittee demonstrates applicable interim WQBELs under Specific Provision 4.c.(1) have been achieved; OR

(d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 4.b.(1) are due to loads from natural sources or non-MS4 sources; OR

(e) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan, that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 4.c.(2).c.

**e-d. \_\_\_\_\_ SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS**

- (1) The Responsible Copermittees must implement the monitoring and assessment requirements issued under Investigation Order No. R9-2004-0277, *California Department of Transportation and San Diego Municipal Separate Storm Sewer System Copermittees Responsible for the Discharge of Diazinon into the Chollas Creek Watershed*, when it is amended to include monitoring requirements for the Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek. The monitoring reports required under Investigation Order No. R9-2004-0277 must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.
- (2) The Responsible Copermittees must monitor the effluent of the MS4 outfalls discharging to Chollas Creek for dissolved copper, lead, and zinc, and calculate or estimate the monthly and annual dissolved copper, lead, and zinc loads, in accordance with the requirements of Provisions [D.2](#), [D.4.b.\(1\)](#), and [D.4.b.\(2\)](#) of this Order. The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

**f. ~~COMPLIANCE DETERMINATION~~**

~~(1) Compliance with interim compliance requirements of Specific Provision 4.c.(2) may be demonstrated via one of the following methods:~~

~~(a) There is no direct or indirect discharge from the Responsible Copermittees' MS4s to the receiving water;~~

~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 4.b.(1) in the receiving water at, or downstream of the Responsible Copermittees' MS4 outfalls;~~

~~(c) There are no violations of the applicable effluent limitations under Specific Provision 4.b.(2) at the Responsible Copermittees' MS4 outfalls; OR~~

~~(d) The Responsible Copermittees have submitted and is fully implementing a Water Quality Improvement Plan, accepted by the San Diego Water Board, which provides reasonable assurance that the interim compliance requirements will be achieved by the interim compliance dates.~~

~~(2) Compliance with WQBELs of Specific Provision 4.b may be demonstrated via one of the following methods:~~

~~(a) There is no direct or indirect discharge from the Responsible Copermittees' MS4s to the receiving water;~~

~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 4.b.(1) in the receiving water at, or downstream of the Responsible Copermittees' MS4 outfalls; OR~~

~~(c) There are no violations of the applicable effluent limitations under Specific Provision 4.b.(2) at the Responsible Copermittees' MS4 outfalls.~~

**5. Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay**

**a. APPLICABILITY**

(1) TMDL Basin Plan Amendment: Resolution No. R9-2008-0027

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date:	June 11, 2008
State Water Board Approval Date:	June 16, 2009
Office of Administrative Law Approval Date:	September 15, 2009
US EPA Approval Date:	October 26, 2009

(3) TMDL Effective Date: September 15, 2009

(4) Watershed Management Areas: See [Table 5.0](#)

(5) Water Bodies: See [Table 5.0](#)

(6) Responsible Copermittees: See [Table 5.0](#)

**Table 5.0**

*Applicability of Total Maximum Daily Loads for Indicator Bacteria  
Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay*

<b>Watershed Management Area</b>	<b>Water Body</b>	<b>Segment or Area</b>	<b>Responsible Copermittees</b>
South Orange County	Dana Point Harbor	Baby Beach	-City of Dana Point -County of Orange
San Diego Bay	San Diego Bay	Shelter Island Shoreline Park	- San Diego Unified Port District

**b. FINAL TMDL COMPLIANCE REQUIREMENTS WATER QUALITY BASED EFFLUENT LIMITATIONS**

The WQBELs-Final TMDL compliance requirements for segments or areas of the water bodies listed in Table 5.0 consist of the following:

(1) Final Receiving Water Limitations

- (a) Discharges from the MS4s must not cause or contribute to the violation exceedance of the following receiving water limitations by the end of the compliance schedules under Specific Provisions 5.c.(1)(a)(u) and 5.c.(b):

**Table 5.1**

*Receiving Water Limitations as Bacteria Densities in the Water Body*

<b>Receiving Water Limitations</b>		
<b>Constituent</b>	<b>Single Sample Maximum<sup>1,2</sup></b>	<b>30-Day Geometric Mean<sup>2</sup></b>
Total Coliform	10,000 MPN/100mL	1,000 MPN/100mL
Fecal Coliform	400 MPN/100mL	200 MPN/100mL
<i>Enterococcus</i>	104 MPN/100mL	35 MPN/100mL

Notes:

- 1. During wet weather days, only the single sample maximum receiving water limitations are required to be achieved.
- 2. During dry weather days, the single sample maximum and 30-day geometric mean receiving water limitations are required to be achieved.

~~(b) If the above receiving water limitations are not met in the receiving water, the Responsible Copermittees must demonstrate that the discharges from the MS4s are not causing or contributing to the exceedance of receiving water limitations.~~

(2) Final Water Quality Based Effluent Limitations

In the case that receiving water limitations are exceeded after the end of the compliance schedules under Specific Provision 5.b.4, Discharges from the MS4s must not contain densities that exceed the following effluent limitations will be used to determine whether MS4 discharges are causing or contributing to exceedances of receiving water quality limitations. by the end of the compliance schedules under Specific Provisions 5.c.(1)(a) and 5.c.(2) to demonstrate the discharge is not causing or contributing to a violation of receiving water quality standards: To demonstrate MS4 discharges are not causing or contributing to exceedances of receiving water quality limitations, MS4 discharges must meet either the concentration-based effluent limitations in Table 5.2a or the load-based effluent limitations in Table 5.2b.

**Table 5.2**

*Effluent Limitations as Bacteria Densities in MS4 Discharges to the Water Body*

<b><u>Concentration-Based</u> Effluent Limitations</b>		
<b>Constituent</b>	<b>Single Sample Maximum<sup>1,2</sup></b>	<b>30-Day Geometric Mean<sup>2</sup></b>
Total Coliform	10,000 MPN/100mL	1,000 MPN/100mL
Fecal Coliform	400 MPN/100mL	200 MPN/100mL
<i>Enterococcus</i>	104 MPN/100mL	35 MPN/100mL

Notes:

1. During wet weather days, only the single sample maximum effluent limitations are required to be achieved.
2. During dry weather days, the single sample maximum and 30-day geometric mean effluent limitations are required to be achieved.

3. Concentrations shall be determined on a flow-weighted basis across all outfalls within a jurisdiction, not outfall-by-outfall

~~Interim effluent limitations expressed as pollutant loads are given in the compliance schedule under Specific Provision 5.c.~~

**Table 5.2b**  
*Effluent Limitations as Allowable Loading Rates for MS4 Discharges to the Water Body*

<u>Waterbody</u>	<u>Shoreline Segment/Area</u>	<u>Load-based Effluent Limitations</u> <u>Expressed as Required % Load Reduction by MS4s</u>					
		<u>Dry Weather</u>			<u>Wet Weather</u>		
		<u>Total Coliform</u>	<u>Fecal Coliform</u>	<u>Enterococcus</u>	<u>Total Coliform</u>	<u>Fecal Coliform</u>	<u>Enterococcus</u>
<u>Dana Point Harbor</u>	<u>Baby Beach</u>	<u>90.4% reduction</u>	<u>82.7% reduction</u>	<u>96.2% reduction</u>	<u>0% reduction</u>	<u>0% reduction</u>	<u>62.2% reduction</u>
<u>San Diego Bay</u>	<u>Shelter Island Shoreline Park</u>	<u>0% reduction</u>	<u>0% reduction</u>	<u>0% reduction</u>	<u>0% reduction</u>	<u>0% reduction</u>	<u>0% reduction</u>

ATTACHMENT E: SPECIFIC PROVISIONS FOR TOTAL MAXIMUM DAILY LOADS  
 5. Total Maximum Daily Loads for Indicator Bacteria, Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay

(3) Final Best Management Practices

- (a) The Water Quality Improvement Plans for the applicable Watershed Management Areas in [Table 5.0](#) must incorporate the Bacteria Load Reduction Plan (BLRP) required to be developed pursuant to Resolution No. R9-2008-0027.
- (b) The Responsible Copermittee must implement BMPs to support the achievement of the [final receiving water limitations or final](#) WQBELs under Specific Provision [5.0](#) for the segments or areas of the water bodies listed in [Table 5.0](#)

(c) For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:

- (1) A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board;
- (2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the final receiving water limitations or final WQBELs under Specific Provision 5.b;
- (3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND
- (4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

~~e.~~ **COMPLIANCE SCHEDULE**(4) Final Compliance Dates

- (a) Baby Beach in Dana Point Harbor

~~(b) WLA Compliance Dates~~

The Responsible Copermittees for MS4 discharges to Baby Beach **are**

~~required to achieve the WLA, thus~~ must be in compliance with the final receiving water limitations or final WQBELs under Specific Provision 5.b0, according to the following compliance schedule:

**Table 5.3**

*Compliance Schedule Dates to Achieve Baby Beach WLAs*

Constituent	Dry Weather WLA Compliance Date	Wet Weather WLA Compliance Date
Total Coliform	September 15, 2014	September 15, 2009
Fecal Coliform		September 15, 2009
<i>Enterococcus</i>		September 15, 2019

~~(c) Interim Compliance Requirements~~

~~The Responsible Copermittees for MS4 discharges to Baby Beach must comply with the following interim WQBELs by the interim compliance date:~~

**Table 5.4**

*Interim Effluent Limitations as Loads in MS4 Discharges to Baby Beach*

Constituent	Interim Compliance Date	Dry-Weather Interim Effluent Limitation	Wet-Weather Interim Effluent Limitation
Total Coliform	September 15, 2012	4.93x10 <sup>9</sup> MPN/day	NA*
Fecal Coliform	September 15, 2012	0.59x10 <sup>9</sup> MPN/day	NA*
<i>Enterococcus</i>	September 15, 2012	0.42x10 <sup>9</sup> MPN/day	NA**
	September 15, 2016	NA*	207x10 <sup>9</sup> MPN/30days

Notes:

\* The WQBELs under Specific Provision 5.b must already be achieved by the given interim compliance date.

\*\* There is no corresponding interim WQBEL for the given interim compliance date.

~~(d)(b)~~ Shelter Island Shoreline Park in San Diego Bay

The Responsible Copermittee for MS4 discharges to Shelter Island Shoreline Park ~~is required to achieve the WLA, thus~~ must be in compliance with the final receiving water limitations or final WQBELs under Specific Provision 5.b0, by December 31, 2012.

(5) Final Compliance Determination

Compliance with final compliance requirements of Specific Provision 5.b may be demonstrated a Responsible Copermittee via one of the following methods:

(a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water; OR

(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 5.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR

(c) There are no exceedances of the applicable effluent limitations under Specific Provision 5.b.(2) at the Responsible Copermittee's MS4 outfalls; OR

(d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 5.b.(1)(a) in the receiving water are due to loads from natural sources or non-MS4 sources; OR

(e) The Responsible Copermittee has submitted and is fully implementing an Enhanced Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 5.b.(3).c.

**c. INTERIM COMPLIANCE REQUIREMENTS**

Interim TMDL compliance requirements consist of the following:

(1) Interim Water Quality Based Effluent Limitations and Schedule

The Responsible Copermittees for MS4 discharges to Baby Beach must comply with the following interim WQBELs by the interim compliance date:

**Table 5.4**

*Interim Effluent Limitations as Loads in MS4 Discharges to Baby Beach*

<u>Constituent</u>	<u>Interim Compliance Date</u>	<u>Dry Weather Interim Effluent Limitation</u>	<u>Wet Weather Interim Effluent Limitation</u>
<u>Total Coliform</u>	<u>September 15, 2012</u>	<u>4.93x10<sup>9</sup> MPN/day</u>	<u>NA*</u>
<u>Fecal Coliform</u>	<u>September 15, 2012</u>	<u>0.59x10<sup>9</sup> MPN/day</u>	<u>NA*</u>
<u>Enterococcus</u>	<u>September 15, 2012</u>	<u>0.42x10<sup>9</sup> MPN/day</u>	<u>NA**</u>
	<u>September 15, 2016</u>	<u>NA*</u>	<u>207x10<sup>9</sup> MPN/30days</u>

Notes:

\* The WQBELs under Specific Provision 5.b must already be achieved by the given interim compliance date.

\*\* There is no corresponding interim WQBEL for the given interim compliance date.

(2) Interim Best Management Practices

(a) The Water Quality Improvement Plans for the applicable Watershed Management Areas must incorporate the Bacteria Load Reduction Plan (BLRP) required to be developed pursuant to Resolution No. R9-2008-0027.

(b) The Responsible Copermittees should coordinate any BMPs implemented to address this TMDL with Caltrans and owners/operators of small MS4s as possible.

(c) For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:

- (1) A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board;
- (2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the interim effluent limitations under Specific Provision 5.c.(1);
- (3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND
- (4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

### (3) Interim Compliance Determination

Compliance with interim compliance requirements of Specific Provision 5.c may be demonstrated by a Responsible Copermittee via one of the following methods:

- (a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water; OR
- (b) There are no exceedances of the applicable final receiving limitations under Specific Provision 5.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls; OR
- (c) The Responsible Copermittee demonstrates applicable interim WQBELs under Specific Provision 5.c.(1) have been achieved; OR
- (d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 5.b.(1) are due to loads from natural sources or non-MS4 sources; OR
- (e) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan, that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 5.c.(2).c.

**d. SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS****(1) Monitoring Stations**

Monitoring locations should consist of, at a minimum, the same locations used to collect data required pursuant to Order Nos. R9-2007-0001 and R9-2009-0002, and beach monitoring for Health and Safety Code section 115880.<sup>35</sup> If exceedances of the applicable interim or final receiving water limitations are observed in the monitoring data, additional monitoring locations and/or other source identification methods must be implemented to identify the sources causing the exceedances. The additional monitoring locations must also be used to demonstrate that the bacteria loads from the identified anthropogenic sources have been addressed and are no longer causing exceedances in the receiving waters.

**(2) Monitoring Procedures**

- (a) The Responsible Copermittees must collect dry weather monitoring samples from the receiving water monitoring stations at least monthly. Dry weather samples collected from additional monitoring stations established to identify sources must be collected at an appropriate frequency to demonstrate bacteria loads from the identified anthropogenic sources have been addressed and are no longer causing exceedances in the receiving waters.
- (b) The Responsible Copermittees must collect wet weather monitoring samples within the first 24 hours of the first storm event<sup>36</sup> of the rainy season (i.e. October 1 through April 30). Wet weather samples collected from receiving water stations and any additional monitoring stations established to identify sources must be collected at an appropriate frequency to demonstrate bacteria loads from the identified sources have been addressed and are no longer causing exceedances in the receiving waters.
- (c) Samples must be analyzed for total coliform, fecal coliform, and *Enterococcus* indicator bacteria.

**(3) Assessment and Reporting Requirements**

- (a) The Responsible Copermittees must analyze the dry weather and wet weather monitoring data to assess whether the interim and final WQBELs have been achieved.

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<sup>35</sup> Commonly referred to as AB 411 monitoring

<sup>36</sup> Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)].

- (b) The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision F.3.b of this Order.

**~~e. COMPLIANCE DETERMINATION~~**

- ~~(1) Compliance with interim compliance requirements of Specific Provision 5.c.(1)(b) may be demonstrated via one of the following methods:~~
- ~~(a) There is no direct or indirect discharge from the Responsible Copermittees' MS4s to the receiving water;~~
  - ~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 5.b.(1)(a) in the receiving water at, or downstream of the Responsible Copermittees' MS4 outfalls;~~
  - ~~(c) There are no violations of the applicable effluent limitations under Specific Provision 5.b.(2) at the Responsible Copermittees' MS4 outfalls;~~
  - ~~(d) The pollutant loads discharging from the Responsible Copermittees' MS4 outfalls do not exceed the applicable effluent limitations under Specific Provision 5.c.(1)(b);~~
  - ~~(e) The Responsible Copermittees can demonstrate that exceedances of the applicable receiving water limitations under Specific Provision 5.b.(1)(a) in the receiving water are due to loads from natural sources, AND pollutant loads from the Copermittees' MS4 are not causing or contributing to the exceedances; OR~~
  - ~~(f) The Responsible Copermittees have submitted and are fully implementing a Water Quality Improvement Plan, accepted by the San Diego Water Board, which provides reasonable assurance that the interim compliance requirements will be achieved by the interim compliance dates.~~
- ~~(2) Compliance with WQBELs of Specific Provision 5.b may be demonstrated via one of the following methods:~~
- ~~(a) There is no direct or indirect discharge from the Responsible Copermittees' MS4s to the receiving water;~~
  - ~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 5.b.(1)(a) in the receiving water at, or downstream of the Responsible Copermittees' MS4 outfalls;~~
  - ~~(c) There are no violations of the applicable effluent limitations under Specific Provision 5.b.(2) at the Responsible Copermittees' MS4 outfalls;~~

~~(d) The pollutant loads discharging from the Responsible Copermittees' MS4 outfalls do not exceed the applicable effluent limitations under Specific Provision 5.c.(1)(b); OR~~

~~(e) The Responsible Copermittees can demonstrate that exceedances of the applicable receiving water limitations under Specific Provision 5.b.(1)(a) in the receiving water are due to loads from natural sources, AND pollutant loads from the Copermittees' MS4 are not causing or contributing to the exceedances.~~

**6. Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (Including Tecolote Creek)**

**a. APPLICABILITY**

(1) TMDL Basin Plan Amendment: Resolution No. R9-2010-0001

(2) TMDL Adoption and Approval Dates:

San Diego Water Board Adoption Date:	February 10, 2010
State Water Board Approval Date:	December 14, 2010
Office of Administrative Law Approval Date:	April 4, 2011
US EPA Approval Date:	June 22, 2011

(3) TMDL Effective Date: April 4, 2011

(4) Watershed Management Areas: See [Table 6.0](#)

(5) Water Bodies: See [Table 6.0](#); Consistent with Basin Plan Amendment (Resolution No. R9-2010-0001, p. A-2); specific beach segments from some of the Pacific Ocean shorelines listed in Table 6.0 have been delisted from the 2008 (sic 2010) 303(d) list that was approved by the San Diego Board on December 16, 2009, and therefore are not subject to the requirements of Attachment E as long as monitoring data continues to support compliance with water quality standards.

(6) Responsible Copermittees: See [Table 6.0](#)

**Table 6.0**

*Applicability of Total Maximum Daily Loads for Indicator Bacteria  
Project I - Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)*

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
South Orange County	Pacific Ocean Shoreline	Cameo Cove at Irvine Cove Drive – Riviera Way	-City of Laguna Beach -County of Orange -Orange County Flood Control District
		at Heisler Park - North	
	Pacific Ocean Shoreline	at Main Laguna Beach	-City of Aliso Viejo -City of Laguna Beach -City of Laguna Woods -County of Orange -Orange County Flood Control District
		Laguna Beach at Ocean Avenue	
		Laguna Beach at Cleo Street	
		Arch Cove at Bluebird Canyon Road	
	Pacific Ocean Shoreline	Laguna Beach at Dumond Drive	-City of Aliso Viejo -City of Laguna Beach -City of Laguna Hills -City of Laguna Niguel
Laguna Beach at Lagunita Place / Blue Lagoon Place at Aliso Beach			
Aliso Creek	Entire reach (7.2 miles) and associated tributaries:	-City of Laguna Woods -City of Lake Forest	

		<ul style="list-style-type: none"> <li>- Aliso Hills Channel</li> <li>- English Canyon Creek</li> <li>- Dairy Fork Creek</li> <li>- Sulfur Creek</li> <li>- Wood Canyon Creek</li> </ul>	<ul style="list-style-type: none"> <li>-City of Mission Viejo</li> <li>-County of Orange</li> <li>-Orange County Flood Control District</li> </ul>
	Aliso Creek Mouth	at mouth	

**Table 6.0 (Cont'd)**

*Applicability of Total Maximum Daily Loads for Indicator Bacteria*

*Project I - Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)*

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
South Orange County (cont'd)	Pacific Ocean Shoreline	Aliso Beach at West Street	<ul style="list-style-type: none"> <li>-City of Dana Point</li> <li>-City of Laguna Beach</li> <li>-City of Laguna Niguel</li> <li>-County of Orange</li> <li>-Orange County Flood Control District</li> </ul>
		Aliso Beach at Table Rock Drive	
		100 Steps Beach at Pacific Coast Hwy at hospital (9 <sup>th</sup> Avenue)	
		at Salt Creek (large outlet)	
		Salt Creek Beach at Salt Creek service road	
		Salt Creek Beach at Strand Road	
	Pacific Ocean Shoreline	at San Juan Creek	<ul style="list-style-type: none"> <li>-City of Dana Point</li> <li>-City of Laguna Hills</li> <li>-City of Laguna Niguel</li> <li>-City of Mission Viejo</li> </ul>
	San Juan Creek	lower 1 mile	<ul style="list-style-type: none"> <li>-City of Rancho Santa Margarita</li> <li>-City of San Juan Capistrano</li> </ul>
	San Juan Creek Mouth	at mouth	<ul style="list-style-type: none"> <li>-County of Orange</li> <li>-Orange County Flood Control District</li> </ul>
	Pacific Ocean Shoreline	at Poche Beach	<ul style="list-style-type: none"> <li>-City of Dana Point</li> <li>-City of San Clemente</li> <li>-County of Orange</li> <li>-Orange County Flood Control District</li> </ul>
		Ole Hanson Beach Club	
		Beach at Pico Drain	
		San Clemente City Beach at El Portal Street Stairs	
		San Clemente City Beach at Mariposa Street	
San Clemente City Beach at Linda Lane			
San Clemente City Beach at South Linda Lane			
San Clemente City Beach at Lifeguard Headquarters			
under San Clemente Municipal Pier			
San Clemente City Beach at Trafalgar Canyon (Trafalgar Lane)			

		San Clemente State Beach at Riviera Beach	
		San Clemente State Beach at Cypress Shores	
San Luis Rey River	Pacific Ocean Shoreline	at San Luis Rey River mouth	-City of Oceanside -City of Vista -County of San Diego

**Table 6.0 (Cont'd)**

*Applicability of Total Maximum Daily Loads for Indicator Bacteria  
Project I - Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)*

<b>Watershed Management Area</b>	<b>Water Body</b>	<b>Segment or Area</b>	<b>Responsible Copermittees</b>
Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach	-City of Carlsbad -City of Encinitas -City of Escondido -City of San Marcos -County of San Diego
San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth	-City of Del Mar -City of Escondido -City of Poway -City of San Diego -City of Solana Beach -County of San Diego
Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)	-City of Del Mar -City of Poway -City of San Diego -County of San Diego
Mission Bay	Pacific Ocean Shoreline	La Jolla Shores Beach at El Paseo Grande	-City of San Diego
		La Jolla Shores Beach at Caminito del Oro	
		La Jolla Shores Beach at Vallecitos	
		La Jolla Shores Beach at Avenida de la Playa	
		at Casa Beach, Children's Pool	
		South Casa Beach at Coast Boulevard	
		Whispering Sands Beach at Ravina Street	
		Windansea Beach at Vista de la Playa	
		Windansea Beach at Bonair Street	
		Windansea Beach at Playa del Norte	
		Windansea Beach at Palomar Avenue	
		at Tourmaline Surf Park	
		Pacific Beach at Grand Avenue	
	Tecolote Creek	Entire reach and tributaries	

**Table 6.0 (Cont'd)**

*Applicability of Total Maximum Daily Loads for Indicator Bacteria  
Project I- Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)*

Watershed Management Area	Water Body	Segment or Area	Responsible Copermittees
San Diego River	Forrester Creek	lower 1 mile	-City of El Cajon -City of Santee -County of San Diego
	San Diego River	lower 6 miles	-City of El Cajon -City of La Mesa
	Pacific Ocean Shoreline	at San Diego River mouth at Dog Beach	-City of San Diego -City of Santee -County of San Diego
San Diego Bay	Chollas Creek	lower 1.2 miles	-City of La Mesa -City of Lemon Grove -City of San Diego -County of San Diego - San Diego Unified Port District

**b. FINAL TMDL COMPLIANCE REQUIREMENTS WATER QUALITY BASED EFFLUENT LIMITATIONS**

The WQBELs-Final TMDL compliance requirements for segments or areas of the water bodies listed in Table 6.0 consist of the following:

(1) Receiving Water Limitations

- (a) Discharges from the MS4s must not cause or contribute to the exceedance violation of the following receiving water limitations by the end of the compliance schedules under Specific Provision 6.c.(5)(4):

**Table 6.1**

*Receiving Water Limitations as Bacteria Densities and Allowable Exceedance Frequencies in the Water Body*

Constituent	Receiving Water Limitations			30-Day Geometric Mean Allowable Exceedance Frequency
	Single Sample Maximum <sup>1,2</sup> (MPN/100mL)	Single Sample Maximum Allowable Exceedance Frequency <sup>3</sup>	30-Day Geometric Mean <sup>2</sup> (MPN/100mL)	
Total Coliform	10,000	22% / 0%	1,000	0%
Fecal Coliform	400	22% / 0%	200	0%
<i>Enterococcus</i>	104 <sup>4</sup> / 61 <sup>5</sup>	22% / 0%	35 <sup>4</sup> / 33 <sup>5</sup>	0%

Notes:

1. During wet weather days, only the single sample maximum receiving water limitations are required to be achieved.
2. During dry weather days, the single sample maximum and 30-day geometric mean receiving water limitations are required to be achieved.
3. The 22% single sample maximum allowable exceedance frequency only applies to wet weather days. The 0% single sample maximum allowable exceedance frequency applies to dry weather days.
4. This *Enterococcus* receiving water limitation applies to segments of areas of Pacific Ocean Shoreline listed in Table 6.0.
5. This *Enterococcus* receiving water limitations applies to segments or areas of creeks or creek mouths listed in Table 6.0.

Interim receiving water limitations expressed as allowable exceedance frequencies are given in the compliance schedule under Specific Provision 6.c.

(b) If the above receiving water limitations are not met in the receiving water, the Responsible Copermittees must demonstrate that the discharges from the MS4s are not causing or contributing to the ~~exceedance violation~~ of receiving water limitations. The Copermittee must provide data that demonstrate the discharges from the MS4s are meeting the effluent limitations under Specific Provision 6.b.(2).

(2) Final Water Quality Based Effluent Limitations

~~In the case that receiving water limitations are exceeded after the end of the compliance schedules under Specific Provision 6.b.5, Discharges from the MS4s must not contain densities that exceed the following effluent limitations will be used to determine whether MS4 discharges are causing or contributing to exceedances of receiving water quality limitations. by the end of the compliance schedules under Specific Provision 6.c.(1) to demonstrate the discharge is not causing or contributing to a violation of receiving water quality standards: To demonstrate MS4 the discharges are not causing or contributing to a exceedance of receiving water quality limitations, MS4 discharges must meet either the concentration-based effluent limitations in Table 6.2a or the load-based effluent limitations in Table 6.2b.~~

~~Table 6.2~~

Table 6.2a

*Effluent Limitations as Bacteria Densities and Allowable Exceedance Frequencies in MS4 Discharges to the Water Body*

Constituent	Single Sample Maximum <sup>1,2</sup> (MPN/100mL)	Concentration-based Effluent Limitations <sup>6</sup>		
		Single Sample Allowable Exceedance Frequency <sup>3</sup>	30-Day Geometric Mean <sup>2</sup> (MPN/100mL)	30-Day Geometric Mean Allowable Exceedance Frequency
Total Coliform	10,000	22% / 0%	1,000	0%
Fecal Coliform	400	22% / 0%	200	0%
<i>Enterococcus</i>	104 <sup>4</sup> / 61 <sup>5</sup>	22% / 0%	35 <sup>4</sup> / 33 <sup>5</sup>	0%

Notes:

1. During wet weather days, only the single sample maximum effluent limitations are required to be achieved.
2. During dry weather days, the single sample maximum and 30-day geometric mean effluent limitations are required to be achieved.
3. The 22% single sample maximum allowable exceedance frequency only applies to wet weather days. The 0% single sample maximum allowable exceedance frequency applies to dry weather days
4. This *Enterococcus* effluent limitation and all total coliform limitations applies-apply only to MS4 discharges to segments of areas of Pacific Ocean Shoreline listed in Table 6.0.
5. This *Enterococcus* effluent limitation applies only to MS4 discharges to segments or areas of creeks or creek mouths listed in Table 6.0.

6. Concentrations shall be determined on a flow-weighted basis across all outfalls within a jurisdiction, not outfall-by-outfall.

~~Interim effluent limitations expressed as allowable exceedance frequencies are given in the compliance schedule under Specific Provision 6.c.~~

**Table 6.2b**  
*Effluent Limitations as Allowable Loading Rates for MS4 Discharges to the Water Body*

Load-based Effluent Limitations Expressed as Required % Load Reduction by MS4s						
Watershed	Dry Weather			Wet Weather		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform	Fecal Coliform	Enterococcus
<a href="#">San Joaquin Hills/ Laguna Hills HSAs (901.11 and 901.12)</a>	<a href="#">91.78%</a>	<a href="#">91.72%</a>	<a href="#">98.28%</a>	<a href="#">46.85%</a>	<a href="#">52.07%</a>	<a href="#">51.26</a>
<a href="#">Aliso HSA (901.13)</a>	<a href="#">95.47%</a>	<a href="#">95.58%</a>	<a href="#">99.13%</a>	<a href="#">25.29%</a>	<a href="#">26.62%</a>	<a href="#">27.52%</a>
<a href="#">Dana Point HSA (901.14)</a>	<a href="#">95.04%</a>	<a href="#">95.03%</a>	<a href="#">98.98%</a>	<a href="#">13.15%</a>	<a href="#">14.86%</a>	<a href="#">15.16%</a>
<a href="#">Lower San Juan HSA (901.27)</a>	<a href="#">72.96%</a>	<a href="#">74.21%</a>	<a href="#">94.94%</a>	<a href="#">19.21%</a>	<a href="#">12.82%</a>	<a href="#">27.12%</a>
<a href="#">San Clemente HA (901.30)</a>	<a href="#">94.28%</a>	<a href="#">94.23%</a>	<a href="#">98.83%</a>	<a href="#">23.85%</a>	<a href="#">24.58%</a>	<a href="#">25.26%</a>
<a href="#">San Luis Rey HU (903.00)</a>	<a href="#">38.13%</a>	<a href="#">39.09%</a>	<a href="#">87.38%</a>	<a href="#">5.62%</a>	<a href="#">3.12%</a>	<a href="#">11.69%</a>
<a href="#">San Marcos HA (904.50)</a>	<a href="#">82.82%</a>	<a href="#">82.55%</a>	<a href="#">96.03%</a>	<a href="#">18.47%</a>	<a href="#">18.98%</a>	<a href="#">20.19%</a>
<a href="#">San Dieguito HU (905.00)</a>	<a href="#">14.39%</a>	<a href="#">20.72%</a>	<a href="#">83.48%</a>	<a href="#">4.29%</a>	<a href="#">1.46%</a>	<a href="#">7.72%</a>
<a href="#">Miramar Reservoir HA (906.10)</a>	<a href="#">96.50%</a>	<a href="#">96.59%</a>	<a href="#">99.42%</a>	<a href="#">1.61%</a>	<a href="#">1.99%</a>	<a href="#">1.93%</a>
<a href="#">Scripps HA (906.30)</a>	<a href="#">96.44%</a>	<a href="#">96.42%</a>	<a href="#">99.25%</a>	<a href="#">16.32%</a>	<a href="#">21.14%</a>	<a href="#">18.82%</a>
<a href="#">Tecolote HA (906.5)</a>	<a href="#">94.51%</a>	<a href="#">94.59%</a>	<a href="#">98.94%</a>	<a href="#">16.51%</a>	<a href="#">20.47%</a>	<a href="#">18.15%</a>
<a href="#">Mission San Diego/ Santee HSAs (907.11 and 907.12)</a>	<a href="#">74.03%</a>	<a href="#">69.44%</a>	<a href="#">93.96%</a>	<a href="#">38.14%</a>	<a href="#">53.22%</a>	<a href="#">42.74%</a>
<a href="#">Chollas HSA (908.22)</a>	<a href="#">92.06%</a>	<a href="#">92.15%</a>	<a href="#">98.46%</a>	<a href="#">17.82%</a>	<a href="#">24.84%</a>	<a href="#">21.26%</a>

**(3) Best Management Practices**

(a) The Water Quality Improvement Plans for the applicable Watershed Management Areas in [Table 6.0](#) must incorporate the Comprehensive Load Reduction Plans (CLRPs) required to be developed pursuant to Resolution No. R9-2010-0001. For segments or areas in [Table 6.0](#) that have been delisted from the Clean Water Act Section 303(d) List of Water Quality Limited Segments, a CLRP is not required.

(b) The Responsible Copermittee must implement BMPs to support the achievement of the [final receiving water limitations or final](#) WQBELs under Specific Provision [6.b](#) for the segments or areas of the water bodies listed in [Table 6.0](#).

[\(c\)](#) The Responsible Copermittees should coordinate any BMPs implemented to address this TMDL with Caltrans and owners/operators of small MS4s as possible.

[\(d\)](#) [For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:](#)

[\(1\) A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions \(A.1\), receiving water limitations \(A.2\), and/or effluent limitations \(A.3\) in the letter of submittal to the San Diego Water Board;](#)

[\(2\) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the final receiving water limitations or final WQBELs under Specific Provision 6.b;](#)

[\(3\) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND](#)

[\(4\) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.](#)

## **~~c. COMPLIANCE SCHEDULE~~**

### **~~(1) WLA-Compliance Dates~~**

The Responsible Copermittees for MS4 discharges to a segment or area of the water bodies listed in [Table 6.0](#) are required to achieve the WLA, thus must be in compliance with the WQBELs under Specific Provision [6.b](#), according to the following compliance schedule:

#### **Table 6.3**

*Compliance Schedule Dates to Achieve Indicator Bacteria WLAs*

Constituent	Dry Weather WLA Compliance Date	Wet Weather WLA Compliance Date
Total Coliform*	April 4, 2021	April 4, 2031
Fecal Coliform		
<i>Enterococcus</i>		

\* Total coliform receiving water limitations only apply to segments or areas of Pacific Ocean Shoreline listed in Table 6.0.

(5) Final Compliance Determination

Compliance with final compliance requirements of Specific Provision 6.b may be demonstrated by a Responsible Copermittee via one of the following methods:

- (a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water;
- (b) There are no exceedances of the applicable receiving water limitations under Specific Provision 6.b.(1) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls;
- (c) There are no exceedances of the applicable effluent limitations under Specific Provision 6.b.(2) at the Responsible Copermittee's MS4 outfalls; OR
- (d) The Responsible Copermittee can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 6.b.(1)(a) in the receiving water are due to loads from natural sources or non-MS4 sources; OR
- (e) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 6.b.(3).d.

**d.c. INTERIM COMPLIANCE REQUIREMENTS**

Interim TMDL compliance requirements for segments or areas of the water bodies listed in Table 6.0 consist of the following:

~~The Responsible Copermittees must comply with the following interim WQBELs by the interim compliance dates:~~

**(1) Interim Dry Weather Receiving Water Limitations**

The Responsible Copermittee must calculate the "existing" exceedance frequencies of the 30-day geometric mean water quality objectives for each of the indicator bacteria by analyzing the available monitoring data

collected between January 1, 1996 and December 31, 2002. “Existing” exceedance frequencies may be calculated by segment or area of a water body, or by water body, and/or by Watershed Management Area listed in [Table 6.0](#). Separate “existing” exceedance frequencies must be calculated for beaches and creeks/creek mouths.

The Responsible Copermittees must achieve a 50 percent reduction in the “existing” exceedance frequency of the 30-day geometric mean WQBELs for the segments or areas of the water bodies listed in [Table 6.0](#) by the interim compliance dates for achieving the interim dry weather WQBELs given in [Table 6.5](#). A 50 percent reduction in the “existing” exceedance frequency is equivalent to half of the “existing” exceedance frequency of the 30-day geometric mean WQBELs.

The “existing” exceedance frequencies and the interim dry weather allowable exceedance frequencies (i.e. interim dry weather WQBELs) calculated by the Responsible Copermittees must be included in the Water Quality Improvement Plans for the applicable Watershed Management Areas.

## (2) Interim Wet Weather Receiving Water Limitations

The Responsible Copermittees must achieve the interim wet weather receiving water limitations in [Table 6.4](#), expressed as interim allowable exceedance frequencies, by the interim compliance dates for achieving the interim wet weather WQBELs given in [Table 6.5](#).

**Table 6.4**

*Interim Wet Weather Receiving Water Limitations Expressed as Interim Wet Weather Allowable Exceedance Frequencies*

Watershed Management Area	Water Body	Segment or Area	Interim Wet Weather Allowable Exceedance Frequencies					
			Total Coliform	Fecal Coliform	Enterococcus			
South Orange County	Pacific Ocean Shoreline	Cameo Cove at Irvine Cove Drive – Riviera Way	38%	37%	39%			
		at Heisler Park - North						
	Pacific Ocean Shoreline	at Main Laguna Beach						
		Laguna Beach at Ocean Avenue						
		Laguna Beach at Cleo Street						
		Arch Cove at Bluebird Canyon Road						
		Laguna Beach at Dumond Drive						
	Pacific Ocean Shoreline	Laguna Beach at Lagunita Place / Blue Lagoon Place at Aliso Beach				41%	41%	42%
	Aliso Creek	Entire reach (7.2 miles) and associated tributaries: - Aliso Hills Channel - English Canyon Creek - Dairy Fork Creek - Sulfur Creek - Wood Canyon Creek				41%	41%	42%
	Aliso Creek Mouth	at mouth				41%	41%	42%
	Pacific Ocean Shoreline	Aliso Beach at West Street				36%	36%	36%
		Aliso Beach at Table Rock Drive						
		100 Steps Beach at Pacific Coast Hwy at hospital (9 <sup>th</sup> Avenue)						
at Salt Creek (large outlet)								
Salt Creek Beach at Salt Creek service road								
Salt Creek Beach at Strand Road								

**Table 6.4 (Cont'd)**

*Interim Wet Weather Receiving Water Limitations Expressed as Interim Wet Weather Allowable Exceedance Frequencies*

Watershed Management Area	Water Body	Segment or Area	Interim Wet Weather Allowable Exceedance Frequencies			
			Total Coliform	Fecal Coliform	<i>Enterococcus</i>	
South Orange County (cont'd)	Pacific Ocean Shoreline	at San Juan Creek	44%	44%	48%	
	San Juan Creek	lower 1 mile	44%	44%	47%	
	San Juan Creek Mouth	at mouth	44%	44%	47%	
	Pacific Ocean Shoreline	at Poche Beach		35%	35%	36%
		Ole Hanson Beach Club Beach at Pico Drain				
		San Clemente City Beach at El Portal Street Stairs				
		San Clemente City Beach at Mariposa Street				
		San Clemente City Beach at Linda Lane				
		San Clemente City Beach at South Linda Lane				
		San Clemente City Beach at Lifeguard Headquarters				
		under San Clemente Municipal Pier				
		San Clemente City Beach at Trafalgar Canyon (Trafalgar Lane)				
		San Clemente State Beach at Riviera Beach				
Can Clemente State Beach at Cypress Shores						
San Luis Rey River	Pacific Ocean Shoreline	at San Luis Rey River mouth	45%	44%	47%	
Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach	40%	40%	41%	
San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth	33%	33%	36%	

**Table 6.4 (Cont'd)**

*Interim Wet Weather Receiving Water Limitations Expressed as Interim Wet Weather Allowable Exceedance Frequencies*

Watershed Management Area	Water Body	Segment or Area	Interim Wet Weather Allowable Exceedance Frequencies		
			Total Coliform	Fecal Coliform	Enterococcus
Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)	26%	26%	26%
Mission Bay	Pacific Ocean Shoreline	La Jolla Shores Beach at El Paseo Grande	37%	37%	37%
		La Jolla Shores Beach at Caminito del Oro			
		La Jolla Shores Beach at Vallecitos			
		La Jolla Shores Beach at Avenida de la Playa			
		at Casa Beach, Children's Pool			
		South Casa Beach at Coast Boulevard			
		Whispering Sands Beach at Ravina Street			
		Windansea Beach at Vista de la Playa			
		Windansea Beach at Bonair Street			
		Windansea Beach at Playa del Norte			
		Windansea Beach at Palomar Avenue			
at Tourmaline Surf Park					
	Tecolote Creek	Entire reach and tributaries	49%	49%	51%
San Diego River	Forrester Creek	lower 1 mile	46%	43%	49%
	San Diego River	lower 6 miles	46%	43%	49%
	Pacific Ocean Shoreline	at San Diego River mouth at Dog Beach	46%	43%	51%
San Diego Bay	Chollas Creek	lower 1.2 miles	41%	41%	43%

(3) Interim Water Quality Based Effluent Limitations

In the case that interim receiving water limitations are exceeded after the end of the interim compliance schedules under Specific Provision 6.c.5, interim effluent limitations, expressed as required MS4 load reductions, will be used to determine whether MS4 discharges are causing or contributing to exceedances of interim receiving water quality limitations. To demonstrate MS4 the discharges are not causing or contributing to a exceedance of receiving water quality limitations, MS4 discharges must meet the required MS4 load reductions in Table 6.5.

**Table 6.5**

Interim Effluent Limitations as Allowable Loading Rates for MS4 Discharges to the Water Body

Interim Effluent Limitations Expressed as Required % Load Reduction by MS4s						
Watershed	Dry Weather			Wet Weather		
	Total Coliform	Fecal Coliform	Enterococcus	Total Coliform	Fecal Coliform	Enterococcus
<u>San Joaquin Hills/ Laguna Hills HSAs (901.11 and 901.12)</u>	<u>45.89%</u>	<u>45.86%</u>	<u>49.14%</u>	<u>23.43%</u>	<u>26.04%</u>	<u>25.63%</u>
<u>Aliso HSA (901.13)</u>	<u>47.74%</u>	<u>47.79%</u>	<u>49.57%</u>	<u>12.65%</u>	<u>13.31%</u>	<u>13.76%</u>
<u>Dana Point HSA (901.14)</u>	<u>47.52%</u>	<u>47.52%</u>	<u>49.49%</u>	<u>6.58%</u>	<u>7.43%</u>	<u>7.58%</u>
<u>Lower San Juan HSA (901.27)</u>	<u>36.48%</u>	<u>37.11%</u>	<u>47.47%</u>	<u>9.61%</u>	<u>6.41%</u>	<u>13.56%</u>
<u>San Clemente HA (901.30)</u>	<u>47.14%</u>	<u>47.12%</u>	<u>49.42%</u>	<u>11.93%</u>	<u>12.29%</u>	<u>12.63%</u>
<u>San Luis Rey HU (903.00)</u>	<u>19.07%</u>	<u>19.55%</u>	<u>43.69%</u>	<u>2.81%</u>	<u>1.56%</u>	<u>5.85%</u>
<u>San Marcos HA (904.50)</u>	<u>41.41%</u>	<u>41.28%</u>	<u>48.02%</u>	<u>9.24%</u>	<u>9.49%</u>	<u>10.10%</u>
<u>San Dieguito HU (905.00)</u>	<u>7.20%</u>	<u>10.36%</u>	<u>41.74%</u>	<u>2.15%</u>	<u>0.73%</u>	<u>3.86%</u>
<u>Miramar Reservoir HA (906.10)</u>	<u>48.25%</u>	<u>48.30%</u>	<u>49.71%</u>	<u>0.81%</u>	<u>1.00%</u>	<u>0.97%</u>
<u>Scripps HA (906.30)</u>	<u>48.22%</u>	<u>48.21%</u>	<u>49.63%</u>	<u>8.16%</u>	<u>10.57%</u>	<u>9.41%</u>
<u>Tecolote HA (906.5)</u>	<u>47.26%</u>	<u>47.30%</u>	<u>49.47%</u>	<u>8.26%</u>	<u>10.24%</u>	<u>9.08%</u>
<u>Mission San Diego/ Santee HSAs (907.11 and 907.12)</u>	<u>37.02%</u>	<u>34.72%</u>	<u>46.98%</u>	<u>19.07%</u>	<u>26.61%</u>	<u>21.37%</u>

<a href="#">Chollas HSA (908.22)</a>	<a href="#">92.06%</a>	<a href="#">92.15%</a>	<a href="#">98.46%</a>	<a href="#">17.82%</a>	<a href="#">24.84%</a>	<a href="#">21.26%</a>
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(4) Interim Best Management Practices

- (a) The Water Quality Improvement Plans for the applicable Watershed Management Areas in Table 6.0 must incorporate the Comprehensive Load Reduction Plans (CLRPs) required to be developed pursuant to Resolution No. R9-2010-0001. For segments or areas in Table 6.0 that have been delisted from the Clean Water Act Section 303(d) List of Water Quality Limited Segments, a CLRP is not required.
- (b) The Responsible Copermittee must implement BMPs to support the achievement interim receiving water limitations under Specific Provision 6.c.(1) and 6.c.(2) for the segments or areas of the water bodies listed in Table 6.0.
- (c) The Responsible Copermittees should coordinate any BMPs implemented to address this TMDL with Caltrans and owners/operators of small MS4s as possible.
- (d) For Copermittees utilizing the Water Quality Improvement Plan compliance option, the strategies and activities contained in the Water Quality Improvement Plan accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:
- (1) A Responsible Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board;
- (2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the interim receiving water limitations under Specific Provision 6.c.(1) and 6.c.(2) or interim load reduction requirements under Specific Provision 6.c.(3);
- (3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND
- (4) The Water Quality Improvement Plan is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.

~~(3)(5)~~ Interim Compliance Dates

The Responsible Copermittees must achieve the interim receiving water limitations under Specific Provisions [6.c.\(2\)\(1\)](#) and [6.c.~~\(23\)\(b\)~~ or the interim WQBELs under Specific Provisions 6.c.\(3\)](#) by the interim compliance dates given in [Table 6.56 unless alternative interim compliance dates are provided in a Comprehensive Load Reduction Plan or Water Quality Improvement Plan accepted by the San Diego Regional Board Executive Officer.](#)

**Table 6.5**  
*Interim Compliance Dates to Achieve Interim WQBELs*

Watershed Management Area	Water Body	Segment or Area	Interim Compliance Dates	
			Interim Dry Weather WQBELs	Interim Wet Weather WQBELs
South Orange County	Pacific Ocean Shoreline	Cameo Cove at Irvine Cove Drive – Riviera Way	April 4, 2016	April 4, 2021
		at Heisler Park - North		
	Pacific Ocean Shoreline	at Main Laguna Beach	April 4, 2016	April 4, 2021
		Laguna Beach at Ocean Avenue		
		Laguna Beach at Cleo Street		
		Arch Cove at Bluebird Canyon Road		
	Pacific Ocean Shoreline	Laguna Beach at Dumond Drive	April 4, 2016	April 4, 2021
		Laguna Beach at Lagunita Place / Blue Lagoon Place at Aliso Beach		
	Aliso Creek	Entire reach (7.2 miles) and associated tributaries: - Aliso Hills Channel - English Canyon Creek - Dairy Fork Creek - Sulfur Creek - Wood Canyon Creek	April 4, 2018	April 4, 2021
	Aliso Creek Mouth	at mouth	April 4, 2018	April 4, 2021
	Pacific Ocean Shoreline	Aliso Beach at West Street	April 4, 2016	April 4, 2021
Aliso Beach at Table Rock Drive				
100 Steps Beach at Pacific Coast Hwy at hospital (9 <sup>th</sup> Avenue)				
at Salt Creek (large outlet)				
Salt Creek Beach at Salt Creek service road		April 4, 2017		

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		Salt Creek Beach at Strand Road	April 4, 2017	April 4, 2021
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**Table 6.5 (Cont'd)**  
*Interim Compliance Dates to Achieve Interim WQBELs*

Watershed Management Area	Water Body	Segment or Area	Interim Compliance Dates		
			Interim Dry Weather WQBELs	Interim Wet Weather WQBELs	
South Orange County (cont'd)	Pacific Ocean Shoreline	at San Juan Creek	April 4, 2016	April 4, 2021	
	San Juan Creek	lower 1 mile	April 4, 2018	April 4, 2021	
	San Juan Creek Mouth	at mouth	April 4, 2016	April 4, 2021	
	Pacific Ocean Shoreline	at Poche Beach		April 4, 2016	April 4, 2021
		Ole Hanson Beach Club Beach at Pico Drain		April 4, 2016	April 4, 2021
		San Clemente City Beach at El Portal Street Stairs		April 4, 2017	April 4, 2021
		San Clemente City Beach at Mariposa Street			
		San Clemente City Beach at Linda Lane		April 4, 2016	April 4, 2021
		San Clemente City Beach at South Linda Lane		April 4, 2018	April 4, 2021
		San Clemente City Beach at Lifeguard Headquarters		April 4, 2017	April 4, 2021
		under San Clemente Municipal Pier			
		San Clemente City Beach at Trafalgar Canyon (Trafalgar Lane)		April 4, 2018	April 4, 2021
		San Clemente State Beach at Riviera Beach		April 4, 2016	April 4, 2021
	San Clemente State Beach at Cypress Shores		April 4, 2017	April 4, 2021	
San Luis Rey River	Pacific Ocean Shoreline	at San Luis Rey River mouth	April 4, 2017	April 4, 2021	
Carlsbad	Pacific Ocean Shoreline	at Moonlight State Beach	April 4, 2016	April 4, 2021	
San Dieguito River	Pacific Ocean Shoreline	at San Dieguito Lagoon mouth	April 4, 2016	April 4, 2021	

**Table 6.5 (Cont'd)**  
*Interim Compliance Dates to Achieve Interim WQBELs*

Watershed Management Area	Water Body	Segment or Area	Interim Compliance Dates	
			Interim Dry Weather WQBELs	Interim Wet Weather WQBELs
Penasquitos	Pacific Ocean Shoreline	Torrey Pines State Beach at Del Mar (Anderson Canyon)	April 4, 2016	April 4, 2021
Mission Bay	Pacific Ocean Shoreline	La Jolla Shores Beach at El Paseo Grande	April 4, 2016	April 4, 2021
		La Jolla Shores Beach at Caminito del Oro		
		La Jolla Shores Beach at Vallecitos		
		La Jolla Shores Beach at Avenida de la Playa		
		at Casa Beach, Children's Pool		
		South Casa Beach at Coast Boulevard		
		Whispering Sands Beach at Ravina Street		
		Windansea Beach at Vista de la Playa		
		Windansea Beach at Bonair Street		
		Windansea Beach at Playa del Norte		
		Windansea Beach at Palomar Avenue		
		at Tourmaline Surf Park		
Pacific Beach at Grand Avenue				
San Diego Bay	Tecolote Creek	Entire reach and tributaries		
San Diego River	Forrester Creek	lower 1 mile	April 4, 2018	April 4, 2021
	San Diego River	lower 6 miles		
	Pacific Ocean Shoreline	at San Diego River mouth at Dog Beach		
San Diego Bay	Chollas Creek	lower 1.2 miles	April 4, 2018	April 4, 2021

(6) Interim Compliance Determination

Compliance with interim compliance requirements of Specific Provision 6.c may be demonstrated via one of the following methods:

- (a) There is no direct or indirect discharge from the Responsible Copermittee's MS4s to the receiving water;
- (b) There are no exceedances of the applicable interim receiving water limitations under Specific Provision 6.c.(1) and 6.c.(2) in the receiving water at, or downstream of the Responsible Copermittee's MS4 outfalls;
- (c) The Responsible Copermittee demonstrates applicable interim WQBELs

under Specific Provision 6.c.(3) have been achieved;

(d) The Responsible Copermittee can demonstrate that exceedances of the applicable interim receiving water limitations under Specific Provision 6.c.(1) and 6.c.(2) in the receiving water are due to loads from natural sources or non-MS4 sources; OR

(e) The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan, that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision 6.c.(4).d.

**e.d. \_\_\_\_\_ SPECIFIC MONITORING AND ASSESSMENT REQUIREMENTS**

**(1) Monitoring and Assessment Requirements for Beaches**

**(a) Monitoring Stations**

For beaches addressed by the TMDL, monitoring locations should consist of, at a minimum, the same locations used to collect data required pursuant to Order Nos. R9-2007-0001 and R9-2009-0002, and beach monitoring for Health and Safety Code section 115880.<sup>37</sup> If exceedances of the applicable interim or final receiving water limitations are observed in the monitoring data, additional monitoring locations and/or other source identification methods must be implemented to identify the sources causing the exceedances. The additional monitoring locations must also be used to demonstrate that the bacteria loads from the identified anthropogenic sources have been addressed and are no longer causing exceedances in the receiving waters.

**(b) Monitoring Procedures**

- (i) The Responsible Copermittees must collect dry weather monitoring samples from the receiving water monitoring stations at least monthly. Dry weather samples collected from additional monitoring stations established to identify sources must be collected at an appropriate frequency to demonstrate bacteria loads from the identified sources have been addressed and are no longer causing exceedances in the receiving waters.
- (ii) The Responsible Copermittees must collect wet weather monitoring samples from the receiving water monitoring stations at least once

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<sup>37</sup> Commonly referred to as AB 411 monitoring

within the first 24 hours of the first storm event<sup>38</sup> of the rainy season (i.e. October 1 through April 30). Wet weather samples collected from receiving water stations and any additional monitoring stations established to identify sources must be collected at an appropriate frequency to demonstrate bacteria loads from the identified sources have been addressed and are no longer in exceedance of the allowable exceedance frequencies in the receiving waters.

- (iii) Samples must be analyzed for total coliform, fecal coliform, and *Enterococcus* indicator bacteria.

(c) Assessment and Reporting Requirements

- (i) The Responsible Copermittees must analyze the dry weather and wet weather monitoring data to assess whether the interim and final WQBELs for the Pacific Ocean Shoreline segments or areas listed in [Table 6.0](#) have been achieved.
- (ii) The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

(2) Monitoring and Assessment Requirements for Creeks and Creek Mouths

(a) Monitoring Stations

For creeks addressed by the TMDL, monitoring locations should consist of, at a minimum, a location at or near the mouth of the creek (e.g. Mass Loading Station or Mass Emission Station) and one or more locations upstream of the mouth (e.g. Watershed Assessment Station). If exceedances of the applicable interim or final receiving water limitations are observed in the monitoring data, additional monitoring locations and/or other source identification methods must be implemented to identify the sources causing the exceedances. The additional monitoring locations must also be used to demonstrate that the bacteria loads from the identified sources have been addressed and are no longer causing exceedances in the receiving waters.

(b) Monitoring Procedures

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<sup>38</sup> Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)].

- (i) The Responsible Copermittees must collect dry weather monitoring samples from the receiving water monitoring stations in accordance with the requirements of Provision D.
  - (ii) The Responsible Copermittees must collect wet weather monitoring samples from the receiving water monitoring stations within the first 24 hours of the first storm event<sup>39</sup> of the rainy season (i.e. October 1 through April 30).
  - (iii) Samples collected from receiving water monitoring stations must be analyzed for fecal coliform and *Enterococcus* indicator bacteria.
- (c) Assessment and Reporting Requirements
- (i) The Responsible Copermittees must analyze the receiving water monitoring data to assess whether the interim and final receiving water WQBELs for the creeks and creek mouths listed in [Table 6.0](#) have been achieved.
  - (ii) The Responsible Copermittee must identify and incorporate additional MS4 outfall and receiving water monitoring stations and/or adjust monitoring frequencies to identify sources causing exceedances of the receiving water WQBELs.
  - (iii) The monitoring and assessment results must be submitted as part of the Annual Reports required under Provision [F.3.b](#) of this Order.

**~~f. COMPLIANCE DETERMINATION~~**

~~(1) Compliance with interim compliance requirements of Specific Provision 6.c.(2) may be demonstrated via one of the following methods:~~

~~(a) There is no direct or indirect discharge from the Responsible Copermittees' MS4s to the receiving water;~~

~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 6.b.(1) in the receiving water at, or downstream of the Responsible Copermittees' MS4 outfalls;~~

~~(c) There are no violations of the applicable effluent limitations under Specific Provision 6.b.(2) at the Responsible Copermittees' MS4 outfalls;~~

<sup>39</sup> Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)]. If only one sample is collected for a storm event, the bacteria density for every wet weather day associated with that storm event shall be equal to the results from that one sample. If more than one sample is collected for a storm event, but not on a daily basis, the bacteria density for all the wet weather days not sampled shall be equal to the highest bacteria density result reported from samples collected. The exceedance frequency shall be calculated by dividing the number of wet weather days that exceed the single sample maximum REC-1 WQOs by the total number of wet weather days during the rainy season.

- ~~(d) There are no exceedances of the applicable interim receiving water limitations under Specific Provision 6.c.(2) in the receiving water at, or downstream of the Responsible Copermittees' MS4 outfalls;~~
  - ~~(e) The Responsible Copermittees can demonstrate that exceedances of the applicable interim or final receiving water limitations under Specific Provision 6.b.(1)(a) or 6.c.(2) in the receiving water are due to loads from natural sources, AND pollutant loads from the Copermittees' MS4 are not causing or contributing to the exceedances; OR~~
  - ~~(f) The Responsible Copermittees have submitted and are fully implementing a Water Quality Improvement Plan, accepted by the San Diego Water Board, which provides reasonable assurance that the interim compliance requirements will be achieved by the interim compliance dates.~~
- ~~(2) Compliance with WQBELs of Specific Provision 6.b may be demonstrated via one of the following methods:~~
- ~~(a) There is no direct or indirect discharge from the Responsible Copermittees' MS4s to the receiving water;~~
  - ~~(b) There are no exceedances of the applicable receiving water limitations under Specific Provision 6.b.(1) in the receiving water at, or downstream of the Responsible Copermittees' MS4 outfalls;~~
  - ~~(c) There are no violations of the applicable effluent limitations under Specific Provision 6.b.(2) at the Responsible Copermittees' MS4 outfalls; OR~~
  - ~~(d) The Responsible Copermittees can demonstrate that exceedances of the applicable final receiving water limitations under Specific Provision 6.b.(1)(a) in the receiving water are due to loads from natural sources, AND pollutant loads from the Copermittees' MS4 are not causing or contributing to the exceedances.~~

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SAN DIEGO COPERMITTEE COMMENTS ON TENTATIVE ORDER NO. R9-2013-0001

Permit Section	Tentative Order Page	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
General Comment	Multiple	Multiple	<p>The term “prohibit” is broader than Clean Water Act requirements, and should be changed to “effectively prohibit.” CWA Provision 402(p) (3) (B) (ii) reads as follows:</p> <p>(B) Municipal Discharge – Permits for discharges from municipal storm sewers –                      (ii) shall include a requirement to <u>effectively prohibit</u> non-stormwater discharges into the storm sewer; (<u>Emphasis added</u>)</p> <p>The provision does not provide any reference to exemptions. Rather the Provision may be read that a permit shall “effectively prohibit non-stormwater discharges” but may exempt certain discharges that are not significant sources of pollutants from the prohibition. The Provision does not require a <u>full prohibition</u> but rather an <u>effective prohibition</u>. The operative word is “effective”. The more precise and correct finding/provision should note that non-stormwater discharges are effectively prohibited (per 402 (p) (3) (B) (ii)). However discharges that are not significant sources of pollutants are exempted from the prohibition. In a practical sense the use of word “effective” provides flexibility to assess the impacts of relatively benign discharges such as landscape irrigation, air condition condensate, individual car washing, and non-emergency fire fighting flows or non-anthropogenic sources before instituting a prohibition.</p>	<p>Revise “prohibit” to “effectively prohibit” throughout the Permit when referring to non-storm water discharges.</p>

SAN DIEGO COPERMITTEE COMMENTS ON TENTATIVE ORDER No. R9-2013-0001

Permit Section	Tentative Order Page	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
<b>I. FINDINGS</b>				
3 and throughout, as applicable	1	CWA NPDES Permit Conditions		Remove the following term in Finding 3 and throughout, as provided in the Strikeout: <del>“storm water”</del>
8	3	Point Source Discharges of Pollutants	Discharges may contain waste or pollutants, but it should not be presumed that they necessarily always contain waste or pollutants. In addition, it is inappropriate to consider all storm water and non-storm water discharges point source discharges.	Revise the text as follows: “Discharges from the MS4s <u>may</u> contain waste, as defined in the CWC, and pollutants that adversely affect the quality of the waters of the state. A discharge from an MS4 is a “discharge of pollutants from a point source” into waters of the U.S. as defined in the CWA. Storm water and non-storm water discharges from the MS4s <u>may</u> contain pollutants that cause or threaten to cause a violation of surface water quality standards, as outlined in the <del>Water Quality Control Plan for the San Diego Basin (Basin Plan). Storm water and non-storm water discharges from the MS4s are subject to the conditions and requirements established in the Basin Plan for point source discharges.</del> ”
11	4	Runoff Discharges to Receiving Waters	Finding 11 is inconsistent with the definition of the MS4 in 40 C.F.R. 122.26, which does not include natural rivers and streams:  “(8) <i>Municipal separate storm sewer</i> means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management	Revise the text as follows: “11. Runoff Discharges to Receiving Waters. The MS4s discharge runoff into lakes, drinking water reservoirs, rivers, streams, creeks, bays, estuaries, coastal lagoons, the Pacific Ocean, and tributaries thereto within the eleven hydrologic units comprising the San Diego Region. Historic and current development makes use of natural drainage patterns and features as conveyances for runoff. <del>Rivers, streams and creeks in developed areas used in this manner are part of the Copermitees’ MS4s regardless of whether they are natural, anthropogenic, or partially modified features. In these cases, the rivers, streams and creeks in the developed areas of the Copermitees’ jurisdictions are both an MS4 and receiving water.</del> Numerous receiving water bodies and water body segments have been designated as impaired by the San

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Permit Section	Tentative Order Page	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			agency under Provision 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.	Diego Water Board pursuant to CWA Provision 303(d)."
15	5	Non-Storm Water and Storm Water Discharges	This is a legal argument that is contrary to the plain language of the statute, which specifically states that 'Permits for discharges from municipal storm sewers... shall require controls to reduce the discharge of pollutants to the maximum extent practicable...'402(p)(3)(B)(iii). The maximum extent practicable standard applies to storm water and non-storm water discharges.	Revise the text as follows: <del>"Non-storm water discharges from the MS4s are not considered storm water discharges and therefore are not subject to the MEP standard of CWA section 402(p)(3)(B)(iii), which is explicitly for Municipal... Stormwater Discharges (emphasis added)" from the MS4s.</del> Pursuant to CWA 402(p)(3)(B)(ii), non-storm water discharges into the MS4s must be effectively prohibited. <u>"Permits for discharges from municipal storm sewers shall require controls to reduce the discharge of pollutants to the maximum extent practicable..." 402(p)(3)(B)(iii)."</u>
27	8	Integrated Report and Clean Water Act Section 303(d) List.		Revise the last paragraph as follows: "Implementation of the requirements of this Order <del>will</del> <u>may</u> allow the San Diego Water Board to include surface waters impaired by discharges from the Copermittees' MS4s in Category 4 in the Integrated Report for consideration during the next 303(d) List submittal by the State to USEPA."
29	9	Unfunded Mandates	Finding 29 states that the Order does not constitute an unfunded mandate under Article XIII B, Section 6 of the California Constitution. This finding has no legal effect because the Regional Board does not have jurisdiction to determine what is a state mandate, and therefore should be deleted. The Commission on State Mandates, the agency with exclusive jurisdiction over state mandate claims, determined that multiple requirements in the 2007 San Diego MS4 Permit were unfunded state mandates. This case is currently on appeal before the Third Appellate	Delete Finding 29.

SAN DIEGO COPERMITTEE COMMENTS ON TENTATIVE ORDER No. R9-2013-0001

Permit Section	Tentative Order Page	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
			District (Case No. C070357). Like the 2007 Permit, the Tentative Order exceeds the requirements of federal law, and the Copermittees reserve their right to challenge permit provisions exceeding federal law in the appropriate forum.	
<b>II. PROVISIONS</b>				
<b>A. Prohibitions and Limitations</b>				
A	13	Prohibitions and Limitations	The proposed Prohibitions and Limitation provisions may be construed as stand-alone provisions that could expose the Copermittees to state and federal enforcement actions, as well as to third party actions under the federal Clean Water Act's citizen suit provisions. Consistent with the recent 9 <sup>th</sup> Circuit Court of Appeal decision (NRDC v. LA County), each provision of the permit could be read separately so if provision A.2.a states that "the MS4 must not cause or contribute to a violations of a water quality standard" then that is the stand-alone provision, and the accompanying language found in A.4 (Compliance with Discharge Prohibitions) regarding compliance may be considered irrelevant. As such, a clear linkage between the compliance provisions and the prohibitions, receiving water limitations, and effluent limitations must be established.	Insert the following sentence at the end of the introductory paragraph of Provision A:  <u>"The process for determination of compliance with the Discharge Prohibitions (A.1), Receiving Water Limitations (A.2), and Effluent Limitations (A.3) is defined in Provision A.4."</u>
A.1.a (and throughout, as applicable)	13	Discharge Prohibitions	Provision A.1.a prohibits certain discharges into waters of the state. NPDES permits under the authority of the Clean Water Act regulate discharges into navigable (surface) waters. Expanding the scope of the Discharge Prohibitions to waters of the state would expand the scope of the Permit to protect groundwater. This exceeds federal requirements and would represent an unfunded mandate. Other MS4 permits in California, including the Los Angeles County MS4 permit, protect "waters of the United States."	Throughout the Permit, change "waters of the state" to "waters of the United States", where applicable (and throughout the Tentative Order). Revise the text as follows:  "...in receiving waters of the <u>US state</u> are <u>effectively</u> prohibited..."

SAN DIEGO COPERMITTEE COMMENTS ON TENTATIVE ORDER NO. R9-2013-0001

Permit Section	Tentative Order Page	Section Title	Reason for Proposed Changes/Comments	Proposed Changes
A.1.a A.1.c A.2.a	13 13 13	Prohibitions and Limitations	The Discharge Prohibitions do not establish a sufficient linkage with approved compliance schedules for TMDLs that have been incorporated into the Basin Plan. TMDLs adopted within the region include a schedule to provide MS4 Copermittees the time necessary to develop and implement a plan to achieve water quality standards in impaired waters. The compliance schedules for effective TMDLs have been incorporated into Attachment E, but these schedules are not included in Provision A.1 or A.2. By not referencing TMDL schedules, these provisions could result in violations of the permit even though the implementation compliance dates have not yet passed. Without modification, the Discharge Prohibitions <i>conflict</i> with TMDL compliance schedules. Language should be included to clarify that in instances where a TMDL is in place, or a TMDL is being developed, the Copermittees shall achieve compliance with these provisions as outlined in Attachment E (Specific Provisions for Total Maximum Daily Loads).	Revise A.1.a, A.1.c, and A.2.a by adding the following onto the end of each provision:  <u>"..., unless such discharges are addressed by the Copermittee(s) through Provision A.1.d, A.3.b or A.4."</u>
A.3.a, footnote 5	15	Technology Based Effluent Limitations	See comment for Finding 15.	Revise text as follows: "This does not apply to MS4 discharges which receive subsequent treatment to reduce pollutants in <del>storm water</del> discharges to the MEP..."
A.4	15	Compliance with Discharge Prohibition and Receiving Water Limitations	The Copermittees envision Water Quality Improvement Plans as the foundation for a compliance approach for the Discharge Prohibitions, RWLs, and Effluent Limitations. However, the language in Provision A does not clearly link compliance with the iterative process set forth in the Water Quality Improvement Plans. The Water Quality Improvement Plans should provide an optional mechanism to "raise the bar" with regards to the detail and quantitative analyses used to identify pollutant sources, implement BMPs to address those sources, and increase the number or size of BMPs until water quality standards are attained.  However, as Provision A.4 is written, the envisioned	Revise the text as follows:  "Each Copermittee must achieve compliance with Provisions A.1.a, A.1.c and A.2.a of this Order through timely implementation of <u>strategies</u> , control measures and other actions as specified in Provisions B and E of this Order, including any modifications. The Water Quality Improvement Plans required under Provision B must be designed and adapted to ultimately achieve compliance with Provisions A.1.a, A.1.c, and A.2.a, <u>and may be used for compliance determination as described in Provision B.3.a.(3).</u>

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			<p>strategic compliance process falls short, and the Water Quality Improvement Plans do not have a meaningful linkage to Permit compliance. An unintended but significant consequence of this compliance uncertainty is that Copermittees will be faced with increased difficulty securing program funding because even substantial increases in funding would not eliminate the potential for non-compliance.</p> <p>The proposed approach for incorporating Water Quality Improvement Plan-based compliance option into the Permit is described in comments on Provision B.3.a.(3).</p>	
A.4.a.(2)	15	Compliance with Discharge Prohibitions and Receiving Water Limitations	The Water Quality Improvement Plan should be responsive to new pollutants of concern if they are persistently exceeding standards and not be tied to a reactionary commitment based on a one time exceedance of a water quality objective.	Revise first sentence of Provision A.4.a.(2) as follows: "Upon a determination by either the Copermittees or the San Diego Water Board that discharges from the MS4 are causing or contributing to <del>a new</del> <u>persistent indications of an exceedance...</u> "
A.4.a.(2)	15	Compliance with Discharge Prohibitions and Receiving Water Limitations	See comment A.4.	Add new Provision A.4.a.(2)(c) as follows:  <u>"(c )For Copermittees who are implementing an Water Quality Improvement Plan pursuant to Provision B.2, the updated Water Quality Improvement Plan should provide reasonable assurance the updated strategies are expected to address the new exceedance(s)."</u>
A.4.c	16	Compliance with Discharge Prohibitions and Receiving Water Limitations		Remove Provision A.4.c.
<b>B. Water Quality Improvement Plans</b>				
B	17	Water Quality Improvement Plans	The Copermittees request a revision to the Water Quality Improvement Plan goal statement. A concise goal statement that is more central to MS4 permitting is requested. This goal statement provides context to several	Revise the goal statement in the second sentence as follows:  The goal of the Water Quality Improvement Plans is to

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			requested revisions to subsequent provisions.	<del>protect, preserve, enhance, 1) effectively prohibit non-storm water discharges into the MS4s, 2) reduce pollutants in discharges from the MS4s to the MEP, and restore the 3) support the attainment and reasonable protection, preservation, and enhancement of water quality and designated beneficial uses of waters of the state.</del> This goal will be accomplished through an adaptive planning and management process that identifies the highest priority water quality conditions within a watershed and implements strategies through the jurisdictional runoff management programs to achieve improvements in the quality of discharges from the MS4s and receiving waters.
B	17	Water Quality Improvement Plans	The Copermittees request the Regional Board use Water Quality Improvement Plans to fully integrate watershed planning, BMP implementation, and Permit compliance determination and have proposed an approach for Water Quality Improvement Plans to form the basis for compliance as described in the comment below regarding the addition of a new subsection to B.3. Additional language is requested in the opening paragraph to Provision B to provide a linkage to the proposed revision to Provision B.3.	Add the following sentence at the end of the first paragraph in Provision B:  <u>Therefore, implementation of the Water Quality Improvement Plans also provides the basis for complying with Provisions A.1, A.2 and A.3, as described in Provision B.3.a.(3).</u>
B.1	17	Watershed Management Areas	Allow Riverside County Copermittees to enroll and for a full watershed scale public process in the development of the Water Quality Improvement Plan for the Santa Margarita River Watershed.	Add an additional paragraph to B.1 that reads:  <u>"Development of the Water Quality Improvement Plan for the Santa Margarita River Watershed Management Area shall commence upon notification of coverage of the Riverside County Copermittees under this Order. Until this time, the County of San Diego shall use the water quality priorities in the Santa Margarita River Watershed Urban Runoff Management Plan, developed pursuant to Order No. R9-2007-0001, to guide implementation of Provisions D and E within its jurisdiction."</u>
B.2.d.(1)(e) and B.2.d.(3)	21-22	Identification of MS4 Sources of	The Copermittees do not have jurisdiction to control MS4 discharges outside of their respective MS4s.	Delete Provisions B.2.d.(1)(e) and B.2.d(3).

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		Pollutants and/or Stressors		
B.2.e	23	Numeric Goals and Schedules	The requirement that “Final dates for achieving final numeric goals must not initially extend more than 10 years...” may be broadly misinterpreted as currently written with major implications. Based on conversations with Regional Board staff, it is understood that goals can take a number of forms and the “10 year” requirement is not intended as a requirement to attain all Basin Plan water quality standards within 10 years. However, to ensure this requirement is not misinterpreted by third parties, language should be added to make this clarification.	Add a footnote Provision B.2.e., as follows:  <u>“Achievement of final numeric goals within 10 years represents progress towards attainment of water quality standards, but is not a requirement to fully attain all applicable water quality standards or all priority receiving water conditions within 10 years.”</u>  Revise text as follows:  <u>“... Numeric goals must be used to support Water Quality Improvement Plan implementation and measure progress towards addressing the highest priority water quality conditions identified under Provision B.2.c. Numeric goals are not enforceable compliance standards, effluent limitations, or receiving water limitations.”...</u>
B.3	24	Water Quality Improvement Strategies		Revise the text as follows:  <u>“...by preventing or eliminating effectively prohibiting non-storm water discharges to and from the MS4, reducing pollutants in storm water discharges from the MS4 to the MEP...”</u>
B.3.a.	24	Water Quality Improvement Strategies and Schedules	The Copermittees request the Regional Board use Water Quality Improvement Plans to fully integrate watershed planning, BMP implementation, and Permit compliance determination.  The Copermittees propose an <u>optional</u> compliance mechanism that Copermittees could chose to follow. To follow this optional path the Water Quality Improvement Plans would be required to demonstrate via a scientific analyses that the number and type of strategies and	To incorporate an option for Water Quality Improvement Plan-based compliance, add a new Provision “B.3.a.(3)” as follows:  <u>(3) Copermittees may elect to develop their Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism for the discharge prohibitions (A.1), receiving water limitations (A.2), and effluent limitations (A.3). To utilize the Water</u>

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			<p>activities to be implemented will attain discharge prohibitions, receiving water limitations, and effluent limitations. The analyses would be detailed in an <u>optional Reasonable Assurance Analysis</u>. The types of analyses that would be included a Reasonable Assurance Analysis – including efforts to quantify stormwater pollutant fate and transport and strategy/activity effectiveness – are beyond conventional stormwater planning efforts, and thus the Reasonable Assurance Analysis should be optional and <u>not</u> required.</p> <p>In order to qualify for the Water Quality Improvement Plan-based compliance mechanism, a Water Quality Improvement Plan would be [1] developed using rigorous, quantitative analyses to provide reasonable assurance that BMPs are expected to attain water quality standards and [2] sufficiently detailed in terms of the strategies and activities that will be implemented so that an quantitative analysis can be conducted.</p> <p>The proposed approach would allow the Regional Board to measure compliance in a clear, specific, measurable, and enforceable manner. In order to a Copermittee to qualify for the optional, Water Quality Improvement Plan-based compliance mechanism, the Copermittee would be required to [1] notify the Regional Board of its intent to pursue the optional compliance mechanism, [2] submit a <i>Reasonable Assurance Analysis</i>, , and [3] provide a sufficiently detailed implementation schedule.</p>	<p><u>Quality Improvement Plan-based compliance option, Copermittees shall conduct a Reasonable Assurance Analysis. The objective of the Reasonable Assurance Analysis shall be to demonstrate the strategies and activities of the Water Quality Improvement Plan will ultimately result in attainment of the discharge prohibitions (A.1), receiving water limitations (A.2), and effluent limitations (A.3).</u></p> <p><u>In order for a Copermittee to utilize the Water Quality Improvement Plan-based compliance option, the Regional Board Executive Officer must determine the following conditions are met:</u></p> <p>(1) <u>The Copermittee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water Board as described in Provision F.1.(a); AND</u></p> <p>(2) <u>The submitted Water Quality Improvement Plan includes a Reasonable Assurance Analysis that demonstrates that the strategies and activities in the Water Quality Improvement Plan will attain the applicable discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3); AND</u></p> <p>(3) <u>The submitted Water Quality Improvement Plan includes a schedule as outlined in Provision B.3.b that provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable</u></p>

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				<p><u>manner.</u></p> <p><u>If a Water Quality Improvement Plan-based compliance option is approved by the Regional Board Executive Officer, then in instances when the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) are not met, the implementation of the strategies and activities contained in the Water Quality Improvement Plan will be used for determination of compliance with Provision A. That is, any determination of a Copermittee's compliance with Provision A shall be based on the following conditions:</u></p> <p><u>(1) The strategies and activities of the Water Quality Improvement Plan are implemented per the approved schedule outlined pursuant to Provision B.3.b and adapted pursuant to Provisions B.5, F.1, and F.2; AND</u></p> <p><u>(2) If exceedances persist notwithstanding implementations of the strategies and activities in the approved Water Quality Improvement Plan, then Responsible Copermittees revise the Water Quality Improvement Plan pursuant to Provision A.4.a, and implement the revised Water Quality Improvement Plan including additional or alternative activities per the schedule submitted with the revised Water Quality Improvement Plan.</u></p> <p><u>For cases when applicable discharge prohibitions (A.1), receiving water limitations (A.2), or effluent limitations (A.3) are not attained during the time period between a Copermittee's notification of intent to utilize a Water Quality Improvement Plan-based compliance option, pursuant to Provision F.1.(a), and Regional Board Executive Officer approval of the submitted Water Quality</u></p>

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				<p><u>Improvement Plan, determination of a Copermittee's compliance with Provision A shall be based on the following conditions:</u></p> <p>(1) <u>All deadlines for development of a Water Quality Improvement Plan pursuant to Provision F.1.(a) and (b) are met; AND</u></p> <p>(2) <u>The Water Quality Improvement Plan ultimately receives final approval.</u></p>
B.5.a	25	Re-Evaluation of Priority Water Quality Conditions	The proposed revisions to Provision B.5 are intended to add a link with jurisdictional implementation efforts and to clarify receiving water conditions.	Revise first paragraph of B.5.a. as follows: "The priority <u>receiving</u> water quality conditions, and numeric goals and corresponding schedules, included..."
B.5.b.(2)	27	Adaptation of Strategies and Schedules		Revise the text as follows: "...reductions of non-storm water discharges to <del>and from</del> each Copermittee's MS4..."
B.5.b.(3)	27	Adaptation of Strategies and Schedules	See comment for Finding 15.	Revise the text as follows: "...reductions of pollutants in <del>storm water</del> discharges from each Copermittee's MS4..."
<b>C. Action Levels</b>				
C.1, footnote 7	28	Non-Storm Water Action Levels	Clarify that NALs are not enforceable compliance points.	Revise text as follows: "NALs are not considered <del>by the San Diego Water Board</del> to be enforceable limitations.
C.1.a C.1.b C.2.a C.2.b	28 30 31 32	Action Levels	The Draft Order in Provision B states that the goal of the Water Quality Improvement Plan is to identify the highest water quality priorities within a watershed and implement strategies to achieve improvements in the quality of discharge and receiving waters. Furthermore in Provision B.2.d the Copermittees are required to develop and use <i>interim and final numeric targets/goals</i> to measure progress towards the protection/enhancement of the receiving waters and beneficial uses. The choice of the target/goals of the watershed may be biological, chemical, or physical based	Revise the following Provisions, as indicated: C.1.a: "The following NALs must be incorporated, <u>if the Copermittees do not establish numeric action levels within the Water Quality Improvement Plan based on watershed priorities:</u> " C.1.b: "If <del>not identified in Provision C.1.a</del> , NALs must be identified, developed, and incorporated in the Water

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			<p>and may include multiple criteria and/or indicators.</p> <p>The permit now provides a clear linkage between Provision B and Provision C and states that the Water Quality Improvement Plan should guide the customization of the NALs/SALs to meet the highest water quality priorities in a given watershed and that NALs/SALs will be used to assist Copermittees in reaching the goals specified in the Water Quality Improvement Plan.</p> <p>Although action levels will be used for several different purposes, the action levels defined in Provision C.1.a and C. 2.a are chemically based and may be in conflict with the selected watershed metrics. As an example, if the watershed metric is improved IBI scores for a water body, then NALs and SALs associated with water chemistry are unlikely to be the best metric to evaluate progress towards improving IBI scores or for assessing our implementation efforts. Thus, the chemically based NALs/SALs may direct resources away from the watershed priorities.</p> <p>Since Provision C indicates that there are three different purposes for the action levels, the permit should recognize that the action levels for each permit provision (B.4, D.4.a, and/or E.2) may be based on different constituents, metrics, and/or may be different values. A revision of the language in C.1.a and C.2.a stating that Tables C-1 to C-5 are only applicable if the Copermittees do not establish numeric action levels to support the Water Quality Improvement Plan would allow for the determination of appropriate numeric NALs and SALs per the intent of each permit provision.</p>	<p>Quality Improvement Plans....”</p> <p>C.2.a:                      “The following SALs for discharges of storm water from the MS4 must be incorporated, <u>if the Copermittees do not establish numeric action levels within the Water Quality Improvement Plan based on watershed priorities:</u> ”</p> <p>C.2.b:                      “<del>If not identified in Provision C.1.a,</del> SALs must be identified, developed, and incorporated in the Water Quality Improvement Plans....”</p>
C.1.a.(2) Table C-3	29	Non-Storm Water Action Levels	Refer to the California Toxics Rule (CTR) instead of including equations in the notes of Table C-3. The note to the table incorrectly sets the chronic CTR standard (Criterion Continuous Concentration; CCC) as both the	Revise the Table C-3 Notes as follows: * Action levels developed on a case-by-case basis (see below)

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			monthly average (AMAL) and daily maximum (MDAL) NALs. However, the acute CTR standard (Criterion Maximum Concentration; CMC) should be used instead of the chronic standard for the daily maximum. Another important reason to include the equations by reference is that the equations in the notes of Table C-3 also do not take into account that in some cases a site-specific water effects ratio may apply, which is considered in and allowed by the California Toxics Rule.	<p>** Action levels developed on a case-by-case basis (see below), but calculated criteria are not to exceed Maximum Contaminant Levels (MCLs) under the California Code of Regulations, Title 22, Division 4, Chapter 15, Article 4, Provision 64431</p> <p>The Cadmium, Copper, Chromium (III), Lead, Nickel, Silver and Zinc NALs for MS4 discharges to freshwater receiving waters will be developed on a case-by-case basis because the freshwater criteria are based on site-specific water quality data (receiving water hardness). For these priority pollutants, <u>refer to the following 40 CFR 131.38.b.2 for details.</u>) will be required:</p> <p><del>Cadmium (Total Recoverable) =</del>  <del>exp(0.7852[ln(hardness)] - 2.715)</del></p> <p><del>Chromium III (Total Recoverable) =</del>  <del>exp(0.8190[ln(hardness)] + 0.6848)</del></p> <p><del>Copper (Total Recoverable) =</del>  <del>exp(0.8545[ln(hardness)] - 1.702)</del></p> <p><del>Lead (Total Recoverable) =</del>  <del>exp(1.273[ln(hardness)] - 4.705)</del></p> <p><del>Nickel (Total Recoverable) =</del>  <del>exp(-.8460[ln(hardness)] + 0.0584)</del></p> <p><del>Silver (Total Recoverable) =</del>  <del>exp(1.72[ln(hardness)] - 6.52)</del></p> <p><del>Zinc (Total Recoverable) =</del>  <del>exp(0.8473[ln(hardness)] + 0.884)</del></p>
C.2, footnote 9	31	Storm Water Action Levels	Clarify that SALs are not enforceable compliance points.	Revise text as follows: "SALs are not considered by the <del>San Diego Water Board</del> to be enforceable limitations.
<b>D. Monitoring and Assessment Requirements</b>				
D.1	33	Receiving Water	About one year of lead time is needed to plan and secure	The Copermittees must develop and conduct a program to

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		Monitoring Requirements	the resources and contracting mechanisms to conduct monitoring programs. If the Order is adopted on March 1, 2013, then the Water Quality Improvement Plan would be submitted to the Regional Board by September 2014. The Water Quality Improvement Plan could be accepted by the Regional Board as early as 60 days after submittal (by November 2014) and as late as 6 months after submittal (by February 2015). Budgeting for the next fiscal year usually begins in October. Without an approved Water Quality Improvement Plan, it will be difficult to plan and secure the necessary funding. Therefore, to accommodate budgeting cycles, transitional monitoring should be required until the implementation monitoring schedule proposed in the Water Quality Improvement Plan is approved. Allowing this flexibility will allow time for the necessary resources to be secured by the WMA. Moreover, individual Water Quality Improvement Plans may likely be adopted at different times by the Regional Board and incorporating the implementation schedule of monitoring within the Water Quality Improvement Plan will increase the efficiency of the process.	monitor the condition of the receiving waters in each Watershed Management Area during dry weather and wet weather. Following acceptance of the Water Quality Improvement Plans <u>and schedule for implementation of monitoring</u> for each Watershed Management Area, the Copermittees must conduct long-term receiving water monitoring during implementation of the Water Quality Improvement Plan to assess the long term trends and determine if conditions in receiving waters are improving.  This change is incorporated in <i>Proposed Changes</i> to Provision D below:
D.1.a	33	Transitional Receiving Water Monitoring	See comment D.1	Until the monitoring requirements <u>and implementation schedule for monitoring</u> of Provisions <a href="#">D.1.b-e</a> are incorporated into a Water Quality Improvement Plan that is accepted by the San Diego Water Board pursuant to Provision <a href="#">F.1</a> , the Copermittees must conduct the following receiving water monitoring in the Watershed Management Area:
D.1.a.(1)	33	Transitional Receiving Water Monitoring	The Copermittees request removal of Coastal Storm Drain Monitoring Program from Transient Receiving Monitoring. The San Diego Copermittees' Report of Waste Discharge (2011) demonstrated a limited relationship (less than 2 %) between receiving water concentrations/exceedances and storm drain concentrations/exceedances in dry weather. <u>Duplicative Effort</u> - Many storm drain outfalls/receiving waters will be monitored as part of the Bacteria TMDL or the	Revise Provision D.1.a.(1) as follows: (1) Continue the receiving water monitoring programs required in Orders Nos. R9-2007-0001 ( <u>Attachment A, Provision II. A. 1-5</u> ), R9-2009-0002, and R9-2010-0016;

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			transient MS4 Outfall Program in D.2.a.(2).	
D.2	42	MS4 Outfall Discharge Monitoring Requirements	See comment D.1.	Revise Provision D.2. as follows: “The Copermittees must develop and conduct a program to monitor the discharges from the MS4 outfalls in each Watershed Management Area during dry weather and wet weather. Following acceptance of the Water Quality Improvement Plans <u>and schedule for implementation of monitoring for each Watershed Management Area...</u> ”
D.2.a	42	Transitional MS4 Outfall Discharge Monitoring	See comment D.1.	Revise Provision D.2.a. as follows: “Until the monitoring requirements <u>and schedule for implementation of monitoring</u> of Provisions D.2.b-c are incorporated into a Water Quality Improvement Plan that is accepted by the San Diego Water Board pursuant to Provision F.1
D.2.a.(2)	43	Transitional Dry Weather MS4 Outfall Discharge Field Screening Monitoring	See comment D.1.	Revise Provision D.2.a.(2) as follows: “Until the monitoring requirements <u>and the monitoring implementation schedule described in</u> of Provision D.2.b are incorporated into a Water Quality Improvement Plan that is accepted by the San Diego Water Board pursuant to Provision F.1...”
D.2.a.(2)(a)	43-44	Transitional Dry Weather MS4 Outfall Discharge Field Screening Monitoring Frequency	To clarify that the maximum number of outfall inspections required annually per Copermittee is 500, per the limit on the number of major MS4 outfalls for field screening specified in CFR40CFR\$122.26(d)(2)(iv)(D)(6) - “in large municipal separate storm sewer systems, no more than 500 cells need to have identified field screening points”	Revise Provision D.2.a.(2)(a) as follows: (a) Transitional Dry Weather MS4 Outfall Discharge Field Screening Monitoring Frequency  Each Copermittee must field screen the MS4 outfalls in its inventory developed pursuant to Provision D.2.a.(1) as follows: (i) For Copermittees with less than 125 major MS4 outfalls that discharge to receiving waters within a Watershed Management Area, at least 80 percent of the outfalls must be visually inspected two times per year during dry weather conditions. <u>For Copermittees with jurisdiction in more than one WMA, this requirement is limited to 500 inspections annually per Provision D.2.a.(2)(a)(iv).</u>

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				<p>(ii) For Copermittees with 125 major MS4 outfalls or more, but less than or equal to 500, that discharge to receiving waters within a Watershed Management Area all the outfalls must be visually inspected at least annually during dry weather conditions. <u>For Copermittees with jurisdiction in more than one WMA, this requirement is limited to 500 inspections annually per Provision D.2.a.(2)(a)(iv).</u></p> <p>(iii) For Copermittees with more than 500 major MS4 outfalls that discharge to receiving waters within a Watershed Management Area, at least 500 outfalls must be visually inspected at least annually during dry weather conditions. Copermittees with more than 500 major MS4 outfalls within a Watershed Management Area must identify and prioritize at least 500 outfalls to be inspected considering the following:</p> <ul style="list-style-type: none"> <li>[a] Assessment of connectivity of the discharge to a flowing receiving water;</li> <li>[b] Reported exceedances of NALs in water quality monitoring data;</li> <li>[c] Surrounding land uses;</li> <li>[d] Presence of constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA Provision 303(d) List; and</li> <li>[e] Flow rate.</li> </ul> <p><u>For Copermittees with jurisdiction in more than one WMA, this requirement is limited to 500 inspections annually, per Provision D.2.a.(2)(a)(iv).</u></p>
D.2.a.(3)	45	Transitional Wet Weather MS4 Outfall Discharge Monitoring	See D.1	<p>Revise Provision D.2.a.(3) as follows:                      “Until the monitoring requirements <u>and the monitoring implementation schedule described in</u> ef-Provision D.2.c are incorporated into a Water Quality Improvement Plan that is accepted by the San Diego Water Board pursuant to Provision F.1...”</p>
D.2.a.(3)(a)	46	Transitional Wet	Reduce the number of transitional wet weather MS4 outfall	Add an additional paragraph to D.2.a.(3)(a) that reads:

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		Weather MS4 Outfall Discharge Monitoring Stations	discharge monitoring stations for the Santa Margarita River Watershed Management Area to be proportional to the area of the watershed within the County of San Diego until such time the County of Riverside Copermittees are notified of coverage. After such time, the number of wet weather MS4 outfall discharge monitoring stations will be increased to five (5) as defined in D.2.(3).(a).	<u>"The County of San Diego shall select at least two (2) transitional wet weather MS4 outfall discharge monitoring stations for the portion of the Santa Margarita River Watershed Management Area within its jurisdiction until the Riverside Copermittees are enrolled under this Order. After the Riverside Copermittees are enrolled, the Watershed Management Area Copermittees shall select at least five (5) transitional wet weather MS4 outfall discharge monitoring stations consistent with the requirements above."</u>
D.2.a.(3)(b)	46	Transitional Wet Weather MS4 Outfall Discharge Monitoring Frequency	<p>Reduce the frequency of sampling from annual to once during the 2-year transition period, because San Diego Copermittees have already satisfied the intent of this provision to provide baseline MS4 data. The 2007 Permit MS4 program will be completed in 2013 and characterizes baseline MS4 conditions through a statistically robust random sampling program (over 160 samples collected to date), in addition to targeted monitoring at selected sites. Collectively, the San Diego Copermittees also have performed storm event composite sampling for more than 150 wet weather MS4 discharge events to derive event mean concentrations and estimate the loading from single family residential, commercial and industrial land uses.</p> <p>The current First flush requirement skews the data set towards very early season conditions. Need samples representing a broader range of conditions to produce more representative data to better characterize seasonal/hydrological variation, and produce more accurate loading estimates. Logistically difficult to get equipment and personnel ready/available to monitor all sites in any one event. Propose minimum 10% of samples be First Flush, with at least one per WMA.</p>	<p>Revise Provision D.2.a.(3)(b) as follows:                      (b) Transitional Wet Weather MS4 Outfall Discharge Monitoring Frequency</p> <p>Each wet weather MS4 outfall discharge monitoring station selected pursuant to Provision D.2.a.(3)(a) must be monitored twice during the wet season (October 1 – April 30) <u>in the transitional period. One</u> <del>The</del> wet weather monitoring events shall be selected to be representative of the range of hydrological conditions experienced in the region. At least 10% of samples must be conducted during the first wet weather event of the wet season, <u>to include at least one such sample in each Watershed Management Area, and one wet weather monitoring event at least a month after the first wet weather event of the wet season.</u></p>

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D.2.b.(2)(b)(i)	49	Non-Storm Water Persistent Flow MS4 Outfall Discharge Monitoring Frequency	<p>The tentative order currently requires monitoring twice annually of at least 10 MS4 outfalls per WMA in which a jurisdiction is present; this adds up to 322 outfalls at one time across the region. The current requirement, as written, would significantly restrict available resources to follow-up on the top priorities - particularly in mid-size jurisdictions. The analytical requirements twice a year for mid-size cities would cost significantly more than the current dry weather program. Jurisdictions vary in size, population and thus number of major MS4 outfalls. Our recommendation is for an equitable approach: Assume 5 (unless a jurisdiction has less than 5) instead of 10 per jurisdiction within each WMA in which a jurisdiction is present. The total then equals 172 outfalls regionally instead of 322 (we proposed 69 on Sept 14<sup>th</sup>).</p>	<p>Revise Provision D.2.b.(2)(b)(i) as follows:                      "Based on the prioritization of major MS4 outfalls developed under Provision D.2.b.(2)(a), each Copermittee must identify, at a minimum, the <u>40 5</u> highest priority major MS4 outfalls with non-storm water persistent flows that the Copermittee will monitor within each Watershed Management Area within its jurisdiction. <u>If a Copermittee has less than 5 major outfalls within a WMA, the Copermittee shall monitor all of its major outfalls with persistent flows within that WMA.</u>"</p>
D.2.b.(2)(e)(iii)	51	Non-Storm Water Persistent Flow MS4 Outfall Discharge Analytical Monitoring	<p>Allow increased flexibility to developers of the Water Quality Improvement Plans to determine the appropriate analytes necessary to track and eliminate the prioritized persistent flows for specific Watershed Management Areas. Increase efficiency by increasing flexibility of analytical requirements in D.2.b &amp; Table D-8 (p. 51):</p> <ul style="list-style-type: none"> <li>• Allow flexibility in Water Quality Improvement Plan to focus analytical testing and</li> <li>• After initial identification of issue, allow analytical testing reduced to key pollutants that exceed WQOs and aid in source abatement</li> </ul>	<p>Revise Provision D.2.b.(2)(e)(iii) as follows:                      (iii) <u>During development of the Water Quality Improvement Plan, for each WMA, consider the following sources to select constituents for C-collection of grab or composite samples to be analyzed for the following constituents at a qualified analytical laboratory:</u>                      [a] Constituents contributing to the highest priority water quality conditions identified in the Water Quality Improvement Plan,                      [b] Constituents listed as a cause for impairment of receiving waters in the Watershed Management Area listed on the CWA Provision 303(d) List,                      [c] Constituents for implementation plans or load reduction plans (e.g. Bacteria Load Reduction Plans, Comprehensive Load Reduction Plans) developed for watersheds where the Copermittees are listed responsible parties under the TMDLs in Attachment E to this Order,                      [d] Applicable NAL constituents, and                      [e] Constituents listed in Table D-8, <del>unless the</del>                      (iv) <u>Copermittees may adjust the analytical list for a given WMA in successive monitoring events has to add or</u></p>

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				<p><u>eliminate constituents based on historical data that can demonstrate or provide justification that regarding the need or lack of need for analysis of the specific constituents is not necessary.</u></p> <p>(iv) If the Copermittee identifies and eliminates the source of the persistent flow non-storm water discharge, analysis of the sample is not required.</p>
D.2.c	52	Wet Weather MS4 Outfall Discharge Monitoring	<p>Outfall monitoring is generally not an efficient or effective way of identifying sources of pollutants within urban watersheds. Source identification will be undertaken in the context of Special Studies (Provision D.3), as directed by the Water Quality Improvement Plan strategies to address specific issues in WMAs. The outfall monitoring data will be used to help design those strategies.</p>	<p>Revise Provision D.2.c. as follows:                  "c. Wet Weather MS4 Outfall Discharge Monitoring                  The Copermittees must perform wet weather MS4 outfall monitoring to identify <del>sources of</del> pollutants in storm water discharges from the MS4s in the Watershed Management Area, <u>and provide information to help guide source identification efforts.</u> The Copermittees must conduct the following wet weather MS4 outfall discharge monitoring within the Watershed Management Area:                  (1) Wet Weather MS4 Outfall Discharge Monitoring Stations                  The Copermittees may adjust the wet weather MS4 outfall discharge monitoring locations and frequencies in the Watershed Management Area, as needed, to identify <del>sources of</del> pollutants in storm water discharges from MS4s in the Watershed Management Area in accordance with the highest priority water quality conditions identified in the Water Quality Improvement Plan, provided the number of stations is at least equivalent to the number of stations required under Provision D.2.a.(3)(a).                   (2) Wet Weather MS4 Outfall Discharge Monitoring Frequency                  The Copermittees must monitor the wet weather MS4 outfall discharge monitoring stations in the Watershed Management Area at an appropriate frequency to identify <del>sources of</del> pollutants in storm water discharges from the MS4s causing or contributing to the highest priority water quality conditions identified in the Water Quality</p>

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D.3.a D.3.d	54 55	Special Studies	<p>Special studies are typically multi-year efforts, requiring planning, funding approval/allocation, implementation, and analysis. Allow for special studies to be counted that are <i>initiated</i> during the current permit term as well as under the new permit term. Otherwise, unexpected delays (e.g., due to fire storms, etc.) could result in permit noncompliance. Flexibility is needed to maintain scientific rigor of studies and to accommodate variation in hydrological conditions, etc... Several Special Studies are currently ongoing. Planning and schedule for implementation of new Special Studies will be included within each Water Quality Improvement Plan, subject to RWQCB approval.</p> <p>In addition, the Copermittees request the number of Special Studies be reduced from 3 to 2 per WMA and from 2 to 1 for Regional Studies in consideration of the planning period required to develop the Monitoring and Assessment Plan required as part of the Water Quality Improvement Plan.</p>	<p>Improvement Plan."</p> <p>Revise Provision D.3.a.as follows:                  "a. Within the term of this Order, the Copermittees must <del>develop and implement</del> <u>initiate</u> the following special studies:</p> <ul style="list-style-type: none"> <li>(1) At least <del>two</del> <u>three</u> special studies in each Watershed Management Area to address pollutant and/or stressor data gaps and/or develop information necessary to more effectively address the pollutants and/or stressors that cause or contribute to highest priority water quality conditions identified in the Water Quality Improvement Plan.</li> <li>(2) At least <del>one</del> <u>two</u> special <del>studies</del> for the San Diego Region to address pollutant and/or stressor data gaps and/or develop information necessary to more effectively address the pollutants and/or stressors that are impacting receiving waters on a regional basis in the San Diego Region.</li> <li>(3) One of the <del>two</del> <u>three</u>-special studies in each Watershed Management Area may be replaced by a special study implemented pursuant to Provision D.3.a.(2)..."</li> </ul> <p>Revise Provision D.2.d. as follows:                  "d. Special studies initiated prior to the <del>acceptance of the Water Quality Improvement Plan</del> <u>term of this Order</u> that meet the requirements of Provision D.3.b and are <del>completed</del> <u>implemented</u> during the term of this Order may be utilized to fulfill the special study requirements of Provision D.3.a. "</p>

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D.4	56-63	Assessment Requirements	Assuming that the overall purpose is to assess progress in reducing concentrations and loads of pollutants in runoff, the issue is that <i>annual</i> assessments of progress in load reductions won't provide useful information and will divert resources from program implementation, the high variability of water quality data and relatively small annual changes in loading and quality ( $\leq 10\%$ ) can't be overcome with reasonable numbers of samples. A longer assessment term is needed for meaningful analysis.	See proposed changes below.
D.4.b.(1)(a)(ii)	57	Non-Storm Water Discharges Reduction Assessments	Need to ensure timing for reporting will be compatible with completion of assessment.	Revise Provision D.4.b.(1)(a)(ii) as follows: "(ii) Based on the data collected pursuant to Provisions D.2.b, the assessments required under Provision D.4.b.(1)(c) must be included <u>when complete</u> in the first Annual Report required pursuant to Provision F.3.b.(1), and annually thereafter. "

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D.4.b.(1)(c)(iv)	58	Non-Storm Water Discharges Reduction Assessments	Proposed Dry Weather method for calculation of jurisdictional loads: extrapolate from monitored major MS4 outfalls with persistent flows to remainder of major MS4 outfalls with persistent flows collectively for each jurisdiction in each WMA.	Revise Provision D.4.b.(1)(c)(iv) as follows: "(iv) Each Copermittee must analyze the data collected pursuant to Provision D.2.b, and utilize a model or other method, to calculate or estimate the non-storm water volumes and pollutant loads <u>collectively</u> discharged from all the major MS4s outfalls in its jurisdiction identified as having persistent dry weather flows during the monitoring year. These calculations or estimates must be updated annually. <del>{a}</del> <u>[a]</u> Each Copermittee must calculate or estimate: Annual non-storm water volumes and pollutant loads <u>collectively</u> discharged from the Copermittee's major MS4 outfalls to receiving waters within the Copermittee's jurisdiction, <del>with an estimate of the percent contribution from each known and suspected source for each MS4 outfall;</del> <del>[b] Each Copermittee must</del> <u>[b] Each Copermittee must</u> <del>Annual non-storm water volumes and pollutant loads identify and quantify, where feasible, sources of non-stormwater flows from areas or facilities subject to</del> <u>Annual non-storm water volumes and pollutant loads identify and quantify, where feasible, sources of non-stormwater flows from areas or facilities not subject to</u> the Copermittee's legal authority that are discharged from the Copermittee's major MS4 outfalls to downstream receiving waters."
D.4.b.(1)(c)(v)	58	Non-Storm Water Discharges Reduction Assessments	Loads will be calculated annually per previous comment, but strategic assessments should not be required more than once per permit term.	Revise Provision D.4.b.(1)(c)(v) as follows: "(v) Each Copermittee must review the data collected pursuant to Provision D.2.b and findings from the assessments required pursuant to Provision D.4.b.(1)(c)(i)-(iv) <del>on an annual basis once per Permit term to:</del> "
D.4.b.(2)(a)(ii)	59	Storm Water Pollutant Discharges Reduction Assessments	Need to ensure timing for reporting will be compatible with completion of assessment. Very important also to reference specifically the assessments that will occur annually (only D.4.b.(c)(i) and (ii)).	Revise Provision D.4.b.(2)(a)(ii) as follows: "(ii) Based on the data collected pursuant to Provisions D.2.c., the assessments required under Provisions D.4.b.(2)(c)(i) and (ii) must be included <u>when complete</u> in the <del>first</del> Annual Report required pursuant to Provision F.3.b.(1), and annually thereafter."

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D.4.b.(2)(b)	59	Storm Water Pollutant Discharges Reduction Assessments	<p>Proposed Wet Weather method for calculation of jurisdictional loads: extrapolate from monitored major MS4 outfalls to area-wide discharge from jurisdictional area within each WMA. Do not extrapolate wet weather data to individual (non-monitored) outfalls, as this is not technically supportable. The proposed method is a more effective means of establishing jurisdictional accountability. Per discussion with RWQCB staff, have consolidated calculation requirements in proposed language, given the added area-based jurisdictional computational approach.</p>	<p>Revise Provision D.4.b.(2)(b) as follows:                  "(b) Based on the transitional wet weather MS4 outfall discharge monitoring required pursuant to Provision D.2.a.(3) the Copermittees must assess and report the following:                  (i) <del>The Copermittees must analyze</del> Analyze the monitoring data collected pursuant to Provision D.2.a.(3), and utilize a watershed model or other method, to calculate or estimate storm water volumes and pollutant loads discharged from the MS4s in each Copermittee's jurisdiction within the Watershed Management Area. The Copermittees must calculate or estimate the following for each monitoring year:                  [a] The average storm water runoff coefficient for each land use type within the Watershed Management Area;                  [b] The volume of storm water <u>and pollutant loads</u> discharged from each of the Copermittee's <u>major monitored</u> MS4 outfalls in its jurisdiction to receiving waters within the Watershed Management Area for each storm event with measurable rainfall greater than 0.1 inch;                  [c] <del>The pollutant loads discharged from each of the Copermittee's major MS4 outfalls in its jurisdiction to receiving waters within the Watershed Management Area for each storm event with measurable rainfall greater than 0.1 inch; and</del>                  [d] <del>The percent contribution of storm water volumes and pollutant loads discharged from each land use type within the drainage basin to each of the Copermittee's major MS4 outfalls in its jurisdiction to receiving waters within the Watershed Management Area for each storm event with measurable rainfall greater than 0.1 inch.</del></p>

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				<p><u>[c] The total flow volume and pollutant loadings discharged from the Copermittee's jurisdiction within the Watershed Management Area over the course of the wet season, extrapolated from the data produced from the monitored outfalls.</u></p> <p>(ii) Identify modifications to the wet weather MS4 outfall discharge monitoring locations and frequencies necessary to identify <del>sources</del> pollutants in storm water discharges from the MS4s in the Watershed Management Area pursuant to Provision D.2.c.(1)."</p>
D.4.b.(2)(c)	60	Storm Water Pollutant Discharges Reduction Assessments	<p>(c)(ii): Clarify connection to improvement of strategies and Water Quality Improvement Plans in Provision B, and eliminate technically-infeasible ranking of outfalls based on extrapolated wet weather data.</p> <p>(c)(iii): Loads will be calculated annually per previous comment, but strategic assessments should not be required more than once per permit term.</p>	<p>Revise Provision D.4.b.(2)(c) as follows:</p> <p>(c) Based on the wet weather MS4 outfall discharge monitoring required pursuant to Provision D.2.c the Copermittees must assess and report the following:</p> <p>(i) The assessments required pursuant to Provision D.4.b.(2)(b);</p> <p>(ii) Based on the data collected and applicable SALs in the Water Quality Improvement Plan, <u>analyze and compare the monitoring data to the analyses and assumptions used to develop the Water Quality Improvement Plans, including strategies developed per Provision B.3, and evaluate whether those analyses and assumptions should be updated as a component of the adaptive management efforts under Provision B.5, rank the MS4 outfalls in the Watershed Management Area according to potential threat to receiving water quality, and produce a prioritized list of major MS4 outfalls for follow-up action to update the Water Quality Improvement Plan;</u></p> <p>(iii) The Copermittees must review the data collected pursuant to Provision D.2.c and findings from the assessments required pursuant to Provisions D.4.b.(2)(c)(i)-(ii) <del>on an annual basis</del> <u>once per Permit term to:</u></p>

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D.4.d.(2)	62	Integrated Assessment of Water Quality Improvement Plan	The integrated assessment should be based on more than one year of data, and strategic assessments should not be required more than once per permit term. Information will be shared among monitoring personnel and stormwater program managers on an ongoing basis, and monitoring data will be used to assess program needs and data gaps annually per prior provisions (c.f., Provisions D.4.b.(c)(i) and (ii), with proposed revisions above). This information will then be used in adopting annual budgets and related resource planning.	Revise Provision D.4.d.(2) as follows: (2) The Copermittees must re-evaluate the water quality improvement strategies for the Watershed Management Area during the term of this Order pursuant to Provision B.5.b. The re-evaluation and recommendations for modifications to the water quality improvement strategies and schedules must be provided in the <del>Annual Reports required pursuant to Provision F.3.b.</del> and provided in the Report of Waste Discharge pursuant to Provision F.5.b. The water quality improvement strategies for the Watershed Management Area must be re-evaluated as follows:
<b>E. Jurisdictional Runoff Management Programs</b>				
E	64	Jurisdictional Runoff Management Programs	Minor grammatical correction in the first sentence.	Revise the first sentence of Provision E as follows: “The purpose of this provision is for each Copermittee to implement a program to control the contribution of pollutants to and the discharges from the MS4 <u>within</u> its jurisdiction.
E and throughout	64	Jurisdictional Runoff Management Programs	Language should reflect Clean Water Act, which requires Copermittees to effectively prohibit non-stormwater discharges <u>into the MS4</u> ; and implement controls to reduce the discharge of pollutants <u>from the MS4</u> to the maximum extent practicable. Language should be used and modified, as appropriate, throughout the Permit for consistency with federal regulations.	Revise the second sentence of Provision E as follows: “The goal of the jurisdictional runoff management programs is to implement strategies that effectively prohibit non-storm water discharges to the MS4 and reduce the discharge of pollutants <u>from the MS4</u> <del>in storm water</del> to the MEP.”
E	64	Jurisdictional Runoff Management Programs	Clarify that County of San Diego jurisdictional runoff management program implementation will based on the water quality priorities identified in the Santa Margarita River Watershed Urban Runoff Management Plan (required in Order No. R9-2007-0001) until a Water Quality Improvement Plan for the Santa Margarita River Watershed Management Area is approved.	Add to the first paragraph: “ <u>For the Santa Margarita River Watershed Management Area, the County of San Diego shall use the water quality priorities in the Santa Margarita River Watershed Urban Runoff Management Plan (developed pursuant to Order No. R9-2007-0001) to guide jurisdictional runoff management program implementation until notified by the San Diego Water Board that the Water Quality Improvement Plan developed in conjunction with the Riverside Copermittees has been approved.</u> ”

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E	64	Jurisdictional Runoff Management Programs	As stated in the introduction to the Provision B (Water Quality Improvement Plans) “The purpose of this provision is to develop Water Quality Improvement Plans that guide the Copermitees’ jurisdictional runoff management programs...” However, the provisions do not clearly allow for the appropriate modification of the JRMP requirements (increases, decreases, and/or replacement of activities) contained in the permit, with justification provided and subject to public input, to support adaptive management of programs.	Include language into the introductory provision that clearly indicates that the JRMP requirements contained in Provision E may be modified to allow for implementation of the JRMP consistent with the Water Quality Improvement Plan if appropriate justification is provided. In addition, add the following:  <u>Modification of Jurisdictional Runoff Management Program Requirements</u>  <u>Modifications shall be considered and where selected, proposed according to the process in Provision B.5. Proposed modifications may increase, decrease, and/or replace minimum requirements identified in Provision E.</u>
E.1.a.	64	Legal Authority Establishment and Enforcement		Revise text as follows: “... to control pollutant discharges into and from its MS4”
E.1.a.(2)	64	Legal Authority Establishment and Enforcement	Sites regulated under the Construction and Industrial General Permits are regulated elsewhere and through alternative means. Clarification is necessary for sites that are not regulated under the respective General Permits.	Revise Provision E.1.a.(2) as follows: “Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to its MS4 and control the quality of runoff from industrial and construction sites <del>that do not, including industrial and construction sites which</del> have coverage under the statewide General Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit) or General Permit for Discharges of Storm Water Associated with Construction Activities (Construction General Permit); <del>as well as to those sites which do not;</del> ”
E.1.a.(4) E.1.a.(5)	64 64	Legal Authority Establishment and Enforcement	The Copermitees do not have jurisdiction to control MS4 discharges outside of their respective MS4s and the Regional Board does not have the authority to require interagency agreements to grant such jurisdiction, particularly for those agencies not subject to the Order (Caltrans, Native American Tribes, Military installations,	Revise Provision E.1.a.(4) and E.1.a.(5) as follows: “ <del>Control through interagency agreements among Copermitees the contribution of pollutants from one portion of the MS4 to another portion of the MS4;</del> ” and “ <del>Control, by coordinating and cooperating with other owners of the MS4 such as Caltrans, the U.S. federal</del>

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			etc.).	government, or sovereign Native American Tribes, through interagency agreements, where possible, the contribution of pollutants from their portion of the MS4 to the portion of the MS4 within the Copermitee's jurisdiction;" <u>"Coordinate, as possible, with other agencies to minimize the contribution of pollutant discharges from the Copermitee's portion of the MS4 to portions of the MS4 under another agency's jurisdiction and from other agency's portions of the MS4 to the portion of the MS4 under the Copermitee's jurisdiction"</u>
E.2.a	65	Non-Storm Water Discharges	The addition of "to the extent allowable by law", as referenced from the Phase II Regulations, limits Copermitees responsibility to those that they have the legal authority to implement. Copermitees cannot implement programs outside of what they have legal authority to do. In addition, some non-storm water discharges are authorized under the permit unless the Copermitee or San Diego Water Board determines they are a source of pollutants in receiving waters of the U.S., as consistent with 40 CFR 122.26(d)(2)(iv)(B)(1). Language should be provided to account for subsection E.2.a.(3).	Revise Provision E.2.a. as follows: <u>"To the extent allowable by law, Each Copermitee must address all non-storm water discharges as illicit discharges, where the likelihood exists that they are a source of pollutants to waters of the U.S."</u>
E.2.a.(1)	66	Non-Storm Water Discharges	Uncontaminated pumped groundwater is the only category under this Provision that is required to be permitted under an NPDES Permit. It should be added to the initial paragraph and the remainder of the bullets should be added to E.2.a.(3), as consistent with 40 CFR 122.26(d)(2)(iv)(B)(1). No justification is provided in the fact sheet for inclusion of discharges from foundation drains, water from crawl space pumps, or from footing drains as requiring NPDES permits for the entire region. This exceeds CWA standards and there is no evidence that the Regional Board has considered the economic cost of enacting such measures under this permit. The reasoning provided in the fact sheet cites 40 CFR 122.26(d)(2)(iv)(B)(1), applicable to	Revise Provision E.2.a.(1) as follows: "Discharges of non-storm water to the MS4 from <u>uncontaminated pumped groundwater</u> <del>the following categories</del> must be addressed as illicit discharges <u>where there is evidence that suggests that they are the source of pollutants to waters of the U.S.</u> , unless the discharge has coverage under NPDES Permit No. CAG919001 (Order No. R9-2007-0034, or subsequent order) for discharges to San Diego Bay, or NPDES Permit No. CAG919002 (Order No. R9-2008-0002, or subsequent order) for discharges to surface waters other than San Diego Bay:  (a) <del>Uncontaminated pumped ground water;</del>

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			<p>“receiving waters of the US”. Groundwater is not a receiving water of the US and, thus, the added footnote is inapplicable and inappropriate. While “the Director may include permit conditions that either require municipalities to prohibit or otherwise control any of these discharges where appropriate” (55 FR 48037), there is no justification provided to support these discharges as appropriate to require NPDES permits or that they have been “identified by the municipality [or the Regional Board] as sources of pollutants to waters of the United States”. 40 CFR 122.26(d)(2)(iv)(B)(1).</p> <p>Water from foundation drains, crawl space pumps, and footing drains has not been identified as a source of pollutants to waters of the US and should be included under Provision E.2.a.(3). The footnote is inapplicable since groundwater is not a water of the US. In the future, based on data collected through the Monitoring Program and as part of the Water Quality Improvement Plan, Copermitees or the Regional Board may include any category of discharges determined to be a source of pollutants based on evidence that such discharge is causing or contributing pollutants to the receiving waters through the MS4. The “blanket” prohibition of the listed sources creates an unnecessary burden and potentially costly requirement that may yield little if any benefit.</p> <p>Footnotes 19 and 20 (E.2.a.3) provide a technical/engineering distinction between types of groundwater discharges that has no direct linkage to pollutants. Furthermore, it is unlikely that the location of the pipes and other features will be identifiable in the field or in any records; making it a burdensome investigative effort for discharges having no impact on water quality. Lastly, there are no reliable and readily available records (or a definition)</p>	<p><del>(b) Discharges from foundation drains<sup>19</sup>;</del></p> <p><del>(c) Water from crawl space pumps; and</del></p> <p><del>(d) Water from footing drains<sup>19</sup>.”</del></p> <p>And delete Footnotes 19 and 20.</p>

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			for the "highest historical groundwater table".	
E.2.a.(2)	66	Non-Storm Water Discharges	Limit to within the Copermitttee's jurisdiction per prior comments and reword the applicable permitting portion to allow flexibility for any subsequent NPDES permits that may be issued.	Revise Provision E.2.a.(2) as follows: "Discharges of non-storm water from water line flushing and water main breaks to the MS4 must be addressed as illicit discharges unless the discharge has coverage under <u>a valid NPDES Permit, No. CAG 679001</u> (Order No. R9-2010-0003, or <u>a subsequent order</u> ). This includes water line flushing and water main break discharges from water purveyors <u>under the Copermitttee's jurisdiction that have been issued</u> a water supply permit by the California Department of Public Health or federal military installations."
E.2.a.(3)	66-67	Non-Storm Water Discharges	Non-storm water sources should be limited to anthropogenic sources of pollutants within the Copermitttees jurisdiction to enable to Copermitttees to address those sources in which they have control over. Also, see comment E.2.a.1.	Revise Provision E.2.a.(3) as follows: Limit the source of pollutants in receiving waters to anthropogenic sources identified as an illicit discharge within the Copermitttees jurisdiction and add water from crawl space pumps. In addition, remove footnote 19.
E.2.a.(4)	67	Non-Storm Water Discharges	See comment E.2.a, as consistent with 40 CFR 122.26(d)(2)(iv)(B)(1).	Revise Provision E.2.a.(4) as follows: Add "or similar means <u>where the Copermitttee of the San Diego Water Board identifies those discharges as a source of pollutants to waters of the U.S.</u> "
E.2.a.(4)(a)	67	Non-Storm Water Discharges	Individual buildings may require substantial structural modifications to redirect air conditioning condensation to landscaped areas. Redirection should be encouraged instead of required. In addition, air conditioning condensate should be permitted to be directed to the sanitary sewer.	Revise Provision E.2.a.(4)(a) as follows: "The discharge of air conditioning condensation <del>must</del> <u>should</u> be directed to landscaped areas, other pervious surfaces where feasible, <u>or to the sanitary sewer;</u> "
E.2.a.(4)(b)	67	Non-Storm Water Discharges	Complete removal of residential car washing activities is unrealistic and resources would be better used to educate the public. Public outreach has proven to be also effective in minimizing water and detergent use and encouraging the use of commercial facilities.	Revise Provision E.2.a.(4)(b) as follows: " <del>(i)</del> The discharge of wash water must be <u>encouraged through public outreach and education</u> (i) <u>to be</u> directed to landscaped areas or other pervious surfaces where feasible, and (ii) <u>to m</u> Minimize the use of water for vehicle washing, use as little washing detergent and other vehicle wash products as possible, wash vehicles at commercial wash facilities, and implement other practices or behaviors that will prevent the discharge of pollutants associated with

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				individual residential vehicle washing from entering the MS4; and"
E.2.a.(4)(c)	67	Non-Storm Water Discharges		Revise Provision E.2.a.(4)(c) as follows: "Dechlorinated swimming pool discharges <u>should be managed as to:</u> "
E.2.a.(5)(a)(i)	68	Non-Storm Water Discharges	Building fire suppression system maintenance discharges should not be considered an illicit discharge if BMPs are implemented to prevent discharge of pollutants to the MS4.	Revise Provision E.2.a.(5)(a)(i) as follows: Add " <u>unless BMPs are implemented to prevent the discharge of pollutants to the MS4.</u> "
E.2.a.(7)	68	Non-Storm Water Discharges	Allowable discharges should not be treated the same as illicit discharges. This requirement will limit the Copermittee's ability to focus on priorities identified in Water Quality Improvement Plan and focus resources that could be used for reduction of illicit discharges on authorized discharges. This standard is more stringent than that applied by the State to Areas of Special Biological Significance.	Revise Provision E.2.a.(7) as follows: "Each Copermittee must, where feasible, reduce or <u>effectively</u> eliminate non-storm water discharges listed under Provisions E.2.a.(1)-(4) into its MS4 <del>whether or not the non-storm water discharge has been identified as an</del> <u>illicit discharge</u> , unless a non-storm water discharge is identified as a discharge authorized by a separate NPDES permit."
E.2.b.(1)(d)	69	Prevent and Detect Illicit Discharges and Connections	MS4 and Private Outfalls should be clearly defined consistent with the Code of Federal Regulations.	Revise Provision E.2.b.(1)(d) as follows: "All known locations of <u>Major</u> MS4 outfalls and private outfalls that discharge runoff collected from areas within the Copermittee's jurisdiction,"
E.2.b.(4)	69-70	Prevent and Detect Illicit Discharges and Connections	Spill response should be limited to waters of the U.S. and is not applicable to soil contamination under an NPDES permit.	Revise Provision E.2.b.(4) as follows: "Each Copermittee must implement practices and procedures (including a notification mechanism) to prevent, respond to, contain, and clean up any spills that may discharge into the MS4 within their jurisdiction from any source. The Copermittee must coordinate with spill response teams to prevent to the extent possible entry of spills into the MS4, and prevent contamination of <u>waters of the U.S. surface water, ground water, and soil.</u> "
E.2.b.6	70	Prevent and Detect Illicit Discharges and Connections	Copermittees cannot control other agencies or MS4s outside their jurisdiction.	Revise Provision E.2.b.(6) as follows: "(6) Each Copermittee <del>shall</del> <u>must</u> coordinate, when necessary, with upstream Copermittees and/or entities to prevent illicit discharges from upstream sources into the MS4 within its jurisdiction."
E.2.d.(1)(d)	70	Investigate and Eliminate Illicit	Natural sources should be excluded to prevent diversion of resources for follow-ups on exceedances where the source	Revise Provision E.2.d.(1)(d) as follows: "Pollutants identified as causing or contributing to an

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		Discharges and Connections	has been determined as natural, versus focusing efforts on controllable sources.	exceedance of a NAL in the Water Quality Improvement Plan <u>where the source has not been identified as natural; and</u> "
E.2.d.(2)	71	Investigate and Eliminate Illicit Discharges and Connections	TCBMPs may be part of the MS4 and specifically designed to receive and contain pollutants. The language, as written, is inconsistent with the TCBMP requirements prescribed in Provision E.3.a of the proposed permit.	Revise Provision E.2.d.(2) as follows: "Each Copermittee must implement procedures to investigate and inspect portions of its MS4 that, based on reports or notifications, field screening and monitoring, or other appropriate information, indicate a reasonable potential of <del>receiving, containing, or</del> discharging pollutants to receiving waters within the Copermittees jurisdiction due to illicit discharges, illicit connections, or other sources of non-storm water."
E.2.d.(2)(c)	71		Clarify requirements for follow-up investigations on non-Storm Water flows; ensure consistency with Provision D and earlier Provision E requirements.	Revise Provision E.2.d.(2)(c) as follows: "(c) <u>In accordance with the procedures defined in Provision E.2.d.(1),</u> <del>E</del> each Copermittee must investigate and seek to identify the source(s) of discharges of non-storm water where flows are observed in and from the MS4 during the field screening required pursuant to Provision D.2.b.(1) as follows: (i) Obvious illicit discharges <u>(i.e., unusual color or odor)</u> must be immediately investigated to identify the source(s) of non-storm water discharges; "
E.2.d.(2)(d)(ix)	72	Investigate and Eliminate Illicit Discharges and Connections	The requirement to provide "a rationale for why a discharge does not pose a threat to water quality and/or does not require additional investigation" is not consistent with E.2.d.(3).	Revise Provision E.2.d.(2)(d)(ix) as follows: "(ix) If a source cannot be identified and the investigation is not continued, <u>document the response per the requirements of Provision E.2.d.(3)</u> <del>a rationale for why a discharge does not pose a threat to water quality and/or does not require additional investigation.</del> "
E.2.d.(2)(e)	72	Investigate and Eliminate Illicit Discharges and Connections	Clarify requirements for follow-up investigations on non-Storm Water flows; ensure consistency with Provision D and earlier Provision E requirements.  In addition, the example of "pooled" water is an unreasonable expectation based on over 10 years of dry weather monitoring data collected by the Copermittees that	Revise Provision E.2.d.(2)(e) as follows: " (e) Each Copermittee must <del>track</del> <u>document and, if readily identifiable in accordance with Provision E.2.d.(1) procedures,</u> seek to identify the source(s) of non-storm water discharges from the MS4 where there is evidence of non-storm water having been discharged into or from the MS4 (e.g., <del>pooled</del> <u>flowing water</u> ), in accordance with MS4

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			clearly demonstrates the presence of pooled water in parts of the MS4 where no illegal or illicit discharges can be found after exhaustive investigations. Pooled water may result from past storm discharges due to minor imperfections or settling of the MS4 infrastructure. Flowing water should be set as the standard for investigating illicit or illegal discharges instead of pooled water.	outfall discharge monitoring requirements in Provisions D.2.a.(2) and D.2.b."
E.3	73	Development Planning	The Provisions of E.3 regulating storm water flow exceed the requirements of federal law. See <u>Virginia Department of Transportation v. U.S. EPA</u> , Civil Action No. 1:12-CV-775 (E.D. Va. Jan 3, 2013) (holding that EPA exceeded its authority under the Clean Water Act when it regulated storm water flow as a "surrogate" for pollutant discharges).	Acknowledge that affected provisions of E.3 regulating storm water flow exceed federal law.
E.3	73	Development Planning	No jurisdictional limitations are provided in this section. As a result, language in the subsections may be interpreted as expanding Copermitttee requirements outside their MS4 jurisdiction. In addition how the Copermitttees implement their program should be a decision left to the Copermitttees. In rare instances a requirement listed within the permit may not be legal for the jurisdiction to impose upon an applicant.	Revise Provision E.3. as follows: "Each Copermitttee, <u>within their respective jurisdictions and to the extent that they may lawfully impose requirements</u> , must <del>use their land use and planning authorities to</del> implement a development planning program..."
E.3.a	73	BMP Requirements for All Development Projects	Added language to clarify that not all the prescribed BMPs in Provision E.3.a. are applied to every project. These BMPs are applied as practical and feasible and as applicable based on the sites condition and nature of development.	Revise Provision E.3.a. as follows: "Each Copermitttee, <u>as practical and feasible</u> , must prescribe the following BMP requirements during the planning process (i.e. prior to project approval and issuance of grading or building permits) for all development projects (regardless of project type or size), where local permits are issued, including unpaved roads and flood management projects, <u>except emergency projects implemented for the protection of persons and property</u> ."

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E.3.a.(1)(b)	74	BMP Requirements for All Development Projects	<p>Include “unless authorized by the San Diego Water Board Executive Officer” because Hydromodification Mitigation may need to occur within receiving waters to address watershed water quality issues. This aligns with Regional Board staff suggestion that the 401 permit process should be streamlined to allow alternative compliance opportunities to mitigate and/or improve water quality conditions within a waterway.</p> <p>Delete “waters of the state”. According to the definition of “Waters of the State,” “<u>all</u> water in the State is considered to be Waters of the State”. Thus the MS4 itself could be considered waters of the state and therefore structural BMPs cannot be constructed within the MS4. Therefore a stormdrain filter insert would be prevented, as would a bioretention device or basin holding state waters. The intent is to protect natural receiving waters, not to prevent the use of structural BMPs in the MS4. Removing “or waters of the state” will protect the natural receiving waters from construction and will protect the receiving waters from potential MS4 pollution.</p>	<p>Revise Provision E.3.a.(1)(b) as follows:                      “Structural BMPs must not be constructed within a waters of the U.S. <u>unless authorized by the San Diego Water Board Executive Officer</u> <del>or waters of the state.</del>”</p>
E.3.b.(1)(b) and E.3.b.(1)(c)	75	Definition of Priority Development Project	<p>Since SUSMP requirements have been in effect since 2001, will start seeing some redevelopment projects that were subject to previous SUSMPS. Therefore, the 50% rule for redevelopment projects should apply only to projects that were not subject to any previous SUSMP requirements.</p>	<p>Revise Provision E.3.b.(1)(b) as follows:                      “Those redevelopment projects that create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site, and the redevelopment project is a Priority Development Project category listed under Provision E.3.b.(2)... where redevelopment results in an increase of more than fifty percent of the impervious surfaces of a previously existing development <u>and was not subject to previous Priority Project Development requirements...</u>”</p> <p>Add Provision E.3.b.(1)(c) as follows:  <u>(c) Projects where redevelopment results in an increase of more than fifty percent of impervious surfaces of a</u></p>

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				<u>previously existing development, and the existing development was subject to previous Priority Project Development Requirements, only the altered portion of development is subject to the new Priority Development Project requirements."</u>
E.3.b.(2)	76	Priority Development Project Categories	<p>Considerable staff resources are spent on understanding the complex set of rules in order to correctly apply them to each project. A simpler set of rules for the determination of whether or not a project is a Priority Development Project will greatly improve government efficiency and allow more focus on reviewing the project's compliance with performance requirements, thus resulting in greater overall Permit effectiveness.</p> <p>The proposed change is consistent with the current draft, while making the rules simpler. The definitions of each category are in Appendix C.</p>	<p>Delete items b through h and replace with the following:</p> <p>"</p> <p>(b) <u>Development projects that create 5,000 square feet or more of impervious surfaces (collectively over the entire project site), and support one or more of the following uses (see Appendix C for definitions):</u></p> <ul style="list-style-type: none"> <li>i. <u>Automotive repair shop</u></li> <li>ii. <u>Restaurant</u></li> <li>iii. <u>Parking lot</u></li> <li>iv. <u>Street, road, highway, freeway and driveway</u></li> <li>v. <u>Retail gasoline outlet (RGO)</u></li> </ul> <p>(c) <u>Development projects that create 2,500 square feet or more of impervious surfaces (collectively over the entire project site) and where the project will directly discharge to an Environmentally Sensitive Area (see Appendix C for definitions)."</u></p>
E.3.b.(2)(d)	76	Priority Development Project Categories	A separate Hillside Development category is unnecessary and redundant. Projects that grade on a natural slope that is twenty-five percent or greater require special consideration during the construction stage of the project, which is addressed elsewhere in the Permit. Local ordinances are very strict about adequate post-construction stabilization of hillside areas. Development projects that drain to a slope of sensitive habitat will be subject to the Environmentally Sensitive Area category. Removal of this category will facilitate the establishment of simpler rules as described above, while still keeping the same level of standards.	Delete this Provision.
E.3.b.(2)(e)	76	Priority Development Project Categories	The definition of a direct discharge has been established to mean that the project is releasing flows directly into the receiving water. If the project drains into an MS4 connection	If comment E.2.b.(2) is not incorporated, revise the last sentence of Provision E.3.b.(2)(e) as follows: "...means outflow from a drainage conveyance system

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			which serves existing developed areas before discharging to receiving water, this is not a direct discharge. Added language for clarification.	that collects runoff from the subject development or redevelopment site <u>not commingled with flows from adjacent lands</u> and terminates at or in receiving waters within the ESA."
E.3.b.(2)(g)	76	Priority Development Project Categories	This requirement was present in the prior permit; however, the residential driveways clause was added under the proposed permit. Including residential driveways as a PDP will require unnecessary, burdensome PDP process without proportional water quality benefits. Driveways experience low daily traffic trips compared to highways and roads.	If comment E.2.b.(2) is not incorporated, revise Provision E.3.b.(2)(g) as follows: "Streets, roads, highways, <u>and</u> freeways, <del>and</del> driveways. This category is defined as any paved impervious surface that is 5,000 square feet or more used for the transportation of automobiles, trucks, motorcycles, and other vehicles."
E.3.b.(3)(a)	77	Priority Development Project Exemptions	The three methods listed as adequate for mitigating the minimal impacts that sidewalks, bicycle lanes and trails would have upon receiving waters should also be applied to driveways. Driveways typically have only very light vehicle usage and because they are linear it is possible to be very effective at removing pollutants and reducing runoff by techniques such as sloping the driveway toward a sufficiently sized landscape area and disconnecting from the MS4. The San Diego Model SUSMP currently has specific design parameters for controlling this type of design to ensure adequate effectiveness, and the BMP Design Manual Update that is require as part of this permit can further improve these design parameters using the latest information such as recent studies by Caltrans on the effectiveness of vegetated filter strips adjacent to major highways. The Manual's detailed design guidance on effective practices will allow an "over the counter" design review, rather than subjecting the public to unnecessarily burdensome requirements to submit the extensive technical documents that accompany more significant projects.	Add " <u>driveways</u> " to the list of project types that can qualify for this exemption.
E.3.b.(3)(b)	77	Priority Development Project Exemptions	All municipal roadway projects should only be subject to the USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets.	Replace the current language in Provision E.3.b.(3)(b) as follows: " <u>Any paved impervious surface that is 5,000 square feet</u>

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			<p>The Ventura County NPDES MS4 Permit, the Santa Ana Region permits for Orange County, San Bernardino County, and Riverside County, and the Greater Los Angeles MS4 Permit provide that streets, roads, and highways follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets to the maximum extent practicable. Roadways are different than other development projects as there are significant constraints to implementation of BMPs that need to be considered such as limited right-of-way, utilities, geotechnical and structural concerns, street trees, parking, and fire truck access among others. The USEPA guidance considers these constraints where the PDP requirements do not. Even in new roadways implementing hydromodification requirements can disturb a significant area of land which has its own environmental impacts including changing the natural hydrology which is antithetical to the LID approach.</p>	<p><u>or more used for the transportation of automobiles, trucks, motorcycles, and other vehicles that follows the USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets, or equivalent standards, to the maximum extent practicable."</u></p> <p><del>(b) Retrofitting of existing paved alleys, streets or roads that meet the following criteria:</del></p> <p><del>(i) Must be two lanes or less; AND</del></p> <p><del>(ii) Must be a retrofitting project implemented as part of an alternative compliance project option under Provision E.3.c.(3)(b)(v) to achieve the performance requirements of Provisions E.3.c.(1) and/or E.3.c.(2) for a Priority Development Project; AND</del></p> <p><del>(iii) Designed and constructed in accordance with the USEPA Green Streets guidance.<sup>24</sup></del></p>
<p>E.3.b.(3)(c)(ii) E.3.b.(3)(c)(iii)</p>	<p>77 78</p>	<p>Priority Development Project Exemptions</p>	<p>Provide more flexibility for a jurisdiction to accept other comparable certification standards. In some cases a project may be already pursuing a certification from a different organization (such as Envision or SITES) and they should be allowed to get their credits that way rather than having to additionally comply with a second set of certification requirements.</p> <p>In addition, specifying "structural" BMPs is unnecessary. These types of projects could meet the performance requirements using non-structural BMPs.</p>	<p>Revise Provisions E.3.b.(3)(c)(ii) and E.3.b.(3)(c)(iii) and add a Provision (iv) as follows:</p> <p>"(ii) Designed and constructed <del>to be certified to meet requirements for certification</del> under the U.S. Green Building Council (USGCB) Leadership in Energy and Environmental Design (LEED) for Homes green building certification program, receiving at least four (4) Surface Water Management credits under the Sustainable Sites category, <u>or other locally accepted certification of equivalent effectiveness; OR</u></p> <p>(iii) Designed and constructed with <del>structural</del> BMPs that will achieve the <u>equivalent performance to the</u> requirements of Provisions E.3.c.(1) and E.3.c.(2) onsite, <u>OR</u></p>

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				<u>(iv) Designed and constructed with structural BMPs that meet minimum performance standards, as outlined in the BMP Design Manual.</u>
E.3.b.(3)(c)(iv)	78	Priority Development Project Exemptions	This exemption allows small individual residential projects to apply minimum BMPs that meet a minimum performance standards without going through the burdensome PDP review and approval process including; preparation of a full PDP study, and maintenance, verifications, and inspection of permanent treatment control BMPs. Under the current proposed language, single family residence as small as 5,000 sf may be subject to PDP requirements, and is lumped in with industrial and commercial development; The potential pollutants generated by small residential are not as significant as industrial or commercial and can be effectively reduced by effective source control and minimum permanent BMPs.	Add Provision E.3.b.(3)(c)(iv) as follows: <u>"(iv) Designed and constructed with structural BMPs that meet minimum performance standards, as outlined in the BMP Design Manual."</u>
E.3.b.(3)(d)(i) E.3.b.(3)(d)(ii)	78	Priority Development Project Exemptions	See comments for E.3.b.(3)(c)(ii) and E.3.b.(3)(c)(iii).	Revise Sections E.3.b.(3)(d)(i) and E.3.b.(3)(d)(ii) and add a Provision (iii) as follows:  <u>"(i) Designed and constructed to be certified to meet requirements for certification</u> under the U.S. Green Building Council (USGCB) Leadership in Energy and Environmental Design (LEED) for Homes green building certification program, receiving at least four (4) Surface Water Management credits under the Sustainable Sites category, <u>or other locally accepted certification of equivalent effectiveness; OR</u>  (ii) Designed and constructed with structural-BMPs that will achieve <del>the equivalent performance to the</del> requirements of Provisions E.3.c.(1) and E.3.c.(2) onsite.; <u>OR</u>  <u>(iii) Designed and constructed with structural BMPs that</u>

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				<u>meet minimum performance standards, as outlined in the BMP Design Manual.</u>
E.3.c	78	Priority Development Projects Structural BMP Performance Requirements	Water Quality Improvement Plans allow Copermittees to define priorities on a watershed basis and to tailor programs and BMPs based on the specific needs of each watershed. The structural BMP performance requirements are an example of a prescriptive one-size-fits-all approach. The sizing criteria are the same for all projects regardless of pollutant removal efficiencies, soil retention capacities, or susceptibility to erosion. Encouraging watershed-specific performance requirements to be developed within the Water Quality Improvement Plans will allow for watershed specific flexibility while providing the same level of protection needed.	Revise Provision E.3.c as follows:  "In addition to the BMP requirements listed for all development projects under Provision E.3.a, Priority Development Projects must also implement structural BMPs that conform to performance requirements below. <u>Alternatively, watershed-specific performance requirements may be developed as part of a Water Quality Improvement Plan; these requirements would replace the general performance requirements below. Watershed-specific requirements must provide at least equivalent protection as the general performance requirement below.</u> "
E.3.c.(1)(a)(ii)	78	Storm Water Pollutant Control BMP Requirements	Language should be consistent with pre-project language used in Provision E.3.c.(2)(a).	Revise Provision E.3.c.(1)(a)(ii) as follows: "The volume of storm water that would be retained onsite <u>prior to the project if the site was fully undeveloped and naturally vegetated</u> , as determined using continuous simulation modeling <u>or other</u> techniques based on site-specific soil conditions and <del>typical native</del> vegetative cover."
Footnote 26	78	Storm Water Pollutant Control BMP Requirements	Include language to clarify that the 85th design capture volume refers to first flush and it is a particular volume that corresponds to 85 percent of all the rain events for the area.	Revise Footnote 26 as follows: "Where the Copermittees will use isopluvial maps to determine the 85 <sup>th</sup> percentile storm event in areas lacking rain data, the Copermittees must describe their method for using isopluvial maps in its BMP Design Manuals. <u>The volume is a single event-based volume that occurs after an extended dry period.</u> "
E.3.c.(2)(a)	80	Hydromodification Management BMP Requirements	The Tentative Order proposed requirement to match predevelopment hydrographs (flow rates and duration) is the exception to the current hydromodification requirement found in other parts of the state. Specifically, the following permits/programs require hydromodification controls to match pre-project conditions: Region 2, Region 4, Region	Revise Provision E.3.c.(2)(a) as follows: "Post-project runoff flow rates and durations must not exceed pre- <del>project development (naturally occurring)</del> runoff flow rates and durations by more than 10 percent (for the range of flows that result in increased potential for erosion, or degraded instream habitat conditions

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			<p>5, Region 8, Caltrans and draft Phase 2 MS4. Region's 4 MS4 permit, Order No. R4-2012-0175 was recently adopted on November 8, 2012. Thus, there is very recent precedent to use pre-project conditions as a reference for hydromodification. Additionally, requiring matching the predevelopment hydrograph may impose mitigation beyond a project's impacts. Pre-project standard is the appropriate nexus to project impacts.</p> <p>In the case of new development, where open land is to be converted to impervious area, the hydromodification controls are required to match the pre-project condition, which equates to the pre-development, naturally occurring, condition. In these situations the pre-development conditions were based on Natural Resources Conservation Service soil maps and existing topography and vegetation. In cases where redevelopment projects increase impervious area as compared to the existing condition, hydromodification controls were required to mitigate for the impacts of the added impervious surfaces.</p> <p>The San Diego Copermittees have invested considerable time and resources to develop a technically sound and defensible hydromodification management plan (HMP). The San Diego Copermittees determined, during the development of the San Diego HMP, that the flow control design criteria should be based on flow duration matching to the pre-project condition and not the pre-development condition. This determination was made based upon the following.</p> <ul style="list-style-type: none"> <li>• Prior HMP implementation precedent in the State of California, specifically in Santa Clara and Contra Costa Counties, mandated flow duration matching to the pre-project condition.</li> <li>• Following consultation with leading geomorphologists in</li> </ul>	<p>downstream of Priority Development Projects)."</p>

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			<p>the State of California, the San Diego Copermittees determined that in areas of significant existing urbanization the receiving streams had shown an ability to attain a new channel equilibrium based upon the developed flow conditions.</p> <ul style="list-style-type: none"> <li>• Redevelopment practices often decrease the existing site’s impervious area, especially with the 2007 Low Impact Development (LID) requirements. In such cases, the post-project site impervious area contributing to the receiving stream would be smaller and, based on the improvement relative to pre-project conditions, no hydromodification requirements would be required.</li> <li>• The Copermittees stated a desired goal of encouraging redevelopment projects for multiple planning, economical, and water quality purposes. From a hydromodification perspective, increasing redevelopment project implementation would invariably decrease the conversion of existing open space. The Copermittees were careful to avoid implementing hydromodification requirements on beneficial redevelopment projects if the redevelopment project decreased the site impervious area as compared to existing conditions.</li> </ul> <p>San Diego Copermittees have worked closely with Southern California Coastal Water Research Project (SCCWRP) during the development of the HMP. SCCWRP published technical report 667, Hydromodification Assessment and Management in California, dated April 2012. This report describes the “flow-duration control standards...require that the post-project discharge rates and durations may not deviate above the pre-project discharge rates and durations by more than a specific percent...and this approach is a dramatic improvement over earlier methods.”</p>	

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			<p>Furthermore, the Copermittees are concerned that using “pre-development (naturally occurring)” reference condition as applied to sites that are, in fact, developed would expose the Copermittees to significant litigation risk and may be unenforceable. We are concerned this would subject the Copermittees to liability under the takings clauses of the U.S. and California Constitutions and the Mitigation Fee Act because of the questionable nexus between a project’s impacts on hydromodification and the hydromodification management measures in the Draft Tentative Order. When imposing a condition on a development permit, a local government is required under the federal and state constitutions to establish that the condition bears a reasonable relationship to the impacts of the project. This rule applies even to legislatively enacted requirements and impact fees or exactions.<sup>1</sup> Moreover, fees imposed on a discretionary ad hoc basis are subject to heightened scrutiny under a two-part test. First, local governments must show that there is a substantial relationship between the burden created by the impact of development and any fee or exaction.<sup>2</sup> Second, a project’s impacts must bear a “rough proportionality” to any development fee or exaction.<sup>3</sup> Under California law, the <i>Nollan/Dolan</i> heightened scrutiny test also applies to in-lieu fees.<sup>4</sup></p> <p>The Legislature has memorialized these requirements in the Mitigation Fee Act which establishes procedures that local governments must follow to impose impact fees.<sup>5</sup> Irrespective of whether the hydromodification management</p>	

<sup>1</sup> Building Indus. Ass’n v. City of Patterson, 171 Cal. App. 4th 886, 898 (2009).  
<sup>2</sup> Nollan v. California Coastal Comm’n, 483 U.S. 825, 837 (1987).  
<sup>3</sup> Dolan v. City of Tigard, 512 U.S. 374, 391 (1994).  
<sup>4</sup> Ehrlich v. City of Culver City, 12 Cal. 4th 854, 876 (1996).  
<sup>5</sup> Cal. Gov’t Code §§ 66000-66025.

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			<p>requirements are implemented by legislative act or on an ad hoc basis, the Copermittees' attempt to enforce them as proposed in the Tentative Order would likely result in claims alleging unconstitutional takings of private property and violations of the Mitigation Fee Act. This is because a developer could argue that limiting hydromodification impacts of already developed property to its "naturally occurring" state would not have a legally sufficient nexus to the impact of the development project.</p>	
E.3.c.(2)(a)(ii)	80	Hydromodification Management BMP Requirements	<p>A stable, naturally vegetated channel is a balance of sediment supply, channel geometry, longitudinal slope, channel material and size, and type, size and cover of channel vegetation.</p> <p>When a concrete channel is restored it is not just a process of removing the concrete. A naturally vegetated channel must be engineered in a configuration that will not be subject to hydromodification from the existing and any future discharges that may occur in the channel. This requires a larger channel cross Provision to convey flood control peak discharges, usually a wider channel and sometimes grade control structures.</p> <p>These existing concrete channels are typically in urbanized areas. Since the naturally vegetated channel must be engineered to convey all flows, additional hydromodification controls in the watersheds draining to these channels would provide no benefit at significant construction and perpetual maintenance costs.</p>	<p>Delete Provision E.3.c.(2)(a)(ii).</p> <p><del>For artificially hardened channels, analysis to identify the lower boundary must use characteristics of a natural stream segment similar to that found in the watershed. The lower boundary must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or erodes the toe of the channel banks.</del></p>
E.3.c.(2)(b)	80	Hydromodification Management BMP Requirements	<p>The current Tentative Order language as written is unclear and implies that each development project will be required to conduct studies and compensation for the loss of sediment supply specifically on site. However, the ability to compensate for the loss of sediment supply has not yet been fully researched, nor have practices yet been</p>	<p>Revise Provision E.3.c.(2)(b) as follows:</p> <p><u>"In accordance with the BMP Design Manual, projects shall preserve or provide compensation for significant losses of sediment supply anticipated as a result of development. Post project runoff flow rates and durations</u></p>

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			<p>developed. Therefore the ability to require sediment compensation on a project by project basis is not yet validated or possible. SCCWRP technical report 667 cites that management approaches to compensate for the loss of sediment supply are necessary but “continues to prove challenging because, the effects of urban development on sediment supply in different geologic settings are not well understood and poorly represented in current models.”</p> <p>The proposed change would allow the Copermittees to study and adapt to how sediment supply should appropriately be managed. Research may determine that sediment compensation would be addressed more appropriately on a regional or local level. The BMP Design Manual is a suitable mechanism to handle this evolving science over time, where the Copermittees can specify requirements and update the plan and practices as research advances.</p>	<p><del>must compensate for the loss of sediment supply due to the development project, should loss of sediment supply occur as a result of the development project."</del></p>
E.3.c.(2)(d)(i) through (iii)	80	Hydromodification Management Exemptions	<p>The permit should clearly reference the recently Board adopted Resolution No. R9-2010-0066, a Resolution for Approval of the Hydromodification Management Plan for the San Diego County.</p> <p>The SD Copermittees developed a technically sound HMP with a Technical Advisory Committee (TAC) and input from all stakeholders. This HMP has only been in effect for two years. In accordance with the adopted resolution, the SD Copermittees have embarked on a 5-year monitoring project to validate the HMP parameters and design criteria. The SD Copermittees are not aware of any current scientific data that would suggest the SD HMP is no longer effective or needs adjustment prior to the completion of their current monitoring project. It is appropriate to incorporate the approved resolution authorizing the SD HMP into the Permit and allow implementation and monitoring during this Permit cycle.</p>	<p>Revise Provision E.3.c.(2)(d) as follows:</p> <p>"(i) Discharges storm water runoff into existing underground storm drains discharging directly to water storage reservoirs, lakes, enclosed embayments, <u>tidally influenced waters</u>, or the Pacific Ocean;</p> <p><u>(ii) Discharges stormwater runoff into conveyance channels whose bed and bank are stabilized (e.g. concrete lined, an engineering interlocking paver, gabion system, etc.) all the way from the point of discharge to water storage reservoirs, lakes, enclosed embayments, tidally influenced waters, or the Pacific Ocean;</u></p> <p><del>(ii)</del> <u>(iii)</u> Is a redevelopment Priority Development Project that meets the alternative compliance requirements of Provision E.3.c.(3)(b)(ii); or</p>

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				(iii) (iv) Discharges storm water runoff into other areas identified by the San Diego Water Board as exempt, <u>including those exemptions recognized in the 2010 San Diego Hydromodification Plan, approved by the San Diego Water Board Resolution No. R9-2010-0066, from the requirements of Provisions E.3.c.(2)(a)-(b).</u> "
E.3.c.(3)	80	Alternative Compliance to Onsite Structural BMP Performance Requirements	The proposed language allows the alternative compliance program to be optional and gives Copermitees the discretion to exercise the program if it is determined to be beneficial and practical for the municipality. The permit as currently written could create an expectation that the Copermitees manage offsite mitigation for private developments. There are many factors to be considered when administering a mitigation program, including: overhead program management and administrative costs, availability of land, long term maintenance responsibilities and costs, variability and lack of accurate cost estimates for BMP construction and maintenance costs.	Revise Provision E.3.c.(3) as follows: "(3) Alternative Compliance to Onsite Structural BMP Performance Requirements <u>Alternative compliance is an optional program for each jurisdiction to utilize if it is determined to provide an equivalent or greater benefit to the watershed than onsite compliance. Where alternative compliance is allowed, the determination of the responsible party to execute the onsite alternative compliance is at the jurisdiction's discretion and in accordance with policies set in place in the individual jurisdiction or in coordination with other jurisdictions, agencies, or Copermitees.</u> "
E.3.c.(3)(a)(i)	81	Alternative Compliance to Onsite Structural BMP Performance Requirements-Applicability		Revise text as follows: "...implementation of the alternative compliance option will have <u>an equal or greater</u> overall water quality benefit..."
E.3.c.(3)(a)(ii)	81	Alternative Compliance to Onsite Structural BMP Performance Requirements-Applicability	Stream rehabilitation projects should be designed by a biologist and/or a hydrologist. Other certified professionals may have more specific knowledge to a particular stormwater design than an engineer or architect. Other applicable certifications could include LEED, QSD, CPESC, CPSWQ, Envision, SITES, or certifications that do not currently exist but may exist in the future.	Revise Provision E.3.c.(3)(a)(ii) as follows: The alternative compliance options must be designed by a registered professional engineer, geologist, architect, <u>biologist, hydrologist, landscape architect, or other appropriate certified professional;</u>
E.3.c.(3)(a)(iii)	81	Alternative Compliance to Onsite Structural	To be consistent with E.3.c.(3)(a)(i) which requires alternative compliance with greater water quality benefit for the Watershed Management Area.	Revise Provision E.3.c.(3)(a)(iii) as follows: The alternative compliance options must be implemented within the same <u>hydrologic unit Watershed Management</u>

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		BMP Performance Requirements-Applicability		<u>Area</u> as the Priority Development Project, and preferably within the same hydrologic subarea;
E.3.c.(3)(a)(iv)	81	Alternative Compliance to Onsite Structural BMP Performance Requirements-Applicability	This language suggests that the alternative compliance must be downstream of the PDP. However, this may not be necessary if HMP improvement is needed in the upper watershed instead of the lower watershed. SCCWRP Technical Report 667 concludes that "hydromodification management should be considered in the context of an overall watershed-scale strategy that targets maintenance and restoration of critical processes in the critical locations in the watershed." However, the current language in the tentative order limits the ability to utilize alternative compliance, including using a regional BMP constructed to mitigate for increases in flow. All PDPs must treat for water quality to the MEP to prevent polluted stormwater from entering MS4 and receiving waters. (vi) and (vii) sufficiently protect the watershed as a whole. Delete this language to remove this conflict.	Delete Provision E.3.c.(3)(a)(iv). <del>Receiving waters must not be utilized to convey storm water runoff to the alternative compliance options</del>
E.3.c.(3)(a)(v)	81	Alternative Compliance to Onsite Structural BMP Performance Requirements - Applicability	Without deletion this would render Alternative Compliance through E.3.c(3)(b)(v) invalid as it would mean that all runoff from a PDP must be treated by Alternative Compliance that is physically in series with the PDP and not a separate site discharging to the same watershed as described in E.3.c(3)(a)(iii).	Delete Provision E.3.c.(3)(a)(v). <del>The pollutants in storm water runoff from the Priority Development Project must be treated to the MEP by the alternative compliance options prior to being discharged to receiving waters</del>
E.3.c.(3)(b)(ii)	82	Alternative Compliance Project Options	This is an exemption listed in E.3.c.(2)(d)(ii).  Other locally accepted certification programs should be made available. See same comment for sections E.3.b.(3)(c) & (d)	Revise Provision E.3.c.(3)(b)(ii) as follows: "The Copermittee may <del>allow</del> exempt redevelopment Priority Development Projects <del>to comply with</del> <u>from</u> the hydromodification management BMP performance requirements of Provision E.3.c.(2) where the project is designed and constructed to be certified under the USGCB LEED for New Construction and Major Renovations green building certification program, <u>or other locally accepted certification of equivalent effectiveness.</u> "
E.3.c.(3)(b)(iii)	82	Alternative	Minor clarification.	Revise Provision E.3.c.(3)(b)(iii) as follows:

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		Compliance Project Options		"The Copermitttee may allow Priority Development Projects greater than 100 acres in total project size (or smaller than 100 acres in size yet part of a larger common plan of development that is over 100 acres) to comply with the onsite structural BMP performance requirements of Provisions E.3.c.(1) and E.3.c.(2) <del> under The Priority Development Project must comply with the following conditions: "</del>
E.3.c.(3)(b)(iv) [b]	83	Alternative Compliance Project Options	Without this change, this language would dictate that the alternative flow control be downstream of the PDP, when the downstream area may not benefit from any HMP control. By locating areas within the watershed that are in need of hydromodification mitigation, alternative compliance can be directed to areas that will have the greatest benefit for the watershed as a whole. This is in agreement with recommendations made in the SCCWRP technical report 667 which concludes that "hydromodification management should be considered in the context of an overall watershed-scale strategy that targets maintenance and restoration of critical processes in the critical locations in the watershed."	Revise Provision E.3.c.(3)(b)(iv)[b] as follows: "The Copermitttee may allow Priority Development Projects to utilize offsite regional BMPs to comply with the hydromodification management BMP performance requirements of Provision E.3.c.(2) if the offsite regional BMPs <del>have the capacity to manage the storm water flows rates and durations from the site such that the receiving waters are protected from the potential for increased erosion that would be caused if the unmanaged portion of the runoff was discharged from the site will have a greater overall receiving water benefit within the Watershed Management Area than implementation of the hydromodification controls onsite.</del>
E.3.c.(3)(b)(vi)	84	Alternative Compliance Project Options	Minor clarification.	Revise Provision E.3.c.(3)(b)(vi) as follows: "The channel, stream, or habitat rehabilitation project cannot be utilized for pollutant treatment <del>except unless wetlands are constructed and located upstream of receiving waters.</del> <u>except unless constructed with an artificial wetland.</u>
E.3.c.(3)(c)	854	Alternative Compliance In-Lieu Fee Option	Add "or" to indicate that operation and maintenance may be a separate option as indicated in E.3.c.(3)(c)(iii).	Revise Provision E.3.c.(3)(c) as follows: "The Copermitttee may develop and implement an alternative compliance in-lieu fee option, individually or with other Copermitttees and/or entities, as a means for designing, developing, constructing, operating and/or maintaining offsite alternative compliance projects under Provision E.3.c.(3)(b). Priority Development Projects allowed to utilize the alternative compliance in-lieu fee

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				option must comply with the following conditions:"
E.3.c.(3)(c)(i)	84	Alternative Compliance In-Lieu Fee Option	Minor clarification.	Revise Provision E.3.c.(3)(c)(i) as follows: "The in-lieu fee must be transferred to the Copermitttee (for public projects) or an escrow account (for private projects) prior to the <u>construction initiation</u> date <del>constructed</del> of the Priority Development Project is <del>initiated</del> ."
E.3.c.(3)(c)(ii)	84	Alternative Compliance In-Lieu Fee Option	Include "operation and maintenance" since it is included in E.3.c.(3)(c)(ii)[d].	Revise Provision E.3.c.(3)(c)(ii) as follows: "If the in-lieu fee is applied to the development, design, <del>and construction</del> , <u>operation and maintenance</u> of offsite alternative compliance projects, the following conditions must be met."
E.3.c.(3)(c)(ii) [b]	85	Alternative Compliance In-Lieu Fee Option	Multiple PDPs joining into an alternative compliance regional BMP will require a longer timeline in order to generate enough funding to begin the planning, design, permitting, and construction of the regional BMP. In addition, multiple permits will likely be necessary from multiple government agencies (party agreements, jurisdictional agreements, Army Corp of Engineers, 401, 404, maintenance agreements, etc), thus slowing the timeline of completion of the alternative compliance project. If the alternative compliance project must be completed within the first 4 years of the first project to fund, then the complexity or size of the project will be limited and may serve as a deterrent to the use of the alternative compliance option.	Revise Provision E.3.c.(3)(c)(ii)[b] as follows: "The offsite alternative compliance projects must be constructed as soon as possible, but no later than <u>8</u> 4 years after the certificate of occupancy is granted for the first Priority Development Project that contributed funds toward the construction of the offsite alternative compliance projects, unless a longer period of time is authorized by the San Diego Water Board Executive Officer."
E.3.c.(3)(c)(ii) [c]	85	Alternative Compliance In-Lieu Fee Option	Delete redundant and ambiguous language	Delete Provision E.3.c.(3)(c)(ii)[c]. <del>The in-lieu fee for the Priority Development Project must include mitigation of the pollutant loads and increased storm water flow rates and durations that are allowed to discharge from the site before the offsite alternative compliance projects are constructed; and</del>
E.3.c.(3)(c)(ii) [d]	85	Alternative Compliance In-Lieu Fee Option	A reasonable timeframe must be established to base the fee upon, however that time frame must be relevant to the type of project being constructed and its anticipated	Revise Provision E.3.c.(3)(c)(ii)[d] as follows: The in-lieu fee must <del>also</del> include the cost to operate and maintain the offsite alternative compliance projects for the

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			lifespan.	<u>anticipated life of the constructed priority development project.</u>
E.3.c.(3)(c)(iii)	85	Alternative Compliance In-Lieu Fee Option	Minor clarification.	Revise Provision E.3.c.(3)(c)(iii) as follows: If the in-lieu fee is <del>applied</del> <u>applies only</u> to the operation and maintenance of offsite alternative compliance projects that have already been constructed, the offsite alternative compliance projects must allow the Priority Development Project to comply with the onsite structural BMP performance requirements of Provisions E.3.c.(1) and E.3.c.(2).
E.3.c.(5)(a)(vi)	86	Infiltration and Groundwater Protection	Treatment for infiltration BMPs should only be required if significant pollutant levels are present.	Revise Provision E.3.c.(5)(a)(vi) as follows: "Infiltration BMPs must not be used for areas of industrial or light industrial activity, and other high threat to water quality land uses and activities as designated by each Copermittee, <u>unless runoff does not exceed Basin Plan water quality standards or runoff is first treated or filtered to remove pollutants prior to infiltration; and</u> "
E.3.e(1)(c)	88	Structural BMP Approval and Verification Process	When easements and agreements are publicly recorded, information is conveyed during the sale of the property. Therefore this sentence is not necessary.	Revise Provision E.3.e.(1)(c) as follows: Each Copermittee must require and confirm that appropriate easements and ownerships are properly recorded in public records. <u>And the information is conveyed to all appropriate parties when there is a change in project or site ownership.</u>
E.3.e.(2)(a)	89	Priority Development Project Inventory and Prioritization	Copermittees update databases on a regular basis to input new projects, track inventory, import/export data for daily activities, and pull data on an annual basis for reporting.	Revise Provision E.3.e.(2)(a) as follows: Each Copermittee must develop, maintain, and update <u>at least annually regularly</u> , a watershed-based database to track and inventory all Priority Development Projects and associated structural BMPs within its jurisdiction. Inventories must be accurate and complete beginning from January 2002 for the San Diego County Copermittees, February 2003 for the Orange County Copermittees, and July 2005 for the Riverside County Copermittees, <u>where data is available.</u>
E.3.e.(2)(a)(vi)	89	Priority Development Project Inventory	In some cases, corrective actions or resolutions are not needed if no violations were found. Therefore they would only be entered into the database "when applicable".	Revise Provision E.3.e.(2)(a)(vi) as follows: Corrective actions and/or resolutions <u>when applicable.</u>

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		and Prioritization		
E.4	90	Construction Management	The language has been updated so that the Copermitttee can define which construction projects will be inventoried within its jurisdictional program. Not all jurisdictions apply permits the same way, therefore each needs the ability to address their processes in regards to construction projects. This will eliminate projects in the inventory that are issued local building or construction permits but have no ground disturbance, e.g. plumbing, electrical, mechanical, decks, patios, etc.	Add the following after the first paragraph of Provision E.4.: a. <u>“Construction Program Management Each copermitttee must define in the Jurisdictional Runoff Management Plan the following:</u> (1) <u>Define construction sites to be inventoried, such as sites that involve any ground disturbance or soil disturbing activities.</u> (2) <u>Define a process for confirming adequate construction BMP implementation for non-inventoried sites. Non-inventoried sites involve minor construction activities that are not anticipated to create storm water pollution such as interior improvements, plumbing, electrical and mechanical work.”</u>
E.4.a.(4)	91	Project Approval Process	Language is redundant and unnecessary because applicable permits are included as an attachment of the project’s SWPPP as required under the Construction General Permit.	Revise Provision E.4.a.(4) as follows: Delete language as shown: “Verify that the project applicant has obtained coverage under applicable permits, including, but not limited to the Construction General Permit, <del>Clean Water Act Section 401 Water Quality Certification and Section 404 Permit, and California Department of Fish and Game Streambed Alteration Agreement.”</del>
E.4.b.(1)(d)	91	Construction Site Inventory and Tracking	The anticipated completion date is often unknown and can fluctuate based on unpredictable and unforeseen circumstances. Keeping track of accurate dates in an inventory would be difficult and would not add significant value to the database. Construction Inspectors keep a close eye on the progress of projects and would not need to rely on inventory data to achieve effective stormwater management and oversight. Once a project is completed, the date can be entered into the database.	Revise Provision E.4.b.(1)(d) as follows: “The project start and <del>anticipated completion</del> <u>completed</u> dates;”
E.4.d.(1)(a)	93	Inspection	Minor clarification.	Revise Provision E.4.d.(1)(a) as follows:

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		Frequency		Each Copermittee must conduct inspections at all inventoried sites, including high threat to water quality sites, at an appropriate frequency for each phase of construction to <del>ensure</del> <u>confirm</u> the site reduces the discharge of pollutants in storm water from construction sites to the MEP, and prevents non-storm water discharges from entering the MS4.
E.4.d.(3)(c)	94	Inspection Tracking and Records	Considerable staff resources would be spent on calculating the amount of rainfall since last inspection and this information is not useful. This information would be really subjective if there is no nearby rain gauge. Instead, the current weather conditions observed during the inspection is more useful and easy data to capture.	Revise Provision E.4.d.(3)(c) as follows: <del>Approximate amount of rainfall since last inspection;</del> <u>Weather condition during inspection;</u>
E.5.a	95	Existing Development Inventory and Tracking	Adding the term “reasonable potential to discharge”, consistent with the Clean Water Act, allows flexibility for the Copermittees to determine priorities. The term “may discharge” is too broad and will limit Copermittees ability to focus on jurisdictional and watershed priorities. The focus needs to be on significant pollutant load discharges so inspections and enforcement can actually succeed in receiving water pollutant load reductions versus spending an exhaustive amount of time and money inspecting sites that discharge no pollutant loads, but “may” discharge pollutant loads, even though unlikely to do so.	Revise Provision E.5.a. as follows: “Each Copermittee must maintain an annually updated watershed-based inventory of all the existing development that <u>has the reasonable potential to</u> <del>may</del> discharge a pollutant load to and from the MS4”.
E.5.a.(1)(d)(vii) E.5.a.(2)(f)	96 96	Existing Development Inventory and Tracking	Mobile home parks are outside the jurisdiction of the Copermittees. They are regulated by the state.	Revise Provision E.5.a.(1)(d)(vii) as follows: <del>“Mobile home park”</del> Revise Provision E.5.a.(2)(f) as follows: “(f) <del>Identification if an area is a</del> Common Interest Areas (CIAs) / Home Owner Associations (HOAs), <del>or and mobile home parks;</del> “
E.5.b	97	Existing Development BMP Implementation and Maintenance	See comment E.5.a.	Revise Provision E.5.b. as follows: “Each Copermittee must designate a minimum set of BMPs required for all inventoried existing development <u>with the reasonable potential to discharge pollutant loads</u>

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				to their MS4, including special event venues.”
E.5.b.(1)(a)	97	Existing Development BMP Implementation and Maintenance	Required use of pollution prevention methods will be extremely difficult to enforce. Pollution prevention is proven to be more effective through public behavioral changes via public outreach and education.	Revise Provision E.5.b.(1)(a) as follows: "Each Copermittee must <del>require</del> <u>promote</u> the use of pollution prevention methods by the commercial, industrial, and municipal facilities and areas in its inventoried existing development <u>through public outreach.</u> "
E.5.c	99	Existing Development Inspections	See comment E.5.a.	Revise Provision E.5.c. as follows: "Each Copermittee must conduct inspections of inventoried existing development <u>that have been identified by the Copermittee as having the reasonable potential to discharge pollutant loads from their MS4 to ensure compliance with applicable local ordinances and permits, and the requirements of this Order.</u> "
E.5.c.(1)(a)(i)	99	Inspection Frequency	See comment E.5.a. The schedule for inspections should be limited to the permit term because the permit cannot require or enforce schedules beyond the term of the permit.	Revise Provision E.5.C.(1)(a)(i). as follows: "At a minimum, inventoried existing development <u>that has been identified by the Copermittee as having the reasonable potential to discharge pollutant loads to and from their MS4 must be inspected once every five years during the permit term.</u> "
E.5.c.(1)(a)(v)	99	Inspection Frequency	Volunteer and patrol programs fall under the category of valid public complaints and should be clarified as such in the fact sheet. Volunteer and patrol programs may not have enforcement authority, requiring follow-up by the Copermittees. This Provision should be limited to Copermittees municipal and contract staff with some level of enforcement authority.	Revise Provision E.5.c.(1)(a)(v) as follows: "Inventoried existing development must be inspected by the Copermittee, as needed, in response to valid public complaints and findings from the Copermittee’s municipal and contract staff <del>or volunteer monitoring or patrol program inspections.</del> "
E.5.c.(2)(a)(i) through (iii)	100	Inspection Content	The addition of "if present" is necessary for clarification. Otherwise, it implies that an inspection must take place to observe an actual discharge which is an unpredictable event (would require inspector to be present for a long period of time waiting for such an event to take place).	Revise Provision E.5.c.(2)(a)(i) through (iii) as follows: "(i) Visual inspections of actual non-storm water discharges, <u>if present</u> ; (ii) Visual inspections of actual or potential discharge of pollutants, <u>if present</u> ; (iii) Visual inspections of actual or potential illicit connections, <u>if present</u> ; and..."

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E.5.d	101	Existing Development Enforcement	Limiting language should be included for the Copermitttee's jurisdiction. The existing development inventory and enforcement should be limited to development with the reasonable potential to discharge pollutants.	Revise Provision E.5.d.as follows: "Each Copermitttee must enforce its legal authority established pursuant to Provision E.1 for all its inventoried existing development <u>identified by the Copermitttee as having the reasonable potential to discharge pollutant loads from the MS4 within their jurisdiction</u> , as necessary, to achieve compliance with the requirements of this Order, in accordance with its Enforcement Response Plan pursuant to Provision E.6."
E.5.e	101	Strategies to Address the Highest Priority Water Quality Conditions	Resource re-allocation will assist in neutralizing costs for any channel rehabilitation/retrofit projects undertaken by the Copermitttees and will have a more significant likelihood of improving water quality than monitoring.	Add: the following text to Provision E.5.e: "(4) <u>Upon Regional Board approval and in lieu of monitoring during any given year, the Copermitttees may reallocate resources originally authorized for water quality monitoring for retrofit and/or rehabilitation project(s) if those projects occur at a location where monitoring is conducted, for a maximum of two nonconsecutive years during the Permit term.</u> "
E.6.b.(5)	104	Enforcement Response Approaches and Options	Criminal penalties should be limited to intentional or criminally negligent acts.	Revise Provision E.6.b.(5)(e) as follows: (5) Administrative and criminal <u>(if intentional or criminally negligent)</u> penalties; (a)
E.6.e.(1)	105	Reporting of Non-Compliant Sites	San Diego Water Board notice should be consistent with 40 CFR §122.41(l)(6) and the State of California Construction General Permit. The requirements should be 24 hour verbal notice and five day written notification	Revise Provision E.6.e.(1) as follows: "Each Copermitttee must notify the San Diego Water Board in writing within <del>2 working days</del> <u>5 calendar days</u> of issuing <u>escalated enforcement</u> ..."
E.7	106	Public Education and Participation		"...discharge of pollutants <u>from the MS4 in storm water</u> to the MEP"
E.7.a.(1)	106	Public Education	There is specific emphasis on pesticides, herbicides and fertilizers. The rationale for the specificity of these topics is unclear. Given the emphasis on showing changes in water quality, education efforts should be focused on activities that address the pollutants of concern and behaviors that are tied to water quality issues. Therefore, each Copermitttee, by jurisdiction and watershed, should identify, determine and prioritize the activities that address priorities consistent with Provision B.	Revise Provision E.7.e.(1) as follows: "Educational activities, public information activities, and other appropriate outreach activities intended to reduce pollutants <del>associated with the application of pesticides, herbicides and fertilizer in storm water discharges of concern</del> <u>from the MS4 to the MEP. Activities shall be determined and prioritized by Copermitttees by jurisdiction and/or watershed (Provision B) to address the highest threats to water quality (such as pesticides, herbicides and</u>

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				<u>fertilizers, used oil, toxic waste, etc. and to facilitate the proper management and disposal of used oil and toxic waste, etc.)...</u> "
E.7.a.(2)	106	Public Education	There is specific emphasis on used oil and toxic material disposal. The rationale for the specificity in education topics is unclear. As stated above, Copermitees should be able to target education efforts on the pollutants and behaviors most commonly linked to the water quality issues within their respective jurisdictions and watersheds. Thus, this Provision is incorporated in the changes proposed above and would become part of E.7.a.1.	Move Provision E.7.a(2) into E.7.a(1).
<b>F. Reporting</b>				
F.1	109-110	Water Quality Improvement Plans	<p>Based on the mock WQIP development process completed by stakeholders in recent months, the Copermitees have developed an alternative submittal schedule for the WQIPs. The alternative submittal schedule would provide additional information on potential BMP strategies with the first submittal (<u>Priority Conditions and Potential Strategies</u>), but allow for more time to develop numeric goals, detailed JRMP commitments, and Reasonable Assurance Analysis with the second submittal (<u>Numerical Goals and Water Quality Improvement Strategies and Schedules</u>) and approval from elected officials for final submittal (Water Quality Improvement Plan submittal).</p> <p>The revised timeline better reflects the schedule needed by Copermitees to develop robust WQIPs, but also provides additional information early in the process for stakeholder review. These requested changes are outlined in the comments below.</p>	See the changed in the attached revised Permit to section F.1, as described in the comments below.
F.1.a.(1)	109	Priority Water Quality Conditions	The stakeholders' mock WQIP process has highlighted elements of the WQIP development process that could be	Revise Provision F.1.a.(1) as follows:

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			<p>revised to better reflect the Copermittees' internal processes. For the early submittal, it is preferred to submit Priority Water Quality Conditions and Potential Strategies. Selection of specific strategies will be important, but an initial step is proposed at the 6-month mark to establish a level of understanding regarding the "menu" of options including terminology, BMP types, etc.</p> <p>The effort to develop numeric goals, however, will require more analyses, considering the array of pollutants and beneficial uses that will need to be considered. As such, it is requested that numeric goals be moved to the second WQIP submittal (as opposed to the first submittal).</p> <p>Finally, with the first submittal is when a Copermittee should express its intent to pursue an iterative, WQIP-based compliance mechanism using a Water Quality Improvement Plan with Reasonable Assurance Analysis, per our comments on Provision B.3.a.</p>	<p>(1) <u>Priority Water Quality Conditions and Potential Strategies</u> <del>Numeric Goals</del></p> <p>(a) The Copermittees must implement a public participation process to solicit data and information to be utilized in the development and identification of the priority water quality conditions for the Watershed Management Area.</p> <p>(b) The Copermittees are encouraged to involve the public and key stakeholders as early and often as possible during the development of the priority water quality conditions and <del>numeric goals</del> <u>potential strategies</u> to be included in the Water Quality Improvement Plan.</p> <p>(c) Within 6 months after the commencement of coverage under this Order, the Copermittees must develop and submit the Water Quality Improvement Plan requirements of Provision B.2.a-d and a list of <u>potential strategies that will be considered for the draft Water Quality Improvement Plan</u> to the San Diego Water Board. <u>Each Copermittee selecting the option to develop a Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism per Provision B.3.a.(3) must also indicate their intent to pursue the option in the submittal.</u> The San Diego Water Board will issue a public notice and solicit public comments on the Water Quality Improvement Plan for a minimum of 60 days.</p> <p>(d) The Copermittees must <u>consider revisions to</u> <del>revise</del> the priority water quality</p>

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				<p>conditions and <del>numeric goals</del> based on public comments received and must respond to <del>and/or</del> recommendations or direction from the San Diego Water Board Executive Officer.</p>
F.1	109 and 110	Water Quality Improvement Plans	<p>The public comment process for the WQIP submittals will be open to a wide array of stakeholders and the Regional Board staff. There is potential that some comments may conflict with one another, and may conflict with comments provided by the Regional Board EO. The language in the Permit suggests that each comment requires a revision. Each comment should be considered, but some comments may not result in a revision. The Copermittees agree, however, that all comments from the Regional Board Executive Officer must be responded to.</p>	<p>Revise Provisions F.1.a.(1).(d), F.1.a.(2).(c), and F.1.b.(3) as follows:</p> <p>“The Copermittees must <u>consider revisions to revise</u> the priority water quality conditions and <del>numeric goals</del> based on <u>public comments received and must respond to</u> <del>and/or</del> recommendations or direction from the San Diego Water Board Executive Officer.”</p>
F.1.a.(2)	109	Water Quality Improvement Strategies and Schedules	<p>Modifications to the second WQIP submittals are proposed, based on the stakeholders’ mock WQIP development process. The commitments to implement strategies/BMPs associated with JRMPs were highlighted as a major challenge of the second WQIP submittal. The 9-month timeline does not allow sufficient time to develop JRMP commitments, particularly if an optional Reasonable Assurance Analysis will be developed. A 16-month timeline is needed for Copermittees to engage elected officials/management on the draft WQIP numeric goals and resulting WQIP commitments (strategies, activities, etc.) to meet those goals. Furthermore, as mentioned above, it is requested that numeric goals be submitted with the second WQIP submittal (as opposed to the first submittal).</p>	<p>Revise Provision F.1.a.(2) as follows:</p> <p>(2) <u>Numeric Goals and Water Quality Improvement Strategies and Schedules</u></p> <p>(a) The Copermittees are encouraged to involve the public and key stakeholders as early and often as possible during the development of the <u>numeric goals and</u> water quality improvement strategies and schedules to be included in the Water Quality Improvement Plan.</p> <p>(b) Within <u>9 16</u> months after the commencement of coverage under this Order, the Copermittees must develop and submit the Water Quality Improvement Plan requirements of Provisions <u>B.2.e</u> and B.3 to the San Diego Water Board. <u>Each Copermittee selecting the option to develop a Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism per Provision B.3.a.(3) must also submit a draft Reasonable Assurance Analysis.</u> The San Diego Water Board will issue a public notice and solicit public</p>

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				<p>comments on the Water Quality Improvement Plan for a minimum of 60 days.</p> <p>(c) The Copermittees must <u>consider revisions to revise the numeric goals and</u> water quality improvement strategies and schedules based on <u>public</u> comments received <del>and/or</del> and must respond to recommendations or direction from the San Diego Water Board Executive Officer.</p>
F.1.b.(1)	110	Water Quality Improvement Plan Submittal	<p>Based on the comment above, and to allow Copermittees at least two months to respond to comments received during the 60-day comment period on the draft WQIP and provide four months for elected officials to approve the final WQIPs and incorporated commitments (strategies, activities, etc.), a total of 24 months are requested for final WQIP submittal. In this manner, the timeline from draft WQIP development to Regional Board submittal would proceed as follows:</p> <ul style="list-style-type: none"> <li>○ 16 months: Draft WQIP</li> <li>○ 18 months: comment period ends</li> <li>○ 20 months: revise WQIPs</li> <li>○ 24 months: Copermittee approval of WQIPs and submit to RB</li> </ul> <p>The 24-month timeline is considered reasonable, as it comprises the first two years of the Permit cycle, while the remaining three years can be focused on WQIP implementation.</p> <p>Also, Clarify that the Santa Margarita River Water Quality Improvement Plan is not due until 18 months after the Riverside County Copermittees are covered under this order.</p>	<p>Revise Provision F.1.b.(1) as follows:</p> <p>(1) Within <del>48</del> <u>24</u> months after the commencement of coverage under this Order, the Copermittees for each Watershed Management Area must submit a complete Water Quality Improvement Plan in accordance with the requirements of Provision B to the San Diego Water Board. <u>Each Copermittee selecting the option to develop a Water Quality Improvement Plan to serve as an iterative, implementation-based compliance mechanism per Provision B.3.a.(3) must also submit a final Reasonable Assurance Analysis. The Santa Margarita River Watershed Management Area must submit a complete Water Quality Improvement Plan in accordance with the requirements of Provision B to the San Diego Water Board 18 months after the Riverside Copermittees are covered under this Order.</u> The San Diego Water Board will issue a public notice and solicit public comments on the Water Quality Improvement Plan for a minimum of 30 days.</p>
F.1.b	109	Water Quality Improvement Plan	For WQIP implementation to be feasible, Copermittees must have at least one full fiscal year budgeting cycle within	Add Provision F.1.b.(5) as follows:

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		Submittal	which to seek additional funding to implement the WQIP from our governing bodies (i.e., City councils and County supervisors).	<u>(5) Copermittees must commence with implementation of the Water Quality Improvement Plan no later than the fiscal year (July 1) following San Diego Water Board approval of the Water Quality Improvement Plan.</u>
F.3.b.(1)	112	Annual Reports	The Annual Report for monitoring and assessment programs typically requires seven months to prepare. Lead time is needed to plan and secure the resources and contracting mechanisms to conduct monitoring programs. Therefore, If the Order is adopted on March 1, 2013, then the Water Quality Improvement Plan would be submitted to the SDRWQCB by September 2014. The Water Quality Improvement Plan could be accepted by SDRWQCB as early as 60 days after submittal (November 2014). This would then require the first Annual Monitoring and Assessment Report to be due on January 30, 2015. This report would only include one year of transitional monitoring instead of two. To rectify this, modify the reporting deadline such that it is the following January 31 <sup>st</sup> of the conclusion of the monitoring season of September 30 <sup>th</sup> .	Revise Provision F.3.b.1 as follows:  "(1) The Copermittees for each Watershed Management Area must submit an Annual Report for each reporting period no later than January 31 of the following year. The annual reporting period consists of two periods: 1) July 1 to June 30 of the following year for the jurisdictional runoff management programs, 2) October 1 to September 30 of the following year for the monitoring and assessment programs. The first Annual Report must be prepared for the reporting period beginning July 1 after commencement of coverage under this Order, and upon San Diego Water Board determination that the Water Quality Improvement Plan meets the requirements of this Order to June 30 in the following year for the jurisdictional runoff management programs. <u>The first Annual Report must be prepared for the reporting period beginning 50 days after adoption of this Order and the January 31<sup>st</sup> following the first September 30<sup>th</sup> (conclusion of monitoring season) after the San Diego Water Board determines that the Water Quality Improvement Plan meets the requirements of this Order</u> <del>September 30 in the following year</del> for the monitoring and assessment programs. Annual Reports must be made available on the Regional Clearinghouse required pursuant to Provision F.4. Each Annual Report must include the following:"
F.3.b.(3)	113	Annual Reports	Originators of data are legally responsible for their data and should enter the data into CEDEN. It is not always possible for Copermittees to verify the veracity or quality of third party data. The quality control data requirements of CEDEN do not easily allow third parties to successfully enter data	Revise Provision F.3.b.3.e as follows: "(3) Each Copermittee must provide any data or documentation utilized in developing the Annual Report upon request by the San Diego Water Board. <del>Any</del> Copermittee monitoring data utilized in developing the

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			<p>without the associated detailed laboratory QA/QC data, detailed knowledge of the field protocols employed, and the ability to verify SWAMP comparability. There are also often difficulties associated with the practical aspects of data formatting to meet the requirements of the CEDEN data checker; these issues could be very difficult or impossible to resolve with third party data. The draft requirement would likely discourage Copermitees from seeking out third party data sets, as Copermitees would be in violation of the Permit if data could not readily be uploaded to CEDEN.</p>	<p>Annual Report must be uploaded to the California Environmental Data Exchange Network (CEDEN).<sup>32</sup> Any Copermitee monitoring and assessment data utilized in developing the Annual Report must be provided on the Regional Clearinghouse required pursuant to Provision F.4."</p>
F.3.c	114	Regional Monitoring and Assessment Report	<p>This report appears to be duplicative with the Integrated Assessment of Water Quality Improvement Plan (Provision D.4.d) that is also due with the Report of Waste Discharge. Please clarify the intent of these reports and if the same modify accordingly.</p>	<p>Delete Provision F.3.c.                  a. REGIONAL MONITORING AND ASSESSMENT REPORT                  (1) <del>The Copermitees must submit a Regional Monitoring and Assessment Report no later than 180 days in advance of the expiration date of this Order. The Regional Monitoring and Assessment Report may be submitted as part of the Report of Waste Discharge required pursuant to Provision F.5.b. The Copermitees must review the receiving water and MS4 outfall discharge monitoring data collected pursuant to Provisions D.1 and D.2, and findings from the assessments required pursuant to Provision D.4, to assess the following:</del>                  (a) <del>The beneficial uses of the receiving waters within the San Diego Region that are protected or must be restored;</del>                  (b) <del>The progress toward restoring impacted beneficial uses in the receiving waters within the San Diego Region; and</del>                  (c) <del>Pollutants or conditions of emerging concern that may impact beneficial uses in the receiving waters within the San Diego Region.</del>                  (2) The Regional Monitoring and Assessment Report must include recommendations for improving the implementation and assessment of the Water Quality Improvement Plans and jurisdictional runoff</p>

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				management programs. (3) Each Copermitttee must provide any data or documentation utilized in developing the Regional Monitoring and Assessment Report upon request by the San Diego Water Board. Any monitoring and assessment data utilized in developing the Regional Monitoring and Assessment Report must be provided on the Regional Clearinghouse required pursuant to Provision F.4.
F.3.c.(3)	114	Regional Monitoring and Assessment Report	[Applies if provision not stricken per prior comment.] Originators of data are legally responsible for their data and should enter the data into CEDEN. It is not always possible for Copermitttees to verify the veracity or quality of third party data. The quality control data requirements of CEDEN do not easily allow third parties to successfully enter data without the associated detailed laboratory QA/QC data, detailed knowledge of the field protocols employed, and the ability to verify SWAMP comparability. There are also often difficulties associated with the practical aspects of data formatting to meet the requirements of the CEDEN data checker; these issues could be very difficult or impossible to resolve with third party data. The draft requirement would likely discourage Copermitttees from seeking out third party data sets, as Copermitttees would be in violation of the Permit if data could not readily be uploaded to CEDEN.	If Provision F.3.c.(3) is not removed, revise Provision F.3.c.(3) as follows: "(3) Each Copermitttee must provide any data or documentation utilized in developing the Regional Monitoring and Assessment Report upon request by the San Diego Water Board. Any monitoring and assessment data <u>collected by Copermitttees</u> utilized in developing the Regional Monitoring and Assessment Report must be provided on the Regional Clearinghouse required pursuant to Provision F.4."
F.4	115	Regional Clearinghouse	The Copermitttees require language clarification that the regional clearinghouse may be maintained by another agency.	Add the following footnote to the first paragraph of Provision F.4: "The Copermitttee may elect to develop and maintain the <u>clearinghouse(s) provided by other Copermitttees or agencies.</u> "
F.5	116-117	Report of Waste Discharge	See comment F.4.	Add similar language from F.4 to a footnote.
<b>G. Principal Watershed Copermitttee Responsibilities</b>				
G	118	Principal Watershed	Coordinating and developing, with the other Copermitttees, the requirements of Provisions F.3.c, F.4, and F.5.b of this	Remove requirement that Principal Copermitttee can only be Principal Copermitttee for 2 watersheds and clarify that

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		Copermittee Responsibilities	Order.	all Copermittees have some level of commitment, not just the Principal Watershed Copermittee.
<b>H. Modification of Programs</b>				
H	119	Modification of Programs	Modifications of programs are allowed under the Water Quality Improvement Plan as part of the iterative process and adaptive management. Language should be added to that effect or there may be annual amendments to the Order.	Revise Provision H.3. as follows: "Proposed modifications <u>outside of the Water Quality Improvement Plan process</u> that are not minor require amendment of this Order in accordance with this Order's rules, policies, and procedures."
H	119	Modification of Programs	The reopener for the Project I Beaches and Creeks Bacteria TMDL is scheduled to fall within the term of this Permit (April 2016). This TMDL is a major component of TMDL requirements incorporated into this Permit, and should be acknowledged in Provision H. Other TMDLs may be reopened during this Permit as well. The Regional Board should express a good faith effort to revise this Order based on the revised TMDL requirements.	Add Provision H.5, as follows: <u>5. The San Diego Water Board may re-open and modify this order at any time prior to its expiration, after opportunity for public comment and a public hearing, if the Basin Plan Amendments for any of the TMDLs in Attachment E are revised by the San Diego Regional Board. Should a TMDL Basin Plan Amendment be revised and adopted by the Regional Board, then the Regional Board will re-open this Order as soon as possible to update the TMDL requirements in Attachment E to reflect the revised Basin Plan Amendment.</u>
<b>I. Standard Permit Provisions and General Provisions</b>				
			N/A	None.
<b>Attachment A. Discharge Prohibitions</b>				
			N/A	None.
<b>Attachment B. Standard Permit Provisions and General Provisions</b>				
Attachment B	B1-B5	Standard Permit Provisions and General Provisions	This attachment incorporates the standard NPDES permit provisions as identified in 40 CFR 122.41. Although correctly transposed from the regulations the provisions are obviously developed for a traditional point source permit (i.e. wastewater permit). As such there are a number of standard provision that pose challenges to the Copermittees to comply with. Clarification is requested on a number of the provisions.	See specific changes noted below.
Attachment B;	B-7	Bypass	This provision requires the Copermittees to notify the	Delete this provision.

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1.m			Regional Board whenever an anticipated or unanticipated bypass will occur. Given the nature of storm events and the fact that stormwater treatment BMPs include bypass provisions to protect the BMP integrity it would appear that the Copermittees would have to notify the Regional Board anytime a storm is predicted to ensure compliance with the provision. This provision was crafted for typical wastewater discharges and has little relevance to stormwater.	
Attachment B, 2.h	B-12	NPDES Permitted Non-Storm Water Discharges		Add the following text at the end of the Provision: <u>"A Copermittee will not be held responsible for pollutants in its MS4 discharge originating from an NPDES-permitted non-storm water discharge."</u>
Attachment B, 2.i.2	B-12	Monitoring	The timeline for retention of records is in conflict with similar retention provisions under Att B.1.j.(2)	Align requirements or delete either Provision.
<b>Attachment C. Acronyms, Abbreviations and Definitions</b>				
Attachment C	C-2	Definitions – Automotive Repair Shop	This is no change to the definition in E.3.b, but relocates the definition to Appendix C for consistency with the rest of the document. The square footage threshold is retained in Provision E.3.b because this is a regulatory specific rather than a definition.	Add the following definition:  <u>Automotive Repair Shop – a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539 or equivalent NAICS code.</u>
Attachment C	C-2	Definitions – Best Management Practices	Include in the definition that BMPs may be used in place of numeric effluent limits.	Reinstate the previous definition as follows: <u>"In the case of municipal discharge permits, BMPs may be used in the place of numeric effluent limits."</u>
Attachment C	C-3	Definitions – Channel Rehabilitation and Improvement	The term channel rehabilitation and Improvement is used in the permit but is not adequately defined. Adding a definition with clarify which projects that would fit under this category.	Add the following definition:  <u>Channel Rehabilitation and Improvement – Remedial measures or activities for the purpose of improving or restoring the environmental health of streams, channels or river streams. Techniques may vary from in-stream restoration techniques to off-line stormwater management practices installed in the system corridor or upland areas. Rehabilitation techniques may include, but are not limited</u>

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				<u>to the following: riparian zone restoration, constructed wetlands, bank stabilization, channel modifications, and daylighting of drainage systems. Effectiveness may be measured in various manners, including: assessments of habitat, reduced streambank erosion, and restoration of water and sediment transport balance.</u>
Attachment C	C-3	Definitions – Construction Site	Update the definition for Construction site to define the area to be disturbed and narrow definition to work outside of a facility.	Revise the definition of Construction Site as follows: <u>“...soil disturbing activities greater than 10,000 square feet..excavation. This does not include interior construction activities such as interior remodeling, plumbing, electrical, or mechanical work.”</u>
Attachment C	C-3	Definitions - Copermitttee	Add clarification that the San Diego Region is Region 9.	Add: <u>“..Region (Region 9)...”</u>
Attachment C	C-3	Definitions - Development Project	More concise and specifies development projects that have land disturbance, in line with Grading Ordinance definitions.	Edit the following definition as follows:  Development Projects - Construction, rehabilitation, redevelopment, or reconstruction of any public or private <u>residential projects involving land disturbance activities industrial, commercial, or any other projects.</u>
Attachment C	C-4	Definitions – Direct Discharge to an Environmentally Sensitive Area	The “Environmentally Sensitive Area” definition found elsewhere in Appendix C would remain unchanged. This new definition would support interpretation of the Priority Development Project category titled “Environmentally Sensitive Areas” (E.3.b(d)) and remove much current confusion that applicants and reviewers have in interpreting these rules. In discussions with Regional Board staff we have learned specifically what their concern is regarding a direct hydraulic connection between the development project and the specially protected areas. We feel that this language adequately addresses that concern while providing the most succinct language that can be interpreted reasonably well for a wide range of development scenarios.	Add the following definition:  <u>Direct Discharge to an Environmentally Sensitive Area – Flow that is conveyed overland a distance of 200 ft or less from the development to the ESA, or conveyed in a pipe any amount of distance as an isolated flow from the development to the ESA (i.e. not commingled with flows from adjacent lands).</u>
Attachment C	C-4	Definitions – Household		Revise the text as follows: <u>“... other hazardous wastes”</u>

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		Hazardous Waste		
Attachment C	C-5	Definitions - Inland Surface Waters	Change the definition to include waters of the U.S. not State.	Replace the definition as follows: "Inland Surface Waters – Includes all surface waters of the <u>U.S.</u> that do not include the ocean, enclosed bays, or estuaries."
Attachment C	C-5	Definitions – Low Impact Development Best Management Practices	Minor grammatical correction.	Revise the definition as follows: "that emphasize conservation and the use of on-site natural features"
Attachment C	C-6	Definitions - Major Outfall	Minor grammatical correction	"...with a drainage area of more..."
Attachment C	C-6	Definitions – Maximum Extent Practicable (MEP)		Revise the text as follows: "The technology-based standard established by Congress in CWA Provision 402(p)(3)(B)(iii) for <del>storm water discharges of pollutants</del> that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) <u>in combination</u> with treatment methods serving as a backup (additional line of defense)."
Attachment C	C-7	Definitions – MS4	The addition of CWA language to the definition of MS4 limits Copermittees' responsibilities to within their jurisdiction and strengthens support that Copermittees are not responsible for discharges in MS4s that they do not operate.	Revise text as follows: "... Which is not part of the Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2622. <u>Copermittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.</u> " 40 CFR §122.21(a)(vi).
Attachment C	C-7	Definitions – Non-Storm Water		Revise text as follows: All discharges to and from a MS4 that do not originate from precipitation events (i.e., all discharges from a MS4 other than storm water). Non-storm water includes illicit

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				discharges, <del>and</del> NPDES permitted discharges, <u>and the discharges described in Provision E(2)(a)(3)-(5).</u>
Attachment C	C-8	Definitions - Outfall	Add the definition of outfall and cite the Federal Regulations.	Add the following definition:  <u>Outfall - Outfall means a point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. 40 C.F.R. 122.26(b)(9).</u>
Attachment C	C-8	Definitions – Parking Lot	This is no change to the definition in E.3.b, but relocates the definition to Appendix C for consistency with the rest of the document. The square footage threshold is retained in Provision E.3.b because this is a regulatory specific rather than a definition.	Add the following definition:  <u>Parking Lot – a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.</u>
Attachment C	C-8	Definitions – Pre-Development Runoff Conditions	The definition for Pre-Development Runoff Conditions should be the exact language EPA used in the Federal Register at 64 FR §68761. We acknowledge the removal of language referencing natural watershed hydrology before human induced alterations. Jurisdictions cannot require project applicants to match post-project hydrograph to the pre-development hydrograph because it may impose mitigation beyond the project's impacts. The pre-project standard provides the appropriate nexus to the project impacts, as is the standard followed by CEQA.	Revise the definition as follows: <del>Pre-Development</del> <u>Pre-Project Runoff Conditions – “Runoff conditions that existed onsite immediately before the existing development was constructed, or exists onsite before planned development activities occur. Pre-development is not intended to be interpreted as that period before any human-induced land disturbance has occurred. 64 FR 68761.”</u>
Attachment C	C-8	Definitions – Properly Designed	A definition of “Properly Designed,” which mentioned in Source Control BMP Requirements is not mentioned in the definitions Provision of Attachment C. As currently written, the permit authorizes subjective broad authority and deference to the Regional Board in interpretation of the definitions, if not included. This term requires a definition.	Add the following definition: <u>“Properly Designed – Designed in accordance with the Copermittee’s BMP Design Manual and/or any appropriate design requirements set forth by the Copermittee and based on widely accepted design criteria.”</u>

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Attachment C	C-8	Definitions – Public Education, Outreach, and Participation	Neither Public Education and Outreach, nor Public Participation are mentioned in the definitions Provision of Attachment C. Please add definitions for these non-structural BMPs.	Add the following definition: <u>“Public Education, Outreach and Participation – Programs to educate residents, businesses and visitors about the importance of water quality and water quality programs so that they will support local efforts and understand their role in protecting receiving waters. The Education and Outreach Program will increase knowledge and awareness, improve attitudes toward storm pollution prevention, and provide a foundation for changing behaviors that contribute to storm water pollution.”</u>
Attachment C	C-8 through C-9	Definitions - Redevelopment	The current San Diego permit R9-2007-0001 Definition for Redevelopment states “Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing and reconfiguring surface parking lots and existing roadways.” Resurfacing and reconfiguration of parking lots should still be included in this sentence as these actions are not increasing impervious surfaces and are necessary for ongoing maintenance (pothole repair, root intrusion, damage repair, etc).	Revise the following definition:  <u>Redevelopment – “The creation, addition, and/or replacement of impervious surface on an already developed site through construction or alteration of the existing footprint” ...Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing existing roadways; resurfacing, cutting and reconfiguring of surface parking lots; new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.”</u>
Attachment C	C-9	Definitions - Restaurant	This is no change to the definition in E.3.b, but relocates the definition to Appendix C for consistency with the rest of the document. The square footage threshold is retained in Provision E.3.b because this is a regulatory specific rather than a definition.	Add the following definition:  <u>Restaurant – a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812).</u>
Attachment C	C-9	Definitions – Retail gasoline outlet	No prior definition existed, so one was created for consistency with the other priority development project categories. The square footage threshold is retained in Provision E.3.b because this is a regulatory specific rather than a definition.	Add the following definition:  <u>Retail gasoline outlet (RGO) – a business that sells automotive or truck fuel to the general public.</u>
Attachment C	C-9	Definitions - Retrofitting	Minor edit to improve understanding of when retrofitting is appropriate.	Revise the following definition:

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				Retrofitting – Storm water management practice put into place after development has occurred in watersheds where the practices previously did not exist <u>or are ineffective...</u>
Attachment C	C-10	Definitions – Street, Road, Highway, Freeway, and Driveway	This is no change to the definition in E.3.b, but relocates the definition to Appendix C for consistency with the rest of the document. The square footage threshold is retained in Provision E.3.b because this is a regulatory specific rather than a definition.	Add the following definition:  <u>Street, Road, Highway, Freeway and Driveway</u> – “Any paved impervious surface that is used for the transportation of automobiles, trucks, motorcycles, and other vehicles.”
Attachment C	C-10	Definitions – Waters of the state	This language should be limited based on the intent of the definition (natural water sources) and should not be interpreted to include man-made structures that collect runoff for the sole purpose of flow volume/velocity and/or pollutant reduction, such as a wet pond. Circumstance and condition should be considered as part of determination whether a water body is a water of the state.	“Waters of the State - Any water, surface or underground, including saline waters within the boundaries of the State [CWC Provision 13050 (e)]. The definition of the Waters of the State is broader than that for the Waters of the United States in that all water in the State is considered to be a Waters of the State <del>regardless of circumstance or condition.</del> ”
<b>Attachment D. Jurisdictional Runoff Management Program Annual Report Form</b>				
			N/A	None.
<b>Attachment E. Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2013-0001</b>				
Attachment E. (General)	E-1 through E-47	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2013-0001	The organization of the TMDL provisions could be improved to help more clearly outline the interim and final requirements and schedules. The Copermittees recommend a reformat that would be easier to follow and has a clearer connection between receiving water limitations, effluent limitations, BMP requirements, and compliance determination.	As shown in the attached revised Permit, revise the organizational structure of the TMDL Specific Provisions, using the following outline:  (a) Applicability (b) Final TMDL Compliance Requirements (c) Interim TMDL Compliance Requirements (d) Monitoring and Assessment
Attachment E. (General)	E-1 through E-47	Compliance Determination sub-sections for each TMDL	As discussed in comments under Provision B, the Copermittees have fully embraced using WQIPs as an integral component of our programs, and would like to extend the role of WQIPs into TMDL compliance determination.	Incorporate a WQIP-based compliance option (BMP-based WQBELs) into the Compliance Determination sections of Attachment E (consistent with the comment on the revisions to Provision B.3.a) , with the WQIPs serving as the compliance mechanism.

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			<p>There is regulatory precedent for including WQIP-based compliance mechanisms (“BMP-based WQBELs”) as a TMDL compliance option. State and federal law do <u>not</u> require the use of numeric effluent limitations for MS4 Copermittees, but rather encourage flexible implementation of best management practices through an iterative process. Specifically, the choice to include either management practices or numeric limitations in MS4 permits is within the regulatory agency’s discretion, and on the question of whether MS4 permits must contain numeric effluent limitations, the court upheld EPA’s use of iterative BMPs in place of numeric effluent limitations for storm water discharges. (See <i>Defenders of Wildlife v. Browner</i>, 191 F.3d 1159, 1166-1167 (9th Cir. 1999)<sup>6</sup></p> <p>The findings of California’s Stormwater Blue Ribbon Panel, which was convened specifically to examine the feasibility of incorporating numeric effluent limits in stormwater permits, ultimately concluded that numeric limits were generally infeasible across all three stormwater activities (municipal, industrial, and construction), with a few exceptions (<i>The Feasibility of Numeric Effluent Limits Applicable to Discharges of Stormwater Associated with Municipal, Industrial and Construction Activities, June 19, 2006</i>).</p> <p>Additionally, state law and policy does not require the use of numeric effluent limitations in MS4 permits. In 2009, the State Water Board affirmed this approach in a precedential order, stating: “[it] is our intent that federally mandated TMDLs be given substantive effect. Doing so can improve the efficacy of California’s NPDES storm water permits. This is not to say that a wasteload allocation will result in</p>	<p>As shown in the attached revised Permit, the following sub-bullet would be incorporated into the interim and final Compliance Determination sections for each TMDL:</p> <p>“The Responsible Copermittee has submitted and is fully implementing a Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision x.x.(x).x.”</p>

<sup>6</sup> See also California Regional Water Quality Control Board San Diego Region - Fact Sheet / Technical Report For Order No. R9-2010-0016 / NPDES NO. CAS0108766.

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			<p>numeric effluent limitations for municipal storm water dischargers. Whether a future municipal storm water permit requirement appropriately implements a storm water wasteload allocation will need to be decided on the regional water quality control board's findings <i>supporting either the numeric or non-numeric</i> effluent limitations contained in the permit." (Order WQ 2009-0008, In the Matter of the Petition of County of Los Angeles and Los Angeles County Flood Control District, at p. 10 (emphasis added).)</p> <p>Furthermore, a memo issued in 2010 by EPA directors Hanlon and Keehner describes how permitting agencies have discretion to use BMP-based WQBELs for MS4 Permits:</p> <p>"The permitting authority's decision as to how to express the WQBELs(s), either as numeric effluent limitations or BMPs, including BMPs accompanied by numeric benchmarks, should be based on an analysis of the specific facts and circumstances surrounding the permit, and/or the underlying WLA, including the nature of the stormwater discharge, available data, modeling results or other relevant information."</p> <p>In a July 23, 2012 comment letter from EPA to the Los Angeles Regional Board on the recent LA County MS4 Permit regarding that Board's use of this approach,, EPA stated:</p> <p>"This is consistent with EPA guidance in its updated memorandum of November 10, 2010 concerning the incorporation of WLAs into stormwater permits, available at: <a href="http://www.epa.gov/npdes/pubs/establishingtmdlwla_revision.pdf">http://www.epa.gov/npdes/pubs/establishingtmdlwla_revision.pdf</a>. This memorandum recommends the use of numeric effluent limits when feasible, and notes that BMP-</p>	

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			<p>based approaches are appropriate in cases where the administrative record for the permit quantitatively demonstrates the BMPs required by the permit will be sufficient to ensure compliance with the WLAs. This has also been a long-standing EPA policy dating back to EPA's previous 2002 guidance memorandum concerning the incorporation of WLAs into stormwater permits, available at: <a href="http://www.epa.gov/npdes/pubs/final-wwtmdl.pdf">http://www.epa.gov/npdes/pubs/final-wwtmdl.pdf</a>."</p> <p>The WQIPs could 1) demonstrate that BMP-based approaches are appropriate and 2) provide the necessary information so that the administrative record for the permit can demonstrate the BMPs required by the permit will be sufficient to ensure compliance with the WLAs.</p>	
Attachment E. (General)	E-1 through E-47	Best Management Practice sub-sections for each TMDL	<p>The "Best Management Practices" subsections for each TMDL should incorporate the WQIP-based compliance concept as proposed in the proposed revisions to Provision B.3, and describe the steps that Copermitees must take for WQIPs and BMP-based WQBELs to be approved by the Regional Board as a compliance mechanism.</p> <p>It is important to note that this approach would be subject to public review and Regional Board approval, and thus this approach has many "checkpoints" where the Regional Board is able to determine whether WQIP-based compliance (BMP-based WQBELs) is appropriate given the approach and level of rigor in the WQIP. Furthermore, the WQIPs would provide sufficient detail regarding the strategies and activities to be implemented, which would allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner.</p>	<p>As shown in the attached revised Permit, insert a new Best Management Practices sub-bullet in the interim and final TMDL Compliance Requirements sections for each TMDL as follows:</p> <ul style="list-style-type: none"> <li>(a) For Copermitees utilizing the WQIP-based compliance option, the strategies and activities contained in the WQIP accepted by the San Diego Water Board and adaptively managed as outlined in Provision B.6, F.1, and F.2, will serve as BMP-based WQBELs under the following conditions, as outlined in Provision B.3.a:                 <ul style="list-style-type: none"> <li>(1) A Responsible Copermitee requests that the Water Quality Improvement Plan be approved as the basis for compliance with the discharge prohibitions (A.1), receiving water limitations (A.2), and/or effluent limitations (A.3) in the letter of submittal to the San Diego Water</li> </ul> </li> </ul>

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				<p>Board;</p> <p>(2) Reasonable assurance is demonstrated that the strategies and activities in the Water Quality Improvement Plan are expected to attain the final receiving water limitations or final WQBELs under Specific Provision xx.y;</p> <p>(3) The submitted schedule as outlined in Provision B.3 provides sufficient detail regarding the strategies and activities to be implemented to allow the Regional Board to use the schedule for compliance determination in a clear, specific, measurable, and enforceable manner; AND</p> <p>(4) The WQIP is approved by the Regional Board Executive Officer and is implemented per the approved schedule and adapted pursuant to Provisions B.6, F.1, and F.2.</p>
Attachment E. (General)	E-1 through E-47	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2013-0001	The Receiving Water Limitations associated with TMDLs should not be referred to as Water Quality Based Effluent Limitations (WQBELs). The Copermittees are only responsible for their discharges to receiving waters not for concentrations in receiving waters. Receiving water quality can be affected by multiple sources, including agriculture and other sources that are permitted by this Board. A WQBEL is a restriction on the quantity or concentration of a pollutant that may be <i>discharged from a point source</i> into a receiving water that is necessary to achieve an applicable water quality standard in the receiving water (See 40 CFR § 122.2; NPDES Permit Writer's Manual, Appendix A. Categorizing the Receiving Water Limitations as WQBELs is inconsistent with federal regulations and standard permitting practices and could subject the Copermittees to	As shown in the attached revised Permit, for each TMDL, clearly separate receiving water limitations from Water Quality Based Effluent Limitations using separate sub-section headers.

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			Mandatory Minimum Penalties.	
Attachment E. (General)	E-1 through E-47	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2013-0001	The Order needs to clearly describe the linkage between receiving water limitations and effluent limitations. The effluent limitations should be used to determine whether Copermittees are causing or contributing to exceedances of receiving water limitations. They are not a standalone provision. If receiving water limitations are met, then the effluent limitations are not applicable.	<p>For each Water Quality Based Effluent Limitations sub-section, insert language to describe how WQBELs and RWLs are linked.</p> <p>As shown in the attached revised Permit, the corresponding WQBEL sub-section for each TMDL should open with language similar to the following:                      "In the case that receiving water limitations are exceeded after the end of the compliance schedules under Specific Provision E.X.x, effluent limitations will be used to determine whether MS4 discharges are causing or contributing to exceedances of receiving water quality limitations. To demonstrate MS4 discharges are not causing or contributing to an exceedance of receiving water quality limitations, MS4 discharges must meet the concentration-based effluent limitations in Table X.X."</p> <p>Similarly interim and final compliance schedules should reflect this as well.</p> <p>As shown in the attached revised Permit, the Interim and Final Compliance Schedule sub-sections for each TMDL should include language similar to the following:                      "The Responsible Copermittee must be in compliance with the final receiving water limitations or final WQBELs under Specific Provision E.X."</p>
Attachment E. (General)	E-1 through E-47	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2013-0001	Concentration-based effluent limitations should be applied on a watershed-basis, not outfall by outfall. The Copermittees should have flexibility to address the highest impact outfalls, and not be required to <i>address every single outfall</i> (e.g., there is little environmental benefit to construct	<p>For each Water Quality Based Effluent Limitations table with concentration-based WQBELs, insert a footnote to allow Copermittees to manage stormwater quality on a watershed basis.</p> <p>As shown in the attached revised Permit, the footnote for</p>

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			<p>BMPs to control outfalls with relatively low <i>loadings</i> that do not affect receiving water conditions). If the approach is outfall-by-outfall (instead of watershed basis), then the costs of compliance will be MUCH higher as nearly every outfall will require an action/BMP regardless of whether or not the loading has an effect on the receiving water. The Copermittees can protect receiving waters by ensuring that discharge concentrations are below the effluent limitations on a <i>flow-weighted</i> basis. If one outfall is slightly higher than the WQBEL concentration, but another is below the WQBEL concentration then the MS4s have not impacted water quality as long as the flow-averaged concentration is below the effluent limitation.</p>	<p>each concentration-based WQBEL table would read as follows:                      "Concentrations shall be determined on a flow-weighted basis across all outfalls within a jurisdiction, not outfall-by-outfall."</p>
<p>Attachment E.1.b                      (Chollas Creek Diazinon TMDL)</p>	<p>E-3</p>	<p>Water Quality Based Effluent Limitations</p>	<p>The Chollas Creek Diazinon TMDL is based on an erroneous target. The TMDL set the numeric targets equal to the California Department of Fish and Game (CDFG) Water Quality Criteria for the protection of freshwater aquatic organisms from diazinon (Menconi and Cox 1994). The acute and chronic targets equal 0.08 ug/L and 0.05 ug/L, respectively. However, an error in a data point contained in the CDFG criteria was found. In a letter dated May 19, 2004, from Chris Ingersoll (US Geological Survey) to Lenwood Hall (University of Maryland), Mr. Ingersoll discusses an error in the 96-h LC50 of 0.2 ug/L for <i>Gammarus fasciatus</i> reported by Johnson and Finley (1980) and by Mayer and Eilersieck (1986). Mr. Ingersoll's letter notes that based on his review of the data sheets, the 96-h LC50 should have been reported as 2 ug/L and not 0.2 ug/L, which was used to calculate the criteria. In a letter dated July 30, 2004 from Brian Finlayson (CA Department of Fish and Game) to Joe Karkoski (Central Valley Regional Water Quality Control Board), Mr. Finlayson confirms that a transcription error occurred and suggests that these data</p>	<p>Replace the receiving water limitation with the recalculated Criterion Maximum Concentration (aka acute criterion) and the Criterion Continuous Concentration (aka chronic criterion) of 0.16 ug/L and 0.10 ug/L, respectively. Set the acute and chronic effluent limitations as 90% of the criteria (same approach as the TMDL) equal to 0.144 ug/L and 0.09 ug/L, respectively.</p>

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			<p>cannot be used in the calculation of the criteria. Mr. Finlayson suggests the recalculated Criterion Maximum Concentration (aka acute criterion) and the Criterion Continuous Concentration (aka chronic criterion) should be 0.16 ug/L and 0.10 ug/L, respectively. Additionally, USEPA published aquatic life water quality criteria for diazinon in December 2005 (EPA-822-R-05-006), which established acute and chronic criteria equal to 0.17 ug/L.</p> <p>Incorporation of the Chollas Creek Diazinon TMDL into the MS4 permit based on the CDFG criteria is inappropriate given the fact these criteria are known to be faulty. The receiving water limitations and effluent limitations should either 1) be removed until the TMDL can be corrected or 2) the recalculated CDFG or USEPA criteria should be utilized. The TMDL assumed, at the time, the CDFG criteria were correct and their use in setting targets and corresponding WLAs was appropriate. However, new information is available that demonstrates those criteria are faulty. Thus, replacement of the receiving water limitations and effluent limitations, would be consistent with the assumptions of the WLAs because the WLAs were intended to implement the narrative toxicity and pesticide objectives in the Basin Plan. As stated on page 16 of the TMDL Staff Report: "By setting the numeric targets equal to the CDFG Water Quality Criteria for diazinon, the Regional Board is quantitatively interpreting the narrative water quality objective of "no toxics in toxic amounts" to mean "no diazinon concentrations in Chollas Creek in excess of 0.08 µg/L for any 1 hour period or in excess of 0.05 µg/L for any 4-day period". The pesticide water quality objective is interpreted in the same way."</p>	
Attachment E.2.b	E-5	Water Quality Based Effluent	The California Toxics Rule (CTR) establishes dissolved	Add the WER term to the receiving water limitations acute

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(Shelter Island Dissolved Copper TMDL)		Limitations	saltwater criteria that are expressed as a function of a Water-Effect Ratio (WER). The WER is set equal to 1.0 unless a site-specific study has been completed. The WER term was incorporated into the Chollas Creek Dissolved Metals TMDL.	and chronic criteria and the effluent limitations, tables 2.1 and 2.2, respectively. Add the following footnote to both tables: "The Water Effect Ratio (WER) is assumed to be 1.0 unless there is a site-specific and chemical-specific WER."
Attachment E.2  (Shelter Island Dissolved Copper TMDL)	E-6	Compliance Determination	The TMDL envisioned MS4s would implement management practices to reduce copper loadings to the Shelter Island Yacht Basin (SIYB). As stated on page 53 of the TMDL Staff Report: "The Regional Board will amend Order No. 2001-01, "Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm /Sewer Systems" to require that discharges of copper into SIYB waters not increase from existing loadings... The order could also be amended to require BMPs designed to reduce copper loading into SIYB, and/or monitoring for copper in the runoff management plan pertinent to SIYB."	Allow for BMP-based WQBELs, as envisioned when the TMDL was adopted.  As shown in the attached revised Permit, a new Compliance Determination sub-bullet for each TMDL (for both final and interim WLAs) should be added as follows:  "(e) The Responsible Copermittees have submitted and are fully implementing an Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision x.x.(x).x."
Attachment E.3.b  (Rainbow Creek Watershed Nutrient TMDL)	E-9 of redline	Specific Provisions for Total Maximum Daily Loads Applicable to Order No. R9-2012-0011	The Rainbow Creek TMDL for Total Nitrogen and Phosphorous does not include Wasteload Allocations for the County of San Diego Copermittees. The TMDL only contains Load Allocations. Load allocations should not be implemented through an NPDES permit. It is inappropriate to simply "re-name" the Load Allocations as Wasteload Allocations.	Strike the following TMDL from Attachment E in its entirety:  Total Maximum Daily Loads for Total Nitrogen and Total Phosphorus in Rainbow Creek Watershed
Attachment E.3.b  (Rainbow Creek Watershed Nutrient TMDL)	E-10	Water Quality Based Effluent Limitations	Notwithstanding the previous comment, the TMDL clearly states which dischargers are subject to wasteload/load reductions that must be incorporated into their respective permits. For example the TMDL Technical Report states: "nutrient wasteload reductions will eventually be incorporated into Caltrans statewide NPDES storm water	If not stricken entirely, add the following compliance determination method to Specific Provisions 3  "The Responsible Copermittee is using its legal authority to reduce nutrient discharges from the land uses identified under Specific Provision 3.b.(2).(b) to the maximum extent practicable."

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TMDL)			permit.” Similar language cannot be found regarding incorporating nutrient wasteload and/or load reductions into the County of San Diego’s NPDES permit. The only NPDES permit-related requirement imposed upon the County of San Diego is “to require increasingly stringent best management practices” for nutrient discharges to or from the MS4 within the watershed. Furthermore, the Technical Report states that “any Regional Board enforcement action taken will be against individual dischargers and not the County of San Diego.”	
Attachment E.4.b  (Chollas Creek Dissolved Metals TMDL)	E-12	Compliance Determination	The TMDL envisioned MS4s would implement actions to reduce metals loadings to Chollas Creek. As stated on page 4 of the BPA: “Actions to meet the WLAs in discharges to Chollas Creek will be required in WDRs that regulate MS4 discharges, industrial facility and construction activity stormwater discharges, and groundwater extraction discharges in the Chollas Creek watershed.” Additionally, as stated on page 1 of the State Water Board’s Resolution (No. 2008-00054) approving the BPA: “The amendment requires actions to be taken to implement management practices to ensure compliance with water quality criteria.”	Allow for BMP-based WQBELs, as envisioned when the TMDL was adopted.  As shown in the attached revised Permit, a new Compliance Determination sub-bullet for each TMDL (for both final and interim WLAs) should be added as follows:  “(e) The Responsible Copermittees have submitted and are fully implementing an Water Quality Improvement Plan that is developed and adaptively managed as outlined in Provisions B, F.1 and F.2, is accepted by the San Diego Water Board, and meets the conditions of Specific Provision x.x.(x).x.”
Attachment E.5.b  (Baby Beach and Shelter Island Bacteria TMDL)	E-16	Final Water Quality Based Effluent Limitations	The WLAs from the Baby Beach and Shelter Island Bacteria TMDL include percent reductions that should be incorporated into the Order. These percent reductions would allow the Copermittees to plan and implement BMPs in a manner that best reflects the TMDL load reduction requirements. The load reduction requirements would also facilitate BMP-based compliance mechanisms and allow the WQIPs to be better integrated with TMDL requirements.	Incorporate load-based effluent limitations into the Specific Provisions for the Baby Beach and Shelter Island Bacteria TMDL.  As shown in the attached revised Permit, a new Table 5.2b should be added to the Final WQBEL sub-section, including the % reductions required by the TMDL. These % reductions should be linked to the concentration-based effluent limitations with an “OR” statement.

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			For the Baby Beach and Shelter Island Bacteria TMDL, there were certain conditions that required ZERO reduction by MS4s. The effluent limitations should reflect these TMDL expectations.	
Attachment E.6.a.(5)	E-21	Applicability	Since adoption of the Project I Bacteria TMDL, the Copermittees have submitted data analysis to the Regional Board to demonstrate that 303(d) listings for San Marcos HA, San Dieguito River HA, and Los Penasquitos HA were incorrectly applied to REC beneficial uses. The Regional Board has concurred with the findings for each HA and stated that these HAs are “not subject to further action under Resolution No. R9-2010-0001.” Similar responses are expected for the other HAs.	Add the following text to Section 6.a.(5): <u>“See table 6.0; Consistent with Basin Plan Amendment (Resolution No. R9-2010-0001, p. A-2); specific beach segments from some of the Pacific Ocean shorelines listed in Table 6.0 have been delisted from the 2008 (sic 2010) 303(d) list that was approved by the San Diego Board on December 16, 2009, and therefore are not subject to the requirements of Attachment E as long as monitoring data continues to support compliance with water quality standards.”</u>
Attachment E.6.b  (Project I Beaches and Creeks Bacteria TMDL)	E-24	Water Quality Based Effluent Limitations	The total coliform WQO only applies ocean waters, and should not be applied to creeks. The freshwater (creek) receiving water limitations in the TMDL do <u>not</u> include total coliform.	As shown in the attached revised Permit, apply the footnote 4 to total coliform receiving water limitations and WQBELs and specify the following:  “Total coliform limitations apply only to segments of areas of Pacific Ocean Shoreline listed in Table 6.0.”
Attachment E.6.b  (Project I Beaches and Creeks Bacteria TMDL)	E-24 through E-25	Water Quality Based Effluent Limitations	The WLAs from the Project I Bacteria TMDL include allowable loadings and percent reductions that should be incorporated into the Order. These percent reductions would allow the Copermittees to plan and implement BMPs in a manner that best reflects the TMDL load reduction requirements. The load reduction requirements would also facilitate BMP-based compliance mechanisms and allow the WQIPs to be better integrated with TMDL requirements.	Incorporate load-based effluent limitations into the Specific Provisions for Project I Bacteria TMDL.  As shown in the attached revised Permit, a new Table 6.2b should be added to the Final WQBEL sub-section, specifying the % reductions required by the TMDL. These % reductions should be linked to the concentration-based effluent limitations with an “OR” statement.
Attachment E.6.c	E-30	Compliance Schedule	Similarly, the interim effluent limitations should reflect the % reductions required by the TMDL. The TMDL requires a	Incorporate load-based, interim effluent limitations into the

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(Project I Beaches and Creeks Bacteria TMDL)			50% reduction, so the % reductions applied to the final effluent limitations should be divided by two and included as interim WQBELs.	Specific Provisions for Project I Bacteria TMDL.  As shown in the attached revised Permit, a new Table 6.5 should be added to the Interim WQBEL sub-section, specifying the % reductions required by the TMDL. These % reductions, which are 50% of the reductions required for final WQBELs, should be linked to the interim concentration-based effluent limitations with an "OR" statement.
Attachment E.6.b  (Project I Beaches and Creeks Bacteria TMDL)	E-30	Interim Compliance Dates	The CLRPs to be submitted by Copermittees propose interim compliance dates, as allowed by the Project I Bacteria TMDL, to meet the 50% reduction milestone for dry and wet weather. The CLRPs submitted by Copermittees may not all propose the same interim compliance dates and the Permit should acknowledge the flexibility allowed by the TMDL (see page 68 of Attachment A of the Basin Plan Amendment) to revise the interim compliance dates via the CLRPs. In fact, this scheduling flexibility was a primary "incentive" for Copermittees to develop CLRPs instead of BLRPs.	Revise the Order to reflect the flexibility allowed by the TMDL.  As shown in the attached revised Permit, add language to the interim compliance dates section to allow interim compliance date flexibility, as follows:  "...unless alternative interim compliance dates are provided in a Comprehensive Load Reduction Plan or Water Quality Improvement Plan accepted by the San Diego Regional Board Executive Officer."
Attachment E.6.b  (Project I Beaches and Creeks Bacteria TMDL)	E-31 and 32 of redline	Final Receiving Water Limitations and Final WQBELs	The Basin Plan Amendment for the Project I Bacteria TMDL contains Receiving Water Limitations. These Receiving Water Limitations should be incorporated directly into the Permit. However, Attachment E contains Receiving Water Limitations that do not match those from the TMDL. The Regional Board should not revise or translate the RWLs from the TMDL, they should be incorporated directly. The RWLs incorporated into Attachment E have several discrepancies with the RWLs in the TMDL, including application of single sample targets to the dry weather RWLs and application of total coliform RWLs for inland waters.	Replace entirely the RWLs in the Permit with those from the TMDL, which separates RWLs into RWLs for beaches (Table 6.1) and RWLs for Creeks (Table 6.2). The TMDL RWLs should be <i>pasted directly</i> from the Basin Plan Amendment (Attachment A, page 52).

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Attachment E 6.d.1.b.ii and 6.d.2.b.ii, footnotes 36 and 3837 respectively  (Project I Beaches and Creeks Bacteria TMDL)	E-33	Specific Monitoring and Assessment Requirements	To be consistent with Attachment A of Resolution No. R902010-0001, Section (7) (i) 2. Monitoring for TMDL Compliance and Compliance Assessment (p. A54), allow additional wet weather samples collected to be applied to the wet weather period as indicated in the following: "If only one sample is collected for a storm event, the bacteria density for every wet weather day associated with that storm event shall be equal to the results from that one sample. If more than one sample is collected for a storm event, but not on a daily basis, the bacteria density for all the wet weather days not sampled shall be equal to the highest bacteria density result reported from samples collected. The exceedance frequency shall be calculated by dividing the number of wet weather days that exceed the single sample maximum REC-1 WQOs by the total number of wet weather days during the rainy season."	Revise text as follows: Wet weather days are defined by the TMDL as storm events of 0.2 inches or greater and the following 72 hours. The Responsible Copermittees may choose to limit their wet weather sampling requirements to storm events of 0.2 inches or greater, or also include storm events of 0.1 inches or greater as defined by the federal regulations [40CFR122.26(d)(2)(iii)(A)(2)]. <u>If only one sample is collected for a storm event, the bacteria density for every wet weather day associated with that storm event shall be equal to the results from that one sample. If more than one sample is collected for a storm event, but not on a daily basis, the bacteria density for all the wet weather days not sampled shall be equal to the highest bacteria density result reported from samples collected. The exceedance frequency shall be calculated by dividing the number of wet weather days that exceed the single sample maximum REC-1 WQOs by the total number of wet weather days during the rainy season.</u>