

The Tentative Order was circulated for a 30-day public comment period ending on November 21, 2020. Staff received comments from both San Mateo and Contra Costa counties. Comments primarily requested minor clarifications regarding terms and identification of impacts and mitigation requirements. As explained below, we revised the Tentative Order to address comments received, resulting in the Revised Tentative Order. In addition, staff made minor staff-initiated changes comprised of copyedit corrections.

Comment Number	Commenter	Topic	Comment	Response
1	San Mateo County	Stream Maintenance Program Heading	<p>Section I. Stream Maintenance Program</p> <p>“On page 4, the County requests that the header be updated to “Stream Maintenance Program/<u>Routine Maintenance Program</u>” as the County Program includes maintenance of other facilities (e.g., culverts, trails, roads, docks, etc.) in addition to limited stream maintenance work. The title of the County Program is “Routine Maintenance Program”; thus, the County requests that this heading be updated to be consistent with the County Routine Maintenance Program Manual (Manual) and supporting documents.”</p>	<p>We agree, and made the following revision to “I. Stream Maintenance Program”:</p> <p>I. Stream Maintenance Program/<u>Routine Maintenance Program</u>.</p>
2	San Mateo County	Stream Maintenance Program	<p>Finding 8. Stream Maintenance Program</p> <p>“The County Program also includes culvert repair/replacement projects. The County requests that these projects be added to the list of primary maintenance activities. The County and RWQCB staff agreed that the erosion protection category encompasses the County’s bank repair/stabilization work on the 11/13/2020 call”</p>	<p>We agree, and revised Finding 8 accordingly:</p> <p>“...(3) erosion protection; (4) <u>culvert repair and replacement projects</u> and...”</p>

Comment Number	Commenter	Topic	Comment	Response
3	San Mateo County	Terminology	<p>Finding 6. Program Specifics</p> <p>“To maintain consistency throughout the Tentative Order, the County suggests changing “green stormwater infrastructure (GSI)” to “green infrastructure (GI)” to be consistent with the terminology in the County’s RMP Manual, San Francisco RWQCB Municipal Regional Stormwater Permit (Order No. R2- 2015-0049)(…), and [the] County’s GI Plan.”</p>	<p>We agree and, in the last sentence of Finding 6(b), revised the term “green stormwater infrastructure” to “<u>green infrastructure (GI).</u>” The following footnote was also added to the term GI¹:</p> <p>¹ <u>San Mateo County’s RMP Manual defines GI activities as vegetation and thatch removal and light sediment and debris clearing and planting in their GI roadside swales and bioretention areas that require periodic maintenance.</u></p>
4	San Mateo County	Temporary Impact Activities	<p>Finding 16. Temporary Impacts</p> <p>“In-kind culvert repair/replacement activities may result in temporary impacts to waters of the state. On the 11/13/2020 call, the County and RWQCB staff agreed that this activity should be added to the list under Condition #16.”</p>	<p>We agree and revised Finding 16 to add:</p> <p><i>d. <u>In-Kind Culvert Repair and Replacement: repairing and replacing culverts in-kind (i.e., with the same culvert dimensions) will temporarily impact waters of the State when the culvert is repaired or replaced.</u></i></p>

Comment Number	Commenter	Topic	Comment	Response
5	San Mateo County	Temporary Impacts	<p>Finding 16. Temporary Impacts</p> <p>“The County understands that this section of the Tentative Order discusses activities that may result in temporary impacts; however, the County will not necessarily need to mitigate for all of the listed activities, including vegetation/tree trimming. As discussed on the 11/13/2020 call with the RWQCB, the County will notify/report vegetation/tree trimming activities that occur along channels/creeks below top of bank that could affect beneficial uses/water quality; however, RWQCB staff stated that the County does not need to notify the RWQCB of vegetation trimming along roads and trails not affecting the riparian canopy. The County primarily trims vegetation along roads and trails to provide access and maintain safe sight distances. The County may also trim vegetation in densely vegetated areas to open up habitat for certain species, which would result in an ecological and biological benefit.”</p>	See response to Comment 9.

Comment Number	Commenter	Topic	Comment	Response
6	San Mateo County	Impacts	<p>Finding 17. Permanent Loss</p> <p>“The County would like to note that not all culvert repair/replacement projects or bank stabilization projects will result in permanent impacts to waters of the State. For example, in-kind culvert replacements or minor culvert repairs would only result in temporary disturbance impacts and would not result in additional hardening, new fill, or facility expansion. Similarly, the County RMP includes appropriately designed biotechnical bank stabilization techniques to reduce the need for permanent bank hardening and to help restore degraded channels.</p> <p>On the 11/13/2020 call, County and RWQCB staff discussed either replacing “will” with “may” or adding specificity to this condition regarding the types of activities that would result in permanent impacts.”</p>	<p>Comment noted. See response to Comment 9.</p> <p>We revised Finding 17 to state that culvert repair or replacement <i>may</i> result in permanent impacts instead of <i>will</i> result in permanent impacts.</p>
7	San Mateo County	Mitigation	<p>Finding 20. Permanent Loss</p> <p>“On the 11/13/20 call, County and RWQCB staff discussed that the mitigation plan (or approach) will be part of the annual notification report (ANR) and preparation and submittal of a separate mitigation plan will not be required. Thus, the County requests that the RWQCB add a sentence to this condition stating that the mitigation plan/approach can be included in the ANR.”</p>	<p>We agree with the requested revision and revised the Finding to clarify that mitigation plans may be included as part of the ANR. The Finding’s intent remains to reference the mitigation efforts that will be prepared and implemented by the Dischargers, consistent with each Discharger’s Manual.</p>

Comment Number	Commenter	Topic	Comment	Response
8	San Mateo County	Mitigation	<p>Finding 22. Trees</p> <p>“The County requests that ‘any’ be deleted from the condition, as removal of small, non-native trees and hazard trees may not require mitigation.”</p>	<p>We agree with the requested change and deleted the word “any” from the Finding. The Manuals provide guidance on the tree removals that require mitigation.</p> <p>“Any Trees that are removed will be mitigated at ratios prescribed in each Discharger’s respective Manual and pre-construction annual notification (see Findings Error! Reference source not found. and Error! Reference source not found.). Mitigation and tree planting activities will be included in the Annual Post-Maintenance Report submitted annually to the Water Board”</p>

9	San Mateo County	Mitigation	<p>Finding 20. Temporary Loss – Ground Disturbance</p> <p>“On the 11/13/20 call, the participants discussed removing the “ground-disturbing impacts” category as it overlaps with the temporary and permanent impacts categories described in Mitigation Conditions #19 and #20 and implies that additional mitigation is required. The County requested that this category either be deleted or revised to clearly categorize ground-disturbing activities as temporary or permanent, and consider moving the text about temporary impacts from Mitigation Condition #22 to Mitigation Condition #19. RWQCB staff stated that this condition was from the original order for Napa County and would likely still need to be included; however, the RWQCB will consider revising the condition to more clearly distinguish the mitigation requirements for temporary impacts.”</p>	<p>We agree with the request to clarify temporary and permanent impacts. We revised the Finding to clarify that activities resulting in temporary impacts to waters of the State, which may include ground-disturbing and other activities, require mitigation at a 1.1:1 ratio (mitigation:impacts). The requirement for mitigation is not limited only to ground-disturbing activities, and not all ground-disturbing activities will require mitigation. The extent to which vegetation trimming, both instream and riparian, will require mitigation will depend on the extent of the work and duration of impacts to beneficial uses, including wildlife habitat. Some ground-disturbing activities may not require mitigation, for example work along access roads where impacts to beneficial uses will not occur.</p> <p>The Finding was re-ordered and its heading was revised to further clarify the mitigation ratio described therein is the minimum amount required for temporarily impacted areas of waters of the State, when mitigation is required.</p> <p>The Finding has been revised as follows:</p> <p>22. 20. Temporary Loss Ground Disturbance. <u>Mitigation for ground-disturbing and other activities resulting in temporary impacts to waters of the State must meet the same criteria for all Dischargers. Ground disturbance and other activities generally refer to those that will result in temporary impacts to waters of the State, as listed in Finding Error! Reference source not found., and the mitigation ratios defined herein include the temporal loss associated with those impacts.</u> Each Discharger’s SMP or RMP Manual defines ground-disturbing and other activities. The mitigation must be: (1) of the same type; (2) located where it is most likely to</p>
---	------------------	------------	--	---

Comment Number	Commenter	Topic	Comment	Response
				<p>successfully replace lost area, functions, and beneficial uses; and (3) implemented in advance of, or concurrently with, project impacts. This mitigation must achieve, in general order of preference: the restoration, creation, enhancement, or preservation of stream and wetland systems. In addition, the minimum amount of mitigation will be provided at a 1.1:1 mitigation ratio based on the extent of impacts in acres and linear feet and the duration of temporal loss. The minimum 1.1:1 mitigation ratio includes 1:1 for restoration of the temporarily impacted project area plus 0.1:1 to compensate for temporal loss in functions associated with the temporary impacts. The additional 0.1:1 can also be achieved if the temporarily impacted project area is restored to better than pre-project conditions, resulting in the long-term improvement of functions. <u>This minimum mitigation ratio is specific to activities that will temporarily impact waters of the State, though some temporary impacts may not require mitigation. The final mitigation amount required in any given year will be commiserate with the impacts and determined in coordination with Water Board staff when each Discharger's ANR is reviewed (see Findings Error! Reference source not found. and Error! Reference source not found. and Provision D.Error! Reference source not found.Error! Reference source not found.).</u></p>

Comment Number	Commenter	Topic	Comment	Response
10	San Mateo County	Stream Assessments	<p>Finding 25. Stream Assessments</p> <p>“The County Program is not proposing to conduct maintenance work within an entire reach of a stream. Most maintenance work is small and localized (e.g., culvert repair, limited sediment/vegetation removal at road crossings). Although the County has not conducted stream reach assessments, the County has conducted site assessments for many of its facilities. On the 11/13/20 call, County and RWQCB staff discussed either adding “site or facility assessments” to this condition or adding a footnote that includes more details specific to the County RMP.”</p>	<p>We agree with the proposal to clarify the expected scope of the County’s assessments and added the following footnote to the Finding:</p> <p><u>² San Mateo County’s in-stream maintenance work is mostly small and localized (e.g., culvert repair, limited sediment/vegetation removal at road crossings). Therefore, San Mateo County typically will conduct more-localized assessments of sites, facilities, and the adjacent stream reaches.</u></p>
11	San Mateo County	Vegetation Management	<p>Finding 26. Vegetation Management</p> <p>b. San Mateo County</p> <p>“The County also conducts tree removal where the tree is creating a public safety hazard and grazing to control herbaceous vegetation. The County requests that these activities be added to the list of vegetation management activities.”</p>	<p>We agree and revised the Finding as follows:</p> <p><u>“...pedestrians. San Mateo County’s vegetation management also includes tree removal where the tree is creating a public safety hazard and grazing to control herbaceous vegetation; and...”</u></p>

Comment Number	Commenter	Topic	Comment	Response
12	San Mateo County		<p>Finding 27. Non-Ground-Disturbing Work</p> <p>“The County requests that culvert flushing/clearing be added to the list of non-ground-disturbing activities. The following text on page 10 should be revised as follows: “...maintaining access roads for drainage and accessibility, and conducting minor repairs <u>and maintenance</u> of culverts (e.g., <u>culvert flushing/clearing</u>), provided there is no discharge of waste that may adversely impact water quality or beneficial uses.”</p>	<p>Comment noted.</p> <p>Although culvert maintenance activities such as culvert flushing/clearing may not require compensatory mitigation, those activities still may be “ground-disturbing.” Our understanding, based on our November 13, 2020, call with County staff, is that this comment’s primary concern is related to the ground-disturbance language and potential need for compensatory mitigation. The revisions made to Finding 20 (see response to Comment 9) address this concern.</p>
13	San Mateo County	Avoidance and Minimization	<p>Finding 28. Ground-Disturbing Work</p> <p>“On the 11/13/20 call, the County requested that downed tree management and mechanized vegetation management (i.e., mowing) be removed from the list of ground-disturbing activities. Additionally, these types of activities do not require mitigation. RWQCB staff stated that this condition was specific to Napa County and the list of activities does not necessarily require mitigation. Please consider adding a footnote clarifying that these activities are not considered ground-disturbing in the County’s RMP. Additionally, the County requests the work window to extend from June 15 to October 31 to be consistent among the Dischargers in the order.”</p>	<p>Comment noted. The Tentative Order was revised to provide clarity regarding “ground-disturbing activities.” Please see response to Comment 9. We also revised Finding 28 to clarify that “ground-disturbing activities” are specified in each Discharger’s Manual:</p> <p>“...Ground-disturbing activities <u>vary amongst the Dischargers, but generally include...</u>”</p> <p>The work season is not limited to precipitation factors. Special-status species habitat is also taken into account, as noted in the California Department of Fish and Wildlife’s draft Streambed Alteration Agreement for the RMP. San Mateo County’s RMP Manual also uses the June 15 to October 15 work window consistently. The work season specific to San Mateo County was not revised, but extensions or exceptions may be granted as a case-by-case basis, as detailed in Finding 28.</p>

Comment Number	Commenter	Topic	Comment	Response
14	San Mateo County	Monitoring and Reporting	<p>Finding 33. Annual Notification Report</p> <p>“The County will likely to submit the ANR by April 30 prior to June 1. On the 11/13/20 call, RWQCB staff stated that they will discuss notification requirements for trimming along channels/creeks below top of bank and respond back to the County.”</p>	<p>Comment noted. The ANR may be submitted prior to, but no later than, June 1, as we discussed on the November 13, 2020, call. Notification requirements for trimming along channels/creeks below top of bank, within the limits specified in Provision D.2, may be included in the ANR, as appropriate, but can otherwise be noted in the Annual Post-Maintenance Report.</p>
15	San Mateo County	ANR and Mitigation	<p>Findings 33 and 34. Annual Notification Reporting and Mitigation Plan</p> <p>“The ANR will include the County’s proposed mitigation approach for that coming year. Please note that the proposed mitigation approach may be adjusted, as needed to reflect actual impacts that occurred during the performance of the activities; the Annual Post-Maintenance Report will describe the actual mitigation that was completed for that maintenance season. For example, if the County anticipates removing trees, the County will provide the estimated tree removal quantities and mitigation values in the proposed mitigation approach in the ANR. However, the County will update and finalize the tree mitigation values in the Annual Post-Maintenance Report.”</p>	<p>Comment noted. Some mitigation proposals need not be adjusted to reflect actual impacts that occur during a maintenance year since excess mitigation could be used to address impacts in a subsequent maintenance year. Completing mitigation before the impacts occur may also lessen the amount of mitigation required, since that will reduce or offset the temporal loss impacts. Water Board staff will coordinate with San Mateo County to optimize the proposed mitigation measures when the ANR and Annual Post-Maintenance Report are reviewed.</p>

Comment Number	Commenter	Topic	Comment	Response
16	San Mateo County	Vegetation Management	<p>Provision D.2</p> <p>“Limited vegetation removal/clearing along channels may be necessary to maintain channel capacity, reduce blockages at channel crossings, and to obtain access to maintenance sites (e.g., vegetation clearing around bridge abutments or bank repair sites). On the 11/13/20 call, County and RWQCB staff discussed incorporating the vegetation management limits from the Manual. While the Manual does not include specific vegetation management limits along channels, the County recommends adding the following limit: “150 linear feet of channel length for maintenance at crossings or other features or to provide access to bank or other maintenance sites.”</p>	<p>We agree with the proposed addition and updated Provision D.2 accordingly.</p>
17	San Mateo County	Vegetation Management	<p>Provision D.4</p> <p>“Because the extent of vegetation management activities within channels is minor and primarily limited to crossings, the County requests that this condition not apply to the County’s Program. On the 11/13/20 call, County and RWQCB staff discussed adding a footnote to this condition stating that it does not apply to the County of San Mateo.”</p>	<p>We disagree and have maintained the requirement. Provision D.4 requires the County to describe how proposed vegetation maintenance activities meet specified maintenance objectives, which will be developed in part through assessments the County will complete. To address this concern, we modified Finding 25 to clarify the scale of assessments the County will complete. In addition, the County is proposing to conduct relatively limited vegetation management along a limited number of streams. We expect the County’s descriptions under this provision will be appropriately scaled to the assessments and the proposed vegetation management work.</p>

Comment Number	Commenter	Topic	Comment	Response
18	San Mateo County	Downed Tree Management	<p>Provision D.13</p> <p>“As described in the Manual, the County may need to remove large woody debris (LWD) if channel capacity is significantly reduced or if it is creating unacceptably high hydraulic roughness in the channel, or is directing flows into a streambank resulting in increased erosion, bank instability or flooding risk.</p> <p>When removing or modifying LWD, the County considers the site-specific conditions, size, and type of LWD and strives to reuse the removed LWD in future projects. On the 11/13/20 call, County and RWQCB staff discussed clarifying the language in the condition to refer to the County’s Manual for downed tree management. The County also suggests revising the second sentence in the condition as follows: “If a channel functions, or potentially could function, as habitat for salmonids or other threatened and endangered species, <u>the County will strive to retain then large woody debris cannot be removed as long as there is not an increased risk of erosion, bank instability, or flooding.</u>”</p>	<p>Comment noted. Provisions D.10 and 13 already reference downed tree management implementation being conducted in accordance with the Dischargers’ Manuals.</p> <p>Provision D.13 has been revised to further clarify that some deviations to the restrictions therein may be lifted as long as those deviations are referenced in the Manual and authorized by the appropriate federal agencies (e.g., the National Marine Fisheries Service and U.S. Fish and Wildlife Service):</p> <p>“If a channel functions, or potentially could function, as habitat for salmonids or other threatened and endangered species, then large woody debris cannot be removed, <u>unless described in a Discharger’s Manual and authorized by the federal agencies overseeing special-status species protection.</u>”</p>
19	San Mateo County	Typo	<p>Provision D.19.b(i)</p> <p>“This bullet point is duplicative to the one above it (19.b(i); the County requests that the duplicative bullet point be deleted in the final order”</p>	<p>We agree and made the requested deletion.</p>

Comment Number	Commenter	Topic	Comment	Response
20	San Mateo County	Monitoring and Reporting, Sediment Testing	<p>Provision D.23</p> <p>“For past County projects, such as the Colma Creek Flood Control Channel Long-term Maintenance Project, sediment testing took longer than 3 days to receive the results and approval from the landfill operator to dispose of excavated sediment. Thus, the County may need to stockpile excavated material for longer than 3 working days onsite. During this time, the County would implement BMPs to prevent impacts to water quality. The County requests that the text be revised in this condition to allow excavated sediment to be stockpiled on site for 7-10 working days. The County will also notify the RWQCB if there are testing or other logistical delays requiring the excavated sediment to be stored on site for longer than 10 working days.”</p>	<p>We agree with the proposed change, and revised Provision D.23 as follows:</p> <p>“...The excavated sediment may be stockpiled onsite for up to three working days, or up to <u>10 working days for San Mateo County and the Contra Costa County Flood Control District⁶</u>, within engineered containment areas so that it can be loaded into trucks for off-site disposal...</p> <p><u>⁶Sediment testing in San Mateo County and Contra Costa County will take longer than three working days to complete. If sediment testing is delayed past 10 working days, the County will notify Water Board staff to request an extension.”</u></p>
21	San Mateo County	Channel Assessments	<p>Provision D.36(b)</p> <p>“The County requests adding “or facility characterization sheets” after “reach characterization sheets” for the reasons stated in Avoidance and Minimization Measures Condition #25.”</p>	<p>We agree and revised Provision D. 36(b) as follows:</p> <p>“...shall prepare reach characterization sheets, <u>or facility characterization sheets (see Finding Error! Reference source not found.)</u>, or update existing sheets.”</p>

Comment Number	Commenter	Topic	Comment	Response
22	San Mateo County	Monitoring and Reporting	<p>Provision D.39</p> <p>“Similar to the comment above on [Revised Tentative Order Finding 20], this condition is unclear; it describes temporary and permanent impacts under the ground-disturbing category. The County requests revising this condition to be consistent with the revisions made to [Finding 20] to clearly describe the compensatory mitigation requirements for temporary and permanent impacts</p>	<p>We agree with the requested clarification and revised Provision D.39 as follows:</p> <p>“...from ground-disturbing <u>and other</u> maintenance activities <u>that temporarily impact waters of the State.</u>”</p> <p>See also response to Comment 9.</p>
23	San Mateo County	Monitoring and Reporting	<p>Provision D.49</p> <p>“The County will be available for either a meeting and/or field tour with regulatory agency representatives to discuss the projects for the upcoming season. The County requests the following sentence be revised as follows: “Before June 1 of each year, the Dischargers shall each organize a meeting and/or field tour to discuss the projects scheduled for the upcoming maintenance season, based on the ANR.”</p>	<p>We agree with the requested clarification, which reflects Water Board staff’s typical practice. We revised the Tentative Order accordingly.</p>

Comment Number	Commenter	Topic	Comment	Response
24	San Mateo County	ANR Exemptions	<p>Provision D.51</p> <p>“The following activities would also be exempt from annual notification requirements and would be conducted in accordance with the Manual: (1) road and trail maintenance activities above the top of bank; (2) maintenance and flushing/clearing of ditch relief culverts and GI features where no impacts to waters of the state would occur; (3) trimming and pruning above top of bank; (4) mowing along channels, trails, and roads above the top of bank; (5) trimming and pruning along access roads above top of bank; (6) clearing debris from storm drainage facilities and trash capture basins; (7) burning piles in County Parks; and (8) grazing above top of bank where no impacts to waters would occur. On the 11/13/20 call, RWQCB staff stated that the intent of this condition was not to limit the list of exempt activities. The RWQCB’s preferred approach is to add language referring to the Manual instead of including a list of activities exempt from the annual notification requirements for each Discharger”</p>	<p>We agree that, while generally similar, the different SMP and RMP manuals have slightly different lists for exempt activities. To avoid potential confusion, we revised Provision D.51 to clarify that the exempt activity lists are in the Manuals:</p> <p>“<u>Each Discharger’s Manual includes activities that are exempt from annual notification requirements and which</u> The following activities are exempt from annual notification requirements and may occur any time at the discretion of the Dischargers and consistent with their Manuals: (1) maintenance of existing access roads located along the top of bank where there will be no impact on waters of the State; (2) maintenance of drainage ditches along existing service roads where all work is above the level of top of bank of adjacent stream, and there will be no impact to waters of the State; and (3) hand removal of debris (e.g., trash, shopping carts) that does not involve the removal of vegetation or large woody debris.”</p>

Comment Number	Commenter	Topic	Comment	Response
25	San Mateo County	Typo	<p>Provision D.65. Ground-Disturbing Maintenance Activities work seasons</p> <p>The County requests that the RWQCB correct the typo in this condition for the final order as follows: "...for Napa County Flood Control; June 15 to October 15 for San Mateo County; and June 15 to October 3131october for Contra Costa County Flood Control)..."</p>	We agree and corrected the typographic error.
26	San Mateo County	Sediment Monitoring Reporting Program	<p>Attachment B. Sediment Monitoring and Reporting Program</p> <p>"The County seeks clarification in Att. B, Section 5, Post-Project Monitoring. The text in this section includes: "The following only applies to the Napa County Flood Control District." The County seeks confirmation that all of the post-project monitoring requirements described in Section 5 only apply to the Napa County Flood Control District Stream Maintenance Program."</p>	Comment noted. San Mateo County is correct in its assumption that the post-project monitoring requirements described in Section 5 apply only to the Napa County Flood Control District SMP.

Comment Number	Commenter	Topic	Comment	Response
27	Contra Costa County	Discharger Name in Heading & Page 2	<p>General</p> <p>“In several locations in the Tentative Order, including, but not limited to, pages 1, 3, and 35, the County requests that the name of the Discharger be updated to the “Contra Costa County Flood Control and Water Conservation District and Contra Costa County Public Works Department.” The Contra Costa County Flood Control and Water Conservation District and Contra Costa County Public Works Department both maintain County flood control channels and facilities in Contra Costa County.”</p>	<p>Comment noted. We made the requested revision, as follows:</p> <p>Heading:</p> <p><u>Contra Costa County Flood Control and Water Conservation District and Contra Costa County Public Works Department</u> Routine Maintenance Program Contra Costa County</p> <p>Page 2: Dischargers</p> <ul style="list-style-type: none"> • The Contra Costa County Flood Control and Water Conservation District <u>and Contra Costa County Public Works Department’s</u> (Contra Costa County Flood Control District’s) RMP.
28	Contra Costa County	Stream Maintenance Program Heading	<p>Section I. Stream Maintenance Program</p> <p>“On page 4, the County requests that the header be updated to “Stream Maintenance Program/Routine Maintenance Program” as the County’s Program includes maintenance of other facilities (e.g., access roads/ramps, basins, etc.) in addition to stream maintenance work. The title of the County’s Program is “Routine Maintenance Program”; thus, the County requests that this heading be updated to be consistent with the Manual and supporting documents.”</p>	<p>We agree. See response to Comment 1.</p>

Comment Number	Commenter	Topic	Comment	Response
29	Contra Costa County	Typo	<p>Finding 9(c). Stream Categories, Contra Costa County Flood Control District</p> <p>“There are two “(6)” in the stream categories list for Contra Costa County. The County requests that the second “(6)” be updated to “(7).””</p>	<p>Comment noted. We made the requested copyedit to correct a repeated (6).</p>
30	Contra Costa County	Other Maintenance Activities	<p>Finding 15(c). Other Maintenance Activities, Contra Costa County Flood Control District</p> <p>“The County maintains access ramps in addition to the access roads along channels. The County requests that access ramps be added to the list of other maintenance activities.”</p>	<p>We agree that access ramps are included as part of the County’s routine maintenance program, and revised the Finding to clarify that they are included.</p> <p>Finding 15 (c)(i) instream and off-line detention basins, channel access roads <u>and ramps</u>, repair and replacement of culverts, flap gates, and diversion structures, and trash and debris removal; and...</p>
31	Contra Costa County	Temporary Impact Activities	<p>Finding 16. Temporary Impacts</p> <p>“In-kind culvert repair/replacement activities may result in temporary impacts to waters of the state. On the 11/12 call, the County and RWQCB agreed that this activity should be added to the list under Condition #16.”</p>	<p>We agree. See response to Comment 4.</p>

Comment Number	Commenter	Topic	Comment	Response
32	Contra Costa County	Temporary Impacts	<p>Finding 16(a). Temporary Impacts</p> <p>“The County conducts trimming along access roads and fence lines as well as within channels and basins below the top of bank. On the 11/12 call, the RWQCB stated that significant trimming along channels that may affect aquatic habitat would be considered a temporary impact requiring mitigation. Trimming activities that would not affect aquatic habitat (e.g., trimming along an access road) would not require mitigation. On the 11/18 follow-up call, the RWQCB and County discussed that mitigation for vegetation trimming would be dependent upon the site conditions and trimming activities potentially affecting aquatic habitat would be evaluated on a site-by-site basis. On the 11/18 call, the RWQCB and County agreed to leave the language in the Tentative Order more general and include more detail in the Manual after the first few years of the Program.”</p>	Comment noted. See also response to Comment 9.

Comment Number	Commenter	Topic	Comment	Response
33	Contra Costa County	Impacts	<p>Finding 17. Permanent Impacts</p> <p>“The County would like to note that not all culvert repair/replacement projects will result in permanent impacts to waters of the state. For example, in-kind culvert replacements or minor culvert repairs would only result in temporary disturbance impacts and would not result in additional hardening, new fill, or facility expansion. On the 11/12 call, the County and RWQCB discussed either replacing “will” with “may” or adding specificity to this condition regarding the types of activities that would result in permanent impacts.”</p>	We agree. See response to Comment 6.
34	Contra Costa County	Mitigation	<p>Finding 21. Permanent Loss</p> <p>“On the 11/12 call, the County and RWQCB discussed that the mitigation plan (or approach) will be part of the annual notification report (ANR) and preparation and submittal of a separate mitigation plan will not be required. Thus, the County requests that the RWQCB add a sentence to this condition stating that the mitigation plan/approach can be included in the ANR.”</p>	We agree. See response to Comment 7.
35	Contra Costa County	Mitigation	<p>Finding 22. Trees</p> <p>“The County requests that “Any” be deleted from the condition as removal of small, nonnative trees and hazard trees may not require mitigation.”</p>	We agree. See response to Comment 8.

Comment Number	Commenter	Topic	Comment	Response
36	Contra Costa County	Mitigation	<p>Finding 20. Temporary Loss – Ground Disturbance</p> <p>“The County suggests revising this condition as the “ground-disturbing impacts” category overlaps with the temporary and permanent impacts categories described in Mitigation Conditions 19 and 20 and implies that additional mitigation is required. The County suggests that the RWQCB consider moving text about temporary impacts to Mitigation Condition 19 and adding text to Mitigation Condition 20 that states ground disturbing activities could result in permanent impacts. On the 11/18 call, the RWQCB stated that the RWQCB will work internally to revise this condition.”</p>	See response to Comment 9.
37	Contra Costa County	Typo	<p>Finding 26(c). Vegetation Management</p> <p>“There are two commas in this condition. The County requests that the RWQCB fix the typo in the final order.”</p>	We agree and made the requested copyedit.
38	Contra Costa County	Avoidance and Minimization	<p>Finding 27. Non-Ground Disturbing Work</p> <p>“The County requests that culvert flushing/clearing be added to the list of non-ground disturbing activities. The following text on page 10 should be revised as follows: “...maintaining access roads for drainage and accessibility, and conducting minor repairs and maintenance of culverts (e.g., culvert flushing/clearing), provided there is no discharge of waste that may adversely impact water quality or beneficial uses.”</p>	Comment noted. See Response to Comment 12.

Comment Number	Commenter	Topic	Comment	Response
39	Contra Costa County	Avoidance and Minimization	<p>Finding 28. Ground-Disturbing Work</p> <p>“On the 11/12 call, the County requested that downed tree management and mechanized vegetation management (i.e., mowing) be removed from the list of ground disturbing activities as these two activities do not penetrate into or disturb the ground. The County is concerned that activities such as downed tree management and mowing should not require mitigation as they are not ground disturbing. The County suggests that either (1) these two activities be removed from the condition, or (2) a sentence or footnote be added explaining that a determination as to whether a maintenance activity is considered “ground-disturbing” is dependent upon site conditions and if an activity is not disturbing the ground, mitigation is not required.”</p>	<p>Comment noted.</p> <p>We revised the Tentative Order to provide clarity regarding “ground-disturbing activities.” Please see response to Comment 9. Tentative Order Finding 28 has been revised to clarify that “ground-disturbing activities” are specified in each Discharger’s Manual:</p> <p>“...Ground-disturbing activities <u>vary amongst the Dischargers, but generally include...</u>”</p> <p>Downed tree management and mechanized vegetation management have not been removed from the list of ground disturbing activities as these activities have the potential to disturb the ground and it is premature to determine that all such activities performed by Contra Costa County are not ground-disturbing. Inclusion of these activities as ground-disturbing does not mean that all such activities would require mitigation. Rather, it allows subsequent evaluation of these activities that could result in impacts to beneficial uses requiring mitigation.</p>
40	Contra Costa County	Monitoring and Reporting	<p>Finding 33. Annual Notification Report</p> <p>“The County may submit the ANR prior to June 1 in order to begin certain non-ground disturbing activities prior to June 1 (e.g., mowing, trimming). As discussed on the 11/12 and 11/18 calls, the County will notify for activities occurring through the spring of 2022 for the first year of maintenance under the RMP.”</p>	<p>Comment noted. The Tentative Order allows the ANR to be submitted before June 1 to allow for review of activities that may occur prior to June 1.</p>

Comment Number	Commenter	Topic	Comment	Response
41	Contra Costa County	Monitoring and Reporting	<p>Finding 34. Mitigation Plan</p> <p>“The ANR will include the County’s proposed mitigation approach for that coming year. Please note that the proposed mitigation approach may be adjusted, as needed to reflect actual impacts that occur; the Annual Post-Maintenance Report will describe the actual mitigation that was completed for that maintenance season. For example, if the County anticipates removing trees, the County will estimate the tree removal quantities and mitigation values in the proposed mitigation approach during preparation of the ANR. However, the County will update and finalize the tree mitigation values in the Annual Post-Maintenance Report.”</p>	Comment noted. No change to the Tentative Order is necessary. See response to Comment 15.
42	Contra Costa County	Downed Tree Management	<p>Provision D.13. Large Woody Debris</p> <p>“As described in the Manual, the County may need to remove large woody debris (LWD) if channel capacity is significantly reduced or if it is creating unacceptably high hydraulic roughness in the channel, or is directing flows into a streambank resulting in increased erosion, bank instability, or flooding risk. The County requests that the RWQCB clarify the language in the condition to refer to the County’s Manual for downed tree management.”</p>	See response to Comment 18.

Comment Number	Commenter	Topic	Comment	Response
43	Contra Costa County	Sediment or Debris Removal	<p>Provision D.23. Stockpiled Sediment</p> <p>“Excavated sediment may take longer than 3 working days to dry depending on volume, size of the stockpiles, weather, etc. In addition, sediment testing may take longer than 3 days to receive results. Thus, the County may need to stockpile excavated soil for longer than 3 working days onsite. As discussed on the 11/18 call, the County requests that the text in this condition be revised to allow excavated sediment to be stockpiled on site for either 10-14 working days or to include language referring to the Manual for the duration of stockpiling sediment. Currently, the Manual does not include specific details about the typical duration of sediment stockpiling.”</p>	See response to Comment 20.

Comment Number	Commenter	Topic	Comment	Response
44	Contra Costa County	Mitigation	<p>Provision D.39. Mitigation for Temporary Impacts</p> <p>“Similar to the comment above on Mitigation Condition 22, this condition is unclear; it describes temporary and permanent impacts under the ground-disturbing category. The County requests revising this condition to be consistent with the revisions made to Mitigation Condition 22 to clearly describe the compensatory mitigation requirements for temporary and permanent impacts. On the 11/18 call, the team discussed certain activities that would result in temporary impacts but would not require mitigation and typical activities that would require mitigation. For example, the RWQCB stated that culvert replacement activities below OHW would likely result in temporary impacts on waters of the state and require mitigation at a 1.1:1 ratio because there would be temporal loss in functions and values; however, if the culvert design improves the condition, the 0.1 mitigation would not be required. The RWQCB also stated that access ramp maintenance would result in temporary impacts but would not require mitigation as this type of activity would improve the existing condition.”</p>	<p>Comment noted. We revised Provision D.39 as follows:</p> <p>“...from ground-disturbing <u>and other</u> maintenance activities <u>that temporarily impact waters of the State.</u>”</p> <p>See response to Comment 9.</p> <p>The revision to Provision 39 has been made to clarify that mitigation for temporary impacts is not just limited to ground disturbing activities. Vegetation management activities, such as pruning of riparian or instream vegetation in a manner that impacts beneficial uses through loss of wildlife habitat or canopy cover will require mitigation.</p> <p>Regarding the culvert replacement example, all temporary impacts would require mitigation at a 1.1:1 ratio. The mitigation could be comprised of restoring all temporarily impacted areas to pre-project conditions or better, plus restoration or enhancement of an additional area that is 10% of the impacted areas in size. However, the additional 10% mitigation obligation could potentially be met through improved culvert design that enhances stream flow conditions and wildlife habitat. This approach is not equivalent to saying that mitigation is not required, rather it is a matter of how the mitigation obligation may be met.</p>

Comment Number	Commenter	Topic	Comment	Response
45	Contra Costa County	Monitoring and Reporting	<p>Provision D.49. Annual Meeting/Field Tour</p> <p>“The County will be available for either a meeting and/or field tour with the regulators to discuss the projects for the upcoming season. The County requests the following sentence be revised as follows: ‘Before June 1 of each year, the Dischargers shall each organize a meeting and/or field tour to discuss the projects scheduled for the upcoming maintenance season, based on the ANR.’”</p>	<p>Comment noted. We revised the Provision to allow for either a meeting or a field tour to discuss the projects for the upcoming season, which also reflects Water Board staff’s typical approach.</p>

Comment Number	Commenter	Topic	Comment	Response
46	Contra Costa County	Monitoring and Reporting	<p>Provision D.51. Exemptions from Notification</p> <p>“The following activities would also be exempt from annual notification requirements and would be conducted in accordance with the Manual: (1) debris clearing at trash racks; (2) rodent control at dam and levees and dam site maintenance above the top of bank where no impacts to waters of the state would occur; (3) minor maintenance of small structures, including but not limited to, flap gates, subdrain vaults, tide gates, fish ladders, fish screens, and grade control structures; (4) mowing along channels and access roads above the top of bank; (5) trimming and pruning along access roads above top of bank; and (6) grazing where no impacts to waters would occur. The County understands that the intent of this condition is not to limit the list of exempt activities. The County suggests adding language referring to the Manual in this Condition instead of including a list of activities exempt from the annual notification requirements for each Discharger.”</p>	See Response to Comment 24
47	Contra Costa County	Fees	<p>Provision D.55(c). Fees</p> <p>“The County will pay the project fee of \$65,107 for potential impacts to waters of the State for the 5-year program prior to the RWQCB Board Meeting on December 16.”</p>	Comment noted. We revised the Tentative Order to reflect that the County will pay the required fee by December 14, 2020, prior to the Water Board’s December meeting. The fee amount has been revised from \$65,107 to \$54,290 to reflect use of the 2018/2019 State Water Resources Control Board Dredge or Fill Fee Calculator, which was in effect at the time the 401 certification application was submitted.

Comment Number	Commenter	Topic	Comment	Response
48	Contra Costa County	General Provisions	<p>Provision D.65. Work Dates</p> <p>“The County requests that the RWQCB fix the typo in this condition for the final order as follows: ‘for Napa County Flood Control; June 15 to October 15 for San Mateo County; and June 15 to October 31 for Contra Costa County Flood Control) . . .’”</p>	Comment noted. We revised the Provision to make the requested copyedit.