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In the Matter of the Petition of: CITY OF EL MONTE PETITION FOR REVIEW OF ACTION BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION IN ADOPTING ORDER NO. R4-2012-XXXX, NPDES PERMIT NO. CAS004001, WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES WITHIN THE COASTAL WATERSHEDS OF LOS ANGELES COUNTY, EXCEPT THOSE DISCHARGES ORIGINATING FROM THE CITY OF LONG BEACH MS4	**PETITION FOR REVIEW** [Water Code 13320(a)]

This Petition for Review is submitted on behalf of the City of El Monte ("City" or "Petitioner"), a municipal corporation located in the County of Los Angeles, pursuant to California Water Code Section 13320 and California Code of Regulations ("CCR") Title 23, Section 2050, for review of Order No. R4-2012-XXXX, NPDES Permit No., CAS004001, Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4, which was adopted by the California Regional Water Quality Control Board, Los Angeles Region, ("Order") on November 8, 2012.

I. **NAME, ADDRESS AND TELEPHONE NUMBERS OF PETITIONER**

The Petitioner is the City of El Monte. All written correspondence regarding this matter should be addressed to the following:

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II. **SPECIFIC ACTION OF THE REGIONAL BOARD FOR WHICH REVIEW IS SOUGHT**

Petitioner requests the State Water Resources Control Board ("State Board") to review the afore-referenced Order for the purpose of overturning the Order and remanding it to the Regional Board for correction. A copy of the Order is attached herewith as **Exhibit "A."**

III. **DATE OF REGIONAL BOARD'S ACTION**

The Regional Board adopted the Permit on November 8, 2012.

IV. **STATEMENT OF REASONS WHY THE REGIONAL BOARD'S ACTION WAS INAPPROPRIATE OR IMPROPER**

1. It failed to comply with the Administrative Procedures Act (APA) when it is issued a revised tentative Order that

included substantial changes unrelated to the original text of the initial tentative Order.

2. It failed to comply with federal regulations by: (i) not conducting a reasonable potential analysis ("RPA") when it established a numeric water quality based effluent limitation ("WQBEL") for total maximum daily load ("TMDL") waste load allocations ("WLAs"); (ii) requiring compliance with non-ambient "wet" and "dry" TMDL WLAs in the receiving water based on in-stream monitoring; (iii) not providing a discussion in the administrative record supporting the preference for numeric WQBELs which require absolute compliance with TMDL WLAs (determined by monitoring at the outfall), while not considering other types of federally acceptable WQBELs including BMP-WQBELs and surrogate parameter numeric WQBELs; and (iv) requiring extra-MS4 monitoring and other actions including but not limited to special studies, sediment quality testing, and fish tissue monitoring.

3. It failed to comply with precedential State Board Water Quality Orders (WQOs) including: (i)several which affirm that numeric effluent limitations in MS4 permits are not feasible; (ii) WQO 99-05, by compelling compliance with extraneous and overbroad requirements; (iii) eliminating the iterative process contrary to WQO 2001-15; and (iv) allowing watershed management programs (WMPs) and enhanced watershed management programs (EWMPs) as a means of complying with water quality standards (including TMDLs) contrary to WQO 2001-15.

4. It failed to comply with California Water Code ("CWC") Section 13241 notwithstanding that several of the Order's requirements exceed of federal regulations.

5. It failed to comply with Article XIIIB of the California Constitution on unfunded mandates because the Order requires compliance with requirements that exceed federal law.

6. It exceeded federal law by requiring compliance with the Los Angeles River Metals and Trash TMDLs despite the fact that Reach 2 of the Rio Hondo, in which the City is located, is not listed for any of these TMDLs according to the Regional Board's 303(d) list.

V. HOW THE PETITIONER IS AGGRIEVED

Petitioner is a Permittee under the Order. It is responsible for complying with it requirements which exceed federal and State law and are lacking in clarity and are confusing. Failure to correctly comply with the Order exposes Petitioners to liability under the Clean Water Act ("CWA") and the California Water Code ("CWC"). The Order also requires compliance with requirements that are burdensome administratively and extraordinarily costly because the Order incorporates several total maximum daily loads ("TMDLs").

VI. ACTION PETITIONERS REQUEST THE STATE WATER BOARD TO TAKE

1. Invalidate the Order on the grounds that: (i) the Regional Board failed to comply with Administrative Procedure Act "APA") requirements when it issued a revised tentative Order on October 18, 2012; and (ii) it failed to comply with federal and State law and precedential State Board WQOs.

2. Remand the Order to the Regional Board for correction.

VII. **POINTS AND AUTHORITIES**

The following is a discussion of the issues the City raises in this Petition. The City also raises other issues that were presented previous written comments submitted on behalf of the City, copies of which are attached herewith as **Exhibit "B."** Further, these issues were presented at Regional Board workshops and public hearings.

1. **Regional Board Failed to Establish the Need for a Water Quality Based Effluent Limitation**

The Regional Board failed to provide adequate justification for incorporating water quality based effluent limitations (WQBELs) in the adopted Order for each of the TMDLs.[1] A WQBEL is an enforceable translation in an MS4 permit for attaining compliance with a total maximum daily load (TMDL) waste load allocation, which serves to protect a beneficial use of a receiving water. Specifically, the Regional Board failed to establish first if discharges from each municipal MS4 have the *reasonable potential to cause*, or *contribute* to an excursion above any [s]tate water quality standard including [s]tate narrative criteria for water quality."[2] According to USEPA guidance:

> *A permit writer can conduct a reasonable potential analysis using effluent and receiving water data and modeling techniques, as described above, or using a non-quantitative approach.*[3]

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[1]A TMDL is a type of water quality standard.
[2]NPDES Permit Writers' Manual, September 2010, page 6-23.
[3]Ibid.

Federal regulations not only require a reasonable potential analysis (RPA)[4] be performed to determine if an excursion above a water quality standard has occurred, but that the stormwater discharge must be measured against an "allowable" ambient concentration.[5]

Neither the administrative record nor the Order's fact sheet contains any evidence of the Regional Board having performed an RPA in accordance with the two foregoing approaches. Regarding the first approach, such an analysis would in any case have been impossible to perform given that no outfall ("effluent") monitoring has been required for any Los Angeles County MS4 permit since the MS4 program began in 1990. No intra-MS4 modeling has been conducted either by the Regional Board or by this permittee. Further, while wet and dry weather monitoring data have been generated relative to some TMDLs, such data cannot singularly serve to determine an excursion above a TMDL. Outfall monitoring data also needs to be evaluated against in-stream generated ambient (dry weather) data to make such a determination. As for the second, non-quantitative approach, the Regional Board also failed to provide information in the administrative record indicating that it had performed a non-quantitative analysis based on recommended criteria described in USEPA guidance.

In lieu of conducting either a quantitative or non-quantitative RPA, the Regional Board added a third method of its own invention. In its fact sheet, the Regional Board concluded, based on its reading of the "NPDES Permit Writers" Manual, that: *Reasonable potential can be demonstrated in several ways, one of which is through the TMDL development process*.[6] In essence, the Regional Board is claiming that the same analysis it used to establish a TMDL constitutes a type of RPA. The logic it used to arrive at this

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[4] 40 CFR §122.44(d)
[5] Ibid.
[6] Fact Sheet, Attachment "F" Order No. R4-2012-XXXX, MS4 Permit No. CAS004001, page F-33.

conclusion is faulty. A WQBEL is a means of attaining a TMDL WLA, which is typically expressed as a best management practice (BMP). Before a WQBEL can be developed, however, a need for it must be established. As the Writers' Manual points-out:

> *The permit writer should always provide justification for the decision to require WQBELs in the permit fact sheet or statement of basis and must do so where required by federal and state regulations. A thorough rationale is particularly important when the decision to include WQBELs is not based on an analysis of effluent data for the pollutant of concern.*[7]

It is clear that no such rationale is provided in the Regional Board's fact sheet which, in the absence of effluent data derived from outfall monitoring, would have been absolutely necessary to justify the need for a WQBEL. It is possible that outfall monitoring could demonstrate that existing BMPs implemented through a MS4 permittee's stormwater management plan is already meeting a TMDL WLA, thereby obviating the need for any WQBEL.

The absence of any reference to WQBELs in any of the Regional Board's TMDLs further counters its assertion that the TMDL development process satisfies the RPA requirement for establishing a WQBEL.

Lastly, during the Order's adoption hearing on November 8th, USEPA's Associate Water Division Director John Kemmerer was critical of the Regional Board for not providing any justification in the administrative record for allowing the use of a WMP or a EWMP as a means of meeting TMDLs through the Order.

2. **Numeric Water Quality Based Effluent Limitation Compliance with TMDL Waste Load Allocations is Improper and Arbitrary**

Even had the Regional Board determined the need for WQBELs based on TMDL WLA exceedances detected at the outfall, its

[7] Ibid.

definition of a WQBEL is still inconsistent with federal law. It has defined a WQBEL to be the same as a TMDL WLA as the following indicates:

> *This Order establishes WQBELs consistent with the assumptions and requirements of all available TMDL waste load allocations assigned to discharges from the Permittees' MS4s.*[8]

The Order goes on to say:

> *For purposes of compliance determination, each Permittee is responsible for demonstrating that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation(s) at the outfall or receiving water limitation(s) in the target receiving water.*[9]

The Regional Board's definition of a WQBEL is incorrect. A WQBEL cannot be a compliance standard in and of itself. Rather, it can only be a means of achieving a TMDL WLA or other water quality standard; it cannot be used to determine an exceedance of a TMDL or any other water quality standard. Further, the WQBEL type that the Regional Board has chosen is a numeric WQBEL, which is inappropriate. As mentioned in several USEPA guidance documents, a WQBEL is a BMP or other action(s) deemed appropriate to attain a TMDL or other water quality standard. The Regional Board's use of numeric WQBELs in meeting TMDL WLAs is arbitrary. While it may be possible to establish a numeric WQBEL that is the same as a TMDL WLA there must be a justification for it because, as USEPA has noted, the need for one would only rarely arise. The administrative record, however, contains no discussion of why the Regional Board chose a numeric WQBEL over a BMP WQBEL – especially given that no excursions above any TMDL has been detected through effluent/outfall monitoring. USEPA's 2010 memorandum on TMDL compliance provides clear guidance on this matter:

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[8]Order, page 38.
[9]Order, page 144.

> *The permitting authority's decision as to how to express the WQBEL(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.*[10]

Nothing in the Regional Board's administrative record contains a rationale justifying numeric effluent limitations based on the above criteria.

The Regional Board also neglected to discuss other types of numeric WQBELs that are referenced in USEPA's November 2010 memorandum. A follow-up memorandum issued by USEPA in March 2011 clarified that the 2010 memorandum should not be interpreted to mean that only end-of-pipe numeric WQBELs applied to an MS4's outfall must be used. The clarification memorandum explained that the 2010 memorandum *"expressly describes "numeric" limitations in broad terms, including "numeric parameters acting as surrogates for pollutants such as stormwater flow volume or percentage or amount of impervious cover."*[11] The administrative record and the Order's fact sheet mention nothing about these and other numeric WQBELs.

There is also the issue of "feasibility" as it relates to numeric WQBELs. USEPA's 2010 memorandum recommends *where feasible, the NPDES permitting authority exercise its discretion to include numeric effluent limitations as necessary to meet water quality standards.*[12] This view is based on 40 CFR §122.44(k), which authorizes the use of BMPs "when numeric limitations are infeasible." The issue of whether numeric effluent limitations must

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[10]Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Waste Load Allocations (WLAs) for Storm Water Sources and NPDES Permits Based on Those WLAs," November 2010, page 2.

[11]Memorandum from Kevin Weiss, Water Permits Division, USEPA, Washington D.C., March 17, 2011, page 2.

[12]Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Waste Load Allocations (WLAs) for Storm Water Sources and NPDES Permits Based on Those WLAs," November 2010, page 2.

be included in MS4 permits has been settled by the State Water Resources Control Board (State Board). Starting with Water Quality Order 91-03, the State Board held:

> *… we conclude that numeric effluent limitations are infeasible as a means of reducing pollutants in municipal storm water discharges, at least at this time.*[13]

Although this determination was made over twenty years ago, the State Board's position on this issue has not changed since then, as evidenced by its adoption of the Caltrans MS4 permit in September of 2012. Citing the fact sheet for that permit, the State Board affirmed that:

> *It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges.*[14]

The Caltrans MS4 permit fact sheet also supports the use of BMP WQBELs as a means of meeting TMDLs and other quality standards. The Caltrans MS4 permit is also subject to TMDLs adopted by the Regional Board and USEPA. If the Order is not overturned, Los Angeles County MS4 permittees will be compelled to strictly comply with numeric WQBELs and RLWs, while Caltrans need only implement WQBEL BMPs to achieve compliance with the same TMDLs.

Moreover, the Order allows the use of BMPs to meet federal TMDLs, presumably until and if the Regional Board and State Board adopt them at a later date as basin plan amendments. Having two compliance standards, one for State adopted TMDLs that require meeting numeric WQBELs and one for USEPA adopted TMDLs that require BMP-WQBELs makes no sense and is unfair – given that all of the

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[13]State Water Resources Control Board Water Quality Order 91-03, page 49.
[14]Fact Sheet for NPDES Permit and Waste Discharges Requirements for State of California Department of Transportation, NPDES Permit No. CAS000003, Order No. 2012-XX-DWG, September 7, 2012, page 9.

TMDLs, when implemented through the Order must follow the same statutory rules and guidance. While the State may impose requirements more stringent than federal regulations it must provide a justification. Inter alia, it must comply with §13241 of the California Water Code (CWC), which calls for consideration of factors such as economics and housing. There is nothing in the record that indicates such an analysis was performed.

Since the Regional Board failed to establish the need for a WQBEL, incorrectly defined a WQBEL as a compliance standard (as opposed to as means of achieving compliance with a TMDL WLA) and provided no justification for requiring a numeric WQBEL, any requirement of the Order that is dependent on compliance or associated with a WQBEL must be voided.

3. **Previously Adopted TMDLs Establish Compliance with Waste Load Allocations in the Receiving Water which Exceeds Federal Stormwater Regulations and State Law as they Relate to MS4 Permits**

In addition to complying with TMDL WLAs at the outfall, the Order also requires compliance with TMDL WLAs (dry and wet weather) in the receiving water as a "limitation." Examples include, but are not limited to, the metals TMDLs for the Los Angeles River adopted by the State, the metals TMDL for the San Gabriel River adopted by USEPA, the Los Angeles River Bacteria TMDL and the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL. The affected TMDLs all require in-stream monitoring to determine compliance with waste load allocations.

Federal regulations only require two types of monitoring: effluent and ambient:

> *The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the*

> *limit on the indicator parameter continues to attain and maintain applicable water quality standards.*[15]

USEPA defines effluent as outfall discharges. Ambient monitoring is defined by USEPA to mean the:

> *Natural concentration of water quality constituents prior to mixing of either point or nonpoint source load of contaminants. Reference ambient concentration is used to indicate the concentration of a chemical that will not cause adverse impact to human health.*[16]

All TMDLs and other water quality standards are ambient standards as noted in a USEPA commissioned report:

> *… EPA is obligated to implement the Total Maximum Daily Load (TMDL) program, the objective of which is attainment of ambient water quality standards through the control of both point and nonpoint sources of pollution.*[17]

Although some of the TMDLs specify ambient monitoring such as the Los Angeles River Metals and Bacteria TMDLs, the Regional Board has misunderstood ambient monitoring to be a form of in-stream compliance monitoring, along with TMDL effectiveness monitoring. For example, the Los Angeles River Metals TMDL requires Los Angeles County MS4 permittees and Caltrans to submit a coordinated monitoring plan (CMP), which includes both "TMDL effectiveness monitoring and ambient monitoring."[18]

The CMP that was submitted to and approved by the Regional Board proposed a monitoring plan that essentially treats TMDL effectiveness monitoring and ambient monitoring as one of the same,

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[15]CFR 40 §122.44(d)(viii)(B).
[16]See USEPA Glossary of Terms.
[17]Assessing the TMDL Approach to Water Quality Management Committee to Assess the Scientific Basis of the Total Maximum Daily Load Approach to Water Pollution Reduction, Water Science and Technology Board, National Research Council, page 12.
[18]Total Maximum Daily Loads for Metals and Los Angeles River and Tributaries, U.S. Environmental Protection Agency, Region 9, California Regional Water Quality Control Board, Los Angeles Region, May 27, 2005, page 79.

and which collectively serve the purpose of determining compliance with dry and wet weather WLAs based on in-stream monitoring.

It is unclear why the Regional Board established two compliance standards, one of which (viz., wet weather WLAs) is clearly not authorized under federal law. One explanation is that it did so because previously adopted TMDLs, some of which date back a few years, assumed that compliance with them would be determined by in-stream monitoring. The Regional Board appears not to have been aware at the time of the TMDLs adoption that attainment of waste load allocations is determined by outfall monitoring. More recently adopted TMDLs, however, such as the Machado Lake Nutrients TMDL, do not require compliance in the receiving water (the lake in this case) but instead compliance at the outfall. The Regional Board has not explained why certain TMDLs are required to be complied with at the outfall while others are required to be complied with in the receiving water.

The purpose of ambient monitoring is to evaluate the health of receiving waters determined during normal states – not when it rains. State-sponsored Surface Water Ambient Monitoring Programs (SWAMPs) recognize that ambient monitoring is only performed during dry weather. As mentioned above, ambient monitoring sets a reference point against which stormwater discharges are measured to determine attainment of water quality standards. While the State and federal-adopted TMDLs call for both dry and wet weather WLAs, federal regulations do not recognize either. It is the ambient standard that operates as a TMDL WLA.

MS4 permits are only required to conduct outfall monitoring for stormwater discharges from the MS4. Dry or non-stormwater discharge monitoring is limited to within the MS4 and for the exclusive purpose of detecting illicit discharges and connections upstream of an outfall at field screening points. Therefore, monitoring or any requirement that lies outside of the outfall is not authorized by federal law.

4. **Order Requirements Based on Compliance with In-stream TMDL WLAs Must be Voided**

Several TMDLs include requirements to submit implementation plans, monitoring plans, and special studies that are based on compliance with TMDL WLAs determined by in-stream monitoring. These TMDL-related requirements must be voided and re-opened to remove the extra-legal requirements.

5. **Time Schedule Orders Are Inappropriate**

Because the Order incorporates TMDLs with compliance deadlines to meet WLAs based on in-stream monitoring, several permittees will be in an instant state of non-compliance as soon as the Order takes effect. Monitoring results for the Los Angeles River Metals TMDL reveal that no permittee is in compliance with any of the wet weather WLAs for metals. The Order specifies that:

> *Permittees shall comply immediately with water quality-based effluent limitations and/or receiving water limitations to implement WLAs in state-adopted TMDLs for which final compliance deadlines have passed pursuant to the TMDL implementation schedule.*[19]

If a permittee cannot comply with TMDL WLAs either at the outfall or in the receiving water, it has the option of asking the Regional Board for additional time to comply through a Time Schedule Order (TSO), an Administrative Enforcement Action and Remedy under CWC §13300. A permittee can be excused of a violation and enforcement action by, among other things, providing the Regional Board with a *justification of the need for additional time to achieve the water quality-based effluent limitations and/or receiving water limitations.*[20]

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[19]Order, page 149.
[20]Ibid.

The TSO option is not applicable or appropriate because a violation cannot arise if monitoring detects a WLA exceedance either at the outfall or in the receiving water. A WQBEL, as mentioned, is a means of achieving compliance with a WLA, typically through the implementation of BMPs and other actions. A violation also cannot result if an exceedance is detected in a receiving water because compliance is determined at the outfall. Furthermore, if a permittee is implementing its stormwater quality management plan, in accordance with the Order's RWL provisions, an exceedance cannot result and a violation cannot arise.

6. **Receiving Water Limitations Are Confusing, Unclear, Overbroad and Exceed State Water Quality Order 99-05**

RWL language is required in all California MS4 permits. The Regional Board contends that the RWL contained in the adopted Order is no different from the previous MS4 permit that was adopted in 2001. However, a comparison of the 2001 Order and the adopted Order reveals that they are significantly dissimilar. The 2001 Order and its amendments require compliance with water quality standards and water quality objectives:

> *Discharges from the MS4 that cause or contribute to the violation of Water Quality Standards or water quality objectives are prohibited.*[21]

The adopted Order, on the other hand, requires compliance with RWLs, which it defines as:

> *Any applicable limitation to the applicable water quality objective or criterion for the receiving water as* contained in Chapter 3 or 7 *of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to 40 CFR* §131.38.[22]

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[21]NPDES CAS004001, Order No. 01-18, page 23.
[22]Order, Attachment A, Definitions, page A-17.

This RWL definition is not contained in the previous Order and is defective for the following reasons:

i. It requires compliance only with water quality objectives, which pertain to waters of the State. Water quality standards, which is a federal term applied to the waters of the United States, is absent. Furthermore, the term "criterion" is not defined, making compliance with it impossible.

ii. It is overbroad in that it includes compliance with the entire Basin Plan;[23] all water quality controls plans or policies adopted by the State Water Board – including those adopted by other Regional Boards; 40 CFR §131.38 (*Establishment of numeric criteria for priority toxic pollutants for the State of California)* and all other federal regulations.

iii. It is vague because it requires compliance with Chapter 3 or 7 of the Basin Plan.

The RWL language in the Order is also inconsistent with precedential State Board Water Quality Order 99-05, which unequivocally requires compliance with storm water management plans as a means of complying with RWLs and, therewith, water quality standards. WQ 99-05 mentions nothing about the need to comply with the other provisions mentioned above.

Further adding to the confusion is the Order's revised fact sheet which states that RWLs *prohibits discharges from the MS4 that cause or contribute to the violation of water quality standards*.[24] The Order, on the other hand, says the following: *Discharges from*

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[23]All water quality control plans adopted by the State could also include basin plans adopted by all Regional Water boards since the State Board must also approve all basins plans.

[24]Fact Sheet, Attachment "F" Order No. R4-2012-XXXX, MS4 Permit No. CAS004001, page F-35.

the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.[25] This begs the question, are permittees required to prohibit discharges that cause or contribute to water quality standards or to receiving waters?

7. **Iterative Process Is Not Per Se Included in the Order**

The iterative process is a standard MS4 feature in State-issued MS4 permits, which is not specifically referred to as an "iterative process" but instead is described in operational terms under the Order's RWL section. Nevertheless, State Water Board Orders have affirmed that the iterative process is a resident MS4 permit feature. Through WQO 2001-15, the State Board explained:

> *… Our language requires that storm water management plans be designed to achieve compliance with water quality standards. Compliance is to be achieved over time, through an iterative approach requiring improved BMPs.*[26]

Eight years later, the State Board re-affirmed that position in WQO 2009-0008:

> *… we will generally not require 'strict compliance' with water quality standards through numeric effluent limitations," and instead "we will continue to follow an iterative approach, which seeks compliance over time" with water quality standards.*[27]

Although the Order's revised fact sheet refers to an iterative process described in the RWL section, the Order does not specifically identify the process as an iterative one. This poses a serious problem. On the one hand, the State Board has determined that an iterative process must be included in MS4 permits, but on

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[25]Order, page 38.
[26]State Water Board Order WQ 2001-15, page 5.
[27]State Water Board Order WQ 2009-0008, page 8.

the other the 9th Circuit Court in NRDC v. Los Angeles County Flood Control District held there is no "textual support" for the iterative process in the 2001 Order. This ruling, in effect, invalidates an iterative process in any Order unless it is specifically referenced as an iterative process. In other words, it is not enough for a "process" to be described; it must also be called-out as an iterative process. To comply with the State Board orders without running afoul of the 9th Circuit's ruling, the Regional Board must include the term "iterative process" in the Order. It is expected that this and other RWL issues will be resolved once the State Board develops model RWL language.

8. **Adaptive Management Process Does Not Comply with the Iterative Process Required of State Board Orders**

The Order makes available an adaptive management process (AMP) to permittees that choose to participate in a WMP. The AMP appears to be the iterative process but modified by the Regional Board for use by those permittees that participate in a WMP. However, the AMP does not afford the same protections as the iterative process. Most conspicuous, the AMP does not place a permittee into compliance with RWLs or water quality standards by implementing a stormwater management plan in a timely manner.

The AMP should be struck from the Order because it does not comply with the iterative process requirements referenced in the aforementioned State Board WQOs.

9. **Watershed and Enhanced Watershed Management Programs Are Premature and Cannot Provide an Alternative Compliance Approach**

The watershed management program (WMP) and enhanced watershed management program proferred by the Los Angeles County Flood Control District) are compliance options available to permittees. According to the Regional Board they are intended to "incentivize" permittees

to participate in a collective permittee program instead of an individual program, which is based solely on the implementation of stormwater quality management plans that include BMPs and other requirements that target TMDL WLAs. The WMP and EWMP on the other hand, take a collective approach to addressing TMDLs through uniform programs, BMPs, and other requirements implemented at a watershed level. The WMP and EWMP enable compliance with WQBELs and RWLs – albeit both requirements are unauthorized under federal stormwater regulations and are contrary to precedential State Board WQOs – unless however they can be regarded as stormwater management plan sub-sets.

The WMP approach, in any case, is unwarranted at this time because none of the MS4s has been characterized -- a requirement specified in CFR 40, §122.26. As mentioned, this is because previous Los Angeles County Orders did not require outfall monitoring. Without outfall data, it is impossible to know if an MS4 is causing or contributing to a TMDL WLA exceedance. Without such data, it is also impossible to know if MS4s have pollution contribution issues in common sufficient to warrant a watershed approach to pollution management.

Further, the WMP and EWMP approaches are based on the faulty premise that compliance with TMDL WLAs is determined: (1) in the receiving water through in-stream, non-ambient monitoring; and (2) by strict compliance with WLAs, expressed as numeric WQBELs, based on outfall monitoring. Therefore, the Order should be revised to treat the WMP and EWMP as stormwater management program options.

10. **Non-stormwater Discharge Prohibitions Exceed Federal Regulations and Are Inconsistent with State Board Water Quality Orders, Confusing, and in Conflict**

The adopted Order contains a significant revision to non-stormwater discharge prohibitions. It reads:

> *Each Permittee shall, for the portion of the MS4 for which it is an owner or operator, prohibit non-storm water discharges <u>through</u> the MS4 to receiving waters …*[28]

The previous (2001) Order, in sharp contrast, required MS4 permittees to *"effectively prohibit non-storm water discharges into the MS4."*[29] The previous Order also provided for several exceptions of non-stormwater discharges that could be legally discharged to the MS4. Non-stormwater discharges that were not exempted were deemed illicit discharges. The adopted Order, on the other hand, revises the non-stormwater discharge prohibition by replacing "to" the MS4 with "through" the MS4 and in the case of TMDL discharges "from the MS4" to a receiving water.

The adopted Order also, oddly, retains from the previous Order the requirement to continue to establish legal authority to prohibit illicit discharges and connections to the MS4. The Regional Board apparently retained this provision to enable permittees to enforce the illicit connection and discharge detection and elimination (ICID-DE) program. So doing, however, creates a conflict with the Order's requirement to treat non-exempted, non-stormwater discharges from the MS4 also as illicit discharges, not only to the MS4 but through and from it as well. This will give rise to much confusion if the Order is not overturned and corrected.

The Regional Board's revised non-stormwater provision is not authorized under federal stormwater regulations. Nevertheless, the Regional Board attempts to rely on 40 CFR §122.26(a)(3)(iv) to assert that an MS4 permittee is only responsible for discharges of storm water and non-storm water from the MS4. The Regional Board's citation mentions nothing about permittees being responsible for stormwater and non-storm from the MS4. Instead, it states that Co-

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[28]Order, page 27.
[29]NPDES CAS004001, Order No. 01-182, December 13, 2001, page 16.

permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewer system. But the term "discharges" here refers to stormwater discharges only. Beyond this, CFR 40 §122.26 mentions nothing about prohibiting non-stormwater or illicit discharges from or through the MS4.

Instead, 402(p)(B)(ii) of the Clean Water Act, clearly specifies that MS4 permits *"shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers."* Nothing in this section or anywhere else in the Clean Water Act authorizes a prohibition of non-stormwater discharges "through" or "from" the MS4. In fact, the Regional Board cites no legal authority either in the Order or in the most recent fact sheet to support changing the discharge prohibition from "to" or "into" the MS4 to "through" or "from" the MS4.

It should also be noted that all MS4 permits in California adhere to 402(p)(b)(ii). This includes the State Board's recently adopted Caltrans MS4 permit and its draft Phase II MS4 permit, which is scheduled for adoption in January of next year.

Further, the Regional Board's revision of the non-stormwater discharge prohibition is totally inconsistent with USEPA's guidance*: Illicit Discharge Detection and Elimination A Guidance Manual for Program Development and Technical Assessments.* The manual is based on federal non-stormwater discharge prohibition into the MS4. It provides for specific actions, tasks, and monitoring methodologies to enable MS4 permittees to comply with the illicit connection and discharge detection and elimination program (ICID/DE), which is a federal stormwater requirement. Changing the non-stormwater discharge prohibition to regulate non-stormwater discharges through and from the MS4 would render useless the ICID/DE manual and its purpose.

The Regional Board bases its radical revision of the non-stormwater discharge prohibition on the need to prevent polluted dry weather discharges, including those subject to TMDL regulation, from

entering the MS4. When Congress adopted 402(p)(B), it was aware that non-stormwater discharges could contribute to in-stream impairments of beneficial uses. However, the means for achieving this objective is the ICID-DE program.

Prohibiting non-stormwater discharges to the MS4 effectively reduces and in some cases eliminates illicit discharges to receiving waters by controlling the source of the discharges within the limitations of its local authority. To that end, MS4 permittees are required to establish legal authority to make an illicit discharge or connection a municipal violation, which if not halted, would require the discharge to be permitted under an authority other than the municipality.[30] In addition, the ICID-DE program requires monitoring to field screen for illicit connections and dumping in accordance with procedures specified in 40 CFR §122.26(d)(1)(iv)(D). An effective field screening program should significantly reduce non-stormwater discharges to the MS4 by eliminating or permitting them at the source.

Requiring compliance instead with prohibiting non-stormwater discharges through and from the MS4 would place the onus of treating all non-stormwater discharges -- including those over which a municipality has no control – exclusively on permittees.

Another compelling argument against requiring compliance with non-stormwater discharges through and from the MS4 is that it would frustrate municipal code enforcement in halting non-stormwater discharges through or from the MS4. Observing and detecting an unauthorized non-stormwater discharge through or from the MS4 is far more difficult than observing a non-stormwater discharge to the MS4. To ferret-out non-exempted stormwater discharges once it is through an MS4 component such as an enclosed storm drain or in a catch basin would require frequent monitoring not only at the outfall but upstream of it as well.

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[30]Federal Register Volume 55, No. 222, 47990.

Then there is the issue of enforcement. If a non-stormwater discharge is detected through monitoring from a manhole point it would be difficult if not impossible to determine legally who or what caused the impermissible non-stormwater discharge. Detecting a non-stormwater discharge to the MS4, prior to it entering a storm drain or catch basin (where the discharge cannot be readily be seen), or being discharged from an outfall, is much easier. If a suspected or actual illicit discharge is identified, a municipal permittee can quickly respond to it through a code enforcement citation and would not have to be concerned about evidence issues if the violation is challenged. Further complicating matters is that there are dischargers that are covered under separate NPDES permits that are allowed to discharge to the MS4. If an exceedance for a dry weather TMDL discharge is detected by outfall monitoring covering a drainage area that includes NPDES permitted discharges, how would anyone know who or what caused the exceedance? This creates a very real evidentiary problem -- not unlike the one the 9th Circuit Court dealt with in NRDC v. LACFCD concerning both non-storm water and stormwater exceedances detected in receiving waters.

11. **Monitoring Requirements Exceed Federal Requirements**

The Order's monitoring requirements contained in Attachment E, Monitoring and Reporting Program are excessive. They require outfall and receiving water monitoring to comply with wet and dry weather TMDL WLAs. As mentioned earlier, such requirements are not authorized under federal regulations. Federal regulations only require outfall monitoring to evaluate MS4 stormwater discharges against ambient standards in the receiving water to determine exceedances.

Further, the "end of the regulatory line" for MS4 permits is stormwater discharges from the outfall. Such stormwater discharges must be controlled to the maximum extent practicable (MEP). As

noted, non-stormwater discharges only require a prohibition to the MS4. Although non-stormwater discharge monitoring is required under federal regulations, it is limited to intra-MS4 field screening for the purpose of identifying and detecting illicit discharges and connections. Nothing in CFR 40 §122.26 requires the performance of tasks that lie outside of the MS4. This includes, but is not limited to in-stream monitoring, fish tissue testing, special studies, and sediment testing.

The Regional Board contends, however, that federal regulations do in fact authorize it to require extra-MS4 monitoring. It cites several federal regulations to support this claim, which as explained below, are not persuasive.

- Clean Water Act Section 308 is inapplicable because it pertains to maintaining records, submitting reports, maintaining monitoring equipment, and sampling effluents in accordance with such sampling methods. The use of the term "effluents" can only apply to point source discharges, not in-stream. Since federal regulations only require outfall monitoring of stormwater discharges, effluent can only mean stormwater discharges from the outfall. This supports the argument that MS4 monitoring is restricted to stormwater discharges and non-stormwater discharge monitoring is limited to intra-MS4 field screening for illicit discharges and connections.

- 40 CFR §123.25 is irrelevant because it merely asserts that States may go beyond federal monitoring requirements. This is not disputed. Nevertheless, if the Regional Board chooses to exceed federal monitoring requirements it must comply with CWC section 13241, which includes but is not limited to an analysis of economic and housing impact considerations. That analysis has not been done by the Regional Board.

- CFR 40 §122.41(h) does not apply because it refers to a permittee's duty to provide permit-related information to the "Director." It cannot be used to justify requiring a permittee to perform any monitoring requirement that the Director wishes.

- CFR 40 §122.41(j) is inapplicable because it deals with the permitting agency's right to inspection and entry to an NPDES permitted facility.

- CFR 40 §122.41(k) is inapplicable because it is exclusively concerned with permittee signatory requirements relating to applications, reports, and other information submitted to the permitting agency's Director.

- CFR 40 §122.41(l), is inapplicable because it requires a permittee to notify the permitting agency's Director of any changes to a permitted facility.

- CFR 40 §122.44(i), which although pertains to monitoring requirements affecting MS4 permittees, only specifies requirements relating to pollutant measurements and the volume of effluent discharged from outfalls. It does not authorize a permitting agency to require extra-MS4 monitoring. Further, its reference to taking measurements in internal waste streams and pollutants in intake water relates to "influent" discharges associated with sewage treatment and industrial facilities.

- CFR 40 §122.48 is inapplicable because it is exclusively concerned with recording and reporting results.

- CFR 40 §122.26(d)(2)(i)(F) applies only to the permittee's responsibility to: *Carryout out all inspection, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.* It confers no authority upon the Regional Board to require permittees to perform extra-MS4 monitoring.

- CFR 40 §122.26(d)(2)(iii)(D) applies to the permittee's responsibility to propose *a monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of in-stream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment.* This provision does not give the Regional Board the authority to require extra-MS4 monitoring. It only allows a permittee to select outfalls or field screening points (which are intra-MS4). Field screening refers to a specific procedure for selecting outfalls and manhole points to be used to facilitate

detection and elimination of illicit discharges and connections. A permittee may propose in-stream stations as alternatives to outfalls or field screening points (manholes upstream of an outfall) in the absence of these facilities. This is because there are areas of the Country where there are no outfalls or manhole points but instead only in-stream points from which monitoring can be performed.

- CFR 40 §122.42(c) is irrelevant because it governs annual reporting and has nothing to do with monitoring.

All requirements contained in the Order's MRP that call for extra-MS4 permit monitoring must be voided.

Finally, the Order fails to require illicit connection and discharge field screening which is a mandatory requirement specified under federal stormwater regulations.[31] Field screening includes a procedure for identifying field screening points (outfalls and manholes) and taking non-stormwater discharge samples for analysis of prescribed constituents including pH, total chlorine, total copper, total phenol, and detergents (surfactants).

The Order also requires monitoring for outfall municipal action levels (MALs). This monitoring requirement is an addition to conducting outfall monitoring for TMDL compliance. The Order states that the purpose of municipal action level (MAL) sampling is to *determine the effectiveness of a Permittee's storm water management program in reducing pollutant loads from a particular drainage area and in order to assess compliance with the MEP standard.*[32] The Order fails to explain what criteria are to be used to determine compliance with MEP and how it relates to compliance with water quality standards.

The Order's fact sheet also bases the need for MAL monitoring on the need to evaluate *the effectiveness of individual post-construction BMPs in reducing pollutant loads and assessing*

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[31]40 CFR §122.26(d)(1)(iv)(D).

[32]Order, Attachment F, Fact Sheet, page F-31.

compliance with the MEP standard.[33] But the fact sheet does not explain how MAL monitoring results, based on outfall sampling, can be helpful in this regard. Stormwater discharges contain pollutants from a multiplicity of sources. Therefore, how can MAL sampling results be used to determine if post-construction BMPs or any other BMPs such as street sweeping are effective? Further, there is no explanation of what "effective" means here.

Beyond this, it is not clear why MAL monitoring at the outfall is required given that outfall monitoring for TMDL compliance is also a requirement; and that many of the MAL constituents overlap TMDL constituents, including metals (copper, zinc, lead, and selenium), toxics, and bacteria. What is more, federal stormwater regulations also require outfall monitoring for specific constituents. MAL and TMDL monitoring requirements duplicate outfall monitoring requirements called-out in CFR 122.26, which specifies:

> *For samples collected and described under paragraphs (d)(2)(iii)(A)(1) and (A)(2) of this section, quantitative data shall be provided for: the organic pollutants listed in Table II; the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of appendix D of 40 CFR part 122, and for the following pollutants*:
>
> *Total suspended solids (TSS)*
> *Total dissolved solids (TDS)*
> *COD*
> *BOD5*
> *Oil and grease*
> *Fecal coliform*
> *Fecal streptococcus*
> *pH*
> *Total Kjeldahl nitrogen*
> *Nitrate plus nitrite*
> *Dissolved phosphorus*
> *Total ammonia plus organic nitrogen*
> *Total phosphorus*[34]

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[33] Ibid.
[34] 40 CFR §122.26(d)(2)(A)(3).

This raises the following question: why did the Regional Board fail to require outfall monitoring for federally prescribed constituents while requiring monitoring for MAL constituents, which is not a federal requirement?

Beyond this, the purpose of MALs, as referenced in a USEPA commission study is to provide a sensible alternative to TMDL compliance – not to only evaluate the performance of a specific BMP or to determine MEP for MEP sake. The report explains:

> *The action level would be set to define unacceptable levels of stormwater quality (e.g., two standard deviations from the median statistic, for simplicity). Municipalities would then routinely monitor runoff quality from major outfalls. Where an MS4 outfall to surface waters consistently exceeds the action level, municipalities would need to demonstrate that they have been implementing the stormwater program measures to reduce the discharge of pollutants to the maximum extent practicable. The MS4 permittees can demonstrate the rigor of their efforts by documenting the level of implementation through measures of program effectiveness, failure of which will lead to an inference of noncompliance and potential enforcement by the permitting authority.*[35]

The addition of MAL monitoring confuses compliance, is duplicative, and increases the cost of monitoring unnecessarily.

The Order prescribes monitoring requirements for new developments without justification. The Order requires New Development and Re-development BMP effectiveness tracking, the objectives of which are to:

> *… track whether the conditions in the building permit issued by the Permittee are implemented to ensure the volume of storm water associated with the design storm is retained on-site as required by Part VI.D.7.c.i. of this Order.*[36]

This monitoring requirement is premature and is not authorized under federal stormwater regulations because no outfall monitoring has

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[35]Urban Stormwater Management in the United States, Committee on Reducing Stormwater Discharge Contributions to Water Pollution, National Research Council, 2008, page 444.

[36]Order, Attachment E – Reporting Program, Page E-39.

been conducted to determine if exceedances of TMDLs, MALs, or federally mandated constituents have occurred. This type of use-specific monitoring assumes the existence of a pollution problem that has yet to be determined. This and any other monitoring requirement needs to be struck from the Order until outfall monitoring demonstrates that exceedances have occurred and that monitoring specific to complete new development and redevelopment projects is necessary to address such exceedances.

12. **Regional Board Violated the Administrative Procedures Act**

The Regional Board violated the Administrative Procedures Act (APA) when it issued a revised tentative Order on October 18, 2012. This action resulted in substantial changes that should have triggered a 45 day review and comment period.

October 18, 2012, the Regional Board posted a revised tentative Order that contained substantial revisions to the initial tentative Order issued on June 6, 2012. Most salient is the revision to the WMP and the addition of the EWMP.

In the June 6th tentative Order, the *WMP allows Permittees to achieve compliance with TMDLs by customizing strategies and implementing control measures, and BMPs on a watershed level, through each Permittee's stormwater management program and/or collectively by all participating Permittees.*[37] The WMP option also requires a prohibition on causing or contributing to exceedances of RWLs and non-storm water action levels.

In the revised tentative Order the WMP was substantially changed and a new compliance option was introduced: the EWMP. The WMP was revised by removing compliance with TMDLs and replacing it with programs to *ensure that controls are implemented to reduce the*

[37]Tentative Order, page 45.

discharge of pollutants to the maximum extent practicable (MEP).[38] The revised WMP also resulted in the deletion of the requirement to ensure that discharges from the MS4 do not cause exceedances of non-stormwater action levels. It was replaced with ensuring that non-stormwater discharges are effectively prohibited.[39] There was explanation in the fact sheet posted on October 18th of why these revisions were made.

The EWMP constitutes a substantial change because it provides an additional compliance option. It offers Permittees the ability to comply with all TMDLs by participating with the Los Angeles County Flood Control District (LACFCD) in doing "multi-benefit" regional projects. The purpose of such projects is to control MS4 discharges of stormwater, if feasible, through a stormwater control design standard that would retain *the 85th percentile, 24-hour storm event for the drainage areas tributary to projects.*[40] The EWMP would place participating Permittees into compliance with numeric WQBELs (applicable to the outfall) and receiving water limitations.[41]

The Regional Board should not have adopted the final Order because of its failure to comply with California Government Code §11346.8(c), which states:

> *No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to Section 11346.5 [setting out notice requirements], unless the change is (1) non-substantial or solely grammatical in nature, or (2) sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. If a sufficiently related change is made, the full text of the resulting adoption, amendment, or repeal, with the change clearly indicated, shall be made available to the public*

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[38]Revised Tentative Order, page 49.
[39]Ibid.
[40]Revised Tentative Order, page 50.
[41]It is not clear what receiving water limitations refers to here: compliance with TMDLs, all non-TMDL water quality standards, or with stormwater quality management plans, which is the primary means of complying with receiving water limitations according to State Board WQ 99-05.

for at 15 days before the agency adopts, amends, or repeals the resulting regulation. Any written comments received regarding the change must be responded to in the final statement of reasons required by Section 11346.9."

It is clear that the revisions made to the revised tentative Order were substantial and that they are not sufficiently related to the original text of June 6th tentative Oder. The EWMC provides a new compliance option not discussed in the tentative Order – an option that is separate and distinct from the WMC. A 45 day review and comment period should have been triggered by the addition of the EWMC, which would have been given affected parties the opportunity to comment on the legality of the proposed alternative and to ask for clarification. The EWMC, which enables compliance with TMDLs by partnering with the LACFCD to do regional projects, may not be legally valid because: (1) it has not been identified as a WQBEL (a BMP or a numeric surrogate parameter such as flow or impervious cover) which is the legal means of achieving compliance with TMDL WLAs; and (2) it is not clear if the EWMC is in and of itself a stormwater management plan, which determines compliance with RWLs, or is a sub-set of one. There is also the question of whether an MS4 permit can be used to compel compliance with TMDLs through projects such as infiltration facilities that would be sited outside an MS4. Then there is the issue of cost: how much will the EWMC option cost versus the non-enhanced WMP and individual permittee compliance option?

Further, the October 18th Order resulted in a substantial revision to the WMC affecting compliance. It changed the compliance requirement from implementing control measures and BMPs on a watershed-level to programs (which is not explained or defined in the revised tentative Order or fact sheet) that would ensure that controls are implemented to reduce the discharge of pollutants to the maximum extent practicable (MEP). This is a substantial revision

because it alters how WMP compliance is determined. This revision should have also triggered a new 45 day review and comment period.

13. **Order Violates Water Code Section 13241**

The Order contains several requirements that exceed federal stormwater regulations including but not limited to the following:

- Requiring compliance with TMDL WLAs in the receiving water, albeit federal regulations only require compliance at the outfall, based on federally prescribed stormwater discharge monitoring.

- Requiring compliance with and monitoring of wet weather TMDL WLAs in the receiving water, albeit federal regulations only require compliance with ambient TMDLs based on a comparative measurement of stormwater discharges from monitoring at the outfall.

- Requiring compliance with a numeric WQBEL albeit the Regional Board's failure to perform an RPA to justify the need for WQBEL.

- Requiring compliance with infeasible numeric WQBELs.

- Requiring compliance with non-stormwater discharge prohibitions applied through and from the outfall as opposed to only to the MS4 per federal regulations.

CWC section 13241 requires a consideration of factors including economic and housing impacts if Order requirements exceed federal law. No such analysis was performed by the Regional Board.

14. **Order Violates Unfunded Funded Mandate Provision of the California Constitution**

Article XIIIB, Section 6 of the California Constitution requires subvention of funds to reimburse local governments for state-mandated programs in specified situations. Notwithstanding the

Regional Board's assertion to the contrary, the Order imposes on permittees requirements that exceed federal regulations which, therefore, constitute unfunded mandates. The federal regulations that have been exceeded are the same as those that should have triggered a CWC section 13241 analysis.

15. **Order Unlawfully Requires Compliance with the Los Angeles River Metals and Trash TMDLs**

The City, along with other Permittees located within Reach 2 of the Rio Hondo, is designated as being subject to the Los Angeles River Metals and Trash TMDL staff reports. However, the CWA section 303(d) list prepared by the Regional Board does not show Reach 2 of the Rio Hondo being subject to either the Los Angeles River metals or trash TMDL.[42] The Regional Board attempts to justify its extra-legal action by claiming that the "tributary rule" under CWA Section 404 enables it to extend Reach 1 of the Rio Hondo, which is 303(d) TMDL listed for trash and metals, to Reach 2. The tributary rule, however does not apply. The rule can only be applied to unidentified streams whose beneficial uses have not been identified in a basin plan. Reach 2 is not a stream. It is also identified in the Los Angeles Basin Plan as having beneficial uses, including ground water recharge. Further, Reach 2 of the Rio Hondo has been designated by USEPA as a "navigable water" under the CWA. Therefore, it cannot be considered tributary to itself.

This provides another justification for voiding the Los Angeles River metals and trash TMDL requirements that have been placed in the Order.

XI. SERVICE OF PETITION

This Petition is being served upon the following parties via electronic mail and U.S. mail:

[42]2006 CWA Section 303(d) List of Water Quality Segments Requiring TMDLs, Los Angeles Regional Board, June 28, 2007, page 39.

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California Regional Water
Quality Control Board
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sunger@waterboards.ca.gov

Dated: December 10, 2012

Respectfully Submitted By,

Ricardo Olivarez
City Attorney

EXHIBIT A

Style

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

LOS ANGELES REGION

320 W. 4th Street, Suite 200, Los Angeles, California 90013

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REVISED TENTATIVE

ORDER NO. R4-2012-XXXX
NPDES PERMIT NO. CAS004001

WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES WITHIN THE COASTAL WATERSHEDS OF LOS ANGELES COUNTY, EXCEPT THOSE DISCHARGES ORIGINATING FROM THE CITY OF LONG BEACH MS4

The municipal discharges of storm water and non-storm water by the Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County ~~Flood Control District~~ with the exception of the City of Long Beach (hereinafter referred to separately as Permittees and jointly as the Dischargers) from the discharge points identified below are subject to waste discharge requirements as set forth in this Order.

I. FACILITY INFORMATION

Table 1. Discharger Information

Dischargers	The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County ~~Flood Control District~~ with the exception of the City of Long Beach (See Table 4)
Name of Facility	Municipal Separate Storm Sewer Systems (MS4s) within the coastal watersheds of Los Angeles County ~~Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District~~ with the exception of the City of Long Beach MS4
Facility Address	Various (see Table 2) ~~Various (see Table 2)~~
The U.S. Environmental Protection Agency (USEPA) and the California Regional Water Quality Control Board, Los Angeles Region (Regional Water Board) have classified the Greater Los Angeles County MS4 as a large municipal separate storm sewer system (MS4) pursuant to 40 CFR section 122.26(b)(4) and a major facility pursuant to 40 CFR section 122.2.	

Table 2. Facility Information

Permittee (WDID)	**Contact Information**	
Agoura Hills (*4B190147001*)	**Mailing Address**	30001 Ladyface Court Agoura Hills, CA 91301

Permittee (WDID)	Contact Information	
	Facility Contact, Title, and E-mail	Ken Berkman, City Engineer kberkman@agoura-hills.ca.us
Alhambra (*4B190148001*)	**Mailing Address**	111 South First Street
		Alhambra, CA 91801-3796
	Facility Ceontact~~, title,~~ and E-mail	David Dolphin ddolphin@cityofalhambra.org
Arcadia (*4B190149001*)	**Mailing Address**	P.O. Box 60021
		Arcadia, CA 91066-6021
	Facility Contact, Title, and E-mail	Susannah Turney, Environmental Services Officer vhevener@ci.arcadia.ca.us
Artesia (*4B190150001*)	**Mailing Address**	18747 Clarkdale Avenue
		Artesia, CA 90701-5899
	Facility Contact, Title, and E-mail	Maria Dadian, Director of Public Works mdadian@cityofartesia.ci.us
Azusa (*4B190151001*)	**Mailing Address**	213 East Foothill Boulevard
		Azusa, CA 91702
	Facility Contact, Title, and E-mail	Carl Hassel, City Engineer chassel@ci.azusa.ca.us
Baldwin Park (*4B190152001*)	**Mailing Address**	14403 East Pacific Avenue
		Baldwin Park, CA 91706-4297
	Facility Contact, Title, and E-mail	David Lopez, Associate Engineer dlopez@baldwinpark.com
Bell (*4B190153001*)	**Mailing Address**	6330 Pine Avenue
		Bell, CA 90201-1291
	Facility Contact, Title, and E-mail	Terri Rodrigue, City Engineer trodrigue@cityofbell.org
Bell Gardens (*4B190139002*)	**Mailing Address**	7100 South Garfield Avenue
		Bell Gardens, CA 90201-3293
	Facility Ceontact, Ttitle, and Phone	John Oropeza, Director of Public Works -(562) 806-7700
Bellflower (*4B190154001*)	**Mailing Address**	16600 Civic Center Drive
		Bellflower, CA 90706-5494
	Facility Contact, Title, and E-mail	Bernie Iniguez, Environmental Services Manager biniguez@bellflower.org
Beverly Hills (*4B190132002*)	**Mailing Address**	455 North Rexford Drive
		Beverly Hills, CA 90210
	Facility Contact, Title, and E-mail	Vincent Chee, Project Civil Engineer kgettler@beverlyhills.org
Bradbury (*4B190155001*)	**Mailing Address**	600 Winston Avenue
		Bradbury, CA 91010-1199
	Facility Ceontact, Ttitle, and E-mail	Elroy Kiepke, City Engineer mkeith@cityofbradbury.org
Burbank (*4B190101002*)	**Mailing Address**	P.O. Box 6459
		Burbank, CA 91510
	Facility Ceontact, Ttitle, and E-mail	Bonnie Teaford, Public Works Director bteaford@ci.burbank.ca.us
Calabasas (*4B190157001*)	**Mailing Address**	100 Civic Center Way
		Calabasas, CA 91302-3172
	Facility Ceontact, Ttitle, and E-mail	Alex Farassati, ESM afarassati@cityofcalabasas.com
Carson (*4B190158001*)	**Mailing Address**	P.O. Box 6234
		Carson, CA 90745

REVISED TENTATIVE

Permittee (WDID)	Contact Information	
	Facility Ccontact, Ttitle, and E-mail	Patricia Elkins, Building Construction Manager pelkins@carson.ca.us
Cerritos (*4B190159001*)	**Mailing Address**	P.O. Box 3130
		Cerritos, CA 90703-3130
	Facility Contact, Title, and E-mail	Mike O'Grady, Environmental Services mo'grady@cerritos.us
Claremont (*4B190160001*)	**Mailing Address**	207 Harvard Avenue
		Claremont, CA 91711-4719
	Facility Contact, Title, and E-mail	Craig Bradshaw, City Engineer cbradshaw@ci.claremont.ca.us
Commerce (*4B190161001*)	**Mailing Address**	2535 Commerce Way
		Commerce, CA 90040-1487
	Facility Ccontact~~, title,~~ and E-mail	Gina Nila gnila@ci.commerce.ca.us
Compton (*4B190162001*)	**Mailing Address**	205 South Willowbrook Avenue
		Compton, CA 90220-3190
	Facility Ccontact, Ttitle, and Phone	Hien Nguyen, Assistant City Engineer (310)~~-~~ 761-1476
Covina (*4B190163001*)	**Mailing Address**	125 East College Street
		Covina, CA 91723-2199
	Facility Contact, Title, and E-mail	Vivian Castro, Environmental Services Manager vcastro@covinaca.gov
Cudahy (*4B190164001*)	**Mailing Address**	P.O. Box 1007
		Cudahy, CA 90201-6097
	Facility Ccontact, Ttitle, and E-mail	Hector Rodriguez, City Manager hrodriguez@cityofcudahy.ca.us
Culver City (*4B190165001*)	**Mailing Address**	9770 Culver Boulevard
		Culver City, CA 90232-0507
	Facility Ccontact, Ttitle, and Phone	Damian Skinner, Manager (310) ~~-~~253-6421
Diamond Bar (*4B190166001*)	**Mailing Address**	21825 East Copley Drive
		Diamond Bar, CA 91765-4177
	Facility Contact, Title, and E-mail	David Liu, Director of Public Works dliu@diamondbarca.gov
Downey (*4B190167001*)	**Mailing Address**	P.O. Box 7016
		Downey, CA 90241-7016
	Facility Ccontact ~~,~~ ~~title,~~ and E-mail	Yvonne Blumberg yblumberg@downeyca.org
Duarte (*4B190168001*)	**Mailing Address**	1600 Huntington Drive
		Duarte, CA 91010-2592
	Facility Ccontact, Ttitle, and Phone	Steve Esbenshades, Engineering Division Manager (626) 357-7931 ext. 233
El Monte (*4B190169001*)	**Mailing Address**	P.O. Box 6008
		El Monte, CA 91731
	Facility Ccontact, Ttitle, and Phone	James A Enriquez, Director of Public Works (626) 580-2058
El Segundo (*4B190170001*)	**Mailing Address**	350 Main Street
		El Segundo, CA 90245-3895
	Facility Contact, Title, Phone, and E-mail	Stephanie Katsouleas, Public Works Director (310) 524-2356 skatsouleas@elsegundo.org

REVISED TENTATIVE

Permittee (WDID)	Contact Information	
Gardena (*4B190118002*)	**Mailing Address**	P.O. Box 47003
		Gardena, CA 90247-3778
	Facility Contact, Title, and E-mail	Ron Jackson, Building Maintenance Supervisor jfelix@ci.gardena.ci.us
Glendale (*4B190171001*)	**Mailing Address**	Engineering Section, 633 East Broadway, Room 209
		Glendale, CA 91206-4308
	Facility Ceontact, Ttitle, and E-mail	Maurice Oillataguerre, Senior Environmental Program Scientist moillataguerre@ci.glendale.ca.us
Glendora (*4B190172001*)	**Mailing Address**	116 East Foothill Boulevard
		Glendora, CA 91741
	Facility Contact, Title, and E-mail	Dave Davies, Deputy Director of Public Works ddavies@ci.glendora.ca.us
Hawaiian Gardens (*4B190173001*)	**Mailing Address**	21815 Pioneer Boulevard
		Hawaiian Gardens, CA 90716
	Facility Contact, Title, and E-mail	Joseph Colombo, Director of Community Development jcolombo@ghcity.org
Hawthorne (*4B190174001*)	**Mailing Address**	4455 West 126th Street
		Hawthorne, CA 90250-4482
	Facility Contact, Title, and E-mail	Arnold Shadbehr, Chief General Service and Public Works ~~Arnold Shadbehr, Chief General Service and Public Works~~ ashadbehr@cityofhawthorne.org
Hermosa Beach (*4B190175001*)	**Mailing Address**	1315 Valley Drive
		Hermosa Beach, CA 90254-3884
	Facility Contact, Title, and E-mail	Homayoun Behboodi, Associate Engineer hbehboodi@hermosabch.org
Hidden Hills (*4B190176001*)	**Mailing Address**	6165 Spring Valley Road
		Hidden Hills, CA 91302
	Facility Ceontact, Ttitle, and Phone	Kimberly Colberts, Environmental Coordinator (310) 257-2004
Huntington Park (*4B190177001*)	**Mailing Address**	6550 Miles Avenue
		Huntington Park, CA 90255
	Facility Ceontact, Ttitle, and Phone	Craig Melich, City Engineer and City Official (323) -584-6253
Industry (*4B190178001*)	**Mailing Address**	P.O. Box 3366
		Industry, CA 91744-3995
	Facility Contact and~~,~~ Title~~,~~	Mike Nagaoka, Director of Public Safety
Inglewood (*4B190179001*)	**Mailing Address**	1 W. Manchester Blvd, 3rd Floor
		Inglewood, CA 90301-1750
	Facility Contact, Title, and E-mail	Lauren Amimoto, Senior Administrative Analyst lamimoto@cityofinglewood.org
Irwindale (*4B190180001*)	**Mailing Address**	5050 North Irwindale Avenue
		Irwindale, CA 91706
	Facility Contact, Title, and E-mail	Kwok Tam, Director of Public Works ktam@ci.irwindale.ca.us
La Canada Flintridge (*4B190181001*)	**Mailing Address**	1327 Foothill Boulevard
		La Canada Flintridge, CA 91011-2137
	Facility Ceontact, Ttitle, and E-mail	Edward G. Hitti, Director of Public Works ehitti@lcf.ca.gov
La Habra	**Mailing Address**	1245 North Hacienda Boulevard

REVISED TENTATIVE

Permittee (WDID)	Contact Information	
Heights (*4B190182001*)		La Habra Heights, CA 90631-2570
	Facility Contact, Title, and E-mail	Shauna Clark, City Manager shaunac@lhhcity.org
La Mirada (*4B190183001*)	**Mailing Address**	13700 La Mirada Boulevard
		La Mirada, CA 90638-0828
	Facility Contact, Title, and E-mail	Steve Forster, Public Works Director sforster@cityoflamirada.org
La Puente (*4B190184001*)	**Mailing Address**	15900 East Marin Street
		La Puente, CA 91744-4788
	Facility Contact, Title, and E-mail	John DiMario, Director of Development Services jdimario@lapuente.org
La Verne (*4B190185001*)	**Mailing Address**	3660 "D" Street
		La Verne, CA 91750-3599
	Facility Contact, Title, and E-mail	Daniel Keesey, Director of Public Works dkeesey@ci.la-verne.ca.us
Lakewood (*4B190186001*)	**Mailing Address**	P.O. Box 158
		Lakewood, CA 90714-0158
	Facility Ccontact , ~~title,~~ and E-mail	Konya Vivanti kvivanti@lakewoodcity.org
Lawndale (*4B190127002*)	**Mailing Address**	14717 Burin Avenue
		Lawndale, CA 90260
	Facility Contact and ~~,~~ Title~~,~~	Marlene Miyoshi, Senior Administrative Analyst
Lomita (*4B190187001*)	**Mailing Address**	P.O. Box 339
		Lomita, CA 90717-0098
	Facility Contact, Title, and E-mail	Tom A. Odom, City Administrator d.tomita@lomitacity.com
Los Angeles (*4B190188001*)	**Mailing Address**	1149 S. Broadway, 10th Floor
		Los Angeles, CA 90015
	Facility Ccontact, Ttitle, and Phone	Shahram Kharaghani, Program Manager (213) 485-0587
Lynwood (*4B190189001*)	**Mailing Address**	11330 Bullis Road
		Lynwood, CA 90262-3693
	Facility Ccontact , ~~title,~~ and Phone	Josef Kekula (310) -603-0220 ext. 287
Malibu (*4B190190001*)	**Mailing Address**	23825 Stuart Ranch Road
		Malibu, CA 90265-4861
	Facility Contact, Title, and E-mail	Jennifer Brown, Environmental Program Analyst jbrown@malibucity.org
Manhattan Beach (*4B190191001*)	**Mailing Address**	1400 Highland Avenue
		Manhattan Beach, CA 90266-4795
	Facility Contact, Title, and Email	Brian Wright, Water Supervisor bwright@citymb.info
Maywood (*4B190192001*)	**Mailing Address**	4319 East Slauson Avenue
		Maywood, CA 90270-2897
	Facility Ccontact, Ttitle, and Phone	Andre Dupret, Project Manager (323) -562-5721
Monrovia (*4B190193001*)	**Mailing Address**	415 South Ivy Avenue
		Monrovia, CA 91016-2888
	Facility Ccontact , ~~title,~~ and E-mail	Heather Maloney hmaloney@ci.monrovia.ca.gov

REVISED TENTATIVE

Permittee (WDID)	Contact Information	
Montebello (*4B190194001*)	**Mailing Address**	1600 West Beverly Boulevard
		Montebello, CA 90640-3970
	Facility Ccontact and E-mail, title, and Phone	Cory Roberts croberts@aaeinc.com
Monterey Park (*4B190195001*)	**Mailing Address**	320 West Newmark Avenue
		Monterey Park, CA 91754-2896
	Facility Ccontact, Phonetitle, and E-mail	Amy Ho (,626)- 307-1383 amho@montereypark.ca.gov John Hunter (Consultant) at jhunter@jhla.net
Norwalk (*4B190196001*)	**Mailing Address**	P.O. Box 1030
		Norwalk, CA 90651-1030
	Facility Contact and , Title,	Chino Consunji, City Engineer
Palos Verdes Estates (*4B190197001*)	**Mailing Address**	340 Palos Verdes Drive West
		Palos Verdes Estates, CA 90274
	Facility Contact, Title, and E-mail	Allan Rigg, Director of Public Works arigg@pvestates.org
Paramount (*4B190198001*)	**Mailing Address**	16400 Colorado Avenue
		Paramount, CA 90723-5091
	Facility Ccontact, Ttitle, and E-mail	Chris Cash, Utility and Infrastructure Assistant Director ccash@paramountcity,org
Pasadena (*4B190199001*)	**Mailing Address**	P.O. Box 7115
		Pasadena, CA 91109-7215
	Facility Ccontact , title, and E-mail	Stephen Walker swalker@cityofpasadena.net
Pico Rivera (*4B190200001*)	**Mailing Address**	P.O. Box 1016
		Pico Rivera, CA 90660-1016
	Facility Ccontact, Ttitle, and E-mail	Art Cervantes, Director of Public Works acervantes@pico-rivera.org
Pomona (*4B190145003*)	**Mailing Address**	P.O. Box 660
		Pomona, CA 91769-0660
	Facility Contact, Title, and E-mail	Julie Carver, Environmental Programs Coordinator Julie_Carver@ci.pomona.ca.us
Rancho Palos Verdes (*4B190201001*)	**Mailing Address**	30940 Hawthorne Boulevard
		Rancho Palos Verdes, CA 90275
	Facility Contact, Title, and E-mail	Ray Holland, Interim Public Works Director clehr@rpv.com
Redondo Beach (*4B190143002*)	**Mailing Address**	P.O. Box 270
		Redondo Beach, CA 90277-0270
	Facility Contact, Title, and E-mail	Mike Shay, Principal Civil Engineer mshay@redondo.org
Rolling Hills (*4B190202001*)	**Mailing Address**	2 Portuguese Bend Road
		Rolling Hills, CA 90274-5199
	Facility Contact, Title, and E-mail	Greg Grammer, Assistant to the City Manager ggrammer@rollinghillsestatesca.gov
Rolling Hills Estates (*4B190203001*)	**Mailing Address**	4045 Palos Verdes Drive North
		Rolling Hills Estates, CA 90274
	Facility Contact, Title, and E-mail	Greg Grammer, Assistant to the City Manager ggrammer@rollinghillsestatesca.gov

REVISED TENTATIVE

Permittee (WDID)	Contact Information	
Rosemead (*4B190204001*)	**Mailing Address**	8838 East Valley Boulevard
		Rosemead, CA 91770-1787
	Facility Ccontact, Ttitle, and Phone	Chris Marcarello, Director of PW (626) -569-2118
San Dimas (*4B190205001*)	**Mailing Address**	245 East Bonita Avenue
		San Dimas, CA 91773-3002
	Facility Contact, Title, and E-mail	Latoya Cyrus, Environmental Services Coordinator, lcyrus@ci.san-dimas.ca.us
San Fernando (*4B190206001*)	**Mailing Address**	117 Macneil Street
		San Fernando, CA 91340
	Facility Ccontact, Ttitle, and E-mail	Ron Ruiz, Director of Public Works rruiz@sfcity.org
San Gabriel (*4B190207001*)	**Mailing Address**	425 South Mission Drive
		San Gabriel, CA 91775
	Facility Ccontact, Ttitle, and Phone	Daren T. Grilley, City Engineer (626) -308-2806 ext. 4631
San Marino (*4B190208001*)	**Mailing Address**	2200 Huntington Drive
		San Marino, CA 91108-2691
	Facility Ccontact, Ttitle, and E-mail	Chuck Richie, Director of Parks and Public Works crichie@cityofsanmarino.org
Santa Clarita (*4B190117001*)	**Mailing Address**	23920 West Valencia Boulevard, Suite 300
		Santa Clarita, CA 91355
	Facility Ccontact, Ttitle, and Phone	Travis Lange, Environmental Services Manager (661) -255-4337
Santa Fe Springs (*4B190108003*)	**Mailing Address**	P.O. Box 2120
		Santa Fe Springs, CA 90670-2120
	Facility Contact, Title, and E-mail	Sarina Morales-Choate, Civil Engineer Assistant smorales-choate@santafesprings.org
Santa Monica (*4B190122002*)	**Mailing Address**	1685 Main Street
		Santa Monica, CA 90401-3295
	Facility Contact, Title, and E-mail	Neal Shapiro, Urban Runoff Coordinator nshapiro@smgov.net
Sierra Madre (*4B190209001*)	**Mailing Address**	232 West Sierra Madre Boulevard
		Sierra Madre, CA 91024-2312
	Facility Ccontact, Ttitle, and Pphone	James Carlson, Management Analyst (626) -355-7135 ext. 803
Signal Hill (*4B190210001*)	**Mailing Address**	2175 Cherry Avenue
		Signal Hill, CA 90755
	Facility Ccontact, ~~title, and~~ Phone~~,~~ and E-mail	John Hunter (562) -802-7880 jhunter@jlha.net
South El Monte (*4B190211001*)	**Mailing Address**	1415 North Santa Anita Avenue
		South El Monte, CA 91733-3389
	Facility Ccontact ~~, title,~~ and Phone	Anthony Ybarra, City Manager (626) -579-6540
South Gate (*4B190212001*)	**Mailing Address**	8650 California Avenue
		South Gate, CA 90280
	Facility Ccontact, Phone~~title~~, and E-mail	John Hunter (562) -802-7880 jhunter@jlha.net

REVISED TENTATIVE

Permittee (WDID)	Contact Information	
South Pasadena (*4B190213001*)	**Mailing Address**	1414 Mission Street
		South Pasadena, CA 91030-3298
	Facility Ccontact, Phonetitle, and E-mail	John Hunter (562) -802-7880 jhunter@jlha.net
Temple City (*4B190214001*)	**Mailing Address**	9701 Las Tunas Drive
		Temple City, CA 91780-2249
	Facility Ccontact, title, and Phone, and E-mail	Joe Lambert at (626) -285-2171 or John Hunter at (562) -802-7880/ jhunter@jlha.net
Torrance (*4B190215001*)	**Mailing Address**	3031 Torrance Boulevard
		Torrance, CA 90503-5059
	Facility Contact and, Title, and Phone	Leslie Cortez, Senior Administrative Assistant
Vernon (*4B190216001*)	**Mailing Address**	4305 Santa Fe Avenue
		Vernon, CA 90058-1786
	Facility Ccontact , title, and Phone	Claudia Arellano (323) -583-8811
Walnut (*4B190217001*)	**Mailing Address**	P.O. Box 682
		Walnut, CA 91788
	Facility Contact and, Title, and Phone	Jack Yoshino, Senior Management Assistant
West Covina (*4B190218001*)	**Mailing Address**	P.O. Box 1440
		West Covina, CA 91793-1440
	Facility Contact, Title, and E-mail	Samuel Gutierrez, Engineering Technician sam.gutierrez@westcovina.org
West Hollywood (*4B190219001*)	**Mailing Address**	8300 Santa Monica Boulevard
		West Hollywood, CA 90069-4314
	Facility Contact, Title, and E-mail	Sharon Perlstein, City Engineer sperlstein@weho.org
Westlake Village (*4B190220001*)	**Mailing Address**	31200 Oak Crest Drive
		Westlake Village, CA 91361
	Facility Contact, Title, and E-mail	Roxanne Hughes, Stormwater Program Coordinator rhughes@wlv.org
Whittier (*4B190221001*)	**Mailing Address**	13230 Penn Street
		Whittier, CA 90602-1772
	Facility Contact, Title, and E-mail	David Mochizuki, Director of Public Works dmochizuki@cityofwhittier.org
County of Los Angeles (*4B190107099*)	**Mailing Address**	900 South Fremont Avenue
		Alhambra, CA 91803
	Facility Ccontact, Ttitle, and Phone, and E-mail	Gary Hildebrand, Assistant Deputy Director, Division Engineer (626) -458-4300 ghildeb@dpw.lacounty.gov
Los Angeles County Flood Control District (*4B190107101*)	**Mailing Address**	900 South Fremont Avenue
		Alhambra, CA 91803
	Facility Ccontact, Ttitle, and Phone, and E-amil	Gary Hildebrand, Assistant Deputy Director, Division Engineer (626) -458-4300 ghildeb@dpw.lacounty.gov

REVISED TENTATIVE

Table 3. Discharge Location

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
All Municipal Separate Storm Sewer System discharge points within ~~the~~ Los Angeles County ~~Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District~~ with the exception of the City of Long Beach	Storm Water and Non-Storm Water	Numerous	Numerous	Surface waters identified in Tables 2-1, 2-1a, 2-3, and 2-4, and Appendix 1, Table 1 of the *Water Quality Control Plan - Los Angeles Region* (*Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*), and other unidentified tributaries to these surface waters within the following Watershed Management Areas: (1) Santa Clara River Watershed; (2) Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; (3) Los Angeles River Watershed; (4) Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; (5) Los Cerritos Channel and Alamitos Bay Watershed Management Area; (6) San Gabriel River Watershed; and (7) Santa Ana River Watershed.[1]

Table 4. Administrative Information

This Order was adopted by the California Regional Water Quality Control Board, Los Angeles Region on:	**<Adoption Date>**
This Order becomes effective on:	**<Effective Date>**
This Order expires on:	**<Expiration Date>**
In accordance with Title 23, Division 3, Chapter 9 of the California Code of Regulations and Title 40, Part 122 of the Code of Federal Regulations, each Discharger shall file a Report of Waste Discharge as application for issuance of new waste discharge requirements no later than:	**180 days prior to the Order expiration date above**

REVISED TENTATIVE

[1] Note that the Santa Ana River Watershed lies primarily within the boundaries of the Santa Ana Regional Water Quality Control Board. However, a portion of the Chino Basin subwatershed lies within the jurisdictions of Pomona and Claremont in Los Angeles County. The primary receiving waters within the Los Angeles County portion of the Chino Basin subwatershed are~~is~~ San Antonio Creek and Chino Creek.

In accordance with section 2235.4 of Title 23 of the California Code of Regulations, the terms and conditions of an expired permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on continuation of expired permits are complied with. Accordingly, if a new order is not adopted by the expiration date above, then the Permittees shall continue to implement the requirements of this Order until a new one is adopted.

I, Samuel Unger, 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, Los Angeles Region, on <Adoption Date>.

_____
Samuel Unger, Executive Officer

REVISED TENTATIVE

Table of Contents

List of Tables

REVISED TENTATIVE

List of Attachments

REVISED TENTATIVE

II. FINDINGS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter Regional Water Board) finds:

A. Nature of Discharges and Sources of Pollutants

Storm water and non-storm water discharges consist of surface runoff generated from various land uses, which are conveyed via the municipal separate storm sewer system and ultimately discharged into surface waters throughout the region. Discharges of storm water and non-storm water from the Municipal Separate Storm Sewer Systems (MS4s) within the Coastal Watersheds of Los Angeles County convey pollutants to surface waters throughout the Los Angeles Region. In general, ~~The~~ the primary pollutants of concern in these discharges~~, as~~ identified by the Los Angeles County Flood Control District Integrated Receiving Water Impacts Report (1994-2005)~~,~~ are indicator bacteria, total aluminum, copper, lead, zinc, diazinon, and cyanide. Aquatic toxicity, particularly during wet weather, is also a concern based on a review of Annual Monitoring Reports from 2005-10. Storm water and non-storm water discharges of debris and trash are also a pervasive water quality problem in the Los Angeles Region though significant strides have been made by a number of Permittees in addressing this problem through the implementation of control measures to achieve wasteload allocations established in trash TMDLs.

Pollutants in storm water and non-storm water have damaging effects on both human health and aquatic ecosystems. Water quality assessments conducted by the Regional Water Board have identified impairment of beneficial uses of water bodies in the Los Angeles Region caused or contributed to by pollutant loading from municipal storm water and non-storm water discharges. As a result of these impairments, there are beach postings and closures, fish consumption advisories, local and global ecosystem and aesthetic impacts from trash and debris, reduced habitat for threatened and endangered species, among others. The Regional Water Board and USEPA have established 33 total maximum daily loads (TMDLs) that identify Los Angeles County MS4 discharges as one of the pollutant sources causing or contributing to these water quality impairments.

B. Permit History

Prior to the issuance of this Order, Regional Water Board Order No. 01-182 served as the NPDES Permit for MS4 storm water and non-storm water discharges within the Coastal Watersheds of the County of Los Angeles. The requirements of Order No. 01-182 applied to the Los Angeles County Flood Control District, the unincorporated areas of Los Angeles County under County jurisdiction, and 84 Cities within the Los Angeles County Flood Control District with the exception of the City of Long Beach. The first county-wide MS4 permit for the County of Los Angeles and the incorporated areas therein was Order No. 90-079, adopted by the Regional Water Board on June 18, 1990.

REVISED TENTATIVE

Under Order No. 01-182, the Los Angeles County Flood Control District was designated the Principal Permittee, and the County of Los Angeles and 84 incorporated Cities were each designated Permittees. The Principal Permittee coordinated and facilitated activities necessary to comply with the requirements of Order No. 01-182, but was not responsible for ensuring compliance of any of the other Permittees. The designation of a Principal Permittee has not been carried over from Order No. 01-182.

Order No. 01-182 was subsequently amended by the Regional Water Board on September 14, 2006 by Order No. R4-2006-0074 to incorporate provisions consistent with the assumptions and requirements of the Santa Monica Bay Beaches Dry Weather Bacteria TMDL (SMB Dry Weather Bacteria TMDL) waste load allocations (WLAs). As a result of a legal challenge to Order No. R4-2006-0074, the Los Angeles County Superior Court issued a peremptory writ of mandate on July 23, 2010 requiring the Regional Water Board to void and set aside the amendments adopted through Order No. R4-2006-0074 in Order No. 01-182. The Court concluded that the permit proceeding at which Order No. R4-2006-0074 was adopted was procedurally deficient. The Court did not address the substantive merits of the amendments themselves, and thus made no determination about the substantive validity of Order No. R4-2006-0074. In compliance with the writ of mandate, the Regional Water Board voided and set aside the amendments adopted through Order No. R4-2006-0074 on April 14, 2011. This Order reincorporates requirements equivalent to the 2006 provisions to implement the SMB Dry Weather Bacteria TMDL.

In addition, Order No. 01-182 was amended on August 9, 2007 by Order No. R4-2007-0042 to incorporate provisions consistent with the assumptions and requirements of the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, and was again amended on December 10, 2009 by Order No. R4-2009-0130 to incorporate provisions consistent with the assumptions and requirements of the Los Angeles River Watershed Trash TMDL.

C. Permit Application

On June 12, 2006, prior to the expiration date of Order No. 01-182, all of the Permittees filed Reports of Waste Discharge (ROWD) applying for renewal of their waste discharge requirements that serve as an NPDES permit to discharge storm water and authorized and conditionally exempt non-storm water through their MS4 to surface waters. Specifically, the Los Angeles County Flood Control District (LACFCD) submitted an ROWD application on behalf of itself, the County of Los Angeles, and 78 other Permittees. Several Permittees under Order No. 01-182 elected to not be included as part of the Los Angeles County Flood Control District's ROWD. On June 12, 2006, the Cities of Downey and Signal Hill each submitted an individual ROWD application requesting a separate MS4 Permit; and the Upper San Gabriel River Watershed Coalition, comprised of the cities of Azusa, Claremont, Glendora, Irwindale, and Whittier also submitted an individual ROWD application requesting a separate MS4 Permit for these cities. In 2010, the LACFCD withdrew from its participation in the 2006 ROWD submitted in conjunction with the County and 78 other co-permittees, and submitted a new ROWD also requesting an individual MS4 permit. The LACFCD also requested

that, if an individual MS4 permit was not issued to it, it no longer be designated as the Principal Permittee and it be relieved of Principal Permittee responsibilities. The Regional Water Board evaluated each of the 2006 ROWDs and notified all of the Permittees that their ROWDs did not satisfy federal storm water regulations contained in the USEPA Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems; Final Rule, August 9, 1996 (61 *Fed Reg.* 41697). Because each ROWD did not satisfy federal requirements, the Regional Water Board deemed all four 2006 ROWDs incomplete. The Regional Water Board also evaluated the LACFCD's 2010 ROWD and found that it too did not satisfy federal requirements for MS4s.

Though five separate ROWDs were submitted, the Regional Water Board retains discretion as the permitting authority to determine whether to issue permits for discharges from MS4s on a system-wide or jurisdiction-wide basis (Clean Water Act (CWA) § 402(p)(3)(B)(i); 40 CFR section 122.26, subdivisions (a)(1)(v) and (a)(3)(ii)). Because of the complexity and networking of the MS4 within Los Angeles County, which often results in commingled discharges, the Regional Water Board has previously adopted a system-wide approach to permitting MS4 discharges within Los Angeles County.

In evaluating the five separate ROWDs, the Regional Water Board considered the appropriateness of permitting discharges from MS4s within Los Angeles County on a system-wide or jurisdiction-wide basis or a combination of both. Based on that evaluation, the Regional Water Board again determined that, because of the complexity and networking of the MS4 within Los Angeles County, that one system-wide permit is appropriate. In order to provide individual Permittees with more specific requirements, certain provisions of this Order are organized by watershed management area, which is appropriate given the requirements to implement 33 watershed-based TMDLs. The Regional Water Board also determined that because the LACFCD owns and operates large portions of the MS4 infrastructure, including but not limited to catch basins, storm drains, outfalls and open channels, in each coastal watershed management area within Los Angeles County, the LACFCD should remain a Permittee in the single system-wide permit; however, this Order relieves the LACFCD of its role as "Principal Permittee."

D. Permit Coverage and Facility Description

The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District with the exception of the City of Long Beach (see Table 5, List of Permittees), hereinafter referred to separately as Permittees and jointly as the Dischargers, discharge storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems. For the purposes of this Order, references to the "Discharger" or "Permittee" in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Discharger, or Permittees herein.

The area covered under this Order encompasses more than 3,000 square miles. This area contains a vast drainage network that serves incorporated and unincorporated

areas in every Watershed Management Area within the Los Angeles Region. Maps depicting the major drainage infrastructure within the area covered under this Order are included in Attachment C of this Order.

Table 5. List of Permittees

Agoura Hills	Hawaiian Gardens	Pomona
Alhambra	Hawthorne	Rancho Palos Verdes
Arcadia	Hermosa Beach	Redondo Beach
Artesia	Hidden Hills	Rolling Hills
Azusa	Huntington Park	Rolling Hills Estates
Baldwin Park	Industry	Rosemead
Bell	Inglewood	San Dimas
Bell Gardens	Irwindale	San Fernando
Bellflower	La Canada Flintridge	San Gabriel
Beverly Hills	La Habra Heights	San Marino
Bradbury	La Mirada	Santa Clarita
Burbank	La Puente	Santa Fe Springs
Calabasas	La Verne	Santa Monica
Carson	Lakewood	Sierra Madre
Cerritos	Lawndale	Signal Hill
Claremont	Lomita	South El Monte
Commerce	Los Angeles	South Gate
Compton	Lynwood	South Pasadena
Covina	Malibu	Temple City
Cudahy	Manhattan Beach	Torrance
Culver City	Maywood	Vernon
Diamond Bar	Monrovia	Walnut
Downey	Montebello	West Covina
Duarte	Monterey Park	West Hollywood
El Monte	Norwalk	Westlake Village
El Segundo	Palos Verdes Estates	Whittier
Gardena	Paramount	County of Los Angeles
Glendale	Pasadena	Los Angeles County Flood Control District
Glendora	Pico Rivera	

REVISED TENTATIVE

E. Los Angeles County Flood Control District

In 1915, the California Legislature enacted the Los Angeles County Flood Control Act, establishing the Los Angeles County Flood Control District (LACFCD). The objects and purposes of the Act are to provide for the control and conservation of the flood, storm and other waste waters within the flood control district. Among its other powers, the LACFCD also has the power to preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties for the protection, preservation, and use of the scenic beauty and natural environment for the properties or the lands.

The LACFCD is governed, as a separate entity, by the County of Los Angeles Board of Supervisors.

The LACFCD's system includes the majority of drainage infrastructure within incorporated and unincorporated areas in every watershed, including approximately 500 miles of open channel, 3,500 miles of underground drains, and an estimated 88,~~800~~ 000 catch basins, and several dams. Portions of the LACFCD's current system were originally unmodified natural rivers and water courses.

The LACFCD's system conveys both storm and non-storm water throughout the Los Angeles basin. Other Permittees' MS4s connect and discharge to the LACFCD's system.

The waters and pollutants discharged from the LACFCD's system come from various sources. These sources can include storm water and non-storm water from the Permittees under this permit and other NPDES and non-NPDES Permittees discharging into the LACFCD's system, including industrial waste water dischargers, waste water treatment facilities, industrial and construction stormwater Permittees, water suppliers, government entities, CERCLA potentially responsible parties, and Caltrans. Sources can also include discharges from school districts that do not operate large or medium-sized municipal storm sewers and discharges from entities that have waste discharge requirements or waivers of waste discharge requirements.

Unlike other Permittees, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways.

The LACFCD has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area. The Permittees that have such land use authority are responsible for implementing a storm water management program to inspect and control pollutants from industrial and commercial facilities, new development and re-development projects, and development construction sites within their jurisdictional boundaries. Nonetheless, as an owner and operator of MS4s, the LACFCD is required by federal regulations to control pollutant discharges into and from its MS4, including the ability to control through interagency agreements among co-Permittees and other owners of a MS4 the contribution of pollutants from one portion of the MS4 to another portion of the MS4.

F. Permit Scope

This Order regulates municipal discharges of storm water and non-storm water from the Permittees' MS4s. Section 122.26(b)(8) of title 40 of the Code of Federal Regulations (CFR) defines an MS4 as "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) [o]wned 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

REVISED TENTATIVE

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 agency under section 208 of the CWA that discharges to waters of the United States; (ii) [d]esigned or used for collecting or conveying storm water; (iii) [w]hich is not a combined sewer; and (iv) [w]hich is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2."

Storm water discharges consist of those discharges that originate from precipitation events. Federal regulations define "storm water" as "storm water runoff, snow melt runoff, and surface runoff and drainage." (40 CFR § 122.26(b)(13).) While "surface runoff and drainage" is not defined in federal law, USEPA's preamble to its final storm water regulations demonstrates that the term is related to precipitation events such as rain and/or snowmelt. (55 *Fed. Reg.* 47990, 47995-96 (Nov. 16, 1990)).

Non-storm water discharges consist of all discharges through an MS4 that do not originate from precipitation events. Non-storm water discharges through an MS4 are prohibited unless authorized under a separate NPDES permit; authorized by USEPA pursuant to Sections 104(a) or 104(b) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); composed of natural flows; the result of emergency fire fighting activities; or conditionally exempted in this Order.

A permit issued to more than one Permittee for MS4 discharges may contain separate storm water management programs for particular Permittees or groups of Permittees. 40 CFR § 122.26(d)(2)(iv). Given the LACFCD's limited land use authority, it is appropriate for the LACFCD to have a separate and uniquely-tailored storm water management program. Accordingly, the storm water management program minimum control measures imposed on the LACFCD in Part VI.D of this Order differ in some ways from the minimum control measures imposed on other Permittees. Namely, aside from its own properties and facilities, the LACFCD is not subject to the Industrial/Commercial Facilities Program, the Planning and Land Development Program, and the Development Construction Program. However, as a discharger of storm and non-storm water, the LACFCD remains subject to the Public Information and Participation Program and the Illicit Connections and Illicit Discharges Elimination Program. Further, as the owner and operator of certain properties, facilities and infrastructure, the LACFCD remains subject to requirements of a Public Agency Activities Program.

G. Geographic Coverage and Watershed Management Areas

The municipal storm water and non-storm water discharges flow into receiving waters in the Watershed Management Areas of the Santa Clara River Watershed; Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; Los Angeles River Watershed; Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; Los Cerritos Channel and Alamitos Bay Watershed Management Area; San Gabriel River Watershed; and Santa Ana River Watershed.

REVISED TENTATIVE

This Order redefines Watershed Management Areas (WMAs) consistent with the delineations used in the Regional Water Board's Watershed Management Initiative. Permittees included in each of the WMAs are listed in Attachment K.

Maps depicting each WMA, its subwatersheds, and the major receiving waters therein are included in Attachment B.

Federal, state, regional or local entities in jurisdictions outside the Los Angeles County Flood Control District, and not currently named as Permittee to this Order, may operate MS4 facilities and/or discharge to the MS4 and water bodies covered by this Order. Pursuant to 40 CFR sections 122.26(d)(1)(ii) and 122.26(d)(2)(iv), each Permittee shall maintain the necessary legal authority to control the contribution of pollutants to its MS4 and shall include in its storm water management program a comprehensive planning process that includes intergovernmental coordination, where necessary.

Sources of MS4 discharges into receiving waters in the County of Los Angeles but not covered by this Order include the following:

- About 34 square miles of unincorporated area in Ventura County, which drain into Malibu Creek and then to Santa Monica Bay,
- About 9 square miles of the City of Thousand Oaks, which also drain into Malibu Creek and then to Santa Monica Bay, and
- About 86 square miles of area in Orange County, which drain into Coyote Creek and then into the San Gabriel River.

Specifically, the Orange County Flood Control District (OCFCD) owns and operates the Los Alamitos Retarding Basin and Pumping Station (Los Alamitos Retarding Basin). The Los Alamitos Retarding Basin is within the San Gabriel River Watershed, and is located adjacent to the Los Angeles and Orange County boundary. The majority of the 30-acre Los Alamitos Retarding Basin is in Orange County; however, the northwest corner of the facility is located in the County of Los Angeles. Storm water and non-storm water discharges, which drain to the Los Alamitos Retarding Basin, are pumped to the San Gabriel River Estuary (SGR Estuary) through pumps and subterranean piping. The pumps and discharge point are located in the County of Los Angeles.

The OCFCD pumps the water within the Los Alamitos Retarding Basin to the San Gabriel River Estuary through four discharge pipes, which are covered by tide gates. The discharge point is located approximately 700 feet downstream from the 2nd Street Bridge in Long Beach. The total pumping capacity of the four pumps is 800 cubic feet per second (cfs). There is also a 5 cfs sump pump that discharges nuisance flow continuously to the Estuary though a smaller diameter uncovered pipe.

The discharge from the Los Alamitos Retarding Basin is covered under the Orange County Municipal NPDES Storm Water Permit (NPDES Permit No. CAS618030, Santa Ana Regional Water Quality Control Board Order No. R8-2010-0062), which was issued to the County of Orange, Orange County Flood Control District and Incorporated Cities on May 22, 2009. The Orange County MS4 Permit references the San Gabriel River Metals and Selenium TMDL (Metals TMDL). The waste load allocations listed in the

Metals TMDL for Coyote Creek are included in the Orange County MS4 Permit. However, the Orange County MS4 Permit does not contain the dry weather copper waste load allocations assigned to the Estuary.

G. Legal Authorities

This Order is issued pursuant to CWA section 402 and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). This Order serves as an NPDES permit for point source discharges from the Permittees' MS4s to surface waters. This Order also serves as waste discharge requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the California Water Code (commencing with Section 13260).

H. Municipal Separate Storm Sewer System Requirements. The 1972 Clean Water Act[2] established the NPDES Program to regulate the discharge of pollutants from point sources to waters of the United States. However, pollution from storm water and dry-weather urban runoff was largely unabated for over a decade. In response to the 1987 Amendments to the Clean Water Act, USEPA developed Phase I of the NPDES Storm Water Permitting Program in 1990, which established a framework for regulating municipal and industrial discharges of storm water and non-storm water. The Phase I program addressed sources of storm water and dry-weather urban runoff that had the greatest potential to negatively impact water quality. In particular, under Phase I, USEPA required NPDES Permit coverage for discharges from medium and large MS4 with populations of 100,000 or more. Operators of MS4s regulated under the Phase I NPDES Storm Water Program were required to obtain permit coverage for municipal discharges of storm water and non-storm water to waters of the United States

Early in the history of this MS4 Permit, the Regional Water Board designated the MS4s owned and/or operated by the incorporated cities and Los Angeles County unincorporated areas within the Coastal Watersheds of Los Angeles County as a large MS4 due to the total population of Los Angeles County, including that of unincorporated and incorporated areas, and the interrelationship between the Permittees' MS4s, pursuant to 40 CFR section 122.26(b)(4). The total population of the cities and County unincorporated areas covered by this Order was 9,519,338 in 2000 and has increased by approximately 300,000 to 9,818,605 in 2010, according to the United States Census.

This Order implements the federal Phase I NPDES Storm Water Program requirements. These requirements include three fundamental elements: (i) a requirement to effectively prohibit non-storm water discharges through the MS4, (ii) requirements to implement controls to reduce the discharge of pollutants to the maximum extent practicable, and (iii) other provisions the Regional Water Board has determined appropriate for the control of such pollutants.

I. Background and Rationale for Requirements. The Regional Water Board developed the requirements in this Order based on information submitted as part of the Permittees' applications, through monitoring and reporting programs, and other available

[2] Federal Water Pollution Control Act; 33 U.S.C. § 1251 et seq., which, as amended in 1977, is commonly known as the Clean Water Act.

information. In accordance with federal regulations at 40 CFR section 124.8, a Fact Sheet (Attachment F) has been prepared to explain the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing this Order. The Fact Sheet is hereby incorporated into this Order and also constitutes part of the Findings of the Regional Water Board for this Order. Attachments A through E and G through R are also incorporated into this Order.

J. Water Quality Control Plans. The Clean Water Act requires the Regional Water Board to establish water quality standards for each water body in its region. Water quality standards include beneficial uses, water quality objectives and criteria that are established at levels sufficient to protect those beneficial uses, and an antidegradation policy to prevent degrading waters. The Regional Water Board adopted a *Water Quality Control Plan - Los Angeles Region* (hereinafter Basin Plan) on June 13, 1994 and has amended it on multiple occasions since 1994. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters in the Los Angeles Region. Pursuant to California Water Code section 13263(a), the requirements of this Order implement the Basin Plan. Beneficial uses applicable to the surface water bodies that receive discharges from the Los Angeles County MS4 generally include those listed below.

Table 6. Basin Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Uses
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within ~~the~~ Los Angeles County coastal watersheds ~~Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District~~ with the exception of the City of Long Beach	Multiple surface water bodies of the Los Angeles Region	Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PROC); Ground Water Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Hydropower Generation (POW); Water Contact Recreation (REC-1); Limited Contact Recreation (LREC-1); Non-Contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Areas of Special Biological Significance (BIOL); Wildlife Habitat (WILD); Preservation of Rare and Endangered Species (RARE); Marine Habitat (MAR); Wetland Habitat (WET); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); Shellfish Harvesting (SHELL)

1. Total Maximum Daily Loads (TMDLs)

Clean Water Act section 303(d)(1) requires each state to identify the waters within its boundaries that do not meet water quality standards. Water bodies that do not meet water quality standards are considered impaired and are placed on the state's "CWA Section 303(d) List". For each listed water body, the state is required to establish a TMDL of each pollutant impairing the water quality standards in that water body. A

REVISED TENTATIVE

TMDL is a tool for implementing water quality standards and is based on the relationship between pollution sources and in-stream water quality conditions. The TMDL establishes the allowable pollutant loadings for a water body and thereby provides the basis to establish water quality-based controls. These controls should provide the pollution reduction necessary for a water body to meet water quality standards. A TMDL is the sum of the allowable pollutant loads of a single pollutant from all contributing point sources (the waste load allocations or WLAs) and non-point sources (load allocations or LAs), plus the contribution from background sources and a margin of safety. (40 CFR section 130.2(i).) MS4 discharges are considered point source discharges.

Numerous receiving waters within Los Angeles County do not meet water quality standards or fully support beneficial uses and therefore have been classified as impaired on the State's 303(d) List. The Regional Water Board and USEPA have each established TMDLs to address many of these water quality impairments. Pursuant to CWA section 402(p)(B)(3)(iii) and 40 CFR section 122.44(d)(1)(vii)(B), this Order includes requirements that are consistent with and implement WLAs that are assigned to discharges from the Los Angeles County MS4 from 33 State-adopted and USEPA established TMDLs. This Order requires Permittees to comply with the TMDL Provisions in Part VI.E and Attachments L through R, which are consistent with the assumptions and requirements of the TMDL WLAs assigned to discharges from the Los Angeles County MS4. A comprehensive list of TMDLs by watershed management area and the Permittees subject to each TMDL is included in Attachment K.

Waste load allocations in these TMDLs are expressed in several ways depending on the nature of the pollutant and its impacts on receiving waters and beneficial uses. Bacteria WLAs assigned to MS4 discharges are expressed as the number of allowable exceedance days that a water body may exceed the Basin Plan water quality objectives for protection of the REC-1 beneficial use. Since the TMDLs and the WLAs contained therein are expressed as receiving water conditions, receiving water limitations have been included in this Order that are consistent with and implement the allowable exceedance day WLAs. Water quality-based effluent limitations are also included equivalent to the Basin Plan water quality objectives to allow the opportunity for Permittees to individually demonstrate compliance at an outfall or jurisdictional boundary, thus isolating the Permittee's pollutant contributions from those of other Permittees and from other pollutant sources to the receiving water.

WLAs for trash are expressed as progressively decreasing allowable amounts of trash discharges from a Permittee's jurisdictional area within the drainage area to the impaired water body. The Trash TMDLs require each Permittee to make annual reductions of its discharges of trash over a set period, until the numeric target of zero trash discharged from the MS4 is achieved. The Trash TMDLs specify a specific formula for calculating and allocating annual reductions in trash discharges from each jurisdictional area within a watershed. The formula results in specified annual amounts of trash that may be discharged from each jurisdiction into the

REVISED TENTATIVE

receiving waters. Translation of the WLAs or compliance points described in the TMDLs into jurisdiction-specific load reductions from the baseline levels, as specified in the TMDL, logically results in the articulation of an annual limitation on the amount of a pollutant that may be discharged. The specification of allowable annual trash discharge amounts meets the definition of an "effluent limitation", as that term is defined in subdivision (c) of section 13385.1 of the California Water Code. Specifically, the trash discharge limitations constitute a "numeric restriction … on the quantity [or] discharge rate … of a pollutant or pollutants that may be discharged from an authorized location."

TMDL WLAs for other pollutants (e.g., metals and toxics) are expressed as concentration and/or mass and water quality-based effluent limitations have been specified consistent with the expression of the WLA, including any applicable averaging periods. Some TMDLs specify that, if certain receiving water conditions are achieved, such achievement constitutes attainment of the WLA. In these cases, receiving water limitations and/or provisions outlining these alternate means of demonstrating compliance are included in the TMDL provisions in Part VI.E of this Order.

The inclusion of water quality-based effluent limitations and receiving water limitations to implement applicable WLAs provides a clear means of identifying required water quality outcomes within the permit and ensures accountability by Permittees to implement actions necessary to achieve the limitations.

A number of the TMDLs for bacteria, metals, and toxics establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL. TMDLs address commingled MS4 discharges by assigning a WLA to a group of MS4 Permittees based on co-location within the same subwatershed. Permittees with co-mingled MS4 discharges are jointly responsible for meeting the water quality-based effluent limitations and receiving water limitations assigned to MS4 discharges in this Order. "Joint responsibility" means that the Permittees that have commingled MS4 discharges are responsible for implementing programs in their respective jurisdictions, or within the MS4 for which they are an owner and/or operator, to meet the water quality-based effluent limitations and/or receiving water limitations assigned to such commingled MS4 discharges.

In these cases, federal regulations state that co-permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators (40 CFR § 122.26(a)(3)(vi)). Individual co-permittees are only responsible for their contributions to the commingled MS4 discharge. This Order does not require a Permittee to individually ensure that a commingled MS4 discharge meets the applicable water quality-based effluent limitations included in this Order, unless such Permittee is shown to be solely responsible for an exceedance.

Additionally, this Order allows a Permittee to clarify and distinguish their individual contributions and demonstrate that its MS4 discharge did not cause or contribute to exceedances of applicable water quality-based effluent limitations and/or receiving water limitations. If such a demonstration is made, though the Permittee's discharge may commingle with that of other Permittees, the Permittee would not be held jointly responsible for the exceedance of the water quality-based effluent limitation or receiving water limitation. Individual co-permittees who demonstrate compliance with the water quality-based effluent limitations will not be held responsible for violations by non-compliant co-permittees.

Given the interconnected nature of the Permittees' MS4s, however, the Regional Water Board expects Permittees to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system through inter-agency agreements or other formal arrangements.

K. Ocean Plan. In 1972, the State Water Resources Control Board (State Water Board) adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (hereinafter Ocean Plan). The State Water Board adopted the most recent amended Ocean Plan on September 15, 2009. The Office of Administration Law approved it on March 10, 2010. On October 8, 2010, USEPA approved the 2009 Ocean Plan. The Ocean Plan is applicable, in its entirety, to the ocean waters of the State. In order to protect beneficial uses, the Ocean Plan establishes water quality objectives and a program of implementation. Pursuant to California Water Code section 13263(a), the requirements of this Order implement the Ocean Plan. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized in the table below.

Table 7. Ocean Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Uses
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within ~~the~~ Los Angeles County ~~Flood Control District, the County of Los Angeles, and 84 incorporated cities within the Los Angeles County Flood Control District~~ coastal watersheds with the exception of the City of Long Beach	Pacific Ocean	Industrial Water Supply (IND); Water Contact (REC-1) and Non-Contact Recreation (REC-2), including aesthetic enjoyment; Navigation (NAV); Commercial and Sport Fishing (COMM); Mariculture; Preservation and Enhancement of Designated Areas of Special Biological Significance (ASBS); Rare and Endangered Species (RARE); Marine Habitat (MAR); Fish Migration (MIGR); Fish Spawning (SPWN) and Shellfish Harvesting (SHELL)

REVISED TENTATIVE

L. Antidegradation Policy

40 CFR section 131.12 requires that state water quality standards include an antidegradation policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintaining the Quality of the Waters of the State"). Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing water quality be maintained unless degradation is justified based on specific findings. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. The permitted discharge is consistent with the antidegradation provision of section 131.12 and State Water Board Resolution No. 68-16.

M. Anti-Backsliding Requirements. Section 402(o)(2) of the CWA and federal regulations at 40 CFR section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All effluent limitations in this Order are at least as stringent as the effluent limitations in the previous permit.

N. 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, §§ 2050 to 2115.5) or the Federal Endangered Species Act (16 U.S.C.A., §§ 1531 to 1544). This Order requires compliance with requirements to protect the beneficial uses of waters of the United States. Permittees are responsible for meeting all requirements of the applicable Endangered Species Act.

O. Monitoring and Reporting. Section 308(a) of the federal Clean Water Act, and 40 CFR sections 122.41(h), (j)-(l), 122.41(i), and 122.48, require that all NPDES permits specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also specify additional monitoring and reporting requirements. (40 C.F.R. §§ 122.26(d)(2)(i)(F) & (d)(2)(iii)(D), 122.42(c).) California Water Code section 13383 authorizes the Regional Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. The Monitoring and Reporting Program establishes monitoring, reporting, and recordkeeping requirements that implement the federal and State laws and/or regulations. This Monitoring and Reporting Program is provided in Attachment E.

P. Standard and Special Provisions. Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR section 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR section 122.42, are provided in Attachment D. Dischargers must comply with all standard provisions and with those additional conditions that are applicable under 40 CFR section 122.42 provided in Attachment D. The Regional Water Board has also included in Part VI of this Order various special provisions applicable to the Dischargers. A rationale for the

REVISED TENTATIVE

various special provisions contained in this Order is provided in the attached Fact Sheet (Attachment F).

Q. State~~Unfunded~~ Mandates

Article XIII B, Section 6(a) of the California Constitution provides that whenever "any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service." The requirements of this Order do not constitute state mandates that are subject to a subvention of funds for several reasons as described in detail in the attached Fact Sheet (Attachment F).

R. California Water Code Section 13241~~Economic Considerations~~. The California Supreme Court has ruled that although California Water Code section 13263 requires the State and Regional Water Boards (collectively, Water Boards) to consider the factors set forth in California Water Code section 13241 when issuing an NPDES permit, the Water Boards may not consider the factors to justify imposing pollutant restriction that are less stringent than the applicable federal regulations require. (*City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 618, 626-627). However, when the pollutant restrictions in an NPDES permit are more stringent than federal law requires, California Water Code section 13263 requires that the Water Boards consider the factors described in section 13241 as they apply to those specific restrictions. As noted in the preceding finding, the Regional Water Board finds that the requirements in this permit are not more stringent than the minimum federal requirements. Therefore, a 13241 analysis is not required for permit requirements that implement the effective prohibition on the discharge of non-storm water discharges into the MS4, or for controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, or other provisions that the Regional Water Board has determined appropriate to control such pollutants, as those requirements are mandated by federal law. Notwithstanding the above, the Regional Water Board has developed an economic analysis of the permit's requirements, consistent with California Water Code section 13241. That analysis is provided in the Fact Sheet (Attachment F of this Order).

T. California Environmental Quality Act (CEQA). This action to adopt an NPDES Permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21100, et seq.) pursuant to California Water Code section 13389. (*County of Los Angeles v. Cal. Water Boards* (2006) 143 Cal.App.4th 985.)

U. Notification of Interested Parties. In accordance with State and federal laws and regulations, the Regional Water Board has notified the Permittees and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharges authorized by this Order and has provided them with an opportunity to provide written and oral comments. Details of notification, as well as the meetings and workshops held on drafts of the permit, are provided in the Fact Sheet of this Order.

V. Consideration of Public Comment. The Regional Water Board, in a public meeting, heard and considered all oral and written comments pertaining to the discharges

REVISED TENTATIVE

authorized by this Order and the requirements contained herein. The Regional Water Board has prepared written responses to all timely comments, which are incorporated by reference as part of this Order.

W. This Order serves as an NPDES permit pursuant to CWA section 402 or amendments thereto, and becomes effective fifty (50) days after the date of its adoption, provided that the Regional Administrator, USEPA, Region IX, expresses no objections.

X. This Order supersedes Order No. 01-182 as amended, except for enforcement purposes.

Y. Review by the State Water Board. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with California Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the Regional 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 or will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED, that the Dischargers, in order to meet the provisions contained in Division 7 of the California Water Code (commencing with section 13000), and regulations, plans, and policies adopted thereunder, and the provisions of the Clean Water Act and regulations and guidelines adopted thereunder, shall comply with the following requirements:

III. DISCHARGE PROHIBITIONS

A. Prohibitions – Non-Storm Water Discharges

1. **Prohibition of Non-Storm Water Discharges.** Each Permittee shall, for the portion of the MS4 for which it is an owner or operator, prohibit non-storm water discharges through the MS4 to receiving waters except where such discharges are either:

   a. Authorized non-storm water discharges separately regulated by an individual or general NPDES permit;

   b. Temporary non-storm water discharges authorized by USEPA[3] pursuant to sections 104(a) or 104(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that either: (i) will comply with water quality standards as applicable or relevant and appropriate requirements ("ARARs") under section 121(d)(2) of CERCLA; or (ii) are subject to either (a) a written waiver of ARARs by USEPA pursuant to section 121(d)(4) of CERCLA or

[3] These typically include short-term, high volume discharges resulting from the development or redevelopment of groundwater extraction wells, or USEPA or State-required compliance testing of potable water treatment plants, as part of a USEPA authorized groundwater remediation action under CERCLA.

(b) a written determination by USEPA that compliance with ARARs is not practicable considering the exigencies of the situation pursuant to 40 CFR. section 300.415(j);

c. Authorized non-storm water discharges from emergency fire fighting activities (i.e., flows necessary for the protection of life or property)[4];

d. Natural flows, including:

i. Natural springs;

ii. Flows from riparian habitats and wetlands;

iii. Diverted stream flows, authorized by the State or Regional Water Board;

iv. Uncontaminated ground water infiltration[5];

v. Rising ground waters, where ground water seepage is not otherwise covered by a NPDES permit[6]; or

e. Conditionally exempt non-storm water discharges in accordance with Parts III.A.2 and III.A.3 below.

2. Conditional Exemptions from Non-Storm Water Discharge Prohibition. The following categories of non-storm water discharges are conditionally exempt from the non-storm water discharge prohibition, provided they meet all required conditions specified below, or as otherwise approved by the Regional Water Board Executive Officer, in all areas regulated by this Order with the exception of direct discharges to Areas of Special Biological Significance (ASBS) within Los Angeles County. Conditional exemptions from the prohibition on non-storm water discharges through the MS4 to an ASBS are identified in Part III.A.3 below.

a. Conditionally Exempt Essential Non-Storm Water Discharges: These consist of those discharges that fall within one of the categories below; meet all required best management practices (BMPs) as specified in i. and ii. below, including those enumerated in the referenced BMP manuals; are essential public services discharge activities; and are directly or indirectly required by other state or federal statute and/or regulation:

i. Discharges from essential *non-emergency* fire fighting activities[7] provided appropriate BMPs are implemented based on the CAL FIRE, Office of the

REVISED TENTATIVE

[4] Discharges from vehicle washing, building fire suppression system maintenance and testing (e.g., sprinkler line flushing), fire hydrant maintenance and testing, and other routine maintenance activities are not considered emergency fire fighting activities.
[5] Uncontaminated ground water infiltration is water other than waste water that enters the MS4 (including 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. (See 40 CFR § 35.2005(20).)
[6] A NPDES permit for discharges associated with ground water dewatering is required within the Los Angeles Region.
[7] This includes fire fighting training activities, which simulate emergency responses, and routine maintenance and testing activities necessary for the protection of life and property, including building fire suppression system maintenance and testing (e.g. sprinkler line flushing) and fire

State Fire Marshal's *Water-Based Fire Protection Systems Discharge Best Management Practices Manual* (September 2011) for water-based fire protection system discharges, and based on Riverside County's *Best Management Practices Plan for Urban Runoff Management* (May 1, 2004) or equivalent BMP manual for fire training activities and post-emergency fire fighting activities;

ii. Discharges from ~~potable water sources~~drinking water supplier distribution systems, where not otherwise regulated by an individual or general NPDES permit[8], provided appropriate BMPs are implemented based on the American Water Works Association (California-Nevada Section) *Guidelines for the Development of Your Best Management Practices (BMP) Manual for Drinking Water System Releases* (2005) or equivalent industry standard BMP manual. Additionally, each Permittee shall work with ~~potable~~ drinking water suppliers that may discharge to the Permittee's MS4 to ensure for all discharges greater than 100,000 gallons: (1) notification at least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge; (2) monitoring of any pollutants of concern[9] in the ~~potable~~ drinking water ~~supply~~ supplier distribution system release; and (3) record keeping by the ~~potable~~ drinking water supplier. Permittees shall require that the following information is maintained by the drinking water supplier(s) for all discharges to the MS4 (planned and unplanned) greater than 100,000 gallons: name of discharger, date and time of notification (for planned discharges), method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, total number of gallons discharged, type of dechlorination equipment used, type of dechlorination chemicals used, concentration of residual chlorine, type(s) of sediment controls used, pH of discharge, type(s) of volumetric and velocity controls used, and field and laboratory monitoring data. Records shall be retained for five years and made available upon request by the Permittee or Regional Water Board.

b. Those discharges that fall within one of the categories below, provided that the discharge itself is not a source of pollutants and meets all required conditions specified in Table 8 or as otherwise specified or approved by the Regional Water Board Executive Officer:

REVISED TENTATIVE

hydrant testing and maintenance. Discharges from vehicle washing are not considered essential and as such are not conditionally exempt from the non-storm water discharge prohibition.

[8] ~~Potable~~ Drinking water supplier distribution system releases means sources of flows from drinking water storage, supply and distribution systems (including flows from system failures), pressure releases, system maintenance, distribution line testing, and flushing and dewatering of pipes, reservoirs, and vaults, and minor non-invasive well maintenance activities not involving chemical addition(s) where not otherwise regulated by NPDES Permit No. CAG674001, NPDES Permit No. CAG994005, or an other separate NPDES permit.

[9] Pollutants of concern from drinking water supplier distribution system releases may include trash and debris, including organic matter, total suspended solids (TSS), residual chlorine, pH, and any pollutant for which there is a water quality-based effluent limitation (WQBEL) in Part VI.E applicable to discharges from the MS4 to the receiving water. Determination of the pollutants of concern for a particular discharge shall be based on an evaluation of the potential for the constituent(s) to be present in the discharge at levels that may cause or contribute to exceedances of applicable WQBELs or receiving water limitations.

i. Dewatering of lakes[10];

ii. Landscape irrigation;

iii. Dechlorinated/debrominated swimming pool/spa discharges[11], where not otherwise regulated by a separate NPDES permit;

iv. Dewatering of decorative fountains[12];

v. Non-commercial car washing by residents or by non-profit organizations;

vi. Street/sidewalk wash water[13].

3. **Conditional Exemptions from Non-Storm Water Discharge Prohibition within an ASBS**. The following non-storm water discharges from the MS4 directly to an ASBS are conditionally exempt pursuant to the California Ocean Plan as specified below, provided that:

a. The discharges are essential for emergency response purposes, structural stability, slope stability or occur naturally, including the following discharges:

i. Discharges associated with emergency fire fighting activities (i.e., flows necessary for the protection of life or property)[14];

ii. Foundation and footing drains;

iii. Water from crawl space or basement pumps;

iv. Hillside dewatering;

v. Naturally occurring ground water seepage via a MS4; and

vi. Non-anthropogenic flows from a naturally occurring stream via a culvert or MS4, as long as there are no contributions of anthropogenic runoff.

b. The discharges fall within one of the conditionally exempt essential non-storm water discharge categories in Part III.A.2.a. above.

c. Conditionally exempt non-storm water discharges shall not cause or contribute[15] to an exceedance of applicable receiving water limitations and/or water quality-

REVISED TENTATIVE

[10] Dewatering of lakes does not include dewatering of drinking water reservoirs. Dewatering of drinking water reservoirs is addressed in ~~Section~~ Part III.A.2.a.ii.

[11] Conditionally exempt dechlorinated/debrominated swimming pool/spa discharges do not include swimming pool/spa filter backwash or swimming pool/spa water containing bacteria, detergents, wastes, or algaecides, or any other chemicals including salts from pools commonly referred to as "salt water pools" in excess of applicable water quality objectives.

[12] Conditionally exempt discharges from dewatering of decorative fountains do not include fountain water containing bacteria, detergents, wastes, or algaecides, or any other chemicals in excess of applicable water quality objectives.

[13] Conditionally exempt non-storm water discharges of street/sidewalk wash water only include those discharges resulting from use of high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area in accordance with Regional Water Board Resolution No. 98-08. Conditionally exempt non-storm water discharges of street/sidewalk wash water do not include hosing of any sidewalk or street with a garden hose with a pressure nozzle.

[14] See note 4.

based effluent limitations in this Order or the water quality objectives in Chapter II of the Ocean Plan, or alter natural ocean water quality in an ASBS.

4. **Permittee Requirements.** Each Permittee shall:

   a. Develop and implement procedures to ensure that a discharger, if not a named Permittee in this Order, fulfills the following for non-storm water discharges to the Permittee's MS4:

      i. Notifies the Permittee of the planned discharge in advance, consistent with requirements in Table 8 or recommendations pursuant to the applicable BMP manual;

      ii. Obtains any local permits required by the MS4 owner(s) and/or operator(s);

      iii. Provides documentation that it has obtained any other necessary permits or water quality certifications[16] for the discharge;

      iv. Conducts monitoring of the discharge, if required by the Permittee;

      v. Implements BMPs and/or control measures as specified in Table 8 or in the applicable BMP manual(s) as a condition of the approval to discharge into the Permittee's MS4; and

      vi. Maintains records of its discharge to the MS4, consistent with requirements in Table 8 or recommendations pursuant to the applicable BMP manual. For lake dewatering, Permittees shall require that the following information is maintained by the lake owner / operator: name of discharger, date and time of notification, method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, total number of gallons discharged, type(s) of sediment controls used, pH of discharge, type(s) of volumetric and velocity controls used, and field and laboratory monitoring data. Records shall be made available upon request by the Permittee or Regional Water Board.

   b. Develop and implement procedures that minimize the discharge of landscape irrigation water into the MS4 by promoting conservation programs.

      i. Permittees shall coordinate with the local water purveyor(s), where applicable, to promote landscape water use efficiency requirements for existing landscaping, use of drought tolerant, native vegetation, and the use of less toxic options for pest control and landscape management.

REVISED TENTATIVE

[15] Based on the water quality characteristics of the conditionally exempt non-storm water discharge itself.
[16] Pursuant to the Federal Clean Water Act § 401.

ii. Permittees shall develop and implement a coordinated outreach and education program to minimize the discharge of irrigation water and pollutants associated with irrigation water consistent with Part VI.D.4.c of this Order (Public Information and Participation Program).

c. Evaluate monitoring data collected pursuant to the Monitoring and Reporting Program (MRP) of this Order (Attachment E), and any other associated data or information, and determine whether any of the authorized or conditionally exempt non-storm water discharges identified in Parts III.A.1, III.A.2, and III.A.3 above are a source of pollutants that may be causing or contributing to an exceedance of applicable receiving water limitations in Part V and/or water quality-based effluent limitations in Part VI.E. To evaluate monitoring data, the Permittee shall either use applicable interim or final water quality-based effluent limitations for the pollutant or, if there are no applicable interim or final water quality-based effluent limitations for the pollutant, use applicable action levels provided in Attachment G. Based on non-storm water outfall-based monitoring as implemented through the MRP, if monitoring data show exceedances of applicable water quality-based effluent limitations or action levels, the Permittee shall take further action to determine whether the discharge is causing or contributing to exceedances of receiving water limitations in Part V.

d. If the Permittee determines that any of the conditionally exempt non-storm water discharges identified in Part III.A.2.b above is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, the Permittee(s) shall report its findings to the Regional Water Board in its annual report. Based on this determination, the Permittee(s) shall also either:

i. Effectively prohibit[17] the non-storm water discharge to the MS4; or

ii. Impose conditions in addition to those in Table 8, subject to approval by the Regional Water Board Executive Officer, on the non-storm water discharge such that it will not be a source of pollutants; or

iii. ~~Provide for~~ Require diversion of the non-storm water discharge to the sanitary sewer; or

iv. ~~Provide~~ Require treatment of the non-storm water discharge prior to discharge to the receiving water.

e. If the Permittee determines that any of the authorized or conditionally exempt essential non-storm water discharges identified in Parts III.A.1.a through III.A.1.c, III.A.2.a, or III.A.3 above is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or

[17] To "effectively prohibit" means to not allow the non-storm water discharge through the MS4 unless the discharger obtains coverage under a separate NPDES permit prior to discharge to the MS4.

water quality-based effluent limitations, the Permittee shall notify the Regional Water Board within 30 days if the non-storm water discharge is an authorized discharge with coverage under a separate NPDES permit or authorized by USEPA under CERCLA in the manner provided in Part III.A.1.b above, or a conditionally exempt essential non-storm water discharge or emergency non-storm water discharge.

f. If the Permittee prohibits the discharge from the MS4, as per Part III.A.4.d.i, then the Permittee shall implement procedures developed under Part VI.D.9 (Illicit Connections and Illicit Discharges Elimination Program) in order to eliminate the discharge to the MS4.

5. If a Permittee demonstrates that the water quality characteristics of a specific authorized or conditionally exempt essential non-storm water discharge resulted in an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations during a specific sampling event, the Permittee shall not be found in violation of applicable receiving water limitations and/or water quality-based effluent limitations for that specific sampling event. Such demonstration must be based on source specific water quality monitoring data from the authorized or conditionally exempt essential non-storm water discharge or other relevant information documenting the characteristics of the specific non-storm water discharge as identified in Table 8.

6. Notwithstanding the above, the Regional Water Board Executive Officer, based on an evaluation of monitoring data and other relevant information for specific categories of non-storm water discharges, may modify a category or remove categories of conditionally exempt non-storm water discharges from Parts III.A.2 and III.A.3 above if the Executive Officer determines that a discharge category is a source of pollutants that causes or contributes to an exceedance of applicable receiving water limitations and/or water quality-based effluent limitations, or may require that a discharger obtain coverage under a separate individual or general State or Regional Water Board permit for a non-storm water discharge.

Table 8. Required Conditions for Conditionally Exempt Non-Storm Water Discharges

Discharge Category	General Conditions Under Which Discharge Through the MS4 is Allowed	Conditions/BMPs that are Required to be Implemented Prior to Discharge Through the MS4
All Discharge Categories	See discharge specific conditions below.	Ensure conditionally exempt non-storm water discharges avoid potential sources of pollutants in the flow path to prevent introduction of pollutants to the MS4 and receiving water. Whenever there is a discharge of 100,000 gallons or more into the MS4, Permittees shall require advance notification by the discharger to the potentially affected MS4 Permittees, including at a minimum the LACFCD, if applicable, and the Permittee with jurisdiction over the land area from which the discharge originates.
Dewatering of lakes	Discharge allowed only if all necessary permits/water quality certifications for dredge and fill activities, including water diversions, are obtained prior to discharge.	Ensure procedures for advanced notification by the lake owner / operator to the Permittee(s) no less than 72 hours prior to the planned discharge. Immediately prior to discharge, visible trash on the shoreline or on the surface of the lake shall be removed and disposed of in a legal manner. Immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out. Discharges shall be volumetrically and velocity controlled to minimize resuspension of sediments. Measures shall be taken to stabilize lake bottom sediments. Ensure procedures for water quality monitoring for pollutants of concern[18] in the lake. Ensure record-keeping of lake dewatering by the lake owner / operator.

[18] Pollutants of concern include, at a minimum, trash and debris, including organic matter, TSS, and any pollutant for which there is a water quality-based effluent limitation in Part VI.E for the lake and/or receiving water.

Landscape irrigation using potable water	Discharge allowed if runoff due to potable landscape irrigation is minimized through the implementation of an ordinance specifying water efficient landscaping standards, as well as an outreach and education program focusing on water conservation and landscape water use efficiency.	Implement BMPs to minimize runoff and prevent introduction of pollutants to the MS4 and receiving water. Implement water conservation programs to minimize discharge by using less water.
Landscape irrigation using reclaimed or recycled water	Discharge of reclaimed or recycled water runoff from landscape irrigation is allowed if the discharge is in compliance with the producer and distributor operations and management (O&M) plan, and all relevant portions thereof, including the Irrigation Management Plan.	Discharges must comply with applicable O&M Plans, and all relevant portions thereof, including the Irrigation Management Plan.

REVISED TENTATIVE

Dechlorinated/ debrominated swimming pool/spa discharges	Discharges allowed after implementation of specified BMPs. Pool or spa water containing copper-based algaecides is not allowed to be discharged to the MS4. Discharges of cleaning waste water and filter backwash allowed only if authorized by a separate NPDES permit.	Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water. Swimming pool water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate. Chlorine residual in the discharge shall not exceed 0.1 mg/L. Swimming pool water shall not contain any detergents, wastes, or algaecides, or any other chemicals including salts from pools commonly referred to as "salt water pools" in excess of applicable water quality objectives.[19] Swimming pool discharges are to be pH adjusted, if necessary, and be within the range of 6.5 and 8.5 standard units. Swimming pool discharges shall be volumetrically and velocity controlled to promote evaporation and/or infiltration. Ensure procedures for advanced notification by the pool owner to the Permittee(s) at least 72 hours prior to planned discharge for discharges of 100,000 gallons or more. For discharges of 100,000 gallons or more, ~~Immediately~~ immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out.
Dewatering of decorative fountains	Discharges allowed after implementation of specified BMPs. Fountain water containing copper-based algaecides may not be discharged to the MS4. Fountain water containing dyes my not be discharged to the MS4.	Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to prevent introduction of pollutants prior to discharge to the MS4 and receiving water. Fountain water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate. Chlorine residual in the discharge shall not exceed 0.1 mg/L. Fountain discharges are to be pH adjusted, if necessary, and be within the range of 6.5 and 8.5 standard units. Fountain discharges shall be volumetrically and velocity controlled to promote evaporation and/or infiltration. Ensure procedures for advanced notification by the fountain owner to the Permittee(s) at least 72 hours prior to planned discharge for discharges of 100,000 gallons or more. For discharges of 100,000 gallons or more, ~~Immediately~~ immediately prior to discharge, the discharge pathway and the MS4 inlet to which the discharge is directed, shall be inspected and cleaned out.
Non-commercial car	Discharges allowed	Implement BMPs and ensure discharge avoids potential sources of pollutants in the flow path to

[19] Applicable mineral water quality objectives for surface waters are contained in Chapter 3 of the Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties.

REVISED TENTATIVE

washing by residents or by non-profit organizations	after implementation of specified BMPs.	prevent introduction of pollutants prior to discharge to the MS4 and receiving water. Minimize the amount of water used by employing water conservation practices such as turning off nozzles or kinking the hose when not spraying a car, and using a low volume pressure washer. Encourage use of biodegradable, phosphate free detergents and non-toxic cleaning products. Where possible, wash cars on a permeable surface where wash water can percolate into the ground (e.g. gravel or grassy areas). Empty buckets of soapy or rinse water into the sanitary sewer system (e.g., sinks or toilets).
Street/sidewalk wash water	Discharges allowed after implementation of specified BMPs.	Sweeping should be used as an alternate BMP whenever possible and sweepings should be disposed of in the trash. BMPs shall be in accordance with Regional Water Board Resolution No. 98-08 that requires: 1) removal of trash, debris, and free standing oil/grease spills/leaks (use absorbent material if necessary) from the area before washing and 2) use of high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area. In areas of unsanitary conditions (e.g., areas where the congregation of transient populations can reasonably be expected to result in a significant threat to water quality), whenever practicable, Permittees shall collect and divert street and alley wash water from the Permittee's street and sidewalk cleaning public agency activities to the sanitary sewer.

IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

A. Effluent Limitations

1. **Technology Based Effluent Limitations**: Each Permittee shall reduce pollutants in storm water discharges from the MS4 to the maximum extent practicable (MEP).

2. **Water Quality-Based Effluent Limitations (WQBELs).** This Order establishes WQBELs consistent with the assumptions and requirements of all available TMDL waste load allocations assigned to discharges from the Permittees' MS4s.

   a. Each Permittee shall comply with applicable WQBELs as set forth in Part VI.E of this Order, pursuant to applicable compliance schedules.

B. Land Discharge Specifications – Not Applicable

C. Reclamation Specifications – Not Applicable

V. RECEIVING WATER LIMITATIONS

A. Receiving Water Limitations

1. Discharges from the MS4 that cause or contribute to the violation of receiving water limitations are prohibited.

2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible[20], shall not cause or contribute to a condition of nuisance.

3. The Permittees shall comply with Parts V.A.1 and V.A.2 through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the storm water management program and its components and other requirements of this Order including any modifications. The storm water management program and its components shall be designed to achieve compliance with receiving water limitations. If exceedances of receiving water limitations persist, notwithstanding implementation of the storm water management program and its components and other requirements of this Order, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:

   a. Upon a determination by either the Permittee or the Regional Water Board that discharges from the MS4 are causing or contributing to an exceedance of an applicable Receiving Water Limitation, the Permittee shall promptly notify[21] and thereafter submit an Integrated Monitoring Compliance Report (as described in the Program Reporting Requirements, Part XVIII.A.5 of the Monitoring and Reporting Program) to the Regional Water Board for approval. The Integrated

[20] Pursuant to 40 CFR § 122.26(a)(3)(vi), a Permittee is only responsible for discharges of storm water and non-storm water from the MS4 for which it is an owner or operator.

[21] ~~Within 30 days of receipt of analytical results from the sampling event.~~

REVISED TENTATIVE

Monitoring Compliance shall describe the BMPs that are currently being implemented by the Permittee and additional BMPs, including modifications to current BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedances of receiving water limitations. The Integrated Monitoring Compliance Report shall include an implementation schedule. This Integrated Monitoring Compliance Report shall be incorporated in the annual Storm Water Report unless the Regional Water Board directs an earlier submittal. The Regional Water Board may require modifications to the Integrated Monitoring Compliance Report.

b. The Permittee shall submit any modifications to the Integrated Monitoring Compliance Report required by the Regional Water Board within 30 days of notification.

c. Within 30 days following the Regional Water Board Executive Officer's approval of the Integrated Monitoring Compliance Report, the Permittee shall revise the storm water management program and its components and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, an implementation schedule, and any additional monitoring required.

d. The Permittee shall implement the revised storm water management program and its components and monitoring program according to the approved implementation schedule.

4. So long as the Permittee has complied with the procedures set forth in Part V.A.3. above and is implementing the revised storm water management program and its components, the Permittee does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Regional Water Board to modify current BMPs or develop additional BMPs.

B. Ground Water Limitations – Not Applicable

VI. PROVISIONS

A. Standard Provisions

1. Federal Standard Provisions. Each Permittee shall comply with all Standard Provisions included in Attachment D of this Order, in accordance with 40 CFR sections 122.41 and 122.42.

2. Legal Authority

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

REVISED TENTATIVE

i. Control the contribution of pollutants to its MS4 from storm water discharges associated with industrial and construction activity and control the quality of storm water discharged from industrial and construction sites. This requirement applies both to industrial and construction sites with coverage under an NPDES permit, as well as to those sites that do not have coverage under an NPDES permit.

ii. Prohibit all non-storm water discharges through the MS4 to receiving waters not otherwise authorized or conditionally exempt pursuant to Part III.A;

iii. Prohibit and eliminate illicit discharges and illicit connections to the MS4;

iv. Control the discharge of spills, dumping, or disposal of materials other than storm water to its MS4;

v. Require compliance with conditions in Permittee ordinances, permits, contracts or orders (i.e., hold dischargers to its MS4 accountable for their contributions of pollutants and flows);

vi. Utilize enforcement mechanisms to require compliance with applicable ordinances, permits, contracts, or orders;

vii. Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Co-permittees;

viii. Control of the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements with other owners of the MS4 such as the State of California Department of Transportation;

ix. Carry out all inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with applicable municipal ordinances, permits, contracts and orders, and with the provisions of this Order, including the prohibition of non-storm water discharges into the MS4 and receiving waters. This means the Permittee must have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from entities discharging into its MS4;

x. Require the use of control measures to prevent or reduce the discharge of pollutants to achieve water quality standards/receiving water limitations;

xi. Require that structural BMPs are properly operated and maintained; and

xii. Require documentation on the operation and maintenance of structural BMPs and their effectiveness in reducing the discharge of pollutants to the MS4.

b. Each Permittee must submit a statement certified by its chief legal counsel that the Permittee has the legal authority within its jurisdiction to implement and enforce each of the requirements contained in 40 CFR § 122.26(d)(2)(i)(A-F) and this Order. Each Permittee shall submit this certification annually as part of its Annual Report beginning with the first Annual Report required under this Order. These statements must include:

i. Citation of applicable municipal ordinances or other appropriate legal authorities and their relationship to the requirements of 40 CFR § 122.26(d)(2)(i)(A)-(F) and of this Order; and

ii. Identification of the local administrative and legal procedures available to mandate compliance with applicable municipal ordinances identified in subsection (i) above and therefore with the conditions of this Order, and a statement as to whether enforcement actions can be completed administratively or whether they must be commenced and completed in the judicial system.

3. Fiscal Resources

a. Each Permittee shall conduct a fiscal analysis of the annual capital and operation and maintenance expenditures necessary to implement the requirements of this Order.

b. Each Permittee shall also enumerate and describe in its Annual Report the source(s) of funds used in the past year, and proposed for the coming year, to meet necessary expenditures on the Permittee's storm water management program.

4. Responsibilities of the Permittees

a. Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries. Permittees are not responsible for the implementation of the provisions applicable to other Permittees. Each Permittee shall:

i. Comply with the requirements of this Order and any modifications thereto.

ii. Coordinate among its internal departments and agencies, as necessary, to facilitate the implementation of the requirements of this Order applicable to such Permittees in an efficient and cost-effective manner.

iii. Participate in intra-agency coordination (e.g. Planning Department, Fire Department, Building and Safety, Code Enforcement, Public Health, Parks and Recreation, and others) and inter-agency coordination (e.g. co-

Permittees, other NPDES permittees) necessary to successfully implement the provisions of this Order.

5. Public Review

a. All documents submitted to the Regional Water Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. § 552 (as amended)) and the Public Records Act (Cal. Government Code § 6250 et seq.).

b. All documents submitted to the Regional Water Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

6. Regional Water Board Review

Any formal determination or approval made by the Regional Water Board Executive Officer pursuant to the provisions of this Order may be reviewed by the Regional Water Board. A Permittee(s) or a member of the public may request such review upon petition within 30 days of the effective date of the notification of such decision to the Permittee(s) and interested parties on file at the Regional Water Board.

7. Reopener and Modification

a. This Order may be modified, revoked, reissued, or terminated in accordance with the provisions of 40 CFR sections 122.44, 122.62, 122.63, 122.64, 124.5, 125.62, and 125.64. Causes for taking such actions include, but are not limited to:

i. Endangerment to human health or the environment resulting from the permitted activity, including information that the discharge(s) regulated by this Order may have the potential to cause or contribute to adverse impacts on water quality and/or beneficial uses;

ii. Acquisition of newly-obtained information that would have justified the application of different conditions if known at the time of Order adoption;

iii. To address changed conditions identified in required reports or other sources deemed significant by the Regional Water Board;

iv. To incorporate provisions as a result of future amendments to the Basin Plan, such as a new or revised water quality objective or the adoption or reconsideration of a TMDL, including the program of implementation. Within 18 months of the effective date of a revised TMDL or as soon as practicable thereafter, where the revisions warrant a change to the provisions of this Order, the Regional Water Board may modify this Order consistent with the

REVISED TENTATIVE

assumptions and requirements of the revised WLA(s), including the program of implementation;

v. To incorporate provisions as a result of new or amended statewide water quality control plans or policies adopted by the State Water Board, or in consideration of any State Water Board action regarding the precedential language of State Water Board Order WQ 99-05;

vi. To incorporate provisions as a result of the promulgation of new or amended federal or state laws or regulations, USEPA guidance concerning regulated activities, or judicial decisions that becomes effective after adoption of this Order.

vii. To incorporate effluent limitations for toxic constituents determined to be present in significant amount in the discharge through a more comprehensive monitoring program included as part of this Order and based on the results of the reasonable potential analysis;

viii. In accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include requirements for the implementation of the watershed management approach or to include new Minimum Levels (MLs); and/or

ix. To include provisions or modifications to WQBELs in Part VI.E and Attachments L-R in this Order prior to the final compliance deadlines, if practicable, that would allow an action-based, BMP compliance demonstration approach with regard to final WQBELs for storm water discharges. Such modifications shall be –based on the Regional Water Board's evaluation of whether Watershed Management Programs in Part VI.C. have resulted in attainment of interim WQBELs for storm water and review of relevant research, including but not limited to data and information provided by Permittees and other stakeholders, on storm water quality and the efficacy and reliability of storm water control technologies. Provisions or modifications to WQBELs in Part VI.E. shall only be included in this Order where there is evidence that storm water control technologies can reliably achieve final WQBELs.

b. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:

i. Violation of any term or condition contained in this Order;

ii. Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or

iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

REVISED TENTATIVE

c. The filing of a request by a Permittee for a modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.

d. This Order may be modified to make corrections or allowances for changes in the permitted activity, following the procedures at 40 CFR section 122.63, if processed as a minor modification. Minor modifications may only:

i. Correct typographical errors; or

ii. Require more frequent monitoring or reporting by a Permittee.

8. Any discharge of waste to any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of this Order.

9. A copy of this Order shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees responsible for implementation of the provisions of this Order and members of the public.

10. The discharge of any product registered under the Federal Insecticide, Fungicide, and Rodenticide Act to any waste stream that may ultimately be released to waters of the United States, is prohibited, unless specifically authorized elsewhere in this Order or another NPDES permit. This requirement is not applicable to products used for lawn and agricultural purposes.

~~**11.** The discharge of any waste resulting from the combustion of toxic or hazardous wastes to any waste stream that ultimately discharges to waters of the United States is prohibited, unless specifically authorized elsewhere in this Order.~~

~~**12.**~~ **11.** Oil or oily material, chemicals, refuse, or other pollutionable materials shall not be stored or deposited in areas where they may be picked up by rainfall and carried off of the property and/or discharged to surface waters. Any such spill of such materials shall be contained and removed immediately.

~~**13.**~~ **12.** If there is any storage of hazardous or toxic materials or hydrocarbons at a facility owned and/or operated by a Permittee and if the facility is not manned at all times, a 24-hour emergency response telephone number shall be prominently posted where it can easily be read from the outside.

~~**14.**~~ **13. Enforcement**

a. Violation of any of the provisions of this Order may subject the violator to any of the penalties described herein or in Attachment D of this Order, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalty may be applied for each kind of violation.

b. Failure to comply with provisions or requirements of this Order, or violation of other applicable laws or regulations governing discharges through the MS4 to

REVISED TENTATIVE

receiving waters, may subject a Permittee to administrative or civil liabilities, criminal penalties, and/or other enforcement remedies to ensure compliance. Additionally, certain violations may subject a Permittee to civil or criminal enforcement from appropriate local, state, or federal law enforcement entities.

c. The California Water Code provides that any person who violates a waste discharge requirement or a provision of the California Water Code is subject to civil penalties of up to $5,000 per day, $10,000 per day, or $25,000 per day of violation, or when the violation involves the discharge of pollutants, is subject to civil penalties of up to $10 per gallon per day or $25 per gallon per day of violation; or some combination thereof, depending on the violation, or upon the combination of violations.

d. California Water Code section 13385(h)(1) requires the Regional Water Board to assess a mandatory minimum penalty of three-thousand dollars ($3,000) for each serious violation. Pursuant to California Water Code section 13385(h)(2), a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of 40 CFR section 123.45 specifies the Group I and II pollutants. Pursuant to California Water Code section 13385.1(a)(1), a "serious violation" is also defined as "a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations."

e. California Water Code section 13385(i) requires the Regional Water Board to assess a mandatory minimum penalty of three-thousand dollars ($3,000) for each violation whenever a person violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.

f. Pursuant to California Water Code section 13385.1(d), for the purposes of section 13385.1 and subdivisions (h), (i), and (j) of section 13385, "effluent limitation" means a numeric restriction or a numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for these purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.

g. Unlike subdivision (c) of California Water Code section 13385, where violations of effluent limitations may be assessed administrative civil liability on a per day basis, the mandatory minimum penalties provisions identified above require the Regional Water Board to assess mandatory minimum penalties for "each

violation" of an effluent limitation. Some water quality-based effluent limitations in Attachments L through R of this Order (e.g., trash, as described immediately below) are expressed as annual effluent limitations. Therefore, for such limitations, there can be no more than one violation of each interim or final effluent limitation per year.

h. Trash TMDLs.

i. Consistent with the 2009 amendments to Order No. 01-182 to incorporate the Los Angeles River Trash TMDL, the water quality-based effluent limitations in Attachments L through R of this Order for trash are expressed as annual effluent limitations. Therefore, for such limitations, there can be no more than one violation of each interim or final effluent limitation per year. Trash is considered a Group I pollutant, as specified in Appendix A to 40 CFR section 123.45. Therefore, each annual violation of a trash effluent limitation in Attachments L through R of this Order by forty percent or more would be considered a "serious violation" under California Water Code section 13385(h). With respect to the final effluent limitation of zero trash, any detectable discharge of trash necessarily is a serious violation, in accordance with the State Water Board's Enforcement Policy. Violations of the effluent limitations in Attachments L through R of this Order would not constitute "chronic" violations that would give rise to mandatory liability under California Water Code section 13385(i) because four or more violations of the effluent limitations subject to a mandatory penalty cannot occur in a period of six consecutive months.

ii. For the purposes of enforcement under California Water Code section 13385, subdivisions (a), (b), and (c), not every storm event may result in trash discharges. In trash TMDLs adopted by the Regional Water Board, the Regional Water Board states that improperly deposited trash is mobilized during storm events of greater than 0.25 inches of precipitation. Therefore, violations of the effluent limitations are limited to the days of a storm event of greater than 0.25 inches. Once a Permittee has violated the annual effluent limitation, any subsequent discharges of trash during any day of a storm event of greater than 0.25 inches during the same storm year constitutes an additional "day in which the violation [of the effluent limitation] occurs".

~~15.~~14. This Order does not exempt any Permittee from compliance with any other laws, regulations, or ordinances that may be applicable.

~~16.~~15. The provisions of this Order are severable. If any provisions of this Order or the application of any provision 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.

REVISED TENTATIVE

B. Monitoring and Reporting Program (MRP) Requirements

Dischargers shall comply with the MRP and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A. of Attachment E and includes the elements set forth in Part II.E. of Attachment E.

C. Watershed Management Programs

1. General

a. The purpose of this Part VI.C is to allow Permittees the flexibility to develop Watershed Management Programs to implement the requirements of this Order on a watershed scale through customized strategies, control measures, and BMPs.

b. Participation in a Watershed Management Program is voluntary and allows a Permittee to address the highest watershed priorities, including complying with the requirements of Part V.A. (Receiving Water Limitations), Part VI.E (Total Maximum Daily Load Provisions) and Attachments L through R, by customizing the control measures in Parts III.A.4 (Prohibitions – Non-Storm Water Discharges) and VI.D (Minimum Control Measures).

c. Customized strategies, control measures, and BMPs shall be implemented on a watershed basis, where applicable, through each Permittee's storm water management program and/or collectively by all participating Permittees through a Watershed Management Program.

d. The Watershed Management Programs shall ensure that discharges from the Permittee's MS4s: (i) achieve applicable water quality-based effluent limitations in Part VI.E and Attachments L through R pursuant to the corresponding compliance schedules, (ii) do not cause or contribute to exceedances of receiving water limitations in Parts V.A and VI.E and Attachments L through R, and (iii) do not include non-storm water discharges that are effectively prohibited pursuant to Part III.A. The programs shall also ensure that controls are implemented to reduce the discharge of pollutants to the maximum extent practicable (MEP) pursuant to Part IV.A.1.

e. Watershed Management Programs shall be developed either collaboratively or individually using the Regional Water Board's Watershed Management Areas (WMAs). Where appropriate, WMAs may be separated into subwatersheds to focus water quality prioritization and implementation efforts by receiving water.

f. Each Watershed Management Program shall be consistent with Part VI.C.5-C.8 and shall:

REVISED TENTATIVE

i. Prioritize water quality issues resulting from storm water and non-storm water discharges from the MS4 to receiving waters within each WMA,

ii. Identify and implement strategies, control measures, and BMPs to achieve the outcomes specified in Part VI.C.1.d,

iii. Execute an integrated monitoring program and assessment program pursuant to Attachment E – MRP, Part IV to determine progress towards achieving applicable limitations and/or action levels in Attachment G, and

iv. Modify strategies, control measures, and BMPs as necessary based on analysis of monitoring data collected pursuant to the MRP to ensure that applicable water quality-based effluent limitations and receiving water limitations and other milestones set forth in the Watershed Management Program ~~will be~~are achieved in the required timeframes.

~~**iv.**~~**v.** Provide appropriate opportunity for meaningful stakeholder input, including but not limited to, a permit-wide watershed management program technical advisory committee (TAC) that will advise and participate in the development of the Watershed Management Programs and enhanced Watershed Management Programs from month 6 through the date of program approval. The composition of the TAC may include at least one Permittee representative from each Watershed Management Area for which a Watershed Management Program will be developed, and must include a minimum of one public representative from a non-governmental organization with public membership, and staff from the Regional Water Board and USEPA Region IX.

g. Permittees may elect to develop an enhanced Watershed Management Program (EWMP). An ~~enhanced Watershed Management Program (EWMP)~~ is one that comprehensively evaluates opportunities, within the participating Permittees' collective jurisdictional area in a Watershed Management Area, for collaboration among Permittees and other partners on multi-benefit regional projects ~~to control MS4 discharges of storm water by~~that, wherever feasible, retain~~ing~~ (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event for the drainage areas tributary to the projects, while also achieving other benefits including flood control and water supply, among others. In drainage areas within the EWMP area ~~Where~~ where retention of the 85th percentile, 24-hour storm event is not feasible, the ~~enhanced Watershed Management Program~~EWMP shall include a Reasonable Assurance Analysis to demonstrate that applicable water quality based effluent limitations and receiving water limitations shall be achieved through implementation of other watershed control measures. An ~~enhanced Watershed Management Program~~EWMP shall:

i. Be consistent with the provisions in Part VI.C.1.a.-f and VI.C.5-C.8;

REVISED TENTATIVE

ii. Incorporate applicable State agency input on priority setting and other key implementation issues;

iii. Provide for meeting water quality standards and other CWA obligations by utilizing provisions in the CWA and its implementing regulations, policies and guidance;

iv. Include multi-benefit regional projects to ensure that MS4 discharges achieve compliance with all final WQBELs set forth in Part VI.E. and do not cause or contribute to exceedances of receiving water limitations in Part V.A. by ~~Maximize retention~~ retaining through infiltration or capture and reuse ~~of~~ the storm water volume from the 85th percentile, 24-hour storm ~~within~~ for the drainage areas tributary to the multi-benefit regional projects. ~~covered by the enhanced Watershed Management Program~~;

~~iv.~~**v.** In drainage areas where retention of the storm water volume from the 85th percentile, 24-hour event is not technically feasible, include other watershed control measures to ensure that MS4 discharges achieve compliance with all interim and final WQBELs set forth in Part VI.E. with compliance deadlines occurring after approval of a EWMP and to ensure that MS4 discharges do not cause or contribute to exceedances of receiving water limitations in Part V.A.;

~~v.~~**vi.** Maximize the effectiveness of funds through analysis of alternatives and the selection and sequencing of actions needed to address human health and water quality related challenges and non-compliance;

~~vi.~~**vii.** Incorporate effective innovative technologies, approaches and practices, including green infrastructure;

~~vii.~~**viii.** Ensure that existing requirements to comply with technology-based effluent limitations and core requirements (e.g., including elimination of non-storm water discharges of pollutants through the MS4, and controls to reduce the discharge of pollutants in storm water to the maximum extent practicable) are not delayed;

~~viii.~~ Ensure that a financial strategy is in place~~; and~~.

~~Provide appropriate opportunity for meaningful stakeholder input throughout the development of the enhanced Watershed Management Program, including the formation of a Technical Advisory Committee (TAC) that will advise and participate in the development of the enhanced Watershed Management Programs from month 6 through the date of program approval. The composition of the TAC may include at least one Permittee representative from each Watershed Management Area for which an enhanced Watershed Management Program will be developed and a minimum of one public representative from a non-governmental organization with public membership.~~

REVISED TENTATIVE

2. Compliance with Receiving Water Limitations Not Otherwise Addressed by a TMDL through a WMP or EWMP

a. For receiving water limitations in Part V.A. associated with water body-pollutant combinations not addressed through a TMDL, but which a Permittee elects to address through a Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP as set forth in this Part VI.C., a Permittee shall comply as follows:

i. For pollutants that are in the same class[22] as those addressed in a TMDL for the watershed and for which the water body is identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

(1) Permittees shall demonstrate that the Watershed Control Measures to achieve the applicable TMDL provisions identified pursuant to Part VI.C.5.b.iv.(3) will also adequately address contributions of the pollutant(s) within the same class from MS4 discharges to receiving waters, consistent with the assumptions and requirements of the corresponding TMDL provisions, including interim and final requirements and deadlines for their achievement, such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.

(2) Permittees shall include the water body-pollutant combination(s) in the Reasonable Assurance Analysis in Part VI.C.5.b.iv.(5).

(3) Permittees shall identify milestones and dates for their achievement consistent with those in the corresponding TMDL.

ii. For pollutants that are not in the same class as those addressed in a TMDL for the watershed, but for which the water body is identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

(1) Permittees shall assess contributions of the pollutant(s) from MS4 discharges to the receiving waters and sources of the pollutant(s) within the drainage area of the MS4 pursuant to Part VI.C.5.a.iii.

(2) Permittees shall identify Watershed Control Measures pursuant to Part VI.C.5.b. that will adequately address contributions of the pollutant(s) from MS4 discharges to receiving waters such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.

(3) Permittees shall include the water body-pollutant in the Reasonable Assurance Analysis in Part VI.C.5.b.iv.(5).

(4) Permittees shall identify enforceable requirements and milestones and dates for their achievement to control MS4 discharges such

[22] Pollutants are considered in a similar class if they have similar fate and transport mechanisms, can be addressed via the same types of control measures, and within the same timeline already contemplated as part of the Watershed Management Program for the TMDL.

REVISED TENTATIVE

that they do not cause or contribute to exceedances of receiving water limitations within a timeframe(s) that is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary. The time between dates shall not exceed one year. Milestones shall relate to a specific water quality endpoint (e.g., x% of the MS4 drainage area is meeting the receiving water limitations) and dates shall relate either to taking a specific action or meeting a milestone.

(5) Where the final date(s) in (4) is beyond the term of this Order, the following conditions shall apply:

(a) For an EWMP, in drainage areas where retention of (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event will be achieved, each participating Permittee shall continue to target implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges that are a source of pollutants to receiving waters.

~~(a)~~(b) For a WMP and in areas of a EWMP where retention of the volume in (a) is technically infeasible and where the Regional Water Board determines that MS4 discharges cause or contribute to the water quality impairment, participating Permittees may initiate development of a stakeholder-proposed TMDL upon approval of the Watershed Management Program or EWMP. For MS4 discharges from these drainage areas to the receiving waters, any extension of this compliance mechanism beyond the term of this Order shall be consistent with the implementation schedule in a TMDL for the waterbody pollutant combination(s) adopted by the Regional Water Board.

iii. For pollutants for which there are exceedances of receiving water limitations in Part V.A., but for which the water body is not identified as impaired on the State's Clean Water Act Section 303(d) List as of the effective date of this Order:

(1) Upon an exceedance of a receiving water limitation, based on data collected pursuant to the MRP and approved IMPs and CIMPs, Permittees shall assess contributions of the pollutant(s) from MS4 discharges to the receiving waters and sources of the pollutant(s) within the drainage area of the MS4 pursuant to Part VI.C.5.a.iii.

(2) If MS4 discharges are identified as a source of the pollutant(s) that has caused or contributed to, or has the potential to cause or contribute to, the exceedance(s) of receiving water limitations in

REVISED TENTATIVE

Part V.A., Permittees shall address contributions of the pollutant(s) from MS4 discharges through modifications to the WMP or ~~Integrated Program~~EWMP pursuant to Part VI.C.8.a.ii.

(a) In a modified WMP or EWMP, Permittees shall identify Watershed Control Measures pursuant to Part VI.C.5.b. that will adequately address contributions of the pollutant(s) from MS4 discharges to receiving waters such that the MS4 discharges of the pollutant(s) will not cause or contribute to exceedances of receiving water limitations in Part V.A.

(b) Permittees shall modify the Reasonable Assurance Analysis pursuant to Part VI.C.5.b.iv.(5) to address the pollutant(s).

(c) Permittees shall identify enforceable requirements and milestones and dates for their achievement to control MS4 discharges such that they do not cause or contribute to exceedances of receiving water limitations ~~to address the pollutant(s)~~ within a timeframe(s) that is as short as possible, taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary. The time between dates shall not exceed one year. Milestones shall relate to a specific water quality endpoint (e.g., x% of the MS4 drainage area is meeting the receiving water limitations) and dates shall relate either to taking a specific action or meeting a milestone.

(d) Where the final date(s) in (4) is beyond the term of this Order, the following conditions shall apply:

(i) For an EWMP, in drainage areas where retention of (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event will be achieved, each participating Permittee shall continue to ~~optimize~~target implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges that are a source of pollutants to receiving waters.

~~(i)~~(ii) For a WMP and in areas of a EWMP where retention of the volume in (a) is technically infeasible, for newly identified exceedances of receiving water limitations, a Permittee may request that the Regional Water Board approve a modification to its WMP or EWMP to include these additional water body-pollutant combinations.

b. A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or

REVISED TENTATIVE

~~enhanced Watershed Management Program~~EWMP shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A. of this Order for the specific water body-pollutant combinations addressed by an approved Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP.

c. If a Permittee fails to meet any requirement or date for its achievement in an approved Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP, the Permittee shall be subject to the provisions of Part V.A. for the waterbody-pollutant combination(s) that were to be addressed by the requirement.

d. Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with all of the following requirements shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A. not otherwise addressed by a TMDL, if all the following requirements are met:

i. Provides timely notice of its intent to develop a WMP or EWMP,

ii. Meets all interim and final deadlines for development of a WMP or EWMP,

iii. For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of pollutants from MS4 discharges that cause or contribute to exceedances of receiving water limitations, and

iv. Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

3. Compliance with Receiving Water Limitations Addressed by a TMDL through a WMP or EWMP

a. A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP shall constitute a Permittee's compliance with provisions pertaining to applicable interim water quality based effluent limitations and interim receiving water limitations ~~pursuant to~~in Part VI.E. and Attachments L-R for the pollutant(s) addressed by the approved Watershed Management Program or EWMP.

b. Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, a Permittee's full compliance with

REVISED TENTATIVE

all of the following requirements shall constitute a Permittee's compliance with the receiving water limitations provisions in Part V.A., if all the following requirements are met:

i. Provides timely notice of its intent to develop a WMP or EWMP,

ii. Meets all interim and final deadlines for development of a WMP or EWMP,

iii. For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of pollutants from MS4 discharges that cause or contribute to exceedances of receiving water limitations, and

iv. Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

~~a.~~**c.** Subdivision b. does not apply to receiving water limitations corresponding to final compliance deadlines pursuant to TMDL provisions in Part VI.E. that have passed or will occur prior to approval of a WMP or EWMP.

4. Process

a. Timelines for Implementation

i. ~~Each Permittee shall ensure i~~Implementation of the following requirements shall occur per the schedule specified in Table 9 below:

Table 9. Watershed Management Program Implementation Requirements

Part	Provision	Due Date
VI.C.4.b	Notify Regional Water Board of intent to develop Watershed Management Program or enhanced WMP and request submittal date for draft program plan	6 months after Order effective date
VI.C.4.c	For Permittee(s) that elect not to implement the conditions of Part VI.C.4.c.i or c.ii, submit draft plan to Regional Water Board ~~Executive Officer~~	1 year after Order effective date

REVISED TENTATIVE

VI.C.4.c	For Permittee(s) that elect to implement the conditions of Part VI.C.4.c.i or c.ii, submit draft plan to Regional Water Board ~~Executive Officer~~	18 months after Order effective date
VI.C.4.c.iv	For Permittees that elect to collaborate on an enhanced WMP that meets the requirements of Part VI.C.4.c.iv,submit draft plan to Regional Water Board ~~Executive Officer~~	18 months after Order effective date, provide final work plan for development of enhanced WMP~~, including early actions to achieve all interim and final water quality based effluent limitations and receiving water limitations pursuant to Part VI.E. and applicable Attachments with deadlines occurring prior to program approval~~ 30 months after Order effective date, submit draft plan
VI.C.4.c	Comments provided to Permittees by Regional Water Board ~~staff~~	4 months after submittal of draft plan
VI.C.4.c	Submit final plan to Regional Water Board ~~Executive Officer~~	3 months after receipt of Regional Water Board comments on draft plan
VI.C.4.c	Approval or denial of final plan by Regional Water Board or by the Executive Officer on behalf of the Regional Water Board	3 months after submittal of final plan
VI.C.6	Begin implementation of Watershed Management Program or EWMP	Upon approval of final plan ~~by Regional Water Board Executive Officer~~
VI.C.8	Comprehensive evaluation of Watershed Management Program or EWMP and submittal of modifications to plan	Every two years from date of approval

REVISED TENTATIVE

b. Permittees that elect to develop a Watershed Management Program or EWMP must notify the Regional Water Board no later than six months after the effective date of this Order.

i. Such notification shall specify if the Permittee(s) are requesting a 12-month or 18-month submittal date for the draft Watershed Management Program, per Part VI.C.4.c.i – ii, or if the Permittees are requesting a 18/30-month submittal date for the draft ~~enhanced Watershed Management Program~~EWMP per Part VI.C.4.c.iv.

ii. As part of their notice of intent to develop a WMP or EWMP, Permittees shall identify all applicable interim and final trash WQBELs and all other final ~~water quality based effluent limitations~~ WQBELs and receiving water limitations pursuant to Part VI.E. and the applicable attachment(s) with compliance deadlines occurring prior to approval of a WMP or EWMP. Permittees shall identify watershed control measures, where possible from existing TMDL implementation plans, that will be implemented by participating Permittees concurrently with the development of a Watershed Management Program or EWMP to ensure that MS4 discharges achieve compliance with applicable interim and final trash WQBELs and all other final ~~water quality based effluent limitations~~ WQBELs and receiving water limitations set forth in Part VI.E. and the applicable attachment(s) by the applicable ~~with~~ compliance deadlines occurring prior to approval of a WMP or EWMP.

iii. As part of their notification, Permittees electing to develop an ~~enhanced Watershed Management Program~~EWMP shall submit all of the following in addition to the requirements of Part VI.C.4.b.i.-ii.:

(1) Plan concept and geographical scope,

(2) Cost estimate for plan development,

(3) Executed MOU/agreement among participating Permittees to fund plan development, or final draft MOU among participating Permittees along with a signed letter of intent from each participating City Manager or head of agency. If a final draft MOU is submitted, the MOU shall be fully executed by all participating Permittees within 12 months of the effective date of this Order.

(4) Interim milestones for plan development and deadlines for their achievement,

(5) Identification of, and commitment to fully implement, one ~~multi-benefit regional pilot project~~ structural BMP or a suite of BMPs at a scale that provides meaningful water quality improvement within each watershed covered by the plan within 30 months of the effective date of this Order in addition to watershed control

REVISED TENTATIVE

measures to be implemented pursuant to b.ii. above. The structural BMP or suite of BMPs shall be subject to approval by the Regional Water Board Executive Officer, and

(6) Demonstration that the requirements in Parts VI.C.4.c.iv.(1) and (2) have been met.

c. Permittees that elect to develop a Watershed Management Program shall submit a draft plan to the Regional Water Board ~~Executive Officer~~ as follows:

i. For Permittees that elect to collaborate on the development of a Watershed Management Program, Permittees shall submit the draft Watershed Management Program no later than 18 months after the effective date of this Order if the following conditions are met in greater than 50% of the land area ~~in the watershed~~covered by the WMP:

(1) Demonstrate that there are LID ordinances in place and/or ~~Commence~~ commence development of a Low Impact Development (LID) ordinance(s) meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance ~~the first reading before the Permittee's decision-making body~~ within 6 months of the effective date of the Order, and

(2) Demonstrate that there are green streets policies in place and/or ~~Commence~~ commence development of a policy(ies) that specifies the use of green street strategies for transportation corridors within 60 days of the effective date of the Order and have a draft policy ~~the first reading before the Permittee's decision-making body~~ within 6 months of the effective date of the Order.

(3) Demonstrate in the notification of the intent to develop a Watershed Management Program that Parts VI.C.4.c.i(1) and (2) have been met in greater than 50% of the watershed area.

ii. For a Permittee~~s~~ that elects to develop an individual Watershed Management Program, the Permittee~~s~~ shall submit the draft Watershed Management Program no later than 18 months after the effective date of this Order if the following conditions are met:

(1) Demonstrate that there is a LID ordinance in place for the Permittee's jurisdiction and/or commence~~Commence~~ development of a Low Impact Development (LID) ordinance for the Permittee's jurisdiction meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance ~~the first reading before the Permittee's decision-making body~~ within 6 months of the effective date of the Order, and

REVISED TENTATIVE

(2) Demonstrate that there is a green streets policy in place for the Permittee's jurisdiction and/or commence~~Commence~~ development of a policy that specifies the use of green street strategies for transportation corridors within the Permittee's jurisdiction within 60 days of the effective date of the Order and have a draft policy ~~the first reading before the Permittee's decision-making body~~ within 6 months of the effective date of the Order.

(3) Demonstrate in the notification of the intent to develop a Watershed Management Program that Parts VI.C.4.c.ii.(1) and (2) have been met.

iii. For Permittees that elect not to implement the conditions under Part VI.C.4.c.i. or Part VI.C.4.c.ii., Permittees shall submit the draft Watershed Management Program no later than 12 months after the effective date of this Order.

iv. For Permittees that elect to collaborate on the development of an ~~enhanced Watershed Management Program~~EWMP, Permittees shall submit the work plan for development of the ~~enhanced Watershed Management Program~~EWMP no later than 18 months after the effective date of this Order, and shall submit the draft program no later than 30 months after the effective date of this Order if the following conditions are met in greater than 50% of the land area in the watershed:

(1) Demonstrate that there are LID ordinances in place and/or commence~~Commence~~ development of a Low Impact Development (LID) ordinance(s) meeting the requirements of this Order's Planning and Land Development Program within 60 days of the effective date of the Order and have a draft ordinance ~~the first reading before the Permittee's decision-making body~~ within 6 months of the effective date of the Order, and

(2) Demonstrate that there are green streets policies in place and/or commence ~~Commence~~ development of a policy(ies) that specifies the use of green street strategies for transportation corridors within 60 days of the effective date of the Order and have a draft policy ~~the first reading before the Permittee's decision-making body~~ within 6 months of the effective date of the Order.

(3) Demonstrate in the notification of the intent to develop an ~~enhanced Watershed Management Program~~EWMP that Parts VI.C.4.c.iv.(1) and (2) have been met in greater than 50% of the watershed area.

d. Until the Watershed Management Program or EWMP is approved by the Regional Water Board or by the Executive Officer on behalf of the Regional Water Board, Permittees that elect to develop a Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP shall:

REVISED TENTATIVE

i. Continue to implement watershed control measures in their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv),

~~i.~~**ii.** Continue to implement watershed control measures to eliminate non-storm water discharges through the MS4 that are a source of pollutants to receiving waters consistent with CWA section 402(p)(3)(B)(ii), and

~~ii.~~**iii.** Implement watershed control measures, where possible from existing TMDL implementation plans, ~~sufficient~~ to ensure that MS4 discharges ~~to~~ achieve compliance with interim and final trash WQBELs and all other final ~~water quality-based effluent limitations~~ WQBELs and receiving water limitations pursuant to Part VI.E. and set forth in Attachments L through R ~~in satisfaction of~~ by the applicable compliance deadlines occurring prior to ~~program~~ approval of a WMP or EWMP.

e. Permittees that do not elect to develop a Watershed Management Program or EWMP, or that do not have an approved WMP or EWMP within 28 or 40 months, respectively, of the effective date of this Order, shall be subject to the baseline requirements in Part VI.D and shall demonstrate compliance with receiving water limitations pursuant to Part V.A. and with applicable interim water quality-based effluent limitations in Part VI.E pursuant to subparts VI.E.2.d.i.(1)-(3).

f. Permittees subject to the Middle Santa Ana River Watershed Bacteria Indicator TMDL shall submit a Comprehensive Bacteria Reduction Plan (CBRP) for dry weather to the Regional Water Board Executive Officer no later than ~~six~~nine months after the effective date of this Order. The CBRP shall describe, in detail, the specific actions that have been taken or will be taken to achieve compliance with the dry weather water quality-based effluent limitations and the receiving water limitations for the Middle Santa Ana River Watershed Bacteria Indicator TMDL by December 31, 2015. The CBRP shall also establish a schedule for developing a CBRP to comply with the water quality-based effluent limitations and the receiving water limitations for the Middle Santa Ana River Bacteria TMDL during wet weather by December 31, 2025. The CBRP may be developed in lieu of the Watershed Management Program for MS4 discharges of bacteria within the Middle Santa Ana River Watershed.

5. Program Development

a. Identification of Water Quality Priorities

Permittees shall identify the water quality priorities within each WMA that will be addressed by the Watershed Management Program. At a minimum, these priorities shall include achieving applicable water quality-based effluent

REVISED TENTATIVE

limitations and/or receiving water limitations established pursuant to TMDLs, as set forth in Part VI.E and Attachments L through R of this Order.

i. Water Quality Characterization. Each plan shall include an evaluation of existing water quality conditions, including characterization of storm water and non-storm water discharges from the MS4 and receiving water quality, to support identification and prioritization/sequencing of management actions.

ii. Water Body-Pollutant Classification. On the basis of the evaluation of existing water quality conditions, water body-pollutant combinations shall be classified into one of the following three categories:

(1) Category 1 (Highest Priority): Water body-pollutant combinations for which water quality-based effluent limitations and/or receiving water limitations are established in Part VI.E and Attachments L through R of this Order.

(2) Category 2 (High Priority): Pollutants for which data indicate water quality impairment in the receiving water according to the State's Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (State Listing Policy) and for which MS4 discharges may be causing or contributing to the impairment.

(3) Category 3 (Medium Priority): Pollutants for which there are insufficient data to indicate water quality impairment in the receiving water according to the State's Listing Policy, but which exceed applicable receiving water limitations contained in this Order and for which MS4 discharges may be causing or contributing to the exceedance.

iii. Source Assessment. Utilizing existing information, potential sources within the watershed for the water body-pollutant combinations in Categories 1 - 3 shall be identified.

(1) Permittees shall identify known and suspected storm water and non-storm water pollutant sources in discharges to the MS4 and from the MS4 to receiving waters and any other stressors related to MS4 discharges causing or contributing to the water quality priorities. The identification of known and suspected sources of the highest water quality priorities shall consider the following:

(a) Review of available data, including but not limited to:

(i) Findings from the Permittees' Illicit Connections and Illicit Discharge Elimination Programs;

(ii) Findings from the Permittees' Industrial/Commercial Facilities Programs;

(iii) Findings from the Permittees' Development Construction Programs;

(iv) Findings from the Permittees' Public Agency Activities Programs;

(v) TMDL source investigations;

(vi) Watershed model results;

(vii) Findings from the Permittees' monitoring programs, including but not limited to TMDL compliance monitoring and receiving water monitoring; and

(viii) Any other pertinent data, information, or studies related to pollutant sources and conditions that contribute to the highest water quality priorities.

(b) Locations of the Permittees' MS4s, including, at a minimum, all MS4 major outfalls and major structural controls for storm water and non-storm water that discharge to receiving waters.

(c) Other known and suspected sources of pollutants in non-storm water or storm water discharges from the MS4 to receiving waters within the WMA.

iv. Prioritization. Based on the findings of the source assessment, the issues within each watershed shall be prioritized and sequenced. Watershed priorities shall include at a minimum:

(1) TMDLs

(a) Controlling pollutants for which there are water quality-based effluent limitations and/or receiving water limitations with interim or final compliance deadlines within the permit term, or TMDL compliance deadlines that have already passed and limitations have not been achieved.

(b) Controlling pollutants for which there are water quality-based effluent limitations and/or receiving water limitations with interim or final compliance deadlines between September 6, 2012 and October 25, 2017.

(2) Other Receiving Water Considerations

REVISED TENTATIVE

(a) Controlling pollutants for which data indicate impairment or exceedances of receiving water limitations in the receiving water and the findings from the source assessment implicates discharges from the MS4 shall be considered the second highest priority.

b. Selection of Watershed Control Measures

i. Permittees shall identify strategies, control measures, and BMPs to implement through their individual storm water management programs, and collectively on a watershed scale, with the goal of creating an efficient program to focus individual and collective resources on watershed priorities.

ii. The objectives of the Watershed Control Measures shall include:

(1) Prevent or eliminate non-storm water discharges to the MS4 that are a source of pollutants from the MS4 to receiving waters.

(2) Implement pollutant controls necessary to achieve all applicable interim and final water quality-based effluent limitations and/or receiving water limitations pursuant to corresponding compliance schedules.

(3) Ensure that discharges from the MS4 do not cause or contribute to exceedances of receiving water limitations.

iii. Watershed Control Measures may include:

(1) Structural and/or non-structural controls and operation and maintenance procedures that are designed to achieve applicable water quality-based effluent limitations, receiving water limitations in Part VI.E and/or Attachments L through R;

(2) Retrofitting areas of existing development known or suspected to contribute to the highest water quality priorities with regional or sub-regional controls or management measures; and

(3) Stream and/or habitat rehabilitation or restoration projects where stream and/or habitat rehabilitation or restoration are necessary for, or will contribute to demonstrable improvements in the physical, chemical, and biological receiving water conditions and restoration and/or protection of water quality standards in receiving waters.

REVISED TENTATIVE

iv. The following provisions of this Order shall be incorporated as part of the Watershed Management Program:

(1) Minimum Control Measures.

(a) Permittees shall assess the minimum control measures (MCMs) as defined in Part VI.D.4 to Part VI.D.10 of this Order to identify opportunities for focusing resources on the high priority issues in each watershed. For each of the following minimum control measures, Permittees shall identify potential modifications that will address watershed priorities:

(i) Development Construction Program

(ii) Industrial/Commercial Facilities Program

(iii) Illicit Connection and Illicit Discharges Detection and Elimination Program

(iv) Public Agency Activities Program

(v) Public Information and Participation Program

(b) At a minimum, the Watershed Management Program shall include management programs consistent with 40 CFR section 122.26(d)(2)(iv)(A)-(D).

(c) If the Permittee(s) elects to eliminate a control measure identified in Parts VI.D.4, VI.D.5, VI.D.6 and VI.D.8 to VI.D.10 because that specific control measure is not applicable to the Permittee(s), the Permittee(s) shall provide a justification for its elimination. The Planning and Land Development Program is not eligible for elimination.

(d) Such customized actions, once approved as part of the Watershed Management Program, shall replace in part or in whole the requirements in Parts VI.D.4, VI.D.5, VI.D.6 and VI.D.8 to VI.D.10 for participating Permittees.

(2) Non-Storm Water Discharge Measures. Where Permittees identify non-storm water discharges from the MS4 as a source of pollutants that cause or contribute to exceedance of receiving water limitations, the Watershed Control Measures shall include strategies, control measures, and/or BMPs that must be implemented to effectively eliminate the source of pollutants consistent with Parts III.A and VI.D.10. These may include measures to prohibit the non-storm water discharge to the MS4, additional BMPs to reduce pollutants in the non-storm water discharge or conveyed by the non-storm water discharge,

REVISED TENTATIVE

diversion to a sanitary sewer for treatment, or strategies to require the non-storm water discharge to be separately regulated under a general NPDES permit.

(3) TMDL Control Measures. Permittees shall compile control measures that have been identified in TMDLs and corresponding implementation plans. Permittees shall identify those control measures to be modified, if any, to most effectively address TMDL requirements within the watershed. If not sufficiently identified in previous documents, or if implementation plans have not yet been developed (e.g., USEPA established TMDLs), the Permittees shall evaluate and identify control measures to achieve water quality-based effluent limitations and/or receiving water limitations established in this Order pursuant to these TMDLs.

(a) TMDL control measures shall include where necessary control measures to address both storm water and non-storm water discharges from the MS4.

(b) TMDL control measures may include baseline or customized activities covered under the general MCM categories in Part VI.D as well as BMPs and other control measures covered under the non-storm water discharge provisions of Part III.A of this Order.

(c) The WMP shall include, at a minimum, those actions that will be implemented during the permit term to achieve interim and/or final water quality-based effluent limitations and/or receiving water limitations with compliance deadlines within the permit term.

(4) Each plan shall include the following components:

(a) Identification of specific structural controls and non-structural best management practices, including operational source control and pollution prevention, and any other actions or programs to achieve all water quality-based effluent limitations and receiving water limitations contained in this Part VI.E and Attachments L through R to which the Permittee(s) is subject;

(b) For each structural control and non-structural best management practice, the number, type, and location(s) and/or frequency of implementation;

(c) For any pollution prevention measures, the nature, scope, and timing of implementation;

(d) For each structural control and non-structural best management practice, interim milestones and dates for achievement to ensure that TMDL compliance deadlines will be met; and

REVISED TENTATIVE

(e) The plan shall clearly identify the responsibilities of each participating Permittee for implementation of watershed control measures.

(5) Permittees shall conduct a Reasonable Assurance Analysis for each water body-pollutant combination addressed by the Watershed Management Program. A Reasonable Assurance Analysis (RAA) shall be quantitative and performed using a peer-reviewed model in the public domain. Models to be considered for the RAA, without exclusion, are the Watershed Management Modeling System (WMMS), Hydrologic Simulation Program-FORTRAN (HSPF), and the Structural BMP Prioritization and Analysis Tool (SBPAT). The RAA shall commence with assembly of all available, relevant subwatershed data collected within the last 10 years, including land use and pollutant loading data, establishment of quality assurance/quality control (QA/QC) criteria, QA/QC checks of the data, and identification of the data set meeting the criteria for use in the analysis. Data on performance of watershed control measures needed as model input shall be drawn only from peer-reviewed sources. These data shall be statistically analyzed to determine the best estimate of performance and the confidence limits on that estimate for the pollutants to be evaluated. The objective of the RAA shall be to demonstrate the ability of Watershed Management Programs and ~~enhanced Watershed Management Program~~EWMPs to ensure that Permittees' MS4 discharges achieve applicable water quality based effluent limitations and do not cause or contribute to exceedances of receiving water limitations.

(a) Permittees shall demonstrate using the RAA that the activities and control measures identified in the Watershed Control Measures will achieve applicable water quality-based effluent limitations and/or receiving water limitations in Attachments L through R with compliance deadlines during the permit term.

(b) Where the TMDL Provisions in Part VI.E and Attachments L through R do not include interim or final water quality-based effluent limitations and/or receiving water limitations with compliance deadlines during the permit term, Permittees shall identify interim milestones and dates for their achievement to ensure adequate progress toward achieving interim and final water quality-based effluent limitations and/or receiving water limitations with deadlines beyond the permit term.

(c) For water body-pollutant combinations not addressed by TMDLs, Permittees shall demonstrate using the RAA that the activities and control measures identified in the Watershed Control Measures will achieve applicable receiving water limitations as soon as possible.

REVISED TENTATIVE

(6) Permittees shall provide documentation that they have the necessary legal authority to implement the Watershed Control Measures identified in the plan, or that other legal authority exists to compel implementation of the Watershed Control Measures.

c. Compliance Schedules

Permittees shall incorporate compliance schedules in Attachments L through R into the plan and, where necessary develop interim milestones and dates for their achievement. Compliance schedules and interim milestones and dates for their achievement shall be used to measure progress towards addressing the highest water quality priorities and achieving applicable water quality-based effluent limitations and/or receiving water limitations.

i. Schedules must be adequate for measuring progress on a watershed scale once every two years.

ii. Schedules must be developed for both the strategies, control measures and BMPs implemented by each Permittee within its jurisdiction and for those that will be implemented by multiple Permittees on a watershed scale.

iii. Schedules shall incorporate the following:

(1) Compliance deadlines occurring within the permit term for all applicable interim and/or final water quality-based effluent limitations and/or receiving water limitations in Part VI.E and Attachments L through R of this Order,

(2) Interim milestones and dates for their achievement within the permit term for any applicable final water quality-based effluent limitation and/or receiving water limitation in Part VI.E and Attachments L through R, where deadlines within the permit term are not otherwise specified.

(3) For watershed priorities related to addressing exceedances of receiving water limitations in Part V.A and not otherwise addressed by Part VI.E:

(a) Milestones based on measureable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges,

(a) A schedule with dates for achieving the milestones, and

(b) A final date for achieving the receiving water limitations as soon as possible.

REVISED TENTATIVE

(c) The milestones and implementation schedule in (a)-(c) fulfill the requirements in Part V.A.3.a to prepare an Integrated Monitoring Compliance Report.

6. Watershed Management Program Implementation

Each Permittee shall begin implementing the Watershed Management Program or EWMP immediately upon approval of the plan by the Regional Water Board or the Executive Officer on behalf of the Regional Water Board.

a. Permittees may request an extension of deadlines for achievement of interim milestones established pursuant to Part VI.C.4.c.iii.(3) only. Permittees shall provide requests in writing at least 90 days prior to the deadline and shall include in the request the justification for the extension. Extensions shall be subject to approval by the Regional Water Board Executive Officer.

7. Integrated Watershed Monitoring and Assessment

Permittees in each WMA shall develop an integrated monitoring program as set forth in Part IV of the MRP (Attachment E) or implement a customized monitoring program with the primary objective of allowing for the customization of the outfall monitoring program (Parts VIII and IX) in conjunction with an approved Watershed Management Program or EWMP, as defined below. Each monitoring program shall assess progress toward achieving the water quality-based effluent limitations and/or receiving water limitations per the compliance schedules, and progress toward addressing the water quality priorities for each WMA. The customized monitoring program shall be submitted as part of the Watershed Management Program, or where Permittees elect to develop an ~~enhanced Watershed Management Program~~EWMP, shall be submitted within 18 months of the effective date of this Order. If pursuing a customized monitoring program, the Permittee(s) shall provide sufficient justification for each element of the program that differs from the monitoring program requirements as set forth in Attachment E. Monitoring programs shall be subject to approval by the Executive Officer following a public comment period. The customized monitoring program shall be designed to address the Primary Objectives detailed in Attachment E, Part II.A and shall include the following program elements:

- Receiving Water Monitoring
- Storm Water Outfall Monitoring
- Non-Storm Water Outfall Monitoring
- New Development/Re-Development Effectiveness Tracking
- Regional Studies

8. Adaptive Management Process

REVISED TENTATIVE

a. Watershed Management Program Adaptive Management Process

i. Permittees in each WMA shall implement an adaptive management process, every two years from the date of program approval, adapting the Watershed Management Program or ~~enhanced~~ EWMP to become more effective, based on, but not limited to a consideration of the following:

(1) Progress toward achieving interim and/or final water quality-based effluent limitations and/or receiving water limitations in Part VI.E and Attachments L through R, according to established compliance schedules;

(2) Progress toward achieving improved water quality in MS4 discharges and achieving receiving water limitations through implementation of the watershed control measures based on an evaluation of outfall-based monitoring data and receiving water monitoring data;

(3) Achievement of interim milestones;

(4) Re-evaluation of the water quality priorities identified for the WMA based on more recent water quality data for discharges from the MS4 and the receiving water(s) and a reassessment of sources of pollutants in MS4 discharges;

(5) Availability of new information and data from sources other than the Permittees' monitoring program(s) within the WMA that informs the effectiveness of the actions implemented by the Permittees;

(6) Regional Water Board recommendations; and

(7) Recommendations for modifications to the Watershed Management Program solicited through a public participation process.

ii. Based on the results of the adaptive management process, Permittees shall report any modifications, including where appropriate new compliance deadlines and interim milestones, with the exception of those compliance deadlines established in a TMDL, necessary to improve the effectiveness of the Watershed Management Program or ~~enhanced Watershed Management Program~~ EWMP in the Annual Report, as required pursuant to Part XVIII.A.6 of the MRP (Attachment E), and as part of the Report of Waste Discharge (ROWD) required pursuant to Part II.B of Attachment D – Standard Provisions.

(1) The adaptive management process fulfills the requirements in Part V.A.4 to address continuing exceedances of receiving water limitations.

iii. Permittees shall implement any modifications to the Watershed Management Program or ~~enhanced Watershed Management Program~~ EWMP upon

REVISED TENTATIVE

approval by the Regional Water Board Executive Officer or within 60 days of submittal if the Regional Water Board Executive Officer expresses no objections.

D. Storm Water Management Program Minimum Control Measures

1. General Requirements

a. Each Permittee shall implement the requirements in Parts VI.D.4 through VI.D.10 below, or may in lieu of the requirements in Parts VI.D.4 through VI.D.10 implement customized actions within each of these general categories of control measures as set forth in an approved Watershed Management Program per Part VI.C. Implementation shall be consistent with the requirements of 40 CFR § 122.26(d)(2)(iv).

b. Timelines for Implementation

i. Unless otherwise noted in Part VI.D, each Permittee that does not elect to develop a Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP per Part VI.C shall implement the requirements contained in Part VI.D within 6 months after the effective date of this Order. In the interim, a Permittee shall continue to implement its existing storm water management program, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv).

ii. Permittees that elect to develop a Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP shall continue to implement their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv) until the Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP is approved by the Regional Water Board Executive Officer.

2. Progressive Enforcement and Interagency Coordination

a. Each Permittee shall develop and implement a Progressive Enforcement Policy to ensure that (1) regulated Industrial/Commercial facilities, (2) construction sites, (3) development and redevelopment sites with post-construction controls, and (4) illicit discharges are each brought into compliance with all storm water and non-storm water requirements within a reasonable time period as specified below.

i. Follow-up Inspections

In the event that a Permittee determines, based on an inspection or illicit discharge investigation conducted, that a facility or site operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-

REVISED TENTATIVE

up inspection within 4 weeks from the date of the initial inspection and/or investigation.

ii. Enforcement Action

In the event that a Permittee determines that a facility or site operator has failed to adequately implement BMPs after a follow-up inspection, that Permittee shall take enforcement action as established through authority in its municipal code and ordinances, through the judicial system, or refer the case to the Regional Water Board, per the Interagency Coordination provisions below.

iii. Records Retention

Each Permittee shall maintain records, per their existing record retention policies, and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

iv. Referral of Violations of Municipal Ordinances and California Water Code § 13260

A Permittee may refer a violation(s) of its municipal storm water ordinances and/or California Water Code section 13260 by Industrial and Commercial facilities and construction site operators to the Regional Water Board provided that the Permittee has made a good faith effort of applying its Progressive Enforcement Policy to achieve compliance with its own ordinances. At a minimum, a Permittee's good faith effort must be documented with:

(1) Two follow-up inspections, and

(2) Two warning letters or notices of violation.

v. Referral of Violations of the Industrial and Construction General Permits, including Requirements to File a Notice of Intent or No Exposure Certification

For those facilities or site operators in violation of municipal storm water ordinances and subject to the Industrial and/or Construction General Permits, Permittees may escalate referral of such violations to the Regional Water Board (promptly via telephone or electronically) after one inspection and one written notice of violation (copied to the Regional Water Board) to the facility or site operator regarding the violation. In making such referrals, Permittees shall include, at a minimum, the following documentation:

(1) Name of the facility or site,

(2) Operator of the facility or site,

(3) Owner of the facility or site,

(4) WDID Number (if applicable),

REVISED TENTATIVE

(5) Records of communication with the facility/site operator regarding the violation, which shall include at least one inspection report,

(6) The written notice of violation (copied to the Regional Water Board),

(7) For industrial sites, the industrial activity being conducted at the facility that is subject to the Industrial General Permit, and

(8) For construction sites, site acreage and Risk Factor rating.

b. Investigation of Complaints Transmitted by the Regional Water Board Staff

Each Permittee shall initiate, within one business day,[23] investigation of complaints from facilities within its jurisdiction. The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm validity of the complaint and to determine if the facility is in compliance with municipal storm water ordinances and, if necessary, to oversee corrective action.

c. Assistance with Regional Water Board Enforcement Actions

As directed by the Regional Water Board Executive Officer, Permittees shall assist Regional Water Board enforcement actions by:

i. Assisting in identification of current owners, operators, and lessees of properties and sites.

ii. Providing staff, when available, for joint inspections with Regional Water Board inspectors.

iii. Appearing to testify as witnesses in Regional Water Board enforcement hearings.

iv. Providing copies of inspection reports and documentation demonstrating application of its Progressive Enforcement Policy.

3. Modifications/Revisions

a. Each Permittee shall modify its storm water management programs, protocols, practices, and municipal codes to make them consistent with the requirements in this Order.

4. Requirements Applicable to the Los Angeles County Flood Control District

a. Public Information and Participation Program (PIPP)

REVISED TENTATIVE

[23] Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to "initiate" the investigation within that one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, to occur within four business days.

i. General

(1) The LACFCD shall participate in a regional Public Information and Participation Program (PIPP) or alternatively, shall implement its own PIPP that includes the requirements listed in this part. The LACFCD shall collaborate, as necessary, with other Permittees to implement PIPP requirements. The objectives of the PIPP are as follows:

(a) To measurably increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.

(b) To measurably change the waste disposal and storm water pollution generation behavior of target audiences by encouraging the implementation of appropriate alternatives by providing information to the public.

(c) To involve and engage a diversity of socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of stormwater pollution.

ii. PIPP Implementation

(1) The LACFCD shall implement the PIPP requirements listed in this Part VI.D.5 using one or more of the following approaches:

(a) By participating in a collaborative PIPP covering the entire service area of the Los Angeles County Flood Control District,

(b) By participating in one or more Watershed Group sponsored PIPPs, and/or

(c) Individually within the service area of the Los Angeles County Flood Control District.

(2) If the LACFCD participates in a collaborative District-wide or Watershed Group PIPP, the LACFCD shall provide the contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes no later than 30 days after a change occurs.

iii. Public Participation

(1) The LACFCD, in collaboration with the County of Los Angeles, shall continue to maintain the countywide hotline (888-CLEAN-LA) for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels, and general storm water management information.

(a) The LACFCD shall include the reporting information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed or published.

(b) The LACFCD, in collaboration with the County of Los Angeles, shall continue to maintain the www.888cleanla.com website.

iv. Residential Outreach Program

(1) Working in conjunction with a District-wide or Watershed Group sponsored PIPP or individually, the LACFCD shall implement the following activities:

(a) Conduct storm water pollution prevention public service announcements and advertising campaigns

(b) Facilitate the dissemination of public education materials including, at a minimum, information on the proper handling (i.e., disposal, storage and/or use) of:

( ) Vehicle waste fluids

(i) Household waste materials (i.e., trash and household hazardous waste)

(ii) Construction waste materials

(iii) Pesticides and fertilizers (including integrated pest management practices [IPM] to promote reduced use of pesticides),

(iv) Green waste (including lawn clippings and leaves)

(v) Animal wastes

(c) Facilitate the dissemination of activity-specific storm water pollution prevention public education materials, at a minimum, for the following points of purchase:

(i) Automotive parts stores

(ii) Home improvement centers / lumber yards / hardware stores / paint stores

(iii) Landscaping / gardening centers

(iv) Pet shops / feed stores

(d) Maintain a storm water website, which shall include educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities listed in Part VI.D.5.

(e) When implementing activities in (a)-(d), the LACFCD shall use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods.

b. Industrial/Commercial Facilities Program

REVISED TENTATIVE

If the LACFCD operates, or has authority over, any facility(ies) identified in Part VI.D.6.b, LACFCD shall comply with the requirements in Part VI.D.6 for those facilities.

c. Public Agency Activities Program

i. General

(1) The LACFCD shall implement a Public Agency Activities Program to minimize storm water pollution impacts from LACFCD-owned or operated facilities and activities. Requirements for Public Agency Facilities and Activities consist of the following components:

(a) Public Construction Activities Management.

(b) Public Facility Inventory

(c) Public Facility and Activity Management

(d) Vehicle and Equipment Washing

(e) Landscape and Recreational Facilities Management

(f) Storm Drain Operation and Maintenance

(g) Parking Facilities Management

(h) Emergency Procedures

(i) Employee and Contractor Training

ii. Public Construction Activities Management

(1) The LACFCD shall implement and comply with the Planning and Land Development Program requirements in Part VI.D.7 of this Order at LACFCD-owned or operated public construction projects that are categorized under the project types identified in Part VI.D.7 of this Order.

(2) The LACFCD shall implement and comply with the appropriate Development Construction Program requirements in Part VI.D.8 of this Order at LACFCD-owned or operated construction projects as applicable.

(3) For LACFCD-owned or operated projects that disturb less than one acre of soil, the LACFCD shall require the implementation of an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program).

(4) The LACFCD shall obtain separate coverage under the Construction General Permit for all LACFCD-owned or operated construction sites that require coverage.

iii. Public Facility Inventory

(1) The LACFCD shall maintain an updated watershed-based inventory and map of all LACFCD-owned or operated facilities that are potential sources of storm water pollution. The incorporation of facility information into a GIS is recommended. Sources to be tracked include but are not limited to the following:

(a) Chemical storage facilities

(b) Equipment storage and maintenance facilities (including landscape maintenance-related operations)

(c) Fueling or fuel storage facilities

(d) Materials storage yards

(e) Pesticide storage facilities

(f) LACFCD buildings

(g) LACFCD vehicle storage and maintenance yards

(h) All other LACFCD-owned or operated facilities or activities that the LACFCD determines may contribute a substantial pollutant load to the MS4.

(2) The LACFCD shall include the following minimum fields of information for each LACFCD-owned or operated facility in its watershed-based inventory and map.

(a) Name of facility

(b) Name of facility manager and contact information

(c) Address of facility (physical and mailing)

(d) A narrative description of activities performed and principal products used at each facility and status of exposure to storm water.

(e) Coverage under the Industrial General Permit or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.

(3) The LACFCD shall update its inventory and map once during the Permit term. The update shall be accomplished through a collection of new information obtained through field activities.

iv. Public Agency Facility and Activity Management

(1) The LACFCD shall obtain separate coverage under the Industrial General Permit for all LACFCD-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General Permit.

(2) The LACFCD shall implement the following measures for flood management projects:

(a) Develop procedures to assess the impacts of flood management projects on the water quality of receiving waterbodies; and

(b) Evaluate existing structural flood control facilities during the planning phases of major maintenance or rehabilitation projects to determine if retrofitting the facility to provide additional pollutant removal from storm water is feasible.

(3) The LACFCD shall implement and maintain the general and activity-specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs when such activities occur at LACFCD-owned or operated facilities and field activities (e.g., project sites) including but not limited to the facility types listed in Part VI.D.9.c above, and at any area that includes the activities described in Table 18, or that have the potential to discharge pollutants in storm water.

(4) Any contractors hired by the LACFCD to conduct Public Agency Activities shall be contractually required to implement and maintain the general and activity specific BMPs listed in Table 18 or an equivalent set of BMPs. The LACFCD shall conduct oversight of contractor activities to ensure these BMPs are implemented and maintained.

(5) Effective source control BMPs for the activities listed in Table 18 shall be implemented at LACFCD-owned or operated facilities, unless the pollutant generating activity does not occur. The LACFCD shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA, see Attachment A for definition), a water body subject to TMDL Provisions in Part VI.E, or a CWA section 303(d) listed water body (see Part VI.E below). Likewise, for those BMPs that are not adequately protective of water quality standards, the LACFCD shall implement additional site-specific controls.

v. Vehicle and Equipment Washing

(1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs for all fixed vehicle and equipment washing areas;

(2) The LACFCD shall prevent discharges of wash waters from vehicle and equipment washing to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:

(a) Self-contain, and haul off for disposal; or

(b) Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable waste water provider regulations

(3) The LACFCD shall ensure that any LACFCD facilities constructed, redeveloped, or replaced shall not discharge wastewater from vehicle and equipment wash areas to the MS4 by plumbing all areas to the sanitary sewer in accordance with applicable waste water provider regulations, or self-containing all waste water/ wash water and hauling to a point of legal disposal.

vi. Landscape and Recreational Facilities Management

(1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) or an equivalent set of BMPs for all its public right-of-ways, flood control facilities and open channels and reservoirs, and landscape and recreational facilities and activities.

(2) The LACFCD shall implement an IPM program that includes the following:

(a) Pesticides are used only if monitoring indicates they are needed, and pesticides are applied according to applicable permits and established guidelines.

(b) Treatments are made with the goal of removing only the target organism.

(c) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial non-target organisms, and the environment.

(d) The use of pesticides, including Organophosphates and Pyrethroids, does not threaten water quality.

(e) Partner, as appropriate, with other agencies and organizations to encourage the use of IPM.

(f) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) for Public Agency Facilities and Activities.

(g) Policies, procedures, and ordinances shall include a schedule to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:

(i) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.

(ii) Quantify pesticide use by staff and hired contractors.

(iii) Demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(3) The LACFCD shall implement the following requirements:

(a) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.

(b) Ensure no application of pesticides or fertilizers are applied to an area immediately prior to, during or immediately after a rain event, or when water is flowing off the area.

(c) Ensure that no banned or unregistered pesticides are stored or applied.

(d) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.

(e) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and

(f) Store pesticides and fertilizers indoors or under cover on paved surfaces, or use secondary containment.

(i) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.

(ii) Regularly inspect storage areas.

vii. Storm Drain Operation and Management

(1) The LACFCD shall implement and maintain the activity specific BMPs listed in Table 18 or equivalent set of BMPs for storm drain operation and maintenance.

(2) Ensure that all the material removed from the MS4 does not reenter the system. Solid material shall be dewatered in a contained area and liquid material shall be disposed in accordance with any of the following measures:

(a) Self-contain, and haul off for legal disposal; or

(b) Equip with a clarifier or an alternative pre-treatment device; and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.

(3) Catch Basin Cleaning

(a) In areas that are not subject to a trash TMDL, the LACFCD shall determine priority areas and shall update its map or list of catch basins with their GPS coordinates and priority:

Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Catch basins that are designated as generating low volumes of trash and/or debris.

The map or list shall contain the rationale or data to support priority designations.

(b) In areas not subject to a trash TMDL, the LACFCD shall inspect its catch basins according to the following schedule:

Priority A: A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.

Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

Catch basins shall be cleaned as necessary on the basis of inspections. At a minimum, LACFCD shall ensure that any catch basin that is determined to be at least 25% full of trash shall be cleaned out. LACFCD shall maintain inspection and cleaning records for Regional Water Board review.

(c) In areas that are subject to a trash TMDL, the subject Permittees shall implement the applicable provisions in Part VI.E.

(4) Catch Basin Labels and Open Channel Signage

(a) LACFCD shall label all catch basin inlets that they own with a legible “no dumping” message.

(b) The LACFCD shall inspect the legibility of the catch basin stencil or label nearest the inlet prior to the wet season every year.

(c) The LACFCD shall record all catch basins with illegible stencils and re-stencil or re-label within 180 days of inspection.

(d) The LACFCD shall post signs, referencing local code(s) that prohibit littering and illegal dumping, at designated public access points to open channels, creeks, urban lakes, and other relevant waterbodies.

(5) Open Channel Maintenance

The LACFCD shall implement a program for Open Channel Maintenance that includes the following:

(a) Visual monitoring of LACFCD owned open channels and other drainage structures for trash and debris at least annually;

REVISED TENTATIVE

(b) Removal of trash and debris from open channels a minimum of once per year before the wet season;

(c) Elimination of the discharge of contaminants produced by storm drain maintenance and clean outs; and

(d) Proper disposal of debris and trash removed during open channel maintenance.

(6) Infiltration from Sanitary Sewer to MS4/Preventive Maintenance

(a) The LACFCD shall implement controls and measures to prevent and eliminate infiltration of seepage from sanitary sewers to its MS4 thorough routine preventive maintenance of its MS4.

(b) The LACFCD shall implement controls to limit infiltration of seepage from sanitary sewers to its MS4 where necessary. Such controls must include:

(i) Adequate plan checking for construction and new development;

(ii) Incident response training for its employees that identify sanitary sewer spills;

(iii) Code enforcement inspections;

(iv) MS4 maintenance and inspections;

(v) Interagency coordination with sewer agencies; and

(vi) Proper education of its staff and contractors conducting field operations on its MS4.

(7) LACFCD-Owned Treatment Control BMPs

(a) The LACFCD shall implement an inspection and maintenance program for all LACFCD-owned treatment control BMPs, including post-construction treatment control BMPs.

(b) The LACFCD shall ensure proper operation of all its treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.

(c) Any residual water produced by a treatment control BMP and not being internal to the BMP performance when being maintained shall be:

(i) Hauled away and legally disposed of; or

(ii) Applied to the land without runoff; or

(iii) Discharged to the sanitary sewer system (with permits or authorization); or

(iv) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 19 (Discharge Limitations

for Dewatering Treatment BMPs), prior to discharge to the MS4.

viii. Parking Facilities Management

LACFCD-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a LACFCD-owned parking lot be cleaned less than once a month.

ix. Emergency Procedures

The LACFCD may conduct repairs and rehabilitation of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order as follows:

(1) The LACFCD shall abide by all other regulatory requirements, including notification to other agencies as appropriate.

(2) Where the self-waiver has been invoked, the LACFCD shall notify the Regional Water Board Executive Officer of the occurrence of the emergency no later than 30 business days after the situation of emergency has passed.

(3) Minor repairs of essential public service systems and infrastructure in emergency situations (that can be completed in less than one week) are not subject to the notification provisions. Appropriate BMPs to reduce the threat to water quality shall be implemented.

x. Employee and Contractor Training

(1) The LACFCD shall, no later than one year after Order adoption and annually thereafter before June 30, train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:

(a) Promote a clear understanding of the potential for activities to pollute storm water.

(b) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

(2) The LACFCD shall, no later than one year after Order adoption and annually thereafter before June 30, train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:

(a) The potential for pesticide-related surface water toxicity.

REVISED TENTATIVE

(b) Proper use, handling, and disposal of pesticides.

(c) Least toxic methods of pest prevention and control, including IPM.

(d) Reduction of pesticide use.

(3) The LACFCD shall require appropriate training of contractor employees in targeted positions as described above.

d. Illicit Connections and Illicit Discharge Elimination Program

i. General

(1) The LACFCD shall continue to implement an Illicit Connection and Illicit Discharge (IC/ID) Program to detect, investigate, and eliminate IC/IDs to its MS4. The IC/ID Program must be implemented in accordance with the requirements and performance measures specified in the following subsections.

(2) As stated in Part VI.A.2 of this Order, each Permittee must have adequate legal authority to prohibit IC/IDs to the MS4 and enable enforcement capabilities to eliminate the source of IC/IDs.

(3) The LACFCD's IC/ID Program shall consist of at least the following major program components:

(a) An up-to-date map of LACFCD's MS4

(b) Procedures for conducting source investigations for IC/IDs

(c) Procedures for eliminating the source of IC/IDs

(d) Procedures for public reporting of illicit discharges

(e) Spill response plan

(f) IC/IDs education and training for LACFCD staff

ii. MS4 Mapping

(1) The LACFCD shall maintain an up-to-date and accurate electronic map of its MS4. If possible, the map should be maintained within a GIS. The map must show the following, at a minimum:

(a) Within one year of Permit adoption, the location of outfalls owned and maintained by the LACFCD. Each outfall shall be given an alphanumeric identifier, which must be noted on the map. Each mapped outfall shall be located using a geographic positioning system (GPS). Photographs of the major outfalls shall be taken to provide baseline information to track operation and maintenance needs over time.

(b) The location and length of open channels and underground storm drain pipes with a diameter of 36 inches or greater that are owned and operated by the LACFCD.

REVISED TENTATIVE

(c) The location and name of all waterbodies receiving discharges from those MS4 major outfalls identified in (a).

(d) All LACFCD's dry weather diversions installed within the MS4 to direct flows from the MS4 to the sanitary sewer system, including the owner and operator of each diversion.

(e) By the end of the Permit term, map all known permitted and documented connections to its MS4 system.

(2) The MS4 map shall be updated as necessary.

iii. Illicit Discharge Source Investigation and Elimination

(1) The LACFCD shall develop written procedures for conducting investigations to prioritize and identify the source of all illicit discharges to its MS4, including procedures to eliminate the discharge once the source is located.

(2) At a minimum, the LACFCD shall initiate[24] an investigation(s) to identify and locate the source within one business day of becoming aware of the illicit discharge.

(3) When conducting investigations, the LACFCD shall comply with the following:

(a) Illicit discharges suspected of being sanitary sewage and/or significantly contaminated shall be investigated first.

(b) The LACFCD shall track all investigations to document, at a minimum, the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.

(c) The LACFCD shall prioritize and investigate the source of all observed illicit discharges to its MS4.

(d) If the source of the illicit discharge is found to be a discharge authorized under an NPDES permit, the LACFCD shall document the source and report to the Regional Water Board within 30 days of determination. No further action is required.

(e) If the source of the illicit discharge has been determined to originate from within the jurisdiction of other Permittee(s) with land use authority over the suspected responsible party/parties, the LACFCD shall immediately alert the appropriate Permittee(s) of the problem for further action by the Permittee(s).

REVISED TENTATIVE

[24] Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to "initiate" the investigation within one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, occur within two business days of becoming aware of the illicit discharge.

(4) When taking corrective action to eliminate illicit discharges, the LACFCD shall comply with the following:

(a) If the source of the illicit discharge has been determined or suspected by the LACFCD to originate within an upstream jurisdiction(s), the LACFCD shall immediately notify the upstream jurisdiction(s), and notify the Regional Water Board within 30 days of such determination and provide all the information collected and efforts taken.

(b) Once the Permittee with land use authority over the suspected responsible party/parties has been alerted, the LACFCD may continue to work in cooperation with the Permittee(s) to notify the responsible party/parties of the problem, and require the responsible party/parties to immediately initiate necessary corrective actions to eliminate the illicit discharge. Upon being notified that the discharge has been eliminated, the LACFCD may, in conjunction with the Permittee(s) conduct a follow-up investigation to verify that the discharge has been eliminated and cleaned up to the satisfaction of the LACFCD. The LACFCD shall document its follow-up investigation. The LACFCD may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection and investigation activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy.

(c) If the source of the illicit discharge cannot be traced to a suspected responsible party, the LACFCD, in conjunction with other affected Permittees, shall continue implementing the illicit discharge/spill response plan.

(5) In the event the LACFCD and/or other Permittees are unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, including the inability to find the responsible party/parties, or other circumstances prevent the full elimination of an ongoing illicit discharge, the LACFCD and/or other Permittees shall notify the Regional Water Board within 30 days of such determination and provide available information to the Regional Water Board.

iv. Identification and Response to Illicit Connections

(1) Investigation

The LACFCD, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation within 21 days, to determine the following: (1) source of the connection, (2) nature and volume of discharge through the connection, and (3) responsible party for the connection.

(2) Elimination

The LACFCD, upon confirmation of an illicit connection to its MS4, shall ensure that the connection is:

(a) Permitted or documented, provided the connection will only discharge storm water and non-storm water allowable under this Order or other individual or general NPDES Permits/WDRs, or

(b) Eliminated within 180 days of completion of the investigation, using its formal enforcement authority, if necessary, to eliminate the illicit connection.

(3) Documentation

Formal records must be maintained for all illicit connection investigations and the formal enforcement taken to eliminate illicit connections.

v. Public Reporting of Non-Stormwater Discharges and Spills

(1) The LACFCD shall, in collaboration with the County, continue to maintain the 888-CLEAN-LA hotline and corresponding internet site at www.888cleanla.org to promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.

(2) The LACFCD shall include information regarding public reporting of illicit discharges or improper disposal on the signage adjacent to open channels as required in Part VI.D.9.h.vi.(4).

(3) The LACFCD shall develop and maintain written procedures that document how complaint calls and internet submissions are received, documented, and tracked to ensure that all complaints are adequately addressed. The procedures shall be evaluated annually to determine whether changes or updates are needed to ensure that the procedures accurately document the methods employed by the LACFCD. Any identified changes shall be made to the procedures subsequent to the annual evaluation.

(4) The LACFCD shall maintain documentation of the complaint calls and internet submissions and record the location of the reported spill or IC/ID and the actions undertaken, including referrals to other agencies, in response to all IC/ID complaints.

vi. Illicit Discharge and Spill Response Plan

(1) The LACFCD shall implement an ID and spill response plan for all spills that may discharge into its system. The ID and spill response plan shall clearly identify agencies responsible for ID and spill response and cleanup, contact information, and shall contain at a minimum the following requirements:

(a) Coordination with spill response teams throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided.

(b) Initiation of investigation of all public and employee ID and spill complaints within one business day of receiving the complaint to assess validity.

(c) Response to ID and spills within 4 hours of becoming aware of the ID or spill, except where such IDs or spills occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.

(d) IDs or spills that may endanger health or the environment shall be reported to appropriate public health agencies and the Office of Emergency Services (OES).

vii. Illicit Connection and Illicit Discharge Education and Training

(1) The LACFCD must continue to implement a training program regarding the identification of IC/IDs for all LACFCD field staff, who, as part of their normal job responsibilities (e.g., storm drain inspection and maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to its MS4. Contact information, including the procedure for reporting an illicit discharge, must be included in the LACFCD's fleet vehicles that are used by field staff. Training program documents must be available for review by the Regional Water Board.

(2) The LACFCD's training program should address, at a minimum, the following:

(a) IC/ID identification, including definitions and examples,

(b) investigation,

(c) elimination,

(d) cleanup,

(e) reporting, and

(f) documentation.

(3) The LACFCD must create a list of applicable positions which require IC/ID training and ensure that training is provided at least twice during the term of this Order. The LACFCD must maintain documentation of the training activities.

(4) New LACFCD staff members must be provided with IC/ID training within 180 days of starting employment.

(5) The LACFCD shall require its contractors to train their employees in targeted positions as described above.

5. Public Information and Participation Program

a. General

i. Each Permittee shall implement a Public Information and Participation Program (PIPP) that includes the requirements listed in this Part VI.D.5. Each Permittee shall be responsible for developing and implementing the PIPP and implementing specific PIPP requirements. The objectives of the PIPP are as follows:

(1) To measurably increase the knowledge of the target audiences about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.

(2) To measurably change the waste disposal and storm water pollution generation behavior of target audiences by developing and encouraging the implementation of appropriate alternatives.

(3) To involve and engage a diversity of socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of storm water pollution.

b. PIPP Implementation

i. Each Permittee shall implement the PIPP requirements listed in this Part VI.D.4 using one or more of the following approaches:

(1) By participating in a County-wide PIPP,

(2) By participating in one or more Watershed Group sponsored PIPPs, and/or

(3) Or individually within its jurisdiction.

ii. If a Permittee participates in a County-wide or Watershed Group PIPP, the Permittee shall provide the contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes no later than 30 days after a change occurs.

c. Public Participation

i. Each Permittee, whether participating in a County-wide or Watershed Group sponsored PIPP, or acting individually, shall provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels, and general storm water and non-storm water pollution prevention information.

(1) Permittees may elect to use the 888-CLEAN-LA hotline as the general public reporting contact or each Permittee or Watershed Group may establish its own hotline, if preferred.

(2) Each Permittee shall include the reporting information, updated when necessary, in public information, and the government pages of the telephone book, as they are developed or published.

(3) Each Permittee shall identify staff or departments who will serve as the contact person(s) and shall make this information available on its website.

(4) Each Permittee is responsible for providing current, updated hotline contact information to the general public within its jurisdiction.

ii. Organize events targeted to residents and population subgroups to educate and involve the community in storm water and non-storm water pollution prevention and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling).

d. Residential Outreach Program

i. Working in conjunction with a County-wide or Watershed Group sponsored PIPP or individually, each Permittee shall implement the following activities:

REVISED TENTATIVE

(1) Conduct storm water pollution prevention public service announcements and advertising campaigns

(2) Public education materials shall include but are not limited to information on the proper handling (i.e., disposal, storage and/or use) of:

(a) Vehicle waste fluids

(b) Household waste materials (i.e., trash and household hazardous waste, including personal care products and pharmaceuticals)

(c) Construction waste materials

(d) Pesticides and fertilizers (including integrated pest management practices [IPM] to promote reduced use of pesticides)

(e) Green waste (including lawn clippings and leaves)

(f) Animal wastes

(3) Distribute activity specific storm water pollution prevention public education materials at, but not limited to, the following points of purchase:

(a) Automotive parts stores

(b) Home improvement centers / lumber yards / hardware stores/paint stores

(c) Landscaping / gardening centers

(d) Pet shops / feed stores

(4) Maintain storm water websites or provide links to storm water websites via the Permittee's website, which shall include educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities listed in Part VI.D.4.

(5) Provide independent, parochial, and public schools within in each Permittee's jurisdiction with materials to educate school children (K-12) on storm water pollution. Material may include videos, live presentations, and other information. Permittees are encouraged to work with, or leverage, materials produced by other statewide agencies and associations such as the State Water Board's "Erase the Waste" educational program and the California Environmental Education Interagency Network (CEEIN) to implement this requirement.

(6) When implementing activities in subsections (1)-(5), Permittees shall use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods.

6. Industrial/Commercial Facilities Program

a. General

i. Each Permittee shall implement an Industrial / Commercial Facilities Program that meets the requirements of this Part VI.D.6. The Industrial / Commercial

REVISED TENTATIVE

Facilities Program shall be designed to prevent illicit discharges into the MS4 and receiving waters, reduce industrial / commercial discharges of storm water to the maximum extent practicable, and prevent industrial / commercial discharges from the MS4 from causing or contributing to a violation of receiving water limitations. At a minimum, the Industrial / Commercial Facilities Program shall be implemented in accordance with the requirements listed in this Part VI.D.6, or as approved in a Watershed Management Program per Part VI.C. Minimum program components shall include the following components:

(1) Track

(2) Educate

(3) Inspect

(4) Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water

b. Track Critical Industrial / Commercial Sources

i. Each Permittee shall maintain an updated watershed-based inventory or database containing the latitude / longitude coordinates of all industrial and commercial facilities within its jurisdiction that are critical sources of storm water pollution. The inventory or database shall be maintained in electronic format and incorporation of facility information into a Geographical Information System (GIS) is recommended. Critical Sources to be tracked are summarized below:

(1) Commercial Facilities

(a) Restaurants

(b) Automotive service facilities (including those located at automotive dealerships)

(c) Retail Gasoline Outlets

(d) Nurseries and Nursery Centers (Merchant Wholesalers, Nondurable Goods, and Retail Trade)

(2) USEPA "Phase I" Facilities [as specified in 40 CFR §122.26(b)(14)(i)-(xi)]

(3) Other federally-mandated facilities [as specified in 40 CFR §122.26(d)(2)(iv)(C)]

(a) Municipal landfills

(b) Hazardous waste treatment, disposal, and recovery facilities

(c) Industrial facilities subject to section 313 "Toxic Release Inventory" reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) [42 U.S.C. § 11023]

(4) All other commercial or industrial facilities that the Permittee determines may contribute a substantial pollutant load to the MS4.

REVISED TENTATIVE

ii. Each Permittee shall include the following minimum fields of information for each critical source industrial and commercial facility identified in its watershed-based inventory or database:

(1) Name of facility

(2) Name of owner/ operator and contact information

(3) Address of facility (physical and mailing)

(4) North American Industry Classification System (NAICS) code

(5) Standard Industrial Classification (SIC) code

(6) A narrative description of the activities performed and/or principal products produced

(7) Status of exposure of materials to storm water

(8) Name of receiving water

(9) Identification of whether the facility is tributary to a CWA § 303(d) listed water body segment or water body segment subject to a TMDL, where the facility generates pollutants for which the water body segment is impaired.

(10) Ability to denote if the facility is known to maintain coverage under the State Water Board's General NPDES Permit for the Discharge of Stormwater Associated with Industrial Activities (Industrial General Permit) or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.

(11) Ability to denote if the facility has filed a No Exposure Certification with the State Water Board.

iii. Each Permittee shall update its inventory of critical sources at least annually. The update shall be accomplished through collection of new information obtained through field activities or through other readily available inter- and intra-agency informational databases (e.g., business licenses, pretreatment permits, sanitary sewer connection permits, and similar information).

c. Educate Industrial / Commercial Sources

i. At least once during the five-year period of this Order, each Permittee shall notify the owner/operator of each of its inventoried commercial and industrial sites identified in Part VI.D.6.b of the BMP requirements applicable to the site/source.

ii. Business Assistance Program

(1) Each Permittee shall implement a Business Assistance Program to provide technical information to businesses to facilitate their efforts to reduce the discharge of pollutants in storm water. Assistance shall be targeted to select business sectors or small businesses upon a

determination that their activities may be contributing substantial pollutant loads to the MS4 or receiving water. Assistance may include technical guidance and provision of educational materials. The Program may include:

(a) On-site technical assistance, telephone, or e-mail consultation regarding the responsibilities of business to reduce the discharge of pollutants, procedural requirements, and available guidance documents.

(b) Distribution of storm water pollution prevention educational materials to operators of auto repair shops; car wash facilities; restaurants and mobile sources including automobile/equipment repair, washing, or detailing; power washing services; mobile carpet, drape, or upholstery cleaning services; swimming pool, water softener, and spa services; portable sanitary services; and commercial applicators and distributors of pesticides, herbicides and fertilizers, if present.

d. Inspect Critical Commercial Sources

i. Frequency of Mandatory Commercial Facility Inspections

Each Permittee shall inspect all commercial facilities identified in Part VI.D.6.b twice during the 5-year term of the Order, provided that the first mandatory compliance inspection occurs no later than 2 years after the effective date of this Order. A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each Permittee shall implement the activities outlined in the following subparts.

ii. Scope of Mandatory Commercial Facility Inspections

Each Permittee shall inspect all commercial facilities to confirm that storm water and non-storm water BMPs are being effectively implemented in compliance with municipal ordinances. At each facility, inspectors shall verify that the operator is implementing effective source control BMPs for each corresponding activity. Each Permittee shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA), a water body subject to TMDL provisions in Part VI.E, or a CWA § 303(d) listed impaired water body. Likewise, for those BMPs that are not adequately protective of water quality standards, a Permittee may require additional site-specific controls.

e. Inspect Critical Industrial Sources

Each Permittee shall conduct industrial facility compliance inspections as specified below.

i. Frequency of Mandatory Industrial Facility Compliance Inspections

(1) Minimum Inspection Frequency

Each Permittee shall perform an initial mandatory compliance inspection at all industrial facilities identified in Part VI.D.6.b no later than 2 years

after the effective date of this Order. After the initial inspection, all facilities that have not filed a No Exposure Certification with the State Water Board are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action as specified in Part VI.D.6.h below.

(2) Exclusion of Facilities Previously Inspected by the Regional Water Board

Each Permittee shall review the State Water Board's Storm Water Multiple Application and Report Tracking System (SMARTS) database[25] at defined intervals to determine if an industrial facility has recently been inspected by the Regional Water Board. The first interval shall occur approximately 2 years after the effective date of the Order. The Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period. The second interval shall occur approximately 4 years after the effective date of the Order. Likewise, the Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period.

(3) No Exposure Verification

As a component of the first mandatory inspection, each Permittee shall identify those facilities that have filed a No Exposure Certification with the State Water Board. Approximately 3 to 4 years after the effective date of the Order, each Permittee shall evaluate its inventory of industrial facilities and perform a second mandatory compliance inspection at a minimum of 25% of the facilities identified to have filed a No Exposure Certification. The purpose of this inspection is to verify the continuity of the no exposure status.

(4) Exclusion Based on Watershed Management Program

A Permittee is exempt from the mandatory inspection frequencies listed above if it is implementing industrial inspections in accordance with an approved Watershed Management Program per Part VI.C.

ii. Scope of Mandatory Industrial Facility Inspections

Each Permittee shall confirm that each industrial facility:

(1) Has a current Waste Discharge Identification (WDID) number for coverage under the Industrial General Permit, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site; *or*

(2) Has applied for, and has received a current No Exposure Certification for facilities subject to this requirement;

[25] SMARTS is accessible at https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp

(3) Is effectively implementing BMPs in compliance with municipal ordinances. Facilities must implement the source control BMPs identified in Table 10, unless the pollutant generating activity does not occur. The Permittees shall require implementation of additional BMPs where storm water from the MS4 discharges to ~~an environmentally sensitive area,~~ a water body subject to TMDL Provisions in Part VI.E, or a CWA § 303(d) listed impaired water body. Likewise, if the specified BMPs are not adequately protective of water quality standards, a Permittee may require additional site-specific controls. For critical sources that discharge to MS4s that discharge to SEAs, each Permittee shall require operators to implement additional pollutant-specific controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality standards.

(4) Applicable industrial facilities identified as not having either a current WDID or No Exposure Certification shall be notified that they must obtain coverage under the Industrial General Permit and shall be referred to the Regional Water Board per the Progressive Enforcement Policy procedures identified in Part VI.D.2.

f. Source Control BMPs for Commercial and Industrial Facilities

Effective source control BMPs for the activities listed in Table 10 shall be implemented at commercial and industrial facilities, unless the pollutant generating activity does not occur:

Table 10. Source Control BMPs at Commercial and Industrial Facilities

Pollutant-Generating Activity	BMP Narrative Description
Unauthorized Non-Storm water Discharges	Effective elimination of non-storm water discharges
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures
Vehicle/ Equipment Fueling	Implementation of effective fueling source control devices and practices
Vehicle/ Equipment Cleaning	Implementation of effective equipment/ vehicle cleaning practices and appropriate wash water management practices
Vehicle/ Equipment Repair	Implementation of effective vehicle/ equipment repair practices and source control devices
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices
Outdoor Equipment Operations	Implementation of effective outdoor equipment source control devices and practices
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices

REVISED TENTATIVE

Pollutant-Generating Activity	BMP Narrative Description
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures
Building and Grounds Maintenance	Implementation of effective facility maintenance practices
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices
Storm water Conveyance System Maintenance Practices	Implementation of proper conveyance system operation and maintenance protocols
Pollutant-Generating Activity	**BMP Narrative Description from Regional Water Board Resolution No. 98-08**
Sidewalk Washing	**1.** Remove trash, debris, and free standing oil/grease spills/leaks (use absorbent material, if necessary) from the area before washing; and **2.** Use high pressure, low volume spray washing using only potable water with no cleaning agents at an average usage of 0.006 gallons per square feet of sidewalk area.
Street Washing	Collect and divert wash water to the sanitary sewer – publically owned treatment works (POTW). Note: POTW approval may be needed.

g. Significant Ecological Areas (SEAs)

~~For critical sources that discharge to MS4s that discharge to SEAs, each Permittee shall require operators to implement additional pollutant-specific controls to reduce pollutants in storm water runoff that are causing or contributing to exceedances of water quality standards~~See VI.D.6.e.ii.3.

h. Progressive Enforcement

Each Permittee shall implement its Progressive Enforcement Policy to ensure that Industrial / Commercial facilities are brought into compliance with all storm water requirements within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

7. Planning and Land Development Program

a. Purpose

REVISED TENTATIVE

i. Each Permittee shall implement a Planning and Land Development Program pursuant to Part VI.D.7.b for all New Development and Redevelopment projects subject to this Order to:

(1) Lessen the water quality impacts of development by using smart growth practices such as compact development, directing development towards existing communities via infill or redevelopment, and safeguarding of environmentally sensitive areas.

(2) Minimize the adverse impacts from storm water runoff on the biological integrity of Natural Drainage Systems and the beneficial uses of water bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21000 et seq.).

(3) Minimize the percentage of impervious surfaces on land developments by minimizing soil compaction during construction, designing projects to minimize the impervious area footprint, and employing Low Impact Development (LID) design principles to mimic predevelopment hydrology through infiltration, evapotranspiration and rainfall harvest and use.

(4) Maintain existing riparian buffers and enhance riparian buffers when possible.

(5) Minimize pollutant loadings from impervious surfaces such as roof tops, parking lots, and roadways through the use of properly designed, technically appropriate BMPs (including Source Control BMPs such as good housekeeping practices), LID Strategies, and Treatment Control BMPs.

(6) Properly select, design and maintain LID and Hydromodification Control BMPs to address pollutants that are likely to be generated, reduce changes to pre-development hydrology, assure long-term function, and avoid the breeding of vectors[26].

(7) Prioritize the selection of BMPs to remove storm water pollutants, reduce storm water runoff volume, and beneficially use storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:

(a) On-site infiltration, bioretention and/or rainfall harvest and use.

(b) On-site biofiltration, off-site ground water replenishment, and/or off-site retrofit.

b. Applicability

i. New Development Projects

REVISED TENTATIVE

[26] Treatment BMPs when designed to drain within 96 hours of the end of rainfall minimize the potential for the breeding of vectors. See California Department of Public Health *Best Management Practices for Mosquito Control in California* ~~Manual~~ (2012) at http://~~sgvmosquito.org/downloads/NPDES/BMP%20for%20Mosquito%20Control%2008-10.pdf~~www.westnile.ca.gov/resources.php

(1) Development projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:

(a) All development projects equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet of impervious surface area

(b) Industrial parks 10,000 square feet or more of surface area

(c) Commercial malls 10,000 square feet or more surface area

(d) Retail gasoline outlets 5,000 square feet or more of surface area

(e) Restaurants (SIC 5812) 5,000 square feet or more of surface area

(f) Parking lots 5,000 square feet or more of impervious surface area, or with 25 or more parking spaces

(g) Street and road construction of 10,000 square feet or more of impervious surface area shall follow USEPA guidance regarding Managing Wet Weather with Green Infrastructure: Green Streets[27] (December 2008 EPA-833-F-08-009) to the maximum extent practicable. Street and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects.

(h) Automotive service facilities (SIC 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) 5,000 square feet or more of surface area

(i) Redevelopment projects in subject categories that meet Redevelopment thresholds identified in Part VI.D.6.b.ii (Redevelopment Projects) below

(j) Projects located in or directly adjacent to, or discharging directly to a Significant Ecological Area (SEA), where the development will:

(i) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat; and

(ii) Create 2,500 square feet or more of impervious surface area

(k) Single-family hillside homes. To the extent that a Permittee may lawfully impose conditions, mitigation measures or other requirements on the development or construction of a single-family home in a hillside area as defined in the applicable Permittee's Code and Ordinances, each Permittee shall require that during the construction of a single-family hillside home, the following measures are implemented:

(i) Conserve natural areas

(ii) Protect slopes and channels

(iii) Provide storm drain system stenciling and signage

REVISED TENTATIVE

[27] http://water.epa.gov/infrastructure/greeninfrastructure/index.cfm

(iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability

(v) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.

ii. Redevelopment Projects

(1) Redevelopment projects subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution, prior to completion of the project(s), are:

(a) Land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site on development categories identified in Part VI.D.6.c. (New Development/Redevelopment Performance Criteria).

(b) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction storm water quality control requirements, the entire project must be mitigated.

(c) Where Redevelopment results in an alteration of less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post-construction storm water quality control requirements, only the alteration must be mitigated, and not the entire development.

(i) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways which does not disturb additional area and maintains the original grade and alignment, is considered a routine maintenance activity. Redevelopment does not include the repaving of existing roads to maintain original line and grade.

(ii) Existing single-family dwelling and accessory structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.

(d) In this section, Existing Development or Redevelopment projects shall mean all discretionary permit projects or project phases that have not been deemed complete for processing, or discretionary permit projects without vesting tentative maps that have not requested and received an extension of previously granted approvals within 90 days of adoption of the Order. Projects that have been deemed complete within 90 days of adoption of the Order are not

REVISED TENTATIVE

subject to the requirements Section 7.~~b~~c. ~~–~~For Permittee's projects the effective date shall be the date the governing body or their designee approves initiation of the project design.~~,~~

(e) Specifically, the Newhall Ranch Project Phases I and II (a.k.a. the Landmark and Mission Village projects) are deemed to be an existing development that will at a minimum, be designed to comply with the Specific LID Performance Standards attached to the Waste Discharge Requirements (Order No. R4-2012-~~XXXX~~0139). All subsequent phases of the Newhall Ranch Project constructed during the term of this Order shall be subject to the requirements of this Order.

c. New Development/ Redevelopment Project Performance Criteria

i. Integrated Water Quality/Flow Reduction/Resources Management Criteria

(1) Each Permittee shall require all New Development and Redevelopment projects (referred to hereinafter as "new projects") identified in Part VI.D.7.b to control pollutants, pollutant loads, and runoff volume emanating from the project site by: (1) minimizing the impervious surface area and (2) controlling runoff from impervious surfaces through infiltration, bioretention and/or rainfall harvest and use.

(2) Except as provided in Part VI.D.7.c.ii. (Technical Infeasibility or Opportunity for Regional Ground Water Replenishment), Part VI.D.7.d.i (Local Ordinance Equivalence), or Part VI.D.7.c.v (Hydromodification), below, each Permittee shall require the project to retain on-site the Stormwater Quality Design Volume (SWQDv) defined as the runoff from:

(a) The 0.75-inch, 24-hour rain event or

(b) The 85th percentile, 24-hour rain event, as determined from the Los Angeles County 85th percentile precipitation isohyetal map, *whichever is greater*.

(3) Bioretention and biofiltration systems shall meet the design specifications provided in Attachment H to this Order unless otherwise approved by the Regional Water Board Executive Officer.

(4) When evaluating the potential for on-site retention, each Permittee shall consider the maximum potential for evapotranspiration from green roofs and rainfall harvest and use.

ii. Alternative Compliance for Technical Infeasibility or Opportunity for Regional Ground Water Replenishment

(1) In instances of technical infeasibility or where a project has been determined to provide an opportunity to replenish regional ground water supplies at an offsite location, each Permittee may allow projects to comply with this Order through the alternative compliance measures as described in Part VI.D.7.c.iii.

REVISED TENTATIVE

(2) To demonstrate technical infeasibility, the project applicant must demonstrate that the project cannot reliably retain 100 percent of the SWQDv on-site, even with the maximum application of green roofs and rainwater harvest and use, and that compliance with the applicable post-construction requirements would be technically infeasible by submitting a site-specific hydrologic and/or design analysis conducted and endorsed by a registered professional engineer, geologist, architect, and/or landscape architect. Technical infeasibility may result from conditions including the following:

(a) The infiltration rate of saturated in-situ soils is less than 0.3 inch per hour and it is not technically feasible to amend the in-situ soils to attain an infiltration rate necessary to achieve reliable performance of infiltration or bioretention BMPs in retaining the SWQDv on-site.

(b) Locations where seasonal high ground water is within 5 to 10 feet of the surface,

(c) Locations within 100 feet of a ground water well used for drinking water,

(d) Brownfield development sites where infiltration poses a risk of causing pollutant mobilization,

(e) Other locations where pollutant mobilization is a documented concern[28],

(f) Locations with potential geotechnical hazards, or

(g) Smart growth and infill or redevelopment locations where the density and/ or nature of the project would create significant difficulty for compliance with the on-site volume retention requirement.

(3) To utilize alternative compliance measures to replenish ground water at an offsite location, the project applicant shall demonstrate *(i)* why it is not advantageous to replenish ground water at the project site, *(ii)* that ground water can be used for beneficial purposes at the offsite location, and *(iii)* that the alternative measures shall also provide equal or greater water quality benefits to the receiving surface water than the Water Quality/Flow Reduction/Resource Management Criteria in Part VI.7.D.c.i.

iii. Alternative Compliance Measures

When a Permittee determines a project applicant has demonstrated that it is technically infeasible to retain 100 percent of the SWQDv on-site, or is proposing an alternative offsite project to replenish regional ground water supplies, the Permittee shall require one of the following mitigation options:

(1) On-site Biofiltration

[28] Pollutant mobilization is considered a documented concern at or near properties that are contaminated or store hazardous substances underground.

(a) If using biofiltration due to demonstrated technical infeasibility, then the new project must biofiltrate 1.5 times the portion of the SWQDv that is not reliably retained on-site, as calculated by Equation 1 below.

Equation 1:

$$Bv = 1.5 * [SWQDv - Rv]$$

Where:

Bv = biofiltration volume

SWQDv = the storm water runoff from a 0.75 inch, 24-hour storm or the 85th percentile storm, *whichever is greater*.

Rv = volume reliably retained on-site

(b) Conditions for On-site Biofiltration

(i) Biofiltration systems shall meet the design specifications provided in Attachment H to this Order unless otherwise approved by the Regional Water Board Executive Officer.

(ii) Biofiltration systems discharging to a receiving water that is included on the Clean Water Act section 303(d) list of impaired water quality-limited water bodies due to nitrogen compounds or related effects shall be designed and maintained to achieve enhanced nitrogen removal capability. See Attachment H for design criteria for underdrain placement to achieve enhanced nitrogen removal.

(2) Offsite Infiltration

(a) Use infiltration or bioretention BMPs to intercept a volume of storm water runoff equal to the SWQDv, less the volume of storm water runoff reliably retained on-site, at an approved offsite project, and

(b) Provide pollutant reduction (treatment) of the storm water runoff discharged from the project site in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.

(c) The required offsite mitigation volume shall be calculated by Equation 2 below and equal to:

Equation 2:

$$Mv = 1.0 * [SWQDv - Rv]$$

Where:

REVISED TENTATIVE

Mv = mitigation volume

SWQDv = runoff from the 0.75 inch, 24-hour storm event or the 85th percentile storm, *whichever is greater*

Rv = the volume of storm water runoff reliably retained on-site.

(3) Ground Water Replenishment Projects

Permittees may propose, in their Watershed Management Program or ~~enhanced Watershed Management Program~~EWMP, regional projects to replenish regional ground water supplies at offsite locations, provided the groundwater supply has a designated beneficial use in the Basin Plan.

(a) Regional groundwater replenishment projects must use infiltration, ground water replenishment, or bioretention BMPs to intercept a volume of storm water runoff equal to the SWQDv for new development and redevelopment projects, subject to Permittee conditioning and approval for the design and implementation of post-construction controls, within the approved project area, and

(b) Provide pollutant reduction (treatment) of the storm water runoff discharged from development projects, within the project area, subject to Permittee conditioning and approval for the design and implementation of post-construction controls to mitigate storm water pollution in accordance with the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.

(c) Permittees implementing a regional ground water replenishment project in lieu of onsite controls shall ensure the volume of runoff captured by the project shall be equal to:

Equation 2:

Where:

Mv = mitigation volume

SWQDv = runoff from the 0.75 inch, 24-hour storm event or the 85th percentile storm, whichever is greater

Rv = the volume of storm water runoff reliably retained on-site.

(d) Regional groundwater replenishment projects shall be located in the same sub-watershed (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) as the new development or redevelopment projects which did not implement on site retention BMPs . Each Permittee may consider locations outside of the HUC-12

but within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Regional Water Board.

(4) Offsite Project - Retrofit Existing Development

Use infiltration, bioretention, rainfall harvest and use and/or biofiltration BMPs to retrofit an existing development, with similar land uses as the new development or land uses associated with comparable or higher storm water runoff event mean concentrations (EMCs) than the new development. Comparison of EMCs for different land uses shall be based on published data from studies performed in southern California. The retrofit plan shall be designed and constructed to:

(a) Intercept a volume of storm water runoff equal to the mitigation volume (Mv) as described above in Equation 2, except biofiltration BMPs shall be designed to meet the biofiltration volume as described in Equation 1 and

(b) Provide pollutant reduction (treatment) of the storm water runoff from the project site as described in the Water Quality Mitigation Criteria provided in Part VI.D.7.c.iv.

(5) Conditions for Offsite Projects

(a) Project applicants seeking to utilize these alternative compliance provisions may propose other offsite projects, which the Permittees may approve if they meet the requirements of this subpart.

(b) Location of offsite projects. Offsite projects shall be located in the same sub-watershed (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) as the new development or redevelopment project. Each Permittee may consider locations outside of the HUC-12 but within the HUC-10 subwatershed area if there are no opportunities within the HUC-12 subwatershed or if greater pollutant reductions and/or ground water replenishment can be achieved at a location within the expanded HUC-10 subwatershed. The use of a mitigation, ground water replenishment, or retrofit project outside of the HUC-12 subwatershed is subject to the approval of the Executive Officer of the Regional Water Board.

(c) Project applicant must demonstrate that equal benefits to ground water recharge cannot be met on the project site.

(d) Each Permittee shall develop a prioritized list of offsite mitigation, ground water replenishment and/or retrofit projects, and when feasible,

the mitigation must be directed to the highest priority project within the same HUC-12 or if approved by the Regional Water Board Executive Officer, the HUC-10 drainage area, as the new development project.

(e) Infiltration/bioretention shall be the preferred LID BMP for offsite mitigation or ground water replenishment projects. Offsite retrofit projects may include green streets, parking lot retrofits, green roofs, and rainfall harvest and use. Biofiltration BMPs may be considered for retrofit projects when infiltration, bioretention or rainfall harvest and use is technically infeasible.

(f) Each Permittee shall develop a schedule for the completion of offsite projects, including milestone dates to identify, fund, design, and construct the projects. Offsite projects shall be completed as soon as possible, and at the latest, within 4 years of the certificate of occupancy for the first project that contributed funds toward the construction of the offsite project, unless a longer period is otherwise authorized by the Executive Officer of the Regional Water Board. For public offsite projects, each Permittee must provide in their annual reports a summary of total offsite project funds raised to date and a description (including location, general design concept, volume of water expected to be retained, and total estimated budget) of all pending public offsite projects. Funding sufficient to address the offsite volume must be transferred to the Permittee (for public offsite mitigation projects) or to an escrow account (for private offsite mitigation projects) within one year of the initiation of construction.

(g) Offsite projects must be approved by the Permittee and may be subject to approval by the Regional Water Board Executive Officer, if a third-party petitions the Executive Officer to review the project. Offsite projects will be publicly noticed on the Regional Water Board's website for 30 days prior to approval.

(h) The project applicant must perform the offsite projects as approved by either the Permittee or the Regional Water Board Executive Officer or provide sufficient funding for public or private offsite projects to achieve the equivalent mitigation storm water volume.

(6) Regional Storm Water Mitigation Program

A Permittee or Permittee group may apply to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for New and Redevelopment requirements for the area covered by the regional or sub-regional storm water mitigation program. Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation ~~will~~meets all of the following requirements:

REVISED TENTATIVE

(a) Retains the runoff from the 85th percentile, 24-hour rain event or the 0.75 inch, 24-hour rain event, whichever is greater;
~~(a)~~(b) Results in improved storm water quality;
~~(b)~~(c) Protects stream habitat;
~~(c)~~(d) Promotes cooperative problem solving by diverse interests;
~~(d)~~(e) ~~Be~~ Is fiscally sustainable and has secure funding; and
~~(e)~~(f) ~~Be~~ Is completed in five years including the construction and start-up of treatment facilities.
~~(f)~~(g) Nothing in this provision shall be construed as to delay the implementation of requirements for new and redevelopment, as approved in this Order.

(7) Water Quality Mitigation Criteria

(a) Each Permittee shall require all New Development and Redevelopment projects that have been approved for offsite mitigation or ground water replenishment projects as defined in Part VI.D.7.c.ii-iii to also provide treatment of storm water runoff from the project site. Each Permittee shall require these projects to design and implement post-construction storm water BMPs and control measures to reduce pollutant loading as necessary to:

(i) Meet the pollutant specific benchmarks listed in Table 11 at the treatment systems outlet or prior to the discharge to the MS4, and

(ii) Ensure that the discharge does not cause or contribute to an exceedance of water quality standards at the Permittee's downstream MS4 outfall.

(b) Each Permittee may allow the project proponent to install flow-through modular treatment systems including sand filters, or other proprietary BMP treatment systems with a demonstrated efficiency at least equivalent to a sand filter. The sizing of the flow through treatment device shall be based on a rainfall intensity of:

(i) 0.2 inches per hour, or

(ii) The one year, one-hour rainfall intensity as determined from the most recent Los Angeles County isohyetal map, *whichever is greater*.

REVISED TENTATIVE

Table 11. Benchmarks Applicable to New Development Treatment BMPs[29]

Conventional Pollutants

Pollutant	Suspended Solids mg/L	Total P mg/L	Total N mg/L		TKN mg/L	
Effluent Concentration	14	0.13	1.28		1.09	

Metals

Pollutant	Total Cd µg/L	Total Cu µg/L	Total Cr µg/L	Total Pb µg/L	Total Zn µg/L
Effluent Concentration	0.3	6	2.8	2.5	23

(c) In addition to the requirements for controlling pollutant discharges as described in Part VI.D.7.c.~~iv~~iii. and the treatment ~~requirements~~ benchmarks described above, each Permittee shall ensure that the new development or redevelopment will not cause or contribute to an exceedance of applicable water quality-based effluent limitations established in Part VI.E pursuant to Total Maximum Daily Loads (TMDLs).

iv. Hydromodification (Flow/ Volume/ Duration) Control Criteria

Each Permittee shall require all New Development and Redevelopment projects located within natural drainage systems as described in Part VI.D.7.c.iv.(1)(a)(iii) to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. This shall be achieved by maintaining the project's pre-project storm water runoff flow rates and durations.

(1) Description

(a) Hydromodification control in natural drainage systems shall be achieved by maintaining the Erosion Potential (Ep) in streams at a value of 1, unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and prevent damage to stream habitat in

[29] The treatment control BMP performance ~~standards~~ benchmarks were developed from the median effluent water quality values of the six highest performing BMPs, per pollutant, in the storm water BMP database (http://www.bmpdatabase.org/, last visited September 25, 2012).

natural drainage system tributaries (see Attachment J - Determination of Erosion Potential).

(ii) Hydromodification control may include one, or a combination of on-site, regional or sub-regional hydromodification control BMPs, LID strategies, or stream and riparian buffer restoration measures. Any in-stream restoration measure shall not adversely affect the beneficial uses of the natural drainage systems.

(iii) Natural drainage systems that are subject to the hydromodification assessments and controls as described in this Part of the Order, include all drainages that have not been improved (e.g., channelized or armored with concrete, shotcrete, or rip-rap) or drainage systems that are tributary to a natural drainage system, except as provided in Part VI.D.7c.iv.(1)(b)--Exemptions to Hydromodification Controls [see below]. The clearing or dredging of a natural drainage system does not constitute an "improvement."

(iv) Until the State Water Board or the Regional Water Board adopts a final Hydromodification Policy or criteria, Permittees shall implement the Hydromodification Control Criteria described in Part VI.D.7.c.iv.(1)(c) to control the potential adverse impacts of changes in hydrology that may result from new development and redevelopment projects located within natural drainage systems as described in Part VI.D.7.c.iv.(1)(a)(iii).

(b) Exemptions to Hydromodification Controls. Permittees may exempt the following New Development and Redevelopment projects from implementation of hydromodification controls where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse hydromodification effects to beneficial uses of Natural Drainage Systems are unlikely:

(i) Projects that are replacement, maintenance or repair of a Permittee's existing flood control facility, storm drain, or transportation network.

(ii) Redevelopment Projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions.

(iii) Projects that have any increased discharge directly or via a storm drain to a sump, lake, area under tidal influence, into a waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to hydromodification impacts.

REVISED TENTATIVE

(iv) Projects that discharge directly or via a storm drain into concrete or otherwise engineered (not natural) channels (e.g., channelized or armored with rip rap, shotcrete, etc.), which, in turn, discharge into receiving water that is not susceptible to hydromodification impacts (as in Parts VI.D.7.c.iv.(1)(b)(i)-(iii) above).

(v) LID BMPs implemented on single family homes are sufficient to comply with Hydromodification criteria.

(c) Hydromodification Control Criteria. The Hydromodification Control Criteria to protect natural drainage systems are as follows:

(i) Except as provided for in Part VI.D.7.c.iv.(1)(b), projects disturbing an area greater than 1 acre but less than 50 acres within natural drainage systems will be presumed to meet pre-development hydrology if one of the following demonstrations is made:

1. The project is designed to retain on-site, through infiltration, evapotranspiration, and/or harvest and use, the storm water volume from the runoff of the 95th percentile, 24-hour storm, or
2. The runoff flow rate, volume, velocity, and duration for the post-development condition do not exceed the pre-development condition for the 2-year, 24-hour rainfall event. This condition may be substantiated by simple screening models, including those described in *Hydromodification Effects on Flow Peaks and Durations in Southern California Urbanizing Watersheds* (Hawley et al., 2011) or other models acceptable to the Executive Officer of the Regional Water Board, or
3. The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by a Hydromodification Analysis Study and the equation presented in Attachment J. Alternatively, Permittees can opt to use other work equations to calculate Erosion Potential with Executive Officer approval.

(ii) Projects disturbing 50 acres or more within natural drainage systems will be presumed to meet pre-development hydrology based on the successful demonstration of one of the following conditions:

1. The site infiltrates on-site at least the runoff from a 2-year, 24-hour storm event, or
2. The runoff flow rate, volume, velocity, and duration for the post-development condition does not exceed the pre-development condition for the 2-year, 24-hour rainfall events. These conditions must be substantiated by hydrologic modeling acceptable to the Regional Water Board Executive Officer, or

REVISED TENTATIVE

3. The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by a Hydromodification Analysis Study and the equation presented in Attachment J.

(c) Alternative Hydromodification Criteria

(i) Permittees may satisfy the requirement for Hydromodification Controls by implementing the hydromodification requirements in the County of Los Angeles Low Impact Development Manual (2009) for all projects disturbing an area greater than 1 acre within natural drainage systems.

(ii) Each Permittee may alternatively develop and implement watershed specific Hydromodification Control Plans (HCPs). Such plans shall be developed no later than one year after the effective date of this Order.

(iii) The HCP shall identify:

1. Stream classifications
2. Flow rate and duration control methods
3. Sub-watershed mitigation strategies
4. Stream and/or riparian buffer restoration measures, which will maintain the stream and tributary Erosion Potential at 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and prevent damage to stream habitat in natural drainage system tributaries.

(iv) The HCP shall contain the following elements:

1. Hydromodification Management Standards
2. Natural Drainage Areas and Hydromodification Management Control Areas
3. New Development and Redevelopment Projects subject to the HCP
4. Description of authorized Hydromodification Management Control BMPs
5. Hydromodification Management Control BMP Design Criteria
6. For flow duration control methods, the range of flows to control for, and goodness of fit criteria
7. Allowable low critical flow, Qc, which initiates sediment transport

REVISED TENTATIVE

8. Description of the approved Hydromodification Model
9. Any alternate Hydromodification Management Model and Design
10. Stream Restoration Measures Design Criteria
11. Monitoring and Effectiveness Assessment
12. Record Keeping
13. The HCP shall be deemed in effect upon Executive Officer approval.

v. Watershed Equivalence.

Regardless of the methods through which Permittees allow project applicants to implement alternative compliance measures, the subwatershed-wide (defined as draining to the same HUC-12 hydrologic area in the Basin Plan) result of all development must be at least the same level of water quality protection as would have been achieved if all projects utilizing these alternative compliance provisions had complied with Part VI.D.7.c.i (Integrated Water Quality/Flow Reduction/Resource Management Criteria).

vi. Annual Report

Each Permittee shall provide in their annual report to the Regional Water Board a list of mitigation project descriptions and estimated pollutant and flow reduction analyses (compiled from design specifications submitted by project applicants and approved by the Permittee(s)). Within 4 years of Order adoption, Permittees must submit in their Annual Report, a comparison of the expected aggregate results of alternative compliance projects to the results that would otherwise have been achieved by retaining on site the SWQDv.

d. Implementation

i. Local Ordinance Equivalence

A Permittee that has adopted a local LID ordinance prior to the adoption of this Order, and which includes a retention requirement numerically equal to the 0.75-inch, 24-hour rain event or the 85th percentile, 24-hour rain event, whichever is greater, may submit documentation to the Regional Water Board that the alternative requirements in the local ordinance will provide equal or greater reduction in storm water discharge pollutant loading and volume as would have been obtained through strict conformance with Part VI.D.7.c.i. (Integrated Water Quality/Flow Reduction Resources Management Criteria) or Part VI.D.7.c.ii. (Alternative Compliance Measures for Technical Infeasibility or Opportunity for Regional Ground water Replenishment) of this Order and, if applicable, Part VI.D.7.c.iv. (Hydromodification (Flow/Volume Duration) Control Criteria).

(1) Documentation shall be submitted within 180 days after the effective date of this Order.

(2) The Regional Water Board shall provide public notice of the proposed equivalency determination and a minimum 30-day period for public comment. After review and consideration of public comments, the Regional Water Board Executive Officer will determine whether implementation of the local ordinance provides equivalent pollutant control to the applicable provisions of this Order. Local ordinances that do not strictly conform to the provisions of this Order must be approved by the Regional Water Board Executive Officer as being "equivalent" in effect to the applicable provisions of this Order in order to substitute for the requirements in Parts VI.D.7.c.i and, where applicable, VI.D.7.c.iv.

(3) Where the Regional Water Board Executive Officer determines that a Permittee's local LID ordinance does not provide equivalent pollutant control, the Permittee shall either

(a) Require conformance with Parts VI.D.7.c.i and, where applicable, VI.D.7.c.iv, or

(b) Update its local ordinance to conform to the requirements herein within two years of the effective date of this Order.

ii. Project Coordination

(1) Each Permittee shall facilitate a process for effective approval of post-construction storm water control measures. The process shall include:

REVISED TENTATIVE

(a) Detailed LID site design and BMP review including BMP sizing calculations, BMP pollutant removal performance, and municipal approval; and

(b) An established structure for communication and delineated authority between and among municipal departments that have jurisdiction over project review, plan approval, and project construction through memoranda of understanding or an equivalent agreement.

iii. Maintenance Agreement and Transfer

(1) Prior to issuing approval for final occupancy, each Permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements, with the exception of simple LID BMPs implemented on single family residences, provide an operation and maintenance plan, monitoring plan, where required, and verification of ongoing maintenance provisions for LID practices, Treatment Control BMPs, and Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/ or other legally binding maintenance agreements. Permittees shall require maintenance records be kept on site for treatment BMPs implemented on single family residences.

(a) Verification at a minimum shall include the developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either:

(i) A signed statement from the public entity assuming responsibility for BMP maintenance; or

(ii) Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection at least once a year; or

(iii) Written text in project covenants, conditions, and restrictions (CCRs) for residential properties assigning BMP maintenance responsibilities to the Home Owners Association; or

(iv) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of BMPs.

(b) Each Permittee shall require all development projects subject to post-construction BMP requirements to provide a plan for the operation and maintenance of all structural and treatment controls. The plan shall be submitted for examination of relevance to keeping the BMPs in proper working order. Where BMPs are transferred to Permittee for ownership and maintenance, the plan shall also include all relevant costs for upkeep of BMPs in the transfer. Operation and Maintenance plans for

private BMPs shall be kept on-site for periodic review by Permittee inspectors.

iv. Tracking, Inspection, and Enforcement of Post-Construction BMPs

(1) Each Permittee shall implement a tracking system and an inspection and enforcement program for new development and redevelopment post-construction storm water no later than 60 days after Order adoption date.

(a) Implement a GIS or other electronic system for tracking projects that have been conditioned for post-construction BMPs. The electronic system, at a minimum, should contain the following information:

(i) Municipal Project ID

(ii) State WDID No.

(iii) Project Acreage

(iv) BMP Type and Description

(v) BMP Location (coordinates)

(vi) Date of Acceptance

(vii) Date of Maintenance Agreement

(viii) Maintenance Records

(ix) Inspection Date and Summary

(x) Corrective Action

(xi) Date Certificate of Occupancy Issued

(xii) Replacement or Repair Date

(b) Inspect all development sites upon completion of construction and prior to the issuance of occupancy certificates to ensure proper installation of LID measures, structural BMPs, treatment control BMPs and hydromodification control BMPs. The inspection may be combined with other inspections provided it is conducted by trained personnel.

(c) Verify proper maintenance and operation of post-construction BMPs previously approved for new development and redevelopment and operated by the Permittee. The post-construction BMP maintenance inspection program shall incorporate the following elements:

(i) The development of a Post-construction BMP Maintenance Inspection checklist

REVISED TENTATIVE

(ii) Inspection at least once every 2 years after project completion, of post-construction BMPs to assess operation conditions with particular attention to criteria and procedures for post-construction treatment control and hydromodification control BMP repair, replacement, or re-vegetation.

(d) For post-construction BMPs operated and maintained by parties other than the Permittee, the Permittee shall require the other parties to document proper maintenance and operations.

(e) Undertake enforcement action per the established Progressive Enforcement Policy as appropriate based on the results of the inspection. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

8. Development Construction Program

a. Each Permittee shall develop, implement, and enforce a construction program that:

i. Prevents illicit construction-related discharges of pollutants into the MS4 and receiving waters.

ii. Implements and maintains structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites.

iii. Reduces construction site discharges of pollutants to the MS4 to the MEP.

iv. Prevents construction site discharges to the MS4 from causing or contributing to a violation of water quality standards.

b. Each Permittee shall establish for its jurisdiction an enforceable erosion and sediment control ordinance for all construction sites that disturb soil.

c. Applicability

The provisions contained in Part VI.D.8.d below apply exclusively to construction sites less than 1 acre. Provisions contained in Part VI.D.8.e – j, apply exclusively to construction sites 1 acre or greater. The requirements contained in this part apply to all activities involving soil disturbance with the exception of agricultural activities. Activities covered by this permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving and linear underground/overhead projects (LUPs).

d. Requirements for Construction Sites Less than One Acre

i. For construction sites less than 1 acre, each Permittee shall:

REVISED TENTATIVE

(1) Through the use of the Permittee's erosion and sediment control ordinance or and/or building permit, require the implementation of an effective combination of erosion and sediment control BMPs from Table 12 to prevent erosion and sediment loss, and the discharge of construction wastes.

Table 12. Applicable Set of BMPs for All Construction Sites

Erosion Controls	Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Site Entrance/Exit
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

(2) Possess the ability to identify all construction sites with soil disturbing activities that require a permit, regardless of size, and shall be able to provide a list of permitted sites upon request of the Regional Water Board. Permittees may use existing permit databases or other tracking systems to comply with these requirements.

(3) Inspect construction sites on as needed based on the evaluation of the factors that are a threat to water quality. In evaluating the threat to water quality, the following factors shall be considered: soil erosion potential; site slope; project size and type; sensitivity of receiving water bodies; proximity to receiving water bodies; non-storm water discharges; past record of non-compliance by the operators of the construction site; and any water quality issues relevant to the particular MS4.

(4) Implement the Permittee's Progressive Enforcement Policy to ensure that construction sites are brought into compliance with the erosion and sediment control ordinance within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

e. Each Permittee shall require operators of public and private construction sites within its jurisdiction to select, install, implement, and maintain BMPs that comply with its erosion and sediment control ordinance.

f. The requirements contained in this part apply to all activities involving soil disturbance with the exception of agricultural activities. Activities covered by this

permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving and linear underground/overhead projects (LUPs).

g. Construction Site Inventory / Electronic Tracking System

i. Each Permittee shall use an electronic system to inventory grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by the Permittee. To satisfy this requirement, the use of a database or GIS system is recommended.

ii. Each Permittee shall complete an inventory and continuously update as new sites are permitted and sites are completed. The inventory / tracking system shall contain, at a minimum:

(1) Relevant contact information for each project (e.g., name, address, phone, email, etc. for the owner and contractor.

(2) The basic site information including location, status, size of the project and area of disturbance.

(3) The proximity all water bodies, water bodies listed as impaired by sediment-related pollutants, and water bodies for which a sediment-related TMDL has been adopted and approved by USEPA.

(4) Significant threat to water quality status, based on consideration of factors listed in Appendix 1 to the Statewide General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit).

(5) Current construction phase where feasible.

(6) The required inspection frequency.

(7) The project start date and anticipated completion date.

(8) Whether the project has submitted a Notice of Intent and obtained coverage under the Construction General Permit.

(9) The date the Permittee approved the Erosion and Sediment Control Plan (ESCP).

(10) Post-Construction Structural BMPs subject to Operation and Maintenance Requirements.

h. Construction Plan Review and Approval Procedures

i. Each Permittee shall develop procedures to review and approve relevant construction plan documents.

ii. The review procedures shall be developed and implemented such that the following minimum requirements are met:

(1) Prior to issuing a grading or building permit, each Permittee shall require each operator of a construction activity within its jurisdiction to prepare

REVISED TENTATIVE

and submit an ESCP prior to the disturbance of land for the Permittee's review and written approval. The construction site operator shall be prohibited from commencing construction activity prior to receipt of written approval by the Permittee. Each Permittee shall not approve any ESCP unless it contains appropriate site-specific construction site BMPs that meet the minimum requirements of a Permittee's erosion and sediment control ordinance.

(2) ESCPs must include the elements of a Storm Water Pollution Prevention Plan (SWPPP). SWPPPs prepared in accordance with the requirements of the Construction General Permit can be accepted as ESCPs.

(3) At a minimum, the ESCP must address the following elements:

(a) Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside of the disturbed area.

(b) Methods used to protect native vegetation and trees.

(c) Sediment/Erosion Control.

(d) Controls to prevent tracking on and off the site.

(e) Non-storm water controls (e.g., vehicle washing, dewatering, etc.).

(f) Materials Management (delivery and storage).

(g) Spill Prevention and Control.

(h) Waste Management (e.g., concrete washout/waste management; sanitary waste management).

(i) Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.

(4) The ESCP must include the rationale for the selection and design of the proposed BMPs, including quantifying the expected soil loss from different BMPs.

(5) Each Permittee shall require that the ESCP is developed and certified by a Qualified SWPPP Developer (QSD).

(6) Each Permittee shall require that all structural BMPs be designed by a licensed California Engineer.

(7) Each Permittee shall require that for all sites, the landowner or the landowner's agent sign a statement on the ESCP as follows:

(a) "I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure 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, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/ or inaccurate information, failing to update the

REVISED TENTATIVE

ESCP to reflect current conditions, or failing to properly and/ or adequately implement the ESCP may result in revocation of grading and/ or other permits or other sanctions provided by law."

(8) Prior to issuing a grading or building permit, each Permittee must verify that the construction site operators have existing coverage under applicable permits, including, but not limited to the State Water Board's Construction General Permit, and State Water Board 401 Water Quality Certification.

(9) Each Permittee shall develop and implement a checklist to be used to conduct and document review of each ESCP.

i. BMP Implementation Level

i. Each Permittee shall implement technical standards for the selection, installation and maintenance of construction BMPs for all construction sites within its jurisdiction.

ii. The BMP technical standards shall require:

(1) The use of BMPs that are tailored to the risks posed by the project. Sites are to be ranked from Low Risk (Risk 1) to High Risk (Risk 3). Project risks are to be calculated based on the potential for erosion from the site and the sensitivity of the receiving water body. Receiving water bodies that are listed on the Clean Water Act (CWA) Section 303(d) list for sediment or siltation are considered High Risk. Likewise, water bodies with designated beneficial uses of SPWN, COLD, and MIGR are also considered to be High Risk. The combined (sediment/receiving water) site risk shall be calculated using the methods provided in Appendix 1 of the Construction General Permit. At a minimum, the BMP technical standards shall include requirements for High Risk sites as defined in Table 15.

(2) The use of BMPs for all construction sites, sites equal or greater to 1 acre, and for paving projects per Tables 14 and 16 of this Order.

(3) Detailed installation designs and cut sheets for use within ESCPs.

(4) Maintenance expectations for each BMP, or category of BMPs, as appropriate.

iii. Permittees are encouraged to adopt respective BMPs from latest versions of the *California BMP Handbook, Construction* or *Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practices (BMPs) Manual* and addenda. Alternatively, Permittees are authorized to develop or adopt equivalent BMP standards consistent for Southern California and for the range of activities presented below in Tables 13 through 16.

iv. The local BMP technical standards shall be readily available to the development community and shall be clearly referenced within each Permittee's storm water or development services website, ordinance, permit approval process and/or ESCP review forms. The local BMP technical

standards shall also be readily available to the Regional Water Board upon request.

v. Local BMP technical standards shall be available for the following:

Table 13. Minimum Set of BMPs for All Construction Sites

Erosion Controls	Scheduling
	Preservation of Existing Vegetation
Sediment Controls	Silt Fence
	Sand Bag Barrier
	Stabilized Construction Site Entrance/Exit
Non-Storm water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

Table 14. Additional BMPs Applicable to Construction Sites Disturbing 1 Acre or More

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch
	Geotextiles and Mats
	Wood Mulching
Sediment Controls	Fiber Rolls
	Gravel Bag Berm
	Street Sweeping and/ or Vacuum
	Storm Drain Inlet Protection
	Scheduling
	Check Dam
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/ Exit
	Stabilized Construction Roadway
	Entrance/ Exit Tire Wash
Non-Storm water Management	Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
	Vehicle and Equipment Maintenance
Waste Management	Material Delivery and Storage
	Spill Prevention and Control

REVISED TENTATIVE

Table 15. Additional Enhanced BMPs for High Risk Sites

Erosion Controls	Hydraulic Mulch
	Hydroseeding
	Soil Binders
	Straw Mulch
	Geotextiles and Mats
	Wood Mulching
	Slope Drains
Sediment Controls	Silt Fence
	Fiber Rolls
	Sediment Basin
	Check Dam
	Gravel Bag Berm
	Street Sweeping and/or Vacuum
	Sand Bag Barrier
	Storm Drain Inlet Protection
Additional Controls	Wind Erosion Controls
	Stabilized Construction Entrance/Exit
	Stabilized Construction Roadway
	Entrance/Exit Tire Wash
	Advanced Treatment Systems*
Non-Storm water Management	Water Conservation Practices
	Dewatering Operations (Ground water dewatering only under NPDES Permit No. CAG994004)
	Vehicle and Equipment Washing
	Vehicle and Equipment Fueling
	Vehicle and Equipment Maintenance
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management

* Applies to public roadway projects.

Table 16. Minimum Required BMPs for Roadway Paving or Repair Operation (For Private or Public Projects)

1.	Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions.
2.	Install gravel bags and filter fabric or other equivalent inlet protection at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat.
3.	Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or receiving waters.
4.	Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt.

REVISED TENTATIVE

5.	Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose of properly.
6.	Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed of properly.
7.	Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.
8.	Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.
9.	Cover loads with tarp before haul-off to a storage site, and do not overload trucks.
10.	Minimize airborne dust by using water spray or other approved dust suppressant during grinding.
11.	Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or receiving waters.
12.	Protect stockpiles with a cover or sediment barriers during a rain.

j. Construction Site Inspection

i. Each Permittee shall use its legal authority to implement procedures for inspecting public and private construction sites.

ii. The inspection procedures shall be implemented as follows:

(1) Inspect the public and private construction sites as specified in Table 17 below:

Table 17. Inspection Frequencies for Sites One Acre or Greater

Site	Inspection Frequency Shall Occur
a. All sites 1 acre or larger that discharge to a tributary listed by the state as an impaired water for sediment or turbidity under the CWA § 303(d)	(1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA[30], (2) within 48 hours of a ½-inch rain event and at (3) least once every two weeks
b. Other sites 1 acre or more determined to be a significant threat to water quality[31]	
c. All other construction sites with 1 acre or more of soil disturbance not meeting the criteria above	At least monthly

(2) Each Permittee shall inspect all phases of construction as follows:

[30] www.srh.noaa.gov/forecast

[31] In evaluating the threat to water quality, the following factors shall be considered: soil erosion potential; site slope; project size and type; sensitivity of receiving water bodies; proximity to receiving water bodies; non-storm water discharges; past record of non-compliance by the operators of the construction site; and any water quality issues relevant to the particular MS4.

(a) Prior to Land Disturbance

Prior to allowing an operator to commence land disturbance, each Permittee shall perform an inspection to ensure all necessary erosion and sediment structural and non-structural BMP materials and procedures are available per the erosion and sediment control plan.

(b) During Active Construction, including Land Development[32] and Vertical Construction[33]

In accordance with the frequencies specified in Part VI.D.8.j and Table 17 of this Order, each Permittee shall perform an inspection to ensure all necessary erosion and sediment structural and non-structural BMP materials and procedures are available per the erosion and sediment control plan throughout the construction process.

(c) Final Landscaping / Site Stabilization[34]

At the conclusion of the project and as a condition of approving and/or issuing a Certificate of Occupancy, each Permittee shall inspect the constructed site to ensure that all graded areas have reached final stabilization and that all trash, debris, and construction materials, and temporary erosion and sediment BMPs are removed.

(3) Based on the required frequencies above, each construction project shall be inspected a minimum of three times.

(4) Inspection Standard Operating Procedures

Each Permittee shall develop, implement, and revise as necessary, standard operating procedures that identify the inspection procedures each Permittee will follow. Inspections of construction sites, and the standard operating procedures, shall include, but are not limited to:

(a) Verification of active coverage under the Construction General Permit for sites disturbing 1 acre or more, or that are part of a planned development that will disturb 1 acre or more and a process for referring non-filers to the Regional Water Board.

(b) Review of the applicable ESCP and inspection of the construction site to determine whether all BMPs have been selected, installed, implemented, and maintained according to the approved plan and subsequent approved revisions.

(c) Assessment of the appropriateness of the planned and installed BMPs and their effectiveness.

REVISED TENTATIVE

[32] Activities include cuts and fills, rough and finished grading; alluvium removals; canyon cleanouts; rock undercuts; keyway excavations; stockpiling of select material for capping operations; and excavation and street paving, lot grading, curbs, gutters and sidewalks, public utilities, public water facilities including fire hydrants, public sanitary sewer systems, storm sewer system and/or other drainage improvement.
[33] The build out of structures from foundations to roofing, including rough landscaping.
[34] All soil disturbing activities at each individual parcel within the site have been completed.

(d) Visual observation and record keeping of non-storm water discharges, potential illicit discharges and connections, and potential discharge of pollutants in storm water runoff.

(e) Development of a written or electronic inspection report generated from an inspection checklist used in the field.

(f) Tracking of the number of inspections for the inventoried construction sites throughout the reporting period to verify that the sites are inspected at the minimum frequencies required in Table 17 of this Order.

k. Enforcement

Each Permittee shall implement its Progressive Enforcement Policy to ensure that construction sites are brought into compliance with all storm water requirements within a reasonable time period. See Part VI.D.2 for requirements for the development and implementation of a Progressive Enforcement Policy.

l. Permittee Staff Training

i. Each Permittee shall ensure that all staff whose primary job duties are related to implementing the construction storm water program are adequately trained.

ii. Each Permittee may conduct in-house training or contract with consultants. Training shall be provided to the following staff positions of the MS4:

(1) Plan Reviewers and Permitting Staff

Ensure staff and consultants are trained as qualified individuals, knowledgeable in the technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program. Permittees may provide internal training to staff or require staff to obtain QSD certification.

(2) Erosion Sediment Control/Storm Water Inspectors

Each Permittee shall ensure that its inspectors are knowledgeable in inspection procedures consistent with the State Water Board sponsored program QSD or a Qualified SWPPP Practitioner (QSP) or that a designated person on staff who has been trained in the key objectives of the QSD/QSP programs supervises inspection operations. Each Permittee may provide internal training to staff or require staff to obtain QSD/QSP certification. Each inspector must be knowledgeable of the local BMP technical standards and ESCP requirements.

(3) Third-Party Plan Reviewers, Permitting Staff, and Inspectors

If the Permittee utilizes outside parties to conduct inspections and/or review plans, each Permittee shall ensure these staff are trained per the requirements listed above. Outside contractors can self-certify, providing

REVISED TENTATIVE

they certify they have received all applicable training required in the Permit and have documentation to that effect.

9. Public Agency Activities Program

a. Each Permittee shall implement a Public Agency Activities Program to minimize storm water pollution impacts from Permittee-owned or operated facilities and activities and to identify opportunities to reduce storm water pollution impacts from areas of existing development. Requirements for Public Agency Facilities and Activities consist of the following components:

i. Public Construction Activities Management

ii. Public Facility Inventory

iii. Inventory of Existing Development for Retrofitting Opportunities

iv. Public Facility and Activity Management

v. Vehicle and Equipment Wash Areas

vi. Landscape, Park, and Recreational Facilities Management

vii. Storm Drain Operation and Maintenance

viii. Streets, Roads, and Parking Facilities Maintenance

ix. Emergency Procedures

x. Municipal Employee and Contractor Training

b. Public Construction Activities Management

i. Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part VI.D.7 of this Order at Permittee-owned or operated (i.e., public or Permittee sponsored) construction projects that are categorized under the project types identified in Part VI.D.7.b of this Order.

ii. Each Permittee shall implement and comply with the appropriate Development Construction Program requirements in Part VI.D.8 of this Order at Permittee-owned or operated construction projects as applicable.

iii. For Permittee-owned or operated projects (including those under a capital improvement project plan) that disturb less than one acre of soil, each Permittee shall require an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program, minimum BMPs).

iv. Each Permittee shall obtain separate coverage under the Construction General Permit for all Permittee-owned or operated construction sites that require coverage.

c. Public Facility Inventory

i. Each Permittee shall maintain an updated inventory of all Permittee-owned or operated (i.e., public) facilities within its jurisdiction that are potential sources of storm water pollution. The incorporation of facility information into a GIS is recommended. Sources to be tracked include but are not limited to the following:

(1) Animal control facilities

(2) Chemical storage facilities

(3) Composting facilities

(4) Equipment storage and maintenance facilities (including landscape maintenance-related operations)

(5) Fueling or fuel storage facilities (including municipal airports)

(6) Hazardous waste disposal facilities

(7) Hazardous waste handling and transfer facilities

(8) Incinerators

(9) Landfills

(10) Materials storage yards

(11) Pesticide storage facilities

(12) Fire stations

(13) Public restrooms

(14) Public parking lots

(15) Public golf courses

(16) Public swimming pools

(17) Public parks

(18) Public works yards

(19) Public marinas

(20) Recycling facilities

(21) Solid waste handling and transfer facilities

(22) Vehicle storage and maintenance yards

(23) Storm water management facilities (e.g., detention basins)

(24) All other Permittee-owned or operated facilities or activities that each Permittee determines may contribute a substantial pollutant load to the MS4.

ii. Each Permittee shall include the following minimum fields of information for each Permittee-owned or operated facility in its inventory.

(1) Name of facility

(2) Name of facility manager and contact information

(3) Address of facility (physical and mailing)

(4) A narrative description of activities performed and potential pollution sources.

(5) Coverage under the Industrial General Permit or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Water Board pertaining to storm water discharges.

iii. Each Permittee shall update its inventory at least once during the 5-year term of the Order. The update shall be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g., property management, land-use approvals, accounting and depreciation ledger account, and similar information).

d. Inventory of Existing Development for Retrofitting Opportunities

i. Each Permittee shall develop an inventory of retrofitting opportunities that meets the requirements of this Part VI.9.d. Retrofit opportunities shall be identified within the public right-of-way or in coordination with a TMDL implementation plan(s). The goals of the existing development retrofitting inventory are to address the impacts of existing development through regional or sub-regional retrofit projects that reduce the discharges of storm water pollutants into the MS4 and prevent discharges from the MS4 from causing or contributing to a violation of water quality standards as defined in Part V.A, Receiving Water Limitations.

ii. Each Permittee shall screen existing areas of development to identify candidate areas for retrofitting using watershed models or other screening level tools.

iii. Each Permittee shall evaluate and rank the areas of existing development identified in the screening to prioritize retrofitting candidates. Criteria for evaluation may include but are not limited to:

(1) Feasibility, including general private and public land availability;

(2) Cost effectiveness;

(3) Pollutant removal effectiveness;

(4) Tributary area potentially treated;

(5) Maintenance requirements;

(6) Landowner cooperation;

(7) Neighborhood acceptance;

(8) Aesthetic qualities;

(9) Efficacy at addressing concern; and

(10) Potential improvements to public health and safety.

iv. Each Permittee shall consider the results of the evaluation in the following programs:

(1) The Permittee's storm water management program: Highly feasible projects expected to benefit water quality should be given a high priority to implement source control and treatment control BMPs in a Permittee's ~~SQMP~~SWMP.

(2) Off-site mitigation for New Development and Redevelopment: Each Permittee shall consider high priority retrofit projects as candidates for off-site mitigation projects per Part VI.D.7.c.iii.(4).(d).

(3) Where feasible, at the discretion of the Permittee, the existing development retrofitting program may be coordinated with flood control projects and other infrastructure improvement programs per Part VI.D.9.e.ii.(2) below.

v. Each Permittee shall cooperate with private landowners to encourage site specific retrofitting projects. Each Permittee shall consider the following practices in cooperating with private landowners to retrofit existing development:

(1) Demonstration retrofit projects;

(2) Retrofits on public land and easements that treat runoff from private developments;

(3) Education and outreach;

(4) Subsidies for retrofit projects;

(5) Requiring retrofit projects as enforcement, mitigation or ordinance compliance;

(6) Public and private partnerships;

(7) Fees for existing discharges to the MS4 and reduction of fees for retrofit implementation.

e. Public Agency Facility and Activity Management

i. Each Permittee shall obtain separate coverage under the Industrial General Permit for all Permittee-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General Permit.

ii. Each Permittee shall implement the following measures for Permittee- owned and operated flood management projects:

(1) Develop procedures to assess the impacts of flood management projects on the water quality of receiving water bodies; and

(2) Evaluate existing structural flood control facilities to determine if retrofitting the facility to provide additional pollutant removal from storm water is feasible.

REVISED TENTATIVE

iii. Each Permittee shall ensure the implementation and maintenance of activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) when such activities occur at Permittee-owned or operated facilities and field activities (e.g., project sites) including but not limited to the facility types listed in Part VI.D.9.c above, and at any area that includes the activities described in Table 18, or that have the potential to discharge pollutants in storm water.

iv. Any contractors hired by the Permittee to conduct Public Agency Activities including, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair shall be contractually required to implement and maintain the activity specific BMPs listed in Table 18. Each Permittee shall conduct oversight of contractor activities to ensure these BMPs are implemented and maintained.

v. Permittee-owned or operated facilities that have obtained coverage under the Industrial General Permit shall implement and maintain BMPs consistent with the associated SWPPP and are therefore not required to implement and maintain the activity specific BMPs listed in Table 18.

vi. Effective source control BMPs for the activities listed in Table 18 shall be implemented at Permittee-owned or operated facilities, unless the pollutant generating activity does not occur. Each Permittee shall require implementation of additional BMPs where storm water from the MS4 discharges to a significant ecological area (SEA, see Attachment A for definition), a water body subject to TMDL provisions in Part VI.E., or a CWA § 303(d) listed water body (see Part VI.E below). Likewise, for those BMPs that are not adequately protective of water quality standards, a Permittee may require additional site-specific controls.

Table 18. BMPs for Public Agency Facilities and Activities

General and Activity Specific BMPs	
General BMPs	Scheduling and Planning
	Spill Prevention and Control
	Sanitary/Septic Waste Management
	Material Use
	Safer Alternative Products
	Vehicle/Equipment Cleaning, Fueling and Maintenance
	Illicit Connection Detection, Reporting and Removal
	Illegal Spill Discharge Control
	Maintenance Facility Housekeeping Practices
Flexible Pavement	Asphalt Cement Crack and Joint Grinding/ Sealing
	Asphalt Paving
	Structural Pavement Failure (Digouts) Pavement Grinding and Paving

General and Activity Specific BMPs	
	Emergency Pothole Repairs
	Sealing Operations
Rigid Pavement	Portland Cement Crack and Joint Sealing
	Mudjacking and Drilling
	Concrete Slab and Spall Repair
Slope/ Drains/ Vegetation	Shoulder Grading
	Nonlandscaped Chemical Vegetation Control
	Nonlandscaped Mechanical Vegetation Control/ Mowing
	Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal
	Fence Repair
	Drainage Ditch and Channel Maintenance
	Drain and Culvert Maintenance
	Curb and Sidewalk Repair
Litter/ Debris/ Graffiti	Sweeping Operations
	Litter and Debris Removal
	Emergency Response and Cleanup Practices
	Graffiti Removal
Landscaping	Chemical Vegetation Control
	Manual Vegetation Control
	Landscaped Mechanical Vegetation Control/ Mowing
	Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal
	Irrigation Line Repairs
	Irrigation (Watering), Potable and Nonpotable
Environmental	Storm Drain Stenciling
	Roadside Slope Inspection
	Roadside Stabilization
	Stormwater Treatment Devices
	Traction Sand Trap Devices
Bridges	Welding and Grinding
	Sandblasting, Wet Blast with Sand Injection and Hydroblasting
	Painting
	Bridge Repairs
Other Structures	Pump Station Cleaning
	Tube and Tunnel Maintenance and Repair
	Tow Truck Operations
	Toll Booth Lane Scrubbing Operations
Electrical	Sawcutting for Loop Installation
Traffic Guidance	Thermoplastic Striping and Marking
	Paint Striping and Marking

REVISED TENTATIVE

General and Activity Specific BMPs	
	Raised/ Recessed Pavement Marker Application and Removal
	Sign Repair and Maintenance
	Median Barrier and Guard Rail Repair
	Emergency Vehicle Energy Attenuation Repair
Storm Maintenance	Minor Slides and Slipouts Cleanup/ Repair
Management and Support	Building and Grounds Maintenance
	Storage of Hazardous Materials (Working Stock)
	Material Storage Control (Hazardous Waste)
	Outdoor Storage of Raw Materials
	Vehicle and Equipment Fueling
	Vehicle and Equipment Cleaning
	Vehicle and Equipment Maintenance and Repair
	Aboveground and Underground Tank Leak and Spill Control

f. Vehicle and Equipment Washing

i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 (BMPs for Public Agency Facilities and Activities) for all fixed vehicle and equipment washing; including fire fighting and emergency response vehicles.

ii. Each Permittee shall prevent discharges of wash waters from vehicle and equipment washing to the MS4 by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:

(1) Self-contain, and haul off for disposal; or

(2) Equip with a clarifier or an alternative pre-treatment device and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.

iii. Each Permittee shall ensure that any municipal facilities constructed, redeveloped, or replaced shall not discharge wastewater from vehicle and equipment wash areas to the MS4 by plumbing all areas to the sanitary sewer in accordance with applicable waste water provider regulations, or self-containing all waste water/ wash water and hauling to a point of legal disposal.

g. Landscape, Park, and Recreational Facilities Management

i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 for all public right-of-ways, flood control facilities and open channels, lakes and reservoirs, and landscape, park, and recreational facilities and activities.

ii. Each Permittee shall implement an IPM program that includes the following:

(1) Pesticides are used only if monitoring indicates they are needed, and pesticides are applied according to applicable permits and established guidelines.

(2) Treatments are made with the goal of removing only the target organism.

(3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial non-target organisms, and the environment.

(4) The use of pesticides, including Organophosphates and Pyrethroids, does not threaten water quality.

(5) Partner with other agencies and organizations to encourage the use of IPM.

(6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) for Public Agency Facilities and Activities.

(7) Policies, procedures, and ordinances shall include commitments and a schedule to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:

(a) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.

(b) Quantify pesticide use by staff and hired contractors.

(c) Demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

iii. Each Permittee shall implement the following requirements:

(1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.

(2) Ensure there is no application of pesticides or fertilizers (1) when two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA[35], (2) within 48 hours of a ½-inch rain event, or (3) when water is flowing off the area where the application is to occur. This requirement does not apply to the application of aquatic pesticides described in Part VI.D.9.g.iii.(1) above or pesticides which require water for activation.

(3) Ensure that no banned or unregistered pesticides are stored or applied.

(4) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.

REVISED TENTATIVE

[35] www.srh.noaa.gov/forecast

(5) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and

(6) Store pesticides and fertilizers indoors or under cover on paved surfaces, or use secondary containment.

(a) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.

(b) Regularly inspect storage areas.

h. Storm Drain Operation and Maintenance

i. Each Permittee shall implement and maintain the activity specific BMPs listed in Table 18 for storm drain operation and maintenance.

ii. Ensure that all material removed from the MS4 does not reenter the system. Solid material shall be dewatered in a contained area and liquid material shall be disposed in accordance with any of the following measures:

(1) Self-contain, and haul off for legal disposal; or

(2) Applied to the land without runoff; or

(3) Equip with a clarifier or an alternative pre-treatment device; and plumb to the sanitary sewer in accordance with applicable waste water provider regulations.

iii. Catch Basin Cleaning

(1) In areas that are not subject to a trash TMDL, each Permittee shall determine priority areas and shall update its map or list of Catch Basins with their GPS coordinates and priority:

Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Catch basins that are designated as generating low volumes of trash and/or debris.

The map or list shall contain the rationale or data to support priority designations.

(2) In areas that are not subject to a trash TMDL, each Permittee shall inspect catch basins according to the following schedule:

Priority A: A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.

Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

REVISED TENTATIVE

Catch basins shall be cleaned as necessary on the basis of inspections. At a minimum, Permittees shall ensure that any catch basin that is determined to be at least 25% full of trash shall be cleaned out. Permittees shall maintain inspection and cleaning records for Regional Water Board review.

(3) In areas that are subject to a trash TMDL, the subject Permittees shall implement the applicable provisions in Part VI.E.

iv. Trash Management at Public Events

(1) Each Permittee shall require the following measures for any event in the public right of way or wherever it is foreseeable that substantial quantities of trash and litter may be generated, including events located in areas that are subject to a trash TMDL:

(a) Proper management of trash and litter generated; and

(b) Arrangement for temporary screens to be placed on catch basins; or

(c) Provide clean out of catch basins, trash receptacles, and grounds in the event area within one business day subsequent to the event.

v. Trash Receptacles

(1) Each Permittee shall ensure trash receptacles, or equivalent trash capturing devices, are covered in areas newly identified as high trash generation areas within its jurisdiction.

(2) Each Permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.

vi. Catch Basin Labels and Open Channel Signage

(1) Each Permittee shall label all storm drain inlets that they own with a legible “no dumping” message.

(2) Each Permittee shall inspect the legibility of the stencil or label nearest each inlet prior to the wet season every year.

(3) Each Permittee shall record all catch basins with illegible stencils and re-stencil or re-label within 180 days of inspection.

(4) Each Permittee shall post signs, referencing local code(s) that prohibit littering and illegal dumping, at designated public access points to open channels, creeks, urban lakes, and other relevant water bodies.

vii. Additional Trash Management Practices

(1) In areas that are not subject to a trash TMDL, each Permittee shall install trash excluders, or equivalent devices, on or in catch basins or outfalls to prevent the discharge of trash to the MS4 or receiving water no later than four years after the effective date of this Order in areas defined as Priority A (Part VI.D.9.h.iii.(1)) except at sites where the application of such BMP(s) alone will cause flooding. Lack of maintenance that causes flooding is not an acceptable exception to the requirement to install BMPs.

Alternatively, each Permittee may implement alternative or enhanced BMPs beyond the provisions of this Order (such as but not limited to increased street sweeping, adding trash cans near trash generation sites, prompt enforcement of trash accumulation, increased trash collection on public property, increased litter prevention messages or trash nets within the MS4) that provide substantially equivalent removal of trash. Each Permittee shall demonstrate that BMPs, which substituted for trash excluders, provide equivalent trash removal performance as excluders. When outfall trash capture is provided, revision of the schedule for inspection and cleanout of catch basins in Part VI.D.9.h.iii.(2) shall be reported in the next year's annual report.

viii. Storm Drain Maintenance

Each Permittee shall implement a program for Storm Drain Maintenance that includes the following:

(1) Visual monitoring of Permittee-owned open channels and other drainage structures for trash and debris at least annually.

(2) Removal of trash and debris from open channels a minimum of once per year before the wet season.

(3) Elimination of the discharge of contaminants during MS4 maintenance and clean outs.

(4) Proper disposal of debris and trash removed during storm drain maintenance.

ix. Infiltration from Sanitary Sewer to MS4/Preventive Maintenance

(1) Each Permittee shall implement controls and measures to prevent and eliminate infiltration of seepage from sanitary sewers to MS4s through thorough, routine preventive maintenance of the MS4.

(2) Each Permittee that operates both a municipal sanitary sewer system and a MS4 must implement controls and measures to prevent and eliminate infiltration of seepage from the sanitary sewers to the MS4s that must include overall sanitary sewer and MS4 surveys and thorough, routine preventive maintenance of both. Implementation of a Sewer System Management Plan in accordance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, may be used to fulfill this requirement.

(3) Each Permittee shall implement controls to limit infiltration of seepage from sanitary sewers to the MS4 where necessary. Such controls must include:

(a) Adequate plan checking for construction and new development;

(b) Incident response training for its municipal employees that identify sanitary sewer spills;

(c) Code enforcement inspections;

(d) MS4 maintenance and inspections;

(e) Interagency coordination with sewer agencies; and

(f) Proper education of its municipal staff and contractors conducting field operations on the MS4 or its municipal sanitary sewer (if applicable).

x. Permittee Owned Treatment Control BMPs

(1) Each Permittee shall implement an inspection and maintenance program for all Permittee owned treatment control BMPs, including post-construction treatment control BMPs.

(2) Each Permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.

(3) Any residual water[36] produced by a treatment control BMP and not being internal to the BMP performance when being maintained shall be:

(a) Hauled away and legally disposed of; or

(b) Applied to the land without runoff; or

(c) Discharged to the sanitary sewer system (with permits or authorization); or

(d) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 19 (Discharge Limitations for Dewatering Treatment BMPs), prior to discharge to the MS4.

Table 19. Discharge Limitations for Dewatering Treatment BMPs[37]

Parameter	Units	Limitation
Total Suspended Solids	mg/L	100
Turbidity	NTU	50
Oil and Grease	mg/L	10

i. Streets, Roads, and Parking Facilities Maintenance

i. Each Permittee shall designate streets and/or street segments within its jurisdiction as one of the following:

Priority A: Streets and/or street segments that are designated as consistently generating the highest volumes of trash and/or debris.

Priority B: Streets and/or street segments that are designated as consistently generating moderate volumes of trash and/or debris.

Priority C: Streets and/or street segments that are designated as generating low volumes of trash and/or debris.

[36] See Attachment A.
[37] Technology based effluent limitations.

ii. Each Permittee shall perform street sweeping of curbed streets according to the following schedule:

Priority A: Streets and/or street segments that are designated as Priority A shall be swept at least two times per month.

Priority B: Streets and/or street segments that are designated as Priority B shall be swept at least once per month.

Priority C: Streets and/or street segments that are designated as Priority C shall be swept as necessary but in no case less than once per year.

iii. Road Reconstruction

Each Permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.

(1) Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall[38] unless required by emergency conditions.

(2) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat;

(3) Prevent the discharge of release agents including soybean oil, other oils, or diesel into the MS4 or receiving waters.

(4) Prevent non-storm water runoff from water use for the roller and for evaporative cooling of the asphalt.

(5) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose of properly.

(6) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed of properly.

(7) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.

(8) Cover the “cold-mix” asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.

(9) Cover loads with tarp before haul-off to a storage site, and do not overload trucks.

(10) Minimize airborne dust by using water spray during grinding.

(11) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near MS4 or receiving waters.

(12) Protect stockpiles with a cover or sediment barriers during a rain.

[38] A probability of precipitation (POP) of 50% is required.

iv. Parking Facilities Maintenance

(1) Permittee-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.

j. Emergency Procedures

i. Each Permittee may conduct repairs of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order as follows:

(1) The Permittee shall abide by all other regulatory requirements, including notification to other agencies as appropriate.

(2) Where the self-waiver has been invoked, the Permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implemented to reduce the threat to water quality, no later than 30 business days after the situation of emergency has passed.

(3) Minor repairs of essential public service systems and infrastructure in emergency situations (that can be completed in less than three days) are not subject to the notification provisions. Appropriate BMPs to reduce the threat to water quality shall be implemented.

k. Municipal Employee and Contractor Training

i. Each Permittee shall, no later than 1 year after Order adoption and annually thereafter before June 30, train all of their employees in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program, or shall ensure contractors performing privatized/contracted municipal services are appropriately trained to:

(1) Promote a clear understanding of the potential for activities to pollute storm water.

(2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

ii. Each Permittee shall, no later than 1 year after Order adoption and annually thereafter before June 30, train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:

(1) The potential for pesticide-related surface water toxicity.

REVISED TENTATIVE

(2) Proper use, handling, and disposal of pesticides.

(3) Least toxic methods of pest prevention and control, including IPM.

(4) Reduction of pesticide use.

iii. Outside contractors can self-certify, providing they certify they have received all applicable training required in the Permit and have documentation to that effect.

10. Illicit Connections and Illicit Discharges Elimination Program

a. General

i. Each Permittee shall continue to implement an Illicit Connection and Illicit Discharge Elimination (IC/ID) Program to detect, investigate, and eliminate IC/IDs to the MS4. The IC/ID Program must be implemented in accordance with the requirements and performance measures specified in this Order.

ii. As stated in Part VI.A.2 of this Order, each Permittee must have adequate legal authority to prohibit IC/IDs to the MS4 and enable enforcement capabilities to eliminate the source of IC/IDs.

iii. Each Permittee's IC/ID Program shall consist of at least the following major program components:

(1) Procedures for conducting source investigations for IC/IDs

(2) Procedures for eliminating the source of IC/IDs

(3) Procedures for public reporting of illicit discharges

(4) Spill response plan

(5) IC/IDs education and training for Permittee staff

b. Illicit Discharge Source Investigation and Elimination

i. Each Permittee shall develop written procedures for conducting investigations to identify the source of all suspected illicit discharges, including procedures to eliminate the discharge once the source is located.

ii. At a minimum, each Permittee shall initiate an investigation(s) to identify and locate the source within 72 hours of becoming aware of the illicit discharge.

iii. When conducting investigations, each Permittee shall comply with the following:

(1) Illicit discharges suspected of being sanitary sewage and/or significantly contaminated shall be investigated first.

(2) Each Permittee shall track all investigations to document at a minimum the date(s) the illicit discharge was observed; the results of the investigation; any follow-up of the investigation; and the date the investigation was closed.

REVISED TENTATIVE

(3) Each Permittee shall investigate the source of all observed illicit discharges.

iv. When taking corrective action to eliminate illicit discharges, each Permittee shall comply with the following:

(1) If the source of the illicit discharge has been determined to originate within the Permittee's jurisdiction, the Permittee shall immediately notify the responsible party/parties of the problem, and require the responsible party to initiate all necessary corrective actions to eliminate the illicit discharge. Upon being notified that the discharge has been eliminated, the Permittee shall conduct a follow-up investigation to verify that the discharge has been eliminated and cleaned-up to the satisfaction of the Permittee(s). Each Permittee shall document its follow-up investigation. Each Permittee may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection, investigation, cleanup and oversight activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy, per Part VI.D.2.

(2) If the source of the illicit discharge has been determined to originate within an upstream jurisdiction, the Permittee shall notify the upstream jurisdiction and the Regional Water Board within 30 days of such determination and provide all of the information collected regarding efforts to identify its source. Each Permittee may seek recovery and remediation costs from responsible parties or require compensation for the cost of all inspection, investigation, cleanup and oversight activities. Resulting enforcement actions shall follow the program's Progressive Enforcement Policy, per Part VI.D.2.

(3) If the source of the illicit discharge cannot be traced to a suspected responsible party, affected Permittees shall implement its spill response plan and then initiate a permanent solution as described in section 10.b.v below.

v. In the event the Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, including the inability to find the responsible party/parties, the Permittee shall provide for diversion of the entire flow to the sanitary sewer or provide treatment. In either instance, the Permittee shall notify the Regional Water Board in writing within 30 days of such determination and shall provide a written plan for review and comment that describes the efforts that have been undertaken to eliminate the illicit discharge, a description of the actions to be undertaken, anticipated costs, and a schedule for completion.

c. Identification and Response to Illicit Connections

i. Investigation

Each Permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation within 21 days, to determine the following: (1) source of the connection, (2) nature and volume of discharge through the connection, and (3) responsible party for the connection.

ii. Elimination

Each Permittee, upon confirmation of an illicit MS4 connection, shall ensure that the connection is:

(1) Permitted or documented, provided the connection will only discharge storm water and non-storm water allowed under this Order or other individual or general NPDES Permits/WDRs, or
(2) Eliminated within 180 days of completion of the investigation, using its formal enforcement authority, if necessary, to eliminate the illicit connection.

iii. Documentation

Formal records must be maintained for all illicit connection investigations and the formal enforcement taken to eliminate illicit connections.

d. Public Reporting of Non-Storm Water Discharges and Spills

i. Each Permittee shall promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s through a central contact point, including phone numbers and an internet site for complaints and spill reporting. Each Permittee shall also provide the reporting hotline to Permittee staff to leverage the field staff that has direct contact with the MS4 in detecting and eliminating illicit discharges.

ii. Each Permittee shall implement the central point of contact and reporting hotline requirements listed in this part in one or more of the following methods:

(1) By participating in a County-wide sponsored hotline

(2) By participating in one or more Watershed Group sponsored hotlines

(3) Or individually within its own jurisdiction

(4) The LACFCD shall, in collaboration with the County, continue to maintain the 888-CLEAN-LA hotline and internet site to promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts associated with discharges into or from MS4s.

iii. Each Permittee shall ensure that signage adjacent to open channels, as required in Part F.8.h.vi, include information regarding dumping prohibitions and public reporting of illicit discharges.

iv. Each Permittee shall develop and maintain written procedures that document how complaint calls are received, documented, and tracked to ensure that all complaints are adequately addressed. The procedures shall be evaluated to determine whether changes or updates are needed to ensure that the

procedures accurately document the methods employed by the Permittee. Any identified changes shall be made to the procedures subsequent to the evaluation.

v. Each Permittee shall maintain documentation of the complaint calls and record the location of the reported spill or IC/ ID and the actions undertaken in response to all IC/ID complaints, including referrals to other agencies.

e. Spill Response Plan

i. Each Permittee shall implement a spill response plan for all sewage and other spills that may discharge into its MS4. The spill response plan shall clearly identify agencies responsible for spill response and cleanup, telephone numbers and e-mail address for contacts, and shall contain at a minimum the following requirements:

(1) Coordination with spill response teams throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided.

(2) Initiate investigation of all public and employee spill complaints within one business day of receiving the complaint to assess validity.

(3) Response to spills for containment within 4 hours of becoming aware of the spill, except where such spills occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.

(4) Spills that may endanger health or the environment shall be reported to appropriate public health agencies and the Office of Emergency Services (OES).

f. Illicit Connection and Illicit Discharge Education and Training

i. Each Permittee must continue to implement a training program regarding the identification of IC/IDs for all municipal field staff, who, as part of their normal job responsibilities (e.g., street sweeping, storm drain maintenance, collection system maintenance, road maintenance), may come into contact with or otherwise observe an illicit discharge or illicit connection to the MS4. Contact information, including the procedure for reporting an illicit discharge, must be readily available to field staff. Training program documents must be available for review by the permitting authority.

ii. Each Permittee shall ensure contractors performing privatized/contracted municipal services such as, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair are trained regarding IC/ID identification and reporting. Permittees may provide training or include contractual requirements for IC/ID identification and reporting training. Outside contractors can self-certify, providing they

certify they have received all applicable training required in the Permit and have documentation to that effect.

iii. Each Permittee's training program should address, at a minimum, the following:

(1) IC/ID identification, including definitions and examples,

(2) investigation,

(3) elimination,

(4) cleanup,

(5) reporting, and

(6) documentation.

iv. Each Permittee must create a list of applicable positions and contractors which require IC/ID training and ensure that training is provided at least twice during the term of the Order. Each Permittee must maintain documentation of the training activities.

v. New Permittee staff members must be provided with IC/ID training within 180 days of starting employment.

E. Total Maximum Daily Load Provisions

1. The provisions of this Part VI.E. implement and are consistent with the assumptions and requirements of all waste load allocations (WLAs) established in TMDLs for which some or all of the Permittees in this Order are responsible.

a. Part VI.E of this Order includes provisions that are designed to assure that Permittees achieve WLAs and meet other requirements of TMDLs covering receiving waters impacted by the Permittees' MS4 discharges. TMDL provisions are grouped by WMA (WMA) in Attachments L through R.

b. The Permittees subject to each TMDL are identified in Attachment K.

c. The Permittees shall comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR §122.44(d)(1)(vii)(B); Cal. Wat. Code §13263(a)).

d. A Permittee may comply with water quality-based effluent limitations and~~/or~~ receiving water limitations in Attachments L through R using any lawful means.

2. Compliance Determination

a. General

REVISED TENTATIVE

i. A Permittee shall demonstrate compliance at compliance monitoring points established in each TMDL or, if not specified in the TMDL, at locations identified in an approved TMDL monitoring plan or in accordance with an approved integrated monitoring program per Attachment E, Part VI.C.5 (Integrated Watershed Monitoring and Assessment).

ii. Compliance with water quality-based effluent limitations shall be determined as described in Parts VI.E.2.d and VI.E.2.e, or for trash water quality-based effluent limitations as described in Part VI.E.5.b, or as otherwise set forth in TMDL specific provisions in Attachments L through R.

iii. Pursuant to Part VI.C, a Permittee may, individually or as part of a watershed-based group, develop and submit for approval by the Regional Water Board Executive Officer a Watershed Management Program that addresses all water quality-based effluent limitations and receiving water limitations to which the Permittee is subject pursuant to established TMDLs.

b. Commingled Discharges

i. A number of the TMDLs establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL.

ii. In these cases, pursuant to 40 CFR section 122.26(a)(3)(vi), each Permittee is only responsible for discharges from the MS4 for which they are owners and/or operators.

iii. Where Permittees have commingled discharges to the receiving water, compliance at the outfall to the receiving water or in the receiving water shall be determined for the group of Permittees as a whole unless an individual Permittee demonstrates that its discharge did not cause or contribute to the exceedance, pursuant to subpart v. below.

iv. For purposes of compliance determination, each Permittee is responsible for demonstrating that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation(s) at the outfall or receiving water limitation(s) in the target receiving water.

v. A Permittee may demonstrate that its discharge did not cause or contribute to an exceedance of an applicable water quality-based effluent limitation or receiving water limitation in any of the following ways:

(1) Demonstrate that there is no discharge from the Permittee's MS4 into the applicable receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation; or

REVISED TENTATIVE

(2) Demonstrate that the discharge from the Permittee's MS4 is controlled to a level that does not exceed the applicable water quality-based effluent limitation; or

(3) For exceedances of bacteria receiving water limitations or water quality-based effluent limitations, demonstrate through a source investigation pursuant to protocols established under California Water Code section 13178 or for exceedances of other receiving water limitations or water quality-based effluent limitations, demonstrate using other accepted source identification protocols, that pollutant sources within the jurisdiction of the Permittee or the Permittee's MS4 have not caused or contributed to the exceedance of the Receiving Water Limitation(s).

c. Receiving Water Limitations Addressed by a TMDL

i. For receiving water limitations in Part V.A. associated with water body-pollutant combinations addressed in a TMDL, Permittees shall achieve compliance with the receiving water limitations in Part V.A. as outlined in this Part VI.E. and Attachments L through R of this Order.

ii. A Permittee's ~~shall not be considered in violation of Part V.A. of this Order for the specific pollutant addressed in the TMDL, if it is in~~ full compliance with the applicable TMDL requirement(s), including compliance schedules, of this Part VI.E. and Attachments L through R constitutes compliance with Part V.A. of this Order for the specific pollutant addressed in the TMDL.

iii. As long as a Permittee is in compliance with the applicable TMDL requirements in a time schedule order (TSO) issued by the Regional Water Board pursuant to California Water Code sections 13300 and 13385(j)(3), it is not the Regional Water Board's intention to take an enforcement action for violations of Part V.A. of this Order for the specific pollutant(s) addressed in the TSO.

d. Interim Water Quality-Based Effluent Limitations and Receiving Water Limitations

i. A Permittee shall be considered in compliance with an applicable interim water quality-based effluent limitation and interim receiving water limitation for a pollutant associated with a specific TMDL if any of the following is demonstrated:

(1) There are no violations of the interim water quality-based effluent limitation for the pollutant associated with a specific TMDL at the Permittee's applicable MS4 outfall(s),[39] including an outfall to the receiving water that collects discharges from multiple Permittees' jurisdictions;

[39] An outfall may include a manhole or other point of access to the MS4 at the Permittee's jurisdictional boundary.

(2) There are no exceedances of the applicable receiving water limitation for the pollutant associated with a specific TMDL in the receiving water(s) at, or downstream of, the Permittee's outfall(s);

(3) There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant associated with a specific TMDL; or

(4) The Permittee has submitted and is fully implementing an approved Watershed Management Program or EWMP pursuant to Part VI.C ~~that provides reasonable assurance that interim water quality-based effluent limitations will be achieved per applicable compliance schedules~~.

(a) To be considered fully implementing an approved Watershed Management Program or EWMP, a Permittee must be implementing all actions consistent with the approved program and applicable compliance schedules, including structural BMPs.

(b) Structural storm water BMPs or systems of BMPs should be designed and maintained to treat storm water runoff from the 85th percentile, 24-hour storm, where feasible and necessary to achieve applicable WQBELs and receiving water limitations, and maintenance records must be up-to-date and available for inspection by the Regional Water Board.

(c) A Permittee that does not implement the Watershed Management Program in accordance with the milestones and compliance schedules shall demonstrate compliance with its interim water quality-based effluent limitations and/or receiving water limitations pursuant to Part VI.E.2.d.i.(1)-(3), above.

(d) Upon notification of a Permittee's intent to develop a WMP or EWMP and prior to approval of its WMP or EWMP, ~~A~~ a Permittee's full compliance with all of the following requirements shall ~~not be considered in violation of~~ constitute a Permittee's compliance with provisions pertaining to interim WQBELs with compliance deadlines occurring prior to approval of a WMP or EWMP. This subdivision (d) shall not apply to interim trash WQBELs.~~, if all the following requirements are met:~~

(1) Provides timely notice of its intent to develop a WMP or EWMP,

(2) Meets all interim and final deadlines for ~~submittal~~ development of a WMP or EWMP,

(3) ~~Implements watershed control measures identified in its notification to achieve interim WQBELs with compliance deadlines~~

REVISED TENTATIVE

~~occurring prior to approval of a WMP~~For the area to be covered by the WMP or EWMP, targets implementation of watershed control measures in its existing storm water management program, including watershed control measures to eliminate non-storm water discharges of pollutants through the MS4 to receiving waters, to address known contributions of pollutants from MS4 discharges that cause or contribute to the impairment(s) addressed by the TMDL(s), and

(4) Receives final approval of its WMP or EWMP within 28 or 40 months, respectively.

e. Final Water Quality-based Effluent Limitations and/or Receiving Water Limitations

i. A Permittee shall be deemed in compliance with an applicable final water quality-based effluent limitation and final receiving water limitation for the pollutant(s) associated with a specific TMDL if any of the following is demonstrated:

(1) There are no violations of the final water quality-based effluent limitation for the specific pollutant at the Permittee's applicable MS4 outfall(s)[40];

(2) There are no exceedances of applicable receiving water limitation for the specific pollutant in the receiving water(s) at, or downstream of, the Permittee's outfall(s); ~~or~~

(3) There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the water quality-based effluent limitation and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or

~~(3)~~(4) In drainage areas where Permittees are implementing an EWMP, (i) all non-storm water and (ii) all storm water runoff up to and including the volume equivalent to the 85th percentile, 24-hour event is retained for the drainage area tributary to the applicable receiving water. This provision (4) shall not apply to final trash WQBELs.

3. USEPA Established TMDLs

TMDLs established by the USEPA, to which Permittees are subject, do not contain an implementation plan adopted pursuant to California Water Code section 13242. However, USEPA has included implementation recommendations as part of these TMDLs. In lieu of inclusion of numeric water quality based effluent limitations at this time, this Order requires Permittees subject to WLAs in USEPA established TMDLs to propose and implement best management practices (BMPs) that will be effective

[40] Ibid.

in ~~ultimately~~ achieving compliance with ~~the~~ USEPA established numeric WLAs. The Regional Water Board may, at its discretion, revisit this decision within the term of this Order or in a future permit, as more information is developed to support the inclusion of numeric water quality based effluent limitations.

a. Each Permittee shall propose BMPs to achieve the WLAs contained in the applicable USEPA established TMDL(s), and a schedule for implementing the BMPs that is as short as possible, in a Watershed Management Program or EWMP.

b. Each Permittee may either individually submit a Watershed Management Program ~~Plan~~, or may jointly submit a ~~plan~~ WMP or EWMP with other Permittees subject to the WLAs contained in the USEPA established TMDL.

c. At a minimum, each Permittee shall include the following information in its Watershed Management Program or EWMP ~~Plan~~, relevant to each applicable USEPA established TMDL:

i. Available data demonstrating the current quality of the Permittee's MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;

ii. A detailed description of BMPs that have been implemented, and/or are currently being implemented by the Permittee to achieve the WLA(s), if any;

iii. A detailed time schedule of specific actions the Permittee will take in order to achieve compliance with the applicable WLA(s);

iv. A demonstration that the time schedule requested is as short as possible, taking into account the time since USEPA establishment of the TMDL, and technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the WLA(s);

(1) For the Malibu Creek Nutrient TMDL established by USEPA in 2003, in no case shall the time schedule to achieve the final numeric WLAs exceed five years from the effective date of this Order; and

v. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and numeric milestones and the date(s) for their achievement.

d. Each Permittee subject to a WLA in a TMDL established by USEPA ~~since January 1, 2010~~ shall submit a draft of a Watershed Management Program or EWMP ~~Plan~~ to the Regional Water Board Executive Officer for approval ~~no later than one year after the effective date of this Order~~per the schedule Part VI.C.4.

REVISED TENTATIVE

~~e. Each Permittee subject to a WLA in a TMDL established by USEPA prior to January 1, 2010 shall submit a draft of a Watershed Management Program Plan to the Regional Water Board Executive Officer for approval no later than six months after the effective date of this Order.~~

e. If a Permittee does not submit a Watershed Management Program ~~Plan~~, or the plan is determined to be inadequate by the Regional Water Board Executive Officer and the Permittee does not make the necessary revisions within 90 days of written notification that plan is inadequate, the Permittee shall be required to demonstrate compliance with the numeric WLAs immediately based on monitoring data collected under the MRP (Attachment E) for this Order.

4. State Adopted TMDLs where Final Compliance Deadlines have Passed

a. Permittees shall comply immediately with water quality-based effluent limitations and/or receiving water limitations to implement WLAs in state-adopted TMDLs for which final compliance deadlines have passed pursuant to the TMDL implementation schedule.

b. Where a Permittee believes that additional time to comply with the final water quality-based effluent limitations and/or receiving water limitations is necessary, a Permittee may within 45 days of Order adoption request a time schedule order pursuant to California Water Code section 13300 for the Regional Water Board's consideration.

c. Permittees may either individually request a TSO, or may jointly request a TSO with all Permittees subject to the water quality-based effluent limitations and/or receiving water limitations, to implement the WLAs in the state-adopted TMDL.

d. At a minimum, a request for a time schedule order shall include the following:

i. Data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;

ii. A detailed description and chronology of structural controls and source control efforts, since the effective date of the TMDL, to reduce the pollutant load in the MS4 discharges to the receiving waters subject to the TMDL;

iii. Justification of the need for additional time to achieve the water quality-based effluent limitations and/or receiving water limitations;

iv. A detailed time schedule of specific actions the Permittee will take in order to achieve the water quality-based effluent limitations and/or receiving water limitations;

v. A demonstration that the time schedule requested is as short as possible, taking into account the technological, operation, and economic factors that

REVISED TENTATIVE

affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation(s); and

vi. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and the date(s) for their achievement. The interim requirements shall include both of the following:

(1) Effluent limitation(s) for the pollutant(s) of concern; and

(2) Actions and milestones leading to compliance with the effluent limitation(s).

5. Water Quality-Based Effluent Limitations for Trash

Permittees assigned a Waste Load Allocation in a trash TMDL shall comply as set forth below.

a. Effluent Limitations: Permittees shall comply with the interim and final water quality-based effluent limitations for trash set forth in Attachments L through R for the following Trash TMDLs:

i. Lake Elizabeth Trash TMDL (Attachment L)

ii. Santa Monica Bay Nearshore and Offshore Debris TMDL (Attachment M)

iii. Malibu Creek Watershed Trash TMDL (Attachment M)

iv. Ballona Creek Trash TMDL (Attachment M)

v. Machado Lake Trash TMDL (Attachment N)

vi. Los Angeles River Trash TMDL (Attachment O)

vii. Peck Road Park Lake Trash TMDL (Attachment O)

viii. Echo Park Lake Trash TMDL (Attachment O)

ix. Legg Lake Trash TMDL (Attachment O)

b. Compliance

i. Pursuant to California Water Code section 13360(a), Permittees may comply with the trash effluent limitations using any lawful means. Such compliance options are broadly classified as *full capture*, *partial capture, institutional controls,* or *minimum frequency of assessment and collection,* as described below, and any combination of these may be employed to achieve compliance:

(1) Full Capture Systems:

(a) The Basin Plan authorizes the Regional Water Board Executive Officer to certify *full capture systems*, which are systems that meet the

REVISED TENTATIVE

operating and performance requirements as described in this Order, and the procedures identified in "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System."[41]

(b) Permittees are authorized to comply with their effluent limitations through certified *full capture systems* provided the requirements of paragraph (c), immediately below, and any conditions in the certification, continue to be met.

(c) Permittees may comply with their effluent limitations through progressive installation of *full capture systems* throughout their jurisdictional areas until all areas draining to Lake Elizabeth, Santa Monica Bay, Malibu Creek, Ballona Creek, Machado Lake, the Los Angeles River system, Legg Lake, Peck Road Park Lake, and/or Echo Park Lake are addressed. For purposes of this Order, attainment of the effluent limitations shall be conclusively presumed for any drainage area to Lake Elizabeth, Santa Monica Bay, Malibu Creek (and its tributaries), Ballona Creek (and its tributaries), Machado Lake, the Los Angeles River (and its tributaries), Legg Lake, Peck Road Park Lake, and/or Echo Park Lake where certified *full capture systems* treat all drainage from the area, provided that the *full capture systems* are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board.

(i) A Permittee shall be deemed in compliance with its final effluent limitation if it demonstrates that all drainage areas under its jurisdiction and/or authority are serviced by appropriate certified *full capture systems* as described in paragraph (1)(c).

(ii) A Permittee shall be deemed in compliance with its interim effluent limitations, where applicable:

1. By demonstrating that *full capture systems* treat the percentage of drainage areas in the watershed that corresponds to the required trash abatement.

2. Alternatively, a Permittee may propose a schedule for installation of *full capture systems* in areas under its jurisdiction and/or authority within a given watershed, targeting first the areas of greatest trash generation, for the Executive Officer's approval. The Executive Officer shall not approve any such schedule that does not result in timely compliance with the final effluent limitations, consistent with the established TMDL implementation schedule and applicable

REVISED TENTATIVE

[41] The Regional Water Board currently recognizes eight *full capture systems*. These are: Vortex Separation Systems (VSS) and seven other Executive Officer certified *full capture systems*, including specific types or designs of trash nets; two gross solids removal devices (GSRDs); catch basin brush inserts and mesh screens; vertical and horizontal trash capture screen inserts; and a connector pipe screen device. See August 3, 2004 Los Angeles Regional Water Quality Control Board Memorandum titled "Procedures and Requirements for Certification of a Best Management Practice for Trash Control as a Full Capture System.

State policies. A Permittee shall be deemed in compliance with its interim effluent limitations provided it is fully in compliance with any such approved schedule.

(2) Partial Capture Devices and Institutional Controls: Permittees may comply with their interim and final effluent limitations through the installation of *partial capture devices* and the application of *institutional controls*.[42]

(a) Trash discharges from areas serviced solely by *partial capture devices* may be estimated based on demonstrated performance of the device(s) in the implementing area.[43] That is, trash reduction is equivalent to the *partial capture devices'* trash removal efficiency multiplied by the percentage of drainage area serviced by the devices.

(b) Except as provided in subdivision (c), immediately below, trash discharges from areas addressed by *institutional controls* and/or *partial capture devices* (where site-specific performance data is not available) shall be calculated using a mass balance approach, based on the daily generation rate (DGR) for a representative area.[44] The DGR shall be determined from direct measurement of trash deposited in the drainage area during any thirty-day period between June 22nd and September 22nd exclusive of rain events[45], and shall be re-calculated every year thereafter unless a less frequent period for recalculation is approved by the Regional Water Board Executive Officer. The DGR shall be calculated as the total amount of trash collected during this period divided by the length of the collection period.

DGR = (Amount of trash collected during a 30-day collection period[46] / (30 days)

The DGR for the applicable area under the Permittees' jurisdiction and/or authority shall be extrapolated from that of the representative drainage area(s). A mass balance equation shall be used to estimate the amount of trash discharged during a storm event.[47] The *Storm Event Trash Discharge* for a given rain event in the Permittee's drainage area shall be calculated by multiplying the number of days since the last street sweeping by the DGR and subtracting the amount of any trash recovered in the catch basins.[48] For each day of a storm event that generates precipitation greater than 0.25 inch, the Permittee shall calculate a *Storm Event Trash Discharge*.

REVISED TENTATIVE

[42] While interim effluent limitations may be complied with using *partial capture devices*, compliance with final effluent limitations cannot be achieved with the exclusive use of *partial capture devices*.
[43] Performance shall be demonstrated under different conditions (e.g. low to high trash loading).
[44] The area(s) should be representative of the land uses and activities within the Permittees' authority and shall be approved by the Executive Officer prior to the 30-day collection period.
[45] Provided no special events are scheduled that may affect the representative nature of that collection period.
[46] Between June 22nd and September 22nd
[47] Amount of trash shall refer to the uncompressed volume (in gallons) or drip-dry weight (in pounds) of trash collected.
[48] Any negative values shall be considered to represent a zero discharge.

Storm Event Trash Discharge = [(Days since last street sweeping*DGR)] – [Amount of trash recovered from catch basins][49]

The sum of the *Storm Event Trash Discharges* for the storm year shall be the Permittee's calculated annual trash discharge.

Total Storm Year Trash Discharge = ∑Storm Event Trash Discharges from Drainage Area

(c) The Executive Officer may approve alternative compliance monitoring approaches for calculating total storm year trash discharge, upon finding that the program will provide a scientifically-based estimate of the amount of trash discharged from the Permittee's MS4.

(3) Combined Compliance Approaches:

Permittees may comply with their interim and final effluent limitations through a combination of *full capture systems*, *partial capture devices*, and *institutional controls*. Where a Permittee relies on a combination of approaches, it shall demonstrate compliance with the interim and final effluent limitations as specified in (1)(c) in areas where *full capture systems* are installed and as specified in (2)(a) or (2)(b), as appropriate, in areas where *partial capture devices* and *institutional controls* are applied.

(4) Minimum Frequency of Assessment and Collection Approach:

If allowed in a trash TMDL and approved by the Executive Officer, a Permittee may alternatively comply with its final effluent limitations by implementing a program for *minimum frequency of assessment and collection* (MFAC) in conjunction with BMPs. To the satisfaction of the Executive Officer, the MFAC/BMP program must meet the following criteria:

(a) The MFAC/BMP Program includes an initial minimum frequency of trash assessment and collection and suite of structural and/or nonstructural BMPs. The MFAC/BMP program shall include collection and disposal of all trash found in the receiving water and shoreline. Permittees shall implement an initial suite of BMPs based on current trash management practices in land areas that are found to be sources of trash to the water body. The initial minimum frequency of trash assessment and collection shall be set as specified in the following TMDLs:

(i) Malibu Creek Watershed Trash TMDL

(ii) Machado Lake Trash TMDL

(iii) Legg Lake Trash TMDL

[49] When more than one storm event occurs prior to the next street sweeping the discharge shall be calculated from the date of the last assessment.

(b) The MFAC/BMP Program includes reasonable assurances that it will be implemented by the responsible Permittees.

(c) MFAC protocols may be based on SWAMP protocols for rapid trash assessment, or alternative protocols proposed by Permittees and approved by the Regional Water Board Executive Officer.

(d) Implementation of the MFAC/BMP program should include a Health and Safety Program to protect personnel. The MFAC/BMP program shall not require Permittees to access and collect trash from areas where personnel are prohibited.

(e) The Regional Water Board Executive Officer may approve or require a revised assessment and collection frequency and definition of the critical conditions under the MFAC:

(i) To prevent trash from accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections;

(ii) To reflect the results of trash assessment and collection;

(iii) If the amount of trash collected does not show a decreasing trend, where necessary, such that a shorter interval between collections is warranted; or

(iv) If the amount of trash collected is decreasing such that a longer interval between collections is warranted.

(f) At the end of the implementation period, a revised MFAC/BMP program may be required if the Regional Water Board Executive Officer determines that the amount of trash accumulating between collections is causing nuisance or otherwise adversely affecting beneficial uses.

(g) With regard to (4)(e)(i), (4)(e)(ii), or (4)(e)(iii), above, the Regional Water Board Executive Officer is authorized to allow responsible Permittees to implement additional structural or non-structural BMPs in lieu of modifying the monitoring frequency.

ii. If a Permittee is not in compliance with its applicable interim and/or final effluent limitation as identified in Attachments L through R, then it shall be in violation of this Order.

(1) A Permittee relying on *partial capture devices* and/or *institutional controls* that has violated its interim and/or final effluent limitation(s) shall be presumed to have violated the applicable limitation for each day of each storm event that generated precipitation greater than 0.25 inch during the applicable storm year, except those storm days on which it establishes that its cumulative Storm Event Trash Discharges has not exceeded the applicable effluent limitation.

REVISED TENTATIVE

(2) If a Permittee relying on *full capture systems* has failed to demonstrate that the *full capture systems* for any drainage area are adequately sized and maintained, and that maintenance records are up-to-date and available for inspection by the Regional Water Board, and that it is in compliance with any conditions of its certification, shall be presumed to have discharged trash in an amount that corresponds to the percentage of the baseline waste load allocation represented by the drainage area in question.

(a) A Permittee may overcome this presumption by demonstrating (using any of the methods authorized in Part VI.E.5.b) that the actual or calculated discharge for that drainage area is in compliance with the applicable interim or final effluent limitation.

iii. Each Permittee shall be held liable for violations of the effluent limitations assigned to their area. If a Permittee's compliance strategy includes *full* or *partial capture devices* and it chooses to install a full or partial capture device in the MS4 physical infrastructure of another public entity, it is responsible for obtaining all necessary permits to do so. If a Permittee believes it is unable to obtain the permits needed to install a full capture or partial capture device within another Permittee's MS4 physical infrastructure, either Permittee may request the Executive Officer to hold a conference with the Permittees. Nothing in this Order shall affect the right of that public entity or a Permittee to seek indemnity or other recourse from the other as they deem appropriate. Nothing in this subsection shall be construed as relieving a Permittee of any liability that the Permittee would otherwise have under this Order.

c. Monitoring and Reporting Requirements (pursuant to California Water Code section 13383)

i. Each Permittee shall submit a TMDL Compliance Report as part of its Annual Report detailing compliance with the applicable interim and/or final effluent limitations. Reporting shall include the information specified below. The report shall be submitted on the reporting form specified by the Regional Water Board Executive Officer. The report shall be signed under penalty of perjury by the Permittee's principal executive officer or ranking elected official or duly authorized representative of the officer, consistent with Part V.B of Attachment D (Standard Provisions), who is responsible for ensuring compliance with this Order. Each Permittee shall be charged with and shall demonstrate compliance with its applicable effluent limitations beginning with its December 15, 2013, TMDL Compliance Report.

(1) Reporting Compliance based on Full Capture Systems: Permittees shall provide information on the number and location of full capture installations, the sizing of each full capture installation, the drainage areas addressed by these installations, and compliance with the applicable interim or final effluent limitation, in its TMDL Compliance Report. The Los Angeles Water Board will periodically audit sizing, performance, and other data to

validate that a system satisfies the criteria established for a *full capture system* and any conditions established by the Regional Water Board Executive Officer in the certification.

(2) Reporting Compliance based on Partial Capture Systems and/or Institutional Controls:

(a) Using Performance Data Specific to the Permittee's Area: In its TMDL Compliance Report, a Permittee shall provide: (i) site-specific performance data for the applicable device(s); (ii) information on the number and location of such installations, and the drainage areas addressed by these installations; and (iii) calculated compliance with the applicable effluent limitations.

(b) Using Direct Measurement of Trash Discharge: Permittees shall provide an accounting of DGR and trash removal via street sweeping, catch basin clean outs, etc., in a database to facilitate the calculation of discharge for each rain event. The database shall be maintained and provided to the Regional Water Board for inspection upon request. In its TMDL Compliance Report, a Permittee shall provide information on its annual DGR, calculated storm year discharge, and compliance with the applicable effluent limitation.

(3) Reporting Compliance based on Combined Compliance Approaches:

Permittees shall provide the information specified in Part VI.E.5.c.i(1) for areas where *full capture systems* are installed and that are specified in Part VI.E.5.c.i(2)(a) or (b), as appropriate, for areas where *partial capture devices* and *institutional controls* are applied. In its TMDL Compliance Report, a Permittee shall also provide information on compliance with the applicable effluent limitation based on the combined compliance approaches.

(4) Reporting Compliance based on an MFAC/BMP Approach:

The MFAC/BMP Program includes a Trash Monitoring and Reporting Plan, and a requirement that the responsible Permittees will self-report any non-compliance with its provisions. The results and report of the Trash Monitoring and Reporting Plan must be submitted to Regional Water Board with the Permittee's Annual Report.

ii. Violation of the reporting requirements of this Part shall be punishable pursuant to, inter alia, California Water Code section 13385, subdivisions (a)(3) and (h)(1), and/or section 13385.1.

REVISED TENTATIVE

ATTACHMENT F – FACT SHEET

Table of Contents

REVISED TENTATIVE

List of Tables

REVISED TENTATIVE

ATTACHMENT F – FACT SHEET

As described in Part II of this Order, this Fact Sheet sets forth the significant factual, legal, methodological, and policy rationale that serve as the basis for the requirements of this Order.

This Order has been prepared under a standardized format to accommodate a broad range of discharge requirements for dischargers in California.

I. PERMIT INFORMATION

The following table summarizes administrative information related to the facility and the Dischargers.

Table F-1. Facility and Discharger Information

WDID	Various (See Table 4 of Order)
Dischargers	The Los Angeles County Flood Control District, the County of Los Angeles, and 84 incorporated cities within the coastal watersheds of Los Angeles County with the exception of the City of Long Beach (See Table 4 of Order)
Name of Facility	Municipal Separate Storm Sewer Systems (MS4s) within the Coastal Watersheds of Los Angeles County with the exception of the City of Long Beach MS4
Facility Address	Various
Facility Contact, Title and Phone	Various (See Table 4 of Order)
Mailing Address	Various (See Table 4 of Order)
Billing Address	Same as above
Type of Facility	Large Municipal Separate Storm Sewer System (MS4)[1]
Major or Minor Facility	Major

[1] According to 40 CFR § 122.26(b)(8), "[a] municipal separate storm sewer system (MS4) means 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 a designated and approved management agency under section 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."

Watersheds	(1) Santa Clara River Watershed; (2) Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; (3) Los Angeles River Watershed; (4) Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; (5) Los Cerritos Channel and Alamitos Bay Watershed Management Area;(6) San Gabriel River Watershed; and (7) Santa Ana River Watershed
Receiving Water	Surface waters identified in Tables 2-1, 2-1a, 2-3, and 2-4, and Appendix 1, Table 1 of the Water Quality Control Plan - Los Angeles Region (Basin Plan), and other unidentified tributaries to these surface waters within the following Watershed Management Areas: (1) Santa Clara River Watershed; (2) Santa Monica Bay Watershed Management Area, including Malibu Creek Watershed and Ballona Creek Watershed; (3) Los Angeles River Watershed; (4) Dominguez Channel and Greater Los Angeles/Long Beach Harbors Watershed Management Area; (5) Los Cerritos Channel and Alamitos Bay Watershed Management Area; (6) San Gabriel River Watershed; and (7) Santa Ana River Watershed[2].
Receiving Water Type	Inland surface waters, estuarine waters, and marine waters, including wetlands, lakes, rivers, estuaries, lagoons, harbors, bays, and beaches

The Los Angeles County Flood Control District, Los Angeles County, and the 84 municipalities listed in Table F-2 above are the owners and/or operators[3] of Municipal Separate Storm Sewer Systems within the Coastal Watersheds of Los Angeles County (hereinafter Facility).

For the purposes of this Order, the entities listed in Table 4 of the Order are hereinafter referred to separately as “Permittees” and jointly as the “Dischargers.” References to “discharger” or “permittee” or “co-permittee” or “municipality” in applicable federal and state laws, regulations, plans, or policy are held to be equivalent to references to the Dischargers or Permittees herein.

II. FACILITY DESCRIPTION

A. Description of the Permittees’ MS4s

The Permittees’ MS4s, like many MS4s in the nation, are based on regional floodwater management systems that use both natural and altered water bodies to achieve flood

[2] Note that the Santa Ana River Watershed lies primarily within the boundaries of the Santa Ana Regional Water Quality Control Board. However, a portion of the Chino Basin subwatershed lies within the jurisdictions of Pomona and Claremont in Los Angeles County. The primary receiving water within the Los Angeles County portion of the Chino Basin subwatershed are San Antonio Creek and Chino Creek.

[3] Owner or operator means the owner or operator of any facility or activity subject to regulation under the NPDES program (40 CFR § 122.2).

management goals. The Permittees' MS4s comprise a large interconnected system, controlled in large part by the Los Angeles County Flood Control District (LACFCD), among others, and used by multiple cities along with Los Angeles County. This extensive system conveys storm water and non-storm water across municipal boundaries where it is commingled within the MS4 and then discharged ~~to receiving~~to receiving water bodies.

In 1915, the California Legislature enacted the Los Angeles County Flood Control Act, establishing the Los Angeles County Flood Control District (LACFCD). The objects and purposes of the Act are to provide for the control and conservation of the flood, storm and other waste waters within the flood control district. Among its other powers, the LACFCD also has the power to preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties for the protection, preservation, and use of the scenic beauty and natural environment for the properties or the lands. The LACFCD is governed, as a separate entity, by the County of Los Angeles Board of Supervisors.

The area covered under this Order encompasses more than 3,000 square miles. This area contains a vast drainage network that serves incorporated and unincorporated areas in every Watershed Management Area within the Los Angeles Region. Maps depicting the major drainage infrastructure within the area covered under this Order are included in Attachment C of this Order.

The total length of the Permittees' MS4s, and the locations of all storm drain connections, are not known exactly, as a comprehensive map for the MS4 does not exist. Rough estimates, based on information from the LACFCD and large municipalities (population > 100,000), indicate that the length exceeds 4,300 miles, as shown below. The LACFCD's system includes the majority of drainage infrastructure within incorporated and unincorporated areas in every watershed, including approximately 500 miles of open channel, 3,500 miles of underground drains, and an estimated 88,~~800~~ 000 catch basins, and several dams. Portions of the LACFCD's current system were originally unmodified natural rivers and water courses.

Table F-2. Extent of Select Permittees' MS4s

Permittee	Area (Square Miles)	Catch Basins	Storm Drain Length	Open Channel Length
LACFCD/ LA County	3,100	88,000	3,500 miles	500 miles
City of LA	469	30,000	1,600 miles	31 miles
El Monte	10	316	11 miles	0.4 mile

REVISED TENTATIVE

Permittee	Area (Square Miles)	Catch Basins	Storm Drain Length	Open Channel Length
Glendale	30.6	1,100	Unknown	Unknown
Inglewood	9	1,157	12 miles	Unknown
Pasadena	26	1,050	30	Unknown
Santa Monica	8.3	850	Unknown	Unknown
Torrance	20	2,000	20 miles	3 miles
TOTAL		**approx. 109,473**	**approx. 4,323**	**approx. 484.4**

Unlike other Permittees, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways, and has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area. Nonetheless, as an owner and operator of MS4s, the LACFCD is required by federal regulations to control pollutant discharges into and from its MS4, including the ability to control through interagency agreements among co-permittees and other owners of a MS4 the contribution of pollutants from one portion of the MS4 to another portion of the MS4. ~~However, t~~Additionally, the Los Angeles County Flood Control District does own~~s~~ the County of Los Angeles Department of Public Works headquarters building and Los Angeles County Flood Control District maintenance yards to support its field operations.

Storm water and non-storm water are conveyed through the MS4s and ultimately discharged into receiving waters of the Los Angeles Region. MS4s subject to this Order receive storm water and non-storm water flows from various sources. These flows come from MS4s owned by the Permittees covered by this Order and other public agencies, NPDES permitted discharges, discharges authorized by the USEPA (including discharges subject to a decision document approved pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)), groundwater, and natural flows.

The requirements contained in this Order apply to the Los Angeles County Flood Control District, 84 cities within the coastal watersheds of Los Angeles County, and the unincorporated areas of Los Angeles County under County jurisdiction, with the exception of the City of Long Beach. Under the previous Order, Order No. 01-182, the Los Angeles County Flood Control District was designated the Principal Permittee, and the County of Los Angeles and the 84 incorporated cities were designated co-Permittees. However, in this Order, the role of Principal Permittee has been eliminated. This Order divides Los Angeles County into seven Watershed Management Areas (WMAs).

REVISED TENTATIVE

B. The Need to Regulate Discharges from MS4s

The quality of storm water and non-storm water discharges from MS4s is fundamentally important to the health of the environment and the quality of life in Southern California. Polluted storm water and non-storm water discharges from MS4s are a leading cause of water quality impairment in the Los Angeles Region. Storm water and non-storm water discharges are often contaminated with pesticides, fertilizers, fecal indicator bacteria and associated pathogens, trash, automotive byproducts, and many other toxic substances generated by activities in the urban environment. Water that flows over streets, parking lots, construction sites, and industrial, commercial, residential, and municipal areas carries these untreated pollutants through the MS4 directly into the receiving waters of the Region. The water quality impacts, ecosystem impacts, and increased public health risks from MS4 discharges that affect receiving waters nationwide and throughout Los Angeles County, including its coastline, are well documented.

The National Urban Runoff Program (NURP) Study (USEPA 1983) showed that MS4 discharges draining from residential, commercial, and light industrial areas contain significant loadings of total suspended solids and other pollutants. Many studies continue to support the conclusions of the NURP Study. The NURP Study also found that pollutant levels from illicit discharges were high enough to significantly degrade receiving water quality, and threaten aquatic life, wildlife, and human health. The general findings and conclusions of the NURP Study are reiterated in the more recent 2008 National Research Council report "Urban Runoff Management in the United States" as well as in a regional study, "Sources, Patterns and Mechanisms of storm Water Pollutant Loading from Watersheds and Land Uses of the Greater Los Angeles Area, California," SCCWRP Technical Report 510 (2007), funded in large part by the Regional Water Board.

Some of the conclusions of the 2007 regional study were as follows.

Storm water runoff from watershed and land use based sources is a significant contributor of pollutant loading and often exceeds water quality standards. High pollutant concentrations were observed throughout the study at both mass emission (ME) and land use (LU) sites. Pollutant concentrations frequently exceeded water quality standards.

Storm water Event Mean Concentrations (EMCs), fluxes and loads were substantially lower from undeveloped open space areas when compared to developed urbanized watersheds. Storms sampled from less developed watersheds produced pollutant EMCs and fluxes that were one to two orders of magnitude lower than comparably sized storms in urbanized watersheds. Furthermore, the higher fluxes from developed watersheds were generated by substantially less rainfall than the lower fluxes from the undeveloped watersheds, presumably due to increased impervious surface area in developed watersheds.

The Los Angeles region contributed a similar range of storm water runoff pollutant loads as that of other regions of the United States. Comparison of constituent concentrations

in storm water runoff from land use sites from this study reveal median EMCs that are comparable to U.S. averages reported in the National Storm water Quality Database (NSQD; Pitt et al., 2003). Comparison to the NSQD data set provides insight to spatial and temporal patterns in constituent concentrations in urban systems. Similarities between levels reported in the NSQD and this study suggest that land-based concentrations in southern California storm water are generally comparable to those in other parts of the country.

Peak concentrations for all constituents were observed during the early part of the storm. Constituent concentrations varied with time over the course of storm events. For all storms sampled, the highest constituent concentrations occurred during the early phases of storm water runoff with peak concentrations usually preceding peak flow. Although the pattern of an early peak in concentration was comparable in both large and small developed watersheds, the peak concentration tended to occur later in the storm and persist for a longer duration in the smaller developed watersheds. Therefore monitoring programs must capture the early portion of storms and account for intra-storm variability in concentration in order to generate accurate estimates of EMC and contaminant loading. Programs that do not initiate sampling until a flow threshold has been surpassed may severely underestimate storm EMCs.

Highest constituent loading was observed early in the storm season with intra-annual variability driven more by antecedent dry period than amount of rainfall. Seasonal differences in constituent EMCs and loads were consistently observed at both ME and LU sites. In general, early season storms (October – December) produce significantly higher constituent EMCs and loads than late season storms (April-May), even when rainfall quantity was similar. This suggests that the magnitude of constituent load associated with storm water runoff depends, at least in part, on the amount of time available for pollutant build-up on land surfaces. The extended dry period that typically occurs in arid climates such as southern California maximizes the time for constituents to build-up on land surfaces, resulting in proportionally higher concentrations and loads during initial storms of the season.

The 1992, 1994, and 1996 National Water Quality Inventory Reports to Congress prepared by USEPA showed a trend of impairment in the Nation's waters from contaminated storm water and dry weather urban runoff. The 2004 National Water Quality Inventory (305(b) Report) showed that urban runoff/storm water discharges contribute to the impairment of 22,559 miles of streams, the impairment of 701,024 acres of lakes, and the impairment of 867 square miles of estuaries in the United States. The Natural Resources Defense Council (NRDC) 1999 Report, "Stormwater Strategies, Community Responses to Runoff Pollution" identifies two main causes of the storm water pollution problem in urban areas. Both causes are directly related to development in urban and urbanizing areas:

Increased volume and velocity of surface runoff. There are three types of human-made impervious covers that increase the volume and velocity of runoff: (i) rooftop, (ii) transportation imperviousness, and (iii) non-porous (impervious) surfaces. As these impervious surfaces increase, infiltration will decrease, forcing more water to run off the surface, picking up speed and pollutants.

The concentration of pollutants in the runoff. Certain activities, such as those from industrial sites, are large contributors of pollutant concentrations to the MS4.

The report also identified several activities causing storm water pollution from urban areas, including practices of homeowners, businesses, and government agencies.

Studies conducted by the United States Geological Survey (USGS) confirm the link between urbanization and water quality impairments in urban watersheds due to contaminated storm water runoff.

Furthermore, the water quality impacts of urbanization and urban storm water discharges have been summarized by several other recent USEPA reports. Urbanization causes changes in hydrology and increases pollutant loads which adversely impact water quality and impair the beneficial uses of receiving waters. Increases in population density and imperviousness result in changes to stream hydrology including:

- increased peak discharges compared to predevelopment levels;
- increased volume of storm water runoff with each storm compared to pre-development levels;
- decreased travel time to reach receiving water;
- increased frequency and severity of floods;
- reduced stream flow during prolonged periods of dry weather due to reduced levels of infiltration;
- increased runoff velocity during storms due to a combination of effects of higher discharge peaks, rapid time of concentration, and smoother hydraulic surfaces from channelization; and
- decreased infiltration and diminished groundwater recharge.

The Los Angeles County MS4 program has conducted monitoring to:

- quantify mass emissions for pollutants;
- identify critical sources for pollutants of concern in storm water;
- evaluate BMP effectiveness; and
- evaluate receiving water impacts, including impacts to tributaries.

The monitoring indicates that instream concentrations of pathogen indicators (fecal coliform and streptococcus), heavy metals (such as Pb, Cu, Zn) and pesticides (such as diazinon) exceed water quality standards. The mass emissions of pollutants to the ocean are significant from the urban WMAs such as the Los Angeles River WMA, Ballona Creek WMA, and Coyote Creek WMA, with the Los Angeles River WMA providing more than seventy percent of the loadings. Critical source data for facilities (such as auto-salvage yards, primary metal facilities, and automotive repair shops) show that total and dissolved heavy metals (Pb, Cu, Zn, and Cd), and total suspended solids (TSS) exceeded water quality standards by as much as two orders of magnitude. The results are consistent with a limited term study conducted by the Regional Water Board to characterize storm water runoff in the Los Angeles region in 1988 before the issuance of first MS4 permit. Storm water runoff data from predominant land uses in

REVISED TENTATIVE

Los Angeles County showed similar patterns. Light industrial, commercial and transportation land uses showed the highest range of exceedances. A pesticide (diazinon) was detected in higher concentrations from residential land use. The data for polycyclic aromatic hydrocarbons (PAHs), a known pollutant of concern in urban storm water runoff, is inconclusive but improved analytical methods may yield more definitive results in the future. Receiving water impacts studies found that storm water discharges from urban watersheds exhibit toxicity attributable to heavy metals. Bioassessments of the benthic communities showed bioaccumulation of toxicants. Sediment analysis showed higher concentrations of pollutants, such as Pb and PAHs, in urban watersheds than in rural watersheds (2 to 4 times higher). In addition, toxicity of dry weather flows was observed with the cause of toxicity undetermined. Other studies have documented concentrations of pollutants that exceed water quality standards in storm drains flowing to the ocean during dry weather, and adverse health impacts from swimming near flowing storm drains.

Trash is also a serious and pervasive water quality problem in Los Angeles County. The Regional Water Board has determined that current levels of trash exceed the existing water quality objectives contained in the Basin Plan that are necessary to protect the beneficial uses of many surface waters. Regional Water Board staff regularly observes trash in surface waters throughout the Los Angeles region. Non-profit organizations such as Heal the Bay, Friends of the Los Angeles River (FoLAR) and others organize volunteer clean-ups periodically, and document the amount of trash collected. Trash in waterways causes significant water quality problems. Small and large floatables inhibit the growth of aquatic vegetation, decreasing habitat and spawning areas for fish and other living organisms. Wildlife living in rivers and in riparian areas can be harmed by ingesting or becoming entangled in floating trash. Except for large items, settleables are not always obvious to the eye. They include glass, cigarette butts, rubber, and construction debris, among other things. Settleables can be a problem for bottom feeders and can contribute to sediment contamination. Some debris (e.g. diapers, medical and household waste, and chemicals) are a source of bacteria and toxic substances. Floating debris that is not trapped and removed will eventually end up on the beaches or in the open ocean, keeping visitors away from our beaches and degrading coastal waters. Significant strides have been made by a number of Permittees in addressing this problem through the implementation of control measures to achieve wasteload allocations established in trash TMDLs.

C. Summary of Existing Requirements and Self-Monitoring Report (SMR) Data

The Los Angeles County MS4 Permit was last reissued in 2001 as Order No.01-182. Order No. 01-182 expired in 2006, but has been administratively extended pursuant to federal regulations. Order No. 01-182 was reopened by the Regional Water Board in 2006, 2007 and 2009 to incorporate provisions to implement three TMDLs. It was further amended in 2010 and 2011 pursuant to a peremptory writ of mandate issued by the Los Angeles County Superior Court.

Order No. 01-182 is organized under the following seven parts and includes several attachments. The description below summarizes key permit parts and attachments in Order No. 01-182:

Part 1 – Discharge Prohibitions

As required by section 402(p)(3)(B)(ii) of the Clean Water Act, Part 1 requires permittees to "effectively prohibit non-storm water discharges into the MS4 and watercourses, except where such discharges" are covered by a separate NPDES permit or fall within one of thirteen categories of flows that are conditionally exempted from the discharge prohibition. These exempted flows fall under the general categories of natural flows, fire fighting flows, and flows incidental to urban activities (i.e. landscape irrigation, sidewalk rinsing). These non-storm water flows may be exempted so long as: (i) they are not a source of pollutants, (ii) their effective prohibition is not necessary to comply with TMDL provisions, and (iii) they do not violate antidegradation policies. Part 1 also authorizes the Regional Water Board Executive Officer to impose conditions on these types of discharges and to add or remove categories of conditionally exempted non-storm water discharges based on their potential to contribute pollutants to receiving waters.

Part 2 – Receiving Water Limitations

Part 2 prohibits discharges from the MS4 that cause or contribute to the violation of water quality standards. In addition, discharges from the MS4 of storm water or non-storm water, for which a Permittee is responsible, may not cause or contribute to a condition of nuisance. Part 2.3 states that permittees shall comply with these prohibitions "through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with [the Los Angeles Stormwater Quality Management Program (SQMP)] and its components and other requirements of [the LA County MS4 Permit]." Part 2.3 establishes an "iterative process" whereby certain actions are required when exceedances of water quality standards or objectives occur. This iterative process includes submitting a Receiving Water Limitations Compliance Report; revising the SQMP and its components to include modified BMPs, an implementation schedule and additional monitoring to address the exceedances; and implementing the revised SQMP. These provisions are consistent with the receiving water limitations language required by State Water Board Order WQ 99-05.

Part 2 also includes provisions implementing the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL (summer dry weather provisions only). During summer dry weather, Part 2.6 prohibits discharges of bacteria from MS4s into Marina del Rey Harbor Basins D, E, or F, including Mothers' Beach that cause or contribute to exceedance of the applicable bacteria water quality objectives.

Part 2 also included similar TMDL provisions relating to the Santa Monica Bay summer dry weather bacteria TMDL. However, as a result of a legal challenge by Los Angeles County and the LACFCD, the Regional Water Board was required to void and set aside those provisions, which the Regional Water Board did in 2011.

Part 3 – Stormwater Quality Management Program (SQMP) Implementation

Under Part 3, each Permittee shall, at a minimum, implement the SQMP, which is an enforceable element of the Los Angeles County MS4 Permit. The SQMP, at a minimum, shall also comply with the applicable storm water program requirements of 40 CFR

section 122.26(d)(2). The SQMP and its components shall be implemented so as to reduce the discharges of pollutants in storm water to the maximum extent practicable (MEP) and effectively prohibit non-storm water discharges to the MS4. Each Permittee shall also implement additional controls, where necessary, to reduce the discharge of pollutants from the MS4.

Part 3 also sets forth specific responsibilities of the Principal Permittee, which under Order No. 01-182 is the LACFCD, and co-permittees. In addition, Part 3 sets forth requirements for Watershed Management Committees (WMCs) which, among other tasks, prioritize pollution control efforts and evaluate the effectiveness of and recommend changes to the SQMP and its components. Each Permittee must also have the necessary legal authority to prohibit non-storm water discharges to the MS4, as well as possess adequate legal authority to develop and enforce storm water and non-storm water ordinances for its jurisdiction.

Part 4 – Special Provisions

Part 4 sets forth provisions for public information and participation, industrial/commercial facilities control program, development planning, development construction, public agency activities, and illicit connections and illicit discharges elimination. These programs are termed “minimum control measures” and have been in place since the inception of the MS4 NPDES permitting program, as required by federal regulations.

Part 5 – Definitions

Part 5 includes definitions for terms used within Order No. 01-182.

Part 6 – Standard Provisions

Part 6 includes standard provisions relating to implementation of the programs required by the permit. Such provisions include, but are not limited to, the duty to comply, the duty to mitigate, inspection and entry requirements, proper operation and maintenance requirements, monitoring and reporting requirements, and the duty to provide information. Most of these provisions are required by 40 CFR sections 122.41 or 122.42 and apply to all NPDES permits.

Part 7 – TMDL Provisions

In 2009, Order No. 01-182 was amended to include provisions that are consistent with the assumptions and requirements of waste load allocations from the Los Angeles River Trash TMDL. Appendix 7-1 identifies the permittees subject to the Los Angeles River Trash TMDL and sets forth the interim and final numeric effluent limitations for trash that the permittees must comply with. Part 7 also sets forth how permittees can demonstrate compliance with the numeric effluent limitations. Permittees have the option to employ three general compliance strategies to achieve the numeric effluent limitations. Depending on the strategy selected, the Permittee may demonstrate compliance either by documenting the percentage of its area addressed by full capture systems (“action-based” demonstration) or by calculating its annual trash discharge to the MS4 and comparing that to its effluent limitation. This approach allows the Permittee the flexibility to comply with the numeric effluent limitations using any lawful means, and establishes appropriate and enforceable compliance metrics depending on the method of

REVISED TENTATIVE

compliance and level of assurance provided by the Permittee that the selected method will achieve the numeric effluent limitations derived from the TMDL WLAs.

Attachment U – Monitoring and Reporting Program
Order No. 01-182 has both self-monitoring and public reporting requirements, which include: (1) monitoring of "mass emissions" at seven mass emission monitoring stations; (2) Water Column Toxicity Monitoring; (3) Tributary Monitoring; (4) Shoreline Monitoring; (5) Trash Monitoring; (6) Estuary Sampling; (7) Bioassessment; and (8) Special Studies. The purpose of mass emissions monitoring is to: (1) estimate the mass emissions from the MS4; (2) assess trends in the mass emissions over time; and (3) determine if the MS4 is contributing to exceedances of water quality standards by comparing results to the applicable standards in the Basin Plan. Order No. 01-182 established that the Principal Permittee shall monitor the mass emissions stations. The permit required mass emission sampling five times per year.

III. APPLICABLE STATUTES, REGULATIONS, PLANS, AND POLICIES

The provisions contained in this Order are based on the requirements and authorities described below.

A. Legal Authorities – Federal Clean Water Act and California Water Code

This Order is issued pursuant to section 402 of the federal Clean Water Act (CWA) and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the California Water Code (commencing with section 13370). It serves as an NPDES permit for point source discharges from this facility to surface waters. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the California Water Code (commencing with section 13260).

B. Federal and California Endangered Species Acts

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, §§ 2050 to 2115.5) or the Federal Endangered Species Act (16 U.S.C.A., §§ 1531 to 1544). This Order requires compliance with requirements to protect the beneficial uses of waters of the United States. Permittees are responsible for meeting all requirements of the applicable Endangered Species Act.

C. California Environmental Quality Act (CEQA)

This action to adopt an NPDES Permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21100, et seq.) pursuant to California Water Code section 13389. (*County of Los Angeles v. Cal. Water Boards* (2006) 143 Cal.App.4th 985.)

D. State and Federal Regulations, Policies, and Plans

1. **Water Quality Control Plans.** The CWA requires the Regional Water Board to establish water quality standards for each water body in its region. Water quality standards include beneficial uses, water quality objectives and criteria that are established at levels sufficient to protect those beneficial uses, and an antidegradation policy to prevent degrading waters. On June 13, 1994, the Regional Water Board adopted a *Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties* (hereinafter Basin Plan). The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters in the Los Angeles Region. The Regional Water Board has amended the Basin Plan on multiple occasions since 1994. In addition, the Basin Plan implements State Water Resources Control Board (State Water Board) Resolution No. 88-63, which established state policy that all waters, with certain exceptions, should be considered suitable or potentially suitable for municipal or domestic supply. Beneficial uses applicable to the surface water bodies that receive discharges from the Los Angeles County MS4 generally include those listed below:

Table F-3. Basin Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Use(s)
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within the coastal watersheds of Los Angeles County with the exception of those originating in the City of Long Beach	Multiple surface water bodies of the Los Angeles Region	Municipal and Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Service Supply (IND); Industrial Process Supply (PROC); Ground Water Recharge (GWR); Freshwater Replenishment (FRSH); Navigation (NAV); Hydropower Generation (POW); Water Contact Recreation (REC-1); Limited Contact Recreation (LREC-1); Non-Contact Water Recreation (REC-2); Commercial and Sport Fishing (COMM); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Areas of Special Biological Significance (BIOL); Wildlife Habitat (WILD); Preservation of Rare and Endangered Species (RARE); Marine Habitat (MAR); Wetland Habitat (WET); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); Shellfish Harvesting (SHELL)

Pursuant to California Water Code sections 13263(a) and 13377, the requirements of this Order implement the Basin Plan.

a. Permit Structure: Watershed Management Approach and Total Maximum Daily Load (TMDL) Implementation

One of the fundamental issues for this Order was a reconsideration of the basic permit structure. The previous Order, Order No. 01-182, was structured as a single permit whereby all 86 Permittees were assigned uniform requirements, with additional requirements for the Principal Permittee. Through Order No. 01-

REVISED TENTATIVE

182, the Regional Water Board began to implement a Watershed Management Approach to address water quality protection in the region. The Watershed Management Approach intended to provide a comprehensive and integrated strategy toward water resource protection, enhancement, and restoration while considering economic and environmental impacts within a hydrologically defined drainage basin or watershed.

On June 12, 2006, prior to the expiration date of Order No. 01-182, all of the Permittees filed Reports of Waste Discharge (ROWD) applying for renewal of their waste discharge requirements. Specifically, the Los Angeles County Flood Control District submitted an ROWD application on behalf of itself, the County of Los Angeles, and 78 other Permittees. Several Permittees under Order No. 01-182 elected to not be included as part of the Los Angeles County Flood Control District's ROWD. On June 12, 2006, the cities of Downey and Signal Hill each submitted an individual ROWD application requesting an individual MS4 permit; and the Upper San Gabriel River Watershed Coalition (comprised of the cities of Azusa, Claremont, Glendora, Irwindale, and Whittier) also submitted an individual ROWD application requesting a separate MS4 permit for these cities. In 2010, the LACFCD withdrew from its 2006 ROWD and submitted a new ROWD also requesting an individual MS4 permit. The LACFCD also requested that it no longer be designated as the Principal Permittee and that it is relieved of Principal Permittee responsibilities.

The Regional Water Board evaluated each of the 2006 ROWDs and notified all of the Permittees that their ROWDs did not satisfy federal storm water regulations contained in the USEPA Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems; Final Rule, August 9, 1996 (61 *Fed Reg.* 41697). The Regional Water Board also found that the information presented in the ROWDs did not reflect the current status of program elements for MS4 permits developed over the past decade or the new information specific to this MS4. Because each ROWD did not satisfy federal requirements, the Regional Water Board deemed all four 2006 ROWDs incomplete. The Regional Water Board also evaluated the LACFCD's 2010 ROWD and found that it too did not satisfy federal requirements nor reflect the current status for MS4s.

Though five separate ROWDs were submitted, the Regional Water Board retains the discretion as the permitting authority to determine whether to issue permits for discharges from MS4s on a system-wide or jurisdiction-wide basis. Clean Water Act section 402(p)(3)(B)(i) and implementing regulations at 40 CFR section 122.26, subdivisions (a)(1)(v), (a)(3)(ii), and (a)(3)(iv) allow the permitting authority to issue permits for MS4 discharges on a system-wide or jurisdiction-wide basis taking into consideration a variety of factors. Such factors include the location of the discharge with respect to waters of the United States, the size of the discharge, the quantity and nature of the pollutants discharged to waters of the United States, and other relevant factors. Federal regulations at 40 CFR section 122.26(a)(3)(ii) identify a variety of possible permitting structures, including one system-wide permit covering all MS4 discharges or distinct permits

for appropriate categories of MS4 discharges including, but not limited to, all discharges owned or operated by the same municipality, located within the same jurisdiction, all discharges within a system that discharge to the same watershed, discharges within a MS4 that are similar in nature, or for individual discharges from MS4s.

In evaluating the five separate ROWDs and the structure for this Order, the Regional Water Board considered a number of factors:

i. The nature of the Permittees' MS4s, which comprise a large interconnected system, controlled in large part by the Los Angeles County Flood Control District, among others, and used by multiple cities along with Los Angeles County. The discharges from these entities frequently commingle in the MS4 prior to discharge to receiving waters.

ii. The requirement to implement 33 largely watershed-based TMDLs in this Order. A number of Permittees have already established jurisdictional groups on a watershed or subwatershed basis for TMDL implementation. (See Attachment K of this Order for a matrix of these TMDLs and Permittees by Watershed Management Area (WMA)). Many of the TMDLs apply to multiple watersheds and the jurisdictional areas of multiple Permittees. Having separate permits would make implementation of the TMDLs more cumbersome.

iii. The passage of Assembly Bill 2554 in 2010, which amended the Los Angeles County Flood Control Act. This statute allows the LACFCD to assess a property-related fee or charge for storm water and clean water programs. Funding is subject to voter approval in accordance with Proposition 218. Fifty percent of funding is allocated to nine "watershed authority groups" to implement collaborative water quality improvement plans. (See Attachments B and C of this Order for maps of WMAs.)

iv. Results of the on-line survey administered to Permittees by Regional Water Board staff regarding permit structure. The results indicated that a majority of Permittees support a single MS4 permit for Los Angeles County. A significant minority support multiple watershed-based permits. Overall, 85 percent of the permittees that responded to the on-line survey support either a single MS4 permit or several individual watershed-based permits. A small number of permittees support alternative groupings of adjacent municipalities instead of watershed-based groupings. Only four permittees expressed a preference for individual MS4 permits.

v. The 2006 and 2010 ROWDs. Eight Permittees submitted individual or small group ROWDs, including the cities of Signal Hill and Downey; five cities in the upper San Gabriel River watershed; and the Los Angeles County Flood Control District. The LACFCD has also requested that it is no longer designated as Principal Permittee and relieved of Principal Permittee responsibilities.

Based on an evaluation of these factors, the Regional Water Board again determined that, because of the complexity and networking of the MS4 within Los Angeles County, that one system-wide permit is appropriate. In order to provide individual Permittees with more specific requirements, this Order regulates the MS4 discharges of 86 Permittees with some sections devoted to universal requirements for all Permittees and others devoted to requirements specific to each Watershed Management Area (WMA), including TMDL implementation provisions. This structure is supported by section 402(p) of the Clean Water Act and 40 CFR sections 122.26, subdivisions (a)(1)(v), (a)(3)(ii), and (a)(3)(iv). A single permit will ensure consistency and equitability in regulatory requirements within Los Angeles County, while watershed-based sections within the single permit will provide flexibility to tailor permit provisions to address distinct watershed characteristics and water quality issues. Additionally, an internal watershed-based structure comports with the Regional Water Board's Watershed Management Initiative, its watershed-based TMDL requirements, and the LACFCD's funding initiative passed in Assembly Bill 2554. Watershed-based sections will help promote watershed-wide solutions to address water quality problems, which in many cases are the most efficient and cost-effective means to address storm water and urban runoff pollution. Further, watershed-based sections may encourage collaboration among permittees to implement regional integrated water resources approaches such as storm water capture and re-use to achieve multiple benefits.

The Regional Water Board determined that the cities of Signal Hill and Downey, the five upper San Gabriel River cities, and the LACFCD are included as Permittees in this Order. Individually tailored permittee requirements are provided in this Order, where appropriate.

The Regional Water Board also determined that because the LACFCD owns and operates large portions of the MS4 infrastructure, including but not limited to catch basins, storm drains, outfalls and open channels, in each coastal watershed management area within Los Angeles County, the LACFCD should remain a Permittee in the single-system wide permit; however, this Order relieves LACFCD of its role and responsibilities as Principal Permittee. Additionally, given the LACFCD's limited land use authority, it is appropriate for the LACFCD to have a separate and uniquely-tailored storm water management program. Accordingly, the storm water management program minimum control measures imposed on the LACFCD in Part VI.D of this Order differ in some ways from the minimum control measures imposed on other Permittees. Namely, aside from its own properties and facilities, the LACFCD is not subject to the Industrial/Commercial Facilities Program, the Planning and Land Development Program, and the Development Construction Program. However, as a discharger of storm and non-storm water, the LACFCD remains subject to the Public Information and Participation Program and the Illicit Connections and Illicit Discharges Elimination Program. Further, as the owner and operator of certain properties, facilities and infrastructure, the LACFCD remains subject to requirements of a Public Agency Activities Program.~~This Order also specifies certain requirements specific to the LACFCD in its role as the owner and~~

REVISED TENTATIVE

~~operator of large portions of the MS4s within all the coastal watersheds within Los Angeles County.~~

2. **Ocean Plan.** In 1972, the State Water Board adopted the Water Quality Control Plan for Ocean Waters of California, California Ocean Plan (hereinafter Ocean Plan). The State Water Board adopted the most recent amended Ocean Plan on September 15, 2009. The Office of Administration Law approved it on March 10, 2010. On October 8, 2010, USEPA approved the 2009 Ocean Plan. The Ocean Plan is applicable, in its entirety, to ocean waters of the State. In order to protect beneficial uses, the Ocean Plan establishes water quality objectives and a program of implementation. Pursuant to California Water Code sections 13263(a) and 13377, the requirements of this Order implement the Ocean Plan. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized below:

Table F-3B. Ocean Plan Beneficial Uses

Discharge Point	Receiving Water Name	Beneficial Use(s)
All Municipal Separate Storm Sewer Systems (MS4s) discharge points within the coastal watersheds of Los Angeles County with the exception of those originating within the City of Long Beach	Pacific Ocean	Industrial Water Supply (IND); Water Contact (REC-1) and Non-Contact Recreation (REC-2), including aesthetic enjoyment; Navigation (NAV); Commercial and Sport Fishing (COMM); Mariculture; Preservation and Enhancement of Designated Areas of Special Biological Significance (ASBS); Rare and Endangered Species (RARE); Marine Habitat (MAR); Fish Migration (MIGR); Fish Spawning (SPWN) and Shellfish Harvesting (SHELL)

3. **Antidegradation Policy.** 40 CFR section 131.12[4] requires that the state water quality standards include an antidegradation policy consistent with the federal antidegradation policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16 ("Statement of Policy with Respect to Maintaining the Quality of the Waters of the State"). Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. Resolution No. 68-16 and 40 CFR section 131.12 require the Regional Water Board to maintain high quality waters of the State until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in the Regional Water Board's policies. Resolution 68-16 requires that discharges of waste be regulated to meet best practicable treatment or control to assure that pollution or nuisance will not

[4] All further statutory references are to title 40 of the Code of Federal Regulations unless otherwise indicated.

REVISED TENTATIVE

occur and the highest water quality consistent with the maximum benefit to the people of the State be maintained.

The discharges permitted in this Order are consistent with the antidegradation provisions of 40 CFR section 131.12 and Resolution 68-16. Many of the water bodies within the area covered by this Order are of high quality. The Order requires the Permittees to meet best practicable treatment or control to meet water quality standards. As required by 40 CFR section 122.44(a), the Permittees must comply with the "maximum extent practicable" technology-based standard set forth in CWA section 402(p). Many of the waters within the area covered by this Order are impaired and listed on the State's CWA Section 303(d) List and either the Regional Water Board or USEPA has established TMDLs to address the impairments. This Order requires the Permittees to comply with permit provisions to implement the WLAs set forth in the TMDLs in order to restore the beneficial uses of the impaired water bodies consistent with the assumptions and requirements of the TMDLs. This Order includes requirements to develop and implement storm water management programs, achieve water quality-based effluent limitations, and effectively prohibit non-storm water discharges through the MS4.

The issuance of this Order does not authorize an increase in the amount of discharge of waste. The Order includes new requirements to implement WLAs assigned to Los Angeles County MS4 discharges that have been established in 33 TMDLs, most of which were not included in the previous Order.

4. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR section 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All effluent limitations and other conditions in this Order are at least as stringent as the effluent limitations in the previous permit.

E. Impaired Water Bodies on CWA section 303(d) List

Section 303(d)(1) of the CWA requires each state to identify specific water bodies within its boundaries where water quality standards are not being met or are not expected to be met after implementation of technology-based effluent limitations on point sources. Water bodies that do not meet water quality standards are considered impaired and are placed on the state's "303(d) List". Periodically, USEPA approves the State's 303(d) List. Most recently, USEPA approved the State's 2010 303(d) List of impaired water bodies on October 11, 2011, which includes certain receiving waters in the Los Angeles region. For each listed water body, the state or USEPA is required to establish a total maximum daily load (TMDL) of each pollutant impairing the water quality standards in that water body. A TMDL is a tool for implementing water quality standards and is based on the relationship between pollution sources and in-stream water quality conditions. The TMDL establishes the allowable pollutant loadings for a water body and thereby provides the basis to establish water quality-based controls. These controls should provide the pollution reduction necessary for a water body to meet water quality standards. A TMDL is the sum of the allowable pollutant loads of a single pollutant from

all contributing point sources (the waste load allocations or WLAs) and non-point sources (load allocations or LAs), plus the contribution from background sources and a margin of safety. (40 CFR section 130.2(i).) MS4 discharges are considered point source discharges. For 303(d)-listed water bodies and pollutants in the Los Angeles Region, the Regional Water Board or USEPA develops and adopts TMDLs that specify these requirements.

Over the last decade, the Regional Water Board and USEPA have established 33 TMDLs to remedy water quality impairments in various water bodies within Los Angeles County. (See Attachment K of this Order for a list of TMDLs by Watershed Management Area for Los Angeles County.) These TMDLs identify MS4 discharges as a source of pollutants to these water bodies and, as required, establish WLAs for MS4 discharges to reduce the amount of pollutants discharged to receiving waters. Section 402(p)(3)(B)(iii) of the Clean Water Act requires the Regional Water Board to impose permit conditions, including: "management practices, control techniques and system, design and engineering methods, and *such other provisions as the Administrator of the State determines appropriate for the control of such pollutants*." (emphasis added.) Section 402(a)(1) of the Clean Water Act also requires states to issue permits with conditions necessary to carry out the provisions of the Clean Water Act. Federal regulations also require that NPDES permits contain effluent limits consistent with the assumptions and requirements of all available WLAs (40 CFR § 122.44(d)(1)(vii)(B)). California Water Code section 13377 also requires that NPDES permits include limitations necessary to implement water quality control plans. Therefore, this Order includes effluent limitations and other provisions to implement the TMDL WLAs assigned to permittees regulated by the LA County MS4 Permit.

The Regional Water Board has previously established numeric effluent limitations to implement TMDL WLAs when it reopened Order No. 01-182 in 2009 to incorporate permit provisions to implement the Los Angeles River Watershed Trash TMDL WLAs. In that case, Permittees have the option to employ three general compliance strategies to achieve the numeric effluent limitations. Depending on the strategy selected, the Permittee may demonstrate compliance either by documenting the percentage of its area addressed by full capture systems ("action-based" demonstration) or by calculating its annual trash discharge to the MS4 and comparing that to its effluent limitation. This approach allows the Permittee the flexibility to comply with the numeric effluent limitations using any lawful means, and establishes appropriate and enforceable compliance metrics depending on the method of compliance and level of assurance provided by the Permittee that the selected method will achieve the numeric effluent limitations derived from the TMDL WLAs. A similar approach is used for the 32 other TMDLs incorporated into this Order, where appropriate.

F. Other Plans, Policies and Regulations

This Order implements all other applicable federal regulations and State plans, policies and regulations, including the California Toxics Rule at 40 CFR section 131.38.

IV. RATIONALE FOR DISCHARGE SPECIFICATIONS

A. Discharge Prohibitions – Non-Storm Water Discharges

1. Regulatory Background

The CWA employs the strategy of prohibiting the discharge of any pollutant from a point source into waters of the United States unless the discharger of the pollutant(s) obtains an NPDES permit pursuant to CWA section 402. The 1987 amendment to the CWA included section 402(p) that specifically addresses NPDES permitting requirements for municipal discharges from MS4s. Section 402(p) prohibits the discharge of pollutants from specified MS4s to waters of the United States except as authorized by an NPDES permit and identifies the substantive standards for MS4 permits. MS4 permits (1) "shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers[ ]" and (2) "shall require [i] controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and [ii] such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." (CWA § 402(p)(3)(B)(ii-iii).)

On November 16, 1990, USEPA published regulations to implement the 1987 amendments to the CWA. (55 Fed.Reg. 47990 et seq. (Nov. 16, 1990)). The regulations establish minimum requirements for MS4 permits. The regulations address both storm water and non-storm water discharges from MS4s; however, the minimum requirements for each are significantly different. This is evident from USEPA's preamble to the storm water regulations, which states that "Section 402(p)(B)(3) [of the CWA] requires that permits for discharges from municipal separate storm sewers require the municipality to "effectively prohibit" non-storm water discharges from the municipal storm sewer … Ultimately, such non-storm water discharges through a municipal separate storm sewer system must either be removed from the system or become subject to an NPDES permit." (55 Fed.Reg. 47990, 47995 (Nov. 16, 1990).[5] USEPA states that MS4 Permittees are to begin to fulfill the "effective prohibition of non-storm water discharges" requirement by: (1) conducting a screening analysis of the MS4 to provide information to develop priorities for a program to detect and remove illicit discharges, (2) implementing a program to detect and remove illicit discharges, or ensure they are covered by a separate NPDES permit, and (3) to control improper disposal into the storm sewer. (40 CFR § 122.26(d)(2)(iv)(B).) These non-storm water discharges therefore are not subject to the MEP standard.

"Illicit discharges" defined in the regulations is the most closely applicable definition of "non-storm water" contained in federal law and the terms are often used interchangeably. In fact, "illicit discharge" is defined by USEPA in its 1990 rulemaking, as "any discharge through a municipal separate storm sewer that is not

REVISED TENTATIVE

[5] USEPA further states that, "[p]ermits for such [non-storm water] discharges must meet applicable technology-based and water-quality based requirements of Sections 402 and 301 of the CWA." (55 Fed. Reg. 47990, 48037 (Nov. 16, 1990).

composed entirely of storm water and that is not covered by an NPDES permit [other than the permit for the discharge from the MS4].” (55 Fed.Reg. 47990, 47995).

2. Definition of Storm Water and Non-Storm Water

Federal regulations define “storm water” as “storm water runoff, snow melt runoff, and surface runoff and drainage.” (40 C.F.R. § 122.26(b)(13).) While “surface runoff and drainage” is not defined in federal law, USEPA’s preamble to the federal regulations demonstrates that the term is related to precipitation events such as rain and/or snowmelt. (55 Fed.Reg. 47990, 47995-96 (Nov. 16, 1990)). For example, USEPA states:

> In response to the comments [on the proposed rule] which requested EPA to define the term ‘storm water’ broadly to include a number of classes of discharges which are not in any way related to precipitation events, EPA believes that this rulemaking is not an appropriate forum for addressing the appropriate regulation under the NPDES program of such non-storm water discharges . . . . Consequently, the final definition of storm water has not been expanded from what was proposed.

(*Ibid.*) The storm water regulations themselves identify numerous categories of discharges including landscape irrigation, diverted stream flows, discharges from ~~potable~~ drinking water supplier sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, and street wash water as “non-storm water.” While these types of discharges may be regulated under storm water permits, they are not considered storm water discharges. (40 CFR § 122.26(d)(2)(iv)(B)). USEPA states that, “in general, municipalities will not be held responsible for prohibiting some specific components of discharges or flows … through their municipal separate storm sewer system, *even though such components may be considered non-storm water discharges*…” (emphasis added). However, where certain categories of non-storm water discharges are identified by the Permittee (or the Regional Water Board) as needing to be addressed, they are no longer exempt and become subject to the effective prohibition requirement in CWA section 402(p)(3)(B)(ii). This review of the storm water regulations and USEPA’s discussion of the definition of storm water in its preamble to these regulations strongly supports the interpretation that storm water includes only precipitation-related discharges. Therefore, non-precipitation related discharges are not storm water discharges and, therefore, are not subject to the MEP standard in CWA section 402(p)(3)(B)(iii). Rather, non-storm water discharges shall be effectively prohibited pursuant to CWA section 402(p)(3)(B)(ii).

3. Non-Storm Water Regulation

Non-storm water discharges from the MS4 that are not authorized by separate NPDES permits, nor specifically exempted, are subject to requirements under the NPDES program, including discharge prohibitions, technology-based effluent limitations and water quality-based effluent limitations (40 CFR § 122.44). USEPA’s preamble to the storm water regulations also supports the interpretation that

REVISED TENTATIVE

regulation of non-storm water discharges through an MS4 is not limited to the MEP standard in CWA section 402(p)(3)(B)(iii):

"*Today's rule defines the term "illicit discharge" to describe any discharge through a municipal separate storm sewer system that is not composed entirely of storm water and that is not covered by an NPDES permit. Such illicit discharges are not authorized under the Clean Water Act. Section 402(p(3)(B) requires that permits for discharges from municipal separate storm sewers require the municipality to "effectively prohibit" non-storm water discharges from the municipal separate storm sewer…Ultimately, such non-storm water discharges through a municipal separate storm sewer must either be removed from the system or become subject to an NPDES permit.*" (55 Fed.Reg. 47990, 47995.)

In its 1990 rulemaking, USEPA explained that the illicit discharge detection and elimination program requirement was intended to begin to implement the Clean Water Act's provision requiring permits to "effectively prohibit non-storm water discharges." (55 Fed.Reg. 47990, 47995.)

4. Authorized and Conditionally Exempt Non-Storm Water Discharges

The previous permit, Order No. 01-182, contained provisions exempting several categories of non-storm water discharges from the discharge prohibition, including discharges covered by a separate individual or general NPDES permit for non-storm water discharges, natural flows, flows from emergency fire fighting activity, and flows incidental to urban activities. This Order retains these same categories, but with several enhancements. Natural flows specified in this Order include natural springs and rising ground water; flows from riparian habitats and wetlands; diverted stream flows authorized by the State or Regional Water Board; and uncontaminated ground water infiltration. Flows incidental to urban activities specified in this Order include landscape irrigation; dechlorinated/debrominated swimming pool discharges; dewatering of lakes and decorative fountains; non-commercial car washing by residents or by non-profit organizations; and street/sidewalk washwater. This Order separately identifies flows from non-emergency fire fighting activities and discharges from ~~potable~~ drinking water supplier distribution ~~sources~~ systems as "essential" non-storm water discharges rather than combining them into the same category as the other non-storm water discharges incidental to urban activities. In doing so, the Regional Water Board recognizes that these discharges are essential public service discharge activities and are directly or indirectly required by other state or federal statute and/or regulation. This Order continues to unconditionally exempt emergency fire fighting discharges from the discharge prohibition.

Like Order No. 01-182, this Order contains a provision that the Regional Water Board Executive Officer may add or remove categories of exempt non-storm water discharges. In addition, in the event that any of the categories of non-storm water discharges are determined to be a source of pollutants by the Executive Officer then the discharges will no longer be exempt unless the Permittee implements conditions approved by the Executive Officer to ensure that the discharge is not a source of

REVISED TENTATIVE

pollutants. Also the Executive Officer may impose additional prohibitions of non-storm water discharges in consideration of antidegradation policies and TMDLs.

5. BMPs for Non-Storm Water Discharges

In this Order, no changes have been made to the types of non-storm water discharges included in the non-storm water discharge prohibition exemptions, with one exception related to temporary discharges authorized by USEPA pursuant to sections 104(a) or 104(b) of CERCLA. However, the non-storm water discharge provisions in this Order have been reworded to clarify the requirements for addressing authorized and conditionally exempt non-storm water discharges that are not prohibited. In particular, language has been added to explicitly identify State and Regional Water Board permits that are applicable to some of the exempted non-storm water discharges. The State and Regional Water Board general permits referenced in this Order and their applicability to the different types of non-storm water discharges that are routinely discharged through the MS4 is contained in Table F-4 below.

Table F-4. State and Regional Water Board General Permits Referenced in this Permit

Order/NPDES Permit No.	Applicable Types of Discharges
NPDES Permit No. CAG994003 – Discharges of Nonprocess Wastewater to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Ground water seepage • Uncontaminated pumped ground water • Gravity flow from foundation drains, footing drains, and crawl space pumps • Air conditioning condensate • Discharges of cleaning wastewater and filter backwash
NPDES Permit No. CAG994004 – Discharges of Groundwater from Construction and Project Dewatering to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Uncontaminated pumped ground water • Discharges from activities that occur at wellheads, such as well construction, well development (e.g., aquifer pumping tests, well purging), or major well maintenance • Gravity flow from foundation drains, footing drains, and crawl space pumps • Discharges of ground water from construction and project dewatering[6]

[6] Discharges of ground water from construction and project dewatering include treated or untreated wastewater from permanent or temporary construction dewatering operations; ground water pumped as an aid in the containment and/or cleanup of a contaminant plume; ground water extracted during short-term and long-term pumping/aquifer tests; ground water generated from well drilling, construction or development and purging of wells; equipment decontamination water; subterranean seepage dewatering; incidental collected storm water from basements; and other process and non-process

Order/NPDES Permit No.	Applicable Types of Discharges
NPDES Permit No. CAG990002 – Discharges from Utility Vaults and Underground Structures to Surface Waters	• Uncontaminated pumped ground water • Gravity flow from foundation drains, footing drains, and crawl space pumps
NPDES Permit No. CAG674001 – Discharges From Hydrostatic Test Water to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Discharges of low threat hydrostatic test water[7]
NPDES Permit No. CAG914001 – Discharges of Treated Groundwater from Investigation and/or Cleanup of Volatile Organic Compounds Contaminated-Sites to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Discharges of treated ground water from investigation and/or cleanup of volatile organic compound (VOC) contaminated sites
NPDES Permit No. CAG994005 – Discharges of Ground Water from Water Supply Wells to Surface Waters in Los Angeles and Ventura Counties	• Discharges of ground water from potable water supply wells[8]
NPDES Permit No. CAG834001 – Waste Discharge Requirements for Treated Groundwater and Other Wastewaters from Investigation and/or Cleanup of Petroleum Fuel-Contaminated Sites to Surface Waters in Coastal Watersheds of Los Angeles and Ventura Counties	• Discharges of treated ground water and other waste waters from investigation and/or cleanup of petroleum fuel contaminated sites

This Order explicitly adds another category of authorized non-storm water discharge for discharges authorized by USEPA pursuant to sections 104(a) or 104(b) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These discharges typically consist of short-term, high volume discharges resulting from the development or redevelopment of groundwater extraction wells, or USEPA or State-required compliance testing of potable water treatment plants, as part of a USEPA authorized groundwater remediation action under CERCLA. These discharges through the MS4 are only authorized if: (i) the discharge will comply with

REVISED TENTATIVE

wastewater discharges that meet the eligibility criteria and could not be covered under another specific general NPDES permit.

[7] Low threat hydrostatic test water means discharges resulting from the hydrostatic testing or structural integrity testing of pipes, tanks, or any storage vessels using domestic water or from the repair and maintenance of pipes, tanks, or reservoirs.

[8] Discharges covered by this permit include ground water from potable water supply wells generated during the following activities: ground water generated during well purging for data collection purposes; ground water extracted from major well rehabilitation and redevelopment activities; and ground water generated from well drilling, construction, and development.

water quality standards identified as applicable or relevant and appropriate requirements ("ARARs") under section 121(d)(2) of CERCLA; or (ii) the discharge is subject to either (a) a written waiver of ARARs by USEPA pursuant to section 121(d)(4) of CERCLA or (b) a written determination by USEPA that compliance with ARARs is not practicable considering the exigencies of the situation, pursuant to 40 CFR section 300.415(j). Additionally, a decision to authorize a discharge through the MS4 to surface waters will not be made by USEPA without first conducting a comprehensive evaluation of containment, treatment, reinjection, or re-use options for the water generated from the subject wells. If a decision to discharge through the MS4 is made, USEPA's authorization of the discharge under CERCLA will require that the discharger shall:

(1) Implement BMPs to minimize the rate and duration of the discharge and remove excessive solids, and implement other on-site physical treatment where feasible.

(2) Promote infiltration of discharged water in locations that will prevent or minimize degradation of groundwater quality.

(3) Notify the affected MS4 Permittees, including the LACFCD and the MS4 Permittee with land use authority over the discharge location, and the Regional Water Board at least one week prior to a planned discharge (unless USEPA determines in writing that exigent circumstances require a shorter notice period) and as soon as possible (but no later than 24 hours after the discharge has occurred) for unplanned discharges;

(4) Monitor any pollutants of concern in the discharge[9]; and

(5) Maintain records for all discharges greater than 100,000 gallons.[10]

In addition to requiring NPDES permit coverage for applicable categories of non-storm water discharges, this Order contains language that specifies certain conditions, including implementation of BMPs, for each category of conditionally exempt non-storm water discharge that must be met in order for the non-storm water discharge to be exempted from the non-storm water prohibition and thus allowed through the MS4.

The California Recycled Water Policy, adopted by the State Water Board in Resolution No. 2009-0011, calls for an increase in the use of recycled water from

REVISED TENTATIVE

[9] Pollutants of concern include, at a minimum, trash and debris, including organic matter, TSS, any pollutant being addressed by the groundwater remediation action under CERCLA, and any pollutant for which there is a Water Quality Based Effluent Limitation in Part VI.E applicable to discharges from the MS4 to the receiving water.

[10] Records shall be maintained, as appropriate, on the: name of CERCLA authorized discharger, date and time of notification (for planned discharges), method of notification, location of discharge, discharge pathway, receiving water, date of discharge, time of the beginning and end of the discharge, duration of the discharge, flow rate or velocity, estimated total number of gallons discharged, type of pollutant removal equipment used, type of dechlorination equipment used if applicable, type of dechlorination chemicals used if applicable, concentration of residual chlorine if applicable, type(s) of sediment controls used, and field and laboratory monitoring data. Records shall be retained for three years, unless the Regional Water Board requests a longer record retention period and shall be made available upon request by the MS4 Permittee or the Regional Water Board.

municipal wastewater sources that meet the definition in California Water Code section 13050(n), in a manner that implements state and federal water quality laws. In support of the California Recycled Water Policy, a provision has been added requiring that alternative means of disposal or opportunities for capture, reclamation, and reuse must be evaluated prior to discharging any of the non-storm water discharge categories to the MS4. In addition, to ensure the protection of receiving water quality all non-storm water discharges must be segregated from potential sources of pollutants to prevent the introduction of pollutants to the discharge.

In establishing provisions specific to different non-storm water discharge types, the Regional Water Board reviewed non-storm water discharge provisions and BMPS included in other area MS4 permits. MS4 permits reviewed included the Ventura County MS4 permit (R4-2009-0057), the Orange County MS4 permit (Order No. R9-2009-0002), the Riverside County MS4 permit (R9-2010-0016), and the San Diego County MS4 permit (R9-2007-0001). Conditions established in this permit for each of the non-storm water discharge categories ensure the protection of receiving water quality and are considered common practices.

Dischargers permitted under NPDES Permit No. CAG990002 are required to contact the appropriate Permittee(s) with jurisdiction over the MS4, including but not limited to the Los Angeles County Flood Control District, within 24 hours, whenever there is a discharge of 50,000 gallons or more from utility vaults and underground structures to the MS4.

The conditions for landscape irrigation have been split into potable and reclaimed landscape irrigation categories. As identified in the Orange County MS4 permit incidental runoff from landscape irrigation projects including over irrigation and overspray have the potential to contribute landscape derived pollutants such as bacteria, nutrients, and pesticides to receiving waters. In addition, the California Recycled Water Policy identifies the need for control of incidental runoff from landscape irrigation projects, particularly as it relates to recycled water use. The BMPs incorporated into the permit for potable landscape irrigation ensure that water is conserved, overspray and over irrigation causing incidental runoff is minimized, and exposure to landscape related pollutants is minimized.

State Water Board Water Quality Order No. 2009-0006-DWQ, General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water, is a general permit for producers and distributors of recycled water for landscape irrigation uses. As part of this general permit, the producers and distributors of recycled water for landscape irrigation are required to develop an Operations and Maintenance Plan (O&M Plan) that includes an Operations Plan and an Irrigation Management Plan. Therefore, any reclaimed landscape irrigation discharges to the MS4 must comply with the relevant portion of the O&M Plan including the Irrigation Management Plan. By explicitly referencing the O&M requirement in this permit, it centralizes the requirements for reclaimed landscape irrigation and helps to ensure that procedures are in place for conserving water, minimizing incidental runoff, and minimizing exposure to landscape related pollutants.

Non-storm water discharge provisions have been added for the dewatering of lakes to the MS4. The provisions for the dewatering of lakes including removing and legally disposing of all visible trash on the shoreline or on the surface of the lake and the cleaning of the MS4 inlet and outlet where the water will be discharged to the receiving water have been consistently incorporated into Regional Water Board authorizations to discharge non-storm water from lakes, reservoirs, and ponds. In addition provisions for volumetrically and velocity controlling discharges as well as taking measurements to stabilize lake bottom sediments are incorporated into the provisions of this Order to ensure that turbidity in receiving waters are maintained at an acceptable level. The permit provisions for the dewatering of lakes ensure the protection of receiving water quality.

Basin plan requirements for residual chlorine have been explicitly included in the conditions for ~~potable~~ drinking water ~~supply~~ supplier ~~and~~ distribution system releases, dechlorinated/debrominated swimming pool/spa discharges, and dewatering of decorative fountains. Related to swimming pool discharges, discharges of cleaning wastewater and filter backwash are specifically mentioned as being allowed only if authorized under a separate NPDES permit. The Regional Water Board has a general permit for discharges of nonprocess wastewater to surface waters in coastal watersheds of Los Angeles and Ventura counties (NPDES Permit No. CAG994003) that may address discharges of cleaning wastewater and filter backwash.

Specific BMPs for discharges of swimming pools/spas and the dewatering of decorative fountains have been added to this Order including prohibiting the dewatering of swimming pools/spas or decorative fountains containing copper-based algaecides and requiring the implementation of controls to prevent introduction of pollutants prior to discharge. Swimming pool/spa discharges and decorative fountain water must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate and if necessary shall be pH adjusted to within the range of 6.5 and 8.5. The MS4 inlet and outlet must be inspected and cleaned out immediately prior to discharge to protect receiving water quality. In addition provisions for volumetrically and velocity controlling discharges are incorporated into the provisions of this Order to ensure that turbidity in receiving waters are maintained at an acceptable level.

In addition to the specific inclusion of Basin Plan water quality objectives for residual chlorine, this Order allows discharges of ~~potable~~ drinking water ~~supply~~ supplier ~~and~~ distribution system releases as long as specified BMPs are implemented. BMPs must be implemented to prevent introduction of pollutants to ~~potable~~ drinking water supplier distribution system ~~water~~ releases prior to discharge to the receiving water. BMPs must be consistent with the American Water Works Association (California – Nevada Section) BMP Manual for Drinking Water System Releases and other applicable guidelines. Similar to discharges of swimming pools/spas and dewatering of decorative fountains, ~~potable~~ drinking water ~~supply~~ supplier distribution system releases must be dechlorinated or debrominated using holding time, aeration, and/or sodium thiosulfate and if necessary shall be pH adjusted to within the range of 6.5

REVISED TENTATIVE

and 8.5. The MS4 inlet and outlet must be inspected and cleaned out immediately prior to discharge to protect receiving water quality. BMPs such as sand bags or gravel bags, or other appropriate means shall be utilized to prevent sediment transport and all sediment shall be collected and disposed of in a legal and appropriate manner. In addition provisions for volumetrically and velocity controlling discharges are incorporated into the provisions of this Order to ensure that turbidity in receiving waters are maintained at an acceptable level.

The permit provisions for ~~potable~~ drinking water supply and distribution system releases, dechlorinated/debrominated swimming pool/spa discharges, and dewatering of decorative fountains ensures the protection of receiving water quality.

The Regional Water Board evaluated and established a list of approved BMPs for various programs and activities through Regional Water Board Resolution 98-08 that serves as appropriate BMPs for inclusion in the Discharger and Permittees' regulatory programs. Requirements for street/sidewalk wash water contained in Resolution 98-08 have also been explicitly incorporated into this Order. The inclusion of the requirements contained in Resolution 98-08 helps to ensure that Permittees are aware of the requirements and ensures the protection of receiving water quality.

Specific BMPs for discharges from non-commercial car washing have been incorporated into this Order to prevent the introduction of pollutants prior to discharge. BMPs that must be implemented for the discharge of non-commercial vehicle wash water include minimizing the amount of water used by turning off nozzles or kinking the hose when not spraying a vehicle and by using a pressure washer; using biodegradable, phosphate free detergents and non-toxic cleaning products; where possible, washing vehicles on permeable surfaces where wash water can percolate into the ground; creating a temporary berm or block off the storm drains; using pumps or vacuums to direct water to pervious areas; and emptying buckets of soapy water or rinse water into the sanitary sewer system. These BMPs are common practice and ensure the protection of receiving water quality.

The inclusion of conditions for flows related to non-emergency fire-fighting activities is new to this iteration of the permit. Conditions for discharges related to fire fighting activities have been incorporated into other MS4 permits including both Orange County and Riverside County. Flows resulting from emergency fire fighting activities necessary for the protection of life or property do not require implementation of specific BMPs.

The specific BMPs for discharges associated with non-emergency fire fighting activities that have been incorporated into this Order have been incorporated into other California MS4 permits. Both the Riverside County and Orange County MS4 permits require the development and implementation of a program to address pollutants from non-emergency fire fighting flows. Rather than develop a program to address non-emergency fire fighting flows, common BMPs used in association with non-emergency fire fighting discharges have been incorporated into this Order.

Guidance on BMPs contained in this Order for non-emergency fire fighting activities is available in the Best Management Practices Plan for Urban Runoff Management for Participating Riverside County Fire Fighting Agencies.

The inclusion of specific conditions for exempted non-storm water discharges in this Order centralizes the requirements for non-storm water discharges. Conditions established in this permit for each of the conditionally exempt non-storm water discharge categories are common practice and have been incorporated into other area MS4 permits.

6. Permittee Requirements for Non-Storm Water Discharges

This Order includes specific requirements for Permittees related to more targeted screening of MS4 outfalls for non-storm water discharges, and monitoring and evaluation of significant non-storm water discharges. Permittees are required to develop and implement procedures to ensure that all conditions required for conditionally exempt non-storm water discharges are being implemented. These requirements also help to clarify the responsibilities of the Permittees versus the responsibilities of the non-MS4 Permittee dischargers to the MS4. The development and implementation of these procedures helps to ensure compliance with the non-storm water discharge prohibition and ensure that the non-storm water discharges are not sources of pollutants.

B. Technology-Based Effluent Limitations

Section 301(b)(1)(A) of the CWA and 40 CFR section 122.44(a) require that NPDES permits include technology based effluent limitations.[11] In 1987, the CWA was amended to require that municipal storm water discharges "reduce the discharge of pollutants to the maximum extent practicable." (CWA § 402(p)(3)(B)(iii).) The "maximum extent practicable" (MEP) standard is the applicable federal technology based standard that MS4 owners and operators must attain to comply with their NPDES permits.[12] The corresponding regulatory provisions that further detail the MEP standard can be found in 40 CFR sections 122.26(d)(2)(iv) and 122.44(k)(2).

Neither Congress nor the USEPA has specifically defined the term "maximum extent practicable." Rather, the MEP standard is a flexible and evolving standard. Congress established this flexible MEP standard so that administrative bodies would have "the tools to meet the fundamental goals of the Clean Water Act in the context of storm water pollution."[13] This standard was designed to allow permit writers flexibility to tailor permits to the site-specific nature of MS4s and to use a combination of pollution controls that may be different in different permits.[14] The MEP standard is also expected to evolve

REVISED TENTATIVE

[11] A technology based effluent limitation is based on the capability of a model treatment method to reduce a pollutant to a certain concentration (NPDES Permit Writer's Manual, Appendix A). Technology based requirements represent the minimum level of control that must be imposed in a permit issued under CWA § 402.
[12] Note that the MEP standard only applies to storm water discharges from the MS4. Non-storm water discharges are subject to a different standard – specifically, non-storm water discharges through the MS4 must be effectively prohibited.
[13] *Building Industry Ass'n of San Diego County v. State Water Resources Control Board* (2004) 124 Cal.App.4th 866, 884.
[14] *In re City of Irving, Texas, Municipal Storm Sewer System*, (July 16, 2001), 10 E.A.D. 111 (E.P.A.), *6.

in light of programmatic improvements, new source control initiatives, and technological advances that serve to improve the overall effectiveness of storm water management programs in reducing pollutant loading to receiving waters. This is consistent with USEPA's interpretation of storm water management programs. As explained by USEPA in its 1990 rulemaking, "EPA anticipates that storm water management programs will evolve and mature over time" (55 Fed.Reg. 47990, 48052 (Nov. 16, 1990)). There is ample evidence of this evolution in storm water management. Two local examples include the development of full capture trash control devices in response to the Los Angeles Region Trash TMDLs, and the development of innovative media filters for use in outfalls at the Boeing Santa Susana Field Laboratory that have potential municipal applications.

To provide clarification to the Regional Water Boards, the State Water Board's Office of Chief Counsel issued a memorandum dated February 11, 1993 regarding the "Definition of 'Maximum Extent Practicable'". In the memorandum, the State Water Board interpreted the MEP standard to entail "a serious attempt to comply," and that under the MEP standard, "practical solutions may not be lightly rejected." The memorandum states, "[i]n selecting BMPs which will achieve MEP, it is important to remember that municipalities will be responsible to reduce the discharge of pollutants in storm water to *the maximum extent practicable*. This means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive." The memorandum further states that, "[a]fter selecting a menu of BMPs, it is of course the responsibility of the discharger to insure that all BMPs are implemented."

This Order includes programmatic requirements in six areas pursuant to 40 CFR section 122.26(d)(2)(iv) as well as numeric design standards for storm water runoff from new development and redevelopment consistent with the federal MEP standard (see State Water Board Order WQ 2000-11, the "LA SUSMP Order"). This Order also includes protocols for periodically evaluating and modifying or adding control measures, consistent with the concept that MEP is an evolving and flexible standard.

This Order also provides for the use of municipal action levels ("MALs") derived from the National Stormwater Quality Database (NSQD), as a means of evaluating the overall effectiveness of a Permittee's storm water management program in reducing pollutant loads from a particular drainage area and in order to assess compliance with the MEP standard. Finally, this Order includes BMP Performance Standards derived from the International BMP Database as a guide for BMP selection and design, and as a tool for evaluating the effectiveness of individual post-construction BMPs in reducing pollutant loads and assessing compliance with the MEP standard. USEPA recommends the use of numeric benchmarks for BMPs to estimate BMP effectiveness and as triggers for taking additional actions such as evaluating the effectiveness of individual BMPs, implementing and/or modifying BMPs, or providing additional measures to protect water quality.[15]

[15] See USEPA November 22, 2002 memorandum, "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs."

C. Water Quality-Based Effluent Limitations (WQBELs)

In addition to requiring that MS4 permits include technology based requirements consistent with the MEP standard, section 402(p)(3)(B)(iii) of the CWA authorizes the inclusion of "such other provisions as the Administrator or the State determines appropriate for the control of [] pollutants."[16] This requirement gives USEPA or the State permitting authority discretion to determine what permit conditions are necessary to control pollutants. Generally, permit requirements designed to achieve water quality standards are referred to as water quality based effluent limitations (WQBELs). A WQBEL is a restriction on the quantity or concentration of a pollutant that may be discharged from a point source into a receiving water that is necessary to achieve an applicable water quality standard in the receiving water.[17] WQBELs may be expressed narratively or numerically.

In its Phase I Stormwater Regulations, Final Rule, USEPA elaborated on these requirements, stating that, "permits for discharges from municipal separate storm sewer systems must require controls to reduce the discharge of pollutants to the maximum extent practicable, and where necessary water quality-based controls" (see 55 Fed.Reg. 47990, 47994 (Nov. 16, 1990). In December 1999, USEPA reiterated in its Phase II Stormwater Regulations, Final Rule that MS4 "permit conditions must provide for attainment of applicable water quality standards (including designated uses), allocations of pollutant loads established by a TMDL, and timing requirements for implementation of a TMDL."[18] The State Water Board has affirmed that MS4 permits must include requirements necessary to achieve compliance with the applicable technology based standard of MEP and to achieve water quality standards.[19]

WQBELs are required for point source discharges that have the reasonable potential to cause or contribute to an excursion of water quality standards and technology based effluent limitations or standards are not sufficient to achieve water quality standards.[20]

The State Water Board has previously concluded that sole reliance in MS4 permits on BMP based requirements is not sufficient to ensure attainment of water quality standards. (See State Water Board Order 2001-015). The Regional Water Board concurs with this conclusion. This conclusion is amply supported by Regional Water Board and USEPA established TMDLs for impaired waters in the Los Angeles Region, indicating that MS4 discharges are a continuing source of pollutants to the impaired receiving waters notwithstanding the implementation of storm water management

REVISED TENTATIVE

[16] The first and second iterations of the Los Angeles County MS4 Permit relied solely upon requirements consistent with the MEP standard to work toward achieving water quality standards. Note that the MEP standard is distinct from a water quality based standard; each has a different basis. Therefore, while from a practical point of view, the goal of all MS4 permit conditions is to control pollutants in discharges to ultimately achieve certain water quality outcomes, water quality based standards are directly derived from this desired outcome, while the MEP standard is anticipated to be a way of working toward the desired outcome, but is not directly derived from it.

[17] See 40 CFR § 122.2; NPDES Permit Writer's Manual, Appendix A. A WQBEL is distinguished from a technology based effluent limitation (TBEL) in that the basis for the WQBEL is the applicable water quality standard for the receiving water, while the basis for the TBEL is generally the performance of the best available technology.

[18] *See, e.g.,* Phase II Stormwater Regulations, Final Rule, 64 Fed. Reg. 68722, 68737.

[19] See, e.g., State Water Board Orders WQ 99-05 and 2001-15.

[20] 40 CFR §§ 122.44(d)(1)(i); 122.44(d)(1)(iii)

programs that have been driven by the MEP standard by Permittees for the last two decades.

In this Order, WQBELs are included where the Regional Water Board has determined that discharges from the MS4 have the reasonable potential to cause or contribute to an excursion above water quality standards.[21] Reasonable potential can be demonstrated in several ways, one of which is through the TMDL development process. Where a point source is assigned a WLA in a TMDL, the analysis conducted in the development of the TMDL provides the basis for the Regional Water Board's determination that the discharge has the reasonable potential to cause or contribute to an exceedance of water quality standards in the receiving water. This approach is affirmed in USEPA's Permit Writer's Manual, which states, "[w]here there is a pollutant with a WLA from a TMDL, a permit writer must develop WQBELs." Therefore, WQBELs are included in this Order for all pollutants for which a WLA is assigned to MS4 discharges.

Federal regulations further require that, "when developing water quality-based effluent limits…the permitting authority shall ensure that effluent limits … are consistent with the assumptions and requirements of any available wasteload allocation for the discharge…" (40 CFR § 122.44(d)(1)(vii)(B)).

The Regional Water Board interprets this to mean that the final WQBEL must be expressed in similar terms as the underlying WLA; for example, where a TMDL includes WLAs for MS4 discharges that provide numeric pollutant load objectives, the WLA should be translated into numeric WQBELs in the permit, and at a level to achieve the same expected water quality outcome. USEPA also recommends the use of numeric WQBELs to meet water quality standards where MS4 discharges have the reasonable potential to cause or contribute to a water quality standard excursion. Numeric WQBELs will help clarify MS4 permit requirements and improve accountability in this permit term.

While BMPs[22] are central to MS4 permits, permit requirements may only rely upon BMP based limitations in lieu of water quality based effluent limitations if: (1) the BMPs are adequate to achieve water quality standards, and (2) numeric effluent limitations are infeasible.[23] As discussed earlier, the State and Regional Water Boards have concluded that sole reliance on MEP based permit requirements is not sufficient to ensure the achievement of water quality standards. Further, there is insufficient data and information available at this time on the prospective implementation of BMPs throughout Los Angeles County to provide the Regional Water Board reasonable assurance that the BMPs would be sufficient to achieve the WQBELs.[24]

[21] 40 CFR §§ 122.44(d)(1)(i)-(iii); 122.44(d)(1)(vii)(B)
[22] Note that best management practices and effluent limitations are two different types of permit requirements (see 40 CFR §§ 122.2; 122.44(k), which distinguish the two terms and describe their relationship to each other).
[23] 40 CFR §§ 122.44(d)(1); 122.44(k)(3); see also State Water Board Order 91-03; Memorandum from Elizabeth Miller Jennings, Office of Chief Counsel to Bruce Fujimoto, Division of Water Quality, "Municipal Storm Water Permits: Compliance with Water Quality Objectives," October 3, 1995.
[24] USEPA states in its 2002 memorandum, "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs" that, "[w]hen a non-numeric water quality-based effluent limit is imposed, the permit's administrative record, including the fact sheet when one is required, needs to support that the BMPs are expected to be sufficient to implement the WLA in the TMDL," citing 40 CFR §§ 124.8, 124.9, and 124.18. See also USEPA's 2010 memorandum revising the 2002 memorandum.

Regarding the feasibility of numeric effluent limitations, the Regional Water Board concludes that numeric WQBELs are feasible. While a lack of data may have hampered the development of numeric effluent limitations for MS4 discharges in earlier permit cycles, in the last decade, 33 TMDLs have been developed for water bodies in Los Angeles County in which WLAs are assigned to MS4 discharges. In each case, part of the development process entailed analyzing pollutant sources and allocating loads using empirical relationships or modeling approaches. As a result, it is possible to use these numeric WLAs to derive numeric WQBELs for MS4 discharges. USEPA has also acknowledged that its expectations regarding the application of numeric WQBELs to municipal storm water discharges have changed as the storm water permit program has continued to mature over the last decade.[25]

The inclusion of numeric WQBELs is also consistent with the Ninth Circuit Court of Appeal's ruling in *Defenders of Wildlife v. Browner* (191 F.3d 1159, 1166 (1999)) that the permitting authority has discretion regarding the nature and timing of requirements that it includes as MS4 permit conditions to attain water quality standards, and that these requirements may include numeric effluent limitations.

Further, given the variability in implementation of storm water management programs across Permittees, numeric WQBELs create an objective, equitable and accountable means of controlling MS4 discharges, while providing the flexibility for Permittees to comply with the WQBELs in any lawful manner.

D. Final Effluent Limitations

Final WQBELs are included in this Order based on the final WLAs assigned to discharges from the Los Angeles County MS4 in all available TMDLs.

MS4 permits can include compliance schedules for achieving final WQBELs derived from TMDL WLAs, so long as the compliance schedule is consistent with a TMDL implementation plan adopted by the Regional Water Board and approved through the State's basin plan amendment process. If a compliance schedule exceeds one year, it must include interim requirements pursuant to 40 CFR section 122.47.

Section 402(o) of the CWA and 40 CFR section 122.44(l) require that effluent limitations in reissued orders be at least as stringent as those in the existing order. This Order carries over the final receiving water limitations and WQBELs that were included to implement the Marina del Rey Harbor Back Basins and Mothers' Beach Bacteria TMDL and the Los Angeles River Trash TMDL, respectively, in the 2007 and 2009 amendments to Order No. 01-182.

E. Interim Effluent Limitations

[25] See USEPA 2010 memorandum, "Revisions to the November 22, 2002 Memorandum 'Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs'" in which USEPA states, "where the NPDES permitting authority determines that MS4 discharges…have the reasonable potential to cause or contribute to water quality standards excursions, permit for MS4s…should contain numeric effluent limitations where feasible to do so." USEPA further states, "[w]here the TMDL includes WLAs for stormwater sources that provide numeric pollutant load…objectives, the WLA should, where feasible, be translated into numeric WQBELs in the applicable stormwater permits."

Where there is a TMDL implementation plan adopted by the Regional Water Board and approved through the State's basin plan amendment process, interim WQBELs are included in this Order based on interim WLAs established for MS4 discharges.

V. RATIONALE FOR RECEIVING WATER LIMITATIONS

A. Receiving Water Limitations

Receiving water limitations are included in all NPDES permits issued pursuant to CWA section 402. Section 402(p)(3)(B)(iii) of the CWA authorizes the inclusion of "such other provisions as the Administrator or the State determines appropriate for the control of [] pollutants." This requirement gives USEPA or the State permitting authority discretion to determine what permit conditions are necessary to control pollutants. In its Phase I Stormwater Regulations, Final Rule, USEPA elaborated on these requirements, stating that, "permits for discharges from municipal separate storm sewer systems must require controls to reduce the discharge of pollutants to the maximum extent practicable, and where necessary water quality-based controls" (see 55 Fed. Reg. 47990, 47994 (Nov. 16, 1990)). USEPA reiterated in its Phase II Stormwater Regulations, Final Rule, that MS4 "permit conditions must provide for attainment of applicable water quality standards (including designated uses), allocations of pollutant loads established by a TMDL, and timing requirements for implementation of a TMDL."[26] USEPA Region IX has also affirmed the agency's position that MS4 discharges must meet water quality standards in a series of comment letters on MS4 permits issued by various California regional water boards.[27] California Water Code section 13377 also requires that NPDES permits include limitations necessary to implement water quality control plans. Both the State Water Board and Regional Water Board have previously concluded that discharges from the MS4 contain pollutants that have the reasonable potential to cause or contribute to excursion above water quality standards. As such, inclusion of receiving water limitations is appropriate to control MS4 discharges.

The inclusion of receiving water limitations is also consistent with the Ninth Circuit Court of Appeal's ruling in *Defenders of Wildlife v. Browner* (191 F.3d 1159, 1166 (1999)) that the permitting authority has discretion regarding the nature and timing of requirements that it includes as MS4 permit conditions to attain water quality standards.

The Ninth Circuit Court of Appeals recently explained that, "[w]ater quality standards are used as a supplementary basis for effluent limitations [guidelines] so that numerous dischargers, despite their individual compliance with technology based effluent limitations, can be regulated to prevent water quality from falling below acceptable levels" (*NRDC v. County of Los Angeles* (2011) 673 F.3d 880, 886). Receiving water limitations are included in this Order to ensure that individual and collective discharges from the MS4 do not cause or contribute to exceedances of water quality standards necessary to protect the beneficial uses of the receiving waters.

[26] *See, e.g.,* Phase II Stormwater Regulations, Final Rule, 64 Fed. Reg. 68722, 68737.
[27] See, e.g., letter from Alexis Strauss, Acting Director, Water Division, USEPA Region IX, to Walt Pettit, Executive Director, State Water Board, re: SWRCB/OCC File A-1041 for Orange County, dated January 21, 1998.

The receiving water limitations in this Order consist of all applicable numeric or narrative water quality objectives or criteria, or limitations to implement the applicable water quality objectives or criteria, for receiving waters as contained in Chapters 3 and 7 of the Basin Plan, or in water quality control plans or policies adopted by the State Water Resources Control Board, including Resolution No. 68-16, or in federal regulations, including but not limited to, 40 CFR sections 131.12 and 131.38. The water quality objectives in the Basin Plan and other State Water Board plans and policies have been approved by USEPA and combined with the designated beneficial uses constitute the water quality standards required under federal law.

The receiving water limitations provisions in this Order are the same as those included in the previous Los Angeles County MS4 Permit provisions, and are based on precedential State Water Board Orders WQ 98-01 and WQ 99-05. This Order includes three main provisions related to receiving water limitations. First, consistent with CWA section 402(p)(B)(3)(iii) and 40 CFR section 122.44(d)(1), it includes a provision stating that discharges from the MS4 that cause or contribute to an exceedance of receiving water limitations are prohibited. This is also in accord with the State Water Board's finding in Order WQ 98-01 ("The [State Water Board] agrees that the NPDES permit must prohibit discharges that "cause" or "contribute" to violations of water quality standards."). Second, it includes a provision stating that discharges from the MS4 of stormwater or non-stormwater, for which a Permittee is responsible, shall not cause or contribute to a condition of nuisance.[28]

Third, it includes a provision that states that Permittees shall achieve these two prohibitions "through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the storm water management program and its components and other requirements of this Order including any modifications." This third provision elucidates the process by which Permittees are expected to achieve the first two provisions and then outlines the so-called "iterative process" whereby certain actions are required when exceedances of receiving water limitations occur and discharges from the MS4 are implicated. This iterative process includes submitting a Receiving Water Limitations Compliance Report; revising the storm water management program and its components to include additional BMPs, an implementation schedule and additional monitoring to address the exceedances; and implementing the revised storm water management program. The inclusion of this protocol for estimating BMP effectiveness and taking additional actions such as implementing additional BMPs and/or modifying BMPs to improve their effectiveness when monitoring demonstrates that they are necessary to protect water quality is consistent with USEPA's expectations for MS4 permits.[29]

The State and Regional Water Boards have stated that each of the three provisions are independently applicable, meaning that compliance with one provision does not provide

[28] Wat. Code, § 13377 ("the state board or the regional boards shall . . . issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the [CWA], thereto, together with any more stringent effluent standards or limitations necessary to implement waste quality control plans, or for the protection of beneficial uses, or to prevent nuisance").

[29] See, e.g., USEPA 2002 memorandum, "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs."

a "safe harbor" where there is non-compliance with another provision (i.e., compliance with the third provision does not shield a Permittee who may have violated the first or second provision from an enforcement action). Rather, the third provision is intended to ensure that the necessary storm water management programs and controls are in place, and that they are modified by Permittees in a timely fashion when necessary, so that the first two provisions are achieved as soon as possible. USEPA expressed the importance of this independent applicability in a series of comment letters on MS4 permits proposed by various regional water boards. At that time, USEPA expressly objected to certain MS4 permits that included language stating, "permittees will not be in violation of this [receiving water limitation] provision …" (if certain steps are taken to evaluate and improve the effectiveness of the Drainage Area Management Plan (DAMP)), concluding that this phrase would not comply with the CWA.[30]

The Receiving Water Limitations provisions of Order No. 01-182 have been litigated twice, and in both cases the courts have upheld the language and the State and Regional Water Board's interpretation of it. Both courts ruled that the first two provisions are independently applicable from the third provision that establishes the "iterative process" requirements and no "safe harbor" exists.

The provisions were first litigated in 2005 where the Los Angeles County Superior Court stated, "In sum, the Regional [Water] Board acted within its authority when it included Parts 2.1 and 2.2 in the Permit without a 'safe harbor,' whether or not compliance therewith requires efforts that exceed the 'MEP' standard." (*In re L.A. Cnty. Mun. Storm Water Permit Litig.* (L.A. Super. Ct., No. BS 080548, Mar. 24, 2005) Statement of Decision from Phase I Trial on Petitions for Writ of Mandate, pp. 4-5, 7.).

The provisions were again litigated in 2011. In that case, the Ninth Circuit Court of Appeal in *NRDC v. County of Los Angeles* (673 F.3d 880, 886) affirmed that the iterative process (in Part 2.3 of the 2001 Order) does not "forgive" violations of the discharge prohibitions (in Parts 2.1 and 2.2 of the 2001 Order). The court acknowledged that Part 2.3 clarifies that Parts 2 and 3 interact, but the court concluded that Part 2.3 "offers no textual support for the proposition that compliance with certain provisions shall forgive non-compliance with the discharge prohibitions." The Ninth Circuit further concluded that, "[a]s opposed to absolving noncompliance or exclusively adopting the MEP standard, the iterative process ensures that if water quality standards 'persist,' despite prior abatement efforts, a process will commence whereby a responsible Permittee amends its SQMP. Given that Part 3 of the [2001] Permit states that SQMP implementation is the 'minimum' required of each Permittee, the discharge prohibitions serve as additional requirements that operate as enforceable water-quality-based performance standards required by the Regional Board."

Nonetheless, the Regional Water Board is in a unique position to be able to offer multiple paths to compliance with receiving water limitations in this MS4 permit. The Regional Board has worked closely with the US EPA in implementing the requirements of the 1999 consent decree between EPA and the environmental groups. The requirements of the consent decree are nearly complete and 33 of these TMDLs

[30] See note 20.

addressing hundreds of waterbody-pollutant combinations covering every coastal watershed in Los Angeles County will be implemented in this Order. The number of TMDLs, and hundreds of water quality issues that the TMDLs address, is unprecedented anywhere else in California. These extensive and enforceable implementation programs for addressing myriad water quality issues throughout the County, coupled with more robust core provision requirements, and commitments to implement watershed solutions to address all impairments in regional waters, allows this Board to consider the compliance mechanisms described below. These compliance mechanisms provide an incentive and robust framework for Permittees to craft comprehensive pathways to achieve compliance with receiving water limitations – both those addressed by TMDLs and those not addressed by TMDLs. This compliance mechanism is contingent upon participating Permittees being in full compliance with all requirements articulated in the permit and approved Watershed Management Program or EWMP in order to take advantage of these provisions.

This Order includes requirements in Part VI.E of this Order to implement WLAs assigned to MS4 discharges from 33 TMDLs. Those TMDLs adopted through the State's basin planning process include programs of implementation pursuant to California Water Code section 13242, including implementation schedules, for attaining water quality standards. The TMDL provisions in Part VI.E and attachments include compliance schedules for TMDLs adopted by the Regional Water Board consistent with the TMDL implementation schedule to achieve the final receiving water limitations. The Regional Water Board recognizes that, in the case of impaired waters subject to a TMDL, the permit's receiving water limitations for the pollutants addressed by the TMDL may be exceeded during the period of TMDL implementation. Therefore, this Order provides, in Part VI.E.2.c, that a Permittee's full compliance with the applicable TMDL requirements pursuant to the compliance schedules in this Order ~~an MS4~~ constitutes a Permittee's ~~shall not be considered in violation of a~~ compliance with the receiving water limitations provisions in Part V.A. of this Order for the particular pollutant addressed by the TMDL~~, if the Permittee is in full compliance with the applicable TMDL requirements pursuant to the compliance schedules in this Order~~.

For water body-pollutant combinations not addressed by a TMDL, the Regional Water Board has included provisions in Part VI.C. to allow Permittees to develop a Watershed Management Program or EWMP to address receiving water limitations not otherwise addressed by a TMDL. The Watershed Management Program must include a Reasonable Assurance Analysis (RAA) that is quantitative and performed using a peer-reviewed model in the public domain. Models to be considered for the RAA, without exclusion, are the Watershed Management Modeling System (WMMS), Hydrologic Simulation Program-FORTRAN (HSPF), and the Structural BMP Prioritization and Analysis Tool (SBPAT). The RAA shall commence with assembly of all available, relevant subwatershed data collected within the last 10 years, including land use and pollutant loading data, establishment of quality assurance/quality control (QA/QC) criteria, QA/QC checks of the data, and identification of the data set meeting the criteria for use in the analysis. Data on performance of watershed control measures needed as model input shall be drawn only from peer-reviewed sources. These data shall be statistically analyzed to determine the best estimate of performance and the confidence limits on that estimate for the pollutants to be evaluated. The objective of the RAA shall

REVISED TENTATIVE

be to demonstrate the ability of Watershed Management Programs and enhanced Watershed Management Programs (where retention of the 85th percentile, 24-hour event is not technically feasible) to ensure that Permittees' MS4 discharges achieve applicable water quality based effluent limitations and do not cause or contribute to exceedances of receiving water limitations.

A Permittee's full compliance with all requirements and dates for their achievement in an approved Watershed Management Program or enhanced Watershed Management Program constitutes compliance with the receiving water limitations provisions in Part V.A. of the Order for the specific water body-pollutant combinations addressed by an approved Watershed Management Program or enhanced Watershed Management Program. However, if a Permittee fails to meet any requirement or date for its achievement beginning with notification of a Permittee's intent to develop a Watershed Management Program or EWMP, and continuing with implementation of ~~in~~ an approved Watershed Management Program or enhanced Watershed Management Program, the Permittee is subject to the provisions of Part V.A. for the waterbody-pollutant combination(s) that were to be addressed by the requirement. Permittees that do not elect to develop a Watershed Management Program or EWMP are required to demonstrate compliance with receiving water limitations pursuant to Part V.A.

VI. RATIONALE FOR PROVISIONS

A. Standard Provisions

Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR section 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR section 122.42, are provided in Attachment D. Dischargers must comply with all standard provisions and with those additional conditions that are applicable under 40 CFR section 122.42.

B. Watershed Management Programs

The purpose of the Watershed Management Programs is to provide a framework for Permittees to implement the requirements of this Order in an integrated and collaborative fashion to address water quality priorities on a watershed scale, including complying with the requirements of Part V.A. (Receiving Water Limitations), Part VI.E (Total Maximum Daily Load Provisions) and Attachments L through R, by customizing the control measures in Parts III.A.4 (Prohibitions – Non-Storm Water Discharges) and VI.D (Minimum Control Measures). This watershed management paradigm is consistent with federal regulations that support the development of permit conditions, as well as the implementation of storm water management programs, at a watershed scale (40 CFR §§ 122.26(a)(3)(ii), 122.26(a)(3)(v), and 122.26(d)(2)(iv)). USEPA later issued a Watershed-Based NPDES Permitting Policy Statement (USEPA, 2003) that defines watershed-based permitting as an approach that produces NPDES permits that are issued to point sources on a geographic or watershed basis. In this policy statement, USEPA explains that, "[t]he utility of this tool relies heavily on a detailed, integrated, and inclusive watershed planning process." USEPA identifies a number of important benefits of watershed permitting, including more environmentally effective results; the ability to

REVISED TENTATIVE

emphasize measuring the effectiveness of targeted actions on improvements in water quality; reduced cost of improving the quality of the nation's waters; and more effective implementation of watershed plans, including TMDLs, among others.

There are several reasons for this shift in emphasis from Order No. 01-182. A watershed based structure for permit implementation is consistent with TMDLs developed by the Los Angeles Water Board and USEPA, which are established at a watershed or subwatershed scale and are a prominent new part of this Order. Many of the Permittees regulated by this Order have already begun collaborating on a watershed scale to develop monitoring and implementation plans required by TMDLs. Additionally, a watershed based structure comports with the recent amendment to the Los Angeles County Flood Control Act (Assembly Bill 2554 in 2010), which allows the LACFCD to assess a parcel tax for storm water and clean water programs. Funding is subject to voter approval in accordance with Proposition 218. Fifty percent of funding is allocated to nine "watershed authority groups" to implement collaborative water quality improvement plans.

An emphasis on watersheds is appropriate at this stage in the region's MS4 program to shift the focus of the Permittees from rote program development and implementation to more targeted, water quality driven planning and implementation. Addressing MS4 discharges on a watershed scale focuses on water quality results by emphasizing the receiving waters within the watershed. The conditions of the receiving waters drive management actions, which in turn focus on the measures to address pollutant contributions from MS4 discharges.

The ultimate goal of the Watershed Management Programs is to ensure that discharges from the Los Angeles County MS4: (i) achieve applicable WQBELs that implement TMDLs, (ii) do not cause or contribute to exceedances of receiving water limitations, and (iii) for non-storm water discharges from the MS4, are not a source of pollutants to receiving waters.

After more than 20 years of program implementation, it is critical that the Permittees design and implement their programs based on their improved knowledge of storm water and its impacts on local receiving waters and by employing BMPs and other control measures that have been developed and refined over the past two decades. The Watershed Management Programs are driven by strategic planning and implementation, which will ultimately result in more cost effective implementation. The Watershed Management Programs will provide permittees with the flexibility to prioritize and customize control measures to address the water quality issues specific to the watershed management area (WMA), consistent with federal regulations (40 CFR § 122.26(d)(2)(iv)).

Focusing on watershed implementation does not mean that the Permittees must expend funds outside of their jurisdictions. Rather, the Permittees within each watershed are expected to collaborate to develop a watershed strategy to address the high priority water quality problems within each watershed. They have the option of implementing the strategy in the manner they find to be most effective. Each Permittee can implement

the strategy individually within its jurisdiction, or the Permittees can group together to implement the strategy throughout the watershed.

While this Order includes a new emphasis on addressing MS4 discharges on a watershed basis, this Order includes recognition of the importance of continued program implementation on jurisdictional levels. This Order also acknowledges that jurisdictional and watershed efforts may be integrated to achieve water quality outcomes.

In this Order, the watershed requirements serve as the mechanism for this program integration. Since jurisdictional activities also serve watershed purposes, such activities can be integrated into the Permittees' watershed management programs. Such opportunities for program integration inherently provide flexibility to the Permittees in implementing their programs. Program integration can be expanded or minimized as the Permittees see fit. Some Permittees may opt to continue jurisdiction-specific implementation for certain programs, while for other program areas more collaborative watershed scale implementation may be more effective. Permittees identify individual roles and responsibilities as part of the Watershed Management Program Plan.

Permittees can customize the BMPs to be implemented, or required to be implemented, for development, construction, and existing development areas. Flexibility to determine which industrial or commercial sites are to be inspected is also provided to the Permittees. Educational approaches are also to be determined by the Permittees under this Order. Significant leeway is also provided to the Permittees in using methods to assess the effectiveness of their various runoff management programs. This flexibility is further extended to the monitoring program requirements, which allow the Permittees to develop monitoring approaches to several aspects of the monitoring program.

The challenge in drafting this Order is to provide the flexibility described above, while ensuring that this Order provides baseline requirements and is still enforceable. To achieve this, this Order frequently prescribes baseline or default requirements, such as for each of the six "minimum control measures" within a Permittee's baseline storm water management program, while providing the Permittees with flexibility to propose customized actions as part of their watershed management program.

Permittees that elect to develop a Watershed Management Program must submit a "Notice of Intent" to the Regional Water Board no later than six months after the effective date of this Order. The Notice of Intent must be signed by all Permittees electing to participate in the Watershed Management Program for the Watershed Management Area. Permittees that do not elect to develop a Watershed Management Program are subject to the baseline storm water management program requirements in this Order and must demonstrate compliance with applicable WQBELs through monitoring data collected from the Permittee's outfall(s).

Permittees electing to develop a Watershed Management Program must submit a draft plan for approval by the Regional Water Board or by the Executive Officer on behalf of the Regional Water Board no later than one year after the effective date of the Order, or if certain conditions are met, no later than 18 months or 30 months after the effective

REVISED TENTATIVE

date of the Order. To encourage stakeholder involvement in the development of the Watershed Management Programs, the Order requires that the Permittees form a permit-wide technical advisory committee (TAC) that will advise and participate in the development of the Watershed Management Programs. The TAC must include at least one public representative from a non-governmental organization with public membership. Additionally, the Order requires that the draft Watershed Management Programs are made available for public review prior to approval by the Regional Water Board or Executive Officer on behalf of the Regional Water Board.

Each Watershed Management Program must:

1. Prioritize water quality issues resulting from storm water and non-storm water discharges to the MS4 and from the MS4 to receiving waters within each Watershed Management Area,
2. Identify and implement strategies, control measures, and BMPs to achieve applicable water quality based effluent limitations and/or receiving water limitations, consistent with applicable compliance schedules in this Order,
3. Execute an integrated monitoring and assessment program to determine progress towards achieving applicable limitations, and
4. Modify strategies, control measures, and BMPs as necessary based on analysis of monitoring data collected pursuant to the MRP to ensure that applicable water quality-based effluent limitations and receiving water limitations and other milestones set forth in the Watershed Management Program will be achieved.

Watershed Management Programs must be developed using the Regional Water Board's Watershed Management Areas (see Attachments B and C of this Order). Where appropriate, Watershed Management Areas may be separated into subwatersheds to focus water quality prioritization and implementation efforts by receiving water, or to align Permittee groups with "watershed authority groups" designated in the Los Angeles County Flood Control Act, so long as the Permittees implement all TMDL provisions for which they are identified as a responsible Permittee.

Permittees must identify the water quality priorities within each Watershed Management Area that will be addressed by the Watershed Management Program consistent with 40 CFR section 122.26(d)(2)(iv). At a minimum, these priorities must include achieving applicable water quality based effluent limitations and/or receiving water limitations established pursuant to TMDLs and included in this Order.

Each plan must include an evaluation of existing water quality conditions, including characterization of storm water and non-storm water discharges from the MS4 and receiving water quality, consistent with 40 CFR §§ 122.26(d)(1)(iv) and 122.26(d)(2)(iii), to support identification and prioritization/sequencing of management actions.

On the basis of the evaluation of existing water quality conditions, water body-pollutant combinations must be classified into one of the following three categories:

REVISED TENTATIVE

- Category 1 (Highest Priority): Water body-pollutant combinations for which water quality based effluent limitations and/or receiving water limitations are included in this Order to implement TMDLs.
- Category 2 (High Priority): Pollutants for which data indicate water quality impairment in the receiving water according to the State's Listing Policy and for which MS4 discharges may be causing or contributing to the impairment.
- Category 3 (Medium Priority): Pollutants for which there are insufficient data to indicate water quality impairment in the receiving water according to the State's Listing Policy, but which exceed applicable receiving water limitations contained in this Order and for which MS4 discharges may be causing or contributing to the exceedance.

Utilizing existing information, potential sources within the watershed for the pollutants in Categories 1 and 2 must be identified, consistent with 40 CFR sections 122.26(d)(1)(iii) and 122.26(d)(2)(ii). Permittees must identify known and suspected storm water and non-storm water pollutant sources in discharges to the MS4 and from the MS4 to receiving waters and any other stressors related to MS4 discharges causing or contributing to the highest water quality priorities (Categories 1 and 2).

Based on the findings of the source assessment, the issues within each watershed must be prioritized and sequenced. Factors that must be considered in establishing watershed priorities include:

1. Pollutants for which there are water quality based effluent limitations and/or receiving water limitations with interim or final compliance deadlines within the permit term.
2. Pollutants for which there are water quality based effluent limitations and/or receiving water limitations with interim or final compliance deadlines between October 26, 2012 and October 25, 2017.
3. Pollutants for which data indicate impairment in the receiving water and the findings from the source assessment implicates discharges from the MS4, but no TMDL has been developed.

Permittees must identify strategies, control measures, and BMPs to implement through their jurisdictional storm water management programs, or collectively on a watershed scale, with the goal of creating an efficient program to focus individual and collective resources on watershed priorities.

The following provisions of this Order may be part of the Watershed Control Measures within a Watershed Management Program:

1. Minimum Control Measures. Permittees may assess the minimum control measures (MCMs) as defined in this Order to identify opportunities for focusing resources on the high priority issues in each watershed. For each of the following minimum control measures, Permittees may propose modifications that will achieve equivalent pollutant control given watershed priorities:

a. Development Construction Program
b. Industrial/Commercial Program
c. Illicit Connection/Illicit Discharge Detection and Elimination Program
d. Public Agency Activities Program
e. Public Information and Participation Program

2. Non-Storm Water Discharge Measures. Where Permittees identify non-storm water discharges from the MS4 as a source of pollutants in the source assessment, the Watershed Control Measures must include strategies, control measures, and/or BMPs that will be implemented to effectively eliminate the source of pollutants. These may include measures to prohibit the non-storm water discharge to the MS4, additional BMPs to reduce pollutants in the non-storm water discharge or conveyed by the non-storm water discharge, or strategies to require the non-storm water discharge to be separately regulated under a general NPDES permit.

3. TMDL Control Measures. Permittees must compile control measures that have been identified in TMDLs and corresponding implementation plans. If not sufficiently identified in previous documents, or if implementation plans have not yet been developed (e.g., EPA promulgated TMDLs), the Permittees must evaluate and identify control measures to achieve water quality based effluent limitations and/or receiving water limitations established in this Order pursuant to these TMDLs.

a. TMDL control measures must include, where necessary, control measures to address both storm water and non-storm water discharges from the MS4.
b. TMDL control measures may include activities covered under the MCMs as well as BMPs and other control measures covered under the non-stormwater discharge provisions of this Order.
c. TMDL control measures must include, at a minimum, those actions that will be implemented during the permit term to achieve interim and/or final water quality based effluent limitations and/or receiving water limitations with compliance deadlines within the permit term.

Pursuant to 40 CFR sections 124.8, 124.9, and 124.18, as part of the Watershed Management Program plan, Permittees must conduct a Reasonable Assurance Analysis for each TMDL that consists of an assessment (through quantitative analysis or modeling) to demonstrate that the activities and control measures (i.e. BMPs) identified in the Watershed Control Measures will achieve applicable water quality based effluent limitations and/or receiving water limitations with compliance deadlines during the permit term.

Permittees must incorporate and, where necessary develop, numeric milestones and compliance schedules into the plan consistent with 40 CFR section 122.47(a). Numeric milestones and schedules shall be used to measure progress towards addressing the highest water quality priorities and achieving applicable water quality based effluent limitations and/or receiving water limitations. Where the TMDL Provisions do not include interim or final water quality based effluent limitations and/or receiving water limitations with compliance deadlines during the permit term, Permittees must identify interim numeric milestones and compliance schedules to

ensure significant progress toward achieving interim and final water quality based effluent limitations and/or receiving water limitations with deadlines beyond the permit term (40 CFR § 122.47(a)(3)).

Schedules must be developed for both the strategies, control measures and BMPs to be implemented by each individual Permittee within its jurisdiction and for those that will be implemented by multiple Permittees on a watershed scale. Schedules must be adequate for measuring progress at least twice during the permit term. Schedules must incorporate the following:

1. Compliance deadlines occurring within the permit term for all applicable interim and/or final water quality based effluent limitations and/or receiving water limitations to implement TMDLs,

2. Interim deadlines and numeric milestones within the permit term for any applicable final water quality based effluent limitation and/or receiving water limitation to implement TMDLs, where deadlines within the permit term are not otherwise specified,

3. For watershed priorities related to addressing exceedances of receiving water limitations in Part V.A and not otherwise addressed by Part VI.E:

a. Numeric milestones based on measureable criteria or indicators, to be achieved in the receiving waters and/or MS4 discharges,
b. A schedule with interim and final dates for achieving the numeric milestones, and
c. Final dates for achieving the receiving water limitations as soon as possible.

Each Permittee must implement the Watershed Management Program immediately after determination by the Regional Water Board Executive Officer that the Watershed Management Program meets the requirements of this Order.

Clean Water Act section 402(a)(2) requires the permitting authority to prescribe conditions for MS4 permits to assure compliance, including conditions on data and information collection, reporting, and such other requirements as appropriate. Consistent with this requirement, Permittees in each Watershed Management Area must develop an integrated program to assess the progress toward achieving the water quality based effluent limitations and/or receiving water limitations per the compliance schedules, and the progress toward addressing the highest water quality priorities for each Watershed Management Area. The integrated watershed monitoring and assessment program may be customized, but must contain the basic elements (receiving water monitoring, storm water outfall monitoring, non-storm water outfall monitoring, new development/re-development effectiveness tracking and regional studies), and achieve the objectives of, the Monitoring and Reporting Program (MRP) (Attachment E of this Order).

Permittees in each Watershed Management Area must implement an adaptive management process, at least twice during the permit term, adapting the Watershed

Management Program to become more effective, based on, but not limited to the following:

1. Progress toward achieving the outcome of improved water quality in MS4 discharges and receiving waters through implementation of the watershed control measures;

2. Progress toward achieving interim and/or final water quality based effluent limitations and/or receiving water limitations, or other numeric milestones where specified, according to established compliance schedules;

3. Re-evaluation of the highest water quality priorities identified for the Watershed Management Area based on more recent water quality data for discharges from the MS4 and the receiving water(s) and a reassessment of sources of pollutants in MS4 discharges;

4. Availability of new information and data from sources other than the Permittees' monitoring program(s) within the Watershed Management Area that informs the effectiveness of the actions implemented by the Permittees;

5. Regional Water Board recommendations; and

6. Recommendations for modifications to the Watershed Management Program solicited through a public participation process, consistent with 40 CFR section 122.26(d)(2)(iv).

   Based on the results of the iterative process, Permittees are required to report any modifications necessary to improve the effectiveness of the Watershed Management Program in the Annual Report, and as part of the Report of Waste Discharge (ROWD). Permittees must implement any modifications to the Watershed Management Program upon acceptance by the Regional Water Board Executive Officer.

C. Storm Water Management Program Minimum Control Measures (MCMs)

1. General Requirements

a. Basis for MCMs. 40 CFR section 122.26(d)(2)(iv) establishes required elements of the Permittees' storm water management program. The previous permit, Order No. 01-182, included six categories of minimum control measures that are considered to be baseline or default requirements for meeting the requirements of 40 CFR section 122.26(d)(2)(iv). These requirements were determined appropriate within Order No. 01-182 and again appropriate for this Order. The minimum control measures require Permittees to implement BMPs that are considered necessary to reduce pollutants in storm water to the MEP and to effectively prohibit non-storm water discharges. In lieu of implementing the MCMs as described in Part VI of this Order, this Order allows for Permittees to develop alternative BMPs to comply with 40 CFR section 122.26(d)(2)(iv), when

implemented through a Watershed Management Program approved by the Executive Officer of the Regional Water Board.

b. Timelines for Implementation

The timelines for implementation of most MCMs contained in Part VI.D of this Order is provided in Table F-5 below. Where implementation dates for minimum control measures are not provided in the Table, Part VI.D.1.b requires implementation within 6 months of the effective date this Order. Unless otherwise noted in Part VI.D of the Order, each Permittee that does not elect to develop a Watershed Management Program or enhanced Watershed Management Program per Part VI.C must implement the requirements contained in Part VI.D within 6 months after the effective date of this Order. In the interim, a Permittee shall continue to implement its existing storm water management program, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv).

Permittees that elect to develop a Watershed Management Program or enhanced Watershed Management Program shall continue to implement their existing storm water management programs, including actions within each of the six categories of minimum control measures consistent with 40 CFR section 122.26(d)(2)(iv) until the Watershed Management Program or enhanced Watershed Management Program is approved by the Regional Water Board Executive Officer. The Table below denotes the timeframe for requirements as well as the basis of those timeframes. The majority of the timeframes are consistent with Order No. 01-182 as well as other area permits including the Ventura County MS4 Permit and the State Water Board's Construction General NPDES Permit. The timeframe for notifications, submittals, and attaining compliance with permit requirements are determined to be the earliest practicable periods and ensure timely measures for protection of water quality.

Table F-5. Timeline for the Implementation of Permit Requirements

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
Discharge Prohibitions			
III.A.2.a.ii	~~Potable~~ Drinking water suppliers must notify MS4 Permittee if intend to discharge to the Permittee's MS4.	At least 72 hours prior to a planned discharge and as soon as possible after an unplanned discharge.	Allows for advanced notice and sampling, if warranted.
III.A.4.e	If the Permittee determines that any of the authorized or conditionally exempt essential non-storm water discharges identified in Parts III.A.1.a through III.A.1.c, III.A.2.a or III.A.3 is a source of pollutants, notify the Regional Water Board if the non-storm water discharge has coverage under a separate NPDES permit or subject to a Record of Decision (ROD) approved under section 121 of CERCLA, or a conditionally exempt essential non-	Within 30 days of determination.	The language in the previous LA MS4 permit, Order No. 01-182, states "promptly." The specification of a 30 day deadline is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	storm water discharge or emergency non-storm water discharge.		
Table III.A	Dewatering of Lakes – Ensure procedures for advanced notification by the lake owner/operator to the Permittee(s).	At least 72 hours in advance of discharge.	Allows for advanced notice and sampling, if warranted.
Table III.A	Dechlorinated/debrominated swimming pool/spa discharges – Ensure procedures for advanced notification by the pool owner to the Permittee(s) prior to planned discharges of 100,000 gallons or more.	At least 72 hours in advance of discharge.	Allows for advanced notice and sampling, if warranted.
Table III.A	Dewatering of decorative fountains – Ensure procedures for advanced notification by the fountain owner to the Permittee(s) prior to planned discharges of 100,000 gallons or more.	At least 72 hours in advance of discharge.	Allows for advanced notice and sampling, if warranted.
Receiving Water Limitations			
V.A.3.a	Upon determination by either the Permittee or the Regional Water Board that discharges from the MS4 are causing or contributing to an exceedance of an applicable Receiving Water Limitation, the Permittee shall notify the Regional Water Board within 30 days of analytical results and thereafter submit an Integrated Monitoring Compliance Report within the next Annual Report.	Within 30 days of receipt of analytical results from the sampling event.	The language in the current LA MS4 permit reads "promptly." The specification of a 30 day deadline is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.
V.A.3.b	Submit any modifications to the Integrated Monitoring Compliance Report required by the Regional Water Board	Within 30 days notification from the Regional Water Board.	This is consistent with Order No. 01-182
V.A.3.c	Permittee shall revise its control measures and monitoring program to incorporate the improved modified BMPs that will be implemented, an implementation schedule, and any additional monitoring required.	Within 30 days following Regional Water Board Executive Officer's approval of the Integrated Monitoring Report.	Allows for adequate time to make modifications.
Provisions			
VI.A.2.j	Discharger shall file with the Regional Water Board a report of waste discharge before making any material change or proposed change in the character, location, or volume of the discharge.	At least 120 days prior to any change.	Standard language.
Special Provisions: Watershed Management Programs			
VI.C.2.b	Permittees that elect to develop a Watershed Management Program must notify the Regional Water Board.	No later than 6 months after the date this Order is adopted.	This provides a reasonable amount of time to determine participation in a WMP, but also ensure

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
			adequate time for implementation of watershed scale control measures during the term of this Order.
VI.C.2.c	Permittees that elect to develop a Watershed Management Program shall submit a draft plan to the Regional Water Board Executive Officer.	No later than 18 months after the date this Order is adopted.	This provides a reasonable amount of time to complete the plan but also ensure effective monitoring during the term of this Order.
VI.C.6.a.i	Permittees in each Watershed Management Area shall implement an adaptive management process adapting the Watershed Management Program to become more effective.	At least twice during the permit term.	This encourages application of the iterative approach.
VI.C.6.b.i	Permittees in the Watershed Management Area shall implement the adaptive management process with regard to its jurisdictional storm water management program to improve its effectiveness.	At least annually.	This encourages application of the iterative approach.
Special Provisions: Minimum Control Measures			
VI.D.2.a.i	Progressive Enforcement and Interagency Coordination – In the event that a Permittee determines that a facility or site operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement which shall include a follow-up inspection.	Follow-up inspection within 4 weeks from the date of the initial inspection and/or investigation.	This is consistent with the current LA MS4 permit.
VI.D.2.b	Progressive Enforcement and interagency Coordination – Each Permittee shall initiate investigation of complaints from facilities within its jurisdiction.	Initiate investigation within one business day of complaint.	This is consistent with Order No. 01-182.
VI.D.5.b.ii	Public Information and Participation Program – If participating in a County-wide or Watershed Group PIPP, provide contact information for their appropriate staff responsible for storm water public education activities to the designated PIPP coordinator and contact information changes.	No later than 30 days after a change occurs.	This is consistent with Order No. 01-182 for contact changes, which directs contact changes be sent to Los Angeles County by May 1, 2002. However, with the elimination of the Principal Permittee in this Order, it is more appropriate to direct any contact information changes directly to the PIPP coordinator.
VI.D.6.b.iii	Industrial/Commercial Business Program – Each Permittee shall update its inventory of critical sources.	Update at least annually.	Business turn-over can be significant thus an active inventory is required.
VI.D.6.c.i	Industrial/Commercial Business	Notify at least once	This is required so that the

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	Program – Each Permittee shall notify the owner/operator of each of its inventoried commercial and industrial sites identified in Part VI.D.5.b of this Order of the BMP requirements applicable.	during the five-year period of this Order.	owner/operator remains informed and vigilant about BMP implementation.
VI.D.6.d.i	Industrial/Commercial Business Program – Each Permittee shall inspect all commercial facilities identified in Part VI.D.5.b of this Order twice during the 5-year term of this Order with a minimum interval of 6 months between the first and second mandatory compliance inspection required.	Provided that the first mandatory compliance inspection occurs no later than 2 years after the date this Order is adopted.	Order No. 01-182 required initial implementation by August 2004 (or a little over 2.5 years), however the 2 year requirement contained in this Order is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.
VI.D.6.e.i.(1)	Industrial/Commercial Business Program – Each Permittee shall perform an initial compliance inspection of all industrial facilities identified in Part VI.D.5.b.of this Order	No later than 2 years after the date this Order is adopted.	Order No. 01-182 required initial implementation by August 2004 (or a little over 2.5 years). However, the 2 year requirement contained in this Order is considered reasonable and the earliest practicable deadline to ensure the protection of water quality.
VI.D.6.e.i.(2)	Industrial/Commercial Business Program – Each Permittee shall review the State Water Board's Storm Water Multiple Application and Report Tracking System (SMARTS) database at defined intervals to determine if an industrial facility has been recently inspected by the Regional Water Board. The Permittee does not need to inspect the facility if it is determined that the Regional Water Board conducted an inspection of the facility within the prior 24 month period.	The first interval shall occur approximately 2 years after the date this Order is adopted. The second interval shall occur approximately 4 years after the date this Order is adopted.	This specific requirement for inspecting facilities within certain intervals is a new requirement, but is considered consistent with Order No. 01-182.
VI.D.6.e.i.(3)	Industrial/Commercial Business Program – Each Permittee shall evaluate its inventory of industrial facilities and perform a second mandatory compliance inspection at a minimum of 25% of the facilities identified to have filed a No Exposure Certification.	Approximately 3 to 4 years after the date this Order is adopted.	This is consistent Order No. 01-182.
VI.D.7.c.iii.(5).(f)	Planning and Land Development Program – Each Permittee shall develop a schedule for the completion of offsite projects, including milestone dates to identify, fund, design, and construct the projects.	Offsite projects shall be completed as soon as possible, and at the latest within 4 years of the certificate of occupancy for the first project that contributed funds toward the construction of the	This requirement is consistent with the provisions contained in the Ventura County Redevelopment Project Area Master Plan (RPAMP).

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
		offsite project.	
VI.D.7.d.iv.(1).(c)	Planning and Land Development Program – Each Permittee shall maintain a database providing key information for each new development/re-development subject to the requirements of Part VI.D.6 of this Order.	Each Permittee shall implement a tracking system and an inspection and enforcement program for new development and redevelopment post-construction storm water no later than 60 days after Order adoption date.	Effectiveness tracking of the treatment system is warranted and will also help to ensure adequate maintenance.
VI.D.7.d.i	Planning and Land Development Program – A local LID ordinance that fully incorporated the applicable requirements of this Order shall be submitted to the Executive Officer of the Regional Water Board for approval.	Within 180 days after the date this Order is adopted.	The requirement is deemed acceptable due to the large number of existing LID ordinances within the Permittees and the varied number of templates available nationally.
VI.D.7.d.iii.(1).(a).(ii)	Planning and Land Development Program – Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection.	At least once a year.	This is consistent with the current Ventura County MS4 permit.
VI.D.7.d.iv	Planning and Land Development Program – Each Permittee shall implement a tracking system and an inspection and enforcement program from new development and redevelopment post-construction storm water BMPs.	No later than 60 days after the date this Order is adopted.	A tracking system is deemed critical to the success of this MCM. Additionally, a tracking system need not be complex and can, and has, been developed using spreadsheets or equivalent.
VI.D.7.d.iv.(1).(c).(ii)	Planning and Land Development Program – Inspection of post-construction BMPs to assess operation conditions with particular attention to criteria and procedures for post-construction treatment control and hydromodification control BMP repair, replacement, or re-vegetation.	Inspection at least once every 2 years after project completion.	This is consistent with the current Ventura County MS4 permit.
VI.D.8.j.ii.(1)	Development Construction Program – Inspect public and private construction sites 1 acre or larger that discharge to a tributary listed by the state as an impaired water for sediment or turbidity under CWA § 303(d).	When two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA, within 48 hours of a ½-inch rain event, and at least once every two weeks.	This requirement is consistent with the current State Water Board's General NPDES Construction Permit Requirements.
VI.D.8.j.ii.(1)	Development Construction Program – Inspect public and private construction sites 1 acre or larger determined to be a significant threat to water quality.	When two or more consecutive days with greater than 50% chance of rainfall are predicted by NOAA, within 48 hours of	This requirement is consistent with the current State Water Board's General NPDES Construction Permit

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
		a ½-inch rain event, and at least once every two weeks.	Requirements.
VI.D.8.j.ii.(1)	Development Construction Program – Inspect public and private construction sites 1 acre or larger that do not meet other criteria in Part VI.D.7.j.ii.(1) of this Order.	At least monthly.	This requirement is consistent with the current General Construction Permit Requirements.
VI.D.9.c.iii	Public Agency Activities Program – Each Permittee shall update its facility inventory.	At least once during the term of this Order.	This requirement is deemed reasonable because site conditions can change at existing facilities.
VI.D.9.h.iii.(2)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall inspect Priority A catch basins.	A minimum of 3 times during the wet season (October 1 through April 15) and once during the dry season every year.	This is consistent with Order No. 01-182.
VI.D.9.h.iii.(2)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall inspect Priority B catch basins.	A minimum of once during the wet season and once during the dry season every year.	This is consistent with Order No. 01-182.
VI.D.9.h.iii.(2)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall inspect Priority C catch basins.	A minimum of once per year.	This is consistent with Order No. 01-182.
VI.D.9.h.iv.(1).(c)	Public Agency Activities Program – Provide clean out of catch basins, trash receptacles, and grounds in the event area.	Within one business day subsequent to the event.	This is consistent with the current Ventura County MS4 permit.
VI.D.8.h.vi.(2)	Public Agency Activities Program – Each Permittee shall inspect the legibility of the stencil or label nearest each inlet.	Prior to the wet season every year.	This is consistent with Order No. 01-182.
VI.D.9.h.vi.(3)	Public Agency Activities Program – Each Permittee shall record all catch basins with illegible stencils and re-stencil or re-label.	Within 180 days of inspection.	This is consistent with Order No. 01-182.
VI.D.9.h.vii.(1)	Public Agency Activities Program – In areas that are not subject to a trash TMDL, each Permittee shall install trash excluders, or equivalent devices, on or in catch basins or outfalls, except at sites where the application of such BMPs alone will cause flooding.	No later than 4 years after the date this Order is adopted in areas specified as Priority A.	This is based on the current Ventura County MS4 permit, but due to the significant number of catch basins in Los Angeles County compared to Ventura County the time frame was lengthened.
VI.D.9.h.viii.(1)	Public Agency Activities Program – Visual monitoring of Permittee-owned open channels and other drainage structures, including debris basins, for debris.	At least annually.	This is consistent with Order No. 01-182.
VI.D.9.h.viii.(2)	Public Agency Activities Program – Removal of trash and debris from open channels.	A minimum of once per year before the wet season.	This is consistent with Order No. 01-182.
VI.D.9.i.ii	Public Agency Activities Program –	Swept at least two times	This is consistent with

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	Each Permittee shall perform street sweeping of curbed streets for Priority A areas.	per month.	Order No. 01-182.
VI.D.9.i.ii	Public Agency Activities Program – Each Permittee shall perform street sweeping of curbed streets for Priority B areas.	Swept at least once per month.	This is consistent with Order No. 01-182.
VI.D.9.i.ii	Public Agency Activities Program – Each Permittee shall perform street sweeping of curbed streets for Priority C areas.	Swept as necessary but in no case less than once per year.	This is consistent with Order No. 01-182.
VI.D.9.i.iv.(1)	Public Agency Activities Program – Permittee-owned parking lots exposed to storm water shall be kept clear of debris and excessive oil buildup and cleaned.	No less than 2 times per month and/or inspected no less than 2 times per month to determine if cleaning is necessary. In no case shall a Permittee-owned parking lot be cleaned less than once a month.	This is consistent with Order No. 01-182.
VI.D.9.j.i.(2)	Public Agency Activities Program – Where the self-waiver has been invoked, the Permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implemented to reduce the threat to water quality.	No later than 30 business days after the situation of emergency has passed.	This is consistent with the current Ventura County MS4 permit.
VI.D.9.k.i	Public Agency Activities Program – Each Permittee shall train or ensure training of all of their employees and contractors in targeted positions on the requirements of the overall storm water management program.	No later than 1 year after the date this Order is adopted and annually thereafter before June 30.	Order No. 01-182 allowed for this to be initially completed by August 2002. However, since this implementation of this requirement is continuing from the previous LA MS4 permit, implementation within a year is considered reasonable and the earliest practicable period for implementation. This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.
VI.D.9.k.ii	Public Agency Activities Program – Each Permittee shall train all of their employees and contractors or ensure training for allwho use or have the potential to use pesticides or fertilizers.	No later than 1 year after the date this Order is adopted and annually thereafter before June 30.	This is consistent with the current Ventura County MS4 permit.
VI.D.10.b.ii	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee shall initiate investigation(s) to identify and	Within 72 hours of becoming aware of the illicit discharge.	Order No. 01-182 and the current Ventura County MS4 permit require illicit discharge investigations

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
	locate the source of an illicit discharge.		be initiated within 1 business day. However, the 72 hour requirement takes into account the possibility of weekend spills.
VI.D.10.b.iv.(2)	Illicit Connections and Illicit Discharges Elimination Program – If the source of the illicit discharge has been determined to originate within an upstream jurisdiction, the Permittee shall notify the upstream jurisdiction and the Regional Water Board.	Within 30 days of such determination.	This ensures the ID is addressed in a reasonable period of time by the upstream jurisdiction.
VI.D.10.b.v	Illicit Connections and Illicit Discharges Elimination Program – In the event the Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, the Permittee shall work with the Regional Water Board to provide a diversion of the entire flow to the sanitary sewer or provide treatment.	Notify the Regional Water Board within 30 days of such determination and provide a written plan for review and comment.	This ensures the Regional Water Board is effectively engaged in the ultimate disposition of ongoing illicit discharges.
VI.D.10.c.ii	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall initiate an investigation.	Initiate investigation within 21 days of discovery.	This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.
VI.D.10.c.iii.(2)	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee, upon confirmation of an illicit MS4 connection, shall ensure that the connection is eliminated.	Within 180 days of completion of the investigation.	This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.
VI.D.10.e.i.(2)	Illicit Connections and Illicit Discharges Elimination Program – Initiate investigation of all public and employee illicit discharge and spill complaints.	Within 1 business day of receiving the complaint.	This is consistent with Order No. 01-182 and the current Ventura County MS4 permit.
VI.D.10.e.i.(3)	Illicit Connections and Illicit Discharges Elimination Program – Response to spills for containment.	Within 4 hours of becoming aware of the spill, except where such spills occur on private property, in which case should be within 2 hours of gaining legal access to the property.	The requirement that spills be responded to within 4 hours of becoming aware of the spill, except where such spills occur on private property, in which case should be within 2 hours of gaining legal access to the property is the earliest practicable period for implementation and

REVISED TENTATIVE

Part Number	Requirement Summary	Timeframe	Basis for Timeframe
			ensures the protection of water quality.
VI.D.10.f.iv	Illicit Connections and Illicit Discharges Elimination Program – Each Permittee must create a list of applicable staff and contractors which require IC/ID training and ensure that training is provided.	At least twice during the term of this Order.	This requirement is new and twice during the term of this Order is considered reasonable and the earliest practicable period for implementation.
VI.D.10.f.v	Illicit Connections and Illicit Discharges Elimination Program – New Permittee staff members must be provided with IC/ID training.	Within 180 days of starting employment.	The current Ventura MS4 permit specifies that within 1 year all employees must be trained. However, the requirement that employees be trained within 180 days of starting employment is the earliest practicable period for implementation and ensures the protection of water quality.

REVISED TENTATIVE

2. Progressive Enforcement

Progressive enforcement is a series of defined and reproducible enforcement actions whereby consequences of non-compliance increase with each incremental enforcement steps. Progressive enforcement includes procedures to coordinate enforcement between the Regional Water Board and Permittees. As the Regional Water Board is the agency responsible for implementing the NPDES program, it has the authority to step in when enforcement actions of Permittee are unsuccessful in bringing dischargers into compliance with the permit. As such, progressive enforcement is an effective strategy to achieve timely compliance with permit requirements. Order No. 01-182 included requirements for a progressive enforcement strategy that are carried over to this Order, with some modifications. This Order includes supplemental documentation requirements for site acreage and Risk Factor rating, when making a referral to the Regional Water Board for MS4 permit non-compliance of a discharger under the construction general permit. This requirement is necessary information for the Regional Water Board consideration. Moreover, this Order eliminates the provision within Order No. 01-182 that allows the Regional Water Board and Permittees to form a storm water task force. This provision was removed because the ability for coordinated enforcement between the Regional Water Board and Permittees is adequately established through remaining provisions within Part VI.D.2 of this Order.

3. Modifications/Revisions

This Order requires each Permittee to modify its storm water management programs, protocols, practices, and municipal codes to be consistent with this Order. This provision is necessary to ensure that each Permittee takes all the steps necessary to update the core and ancillary programs that are required to ensure compliance with this Order. A significant change from Order No. 01-182 is that this

obligation now rests with each individual Permittee rather than the Principal Permittee.

4. Public Information and Participation Program

a. Legal Authority

NPDES regulation 40 CFR section 122.26(d)(2)(iv)(A)(6) provides that the proposed management program include "A description of a program to reduce to the maximum extent practicable, pollutants in discharges from MS4s associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications, and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities."

NPDES regulation 40 CFR section 122.26(d)(2)(iv)(B)(6) provides that the proposed management program include " A description of education activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials."

To satisfy the Public Education and Outreach minimum control measure, the Permittees need to implement a Public Information and Participation Program (PIPP) that has the following objectives: (1) measurably increase the knowledge of the target audiences about the MS4, the adverse impacts of storm water pollution of receiving waters and potential solutions to mitigate the impacts, (2) measurably change the waste disposal and storm water pollution generation behavior of target audiences by developing and encouraging implementation of appropriate activities, and (3) involve and engage a diversity of socio-economic groups and ethnic communities in Los Angeles County to participate in mitigating the impacts of storm water pollution.

b. Background

Implementation of a PIPP is a critical BMP and a necessary component of a storm water management program. The State Water Board Technical Advisory Committee "recognizes that education with an emphasis on pollution prevention is the fundamental basis for solving nonpoint source pollution problems." The USEPA Phase II Fact Sheet 2.3 (Fact Sheet 2.3) finds that "An informed and knowledgeable community is critical to the success of a storm water management program since it helps insure the following: (i) greater support for the program as the public gains a greater understanding of the reasons why it is necessary and important, and (ii) greater compliance with the program as the public becomes aware of the personal responsibilities expected of them and others in the community, including the individual actions they can take to protect or improve the quality of area waters."[31]

[31] Storm Water Phase II Final Rule - Public Education and Outreach Minimum Control Measure. USEPA Fact Sheet 2.3, January 2000.

Furthermore, the public can provide valuable input and assistance to a municipal storm water management program and, therefore, should play an active role in the development and implementation of the program. An active and involved community is essential to the success of a storm water management program because it allows for:

- Broader public support since residents who participate in the development and decision making process are partially responsible for the program and, therefore, are more likely to take an active role in its implementation;
- Shorter implementation schedules due to fewer obstacles in the form of public and legal challenges and increased sources in the form of residents volunteers;
- A broader base of expertise and economic benefits since the community can be a valuable, and free, intellectual resource; and
- A conduit to other programs as residents involved in the storm water program development process make important cross-connections and relationships with other community and government programs. This benefit is particularly valuable when trying to implement a storm water program on a watershed basis.

c. PIPP Implementation

It is generally more cost-effective to have numerous operators coordinate to use an existing program than each developing its own local programs. Therefore, Permittees are encouraged to participate in a County-wide PIPP or in one or more Watershed Group sponsored PIPPs supplemented with additional information specific to local needs.

Permittees are required to: (a) conduct storm water pollution prevention public service announcements and advertising campaigns; (b) provide public education materials on the proper handling or potential storm water pollutants; (c) distribute activity specific storm water pollution prevention public education materials to points of purchase; (d) maintain storm water websites or provide links to storm water websites via the Permittees website, which contain educational material and opportunities for the public to participate in storm water pollution prevention and clean-up activities; and (e) provide independent, parochial, and public schools within each Permittee's jurisdiction with materials, including, but not limited to videos, live presentations, and other information. Permittees are required to use effective strategies to educate and involve ethnic communities using culturally effective methods.

The intent of these changes is to provide an increase in public knowledge of storm water pollution prevention practices in an effective and cost efficient manner, while still providing flexibility for the Permittees to implement the requirements on a watershed group basis.

The Order requires outreach to ethnically diverse communities using culturally effective strategies. The USEPA, Tailoring Outreach Programs to Minority and Disadvantaged Communities and Children Fact Sheet finds that, "many residents of ethnically and culturally diverse communities don't speak English. English messages contained in public education outreach materials may not be effectively reaching a significant portion of some communities. The intent of this provision is to encourage behavior changes that reduce pollutants in storm water to a portion of the population who might otherwise be overlooked.

5. Industrial/Commercial Business Program

a. Legal Authority

The Phase I regulations require, in part, that the applicant: (i) develop adequate legal authority, (ii) perform a source identification, and (iii) develop a management program to reduce the discharge of pollutants to the MEP using management practices, control techniques and system design and engineering methods, and such other provisions which are appropriate. Specifically, with regards to industrial controls, the management plan shall include the following.

> "A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:
>
> **i.** Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges.
> **ii.** Describe a monitoring program for storm water discharges associated with industrial facilities […]"
>
> (40 CFR section 122.26(d)(2)(iv)(C))

The provisions contained in this Order pertaining to the inspection and facility control program requirements for industrial and commercial facilities, as well as construction sites (as discussed below in Part VI.7.b.) are also based on the requirements found in the previous permit, Order No. 01-182. Those requirements, among others, were the subject of litigation between several permittees and the Regional Water Board. In that case, the Los Angeles County Superior Court upheld the inspection and facility control program requirements for industrial/commercial facilities and construction sites in Order No. 01-182. The Court determined that "[t]he Permit contains reasonable inspection requirements for these types of facilities. [Citation.] The Permit requires each permittees to confirm that operators of these facilities have a current waste discharge identification number and is effectively implementing Best Management Practices (BMPs) in compliance with County and municipal

REVISED TENTATIVE

ordinances, Regional Board Resolution 90-08 and the Stormwater Quality Management Plans (SQMPs). [Citation.] Addressing pollution after it has entered the storm sewer system is not working to meet legislative goals. More work is required at the source of pollution, and that is partially the basis on which this Court finds that the Permit's inspection requirements are reasonable, and not onerous and burdensome." (*In re L.A. Cnty. Mun. Storm Water Permit Litig. (*(L.A. Super. Ct., No. BS 080548, Mar. 24, 2005), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 17.)

The Court also addressed the permittees' claims that the requirements in Order No. 01-182 shifted the Regional Water Board's inspection responsibility under State Water Board issued general NPDES permits for these types of facilities onto the local agencies. The Court disagreed, stating: "The Court agrees with [the Regional Water Board] and Intervenors that the United States EPA considered obligations under state-issued general permits to be separate and distinct. Despite the similarity between the general permits and the local storm water ordinances, both must be enforced. [Citations.] EPA requires permittees to conduct inspections of commercial and industrial facilities, as well as of construction sites. [Citation.].....This Court finds that the state-issued general permits do not preempt local enforcement of local storm water ordinances. (See State Board Order No. 99-08, [citation].) [¶] Therefore, this Court finds that requiring permittees to inspect commercial and industrial facilities and construction sites is authorized under the Clean Water Act, and both the Regional Board and the municipal permittees or the local government entities have concurrent roles in enforcing the industrial, construction and municipal permits. The Court finds that the Regional Board did not shift its inspection responsibilities to Petitioners. [¶] … The Court further notes that the Permit issued to local entities, who are Petitioners here, does not refer to any inspection obligations related to state-issued permits. [Citation.] There is no duplication of efforts and no shifting of inspection responsibility in derogation of the Regional Board's responsibility here. The Regional Board is not giving up its won responsibilities, and there is nothing arbitrary or capricious about the Permit's inspection provisions." (*Id*. at 17-18.)

It is also important to note that similar controls for industrial/commercial facilities and constriction sites, including inspection activities, required by this Order were also required in the 2002 San Bernardino County MS4 permit issued by the Santa Ana Regional Water Quality Control Board (Santa Ana Regional Water Board). Like Order No. 01-182, that permit was also subject to litigation. In that case, the City of Rancho Cucamonga claimed that the Santa Ana Regional Water Board improperly delegated to it and other permittees the inspection duties of the State and Regional Water Boards and that it was being required to conduct inspections for facilities covered by other state-issued general NPDES permits. (*City of Rancho Cucamonga v. Regional Water Quality Control Board- Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389.) Like the Los Angeles County Superior Court, the California Court of Appeal rejected this argument. The Court of Appeal upheld the Santa Ana Regional Water Board's requirements, finding that "Rancho Cucamonga and the other permittees are responsible for inspecting

construction and industrial sites and commercial facilities within their jurisdiction for compliance with and enforcement of local municipal ordinances and permits. But the Regional Board continues to be responsible under the 2002 NPDES permit for inspections under the general permits. The Regional Board may conduct its own inspections but permittees must still enforce their own laws at these sites. (40 C.F.R. § 122.26, subd. (d)(2) (2005).)" (*Id*. at 1390.)

b. Background

Municipalities are required to control the storm water discharges associated with industrial activities and other commercial facilities identified as significant contributors of pollutants through the implementation of a mandatory baseline minimum set of source control BMPs; performance of an inspection program to verify the adequacy of BMPs implementation in the field and compliance with the municipal ordinances; and assist the Regional Water Board in ensuring that industrial activities subject to regulations are covered by the general industrial stormwater permit. Regional Water Board will also assist the municipalities in case of instances of egregious non-compliance with the municipal ordinances and state and federal laws and regulations.

The municipality is ultimately responsible for discharges from the MS4. Because industrial awareness of the program may not be complete, there may be facilities within the MS4 area that should be permitted under an industrial storm water permit but are not (non-filers). In addition, the Phase I regulations that require industries to obtain permit coverage for storm water discharges is largely based on Standard Industry Classification (SIC) Code. This has been shown to be incomplete in identifying industries that may be significant sources of storm water pollution ("industries" includes commercial businesses). The word "industries" is used in a broad sense. Another concern is that the permitting authority may not have adequate resources to provide the necessary oversight of permitted facilities. Therefore, it is in the municipality's best interest to assess the specific situation and implement an industrial/commercial inspection/site visit and enforcement program to control the contribution of pollutants to the MS4 from all high risk sources.

In the preamble to the 1990 regulations, USEPA clearly states the intended strategy for discharges of storm water associated with industrial activity:

"…Municipal operators of large and medium municipal separate storm sewer systems are responsible for obtaining system-wide or area permits for their system's discharges. These permits are expected to require that controls be placed on storm water discharges associated with industrial activity which discharge through the municipal system." The USEPA also notes in the preamble that "… municipalities will be required to meet the terms of their permits related to industrial dischargers."

Similarly, in the USEPA's Guidance Manual (Chapter 3.0), USEPA specified that MS4 applicants must demonstrate that they possess adequate legal authority to:

REVISED TENTATIVE

i. Control construction site and other industrial discharges to MS4s;
ii. Prohibit illicit discharges and control spills and dumping;
iii. Carry out inspection, surveillance, and monitoring procedures.

The document goes on to explain that "control," in this context means not only to require disclosure of information, but also to limit, discourage, or terminate a storm water discharge to the MS4. Further, to satisfy its permit conditions, a municipality may need to impose additional requirements on discharges from permitted industrial facilities, as well as discharges from industrial facilities and construction sites not required to obtain permits.

In the same Guidance Manual (Chapter 6.3.3), USEPA states that the municipality is ultimately responsible for discharges from their MS4. Consequently, the MS4 applicant must describe how the municipality will help the USEPA and authorized NPDES States to:

i. Identify priority industries discharging to their systems;
ii. Review and evaluate storm water pollution prevention plans (SWPPPs) and other procedures that industrial facilities must develop under general or individual permits;
iii. Establish and implement BMPs to reduce pollutants from these industrial facilities (or require industry to implement them); and
iv. Inspect and monitor industrial facilities discharging storm water to the municipal systems to ensure these facilities are in compliance with their NPDES storm water permit, if required.

c. Industrial/Commercial Business Program Implementation

The requirements in this Order clarify the scope and frequency of inspections. For commercial facilities, in general, frequencies have been modified to require inspections of a facility twice during the five year permit tem provided that the first mandatory compliance inspection takes place no later than two years after the date this Order is adopted with a minimum interval of six months between the first and second inspection. The scope of the inspections for each of the facility types was clarified by specifying in tables what BMPs should be implemented at that facility to ensure that pollutant generating activity does not occur. The tables include a range of BMPs that are anticipated to be needed at select industrial and commercial facilities. The BMP categories are based on BMPs identified in the 2003 California Stormwater BMP Handbook, Industrial and Commercial as well as BMPs identified in Regional Water Board Resolution No. 98-08.

For industrial facilities, an initial mandatory compliance inspection must be completed at all industrial facilities no later than 2 years after the date this Order is adopted. If after the initial inspection, the facility was determined to as having exposure of industrial activities to storm water then the permit requires a second mandatory compliance inspection with a minimum interval of 6 months between the first and second mandatory compliance inspection. For facilities determined

not to have exposure of industrial activities to storm water during the initial inspection, Permittees must conduct second compliance inspections yearly at a minimum of 20% of the facilities.

A provision was added to the Order relieving Permittees of the responsibility to inspect industrial facilities that the Regional Water Board has inspected within the previous 24 months.

In regards to the level of inspection, this Order clarifies that the Permittees are expected to check during inspections for a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a SWPPP is available on site or that the owner/operator of the facility has applied for and has a current No Exposure Certification (and WDID number). In addition Permittees are expected to check during inspections for compliance with the implementation of minimum BMPs, as previously approved by Board Order 98-08, and compliance with the local storm water ordinances.

The inspection requirements in this Order provide greater clarification concerning the scope of enforcement. A progressive enforcement procedure was outlined including minimum steps that Permittees must take in their program to enforce their municipalities' storm water requirements. In recognition of some of the Permittees concerns regarding the resource intensive efforts needed to elevate enforcement actions, a mechanism was provided through which Permittees can refer cases to the Regional Water Board, and for violations of the State Water Board's General Industrial Activities Storm Water NPDES permit, the referral can be expedited, referral can occur after a single inspection and one written notice rather than referral after two inspections and two written notices.

6. Planning and Land Development Program

a. Legal Authority

The permit application requirements described in 40 CFR section 122.26(d) have formed the basis for MS4 permits and remain applicable as elements in a storm water management program. ~~40 CFR section~~ Section 122.26(d)(2)(iv)~~,~~ requires in part, that the large and medium MS4 ~~system~~ applicant develop a management ~~plan~~program. Specifically, with regards to planning and land development and post-construction controls, the management ~~plan~~ program shall include the following:

"(A) A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

REVISED TENTATIVE

(1) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

(2) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed.

(3) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems

(4) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible."

b. Background

Land development and urbanization have been linked to the impairment of aquatic life beneficial uses in numerous studies. Poorly planned new developments and re-development have the potential to impact the hydrology of the watershed and the water quality of the surface waters. Development without proper controls, often result in increased soil compaction, changes in vegetation and increased impervious surfaces. These conditions may lead to a reduction in groundwater recharge and changes in the flow regime of the surface water drainages. Historically, urban development has resulted in increased peak stream flows and flow duration, reduced base flows, and increased water temperatures. Pollutant loading in storm water runoff often increases due to post-construction use and because the storm water runoff is directly connected to the storm drain system or to the surface water body, without the benefit of filtration through soil and vegetation.

In a natural water body (i.e., a water body that has not been armored for flood control or channel stability), increased peak flows and flow duration can cause stream bank erosion, changes in channel geomorphology and bed sediment composition and stability.

When development infringes upon natural riparian buffers, the additional impacts may include further stream bank instability, increased nitrogen loadings to the water body—which would have been intercepted by native riparian vegetation, loss of shading resulting in further increase in water temperature, and a loss of woody debris and leaf litter, which provide food and habitat for some aquatic species.

Low Impact Development (LID) strategies are designed to retain storm water runoff on-site by minimizing soil compaction and impervious surfaces, and by disconnecting storm water runoff from conveyances to the storm drain system. This Order establishes criteria for the volume of storm water to be retained on-site as required to meet water quality goals and to preserve pre-development hydrology in natural drainage systems.

Monitoring studies conducted by the California Department of Public Health (CDPH) have documented that mosquitoes opportunistically breed in structural storm water Best Management Practices (BMPs), particularly those that hold standing water for over 96 hours. Certain Low Impact Development (LID) site design measures that hold standing water such as rainwater capture systems may similarly produce mosquitoes. BMPs and LID design features should incorporate design, construction, and maintenance principles to promote drainage within 96 hours to minimize standing water available to mosquitoes. This Order requires regulated MS4 Permittees to coordinate with other agencies necessary to successfully implement the provisions of this Order. These agencies may include CDPH and local mosquito and vector control agencies on vector-related issues surrounding implementation of post-construction BMPs.

This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Public Health or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. and Water Quality Order No. 2012-0003-DWQ.

In California, hydromodification studies have focused on the erosive effects of storm water runoff flows and the resulting changes in geomorphology and bed sediment. As described in Hawley ~~et al.~~(2011), southern California streams may be especially susceptible to geomorphic changes due to steep topography, flashy flow regimes, high sediment loads and largely non-resistant stream bed material.[32] This recent study assessed the impact of urbanization on peak flow and the duration of lower flows capable of moving bed sediment. The results of the study showed that, urbanization resulted in proportionally-longer durations of all geomorphically-effective flows, with a more pronounced effect on the durations of low to moderate flows.

A study performed by United States Geological Survey (USGS) researchers at nine different metropolitan areas within the United States, found that adverse impacts to macroinvertebrate benthic communities were observed in drainages with 5 percent impervious area.[33] The authors concluded that there appears to be no percent impervious area threshold below which benthic communities are not adversely impacted

The Grand River (lower) Surrogate Flow Regime Total Maximum Daily Load (TMDL), prepared for the Ohio Environmental Protection Agency (OEPA),

[32] Hawley, Robert J. 2011. The effects of urbanization on the hydrologic stability of small streams in southern California.
[33] Cuffney, T.F., Brightbill, R.A., May, J.T., and Waite, I.R. 2010. Responses of benthic macroinvertebrates to environmental changes associated with urbanization in nine metropolitan areas. *Ecological Applications* 20(5):1384-1401.

examined the impacts of impervious cover and flow regime changes on aquatic life beneficial uses.[34] The TMDL was approved by USEPA on April 12, 2012. The TMDL analysis showed that aquatic community health (as measured by biological indices) decreased as impervious cover increased. Flow alteration and impervious cover were determined to be the stressors impairing aquatic life. Riparian buffers were identified as a mitigating factor. Peak flow, runoff volume, and flashiness were considered as surrogates. However, for this watershed, flow regime was selected because it addresses the full spectrum of flow conditions (i.e., peak flow and flow duration and base flow). In this watershed, low flow and increased water temperature presented a threat to cold-water fish species. Increased peak flow and flow duration were linked to impairment of aquatic life beneficial uses due to increased pollutant loading and the impact of channel scouring. A flow duration curve was developed for a reference watershed, based on unit area to allow for comparison of varying-sized streams. The criteria for selecting the reference watershed were: (1) the water body was fully supporting aquatic life beneficial uses, (2) location (ecoregion), (3) size (4) land cover (5) riparian buffer and (6) soils. The flow regime TMDL compares flow duration curves for the impaired stream and the reference stream. The TMDL is expressed as the difference between the impaired stream's flow and the reference stream's flow during all flow conditions. The TMDL report recommends protection strategy numeric targets of no more than 6 percent EIA with a forested (70 percent coverage) riparian buffer of 100 feet from the top of each stream bank (200 feet total).

In Los Angeles County, development has infringed upon or eliminated natural riparian buffers and existing development exceeds recommended percent impervious area in many watersheds. In addition, many water bodies have been armored or converted to engineered channels to manage flood hazards. Because of the hydrologic differences between engineered channels and natural water bodies, the Regional Water Board approaches each situation differently. Where development occurs in drainages to water bodies that have been converted to engineered channels, the Regional Water Board's regulatory approach is designed to reduce storm water runoff -- the most effective method for reducing pollutant loading. Alternatively, where development occurs in drainages to natural water bodies, the Regional Water Board regulatory approach aims to reduce pollutant loading conveyed by storm water runoff and to preserve or restore the pre-development hydrology. As a result of past development, it is likely that retrofitting of existing development will be necessary to restore watershed hydrology to pre-development conditions.

c. Applicability

New development and re-development projects subject to these requirements are described in Part VI.D.~~6~~7.b. of this Order. Although not defined for large and medium MS4s, 40 CFR section 122.34 requires programs for small MS4s to

[34] Ohio Environmental Protection Agency. Total Maximum Daily Loads for the Grand River (lower) Watershed. Draft Report. October 12, 2011.

include all projects that disturb an area equal to or greater than 1 acre of land and add more than 10,000 square feet of impervious surface area. The list of new development projects subject to requirements, specified in this Order in Parts VI.D.1.c.i(1)(a) through (k) were either carried over from Order No. 01-182 or were developed for the Ventura County MS4 and are appropriate for defining new developments and redevelopments in this Order. Clarification is provided for developments in progress during formulation of this Order (Part VI.D.c.i(1)(4)).

New development/re-development projects are subject to either the Water Quality/Flow Reduction Resource Management Criteria in Part VI.D.~~6~~7.c.i or potentially more stringent Hydromodification (Flow/ Volume/ Duration) Control Criteria. Note that hydromodification controls apply only to projects that drain to a natural water body that is a stream, creek or a river. Hydromodification controls do not apply to discharges to lakes, estuaries, or to the ocean, which are not susceptible to channel erosion.

i. **Integrated Water Quality/ Flow Reduction /Resources Management Criteria (Part VI.D.~~6~~7.c.i).** Projects located in drainages to water bodies that are now engineered channels are subject to Integrated Water Quality/Flow Reduction/Resources Management Criteria. These projects must be designed to minimize the footprint of the impervious area and to use low impact development (LID) strategies to disconnect the runoff from impervious area. The project must be designed to retain on-site the storm water runoff equal to the storm water quality design volume (SWQDv), unless it is determined that it is technically infeasible or there is an opportunity to contribute to an off-site regional ground water replenishment project.

   The SWQDv is defined as the storm water runoff resulting from either:

   - the 0.75 inch per 24 hour storm or
   - the 85th percentile storm as defined in the Los Angeles County 85th percentile, 24-hour storm isohyetal map, whichever is greater.

   This Order establishes a minimum design volume based on the 0.75 inch, 24-hour storm event as defined in the previous Los Angeles County MS4 permit (Order No. 01-182). This requirement is to prevent backsliding from the previous Order. The 85th percentile storm is the design storm used throughout most of the State of California for storm water treatment and LID BMPs designed for water quality protection.

   Using detailed local rainfall data, the County of Los Angeles Hydrologist has developed the 85th percentile storm event isohyetal map, which exhibits the size of the 85th percentile storm event throughout Los Angeles County. Since this map uses detailed local rainfall data, it is more accurate for calculating the 85th percentile storm event than other methods which were included in Order No. 01-182. The other methods found in Order No. 01-182 were included as options to be used in the event that detailed accurate rainfall data

REVISED TENTATIVE

did not exist for various locations within Los Angeles County. Therefore, they have not been carried over into this Order.

Storm water runoff may be retained on-site by methods designed to intercept rain water via infiltration, bioretention, and harvest and use. Examples of LID Best Management Practices (BMPs) that may be employed to meet the storm water retention requirements include rain gardens, bioswales, pervious pavement, green roofs, and rainwater harvesting for use in landscape irrigation.

ii. Alternative Compliance for Technical Infeasibility or ~~Opportunity~~Opportunity for Regional Ground Water Replenishment (Part VI.D.~~6~~7.c.ii). This Order defines conditions that may make on-site retention of the SWQDv technically infeasible. These conditions include measures to:

- Ensure that on-site soils (*in-situ* or amended) have adequate infiltration rates for successful operation of infiltration BMPs,
- Protect groundwater and drinking water wells from contamination,
- Prevent infiltration that might exacerbate potential geotechnical hazards,
- Accommodate smart growth and infill or redevelopment.

A determination that compliance with the Integrated Water Quality/Flow Reduction/Resources Management Criteria is technically infeasible at the New Development/Re-development project site must be based on a site-specific hydrologic assessment or design analysis conducted and endorsed by a registered professional engineer, geologist, architect or landscape architect. This requirement is the same as contained in the Ventura County MS4 permit, and is necessary to ensure that a competent determination is conducted.

The criteria for technical infeasibility contained in Part VI.D.~~6~~7.c.ii(2)(a) is necessary to ensure that the *in-situ* soil has adequate permeability to accommodate infiltration, and to ensure against premature failure of infiltration BMPs. A minimum infiltration rate of 0.3 inches per hour under saturated conditions is specified for infiltration BMPs (e.g., dry well, pervious pavement). Infiltration BMPs are restricted to Hydrologic Soil Groups A and B, by other California storm water regulatory agencies. For example, the Contra Costa County Program's Stormwater LID Design Guidebook prohibits routing storm water runoff to a dry (infiltration) well, developed in Hydrologic Soil Groups C and D[35]. Infiltration rates for the lower permeability B soil group ranges between 0.30 and 0.15 inches per

[35] Contra Costa County Clean Water Program. 2010. Stormwater C.3 Guidebook, Stormwater Quality Requirements for Development Applications. Fifth Ed. October 20, 2010. p. 18. < www.cccleanwater.org>.

hour (USEPA, 2009, Appendix A)[36]. This criterion is specified to ensure the viability of infiltration systems, which may be depended upon to meet the storm water design volume criteria.

Infiltration BMPs are distinguished from bioretention BMPs, which may be implemented in all soils types. Bioretention BMPs are constructed using a manufactured/imported media that must meet strict specifications. The media specification for bioretention facilities is the same as specified for biofiltration systems. The difference between bioretention and biofiltration is that biofiltration systems are designed with an underdrain, which may allow for the discharge of a significant portion of the design storm volume, as described below under Alternative Compliance Measures. Bioretention BMPs may not include an underdrain.

The criteria for determining Technical Infeasibility described in Part VI.D.~~6~~7.c.ii.(2)(b)-(f) are the same as contained in the Ventura County MS4 permit , except that (2)(b) "locations where seasonal high ground water is *within 5 feet of the surface*", was expanded to~~"~~ "5 to 10 feet" of the surface, to be consistent with local LID Manuals developed by the City of Santa Monica and the City of Los Angeles.

iii. Alternative Compliance Measures (Part VI.D.~~6~~7.c.iii.). This Order provides equally weighted alternatives to on-site retention of the SWQDv. One alternative is to employ infiltration at off-site locations, including regional groundwater replenishment projects. The Regional Water Board has included the alternative for regional ground water replenishment in recognition of the multiple benefits it can provide. In addition to providing similar water quality benefits as compared to on-site retention, analysis by NRDC and UCSB found that implementing low impact development practices that emphasize retention at new and redeveloped residential and commercial properties in the urbanized areas of southern California and limited portions of the San Francisco Bay area has the potential to increase local water supplies by up to 405,000 acre-feet of water per year by 2030. This volume represents roughly two-thirds of the volume of water used by the entire City of Los Angeles each year. In addition, the same study notes potential energy savings and reductions in CO_2 emissions.[37]

~~iii.~~ In an effort to promote retrofitting of existing development, alternative compliance measures may include the use of infiltration, bioretention, rainfall harvest and/or biofiltration at an existing development with similar land uses and where storm water runoff is expected to exhibit pollutant event mean concentrations (EMCs) that are comparable to or higher than the proposed new development re-development project. As another

[36] USEPA. 2009. (United States Environmental Protection Agency). Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy and Independence and Security Act. Office of Water. December 2009.

[37] NRDC Technical Report. A Clear Blue Future: How Greening California Cities Can Address Water Resources and Climate Change in the 21st Century. August 2009.

alternative the project proponent may comply with the Integrated Water Quality/Flow Reduction/Resources Management Criteria using biofiltration on the project site. The volume of storm water to be treated with biofiltration is 1.5 times the difference between the SWQDv and the volume of storm water runoff that can be reliably retained on the project site. The 1.5 multiplier is based on the finding in the *Ventura County Technical Guidance Manual* that biofiltration of 1.5 times the design volume will provide approximately the same pollutant removal as retention of the design volume on an annual basis.[38]

The volume of storm water runoff to be intercepted at an off-site mitigation project is equal to the difference between the SWQDv and the volume of storm water runoff that can be *reliably retained* on the project site. The estimate of the volume that can be reliably retained on-site shall be based on conservative assumptions including permeability of soils under saturated conditions. When rainfall harvest and use is linked to irrigation demand, the demand shall be estimated based on conditions that exist during the wet weather, winter season.

Mitigation at off-site projects shall be designed to provide equal or greater water quality protection to the surface waters within the same subwatershed as the proposed project. Preferably, the mitigation site will be located within the same Hydrologic Unit Code (HUC)-12 drainage area as the proposed new development or re-development. However, the mitigation project may be located within the expanded HUC-10 drainage area, if approved by the Executive Officer of the Regional Water Board.

As described in the *Ventura County Technical Guidance Manual*, a biofiltration system as defined in this Order, including Attachment H, allows for incidental interception of approximately 40 percent of the treatment volume and treatment of the remaining volume through filtration, and aerobic and anaerobic degradation. The effectiveness of the biofiltration system is greatly impacted by the volume of storm water runoff that is intercepted through incidental infiltration. For this reason, biofiltration as defined in this Order, does not include flow-through planter box or vault type systems with impervious bottom layers, unless Executive Officer approval is obtained. In addition, biofiltration systems as defined in this Order, must meet the specifications for drain placement and planting media provided in Attachment L if they are to be credited as meeting the water quality/flow reduction requirements of the Alternative Compliance Measures of this Order, unless Executive Officer approval is obtained. Attachment H provides a compilation of recent information contained in the Contra Costa County C3 Guidebook and Order R2-2011-083, adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 28, 2011. These specifications are based on

[38] Ventura Countywide Stormwater Management Program. 2011. Ventura Technical Guidance Manual, Manual Update, 2011. Appendix D. July 13, 2011.

experiences in the San Francisco Bay Region and are designed to ensure optimum pollutant removal and to prevent premature failure of infiltration components of the biofiltration system.

iv. **Water Quality Mitigation Criteria (Part VI.D.~~6~~7.c.~~iv~~iii.(7).)** When off-site mitigation is performed, the storm water runoff from the project site must be treated prior to discharge. Volume-based treatment BMPs are to be sized to treat the runoff from the 85th percentile, 24-hour storm event, as described above for storm water retention BMPs. Flow through treatment BMPs are to be sized based on a rainfall intensity of 0.2 inches per hour or the one year, one-hour rainfall intensity as determined from the Los Angeles County isohyetal map, whichever is greater. A minimum flow design of 0.2 inches per hour is consistent with Order No. 01-182 and is included to prevent back sliding. The one year, one-hour rainfall intensity is the flow requirement specified in the Los Angeles River Trash Total Maximum Daily Loads (TMDL) and other Trash TMDLs established in the Region. The Los Angeles County isohyetal map of the one-year, one-hour storm intensity provides an accurate measure of variable storm intensity throughout the County. The one-year, one-hour rain intensity within the County ranges from approximately 0.2 inch/hour to 1.1 inches per hour.

v. **Hydromodification (Flow/ Volume/ Duration Control Criteria (Part VI.D.~~6~~7.iv.).** New development/re-development projects located in a drainage to a natural stream/creek/river water body shall be required to meet the water quality/flow reduction criteria and/or hydromodification control criteria, whichever are more stringent. (Hydromodification controls do not apply to discharges to lakes, estuaries or to the Pacific Ocean as these types of water bodies are not susceptible to hydromodification impacts.) This Order provides Hydromodification Control Criteria to be employed. The purpose of the hydromodification controls is to preserve or restore pre-development hydrology.

Part VI.D.~~6~~7.iv.(b) of this Order describes New Development/Re-development projects that are exempted from hydromodification controls. These projects include maintenance and replacement activities and other projects that do not increase EIA within the subwatershed and therefore are not expected to add to the hydromodification effects. Also exempted are projects located within drainages to waterbodies that are not susceptible to channel erosion or other hydromodification effects.

This Order offers four options for meeting the hydromodification controls for projects that will disturb greater than 1 acre but less than 50 acres:

REVISED TENTATIVE

- The project is designed to retain the storm water runoff from the 95th percentile, 24-hour-hour storm. This criterion is based on the recommendations from the USEPA's *Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act* (USEPA, 2009).
- The runoff flow rate, volume, velocity and duration does not exceed the pre-development condition for the 2-year, 24-hour rainfall event. Research has determined that the maximum point of the effective work curve occurs in the 1 to 2-year frequency (Leopold, 1964, as cited in the South Orange County Hydromodification Plan, 2011)[39]. Furthermore, the effects of development are greatest during smaller storm events. Under natural conditions, the storm water runoff from smaller storms would have been largely intercepted by vegetation, canopy, infiltration and/or evapotranspiration. During large storms, the soils become saturated and runoff occurs even under natural conditions.
- The Erosion Potential (Ep) in the receiving water channel will approximate 1, as determined by the Hydromodification Analysis Study and the Equation presented in Attachment J. This provision is the same as the requirement in the Ventura County MS4 permit (Order No. R4-2010-0108). By maintaining an Ep of approximately 1, the bed sediment of the channel is in an equilibrium state. Alternatively, Permittees can opt to use other work equations to calculate Erosion Potential with Executive Officer approval.
    - Permittees may also satisfy the requirement for Hydromodification Controls by implementing the hydromodification requirements in the County of Los Angeles Low Impact Development Manual (2009) for all projects disturbing an area greater than 1 acre within natural drainage systems.

For projects disturbing more than 50 acres, compliance with the controls may be achieved by similar means. However, the plans must be supported by more comprehensive hydrologic modeling. The final Subwatershed Hydromodification Plan must be completed within one year after the effective date of the Order.

The elements of the Subwatershed Hydromodification Plan are:

- Screening to assess which subwatersheds exhibit changes in geomorphology.
- Identify natural drainage systems within the subwatershed that are susceptible to hydromodification impacts,

[39] South Orange County. 2011. South Orange County Hydromodification Management Plan. < http://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/docs/oc_permit/updates_031212/South_Orange_County%20HMP.pdf > Accessed April 25, 2012.

- Identify areas critical to the hydrology (e.g., groundwater recharge areas, riparian buffers and wetlands) of the subwatershed and identify potential protection strategies for such areas,
- Conduct or access bioassessment monitoring data to assess whether aquatic life uses are being fully supported,
- Prepare preliminary protection strategies for subwatersheds that are fully supporting aquatic life beneficial uses,
- Prepare preliminary retrofit strategies for subwatersheds that exhibit the effects of hydromodification and are not fully supporting aquatic life beneficial uses,
- Identify candidate reference sub-watersheds that are supporting aquatic life beneficial uses and develop a flow duration curve that may serve as a standard for flow duration controls in water bodies that have aquatic life impairments linked to changes in the flow regime. This approach is as described in the recently approved OEPA, Grand River (lower) Flow Regime TMDL.

7. Development and Construction Program

a. Introduction

Soil disturbing activities during construction and demolition exacerbate sediment losses. Sediment is a primary pollutant impacting beneficial uses of watercourses. Sediments, and other construction activity pollutants must be properly controlled to reduce or eliminate adverse impacts.

b. Legal Authority

40 CFR section 122.34(b)(4) states that with respect to construction site storm water runoff control for small MS4s, which is analogous to that for large MS4s:

> "(i) [the permittee] must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the NPDES permitting authority waives requirements for storm water discharges associated with small construction activity in accordance with § 122.26(b)(15)(i), you are not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites. (ii) Your program must include the development and implementation of, at a minimum: (A) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, Tribal, or local law; (B) Requirements for construction site operators to implement

REVISED TENTATIVE

> appropriate erosion and sediment control best management practices; (C) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; (D) Procedures for site plan review which incorporate consideration of potential water quality impacts; (E) Procedures for receipt and consideration of information submitted by the public, and (F) Procedures for site inspection and enforcement of control measures."

The inspection requirements for construction sites contained in this Order are also based on the requirements found in Order No. 01-182. As noted above in Part VI.C.5.a, the inspection requirements contained in Order No. 01-182 for construction sites were the subject of litigation between several permittees and the Regional Water Board. As provided in more detail above, the Los Angeles County Superior Court upheld the inspection requirements for industrial/commercial facilities and construction sites in Order No. 01-182, finding that the "[t]he Permit contains reasonable inspection requirements for these types of facilities." (*In re L.A. Cnty. Mun. Storm Water Permit Litig.* (L.A. Super. Ct., No. BS 080548, Mar. 24, 2005), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 17.) As also noted above, the Superior Court also rejected the permittees' claims that the requirements in Order No. 01-182 shifted the Regional Water Board's inspection responsibility under State Water Board issued general NPDES permits for these types of facilities onto the local agencies, finding that "[r]equiring permittees to inspect commercial and industrial facilities and construction sites is authorized under the Clean Water Act, and both the Regional Board and the municipal permittees or the local government entities have concurrent roles in enforcing the industrial, construction and municipal permits. The Court finds that the Regional Board did not shift its inspection responsibilities to Petitioners." (*Id.* at 17-18.)

As previously noted for inspections of commercial/industrial facilities, the California Court of Appeal also rejected arguments pertaining to similar inspection requirements for construction sites prescribed by the Santa Ana Regional Water Board. (*City of Rancho Cucamonga v. Regional Water Quality Control Board- Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389.) In that case, the City of Rancho Cucamonga claimed that the Santa Ana Regional Water Board improperly delegated to it and other permittees the inspection duties of the State and Regional Water Boards and that it was being required to conduct inspections for facilities covered by other state-issued general NPDES permits. The Court of Appeal upheld the Santa Ana Regional Water Board's requirements, finding that "Rancho Cucamonga and the other permittees are responsible for inspecting construction and industrial sites and commercial facilities within their jurisdiction for compliance with and enforcement of local municipal ordinances and permits. But the Regional Board continues to be responsible under the 2002 NPDES permit for inspections under the general permits. The Regional Board may conduct its own inspections but permittees

must still enforce their own laws at these sites. (40 C.F.R. § 122.26, subd. (d)(2) (2005).)" (*Id.* at 1390.)

c. Construction Activity Applicability

Any construction or demolition activity, including, but not limited to, clearing, grading, grubbing, or excavation, or any other activity that results in a land disturbance of equal to or greater than one acre.

Construction activity that results in land surface disturbances of less than one acre if the construction activity is part of a larger common plan of development or sale of one or more acres of disturbed land surface.

Construction activity related to residential, commercial, or industrial development on lands currently used for agriculture including, but not limited to, the construction of buildings related to agriculture that are considered industrial pursuant to USEPA regulations, such as dairy barns or food processing facilities.

Construction activity associated with linear underground/overhead project (LUPs) including, but not limited to, those activities necessary for the installation of underground and overhead linear facilities (e.g., conduits, substructures, pipelines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities) and include, but are not limited to, underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation construction, substructure installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and/or pavement repair or replacement, and stockpile/borrow locations.

Discharges of sediment from construction activities associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities.

Storm water discharges from dredge spoil placement that occur outside of U.S. Army Corps of Engineers jurisdiction[40] (upland sites) and that disturb one or more acres of land surface from construction activity are covered by this General Permit. Construction projects that intend to disturb one or more acres of land within the jurisdictional boundaries of a CWA section 404 permit should contact the appropriate Regional Water Board to determine whether this permit applies to the project.

d. Development Construction Program Implementation

REVISED TENTATIVE

[40] A construction site that includes a dredge and/or fill discharge to any water of the United States (e.g., wetland, channel, pond, or marine water) requires a permit from the U.S. Army Corps of Engineers pursuant to CWA section 404 and a Water Quality Certification from the Regional Water Board or State Water Board pursuant to CWA section 401.

Permittees must implement a construction program that applies to all activities involving soil disturbance with the exception of agricultural activities. Minimum requirements have been established for construction activity less than one acre and for those activities equal or greater than one acre. Activities covered by the permit include but are not limited to grading, vegetation clearing, soil compaction, paving, re-paving, and LUPs. The construction program should be designed to: (1) prevent illicit construction-related discharges of pollutants into the MS4 and receiving waters; (2) implement and maintain structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites; (3) reduce construction site discharges of pollutants to the MS4 to the MEP; and (4) prevent construction site discharges to the MS4 from causing or contributing to a violation of water quality standards.

Each permittee shall use an site system to track grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by each permittee. To satisfy this requirement, the use of a database or GIS system is recommended.

For construction activity equal or greater than one acre, the Permittee must establish review procedures for construction site plans to determine potential water quality impacts and ensure the proposed controls are adequate. These procedures should include the preparation and submission of an Erosion and Sediment Control Plan (ESCP) containing elements of a Storm Water Pollution Prevention Plan (SWPPP) prior to issuance of a grading or building permit as well as a review of individual pre-construction site plans to ensure consistency with local sediment and erosion control requirements. The requirement that ESCP/SWPPPs must be developed by a Qualified SWPPP Developer (QSD) is new for this iteration of the permit. This requirement ensures the development of high quality ESCP/SWPPPs that protect water quality to the MEP.

A ESCP/SWPPP must be appropriate for the type and complexity of a project and will be developed and implemented to address project specific conditions. Some projects may have similarities or complexities, yet each project is unique in its progressive state that requires specific description and selection of BMPs needed to address all possible generated pollutants. The Permittee must ensure that construction site operators select and implement appropriate erosion and sediment control measures to reduce or eliminate the impacts to receiving waters. To help guide their Construction Program and ensure consistency regarding BMP selection, the Permit requires the Permittee to develop or adopt BMP standards for a range of construction related activities. The list of activities is based on California Stormwater Quality Association's (CASQA) Construction BMP handbook. The ESCP/SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the ESCP/SWPPP to the effect:

"As the architect/ engineer of record, I have selected, appropriate BMPs to effectively minimize the negative impact of the project's construction activities on

storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

The Permittee is responsible for conducting inspection and enforcement of erosion and sediment control measures at specified times and frequencies during construction including prior to land disturbance, during grading and land development, during streets and utilities activities, during vertical construction, and during final landscaping and site stabilization. The Permittees' Municipal Inspectors must be adequately trained and Permittees are encouraged to offer opportunities for inspectors to enroll in the State Water Board sponsored Qualified Storm Water Pollution Prevention Plan (SWPPP) Practitioner (QSP) certification program. A progressive enforcement policy has been integrated into this iteration of the permit to ensure that adequate penalties are in place and to ensure the protection of receiving water quality.

Prior to approving and/ or signing off for occupancy and issuing the Certificate of Occupancy for all construction projects subject to post-construction controls, each permittee shall inspect the constructed site design, source control and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and this Order. The initial/ acceptance BMP verification inspection does not constitute a maintenance and operation inspection.

The Permittee must ensure that staff has proper training. In addition, the Permittee must develop and distribute training and educational material and conduct outreach to the development community. To ensure that the construction program is followed, construction operators must be educated about site requirements for control measures, local storm water requirements, enforcement activities, and penalties for non-compliance.

8. Public Agency Activities Program

a. Background

Publically-owned or operated facilities serve as hubs of activity for a variety of municipal staff from many different departments. Some municipalities will have one property at which all activities take place (e.g., the municipal maintenance yard), whereas others will have several specialized facilities such as animal control facilities, chemical storage facilities, composting facilities, equipment storage and maintenance facilities, fueling facilities, hazardous waste disposal facilities, incinerators, landfills, materials storage yards, pesticide storage facilities, public buildings, public parking lots, public golf courses, public swimming pools, public parks, public marinas, recycling facilities, solid waste handling and transfer facilities, and flood control facilities.

b. Program Implementation

i. Public Construction Activities Management

The Permittee is required to implement BMPs and comply with the Planning and Land Development Program requirements in Part VI.D.6 of this Order and the Development Construction Program requirements in Part VI.D.7 of this Order at applicable Permittee-owned or operated (i.e., public or Permittee sponsored) construction projects. These requirements ensure that Permittee-owned or operated construction and development occurs in an equally protective manner as private development. The Permittee is also required to implement an effective combination of erosion and sediment control BMPs from Table 13 (see Construction Development Program, minimum BMPs) at those public sites that disturb less than one acre of soil. Last, the Permittee is required to obtain separate coverage under the State Water Board's Construction General NPDES Permit for all Permittee-owned or operated construction sites that require coverage.

ii. Public Facility Inventory

A comprehensive list of publically-owned or operated facilities will help staff responsible for storm water compliance build a better awareness of their locations within the MS4 service area and their potential to contribute storm water pollutants. The inventory should include information on the location, contact person at the facility, activities performed at the facility, and whether the facility is covered under an industrial general storm water permit or other individual or general NPDES permit, or any applicable waivers issued by the Regional or State Water Board pertaining to storm water discharges. Incorporation of GIS into the inventory is encouraged. The facility inventory should be updated at least twice during the permit term and will serve as a basis for setting up periodic facility assessments and developing, where necessary, facility storm water pollution prevention plans. By developing an inventory of Permittee-owned facilities that are potential sources of storm water pollution helps to ensure that these facilities are monitored and receiving water quality is protected.

iii. Inventory of Existing Development for Retrofitting Opportunities

Each Permittee is required to maintain an updated inventory of all Permittee-owned or operated (i.e., public) facilities within its jurisdiction that are potential sources of storm water pollution. This requirement is similar to the requirement of Order No. 01-182. In this Order, the incorporation of facility information into a GIS is recommended as this has been proven effective for effectively inventory and management of facilities and associated BMPs. Given that facility operation, condition, and practices can change over a five year period, the Permittees are required to update its inventory at least twice during the term of this Order.

In addition to developing an inventory of publically-owned or operated facilities, in this Order, Permittees are required to develop an inventory of existing development for retrofitting opportunities. The intention of adding

this requirement to the permit is to encourage the use of retrofit projects that reduce storm water pollutants into the MS4 that are a result of impacts from existing development. Permittees are also required to evaluate and rank these retrofitting opportunities.

iv. Public Agency Facility and Activity Management

Each Permittee is required to manage its facilities in accordance with the State Water Board's Industrial General NPDES Permit, where applicable, and shall ensure the implementation and maintenance of appropriate BMPs at all facilities with a potential to pollute stormwater. Therefore, Permitees shall obtain separate coverage under the State Water Board's Industrial General NPDES Permit for all Permittee-owned or operated facilities where industrial activities are conducted that require coverage under the Industrial General NPDES Permit and shall implement and maintain activity specific BMPs listed in Table 19 (BMPs for Public Agency Facilities and Activities).

Many municipalities use third-party contractors to conduct municipal maintenance activities in lieu of using municipal employees. Contractors performing activities that can affect storm water quality must be held to the same standards as the Permittee. Not only must these expectations be defined in contracts between the Permittee and its contractors, but the Permittee is responsible for ensuring, through contractually-required documentation or periodic site visits, that contractors are using storm water controls and following standard operating procedures. Therefore, the Permittee shall ensure all contractors hired by the Permittee to conduct Public Agency Activities including, but not limited to, storm and/or sanitary sewer system inspection and repair, street sweeping, trash pick-up and disposal, and street and right-of-way construction and repair shall be contractually required to implement and maintain the activity specific BMPs listed in Table 18.

v. Vehicle and Equipment Washing

Specific BMPs for all fixed vehicle and equipment washing; including fire fighting and emergency response vehicles have been incorporated into this Order and must be implemented. In addition, specific BMPs for wash waters from vehicle and equipment washing. These requirements effectively prohibit the occurrence of illicit discharges resulting from unauthorized washing activities.

vi. Landscape, Park, and Recreational Facilities Management

Specific BMPs for public right-of-ways, flood control facilities and open channels, lakes and reservoirs, and landscape, park, and recreation facilities and activities have been included this Order, similar to those in Order No. 01-182 and the more recently adopted Ventura County MS4

REVISED TENTATIVE

Permit, and must be implemented. These requirements are reflective of current environmentally responsible practices.

vii. Storm Drain Operation and Maintenance

Specific BMPs for storm drain operations and maintenance have been carried over from Order No. 01-182 into this Order.

Permittees must prioritize catch basins for cleaning activities based on the volume of trash or debris.

The materials removed from catch basins may not reenter the MS4. The material must be dewatered in a contained area and the water treated with an appropriate and approved control measure or discharged to the sanitary sewer. The solid material will need to be stored and disposed of properly to avoid discharge during a storm event. Some materials removed from storm drains and open channels may require special handling and disposal, and may not be authorized to be disposed of in a landfill.

viii. Streets, Roads, and Parking Facilities Maintenance

Permittees must prioritize streets and/or street segments for sweeping activities based on the volume of trash generated on the street or street segments. Based on these established priorities, Permittees must conduct street sweeping twice per month on the highest priority streets (Priority A), once per month on the medium priority streets (Priority B), and as needed but not less than once per year on the lowest priority streets (Priority C). In addition parking facilities must be cleaned using street sweeping equipment no less than two times per month and inspect no less than two times per month to determine if cleaning is necessary.

Specific BMPs for road reconstruction have been incorporated into this Order and must be followed during road repaving activities.

ix. Emergency Procedures

Permittees are required to conduct repairs of essential public service systems and infrastructure in emergency situations. These requirements ensure the protection of water quality. BMPs must be implemented to reduce the threat to water quality and the Regional Water Board must be notified of the occurrence, an explanation of the circumstances and measures taken to reduce the threat to water quality within 30 business days after the emergency has passed.

x. Municipal Employee and Contractor Training

Permittees are required to ensure that training is provided for employees and contractors that have job duties or participate in activities that have the potential to affect storm water quality. The training should promote a general

understanding of the potential for activities to pollute storm water and include information on the identification of opportunities to require, implement, and maintain BMPs associated with the activities they perform. In addition training specific to employees or contractors that use or have the potential to use pesticides or fertilizers should be provided. This training should instruct employees and contractors on the potential for pesticide-related surface water toxicity, the proper use, handling and disposal of pesticides, the least toxic methods of pest prevention and control, and the overall reduction of pesticide use.

Many municipalities use third-party contractors to conduct municipal maintenance activities in lieu of using municipal employees. Contractors performing activities that can affect storm water quality must be held to the same standards as the Permittee. Not only must these expectations be defined in contracts between the Permittee and its contractors, but the Permittee is responsible for ensuring, through contractually-required documentation or periodic site visits, that contractors are using storm water controls and following standard operating procedures.

9. Illicit Connection and Illicit Discharge Elimination Program

a. Legal Authority

A proposed management program "shall be based on a description of a program, including a schedule, to detect and remove (or require the discharger to the municipal storm sewer to obtain a separate NPDES permit for) illicit discharges and improper disposal into the storm sewer," per 40 CFR section 122.26(d)(2)(iv)(B). A Permittee must include in its proposed management program "a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal storm sewer system," per subsection (1) of the above federal regulation.

USEPA stormwater regulations define "illicit discharge" as "any discharge to a municipal separate storm sewer that is not composed entirely of stormwater" except discharges resulting from fire fighting activities and discharges from NPDES permitted sources (see 40 CFR section 122.26(b)(2)). The applicable regulations state that the following non-stormwater discharges may be allowed if they are not determined to be a significant source of pollutants to the MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR section 35.2005(20)), uncontaminated pumped ground water, discharges from ~~potable~~ drinking water supplier distribution ~~sources~~systems, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water. If, however, these discharges are determined to be a significant source of pollution then they must be prohibited.

REVISED TENTATIVE

Examples of common sources of illicit discharges in urban areas include apartments and homes, car washes, restaurants, airports, landfills, and gas stations. These so called "generating sites" discharge sanitary wastewater, septic system effluent, vehicle wash water, washdown from grease traps, motor oil, antifreeze, gasoline and fuel spills, among other substances. Although these illicit discharges can enter the storm drain system in various ways, they generally result from either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system, spills, or "midnight dumping"). Illicit discharges can be further divided into those discharging continuously and those discharging intermittently.

b. Illicit Discharge Source Investigation and Elimination

Section 402(p)(3)(B)(ii) of the CWA requires MS4 permits to "effectively prohibit non-stormwater discharges into the storm sewers." The permit implements this requirement, in part by requiring the development of procedures to investigate and eliminate illicit discharges. The permittee must develop a clear, step-by-step procedure for conducting the investigation of illicit discharges. The procedure must include an investigation protocol that clearly defines what constitutes an illicit discharge and what steps shall be taken to identify and eliminate its source. In many circumstances, sources of intermittent, illicit discharges are very difficult to locate, and these cases may remain unresolved. The permit requires that each case be conducted in accordance with the procedures developed to locate the source and conclude the investigation, after which the case may be considered closed. These procedures should be completed per the Progressive Enforcement Policy identified in Part VI.D.2 of this Order and should include enforcement as necessary to ensure the elimination of the illicit discharge/connection.

Illicit discharges may also originate in upstream jurisdictions and therefore this Order establishes procedures for communicating with upstream entities and providing information that may prove helpful in their investigation of its source(s).

If a Permittee is unable to eliminate an ongoing illicit discharge following full execution of its legal authority and in accordance with its Progressive Enforcement Policy, or other circumstances prevent the full elimination of an ongoing illicit discharge, including the inability to find the responsible party/parties, the Permittee shall ~~provide for~~require diversion of the entire flow to the sanitary sewer or ~~provide~~ treatment. In either instance, the Permittee shall notify the Regional Water Board in writing within 30 days of such determination and shall provide a written plan for review and comment that describes the efforts that have been undertaken to eliminate the illicit discharge, a description of the actions to be undertaken, anticipated costs, and a schedule for completion. The goal of these requirements is to provide a permanent solution for ongoing illicit discharges.

REVISED TENTATIVE

c. Identification and Response to Illicit Connections

Illicit connections to the MS4 can lead to the direct discharge or infiltration of sewage or other prohibited discharges into the MS4. Permitees have been conducting illicit connection screening throughout the term of Order No. 01-182 and this Order requires a continuation of response efforts once an illicit connection is identified. This Order establishes unique obligations for the LACFCD and for the individual Permitees. The requirements for LACFCD are based on the unique obligations and infrastructure of a regional flood control district. Requirements for the individual Permittees require the investigation and follow-up of all illicit connections within 21 days of identification and elimination within 180 days.

d. Public Reporting of Non-Storm Water Discharges and Spills

Each Permittee needs to promote a program to help in the identification and termination of illicit discharges. This Order establishes requirements for the Permitees, individually or as a group, to develop public education campaigns and reporting numbers which are intended to promote public reporting of illicit discharges. Specifically, a stormwater hotline can be used to help permittees become aware of and mitigate spills or dumping incidents. Spills can include everything from an overturned gasoline tanker to sediment leaving a construction site to a sanitary sewer overflow entering into a storm drain. Permittees must set up a hotline consisting of any of the following (or combination thereof): a dedicated or non-dedicated phone line, E-mail address, or website.

This Order also requires development of written procedures for receiving and responding to calls from the public and for maintaining documentation about reported illicit discharges and spills and their investigation and remedy. These requirements are intended to ensure that reliable and consistent practices are deployed to address this persistent problem.

e. Spill Response Plan

Spills, leaks, sanitary sewer overflows, and illicit dumping or discharges can introduce a range of stormwater pollutants into the storm system. Prompt response to these occurrences is the best way to prevent or reduce negative impacts to waterbodies. The permittee must develop a spill response plan that includes an investigation procedure similar to or in conjunction with the investigation procedures developed for illicit discharges in general. Often, a different entity might be responsible for spill response in a community (i.e. fire department), therefore, it is imperative that adequate communication exists between stormwater and spill response staff to ensure that spills are documented and investigated in a timely manner.

f. Illicit Connection and Illicit Discharge Education and Training

REVISED TENTATIVE

The permit requires each Permittee to train field staff, who may come into contact or observe illicit discharges, on the identification and proper procedures for reporting illicit discharges. Field staff to be trained may include, but are not limited to, municipal maintenance staff, inspectors, and other staff whose job responsibilities regularly take them out of the office and into areas within the MS4 area. Permittee field staff are out in the community every day and are in the best position to locate and report spills, illicit discharges, and potentially polluting activities. With proper training and information on reporting illicit discharges easily accessible, these field staff can greatly expand the reach of the IDDE program.

10. Los Angeles County Flood Control District Section

Due to the unique characteristics of the Los Angeles County Flood Control District, a Minimum Control Measure Section unique to the Los Angeles County Flood Control District was included in the Order. Unlike other Permittees, the LACFCD does not own or operate any municipal sanitary sewer systems, public streets, roads, or highways. Additionally, The LACFCD has no planning, zoning, development permitting or other land use authority over industrial or commercial facilities, new developments or re-development projects, or development construction sites located in any incorporated or unincorporated areas within its service area. The Permittees that have such land use authority are responsible for implementing a storm water management program to inspect and control pollutants from industrial and commercial facilities, new development and re-development projects, and development construction sites within their jurisdictional boundaries. The requirements included in the Section are the same as those for other Permittees, but requirements that are not applicable due to the unique characteristic of the Los Angeles County Flood Control District were eliminated.

D. Total Maximum Daily Load Provisions

Clean Water Act section 303(d)(1)(A) requires each State to conduct a biennial assessment of its waters, and identify those waters that are not achieving water quality standards. These waters are identified as impaired on the State's Clean Water Act section "303(d) List" of water quality limited segments. The Clean Water Act also requires States to establish a priority ranking for waters on the 303(d) List and to develop and implement Total Maximum Daily Loads (TMDLs) for these waters. A TMDL specifies the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and allocates the acceptable pollutant load to point and nonpoint sources. The elements of a TMDL are described in 40 CFR sections 130.2 and 130.7. A TMDL is defined as "the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background" (40 CFR § 130.2). Regulations further require that TMDLs must be set at "levels necessary to attain and maintain the applicable narrative and numeric water quality standards with seasonal variations and a margin of safety that takes into account

any lack of knowledge concerning the relationship between effluent limitations and water quality" (40 CFR section 130.7(c)(1)). The regulations at 40 CFR section 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading and water quality parameters. Essentially, TMDLs serve as a backstop provision of the CWA designed to implement water quality standards when other provisions have failed to achieve water quality standards.

Upon establishment of TMDLs by the State or the USEPA, the State is required to incorporate, or reference, the TMDLs in the State Water Quality Management Plan (40 CFR sections 130.6(c)(1) and 130.7). The Regional Water Board's Basin Plan, and applicable statewide plans, serves as the State Water Quality Management Plan governing the watersheds under the jurisdiction of the Regional Water Board. When adopting TMDLs as part of its Basin Plan, the Regional Water Board includes, as part of the TMDL, a program for implementation of the WLAs for point sources and load allocations (LAs) for nonpoint sources.

TMDLs are not self-executing, but instead rely upon further Board orders to impose pollutant restrictions on discharges to achieve the TMDL's WLAs. Section 402(p)(3)(B)(iii) of the Clean Water Act requires the Regional Water Board to impose permit conditions, including: "management practices, control techniques and system, design and engineering methods, and *such other provisions as the Administrator of the State determines appropriate for the control of such pollutants*." (emphasis added.) Section 402(a)(1) of the Clean Water Act also requires states to issue permits with conditions necessary to carry out the provisions of the Clean Water Act. Federal regulations also require that NPDES permits must include conditions consistent with the assumptions and requirements of any available waste load allocation (40 CFR section 122.44(d)(1)(vii)(B)). Similarly, state law requires both that the Regional Water Board implement its Basin Plan when adopting waste discharge requirements (WDRs) and that NPDES permits apply "any more stringent effluent standards or limitations necessary to implement water quality control plans…" (Cal. Wat. Code §§ 13263, 13377).

An NPDES permit should incorporate the WLAs as numeric WQBELs, where feasible. Where a non-numeric permit limitation is selected, such as BMPs, the permit's administrative record must support the expectation that the BMPs are sufficient to achieve the WLAs. (40 CFR §§ 124.8, 124.9, and 124.18.) The USEPA has published guidance for establishing WLAs for storm water discharges in TMDLs and their incorporation as numeric WQBELs in MS4 permits.[41]

As required, permit conditions are included in this Order consistent with the assumptions and requirements of the available WLAs assigned to MS4 discharges, which have been established in thirty-three TMDLs. The Regional Water Board adopted twenty-five (25) TMDLs and USEPA established seven (7) TMDLs that assign WLAs to MS4 Permittees within the County of Los Angeles. In addition, the Santa Ana

[41] USEPA (2010) "Revisions to the November 22, 2002 Memorandum 'Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those TMDLs'." Issued by James A. Hanlon, Director, Office of Wastewater Management and Denise Keehner, Director, Office of Wetlands, Oceans and Watersheds. November 12, 2010.

Regional Water Board adopted a TMDL that assigns WLAs to the Cities of Pomona and Claremont. The TMDLs included in this Order along with the adoption and approval dates are listed in the table below. Permit conditions for two of these TMDLs – the Marina del Rey Harbor Bacteria TMDL and the Los Angeles River Watershed Trash TMDL – were previously incorporated into Order No. 01-182 during re-openers in 2007 and 2009, respectively (Orders R4-2007-0042 and R4-2009-0130). TMDLs are typically developed on a watershed or subwatershed basis, which facilitates a more accurate assessment of cumulative impacts of pollutants from all sources. An overview of each Watershed Management Area, including the TMDLs applicable to it, is provided below.

TMDLs with Resolution Numbers, Adoption Dates and Effective Dates

TOTAL MAXIMUM DAILY LOAD	RESOLUTION NUMBER	ADOPTION DATE	STATE BOARD RESOLUTION NUMBER	STATE BOARD APPROVAL DATE	OAL APPROVAL DATE	EPA APPROVAL DATE	EFFECTIVE DATE
Santa Clara River Watershed Management Area							
Santa Clara River Nitrogen Compounds TMDL	2003-011	8/7/2003	2003-0073	11/19/2003	2/27/2004	3/18/2004	3/23/2004
Upper Santa Clara River Chloride TMDL	2008-012	12/11/2008	2009-0077	10/20/2009	1/26/2010	4/6/2010	4/6/2010
Lake Elizabeth, Munz Lake, and Lake Hughes Trash TMDL (Lake Elizabeth only)	2007-009	6/7/2007	2007-0073	12/4/2007	2/8/2008	2/27/2008	3/6/2008
Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL	R10-006	7/8/2010	2011-0048	10/4/2011	12/19/2011	1/13/2012	3/21/2012
Santa Monica Bay Watershed Management Area							
Santa Monica Bay Beaches Bacteria TMDL (Dry Weather)	2002-004	1/24/2002	2002-0149	9/19/2002	12/9/2002	6/19/2003	7/15/2003
Santa Monica Bay Beaches Bacteria TMDL (Wet Weather)	2002-022	12/12/2002	2003-0022	3/19/2003	5/20/2003	6/19/2003	7/15/2003
Santa Monica Bay Nearshore and Offshore Debris TMDL	R10-010	11/4/2010	2011-0064	12/6/2011	3/15/2012	3/20/2012	3/20/2012
Santa Monica Bay TMDL for DDTs and PCBs (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
Malibu Creek Subwatershed							
Malibu Creek and Lagoon Bacteria TMDL	2004-019R	12/13/2004	2005-0072	9/22/2005	12/1/2005	1/10/2006	1/24/2006
Malibu Creek Watershed Trash TMDL	2008-007	5/1/2008	2009-0029	3/17/2009	6/16/2009	6/26/2009	7/7/2009
Malibu Creek Watershed Nutrients TMDL (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/21/2003	N/A
Ballona Creek Subwatershed							
Ballona Creek Trash TMDL	2004-023	3/4/2004	2004-0059	9/30/2004	2/8/2005	N/A	8/11/2005
Ballona Creek Estuary Toxic Pollutants TMDL	2005-008	7/7/2005	2005-0076	10/20/2005	12/15/2005	12/22/2005	1/11/2006
Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL	2006-011	6/8/2006	2006-0092	11/15/2006	2/20/2007	3/26/2007	4/27/2007

REVISED TENTATIVE

TOTAL MAXIMUM DAILY LOAD	RESOLUTION NUMBER	ADOPTION DATE	STATE BOARD RESOLUTION NUMBER	STATE BOARD APPROVAL DATE	OAL APPROVAL DATE	EPA APPROVAL DATE	EFFECTIVE DATE
Ballona Creek Metals TMDL	2007-015	9/6/2007	2008-0045	6/17/2008	10/6/2008	10/29/2008	10/29/2008
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
Marina del Rey Subwatershed							
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL	2003-012	8/7/2003	2003-0072	11/19/2003	1/30/2004	3/18/2004	3/18/2004
Marina del Rey Harbor Toxic Pollutants TMDL	2005-012	10/6/2005	2006-0006	1/13/2006	3/13/2006	3/16/2006	3/22/2006
Dominguez Channel and Greater Harbors Waters Watershed Management Area							
Los Angeles Harbor Bacteria TMDL (Inner Cabrillo Beach and Main Ship Channel)	2004-011	7/1/2004	2004-0071	10/21/2004	1/5/2005	3/1/2005	3/10/2005
Machado Lake Trash TMDL	2007-006	6/7/2007	2007-0075	12/4/2007	2/8/2008	2/27/2008	3/6/2008
Machado Lake Nutrient TMDL	2008-006	5/1/2008	2008-0089	12/2/2008	2/19/2009	3/11/2009	3/11/2009
Machado Lake Pesticides and PCBs TMDL	R10-008	9/2/2010	2011-0065	12/6/2011	2/29/2012	3/20/2012	3/20/2012
Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL	R11-008	5/5/2011	2012-0008	2/7/2012	3/21/2012	3/23/2012	3/23/2012
Los Angeles River Watershed Management Area							
Los Angeles River Watershed Trash TMDL	2007-012	8/9/2007	2008-0024	4/15/2008	7/1/2008	7/24/2008	9/23/2008
Los Angeles River Nitrogen Compounds and Related Effects TMDL	2003-016	12/4/2003	2004-0014	3/24/2004	9/27/2004	N/A	9/27/2004
Los Angeles River and Tributaries Metals TMDL	R10-003	5/6/2010	2011-0021	4/19/2011	7/28/2011	11/3/2011	11/3/2011
Los Angeles River Bacteria TMDL	R10-007	7/9/2010	2011-0056	11/1/2011	3/21/2012	3/23/2012	3/23/2012
Legg Lake Trash TMDL	2007-010	6/7/2007	2007-0074	12/4/2007	2/5/2008	2/27/2008	3/6/2008
Long Beach City Beaches and Los	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A

REVISED TENTATIVE

TOTAL MAXIMUM DAILY LOAD	RESOLUTION NUMBER	ADOPTION DATE	STATE BOARD RESOLUTION NUMBER	STATE BOARD APPROVAL DATE	OAL APPROVAL DATE	EPA APPROVAL DATE	EFFECTIVE DATE
Angeles River Estuary Bacteria TMDL (USEPA established)							
Los Angeles Area Lakes TMDLs (USEPA established for Lake Calabasas, Echo Park Lake, Legg Lake and Peck Road Park Lake)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
San Gabriel River Watershed Management Area							
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/26/2007	N/A
Los Angeles Area Lakes TMDLs (USEPA established for Puddingstone Reservoir)	N/A	N/A	N/A	N/A	N/A	3/26/2012	N/A
Los Cerritos Channel and Alamitos Bay Watershed Management Area							
Los Cerritos Channel Metals TMDL (USEPA established)	N/A	N/A	N/A	N/A	N/A	3/17/2010	N/A
Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL	R09-005	10/1/2009	2010-0056	11/16/2010	5/6/2011	6/14/2011	7/28/2011
Middle Santa Ana River Watershed Management Area (Santa Ana Region TMDL)							
Middle Santa Ana River Watershed Bacterial Indicator TMDLs	R8-2005-0001	8/26/2005	2006-0030	5/15/2006	9/1/2006	5/16/2007	5/16/2007

REVISED TENTATIVE

Santa Clara River Watershed Management Area. The Santa Clara River and its tributaries drain a watershed area of 1,634 square miles (sq. miles) (Figure B-1). Santa Clara River Reaches 1, 2, 3, 4A, 4B and major tributaries Santa Paula, Sespe and Piru Creeks are in Ventura County. Santa Clara River Reaches 5, 6, 7, 8 and major tributaries Castaic, San Francisquito, and Bouquet Canyon Creeks are in Los Angeles County. About 40% of the watershed, the Upper Santa Clara River, is located in County of Los Angeles. Approximately, 75% of the Upper Santa Clara River watershed is open space used for recreation in the Angeles National Forest. The remainder of the upper portion of the watershed is characterized by a mixture of residential, mixed urban, and industrial land uses with low density residential more common in the uppermost areas of the watershed, while high density residential is more prevalent in the City of Santa Clarita.

Various reaches of the Santa Clara River are on the 2010 CWA Section 303(d) List of impaired water bodies for nitrogen, bacteria, chloride, and trash (in lakes), among other pollutants. The excess nitrogen compounds are causing impairments to the WARM, WILD, and GWR designated beneficial uses of the Santa Clara River in Reaches 3, 7 and 8. The elevated bacterial indicator densities are causing impairment of the REC-1 and REC-2 designated beneficial uses for the Santa Clara River Estuary and Reaches 3, 5, 6, and 7. The excessive levels of chloride are impairing the AGR and GWR designated beneficial uses of the Upper Santa Clara River Reaches 4A, 4B, 5 and 6. The trash in Lake Elizabeth is causing impairments to the WARM, WILD, RARE, REC-1 and REC-2 designated beneficial uses.

TMDLs have been adopted by the Regional Water Board to address the impairments due to nitrogen, bacteria and chloride in the Upper Santa Clara River Watershed and for trash in Lake Elizabeth. Each of these TMDLs identifies MS4 discharges as a source of pollutants and assigns allocations to MS4 discharges. In the nitrogen compounds TMDL, storm water discharges were identified as potentially contributing nitrogen loads. Data from land use monitoring conducting under the LA County MS4 Permit from 1994-1999 indicate some concentrations of ammonia from commercial land uses in excess of the 30-day average concentration based WLA of 1.75 mg/l, and potential concentrations of nitrate-N and nitrite-N from residential land uses in excess of the WLA of 6.8 mg/l. Recent data from the 2010-11 annual monitoring report indicate low levels of ammonia and nitrite at the mass emissions station (S29) in the Santa Clara River, and concentrations of nitrate-N ranging from 1.38-1.66 mg/l in dry weather and 0.015-1.86 mg/l in wet weather. In the chloride TMDL, major point sources are assigned a WLA of 100 mg/l. Data from land use monitoring conducted under the LA County MS4 Permit from 1994-99 indicate chloride concentrations ranging from 3.2-48 mg/l, while more recent data from the mass emissions station (S29) indicate concentrations ranging from 116-126 mg/l in dry weather, and 25.1-96.3 mg/l in wet weather. For the bacteria TMDL, the Regional Water Board found that the significant contributors of bacteria loading to the Santa Clara River are discharges of storm water and non-storm water from the MS4. For the trash TMDL, discharges from the MS4 are sources of trash discharged to Lake Elizabeth.

Santa Monica Bay Watershed Management Area. The Santa Monica Bay Watershed Management Area (WMA) encompasses an area of 414 sq. miles (Figure B-2). Its

borders reach from the crest of the Santa Monica Mountains on the north and from the Ventura-Los Angeles County line to downtown Los Angeles. From there it extends south and west across the Los Angeles plain to include the area east of Ballona Creek and north of the Baldwin Hills. A narrow strip of land between Playa del Rey and Palos Verdes drains to the Bay south of Ballona Creek. The WMA includes several subwatersheds, the two largest being Malibu Creek to the north (west) and Ballona Creek to the south. SCAG land use data from 2005 shows 62% of the area is open space, high density residential is 17% of the area, and low density residential is 2.3% of the area. Commercial and industrial land uses total 6% of the area and are found in all but a handful of the subwatersheds.

Many of the Santa Monica Bay beaches were identified on the 1998 CWA Section 303(d) List of impaired water bodies for high coliform counts and beach closures. Santa Monica Bay offshore and nearshore is on the 2010 CWA Section 303(d) List of impaired water bodies for debris, DDTs, PCBs and sediment toxicity. The elevated bacterial indicator densities during both dry and wet weather are causing impairments of the REC-1 and REC-2 designated beneficial uses of the Santa Monica Bay beaches. The debris and elevated concentrations of DDT and PCBs are causing impairments to the IND, NAV, REC-1, REC-2, COMM, EST, MAR, BIOL, MIGR, WILD, RARE, SPWN, SHELL, and WET designated beneficial uses of the Santa Monica Bay.

TMDLs have been adopted by the Regional Water Board and USEPA for bacteria at Santa Monica Bay Beaches, and for debris, DDTs, PCBs and sediment toxicity in Santa Monica Bay. In the bacteria TMDL, the Regional Water Board determined that discharges of storm water and non-storm water from the MS4 are the primary source of elevated bacterial indicator densities to Santa Monica Bay beaches during dry and wet weather. In the debris TMDL, the Regional Water Board determined that most of the land-based debris is discharged to the marine environment through the MS4. In the DDT and PCBs TMDL, USEPA determined that although DDT is no longer used, it persists in the environment, adhering strongly to soil particles. The manufacture of PCBs is no longer legal, but PCBs also persist in the environment and are inadvertently produced as a result of some manufacturing processes. Both DDT and PCBs are transported in contaminated sediments via urban runoff through the MS4 to Santa Monica Bay.

The Malibu Creek subwatershed drains an area of about 109 square miles (Figure B-2a). Approximately two-thirds of this subwatershed lies in Los Angeles County and the remaining third in Ventura County. Much of the land is part of the Santa Monica Mountains National Recreation Area and is under the purview of the National Parks Service. The watershed borders the eastern portion of Ventura County to the west and north and Los Angeles River watershed to the east. Major tributaries include Cold Creek, Lindero Creek, Las Virgenes Creek, Medea Creek, and Triunfo Creek. Located at the end of and receiving flows from Malibu Creek is the 40-acre Malibu Lagoon. The Malibu Creek subwatershed land uses are 88% open space, 3% commercial/light industry, 9% residential and less than 1% public.

The Malibu Creek Watershed is on the 2010 CWA Section 303(d) List of impaired water bodies for bacteria, nutrients, and trash. Elevated bacterial indicator densities are

causing impairment of the REC-1 and REC-2 designated beneficial uses of Malibu Creek, Malibu Lagoon, and the adjacent beaches. Excess nutrients are causing impairments to the REC-1, REC-2, WARM, COLD, EST, MAR, WILD, RARE, MIGR, and SPWN designated beneficial uses of waterbodies in the Malibu Creek Watershed. Trash is causing impairments to the MUN, GWR, REC-1, REC-2, WARM, COLD, MIGR, WILD, RARE, SPWN, and WET designated beneficial uses of the waterbodies in the Malibu Creek Watershed.

TMDLs have been adopted by the Regional Water Board for bacteria and trash in Malibu Creek. USEPA established a TMDL for nutrients in Malibu Creek. Fecal coliform bacteria may be introduced from a variety of sources including storm water and non-storm water discharges from the MS4. USEPA determined that high nitrogen and phosphorus loadings are associated with storm water discharges from commercial and residential land uses and also from undeveloped areas. During the summer non-storm water discharges add a significant portion of the load. The Regional Water Board determined in the trash TMDL that discharges from the MS4 are a source of trash to waterbodies in the Malibu Creek Watershed.

Ballona Creek and its tributaries drain a subwatershed of about 127 square miles (Figure B-2b). The watershed boundary extends in the east from the crest of the Santa Monica Mountains southward and westward to the vicinity of central Los Angeles and thence to Baldwin Hills. Tributaries of Ballona Creek include Centinela Creek, Sepulveda Canyon Channel, Benedict Canyon Channel, and numerous other storm drains. Ballona Creek is concrete lined upstream of Centinela Boulevard. All of its tributaries are either concrete channels or covered culverts. The channel downstream of Centinela Boulevard is trapezoidal composed of grouted rip-rap side slopes and an earth bottom. The urbanized areas of Ballona Creek, which consists of residential and commercial properties, accounts for 80% of the watershed; the partially developed foothill and mountains make up the other 20%.

Ballona Creek and Ballona Creek Estuary is on the 2010 CWA Section 303(d) List for trash, toxicity, bacteria, and metals. The Ballona Creek Wetlands is on the 2010 CWA Section 303(d) List for trash, exotic vegetation, habitat alterations and hydromodification. Trash is causing impairments to the REC-1, REC-2, WARM, WILD, EST, MAR, RARE, MIGR, SPWN, COMM, WET, and COLD designated beneficial uses of Ballona Creek. A suite of toxic pollutants, including cadmium, copper, lead, silver, zinc, chlordane, DDT, PCBs, and PAHs in sediments and dissolved copper, dissolved lead, total selenium, and dissolved zinc, are causing impairments to the REC-1, REC-2, EST, MAR, WILD, RARE, MIGR, SPWN, COMM, and SHELL designated beneficial uses of Ballona Creek Estuary and Ballona Creek and Sepulveda Channel, respectively. The elevated bacterial indicator densities are causing impairment of the REC-1, LREC-1, and REC-2 designated beneficial uses of Ballona Creek and Ballona Estuary. The excess sediment and invasive exotic vegetation is causing impairments to the EST, MIGR, RARE, REC-1, REC-2, SPWN, WET, and WILD designated beneficial uses of the Ballona Creek Wetlands.

TMDLs have been adopted by the Regional Water Board for trash, metals and toxic pollutants in Ballona Creek and Estuary, and bacteria. USEPA established a TMDL for

Sediment and Invasive Exotic Vegetation in the Ballona Creek Wetlands. Stormwater discharge is the major source of trash in Ballona Creek. Urban storm water has been recognized as a substantial source of metals. Storm drains convey a large percentage of the metals loadings during dry weather because although their flows are typically low, concentrations of metals in urban runoff may be quite high. Because metals are typically associated with fine particles in storm water runoff, they have the potential to accumulate in estuarine sediments where they may pose a risk of toxicity. Similar to metals, the majority of organic constituents in storm water are associated with particulates. There is toxicity associated with suspended solids in urban runoff discharged from Ballona Creek, as well as with the receiving water sediments. This toxicity is likely attributed to metals and organics associated with the suspended sediments. The major contributors of flows and associated bacteria loading to Ballona Creek and Ballona Estuary are storm water and non-storm water discharges from the MS4. The potential for sediment loading into the Ballona Creek Wetlands is associated with the flow coming down the watershed. Sediment moves from the watershed through the MS4 as a result of storms, wind and land based runoff. Major storms usually take place in winter and are responsible for major movements of sediment down the watershed into Ballona Creek and Ballona Wetland towards the coastal waterbodies. These activities can lead to discharge of large quantities of sediments in runoff.

The Marina del Rey subwatershed is approximately 2.9 square miles located adjacent to the mouth of Ballona Creek. The Marina del Rey subwatershed is highly developed at 80%, the remaining 20% is split between water and open/recreation land uses.

Marina del Rey is on the 2010 CWA Section 303(d) List for bacteria and sediment concentrations of copper, lead, zinc, DDT, PCBs, chlordane, and sediment toxicity. The elevated bacterial indicator densities are causing impairment of the REC-1 and REC-2 designated beneficial uses at Marina del Rey Harbor Mothers' Beach and back basins. The toxic pollutants are causing impairments to the REC-1, MAR, WILD, COMM, and SHELL designated beneficial uses of the Marina del Rey Harbor.

TMDLs have been adopted by the Regional Water Board for bacteria and toxic pollutants. Non-storm water and storm water discharges from the MS4 are the primary sources of elevated bacterial indicator densities to Marina del Rey Harbor Mothers' Beach and back basins during dry and wet weather. Urban storm water has been recognized as a substantial source of metals. Numerous researchers have documented that the most prevalent metals in urban storm water (i.e., copper, lead, and zinc) are consistently associated with suspended solids. Because metals are typically associated with fine particles in storm water runoff, they have the potential to accumulate in marine sediments where they may pose a risk of toxicity. Similar to metals, the majority of organic constituents in storm water are associated with particulates.

On June 7, 2012, the Regional Water Board adopted revised Basin Plan Amendments (BPAs) for the Santa Monica Bay Beaches Bacteria TMDL; the Malibu Creek and Lagoon Bacteria TMDL; the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL; and the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL. In the revised TMDLs the method of calculating the geometric mean was changed from the existing methods in the current Bacteria TMDLs and the

REVISED TENTATIVE

allowable winter dry weather exceedance days was redefined. Although, the revised BPAs are not in effect until approved by the State Board, OAL and USEPA these changes have been included in the Permit and will become effective upon the effective dates of the revised Bacteria TMDLs.

Dominguez Channel and Greater Harbor Waters Watershed Management Area. The Dominguez Channel and Los Angeles/Long Beach Harbors Watershed Management Area (Dominguez WMA) is located in the southern portion of the Los Angeles Basin (Figure B-3). Los Angeles Harbor is 7,500 acres and the Long Beach Harbor is 7,600 acres; together they have an open water area of approximately 8,128 acres. The 15 mile-long Dominguez Channel drains a densely urbanized area to Inner Los Angeles Harbor. Near the end of the 19th century and during the beginning of the next century, channels were dredged, marshes were filled, wharves were constructed, the Los Angeles River was diverted, and breakwaters were constructed in order to allow deep draft ships to be directly offloaded at the docks. The Dominguez Slough was completely channelized and became the drainage endpoint for runoff from a highly industrialized area. Eventually, the greater San Pedro Bay was enclosed by two more breakwaters and deep entrance channels were dredged to allow for entry of ships.

Various reaches of the Dominguez WMA are on the 2010 CWA Section 303(d) List of impaired water bodies for metals, DDT, PCBs, PAHs, historic pesticides, coliform, and sediment toxicity. The elevated bacteria indicator densities is causing impairments to the SHELL, REC-1, and REC-2 designated beneficial uses of Los Angeles Harbor. The elevated levels of metals and organics are causing impairments to beneficial uses designated in these waters to protect aquatic life, including MAR and RARE. In addition, the elevated levels are causing impairments in the estuaries, which are designated with SPWN, MIGR, and WILD beneficial uses. Dominguez Channel also has an existing designated use of WARM and the Los Angeles River Estuary has the designated use of WET. Beneficial uses associated with human use of these waters that are impaired due to the elevated concentrations of metals and organics include REC-1, REC-2, IND, NAV, COMM, and SHELL.

TMDLs have been adopted by the Regional Water Board for toxic pollutants in the Dominguez WMA and for bacteria at Inner Cabrillo Beach and the Main Ship Channel. Discharges from the MS4 are a source of elevated bacterial indicator densities to Inner Cabrillo Beach and the Main Ship Channel during dry and wet weather. The major point sources of organochlorine pesticides, PCBs, and metals into Dominguez Channel are storm water and non-storm water discharges. The contaminated sediments are a reservoir of historically deposited pollutants. Storm water runoff from manufacturing, military facilities, fish processing plants, wastewater treatment plants, oil production facilities, and shipbuilding or repair yards in both Ports have discharged untreated or partially treated wastes into Harbor waters. Current activities also contribute pollutants to Harbor sediments, in particular, storm water runoff.

On June 7, 2012, the Regional Water Board adopted a revised Basin Plan Amendment (BPA) for the Los Angeles Harbor Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL. In the revised TMDL the method of calculating the geometric mean was changed from the existing methods in the current Bacteria TMDL and the allowable

REVISED TENTATIVE

winter dry weather exceedance days was redefined. Although, the revised BPA is not in effect until approved by the State Board, OAL and USEPA these changes have been included in the Permit and will become effective upon the effective date of the revised Bacteria TMDL.

Machado Lake is listed for trash, nutrients, PCBs and historic pesticides. Trash, nutrients and toxic pollutants are causing impairments to the WARM, WET, RARE, WILD, REC-1 and REC-2 designated beneficial uses of Machado Lake. TMDLs have been adopted by the Regional Water Board for trash, nutrients, PCBs and pesticides for Machado Lake. The point sources of trash and nutrients into Machado Lake are storm water and non-storm water discharges from the MS4. Storm water discharges occur through the following sub-drainage systems: Drain 553, Wilmington Drain, Project 77/510, and Walteria Lake.

Los Angeles River Watershed Management Area. The Los Angeles River Watershed Management Area (LAR WMA) drains a watershed of 824 square miles (Figure B-4). The LAR WMA is one of the largest in the Region and is also one of the most diverse in terms of land use patterns. Approximately 324 square miles of the watershed are covered by forest or open space land including the area near the headwaters, which originate in the Santa Monica, Santa Susana, and San Gabriel Mountains. The remainder of the watershed is highly developed. The river flows through the San Fernando Valley past heavily developed residential and commercial areas. From the Arroyo Seco, north of downtown Los Angeles, to the confluence with the Rio Hondo, the river flows through industrial and commercial areas and is bordered by rail yards, freeways, and major commercial and government buildings. From the Rio Hondo to the Pacific Ocean, the river flows through industrial, residential, and commercial areas, including major refineries and petroleum products storage facilities, major freeways, rail lines, and rail yards serving the Ports of Los Angeles and Long Beach. Due to major flood events at the beginning of the century, by the 1950s most of the LA River was lined with concrete. In the San Fernando Valley, there is a section of the river with a soft bottom at the Sepulveda Flood Control Basin. At the eastern end of the San Fernando Valley, the river bends around the Hollywood Hills and flows through Griffith and Elysian Parks, in an area known as the Glendale Narrows. Since the water table was too high to allow laying of concrete, the river in this area has a rocky, unlined bottom with concrete-lined or rip-rap sides. South of the Glendale Narrows, the river is contained in a concrete-lined channel down to Willow Street in Long Beach. The LA River tidal prism/estuary begins in Long Beach at Willow Street and runs approximately three miles before joining with Queensway Bay. The channel has a soft bottom in this reach with concrete-lined sides. A number of lakes are also part of the LAR WMA, including Legg Lake, Peck Road Park, Belvedere Park, Hollenbeck Park, Lincoln Park, and Echo Park Lakes as well as Lake Calabasas.

Various reaches and lakes within the LAR WMA are on the 2010 CWA Section 303(d) List of impaired water bodies for trash, nitrogen compounds and related effects (ammonia, nitrate, nitrite, algae, pH, odor, and scum), metals (copper, cadmium, lead, zinc, aluminum and selenium), bacteria, and historic pesticides. Beneficial uses impaired by trash in the Los Angeles River are REC-1, REC-2, WARM, WILD, EST, MAR, RARE, MIGR, SPWN, COMM, WET and COLD. The excess nitrogen compounds

REVISED TENTATIVE

are causing impairments to the WARM and WILD designated beneficial uses of Los Angeles River. Excess metals are causing impairments to the WILD, RARE, WARM, WET, and GWR designated beneficial uses of the Los Angeles River and its tributaries. Elevated indicator bacteria densities are causing impairments to the REC-1 and REC-2 designated beneficial uses of Los Angeles River and the Los Angeles River Estuary. Beneficial uses impaired by trash in Legg Lake include REC1, REC2, and WILD.

TMDLs have been adopted by the Regional Water Board for trash, nitrogen, metals, and bacteria in the Los Angeles River. USEPA established TMDLs for bacteria in the Los Angeles River Estuary and for various pollutants in Los Angeles Area Lakes. The Los Angeles River Watershed Trash TMDL identifies discharges from the municipal separate storm sewer system as the principal source of trash to the Los Angeles River and its tributaries. The Regional Water Board determined that urban runoff and storm water may contribute to nitrate loads. Discharges from the MS4 contribute a large percentage of the metals loadings during dry weather because although non-storm water flows from the MS4 are typically low relative to other discharges during dry weather, concentrations of metals in urban runoff may be quite high. During wet weather, most of the metals loadings are in the particulate form and are associated with wet-weather storm water flow. On an annual basis, storm water discharges from the MS4 contribute about 40% of the cadmium loading, 80% of the copper loading, 95% of the lead loading, and 90% of the zinc loading. Discharges from the MS4 are the principal source of bacteria to the Los Angeles River, its tributaries and the Los Angeles River Estuary in both dry weather and wet weather.

A TMDL has been adopted by the Regional Water Board for trash in Legg Lake. The Legg Lake Trash TMDL identifies MS4 storm drains as the principal point source for trash discharged to Legg Lake.

The Los Angeles Water Board identified 10 lakes in the Los Angeles region as impaired by algae, ammonia, chlordane, copper, DDT, eutrophication, lead, organic enrichment/low dissolved oxygen, mercury, odor, PCBs, pH and/or trash and placed them on California's 303(d) list of impaired waters. For several lakes, USEPA concluded that ammonia, pH, copper and/or lead are currently meeting water quality standards and TMDLs are not required at this time. In other lakes, recent chlordane and dieldrin data indicate additional impairment. Associated with this WMA are: Lake Calabasas TMDLs for total nitrogen and total phosphorus; Echo Park Lake TMDLs for nutrients (total nitrogen and total phosphorus), total chlordane, dieldrin, total PCBs, and trash; Legg Lake TMDLs for total nitrogen and total phosphorus; and Peck Road Park Lake TMDLs for nutrients (total nitrogen and total phosphorus), total chlordane, total DDT, dieldrin, total PCBs, and trash.

In Lake Calabasas beneficial uses impaired by elevated levels of nutrients include REC1, REC2, and WARM. At high enough concentrations, WILD and MUN uses could also become impaired. MS4 discharges from the surrounding watershed to Lake Calabasas during dry and wet weather contributes 97.7 percent of the total phosphorus load and 74.4 percent of the total nitrogen load.

In Echo Park Lake beneficial uses impaired by elevated levels of nutrients, PCBs, chlordane, and dieldrin are currently impairing the REC1, REC2, and WARM uses. At high enough concentrations WILD and MUN uses could also become impaired. Beneficial uses impaired by trash in Echo Park Lake include REC1, REC2, WARM and WILD. The Echo Park Lake nutrient TMDL found that MS4 discharges from the northern and southern watershed to Echo Lake contribute 29 percent of the total phosphorus load and 28 percent of the total nitrogen load during wet weather with dry weather loading data unavailable due to the majority of runoff being diverted downstream of the lake. PCBs, chlordane, and dieldrin in Echo Park Lake are primarily due to historical loading and storage within the lake sediments, with some ongoing contribution by watershed wet weather loads. Dry weather loading is assumed to be negligible because hydrophobic contaminants primarily move with particulate matter that is mobilized by higher flows. Storm water loads from the watershed were estimated based on simulated sediment load and observed pollutant concentrations on sediment near inflows to the lake. MS4 discharges via storm drains are the principal point source for trash in Echo Park Lake.

In Legg Lake beneficial uses impaired due to elevated nutrient levels include REC1, REC2, WARM and COLD. At high enough concentrations the WILD, MUN, and GWR uses could also become impaired. The Legg Lake nutrient TMDL found that MS4 discharges from the surrounding watershed to Legg Lake during dry and wet weather contributes 69.1 percent of the total phosphorus load and 36 percent of the total nitrogen load.

In Peck Road Park Lake beneficial uses impaired by elevated levels of nutrients, PCBs, chlordane, DDT, dieldrin, and trash are currently impairing the REC1, REC2, and WARM uses. At high enough concentrations WILD and MUN uses could also become impaired. The Peck Road Park Lake nutrient TMDL found that MS4 discharges from the surrounding watershed including both wet and dry weather contribute 80.2 percent of the total phosphorus load and 55.5 percent of the total nitrogen load. PCBs, chlordane, DDT, and dieldrin in Peck Road Park Lake loads are primarily due to historical loading and storage within the lake sediments, with some ongoing contribution by watershed wet weather loads. Dry weather loading is assumed to be negligible because hydrophobic contaminants primarily move with particulate matter that is mobilized by higher flows. Stormwater loads from the watershed were estimated based on simulated sediment load and observed pollutant concentrations on sediment near inflows to the lake. MS4 discharges via storm drains are the principal point source for trash in Peck Road Park Lake.

San Gabriel River Watershed Management Area. The San Gabriel River Watershed (SGR WMA) receives drainage from a 689-square mile area of eastern Los Angeles County (Figure B-5). The main channel of the San Gabriel River is approximately 58 miles long. Its headwaters originate in the San Gabriel Mountains with the East, West, and North Forks. The river empties to the Pacific Ocean at the Los Angeles and Orange Counties boundary in Long Beach. The main tributaries of the river are Big and Little Dalton Wash, San Dimas Wash, Walnut Creek, San Jose Creek, Fullerton Creek, and Coyote Creek. Part of the Coyote Creek subwatershed is in Orange County and is under the authority of the Santa Ana Water Board. A number of lakes and reservoirs

are also part of the SGR WMA, including Puddingstone Reservoir. Land use in the watershed is diverse and ranges from predominantly open space in the upper watershed to urban land uses in the middle and lower parts of the watershed.

Various reaches of the SGR WMA are on the 2010 CWA Section 303(d) List of impaired water bodies due to trash, nitrogen, phosphorus, and metals (copper, lead, selenium, and zinc). USEPA established TMDLs for metals and selenium in the San Gabriel River and various pollutants in Los Angeles Area Lakes. Segments of the San Gabriel River and its tributaries exceed water quality objectives for copper, lead, selenium, and zinc. Metals loadings to San Gabriel River are causing impairments of the WILD, WARM, COLD, RARE, EST, MAR, MIGR, SPWN, WET, MUN, IND, AGR, GWR, and PROC beneficial uses. The San Gabriel River metals and selenium TMDL found that the MS4 contributes a large percentage of the metals loadings during dry weather because although their flows are typically low, concentrations of metals in urban runoff may be quite high. During wet weather, most of the metals loadings are in the particulate form and are associated with wet-weather storm water flow.

The Regional Water Board identified 10 lakes in the Los Angeles Region as impaired by algae, ammonia, chlordane, copper, DDT, eutrophication, lead, organic enrichment/low dissolved oxygen, mercury, odor, PCBs, pH and/or trash and placed them on California's 303(d) list of impaired waters. For several lakes, USEPA concluded that ammonia, pH, copper and/or lead are currently meeting water quality standards and TMDLs are not required at this time. In other lakes, recent chlordane and dieldrin data indicate additional impairment. Associated with this WMA is: Puddingstone Reservoir TMDLs for total nitrogen, total phosphorus, total chlordane, total DDT, total PCBs, total mercury, and dieldrin.

In Puddingstone Reservoir beneficial uses impaired due to elevated nutrient, mercury, PCBs, chlordane, dieldrin, and DDT levels include REC1, REC2, WARM, and COLD. At high enough concentrations the WILD, MUN, GWR, and RARE uses could also become impaired. The Puddingstone Reservoir nutrients TMDL found that MS4 discharges from the surrounding watershed to Puddingstone Reservoir during dry and wet weather contributes 79.8 percent of the total phosphorus and 74.1 percent of the total nitrogen load. Mercury, PCBs, chlordane, dieldrin, and DDT in Puddingstone Reservoir loads are primarily due to historical loading and storage within the lake sediments, with some ongoing contribution by watershed wet weather loads. Dry weather loading is assumed to be negligible because hydrophobic contaminants primarily move with particulate matter that is mobilized by higher flows. Stormwater loads from the watershed were estimated based on simulated sediment load and observed pollutant concentrations on sediment near inflows to the lake.

Los Cerritos Channel and Alamitos Bay Watershed Management Area. The Los Cerritos Channel is concrete-lined above the tidal prism and drains a small but densely urbanized area of east Long Beach (Figure B-6). The channel's tidal prism starts at Anaheim Road and connects with Alamitos Bay through the Marine Stadium; the wetlands connect to the Channel a short distance from the lower end of the Channel. Alamitos Bay is composed of the Marine Stadium, a recreation facility built in 1932; Long Beach Marina; a variety of public and private berths; and the Bay proper. A small

bathing lagoon, Colorado Lagoon located entirely in Long Beach, has a tidal connection with the Bay. The majority of land use in this WMA is high density residential.

Los Cerritos Channel is on the 2010 CWA Section 303(d) List of impaired water bodies for metals (copper, zinc, and lead). Beneficial uses impaired by metals in the Los Cerritos Channel include WILD, REC2 and WARM. USEPA established a TMDL for various metals in Los Cerritos Channel. The TMDL for metals in Los Cerritos Channel found that the MS4 contributes a large percentage of the metals loadings during dry weather because although their flows are typically low, concentrations of metals in urban runoff may be quite high. During wet weather, most of the metals loadings are in the particulate form and are associated with wet-weather storm water flow.

Middle Santa Ana River Watershed Management Area. The Middle Santa Ana River Watershed Management Area (MSAR WMA) covers approximately 488 square miles (mi^2) and lies mostly in San Bernardino and Riverside Counties; however, a small part of Los Angeles County is also included. The area of Los Angeles County, which lays in the MSAR WMA, includes portions of the Cities of Pomona (12.3 mi^2), ~~and~~ Claremont (8.4 mi^2), and Diamond Bar (0.7 mi^2) and unincorporated Los Angeles County (12.3 mi^2) (Figure B-7). The MSAR WMA is comprised of three subwatersheds. The subwatershed that includes portions of Pomona and Claremont is the Chino Basin Subwatershed. Surface drainage from Pomona and Claremont is generally southward toward San Antonio Creek, which is tributary to Chino Creek, which feeds into the Prado Flood Control Basin.

Various reaches of the MSAR WMA, including Chino Creek, are listed on 2010 CWA Section 303(d) List for bacteria. Elevated bacterial indicator densities are causing impairments of the REC-1 and REC-2 designated beneficial for the Santa Ana River Reach 3; Chino Creek Reaches 1 and 2; Mill Creek (Prado Area); Cucamonga Creek Reach 1; and Prado Park Lake.

The Santa Ana Water Board adopted TMDLs for bacteria for the Middle Santa Ana River Watershed. The Basin Plan amendment incorporating the Middle Santa Ana River Watershed Bacterial Indicator TMDLs was approved by the Santa Ana Water Board on August 26, 2005 (Resolution No. R8-2005-0001), by the State Water Board on May 15, 2006, by the Office of Administrative Law on September 1, 2006, and by the USEPA on May 16, 2007. The TMDL was effective on May 16, 2007. The Santa Ana Water Board concluded based upon data and information collected in 1993, 1996-1998 and in 2002-2004, that urban runoff from the MS4 is a significant source of bacterial indicators year round to the Middle Santa Ana River and its tributaries (Rice, 2005). The TMDL specifies both dry weather and wet weather WLAs, with distinct implementation schedules. Compliance with the summer dry (April 1st through October 31st) WLAs is to be achieved as soon as possible, but no later than December 31, 2015. In recognition of the difficulties associated with the control of storm water discharges, compliance with the winter wet (November 1st through March 31st) WLAs is to be achieved as soon as possible, but no later than December 31, 2025. The MS4 permit allows for discharges of bacteria from the MS4s of the Cities of Claremont and Pomona to be regulated to ensure compliance with the wasteload allocations set forth in the Middle Santa Ana Bacterial Indicator TMDL and with the corresponding receiving water limitations by the

terms of an NPDES permit issued by the Santa Ana Regional Water Quality Control Board that is applicable to such MS4 discharges. The NPDES permit must be issued pursuant to a designation agreement between the Los Angeles and Santa Ana Regional Boards under Water Code § 13228. In the absence of such an NPDES permit, the MS4 permit includes specific provisions in Attachment R that are consistent with the assumptions and requirements of the wasteload allocations applicable to MS4 discharges as set forth in the Middle Santa Ana Bacterial Indicator TMDL.

Calleguas Creek Watershed Management Area. Calleguas Creek and its tributaries drain a watershed area of 343 square miles (sq. miles) in southern Ventura County and a small portion of western Los Angeles County. Approximately, 4.16 sq. miles of Los Angeles County is part of the Calleguas Creek Watershed. The land use of the 4.15 sq. miles is open space and recreation. The land use of the remaining 0.01 sq. miles is divided between low density residential, industrial, and agriculture (Southern California Association of Governments, 2008). Six TMDLs have been adopted and are in effect for the Calleguas Creek Watershed. None of the TMDLs assign waste load allocations to the Los Angeles County Flood Control District, County of Los Angeles or any incorporated city within Los Angeles County. Therefore, no water quality based effluent limitations were incorporated in this Order for TMDLs in the Calleguas Creek Watershed.

Manner of Incorporation of TMDL WLAs. The description of the permit conditions and the basis for the manner for incorporating requirements to implement the TMDLs' WLAs is discussed below.

WLAs may be expressed in different ways in a TMDL. In general, a WLA is expressed as a discharge condition that must be achieved in order to ensure that water quality standards are attained in the receiving water. The discharge condition may be expressed in terms of mass or concentration of a pollutant. However, in some cases, a WLA may be expressed as a receiving water condition such as an allowable number of exceedance days of the bacteria objectives.

In this Order, in most cases, TMDL WLAs have been translated into numeric WQBELs and, where consistent with the expression of the WLA in the TMDL, also as receiving water limitations. For each TMDL included in this Order, the WLA were translated into numeric WQBELs, which were based on the WLAs in terms of the numeric value and averaging period. For those TMDLs where the averaging period was not specific for the WLA, the averaging period was based on the averaging period for the numeric target.

For the bacteria TMDLs, where the WLA are expressed as an allowable number of exceedance days in the water body, the WLAs were translated into receiving water limitations. In addition to the receiving water limitations, WQBELs were established based on the bacteria water quality objectives. In the bacteria TMDLs, the numeric targets are based on the multi-part bacteriological water quality objectives; therefore, this approach is consistent with the assumptions of the bacteria TMDLs.

In the Ballona Creek Trash TMDL, the default baseline WLA for the MS4 Permittees is equal to 640 gallons (86 cubic feet) of uncompressed trash per square mile per year.

No differentiation is applied for different land uses in the default baseline WLA. The default baseline WLAs for the Permittees has been refined based on results from the baseline monitoring conducted by the City of Los Angeles. The City of Los Angeles provided trash generation flux data for five land uses: commercial, industrial, high density residential, low density residential and open space and recreation. The Baseline WLA for any single city is the sum of the products of each land use area multiplied by the WLA for the land use area, as shown below:

WLA = ∑ for each city (area by land uses x allocations for this land use)

The baseline was calculated using the City of Los Angeles trash generation flux data provided for the 2003-04 and 2004-05 storm years averaged for pounds of trash per acre and the 2003-04 storm year for gallons of trash per acre. The urban portion of the Ballona Creek watershed was divided into twelve types of land uses for every city and unincorporated area in the watershed. The land use categories are: (1) high density residential, (2) low density residential, (3) commercial and services, (4) industrial, (5) public facilities, (6) educational institutions, (7) military installations, (8) transportation, (9) mixed urban, (10) open space and recreation, (11) agriculture, and (12) water. The land use data used in the calculation is based on the Southern California Association of Governments 2005 data.

1. Compliance Determination

For TMDLs that establish individual mass-based WLAs or a concentration-based WLA such as the Trash TMDLs, Nitrogen TMDLs, and Chloride TMDL, this Order requires Permittees to demonstrate compliance with their assigned WQBELs individually.

A number of the TMDLs for Bacteria, Metals and Toxics establish WLAs that are assigned jointly to a group of Permittees whose storm water and/or non-storm water discharges are or may be commingled in the MS4 prior to discharge to the receiving water subject to the TMDL. TMDLs address commingled MS4 discharges by assigning a WLA to a group of MS4 Permittees based on co-location within the same subwatershed. Permittees with co-mingled storm water are jointly responsible for meeting the WQBELs and receiving water limitations assigned to MS4 discharges in this Order. "Joint responsibility" means that the Permittees that have commingled MS4 discharges are responsible for implementing programs in their respective jurisdictions, or within the MS4 for which they are an owner or operator, to meet the WQBELs and/or receiving water limitations assigned to such commingled MS4 discharges.

In these cases, federal regulations state that co-permittees need only comply with permit conditions relating to discharges from the MS4 for which they are owners or operators. (40 CFR § 122.26(a)(3)(vi).) Individual co-permittees are only responsible for their contributions to the commingled discharge. This Order does not require a Permittee to individually ensure that a commingled MS4 discharge meets the applicable WQBELs included in this Order, unless such Permittee is shown to be solely responsible for the exceedances.

Additionally, this Order allows a Permittee to clarify and distinguish their individual contributions and demonstrate that its MS4 discharge did not cause or contribute to exceedances of applicable WQBELs and/or receiving water limitations. In this case, though the Permittee's discharge may commingle with that of other Permittees, the Permittee would not be held jointly responsible for the exceedance of the WQBELs or receiving water limitation.

Individual co-permittees who demonstrate compliance with the WQBELs will not be held responsible for violations by non-compliant co-permittees.

Demonstrating Compliance with Interim Limitations. This Order provides Permittees with several means of demonstrating compliance with applicable interim WQBELs and~~/or~~ interim receiving water limitations for the pollutant(s) associated with a specific TMDL. These include any of the following:

a. There are no violations of the interim WQBELs for the pollutant(s) associated with a specific TMDL at the Permittee's applicable MS4 outfall(s) or access points,[1] including an outfall to the receiving water that collects discharges from multiple Permittees' jurisdictions;

b. There are no exceedances of the applicable receiving water limitation for the pollutant(s) associated with a specific TMDL in the receiving water(s) at, or downstream of, the Permittee's outfall(s);

c. There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the WQBEL and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or

d. The Permittee has submitted and is fully implementing an approved Watershed Management Program or Enhanced Watershed Management Program (EWMP), which includes analyses that provide the Regional Water Board with reasonable assurance that the watershed control measures proposed will achieve the applicable WQBELs and receiving water limitations consistent with relevant compliance schedules.

Demonstrating Compliance with Final Limitations. This Order provides Permittees with three general means of demonstrating compliance with an applicable *final* WQBEL and~~/or~~ *final* receiving water limitation for the pollutant(s) associated with a specific TMDL.

These include any of the following:

a. There are no violations of the final WQBEL for the specific pollutant at the Permittee's applicable MS4 outfall(s)[2];

[1] An ~~outfall~~ access point may include a manhole or other point of access to the MS4 at the Permittee's jurisdictional boundary.
[2] Ibid.

b. There are no exceedances of applicable receiving water limitation for the specific pollutant in the receiving water(s) at, or downstream of, the Permittee's outfall(s); ~~or~~

c. There is no direct or indirect discharge from the Permittee's MS4 to the receiving water during the time period subject to the WQBEL and/or receiving water limitation for the pollutant(s) associated with a specific TMDL; or

~~c.~~**d.** In drainage areas where Permittees are implementing an EWMP, (i) all non-storm water and (ii) all storm water runoff up to and including the volume equivalent to the 85th percentile, 24-hour event is retained for the drainage area tributary to the applicable receiving water. This compliance mechanism does not apply to final trash WQBELs.

This Order provides the opportunity for Permittees to demonstrate compliance with *interim* effluent limitations through development and implementation of a Watershed Management Program or EWMP, where Permittees have provided a reasonable demonstration through quantitative analysis (i.e., modeling or other approach) that the control measures/BMPs to be implemented will achieve the interim effluent limitations in accordance with the schedule provided in this Order. It is premature to consider application of this action based compliance demonstration option to the final effluent limitations and final receiving water limitations that have deadlines outside the term of this Order. More data is needed to validate assumptions and model results regarding the linkage among BMP implementation, the quality of MS4 discharges, and receiving water quality.

During the term of this Order, there are very few deadlines for compliance with final effluent limitations applicable to storm water, or final receiving water limitations applicable during wet weather conditions. Most deadlines during the term of this Order are for interim effluent limitations applicable to storm water, or for final effluent limitations applicable to non-storm water discharges and final dry weather receiving water limitations.

There are only five State-adopted TMDLs for which the compliance deadlines for final water quality-based effluent limitations applicable to storm water occur during the term of this Order. These include: Santa Clara River Chloride TMDL, Santa Clara River Nitrogen TMDL, Los Angeles River Nitrogen TMDL, Marina del Rey Harbor Toxics TMDL, and LA Harbor Bacteria TMDL. In most of these five TMDLs, compliance with the final water quality-based effluent limitations assigned to MS4 discharges is expected to be achieved (e.g., Santa Clara River Chloride TMDL[3]), or a mechanism is in place to potentially allow additional time to come into compliance (e.g. reconsideration of the Marina del Rey Harbor Toxics TMDL implementation schedule).

[3] Data from land use monitoring conducted under the LA County MS4 Permit from 1994-99 indicate chloride concentrations ranging from 3.2-48 mg/L, while more recent data from the mass emissions station in the Santa Clara River (S29) indicate concentrations ranging from 116-126 mg/l in dry weather, and 25.1-96.3 mg/l in wet weather, suggesting that storm water has a diluting effect on chloride concentrations in the receiving water.

The Regional Water Board will evaluate the effectiveness of this action-based compliance determination approach in ensuring that interim effluent limitations for storm water are achieved during this permit term. If this approach is effective in achieving compliance with interim effluent limitations for storm water during this permit term, the Regional Water Board will consider during the next permit cycle whether it would be appropriate to allow a similar approach for demonstrating compliance with final water quality-based effluent limitations applicable to storm water. The Order includes a specific provision to support reopening the permit to include provisions or modifications to WQBELs in Part VI.E and Attachments L-R in this Order prior to the final compliance deadlines, if practicable, that would allow an action-based, BMP compliance demonstration approach with regard to final WQBELs for storm water discharges based on the Regional Board's review of relevant research, including but not limited to data and information provided by Permittees, on storm water quality and control technologies

2. Compliance Schedules for Achieving TMDL Requirements

A Regional Water Board may include a compliance schedule in an NPDES permit when the state's water quality standards or regulations include a provision that authorizes such schedules in NPDES permits.[4] In California, TMDL implementation plans[5] are typically adopted through Basin Plan Amendments. The TMDL implementation plan, which is part of the Basin Plan Amendment, becomes a regulation upon approval by the State of California Office of Administrative Law (OAL).[6] Pursuant to California Water Code sections 13240 and 13242, TMDL implementation plans adopted by the Regional Water Board "shall include … a time schedule for the actions to be taken [for achieving water quality objectives]," which allows for compliance schedules in future permits. This Basin Plan Amendment becomes the applicable regulation that authorizes an MS4 permit to include a compliance schedule to achieve effluent limitations derived from wasteload allocations.

Where a TMDL implementation schedule has been established through a Basin Plan Amendment, it is ncorporated into this Order as a compliance schedule to achieve interim and final WQBELs and corresponding receiving water limitations, in accordance with 40 CFR section 122.47. WQBELs must be consistent with the assumptions and requirements of any WLA, which includes applicable implementation schedules.[7] California Water Code sections 13263 and 13377 state that waste discharge requirements must implement the Basin Plan.[8] Therefore,

[4] See *In re Star-Kist Caribe, Inc.*, (Apr. 16, 1990) 3 E.A.D. 172, 175, modification denied, 4 E.A.D. 33, 34 (EAB 1992)).

[5] TMDL implementation plans consist of those measures, along with a schedule for their implementation, that the Water Boards determine are necessary to correct an impairment. The NPDES implementation measures are thus required by sections 303(d) and 402(p)(3)(B)(iii) of the CWA. State law also requires the Water Boards to implement basin plan requirements. (See Wat. Code §§ 13263, 13377; *State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 189.)

[6] See Gov. Code, § 11353, subd. (b). Every amendment to a Basin Plan, such as a TMDL and its implementation plan, requires approval by the State Water Board and OAL. When the TMDL and implementation plan is approved by OAL, it becomes a state regulation.

[7] See 40 C.F.R. § 122.44(d)(1)(vii)(B).

[8] Cal. Wat. Code, § 13263, subd. (a) ("requirements shall implement any relevant water quality control plans that have been adopted"); Cal. Wat. Code, § 13377 ("the state board or the regional boards shall . . . issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the [CWA], thereto,

compliance schedules for attaining WQBELs derived from WLAs must be based on a state-adopted TMDL implementation plan and cannot exceed the maximum time that the implementation plan allows.

In determining the compliance schedules, the Regional Water Board considered numerous factors to ensure that the schedules are as short as possible. Factors examined include, but are not limited to, the size and complexity of the watershed; the pollutants being addressed; the number of responsible agencies involved; time for Co-Permittees to negotiate memorandum of agreements; development of water quality management plans; identification of funding sources; determination of an implementation strategy based on the recommendations of water quality management plans and/or special studies; and time for the implementation strategies to yield measurable results. Compliance schedules may be altered based on the monitoring and reporting results as set forth in the individual TMDLs.

In many ways, the incorporation of interim and final WQBELs and associated compliance schedules is consistent with the iterative process of implementing BMPs that has been employed in the previous Los Angeles County MS4 Permits in that progress toward compliance with the final effluent limitations may occur over the course of many years. However, because the waterbodies in Los Angeles County are impaired due to MS4 discharges, it is necessary to establish more specific provisions in order to: (i) ensure measurable reductions in pollutant discharges from the MS4, resulting in progressive water quality improvements during the iterative process, and (ii) establish a final date for completing implementation of BMPs and, ultimately, achieving effluent limitations and water quality standards.

The compliance schedules established in this Order are consistent with the implementation plans established in the individual TMDLs. The compliance dates for meeting the final WQBELs and receiving water limitations for each TMDL are listed below in Table F-7.

together with any more stringent effluent standards or limitations necessary to implement waste quality control plans, or for the protection of beneficial uses, or to prevent nuisance"); *see also, State Water Resources Control Board Cases* (2006) 136 Cal.App.4th 189.

Table F-7. Compliance Schedule for final compliance dates.

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed	Final Compliance date within 5 years (2012-2017)	Final Compliance date between 5 and 10 years (2018-2022)	Final Compliance date after 10 years (2023)
Santa Clara River Nitrogen Compounds TMDL	March 23, 2004			
Upper Santa Clara River Chloride TMDL	April 6, 2010			
Lake Elizabeth, Munz Lake, and Lake Hughes Trash TMDL (Lake Elizabeth only)		March 6, 2016		
Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL				
Dry Weather				March 21, 2023
Wet Weather				March 21, 2029
Santa Monica Bay Beaches Bacteria TMDL				
Summer Dry Weather	July 15, 2006			
Winter Dry Weather	July 15, 2009			
Wet Weather			July 15, 2021	
Santa Monica Bay Nearshore and Offshore Debris TMDL			March 20, 2020	
Santa Monica Bay TMDL for DDTs and PCBs (USEPA established)		March 26, 2012		
Malibu Creek and Lagoon Bacteria TMDL				
Summer Dry Weather	January 24, 2009			
Winter Dry Weather	January 24, 2012			
Wet Weather			July 15, 2021	
Malibu Creek Watershed Trash TMDL		July 7, 2017		
Malibu Creek Watershed Nutrients TMDL (USEPA established)	March 21, 2003			
Ballona Creek Trash TMDL		September 30, 2015		
Ballona Creek Estuary Toxic Pollutants TMDL			January 11, 2021	
Ballona Creek, Ballona Estuary and Sepulveda Channel Bacteria TMDL				
Dry Weather		April 27, 2013		
Wet Weather			July 15, 2021	

REVISED TENTATIVE

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed	Final Compliance date within 5 years (2012-2017)	Final Compliance date between 5 and 10 years (2018-2022)	Final Compliance date after 10 years (2023)
Ballona Creek Metals TMDL				
Dry Weather		January 11, 2016		
Wet Weather			January 11, 2021	
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation (USEPA established)		March 26, 2012		
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL				
Dry Weather	March 18, 2007			
Wet Weather			July 15, 2021	
Marina del Rey Harbor Toxic Pollutants TMDL		March 22, 2016	March 22, 2021*	
Los Angeles Harbor Bacteria TMDL	March 10, 2010			
Machado Lake Trash TMDL		March 6, 2016		
Machado Lake Nutrient TMDL			September 11, 2018	
Machado Lake Pesticides and PCBs TMDL			September 30, 2019	
Dominguez Channel and Greater LA and LB Harbor Waters Toxic Pollutants TMDL				March 23, 2032
Los Angeles River Watershed Trash TMDL		September 30, 2016		
Los Angeles River Nitrogen Compounds and Related Effects TMDL	March 23, 2004			
Los Angeles River and Tributaries Metals TMDL				
Dry Weather				January 11, 2024
Wet Weather				January 11, 2028
Los Angeles River Watershed Bacteria TMDL				
Dry Weather (Compliance dates range from 10 to 25 years)			March 23, 2022	March 23, 2037
Wet Weather				March 23, 2037
Legg Lake Trash TMDL		March 6, 2016		
Long Beach City Beaches and Los Angeles River Estuary Bacteria		March 26, 2012		

REVISED TENTATIVE

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed	Final Compliance date within 5 years (2012-2017)	Final Compliance date between 5 and 10 years (2018-2022)	Final Compliance date after 10 years (2023)
TMDL (USEPA established)				
Los Angeles Area Lakes TMDLs (USEPA established)		March 26, 2012		
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL (USEPA established)	March 26, 2007			
Los Cerritos Channel Metals TMDL (USEPA established)	March 17, 2010			
Colorado Lagoon OC Pesticides, PCBs, Sediment Toxicity, PAHs, and Metals TMDL			July 28, 2018	
Middle Santa Ana River Watershed Bacterial Indicator TMDLs				
Dry Weather		December 31, 2015		
Wet Weather				December 31, 2025

* If an Integrated Water Resources Approach is approved and implemented then Permittees have an extended compliance deadline.

REVISED TENTATIVE

3. State Adopted TMDLs with Past Final Compliance Deadlines

In accordance with federal regulations, this Order includes WQBELs necessary to achieve applicable wasteload allocations assigned to MS4 discharges. In some cases, the deadline specified in the TMDL implementation plan for achieving the final wasteload allocation has passed. (See Table F-8) This Order requires that Permittees comply immediately with WQBELs and/or receiving water limitations for which final compliance deadlines have passed.

Table F-8. State-Adopted TMDLs with Past Final Implementation Deadlines

TOTAL MAXIMUM DAILY LOADS (TMDL)	Final Compliance date has Passed
Santa Clara River Nitrogen Compounds TMDL	March 23, 2004
Upper Santa Clara River Chloride TMDL	April 6, 2010
Santa Monica Bay Beaches Bacteria TMDL *Summer Dry Weather only*	July 15, 2006
Santa Monica Bay Beaches Bacteria TMDL *Winter Dry Weather only*	July 15, 2009
Malibu Creek and Lagoon Bacteria TMDL *Summer Dry Weather only*	January 24, 2009
Malibu Creek and Lagoon Bacteria TMDL *Winter Dry Weather only*	January 24, 2012
Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL *Dry Weather Year-round only*	March 18, 2007
Los Angeles Harbor Bacteria TMDL	March 10, 2010
Los Angeles River Nitrogen Compounds and Related Effects TMDL	March 23, 2004

Where a Permittee determines that its MS4 discharge may not meet the final WQBELs for the TMDLs in Table F-8 upon adoption of this Order, the Permittee may request a time schedule order (TSO) from the Regional Water Board. TSOs are issued pursuant to California Water Code section 13300, whenever a Water Board "finds that a discharge of waste is taking place or threatening to take place that violates or will violate [Regional Water Board] requirements." Permittees may individually request a TSO, or may jointly request a TSO with all Permittees subject to the WQBELs and/or receiving water limitations. Permittees must request a TSO to achieve WQBELs for the TMDLs in Table F-8 no later than 45 days after the date this Order is adopted.

In the request, the Permittee(s) must include, at a minimum, the following:

a. Location specific data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;
b. A detailed description and chronology of structural controls and source control efforts, including location(s) of implementation, since the effective date of the TMDL, to reduce the pollutant load in the MS4 discharges to the receiving waters subject to the TMDL;
c. A list of discharge locations for which additional time is needed to achieve the water quality based effluent limitations and/or receiving water limitations;
d. Justification of the need for additional time to achieve the water quality-based effluent limitations and/or receiving water limitations for each location identified in Part VI.E.3.c, above;

e. A detailed time schedule of specific actions the Permittee will take in order to achieve the water quality-based effluent limitations and/or receiving water limitations at each location identified in Part VI.E.3.c, above;

f. A demonstration that the time schedule requested is as short as possible, consistent with California Water Code section 13385(j)(3)(C)(i), taking into account the technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation(s); and

g. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements and the date(s) for their achievement. The interim requirements shall include both of the following:

i. Effluent limitation(s) for the pollutant(s) of concern; and

ii. Actions and milestones leading to compliance with the effluent limitation(s).

The Regional Water Board does not intend to take enforcement action against a Permittee for violations of specific WQBELs and corresponding receiving water limitations for which the final compliance deadline has passed if a Permittee is fully complying with the requirements of a TSO to resolve exceedances of the WQBELs for the specific pollutant(s) in the MS4 discharge.

4. USEPA Established TMDLs

USEPA has established seven TMDLs that include wasteload allocations for MS4 discharges covered by this Order (See Table F-9). Five TMDLs were established since 2010, one in 2007, and one in 2003.

Table F-9. USEPA Established TMDLs with WLAs Assigned to MS4 Discharges

TOTAL MAXIMUM DAILY LOADS (TMDL)	Effective Date
Santa Monica Bay TMDL for DDTs and PCBs (USEPA established)	March 26, 2012
Ballona Creek Wetlands TMDL for Sediment and Invasive Exotic Vegetation (USEPA established)	March 26, 2012
Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL (USEPA established)	March 26, 2012
Los Angeles Area Lakes TMDLs (USEPA established)	March 26, 2012
Los Cerritos Channel Metals TMDL (USEPA established)	March 17, 2010
San Gabriel River and Impaired Tributaries Metals and Selenium TMDL (USEPA established)	March 26, 2007
Malibu Creek Watershed Nutrients TMDL (USEPA established)	March 21, 2003

In contrast to State-adopted TMDLs, USEPA established TMDLs do not contain an implementation plan or schedule. The Clean Water Act does not allow USEPA to either adopt implementation plans or establish compliance schedules for TMDLs that is establishes. Such decisions are generally left with the States. The Regional Water Board could either (1) adopt a separate implementation plan as a Basin Plan Amendment for each USEPA established TMDL, which would allow inclusion of compliance schedules in the permit where applicable, or (2) issue a Permittee a schedule leading to full compliance in a separate enforcement order (such as a Time

Schedule Order or a Cease and Desist Order). To date, the Board has not adopted a separate implementation plan or enforcement order for any of these TMDLs. As such, the final WLAs in the seven USEPA established TMDLs identified above become effective immediately upon establishment by USEPA and placement in a NPDES permit.

The Regional Water Board's decision as to how to express permit conditions for USEPA established TMDLs is based on an analysis of several specific facts and circumstances surrounding these TMDLs and their incorporation into this Order. First, since these TMDLs do not include implementation plans, none of these TMDLs have undergone a comprehensive evaluation of implementation strategies or an evaluation of the time required to fully implement control measures to achieve the final WLAs. Second, given the lack of an evaluation, the Regional Water Board is not able to adequately assess whether Permittees will be able to immediately comply with the WLAs at this time. Third, the majority of these TMDLs were established by USEPA recently (i.e., since 2010) and permittees have had limited time to plan for and implement control measures to achieve compliance with the WLAs. Lastly, while federal regulations do not allow USEPA to establish implementation plans and schedules for achieving these WLAs, USEPA has nevertheless included implementation recommendations regarding MS4 discharges as part of six of the seven of these TMDLs. The Regional Water Board needs time to adequately evaluate USEPA's recommendations. For the reasons above, the Regional Water Board has determined that numeric water quality based effluent limitations for these USEPA established TMDLs are infeasible at the present time. The Regional Water Board may at its discretion revisit this decision within the term of the Order or in a future permit, as more information is developed to support the inclusion of numeric water quality based effluent limitations.

In lieu of inclusion of numeric water quality based effluent limitations at this time, this Order requires Permittees subject to WLAs in USEPA established TMDLs to propose and implement best management practices (BMPs) that will be effective in achieving the numeric WLAs. Permittees will propose these BMPs to the Regional Water Board in a Watershed Management Program Plan, which is subject to Regional Water Board Executive Officer approval. As part of this Plan, Permittees are also required to propose a schedule for implementing the BMPs that is as short as possible. The Regional Water Board finds that, at this time, it is reasonable to include permit conditions that require Permittees to develop specific Watershed Management Program plans that include interim milestones and schedules for actions to achieve the WLAs. These plans will facilitate a comprehensive planning process, including coordination among co-permittees where necessary, on a watershed basis to identify the most effective watershed control measures and implementation strategies to achieve the WLAs.

At a minimum, the Watershed Management Program Plan must include the following data and information relevant to the USEPA established TMDL:

i. Available data demonstrating the current quality of the MS4 discharge(s) in terms of concentration and/or load of the target pollutant(s) to the receiving waters subject to the TMDL;

ii. A detailed time schedule of specific actions the Permittee will take in order to achieve the WLA(s);

iii. A demonstration that the time schedule requested is as short as possible, taking into account the time since USEPA establishment of the TMDL, and technological, operation, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the WLA(s);

a. For the Malibu Creek Nutrient TMDL established by USEPA in 2003, in no case shall the time schedule to achieve the final numeric WLAs exceed five years from the effective date of this Order; and

iv. If the requested time schedule exceeds one year, the proposed schedule shall include interim requirements, including numeric milestones, and the date(s) for their achievement.

Each Permittee subject to a WLA in a TMDL established by USEPA ~~since 2010~~ must submit a draft of a Watershed Management Program Plan to the Regional Water Board Executive Officer ~~for approval no later than one year after the effective date of this Order.~~

~~Each Permittee subject to a WLA in a TMDL established by USEPA prior to 2010 must submit a draft of a Watershed Management Program Plan to the Regional Water Board Executive Officer for approval no later than six months after the effective date of this Order.~~per the timelines outlined for submittal of a Watershed Management Program or EWMP.

Based on the nature and timing of the proposed watershed control measures, the Regional Water Board will consider appropriate actions on its part, which may include: (1) no action and continued reliance on permit conditions that require implementation of the approved watershed control measures throughout the permit term; (2) adopting an implementation plan and corresponding schedule through the Basin Plan Amendment process and then incorporating water quality based effluent limitations and a compliance schedule into this Order consistent with the State-adopted implementation plan; or (3) issuing a time schedule order to provide the necessary time to fully implement the watershed control measures to achieve the WLAs.

If a Permittee chooses not to submit a Watershed Management Program Plan, or the plan is determined to be inadequate by the Regional Water Board Executive Officer and necessary revisions are not made within 90 days of written notification to the Permittee that that plan is inadequate, the Permittee will be required to demonstrate compliance with the numeric WLAs immediately based on monitoring data collected under the MRP (Attachment E) for this Order.

The Regional Water Board does not intend to take enforcement action against a Permittee for violations of specific WLAs and corresponding receiving water

REVISED TENTATIVE

limitations for USEPA established TMDLs if a Permittee has developed and is implementing an approved Watershed Management Program to achieve the WLAs in the USEPA TMDL and the associated receiving water limitations.

E. Other Provisions

1. Legal Authority

Adequate legal authority is required to implement and enforce most parts of the Minimum Control Measures and all equivalent actions if implemented with a Watershed Management Program (See 40 CFR section 122.26(d)(2)(i)(A)-(F) and 40 CFR section 122.26(d)(2)(iv). Without adequate legal authority the MS4 would be unable to perform many vital functions such as performing inspections, requiring remedies, and requiring installation of control measures. In addition, the Permittee would not be able to penalize and/or attain remediation costs from violators.

2. Fiscal Resources

The annual fiscal analysis will show the allocated resources, expenditures, and staff resources necessary to comply with the permit, and implement and enforce the Permittee's Watershed Management Program (See 40 CFR section 122.26(d)(2)(vi). The annual analysis is necessary to show that the Permittee has adequate resources to meet all Permit Requirements. The analysis can also show year-to-year changes in funding for the storm water program. A summary of the annual analysis must be reported in the annual report. This report will help the Permitting Authority understand the resources that are dedicated to compliance with this permit, and to implementation and enforcement of the Watershed Management Program, and track how this changes over time. Furthermore, the inclusion of the requirement to perform a fiscal analysis annually is similar to requirements included in Order No. 01-182 permit as well as the current Ventura County MS4 permit.

3. Responsibilities of the Permittees

Because of the complexity and networking of the storm drain system and drainage facilities within and tributary to the LA MS4, the Regional Water Board adopted an area-wide approach in permitting storm water and urban runoff discharges. Order No. 01-182 was structured as a single permit whereby individual Permittees were assigned uniform requirements and additional requirements were assigned to the Principal Permittee (Los Angeles County Flood Control District). This permit does not designate a principal Permittee and as such requires each Permittee to implement provisions as a separate entity. Furthermore it does not hold a Permittee responsible for implementation of provisions applicable to other Permittees.

Part VI.A.4.a requires inter and intra-agency coordination to facilitate implementation of this Order. This requirement is based on 40 CFR section 122.26(d)(2)(iv) which requires "a comprehensive planning process which public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable […]."

4. Reopener and Modification Provisions

These provisions are based on 40 CFR sections 122.44, 122.62, 122.63, 122.64, 124.5, 125.62, and 125.64, and are also consistent with Order No. 01-182. The Regional Water Board may reopen the permit to modify permit conditions and requirements, as well as revoke, reissue, or terminate in accordance with federal regulations. Causes for such actions include, but are not limited to, endangerment to human health or the environment; acquisition of newly-obtained information that would have justified the application of different conditions if known at the time of Order adoption; to incorporate provisions as a result of new federal or state laws, regulations, plans, or policies (including TMDLs and other Basin Plan amendments); modification in toxicity requirements; violation of any term or condition in this Order; and/or minor modifications to correct typographical errors or require more frequent monitoring or reporting by a Permittee. The Order also includes additional causes including: within 18 months of the effective date of a revised TMDL or as soon as practicable thereafter, where the revisions warrant a change to the provisions of this Order, the Regional Water Board may modify this Order consistent with the assumptions and requirements of the revised WLA(s), including the program of implementation; in consideration of any State Water Board action regarding the precedential language of State Water Board Order WQ 99-05; and to include provisions or modifications to WQBELs in Part VI.E and Attachments L-R in this Order prior to the final compliance deadlines, if practicable, that would allow an action-based, BMP compliance demonstration approach with regard to final WQBELs for storm water discharges based on the Regional Board's evaluation of whether Watershed Management Programs in Part VI.C. of the Order have resulted in attainment of interim WQBELs for storm water and review of relevant research, including but not limited to data and information provided by Permittees and other stakeholders, on storm water quality and the efficacy and reliability of control technologies.

XIII. RATIONALE FOR MONITORING AND REPORTING REQUIREMENTS

Section 308(a) of the federal Clean Water Act, and sections 122.41(h), (j)-(l), 122.44(i), and 122.48 of Title 40 of the Code of Federal Regulations requires that all NPDES permits specify monitoring and reporting requirements. Federal regulations applicable to large and medium MS4s also specify additional monitoring and reporting requirements. (40 C.F.R. §§ 122.26(d)(2)(i)(F) & (d)(2)(iii)(D), 122.42(c).) California Water Code section 13383 further authorizes the Regional Water Board to establish monitoring, inspection, entry, reporting, and recordkeeping requirements. The MRP (Attachment E of this Order) establishes monitoring, reporting, and recordkeeping requirements that implement the federal and state laws and/or regulations. The following provides the rationale for the monitoring and reporting requirements contained in the MRP for this Order.

A. Integrated Monitoring Plans

1. Integrated Monitoring Program and Coordinated Integrated Monitoring Program

As discussed in Part VI.B of this Fact Sheet, the purpose of the Watershed Management Programs is to provide a framework for Permittees to implement the requirements of this Order in an integrated and collaborative fashion and to address water quality priorities on a watershed scale. Additionally, the Watershed Management Programs are to be designed to ensure that discharges from the Los Angeles County MS4: (i) achieve applicable water quality based effluent limitations that implement TMDLs, (ii) do not cause or contribute to exceedances of receiving water limitations, and (iii) for non-storm water discharges from the MS4, are not a source of pollutants to receiving waters. This Order allows Permittees in coordination with an approved Watershed Management Program per Part VI.C, to implement a customized monitoring program with the primary objective of allowing for the customization of the outfall monitoring programs and that achieves the five Primary Objectives set forth in Part II.A. of Attachment E and includes the elements set forth in Part II.E. of Attachment E. If pursuing a customized monitoring program, the Permittees must provide sufficient justification for each element of the program that differs from the monitoring program as set forth in Attachment E of the Order. This Order provides options for each Permittee to individually develop and implement an Integrated Monitoring Program (IMP), or alternatively, ~~individual~~ Permittee~~(s)~~ may cooperate with other Permittees to develop a Coordinated Integrated Monitoring Program (CIMP). Both the IMP and CIMP are intended to facilitate the effective and collaborative monitoring of receiving waters, storm water, and non-storm water discharges and to report the results of monitoring to the Regional Water Board.

The key requirements for Watershed Management Programs are included in Part VI.C of this Order. The IMP and CIMP requirements within the MRP largely summarize the requirements and reinforce that, at a minimum, the IMP or CIMP must address all TMDL and Non-TMDL monitoring requirements of this Order, including receiving water monitoring, storm water outfall based monitoring, non-storm water outfall based monitoring, and regional water monitoring studies.

Both the IMP and CIMP approach provides opportunities to increase the cost efficiency and effectiveness of the Permittees monitoring program as monitoring can be designed, prioritized and implemented on a watershed basis. The IMP/CIMP approach allows the Permittees to prioritize monitoring resources between watersheds based on TMDL Implementation and Monitoring Plan schedules, coordinate outfall based monitoring programs and implement regional studies. Cost savings can also occur when Permittees coordinate their monitoring programs with other Permittees.

REVISED TENTATIVE

B. TMDL Monitoring Plans

Monitoring requirements established in TMDL Monitoring Plans, presented in Table E-1. Approved TMDL Monitoring Plans by Watershed Management Area, were approved by the Executive Officer of the Regional Water Board prior to the effective date of this Order are incorporated into this Order by reference.

C. Receiving Water Monitoring

The purposes of receiving water monitoring are to measure the effects of storm water and non-storm water discharges from the MS4 to the receiving water, to identify water quality exceedances, to evaluate compliance with TMDL WLAs and receiving water limitations, and to evaluate whether water quality is improving, staying the same or declining.

1. Receiving Water Monitoring Stations

Receiving water monitoring is linked to outfall based monitoring in order to gauge the effects of MS4 discharges on receiving water. Receiving water monitoring stations must be downstream of ~~linked~~ outfall monitoring stations.

The IMP, CIMP or stand-alone receiving monitoring plan (in the case of jurisdictional monitoring) must include a map identifying proposed wet weather and dry~~-~~ weather monitoring stations. Receiving water monitoring stations may include historical mass emission stations, TMDL compliance monitoring stations, ~~or~~ and other selected stations. The Permittee must describe how monitoring at the proposed locations will accurately characterize the effects of the discharges from the MS4 on the receiving water, and meet other stated objectives. The plan must also state whether historical mass emission stations will continue to be monitored, and if not, provide sufficient justification for discontinuation of monitoring at the historical mass emissions stations, and describe the value of past receiving water monitoring data in performing trends analysis to assess whether water quality if improving, staying the same or declining.

2. Minimum Monitoring Requirements

Receiving water is to be monitored during both dry and wet weather conditions to assess the impact of non-storm water and storm water discharges. Wet weather and dry weather are defined in each watershed, consistent with the definitions in TMDLs approved within the watershed. Monitoring is to commence ~~within 6 hours of the commencement of~~ as soon as possible after linked outfall monitoring in order to be reflective of potential impacts from MS4 discharges. At a minimum, the parameters to be monitored and the monitoring frequency are the same as those required for the linked outfalls.

D. Outfall Based Monitoring

The MRP requires Permittees to conduct outfall monitoring, linked with receiving water monitoring, bioassessment monitoring and TMDL special studies. The MRP allows the

REVISED TENTATIVE

Permittees flexibility to integrate the minimum requirements of this Order, applicable TMDL monitoring plans and other regional monitoring obligations into a single IMP or within a CIMP.

Per Part VII.A of the MRP, the Permittee must establish a ~~storm drain system~~ map or geographic database of storm drains, channels and outfalls to aid in the development of the outfall monitoring plan and to assist the Regional Water Board in reviewing the logic and adequacy of the number and location of outfalls selected for monitoring. The map/database must include the storm drain network, receiving waters, other surface waters that may impact hydrology, including dams and dry weather diversions. In addition, the map must identify the location and identifying code for each major outfall within the Permittee's jurisdiction. The map must include overlays including jurisdictional boundaries, subwatershed boundaries and storm drain outfall catchment boundaries. The map must distinguish between storm drain catchment drainage areas and subwatershed drainage areas, as these may differ. In addition, the map must include overlays displaying land use, impervious area and effective impervious area (if available). To the extent known, outfalls that convey significant non-stormwater discharges (see Part I.F to this Fact Sheet), must also be identified on the map, and the map must be updated annually to include the total list of known outfalls conveying significant flow of non-storm water discharge.

REVISED TENTATIVE

E. Storm Water Outfall Based Monitoring

The purpose of the outfall monitoring plan is to characterize the storm water discharges from each Permittee's drainages within each subwatershed. Outfall based monitoring is also conducted to assess compliance with WQBELs. ~~Under an IMP approach~~Unless Permittees have proposed and received approval for a customized monitoring program as previously discussed, each Permittee must identify at least one outfall within each subwatershed (HUC 12) within its jurisdictional boundary to monitor storm water discharges. The selected outfall(s) should receive drainage from an area representative of the land uses within the portion of its jurisdiction that drains to the subwatershed, and not be unduly influenced by storm water discharges from upstream jurisdictions or other NPDES discharges. It is assumed that storm water runoff quality will be similar for similar land use areas, and therefore runoff from a representative area will provide sufficient characterization of the entire drainage area. Factors that may impact storm water runoff quality include the land use (industrial, residential, commercial) and the control measures that are applied. Factors that may impact storm water runoff volume include percent effective impervious cover (connected to the storm drain system), vegetation type, soil compaction and soil permeability.

Storm water outfall monitoring is linked to receiving water monitoring (see above). Monitoring must be conducted at least three times per year during qualifying rain events, including the first rain event of the year and conducted approximately concurrently (within 6 hours) before the commencement of the downstream receiving water monitoring.

Monitoring is conducted for pollutants of concern including all pollutants with assigned WQBELs. Parameters to be monitored during wet weather include: flow, pollutants

subject to a TMDL applicable to the receiving water, pollutants listed on the Clean Water Act Section 303(d) list for the receiving water or a downstream receiving water. Flow is necessary to calculate pollutant loading. Sampling requirements, including methods for collecting flow-weighted composite samples, are consistent with the Ventura County Monitoring program (Order No. C17388).

For water bodies listed on the Clean Water Act section 303(d) list as being impaired due to sedimentation, siltation or turbidity, total suspended solids (TSS) and suspended sediment concentration (SSC) must be analyzed. TSS is the parameter most often required in NPDES permits to measure suspended solids. However, studies conducted by the United States Geological Survey (USGS) have found that the TSS procedure may not capture the full range of sediment particle sizes contributing to sediment impairments . Therefore both TSS and SSC are required in this Order.

For freshwater, the following field measurements are also required: hardness, pH, dissolved oxygen, temperature, and specific conductivity. Hardness, pH and temperature are parameters impacting the effect of pollutants in freshwater (i.e., metals water quality standards are dependent on hardness, ammonia toxicity is dependent on pH and temperature. Temperature and dissolved oxygen are interdependent and fundamental to supporting aquatic life beneficial uses. Specific conductivity is a parameter important to assessing potential threats to MUN and freshwater aquatic life beneficial uses.

Aquatic toxicity monitoring is required in the receiving water twice per year during wet weather conditions. Aquatic toxicity is a direct measure of toxicity and integrates the effects of multiple synergistic effects of known and unidentified pollutants. When samples are found to be toxic, a Toxicity Identification Evaluation must be performed in an attempt to identify the pollutants causing toxicity. Aquatic toxicity is required to be monitored in the receiving water twice per year during wet-weather rather than three times per year due to the expense of the procedure.

The monitoring data is to be accompanied by rainfall data and hydrographs, and a narrative description of the storm event, consistent with the requirements in the Ventura County MS4 (Monitoring Program – No. CI 7388). This information will allow the Permittee and the Regional Water Board staff to evaluate the effects of differing storm events in terms of storm water runoff volume and duration and in-stream effects.

F. Non-Stormwater Outfall-Based Screening and Monitoring Program

The non-storm water outfall screening and monitoring program is intended to build off of Permittees prior efforts under Order No. 01-182 to screen all outfalls within their MS4 to identify illicit connections and discharges. Under this Order, the Permitttees will use the following step-wise method to assess non-storm water discharges.

- Develop criteria or other means to ensure that all outfalls with significant non-storm water discharges are identified and assessed during the term of this Order.

REVISED TENTATIVE

- For outfalls determined to have significant non-storm water flow, determine whether flows are the result of illicit connections/illicit discharges (IC/IDs), authorized or conditionally exempt non-storm water flows, or from unknown sources.
- Refer information related to identified IC/IDs to the IC/ID Elimination Program (Part VI.D.~~9~~ 10 of this Order) for appropriate action.
- Based on existing screening or monitoring data or other institutional knowledge, assess the impact of non-storm water discharges (other than identified IC/IDs) on the receiving water.
- Prioritize monitoring of outfalls considering the potential threat to the receiving water and applicable TMDL compliance schedules.
- Conduct monitoring or assess existing monitoring data to determine the impact of non-storm water discharges on the receiving water.
- Conduct monitoring or other investigations to identify the source of pollutants in non-storm water discharges.
- Use results of the screening process to evaluate the conditionally exempt non-storm water discharges identified in Part III.A.2 and III.A.3 in this Order and take appropriate actions pursuant to Part III.A.4.d of this Order for those discharges that have been found to be a source of pollutants. Any future reclassification shall occur per the conditions in Parts III.A.2 or III.A.6 of this Order.

The screening and monitoring program is intended to maximize the use of Permittee resources by integrating the screening and monitoring process into existing or planned IMP/CIMP efforts. It is also intended to rely on the illicit discharge source investigation and elimination requirements in Part VI.D.~~9~~ 10 of this Order and the MS4 Mapping requirements in Part VII.A of the MRP.

The screening and source identification component of the program is used to identify the source(s) and point(s) of origin of the non-storm water discharge. The Permittee is required to develop a source identification schedule based on the prioritized list of outfalls exhibiting significant non-storm water discharges. The schedule shall ensure that source investigations are to be conducted for no less than 25% of the outfalls in the inventory within three years of the effective date of this Order and 100% of the outfalls within 5 years of the effective date of this Order. This will ensure that all outfalls with significant non-storm water discharges will be assessed within the term of this Order.

Additional requirements have been included to require the Permittee to develop a map and database of all outfalls with known non-storm water discharges. The database and map are to be updated throughout the term of this Order. If the source of the non-storm water discharge is determined to be an NPDES permitted discharge, a discharge subject to a Record of Decision approved by USEPA pursuant to section 121 of CERCLA, a conditionally exempt essential non-storm water discharge, or entirely comprised of natural flows as defined at Part III.A.d of this Order, the Permittee need only document the source and report to the Regional Water Board within 30 days of determination and in the next annual report. Likewise, if the discharge is determined to

REVISED TENTATIVE

originate in an upstream jurisdiction, the Permittee is to provide notice and all characterization data to the upstream jurisdiction within 30 days of determination.

However, if the source is either unknown or a conditionally exempt non-essential non-storm water discharge, each Permittee shall conduct monitoring required in Part IX.F of the MRP. Special provisions are also provided if the discharge is found to result from multiple sources.

The parameters to be monitored include flow rate, pollutants assigned a WQBEL or receiving water limitation to implement TMDL provisions for the respective receiving water, as identified in Attachments L - R of this Order, non-storm water action levels as identified in Attachment G of this Order, and CWA Section 303(d) listed pollutants for the respective receiving water. Aquatic Toxicity required only when receiving water monitoring indicates aquatic toxicity and the TIE conducted in the receiving water is inconclusive.

In an effort to provide flexibility and allow the Permittee to prioritize its monitoring efforts, the outfall based monitoring can be integrated within an IMP/CIMP. For outfalls subject to a dry weather TMDL, monitoring frequency is established per the approved TMDL Monitoring Program.

Unless specified in an approved IMP/CIMP, outfalls not subject to dry weather TMDLs must be monitored at least four times during the first year of monitoring. ~~Due to the expense, Aquatic Toxicity monitoring is only required twice per year.~~ The four times per year monitoring is reflective of the potential for high variability in the quality and volume of non-storm water discharges and duration as opposed to storm water discharges.

Collected monitoring data is to be compared against applicable receiving water limitations, water quality based effluent limitations, non-storm water action levels, or exhibited Aquatic Toxicity as defined in the Parts XII.F and G of the MRP and all exceedances are to be reported in the Integrated Monitoring Compliance Report required in Part XIX.A.5 of the MRP.

After the first year, monitoring for specific pollutants may be reduced to once per year, if the values reported in the first year do not exceed applicable non-storm water WQBELs, non-storm water action levels, or a water quality standard applicable to the receiving water.

After ~~two years~~one year of monitoring, the Permittee may submit a written request to the Executive Officer of the Regional Water Board requesting to eliminate monitoring for specific pollutants based on an analysis demonstrating that there is no reasonable potential for the pollutant to exist in the discharge at a concentration exceeding applicable water quality standards.

REVISED TENTATIVE

1. Dry Weather Screening Monitoring

a. Background

Clean Water Act section 402(p) regulates discharges from municipal separate storm sewer systems (MS4s). Clean Water Act section 402(p)(3)(B)(ii) requires the Permittees to effectively prohibit non-storm water from entering the MS4.

Non-exempted, non-storm water discharges are to be effectively prohibited from entering the MS4 or become subject to another NPDES permit (55 Fed.Reg. 47990, 47995 (Nov.16, 1990)). Conveyances which continue to accept non-exempt, non-storm water discharges do not meet the definition of MS4 and are not subject to Clean Water Act section 402(p)(3)(B) unless the discharges are issued separate NPDES permits. Instead, conveyances that continue to accept non-exempt, non-storm water discharges that do not have a separate NPDES permit are subject to sections 301 and 402 of the CWA (55 Fed.Reg. 47990, 48037 (Nov. 16, 1990)).

In part, to implement these statutory provisions, Order No. 01-182 included non-storm water discharge prohibitions. Several categories of non-storm water discharges are specifically identified as authorized or conditionally exempt non-storm water discharges, including:

i. Discharges covered under an NPDES permit

ii. Discharges authorized by USEPA under CERCLA

iii. Discharges resulting from natural flows

iv. Discharges from emergency fire fighting activity

v. Some Categories of Discharges incidental to urban activities

Further, as another mechanism to effectively prohibit non-storm water discharges into the MS4, Order No. 01-182 also requires the Los Angeles County MS4 Co-Permittees to implement an illicit connections and illicit discharges elimination program as part of their storm water management program pursuant to 40 CFR section 122.26(d)(2)(iv)(B).

Finally, Monitoring and Reporting Program CI 6948, a part of Order No. 01-182, required dry weather monitoring at the Mass Emissions Stations (MES) to estimate pollutant contributions and determine if the MS4 is contributing to exceedances of applicable water quality standards during dry weather.

b. Evaluation of Dry Weather Data

40 CFR section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedance of a water quality standard. The process for determining reasonable potential and calculating WQBELs when necessary is intended to protect the designated uses of the receiving water as

specified in the Basin Plan, and achieve applicable water quality objectives and criteria that are contained in the Basin Plan and other state plans and policies, or any applicable water quality criteria contained in the California Toxics Rule (CTR) and National Toxics Rule (NTR).

In an effort to evaluate the Discharger's program to effectively prohibit non-storm water discharges into the MS4, as well as to determine whether MS4 discharges are potentially contributing to exceedances of water quality standards, the Reasonable Potential Analysis (RPA) process was used as a screening tool. In doing so, dry weather monitoring data submitted by the Discharger was evaluated to identify where non-storm water discharges may impact beneficial uses and where additional monitoring and/or investigations of non-storm water discharges should be focused.

Order No. 01-182 and Monitoring and Reporting Program No. 6948 required the Discharger to implement core monitoring at seven mass emission stations:

- Ballona Creek
- Malibu Creek
- Los Angeles River
- San Gabriel River (representing the upper portion of the San Gabriel River Watershed Management Area)
- Coyote Creek (representing the lower portion of the San Gabriel River Watershed Management Area)
- Dominguez Channel
- Santa Clara River

In addition to wet weather monitoring requirements at each of the mass emission stations, a minimum of two dry weather samples were required each year. Monitoring was required for conventional pollutants (BOD, TSS, pH, fecal coliform, oil and grease), priority pollutants, and a variety of other nonconventional pollutants (e.g., nutrients, dissolved oxygen, salinity/conductivity).

Dry weather monitoring data were compiled from Annual Stormwater Monitoring Reports submitted by the Los Angeles County Department of Public Works for the period from 2005 to 2011 to reflect the most recent data. The Annual Stormwater Monitoring Reports include the results for dry weather samples that were collected from 2005 to 2011 on 15 different dates.

For each monitored parameter, the most stringent applicable water quality objective/criterion was identified from the Basin Plan and the CTR at 40 CFR section 131.38. The following assumptions were made when conducting the analysis:

REVISED TENTATIVE

- The mass emissions stations represented only freshwater segments. Accordingly, CTR criteria for the protection of freshwater aquatic life were selected for comparison to monitoring results.
- For hardness-dependent metals, criteria were derived by using the lowest reported dry-weather hardness value for each mass emission station for the period of 2005 to 2011.
- For screening purposes the criteria associated with the most protective beneficial use for any segment within the watershed was selected for comparison to monitoring results.
- Basin Plan surface water quality objectives for minerals (i.e., total dissolved solids, sulfate, and chloride) apply to specific stream reaches within each watershed and are provided in Chapter 3 of the Basin Plan. Where no specific objectives are identified, footnote f to Table 3-8 provides guidelines for protection of various beneficial uses. When guidelines were presented as a range, the most protective (low end of range) value was selected and applied according to beneficial uses in the watershed.
- With the exception of bacteria, the water quality objectives used for the analysis are the most current in effect. Since adoption of Order No. 01-182 in 2001, some Basin Plan objectives and CTR criteria have been amended. As a result, the pollutants monitored under the MRP for Order No. 01-182 may not necessarily reflect current objectives.
- *E coli* bacteria was not required as part of the MRP to Order No. 01-182, thus screening for bacteria was based solely on fecal coliform. Monitoring results for fecal coliform were compared to the Basin Plan fecal coliform objective in effect during the monitoring period. The Basin Plan objective for bacteria was amended in December 2011 to omit fecal coliform as a fresh water objective. The existing numeric bacteria objective for freshwater is limited to *E. coli*. The Basin Plan bacteria objectives are expressed as a single sample maximum and a geometric mean. In this screening, limited data precluded calculation of geometric means, therefore, the geometric mean objective was treated as a "not-to-exceed" criterion for screening purposes. The geometric mean objective for fecal coliform is 200/100 ml (the Basin Plan objective to protect primary contact recreation beneficial use (REC-1) uses in freshwaters).
- Within a given watershed, where the Basin Plan designates a "Potential" beneficial use of MUN, drinking water maximum contaminant levels (MCLs) were not applied as the most stringent objectives. Within a given watershed, where the Basin Plan designates "Potential" or "Intermittent" for beneficial uses other than MUN, the appropriate protective objectives were used for screening. This is consistent with Basin Plan requirements and existing permitting procedures.

The maximum reported pollutant concentration was compared to the most stringent applicable water quality objective to determine if there was potential for receiving water concentrations to exceed water quality objectives.

Table F-10 summarizes the results of the RPA analysis based on evaluation of the 15 sets of data for the period of 2005 to 2011 for each of the mass emission stations. Generally, all priority pollutant organic parameters were reported as below detection levels at practical quantitation levels (PQLs) consistent with the minimum levels (MLs) listed in the SIP. The most prevalent pollutants of concern among the mass emission stations include fecal coliform bacteria, cyanide, mercury, chloride, sulfate, total dissolved solids, copper, and selenium. Reported fecal coliform bacteria, cyanide, copper, and selenium concentrations appear to consistently exceed objectives/criteria in all watersheds at relatively high levels. For watersheds where objectives apply for sulfate and total dissolved solids, the receiving water concentrations consistently exceeded the objectives. The incidences where exceedances are indicated for mercury are largely due to analytical detection levels that were higher than the applicable criterion.

Table F-10. Summary of LA County Watersheds and Frequency of Receiving Water Exceeding Criteria - 2005 to 2011- Dry Season Data Analysis[1]

Parameter	Santa Clara River	Los Angeles River	Dominguez Channel	Ballona Creek	Malibu Creek	San Gabriel River	
						Upper Portion	Lower Portion
pH	0/15	7/15	5/15	3/15	0/15	1/14	2/15
Total Coliform	No FW Objective	No FW Objective)	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective
Fecal Coliform	4/15	4/15	10/15	13/15	6/15	11/14	13/15
Enterococcus	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective
Chloride	15/15	15/15	No Objective	0/15	0/15	14/14	15/15
Dissolved Oxygen	1/15	0/15	0/15	0/15	0/15	√1/14	0/15
Nitrate-N	0/15	0/15	No Objective	No Objective	0/15	7/14	No Objective
Nitrite-N	0/15	3/15	No Objective	No Objective	0/15	0/15	No Objective
Methylene Blue Active Substances	4/15	0/15	No Objective	No Objective	0/15	0/14	No Objective
Sulfate	15/15	15/15	No Objective	No Objective	15/15	14/14	15/15
Total Dissolved Solids	15/15	15/15	No Objective	No Objective	13/15	14/14	15/15
Turbidity[2]	0/15	2/15	No Objective	No Objective	0/15	0/15	0/15
Cyanide	11/15	14/15	4/15	15/15	3/15	14/14	15/15
Total Aluminum	1/15	2/15	No Objective	No Objective	0/15	1/14	No Objective
Dissolved Copper	0/15	0/15	5/15	0/15	0/15	13/14	0/15
Total Copper	1/15	6/15	11/15	3/15	0/15	13/14	2/15
Dissolved Lead	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Total Lead	0/15	0/15	1/15	1/15	0/15	13/14	0/15
Total Mercury	1515	14/15	14/15	15/15	15/15	14/14	15/15
Dissolved Mercury	15/15	15/15	15/15	15/15	15/15	14/14	14/14
Total Nickel	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Dissolved Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Total Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Dissolved Zinc	0/15	0/15	0/15	0/15	0/15	7/10	0/15
Total Zinc	0/15	0/15	0/1)	0/15	0/15	10/10	0/15

1. Frequency of exceedance is denoted as number of exceedances/number of dry weather samples evaluated. For example, "2/15" indicates 2 of the 15 samples had analytical results that exceeded the water quality objective for a given parameter.

REVISED TENTATIVE

[2] The Basin Plan objective for turbidity for the protection of MUN is the secondary MCL of 5 NTU. The Basin Plan contains additional turbidity objectives expressed as incremental changes over natural conditions. Since inadequate data were available to assess criteria expressed as incremental changes, only the MCL was considered in the analysis.

c. Requirements for Controlling Non-Storm Water Discharges

The USEPA's approach for non-storm water discharges from MS4s is to regulate these discharges under the existing CWA section 402 NPDES framework for discharges to surface waters. The NPDES program (40 CFR section 122.44(d)) utilizes discharge prohibitions and effluent limitations as regulatory mechanisms to regulate non-storm water discharges, including the use of technology- and water quality-based effluent limitations. Non-numerical controls, such as BMPs for non-storm water discharges may only be authorized where numerical effluent limitations are infeasible.

As described in Table F-10 above, there were a number of pollutants for which it was determined that receiving water concentrations at the mass emission stations indicate possible exceedances of water quality standards within the watershed. However, for waterbody-pollutant combinations not subject to a TMDL, there is uncertainty regarding whether exceedances occurred within specific segments where standards apply; the extent to which non-storm water discharges from the MS4 have caused or contributed to any exceedances; and whether the exceedances are attributable to any one or more specific MS4 outfalls within the watershed management area.

Given the need for additional data on non-stormwater discharges from the MS4 where a TMDL has not been developed, USEPA and the State have used action levels as a means to gauge potential impact to water quality and to identify the potential need for additional controls for non-stormwater discharges in the future. If these action levels are exceeded, then additional requirements (e.g., numeric effluent limitations, increased monitoring, special studies, additional BMPs) are typically used to address the potential impacts. In this case, non-storm water action levels are applicable to non-storm water discharges from that MS4 outfall. Non-storm water discharges from the MS4 are those which occur during dry weather conditions. These action levels are not applied to storm water discharges, as defined within this Order. Storm water discharges regulated by this Order are required to meet the MEP standard and other provisions determined necessary by the State to control pollutants and have separate requirements under this Order.

The use of action levels in this Order does not restrict the Regional Water Boards ability to modify this Order in accordance with 40 CFR section 122.62 to include numeric effluent limitations should monitoring data indicate that controls beyond action levels are necessary to ensure that non-storm water discharges do not cause or contribute to exceedances of water quality standards.

i. Approach for Deriving Action Levels

Where exceedances are indicated in Table F-10 and where a TMDL has not been developed, action levels are applied as a screening tool to indicate where non-storm water discharges, including exempted flows and illicit connections may be causing or contributing to exceedances of water quality objectives. Action levels in this Order are based upon numeric or narrative water quality objectives and criteria as defined in the Basin Plan, the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), and the CTR.

(1) Discharges to Inland Surface Waters, Enclosed Bays, and Estuaries

Priority Pollutants Subject to the CTR

Priority pollutant water quality criteria in the CTR are applicable to all inland surface waters, enclosed bays, and estuaries. The CTR contains both saltwater and freshwater criteria. Because a distinct separation generally does not exist between freshwater and saltwater aquatic communities, the following apply, in accordance with Section 131.38(c)(3):

- For waters in which the salinity is equal to or less than 1 part per thousand (ppt), the freshwater criteria apply.
- For waters in which the salinity is greater than 10 ppt 95 percent or more of the time, the saltwater criteria apply.
- For waters in which the salinity is between 1 ppt and 10 ppt, the more stringent of the freshwater or saltwater criteria apply.

For continuous discharges, 40 CFR section 122.45(d)(1) specifies daily maximum and average monthly effluent limitations. Because of the uncertainty regarding the frequency of occurrence and duration of non-storm water discharges through the MS4, average monthly action levels (AMALs) and maximum daily action levels (MDALs) were calculated following the procedure based on the steady-state model, available in Section 1.4 of the SIP. The SIP procedures were used to calculate action levels for CTR priority pollutants and other constituents for which the Basin Plan contains numeric objectives.

Since many of the streams in the Region have minimal upstream flows, mixing zones and dilution credits are usually not appropriate. Therefore, in this Order, no dilution credit is being allowed.

40 CFR section 122.45(c) requires that effluent limitations for metals be expressed as total recoverable concentration; therefore it is appropriate to include action levels also as a total recoverable concentration. The SIP requires that if it is necessary to express a dissolved metal value as a total recoverable and a site-specific translator has not yet been developed, the

Regional Water Board shall use the applicable conversion factor contained in the 40 CFR section 131.38.

Using nickel as an example, and assuming application of saltwater criteria (e.g., a situation where an MS4 outfall discharges to an estuary), the following demonstrates how action levels were established for this Order. The tables in Attachment H provide the action levels for each watershed management area addressed by this Order using the process described below.

The process for developing these limits is in accordance with Section 1.4 of the SIP. Two sets of AMAL and MDAL values are calculated separately, one set for the protection of aquatic life and the other for the protection of human health (consumption of organisms only). The AMALs and MDALs for aquatic life and human health are compared, and the most restrictive AMAL and the most restrictive MDAL are selected as the action level.

Step 1: For each constituent requiring an action level, identify the applicable water quality criteria or objective. For each criterion, determine the effluent concentration allowance (ECA) using the following steady state mass balance equation:

ECA = C + D(C-B) when C > B, and
ECA = C when C ≤ B,

Where:

C = The priority pollutant criterion/objective, adjusted if necessary for hardness, pH and translators (criteria for saltwater are independent of hardness and pH).
D = The dilution credit, and
B = The ambient background concentration

As discussed above, for this Order, dilution was not allowed; therefore:

ECA = C

For nickel the applicable ECAs are:

ECA_{acute} = 75 µg/L

$ECA_{chronic}$ = 8.3 µg/L

Step 2: For each ECA based on aquatic life criterion/objective, determine the long-term average discharge condition (LTA) by multiplying the ECA by a factor (multiplier). The multiplier is a statistically based factor that adjusts the ECA to account for effluent variability. The value of the

REVISED TENTATIVE

multiplier varies depending on the coefficient of variation (CV) of the data set and whether it is an acute or chronic criterion/objective. Table 1 of the SIP provides pre-calculated values for the multipliers based on the value of the CV. Equations to develop the multipliers in place of using values in the tables are provided in Section 1.4, Step 3 of the SIP and will not be repeated here.

$LTA_{acute} = ECA_{acute} \times Multiplier_{acute\ 99}$

$LTA_{chronic} = ECA_{chronic} \times Multiplier_{chronic\ 99}$

The CV for the data set must be determined before the multipliers can be selected and will vary depending on the number of samples and the standard deviation of a data set. If the data set is less than 10 samples, or at least 80% of the samples in the data set are reported as non-detect, the CV shall be set equal to 0.6. For nickel, a CV of 0.6 was assumed.

For nickel, the following data were used to develop the acute and chronic LTA using equations provided in Section 1.4, Step 3 of the SIP (Table 1 of the SIP also provides this data up to three decimals):

CV	ECA $Multiplier_{acute}$	ECA $Multiplier_{chronic}$
0.6	0.32	0.53

$LTA_{acute} = 75\ \mu g/L \times 0.32 = 24\ \mu g/L$

$LTA_{chronic} = 8.3\ \mu g/L \times 0.53 = 4.4\ \mu g/L$

Step 3: Select the most limiting (lowest) of the LTA.

LTA = most limiting of LTA_{acute} or $LTA_{chronic}$

For nickel, the most limiting LTA was the $LTA_{chronic}$

$LTA_{nickel} = LTA_{chronic} = 4.4\ \mu g/L$

Step 4: Calculate the action levels by multiplying the LTA by a factor (multiplier). Action levels are expressed as AMAL and MDAL. The multiplier is a statistically based factor that adjusts the LTA for the averaging periods and exceedance frequencies of the criteria/objectives and the action levels. The value of the multiplier varies depending on the probability basis, the CV of the data set, the number of samples (for AMAL) and whether it is a monthly or daily limit. Table 2 of the SIP provides pre-calculated values for the multipliers based on the value of the CV and the number of samples. Equations to develop the multipliers in place of using values in the tables are provided in Section 1.4, Step 5 of the SIP and will not be repeated here.

REVISED TENTATIVE

$AMAL_{aquatic\ life} = LTA \times AMAL_{multiplier\ 95}$

$MDAL_{aquatic\ life} = LTA \times MDAL_{multiplier\ 99}$

AMAL multipliers are based on a 95th percentile occurrence probability, and the MDAL multipliers are based on the 99th percentile occurrence probability. If the number of samples is less than four (4), the default number of samples to be used is four (4).

For nickel, the following data were used to develop the AMAL and MDAL for action levels using equations provided in Section 1.4, Step 5 of the SIP (Table 2 of the SIP also provides this data up to two decimals):

No. of Samples Per Month	CV	$Multiplier_{MDAL\ 99}$	$Multiplier_{AMAL\ 95}$
4	0.6	3.11	1.55

Therefore:

AMAL = 4.4 µg/L x 1.55 = 6.8 µg/L

MDAL= 4.4 µg/L x 3.11 = 14 µg/L

Step 5: For the ECA based on human health, set the AMAL equal to the $ECA_{human\ health}$

$AMAL_{human\ health} = ECA_{human\ health}$

For nickel:

$AMAL_{human\ health}$ = 4,600 µg/L

Step 6: Calculate the MDAL for human health by multiplying the AMAL by the ratio of the $Multiplier_{MDAL}$ to the $Multiplier_{AMAL}$. Table 2 of the SIP provides pre-calculated ratios to be used in this calculation based on the CV and the number of samples.

$MDAL_{human\ health} = AMAL_{human\ health} \times (Multiplier_{MDAL} / Multiplier_{AMAL})$

For nickel, the following data were used to develop the $MDAL_{human\ health}$:

REVISED TENTATIVE

No. of Samples Per Month	CV	$Multiplier_{MDAL\ 99}$	$Multiplier_{AMAL\ 95}$	Ratio
4	0.6	3.11	1.55	2.0

For nickel:

$MDAL_{human\ health}$= 4,600 µg/L x 2 = 9,200 µg/L

Step 7: Select the lower of the AMAL and MDAL based on aquatic life and human health as the non-storm water action level for this Order.

$AMAL_{aquatic\ life}$	$MDAL_{aquatic\ life}$	$AMAL_{human\ health}$	$MDAL_{human\ health}$
6.8	14	4,600	9,200

For nickel, the lowest (most restrictive) levels are based on aquatic toxicity and serve as the basis for non-storm water action levels included in this Order.

REVISED TENTATIVE

Table F-11: Calculations of Freshwater Action Levels[1]

Parameter	Units	CV	Aquatic Life Criteria[2]		Human Health Criteria	HH Calculations			Aquatic Life Calculations									Final ~~Effluent~~ ~~Limitations~~Action Levels	
			C acute = CMC tot	C chronic = CCC tot	HH-Organisms only	ECA_{HH} = $AMAL_{HH}$	AMAL/MDAL Multiplier$_{HH}$	$MDAL_{HH}$	ECA Multiplier$_{acute}$	LTA_{acute}	ECA Multiplier$_{chronic}$	$LTA_{chronic}$	Lowest LTA	AMAL Multiplier$_{95}$	$AMAL_{AL}$	MDAL Multiplier$_{99}$	$MDAL_{AL}$	Lowest AMAL	Lowest MDAL
Cadmium	µg/L	0.6	4.52	2.46	N		2.01		0.321	1.45	0.527	1.30	1.30	1.55	2.02	3.11	4.0	2.0	4.0
Copper	µg/L	0.6	14.00	9.33			2.01		0.321	4.49	0.527	4.92	4.49	1.55	6.98	3.11	14	7.0	14
Lead	µg/L	0.6	81.65	3.18	N		2.01		0.321	26.21	0.527	1.68	1.68	1.55	2.61	3.11	5.2	2.6	5.2
Mercury	µg/L	0.6	R	R	0.051	0.051	2.01	0.1023										0.051	0.10
Nickel	µg/L	0.6	469.17	52.16	4600	4600	2.01	9228	0.321	150.6	0.527	27.51	27.51	1.55	42.71	3.11	86	43	86
Selenium	µg/L	0.6	20.00	5.00	N		2.01		0.321	6.42	0.527	2.64	2.64	1.55	4.09	3.11	8.2	4.1	8.2
Silver	µg/L	0.6	4.06				2.01		0.321	1.30	0.527		1.30	1.55	2.02	3.11	4.1	2.0	4.1
Zinc	µg/L	0.6	119.82	119.82			2.01		0.321	38.47	0.527	63.20	38.47	1.55	59.72	3.11	120	60	120
Cyanide	µg/L	0.6	22.00	5.20	22,0000	22,0000	2.01	44,1362	0.321	7.06	0.527	2.74	2.74	1.55	4.26	3.11	8.5	4.3	8.5

R = Reserved
N = Narrative
[1] Calculations include rounded results. Final AMALs/MDALs are rounded to 2 significant digits.
[2] Where criteria are based on hardness, a value of 100 mg/L CaCO3 was used for these sample calculations.

REVISED TENTATIVE

Table F-12: Calculations of Saltwater Action Levels

Parameter	Units	CV	Aquatic Life Criteria		Human Health Criteria	HH Calculations			Aquatic Life Calculations									Final ~~Effluent Limitations~~Action Levels	
			C acute = CMC tot	C chronic = CCC tot	HH-Organisms only	ECA_{HH} = $AMAL_{HH}$	AMAL/MDAL Multiplier$_{HH}$	$MDAL_{HH}$	ECA Multiplier$_{acute}$	LTA_{acute}	ECA Multiplier$_{chronic}$	$LTA_{chronic}$	Lowest LTA	AMAL Multiplier$_{95}$	$AMAL_{AL}$	MDAL Multiplier$_{99}$	$MDAL_{AL}$	Lowest AMAL	Lowest MDAL
Cadmium	µg/L	0.6	42.25	9.36	N		2.01		0.321	13.57	0.527	4.93	4.93	1.55	7.66	3.11	15.4	7.7	15
Copper	µg/L	0.6	5.78	3.73			2.01		0.321	1.86	0.527	1.97	1.86	1.55	2.88	3.11	5.8	2.9	5.8
Lead	µg/L	0.6	220.82	8.52	N		2.01		0.321	70.90	0.527	4.49	4.49	1.55	6.97	3.11	14	7.0	14
Mercury	µg/L	0.6	R	R	0.051	0.051	2.01	0.1023										0.051	0.10
Nickel	µg/L	0.6	74.75	8.28	4600	4600	2.01	9228	0.321	24.00	0.527	4.37	4.37	1.55	6.78	3.11	14	6.8	14
Selenium	µg/L	0.6	290.58	71.14	N		2.01		0.321	93.30	0.527	37.52	37.52	1.55	58.25	3.11	117	58	117
Silver	µg/L	0.6	2.24				2.01		0.321	0.72	0.527		0.72	1.55	1.11	3.11	2.2	1.1	2.2
Zinc	µg/L	0.6	95.14	85.62			2.01		0.321	30.55	0.527	45.16	30.55	1.55	47.42	3.11	95	47	95
Cyanide	µg/L	0.6	1.00	1.00	22,0000	22,0000	2.01	44,1362	0.321	0.32	0.527	0.53	0.32	1.55	0.50	3.11	1.0	0.50	1.0

R = Reserved
N = Narrative
[1] Calculations include rounded results. Final AMALs/MDALs are rounded to 2 significant digits.

REVISED TENTATIVE

Basin Plan Requirements for Other Pollutants

A number of pollutants were identified that exceed applicable Basin Plan objectives. These objectives however, are not amenable to the SIP process for developing action levels.

Resolution No. 01-018, Amendment to the Water Quality Control Plan for the Los Angeles Region to Update the Bacteria Objectives for Water Bodies Designated for Water Contact Recreation, adopted by the Regional Water Board on October 25, 2001, served as the basis for the action levels for bacteria. Subsequently, the Basin Plan was amended through Order No. R10-005 (effective on December 5, 2011) to remove the freshwater fecal coliform numeric objective while retaining the freshwater objective for *E. coli*. The dry-weather evaluation conducted for fecal coliform indicates of a need for a bacteria action level. Since the Basin Plan no longer contains freshwater objectives for fecal coliform, action levels have been developed for *E. coli* in freshwater. The current bacteria objectives (saltwater and freshwater) are applied directly to the MS4 outfalls discharging to freshwaters to serve as action levels.

The Basin Plan, in Tables 3-5 through 3-7, include chemical constituents objectives based on the incorporation of Title 22, Drinking Water Standards, by reference, to protect the surface water MUN beneficial use. The Basin Plan in Tables 3-8 and 3-10 also includes mineral quality objectives that apply to specific watersheds and stream reaches and where indicated by the beneficial use of ground water recharge (GWR). These objectives contained in the Basin Plan are listed as not-to-exceed values. Consistent with the approach used by the Regional Water Board in other Orders for dry weather discharges, these not-to-exceed values will be applied as AMALs in this Order.

(2) Discharges to the Surf Zone

From the Table B water quality objectives of the Ocean Plan, action levels are calculated according to Equation 1 of the Ocean Plan for all pollutants:

$Ce = Co + Dm(Co-Cs)$

Where:

Ce = the Action Level (µg/L)
Co = the water quality objective to be met at the completion of initial dilution (µg/L)
Cs = background seawater concentration (µg/L)
Dm = minimum probable initial dilution expressed as parts seawater per part wastewater

REVISED TENTATIVE

The Dm is based on observed waste flow characteristics, receiving water density structure, and the assumption that no currents of sufficient strength to influence the initial dilution process flow across the discharge structure. Initial dilution is the process that results in the rapid and irreversible turbulent mixing of wastewater with ocean water around the point of discharge. It is conservatively assumed that when non-storm water discharges to the surf zone occur, that conditions are such that no rapid mixing would occur. Therefore, an initial dilution is not allowed and the formula above reduces to:

Ce = Co

The following demonstrates how the action levels for copper are established.

Copper
Ce = 3 µg/L (6-Month Median)
Ce = 12 µg/L (Daily Maximum)
Ce = 30 µg/L (Instantaneous Maximum)

ii. Applicability of Action Levels

The action levels included in this Order apply to pollutants in non-storm water discharges from the MS4 to receiving waters that are not already subject to WQBELs to implement TMDL wasteload allocations applicable during dry weather.

This Order requires outfall-based monitoring throughout each Watershed Management Area, including monitoring during dry weather. The dry weather monitoring data will be evaluated by the Permittee(s) in comparison to all applicable action levels.

iii. Requirements When Action Levels are Exceeded

When monitoring data indicates an action level is exceeded for one or more pollutants, then the Permittee will be required to implement actions to identify the source of the non-storm water discharge, and depending on the identified source, implement an appropriate response. With respect to action levels, the Permittee will have identified appropriate procedures within the Watershed Management Program (Part VI.C) and the Illicit Connection and Illicit Discharge Elimination Program (Part VI.D.9).

G. New Development/Re-Development Tracking

This Order requires the use of Low Impact Development (LID) designs to reduce storm water runoff (and pollutant discharges) from new development or re-development projects. In areas that drain to water bodies that have been armored or are not natural drainages, the goal of this requirement is to protect water quality by retaining on-site the

storm water runoff from the 85th percentile storm event. This is the design storm used throughout most of California for water quality protection. If it is not technically feasible due to site constraints (e.g., close proximity to a drinking water supply, slope instability) or if instead the project proponent is proposing to supplement a groundwater replenishment project, the project proponent may provide treatment BMPs to reduce pollutant loading in storm water runoff from the project site. Flow through treatment BMPs are less effective in reducing pollutant loadings than on-site retention for the design storm. Therefore the project proponent must mitigate the impacts further by providing for LID designs at retrofit projects or other off-site locations within the same subwatershed. The effectiveness monitoring is designed to assess and track whether post construction operation of the LID designs are effective in retaining the design storm runoff volume.

For projects located in natural drainages, the goal of the LID design is to retain the pre-development hydrology, unless a water body is not susceptible to hydromodification effects (e.g., estuaries or the ocean). Smaller projects that will disturb less than 50 acres of land are presumed to meet the criteria if the project retains the storm water runoff from the 95th percentile storm. The effectiveness monitoring in this situation should be design to confirm that storm water runoff is not occurring for any storm at or less than the 95th percentile storm. Projects may also demonstrate compliance by showing that the erosion potential will be approximately 1 as described in Attachment J of this Order. For larger projects, the project proponent may be required to conduct modeling to demonstrate compliance by comparing the hydrographs of a two-year storm for the pre-development and post-development conditions, or by comparing the flow duration curves for a reference watershed and the post project condition. Flow monitoring will be required to substantiate the simulated hydrographs or flow duration curves.

Monitoring studies conducted by the California Department of Public Health (CDPH) have documented that mosquitoes opportunistically breed in structural storm water Best Management Practices (BMPs), particularly those that hold standing water for over 96 hours. Certain Low Impact Development (LID) site design measures that hold standing water such as rainwater capture systems may similarly produce mosquitoes. BMPs and LID design features should incorporate design, construction, and maintenance principles to promote drainage within 96 hours to minimize standing water available to mosquitoes. This Order requires regulated MS4 Permittees to coordinate with other agencies necessary to successfully implement the provisions of this Order. These agencies may include CDPH and local mosquito and vector control agencies on vector-related issues surrounding implementation of post-construction BMPs.

This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Public Health or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. and Water Quality Order No. 2012-0003-DWQ.

REVISED TENTATIVE

H. Regional Studies

1. Southern California Stormwater Monitoring Coalition Watershed Monitoring Program

As a condition to this Order, Permittees must participate in the bioassessment studies conducted under the Southern California Stormwater Monitoring Coalition Watershed Monitoring Program. Bioassessment provides a direct measure of whether aquatic life beneficial uses are fully supported and integrates the effects of multiple factors including pollutant discharges, changes in hydrology, geomorphology, and riparian buffers.

I. Aquatic Toxicity Monitoring Methods

Based on the stated goals of the CWA, the USEPA and individual states implement three approaches to monitoring water quality. These approaches include chemical-specific monitoring, toxicity testing, and bioassessments (USEPA 1991a). Each of the three approaches has distinct advantages and all three work together to ensure that the physical, chemical and biological integrity of our waters are protected. Water quality objectives have been developed for only a limited universe of chemicals. For mixtures of chemicals with unknown interactions or for chemicals having no chemical-specific objectives, the sole use of chemical-specific objectives to safeguard aquatic resources would not ensure adequate protection. Aquatic life in southern California coastal watersheds are often exposed to nearly 100% effluent from wastewater treatment plants, urban runoff, or storm water; therefore, toxicity testing and bioassessments are also critical components for monitoring programs as they offer a more direct and thorough confirmation of biological impacts. The primary advantage of using the toxicity testing approach is that this tool can be used to assess toxic effects (acute and chronic) of all the chemicals in aqueous samples of effluent, receiving water, or storm water. This allows the cumulative effect of the aqueous mixture to be evaluated, rather than the toxic responses to individual chemicals (USEPA, EPA Regions 8, 9, and 10 Toxicity Training Tool, January 2010).

Based on available data from the LA County MS4 Permit Annual Monitoring Reports, samples collected at mass emissions stations during both wet weather and dry weather have been found to be toxic in the San Gabriel River, Coyote Creek, the Los Angeles River, Dominguez Channel, Ballona Creek, Malibu Creek, and the Santa Clara River, demonstrating the need for this toxicity monitoring requirement (see Table below).

Summary of Toxicity by Watershed

Source and Season	San Gabriel River	Coyote Creek	Los Angeles River	Dominguez Channel	Ballona Creek	Malibu Creek	Santa Clara River
Integrated Receiving Water Impacts Report (1994-2005)							
Wet Weather	-	CDS, CDR, SUF	CDS, SUF	CDS, CDR, SUF	CDR, SUF	CDR	CDS
Dry	-	SUF	SUF	SUF	SUF	-	-

REVISED TENTATIVE

Weather							
Annual Monitoring Reports (2005-2010)							
Wet Weather							
2005-06	-	-	SUF	CDS, CDR, SUF	SUF	-	-
2006-07	SUF	SUF	SUF	SUF	SUF	SUF	SUF
2007-08	SUF	-	-	SUF	-	CDS,CDR,SUF	SUF
2008-09	-	SUF	SUF	-	SUF	CDS,CDR,SUF	-
2009-10	-	-	-	-	-	-	-
Dry Weather							
2005-06	-	-	-	-	-	CDS,CDR	-
2006-07	-	-	-	-	SUF	-	-
2007-08	-	-	CDS,CDR	-	SUF	-	-
2008-09	-	-	SUF	-	-	-	-
2009-10	-	-	-	-	-	-	-

Notes:
CDS= Ceriodaphnia survival toxicity
SUF= Sea Urchin fertilization toxicity
CDR= Ceriodaphnia reproduction toxicity

This Order requires Permittee(s) to conduct chronic toxicity tests on water samples, by methods specified in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms* (EPA/821/R-02/013, 2002; Table IA, 40 CFR Part 136) or a more recent edition.

To determine the most sensitive test species, the Permittee(s) shall conduct two wet weather and two dry weather toxicity tests with a vertebrate, an invertebrate, and a plant. After this screening period, subsequent monitoring shall be conducted using the most sensitive test species. Alternatively, if a sensitive test species has already been determined, or if there is prior knowledge of potential toxicant(s) and a test species is sensitive to such toxicant(s), then monitoring shall be conducted using only that test species. Sensitive test species determinations shall also consider the most sensitive test species used for proximal receiving water monitoring. After the screening period, subsequent monitoring shall be conducted using the most sensitive test species. Rescreening shall occur in the fourth year of the permit term.

For brackish water, this Order requires the Permittee(s) to conduct the chronic toxicity test in accordance with USEPA's Short-Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Waters to West Coast Marine and Estuarine Organisms, First Edition, August 1995, (EPA/600/R-95/136), or Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, Third Edition, October 2002, (EPA/821-R-02-014), or a more recent edition.

Furthermore, the toxicity component of the Monitoring Program includes toxicity identification procedures so that pollutants that are causing or contributing to acute or chronic effects in aquatic life exposed to these waters can be identified and others can be discounted. TIEs are needed to identify the culprit constituents to be used to prioritize management actions. Where toxicants are identified in a MS4 discharge, the Order requires a Toxicity Reduction Plan (TRE).

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TRE development and implementation is directly tied to the integrated monitoring programs and watershed management program, to ensure that management actions and follow-up monitoring are implemented when problems are identified. Permittees are encouraged to coordinate TREs with concurrent TMDLs where overlap exists. If a TMDL is being developed or implemented for an identified toxic pollutant, much of the work necessary to meet the objectives of a TRE may already be underway, and information and implementation measures should be shared.

Overall, the toxicity monitoring program will assess the impact of storm water and non-storm water discharges on the overall quality of aquatic fauna and flora and implement measures to ensure that those impacts are eliminated or reduced. As stated previously, chemical monitoring does not necessarily reveal the totality of impacts of storm water on aquatic life and habitat-related beneficial uses of water bodies. Therefore, toxicity requirements are a necessary component of the MS4 monitoring program.

J. Special Studies

Requirements to conduct special studies as described in TMDL Implementation Plans that were approved by the Executive Officer of the Regional Water Board prior to the effective date of this Order are incorporated into this Order by reference.

K. Annual Reporting

The Annual Reporting requirement was also required in Order No. 01-182 and provides summary information to the Regional Water Board on each Permittee's participation in one or more Watershed Management Programs; the impact of each Permittee(s) storm water and non-storm water discharges on the receiving water; each Permittee's compliance with receiving water limitations, numeric water quality based effluent limitations, and non-storm water action levels; and the effectiveness of each Permittee(s) control measures in reducing discharges of pollutants from the MS4 to receiving waters. In addition the Annual Report allows the Regional Water Board to assess whether the quality of MS4 discharges and the health of receiving waters is improving, staying the same, or declining as a result watershed management program efforts, and/or TMDL implementation measures, or other Control Measures and whether changes in water quality can be attributed to pollutant controls imposed on new development, re-development, or retrofit projects. The Annual Report provides the Permittee(s) a forum to discuss the effectiveness of its past and ongoing control measure efforts and to convey its plans for future control measures as well as a way to present data and conclusions in a transparent manner so as to allow review and

understanding by the general public. Overall the Annual Report allows Permittee's to focus reporting efforts on watershed condition, water quality assessment, and an evaluation of the effectiveness of control measures.

L. Watershed Summary Information, Organization and Content

As a means to establish a baseline and then identify changes or trends, for each watershed, each Permittee shall provide the information on its watershed management area, subwatershed area, and drainage areas within the subwatershed area in its odd year Annual Report (e.g., Year 1, 3, 5). The requested information should be provided for each watershed within the Permittee's jurisdiction. Alternatively, permittees participating in a Watershed Management Program may provide the requested information through the development and submission of a Watershed Management Program report or within a TMDL Implementation Plan Annual Report. However, in either case, the Permittee shall bear responsibility for the completeness and accuracy of the referenced information. This reporting requirement helps to ensure that both the Permittee and the Regional Water Board have up to date information on the status of each of their watersheds and subwatersheds.

M. Jurisdictional Assessment and Reporting

The requested information shall be provided for each watershed within the Permittee's jurisdiction. Annual Reports submitted on behalf of a group of Watershed Permittees shall clearly identify all data collected and strategies, control measures, and assessments implemented by each Permittee within its jurisdiction as well as those implemented by multiple Permittees on a watershed scale. Permittees must provide information on storm water control measures, an effectiveness assessment of storm water control measures, information on non-storm water control measures, an effectiveness assessment of non-storm water control measures, an integrated monitoring compliance report, information on adaptive management strategies, and supporting data and information. The addition of this reporting requirement serves as a mechanism to evaluate and ensure the protection of receiving water quality on a watershed scale. If Permittees do not elect to develop a Watershed Management Program, all required information shall be provided by the Permittee for its jurisdiction.

N. TMDL Reporting

Reporting requirements included in this Order and Attachment E (MRP) were established during the TMDL development process for each individual TMDL. These reporting requirements have incorporated into this Order to implement TMDL requirements.

XIV. CALIFORNIA WATER CODE SECTION 13241

California Water Code section 13241 requires the Regional Water Board to consider certain factors, including economic considerations, in the adoption of water quality objectives. California Water Code section 13263 requires the Board to take into consideration the provisions of section 13241 in adopting waste discharge requirements. In *City of Burbank v.*

State Water Resources Control Board (2005) 35 Cal.4th 613, the California Supreme Court considered whether regional water boards must comply with section 13241 when issuing waste discharge requirements under section 13263(a) by taking into account the costs a permittee will incur in complying with the permit requirements. The Court concluded that whether it is necessary to consider such cost information "depends on whether those restrictions meet or exceed the requirements of the federal Clean Water Act." (*Id.* at p. 627.) The Court ruled that regional water boards may not consider the factors in section 13241, including economics, to justify imposing pollutant restriction that are less stringent than the applicable federal law requires. (*Id.* at pp. 618, 626-627 ["[Water Code s]ection 13377 specifies that [] discharge permits issued by California's regional boards must meet the federal standards set by federal law. In effect, section 13377 forbids a regional board's consideration of any economic hardship on the part of the permit holder if doing so would result in the dilution of the requirements set by Congress in the Clean Water Act…Because section 13263 cannot authorize what federal law forbids, it cannot authorize a regional board, when issuing a [] discharge permit, to use compliance costs to justify pollutant restrictions that do not comply with federal clean water standards"].) However, when the pollutant restrictions in an NPDES permit are more stringent than federal law requires, California Water Code section 13263 requires that the Water Boards consider the factors described in section 13241 as they apply to those specific restrictions.

The Regional Water Board finds that the requirements in this Order are not more stringent than the minimum federal requirements. Among other requirements, federal law requires MS4 permits to include requirements to effectively prohibit non-storm water discharges into the storm sewers, in addition to requiring controls to reduce the discharge of pollutants in storm water to the maximum extent practicable and other provisions that the agency determines are necessary for the control of pollutants in MS4 discharges. The requirements in this Order may be more specific or detailed than those enumerated in federal regulations under 40 CFR § 122.26 or in USEPA guidance. However, the requirements have been designed to be consistent with and within the federal statutory mandates described in Clean Water Act section 402(p)(3)(B)(ii) and (iii) and the related federal regulations and guidance. Consistent with federal law, all of the conditions in this Order could have been included in a permit adopted by USEPA in the absence of the in lieu authority of California to issue NPDES permits. Moreover, the inclusion of numeric WQBELs in this Order does not cause the permit to be more stringent than current federal law. Federal law authorizes both narrative and numeric effluent limitations to meet state water quality standards. The inclusion of WQBELs as discharge specifications in an NPDES permit in order to achieve compliance with water quality standards is not a more stringent requirement than the inclusion of BMP based permit limitations to achieve water quality standards. (State Water Board Order No. WQ 2006-0012 (*Boeing*).) Therefore, consideration of the factors set forth in section 13241 is not required for permit requirements that implement the effective prohibition on the discharge of non-storm water discharges into the MS4, or for controls to reduce the discharge of pollutants in storm water to the maximum extent practicable, or other provisions that the Regional Water Board has determined appropriate to control such pollutants, as those requirements are mandated by federal law..

Notwithstanding the above, the Regional Water Board has considered the factors set forth in California Water Code section 13241 in issuing this Order. That analysis is provided below. The Regional Water Board has also considered all of the evidence that has been

presented to the Board regarding the section 13241 factors in adopting this Order. The Regional Water Board finds that the requirements in this Order are reasonably necessary to protect beneficial uses identified in the Basin Plan, and the economic information related to costs of compliance and other section 13241 factors are not sufficient to justify failing to protect those beneficial uses. Where appropriate, the Regional Water Board has provided Permittees with additional time to implement control measures to achieve final WQBELs and/or water quality standards.

A. *Past, present and probable future beneficial uses of water.*

Chapter 2 of the Basin Plan identifies designated beneficial uses for water bodies in the Los Angeles Region, which are the receiving waters for MS4 discharges. Beneficial uses are also identified in the findings of this Order and further discussed relative to TMDLs in section VI.D of this Fact Sheet.

B. *Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.*

Environmental characteristics of each of the Watershed Management Areas covered by this Order, including the quality of water, are discussed in the Region's Watershed Management Initiative Chapter as well as available in State of the Watershed reports and the State's CWA Section 303(d) List of impaired waters.

- Santa Clara River Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/santa_clara_river_watershed/santa_clara_river_watershed.doc
- Santa Monica Bay Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/santa_monica_bayWMA/santa_monica_bayWMA.doc
- Dominguez Channel Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/dominguez_channelWMA/dominguez_channelWMA.doc
- Los Angeles River Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/los_angeles_river_watershed/los_angeles_river_watershed.doc
- San Gabriel River Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/san_gabriel_river_watershed/san_gabriel_river_watershed.doc
- Los Cerritos Channel and Alamitos Bay Watershed Management Area
  www.waterboards.ca.gov/losangeles/water_issues/programs/regional_program/wmi/los_cerritos_channelWMA/los_cerritos_channelWMA.doc
- Middle Santa Ana River Watershed Management Area
  http://www.waterboards.ca.gov/santaana/water_issues/programs/wmi/index.shtml
  http://www.sawpa.org/watershedinfo.html

The quality of water in receiving waters for MS4 discharges has been routinely monitored by Permittees through the Monitoring and Reporting Program under Order No. 01-182.

REVISED TENTATIVE

Below are summaries of water quality exceedances reported for the 2010-2011 reporting year.

Summary of Constituents that Did Not Meet Water Quality Objectives at Mass Emission Stations during 2010-2011 for One or More Events

Mass Emission/Watershed	Wet	Dry
Ballona Creek (S01)[1]	Fecal coliforms[2] pH[3] Dissolved zinc	pH[3]
Malibu Creek (S02)	Fecal coliforms Cyanide pH[3] Sulfate	Fecal coliforms Sulfate
Los Angeles River (S10)[1]	Fecal coliforms[2] pH[3] Dissolved zinc Cyanide	Fecal coliforms pH[3]
Coyote Creek (S13)	Fecal coliforms[2] pH[3] Dissolved zinc	Fecal coliforms
San Gabriel River (S14)	Fecal coliforms[2] pH[3]	
Dominguez Channel (S28)[1]	Fecal coliforms[2] Dissolved copper Dissolved zinc	Fecal coliforms pH[3]
Santa Clara River (S29)	Fecal coliforms pH[3] Dissolved zinc	

REVISED TENTATIVE

[1] More urbanized watersheds.
[2] Subject to the fecal coliform water quality objective high-flow suspension (LARWQCB, 2003).
[3] pH was evaluated outside of holding time.

The following table summarizes the results of an analysis based on evaluation of the 15 sets of dry weather data for the period of 2005 to 2011 for each of the mass emission stations. The most prevalent pollutants of concern among the mass emission stations include fecal coliform bacteria, cyanide, mercury, chloride, sulfate, total dissolved solids, copper, and selenium. Reported results for fecal coliform bacteria, cyanide, copper, and selenium concentrations consistently exceeded water quality objectives in all watersheds. For watersheds where objectives apply for sulfate and total dissolved solids, the receiving water concentrations consistently exceeded the objectives. The incidences where exceedances are indicated for mercury are largely due to analytical detection levels that were higher than the applicable objective.

Summary of LA County Watersheds and Frequency of Receiving Water Exceeding Water Quality Objectives (2005 to 2011 - Dry Season Data Analysis)[1]

Parameter	Santa Clara River	Los Angeles River	Dominguez Channel	Ballona Creek	Malibu Creek	San Gabriel River	
						Upper Portion	Lower Portion
pH	0/15	7/15	5/15	3/15	0/15	1/14	2/15
Total Coliform	No FW Objective	No FW Objective)	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective
Fecal Coliform	4/15	4/15	10/15	13/15	6/15	11/14	13/15
Enterococcus	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective	No FW Objective
Chloride	15/15	15/15	No Objective	0/15	0/15	14/14	15/15
Dissolved Oxygen	1/15	0/15	0/15	0/15	0/15	1/14	0/15
Nitrate-N	0/15	0/15	No Objective	No Objective	0/15	7/14	No Objective
Nitrite-N	0/15	3/15	No Objective	No Objective	0/15	0/15	No Objective
Methylene Blue Active Substances	4/15	0/15	No Objective	No Objective	0/15	0/14	No Objective
Sulfate	15/15	15/15	No Objective	No Objective	15/15	14/14	15/15
Total Dissolved Solids	15/15	15/15	No Objective	No Objective	13/15	14/14	15/15
Turbidity[2]	0/15	2/15	No Objective	No Objective	0/15	0/15	0/15
Cyanide	11/15	14/15	4/15	15/15	3/15	14/14	15/15
Total Aluminum	1/15	2/15	No Objective	No Objective	0/15	1/14	No Objective
Dissolved Copper	0/15	0/15	5/15	0/15	0/15	13/14	0/15
Total Copper	1/15	6/15	11/15	3/15	0/15	13/14	2/15
Dissolved Lead	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Total Lead	0/15	0/15	1/15	1/15	0/15	13/14	0/15
Total Mercury	1515	14/15	14/15	15/15	15/15	14/14	15/15
Dissolved Mercury	15/15	15/15	15/15	15/15	15/15	14/14	14/14
Total Nickel	0/15	0/15	0/15	0/15	0/15	1/14	0/15
Dissolved Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Total Selenium	2/15	2/15	1/15	2/15	6/15	1/15	10/11
Dissolved Zinc	0/15	0/15	0/15	0/15	0/15	7/10	0/15
Total Zinc	0/15	0/15	0/1)	0/15	0/15	10/10	0/15

REVISED TENTATIVE

1. Frequency of exceedance is denoted as number of exceedances/number of dry weather samples evaluated. For example, "2/15" indicates 2 of the 15 samples had analytical results that exceeded the water quality objective for a given parameter.
2. The Basin Plan water quality objective for turbidity for the protection of MUN is the secondary MCL of 5 NTU. The Basin Plan contains additional turbidity objectives expressed as incremental changes over natural conditions. Since inadequate data were available to assess criteria expressed as incremental changes, only the MCL was considered in the analysis.
3. FW means freshwater

C. *Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.*

Since 2001, municipalities both locally and nationally have gained considerable experience in the management of municipal storm water and non-storm water discharges. The technical capacity to monitor storm water and its impacts on water quality has also increased. In many areas, monitoring of the impacts of storm water on water quality has become more sophisticated and widespread. Better information on the effectiveness of storm water controls to reduce pollutant loadings and address water quality impairments is now available. The International Stormwater BMP Database (http://www.bmpdatabase.org/) provides extensive information of the performance capabilities of storm water controls. Additionally, the County of Los Angeles conducted a BMP effectiveness study as a requirement of Order No. 01-182.[4]

Generally, improvements in the quality of receiving waters impacted by MS4 discharges can be achieved by reducing the volume of storm water or non-storm water discharged through the MS4 to receiving waters; reducing pollutant loads to storm water and non-storm water through source control/pollution prevention, including operational source control such as street sweeping, public education, and product or materials elimination or substitution; and removing pollutants that have been loaded into storm water or non-storm water before they enter receiving waters, through treatment or diversion to a sanitary sewer. The following factors are generally accepted to affect pollutant concentrations in MS4 discharges[5]:

- Land use
- Climatic conditions
- Season (i.e. for southern California, dry season and winter wet season)
- Percentage imperviousness (in particular, "effective impervious area" or "EIA")
- Rainfall amount and intensity (including seasonal "first-flush" effects)
- Runoff amount
- Watershed size
- Motor vehicle operation
- Aerial deposition

[4] County of Los Angeles Department of Public Works. "Los Angeles County BMP Effectiveness Study," August 2005.
[5] Maestre, Alexander and Robert Pitt. "Identification of Significant Factors Affecting Stormwater Quality Using the NSQD" (draft monograph, 2005).

In their 2010-2011 Annual Report, Permittees identified the following storm water and non-storm water pollutant control measures as particularly effective:

- Street sweeping;
- Catch basin cleaning;
- Catch basin inserts
- Trash bins;
- End-of-pipe controls such as low-flow diversions;
- Infiltration controls;
- Erosion controls; and
- Public education and outreach, including multi-lingual strategies.

Permittees summarized the most-used BMPs and most popular BMPs (according to the number of Permittees using a particular BMP) in their 2010-2011 Annual Report. An itemization of all BMPs installed and maintained during the 2010-11 reporting period is provided in Appendices B and C of the Permittees' Annual Report.

Most installed BMPs County-wide During 2010-11

BMP Type	Total Number Installed
Catch Basin Connector Pipe Full Capture (CPS)	6377
Fossil Filter Catch Basin Insert	5968
Automatic Retractable Catch Basin Trash Screen (ARS)	3870
Clean Screen Catch Basin Insert	3767
Extra Trash Can	3681
Covered Trash Bin	3119
Signage and Stenciling	1884
Drain Pac Catch Basin Insert	1625
CulTec Infiltration Systems	1296
Infiltration Trenches	963
Infiltration Pit	958
Abtech Ultra Urban Catch Basin Insert	748
CDS Gross Pollutant Separator	438
United Storm Water Catch Basin Scree Inserts	403
Restaurants Vent Traps	258
Stormceptor Gross Pollutant Separators	211

Most Used Proprietary and Non-Proprietary BMPs During 2010-11

Types of Nonproprietary BMPs Used By Most Permittees		**Types Proprietary BMPs Used By Most Permittees**	
BMP Type	**No. of Cities**	**BMP Type**	**No. of Cities**
Infiltration Trenches	40	Fossil Filter Catch Basin	46

		Inserts	
Covered Trash Bins	32	CDS Gross Pollutant Separator	36
Extra Trash Cans	31	Drain Pac Catch Basin Insert	21
Enhanced Street Sweeping	26	Clean Screen Catch Basin Insert	21
Dog Parks	23	Stormceptor Gross Pollutant Separator	19

Some of the many advances in how to effectively control storm water and pollutants in storm water have occurred locally within the Los Angeles Region and include the development of cost effective trash full capture devices, storm water diversion, treatment and beneficial use facilities such as SMURRF and storm water capture, storage, and reuse facilities such as Sun Valley, low impact development/site design practices, and innovative/opportunistic culvert inlet multi-media filters. There are many other case studies of municipalities that have implemented innovative and effective storm water management measures (e.g., Portland, OR).

This Order is designed to reduce pollutant loading to waterbodies within Los Angeles County from discharges to and from the Los Angeles County MS4 through the implementation of multi-faceted storm water management programs at the municipal and watershed levels. Overall improvements in MS4 discharge quality are expected to occur over time with ongoing implementation of the Los Angeles County MS4 Permit. However, currently little information on the quality of storm water in the region and the water quality that can be achieved with the coordinated control of all MS4 discharges through full implementation of all storm water management measures by individual municipalities and collectively by all Permittees within a watershed is available. ThisOrder, however, is designed to effectively focus and broaden monitoring requirements with the addition of outfall monitoring and monitoring associated with the 33 TMDLs being incorporated, so pollutant loading from the MS4 can be better quantified and improvements in water quality resulting from implementation of storm water management measures can be tracked.

D. *Economic considerations.*

The Regional Water Board recognizes that Permittees will incur costs in implementing this Order above and beyond the costs from the Permittees' prior permit. Such costs will be incurred in complying with the post-construction, hydromodification, Low Impact Development, TMDL, and monitoring and reporting requirements of this Order. The Regional Water Board also recognizes that, due to California's current economic condition, many Permittees currently have limited staff and resources to implement actions to address its MS4 discharges. Based on the economic considerations below, the Board has provided

REVISED TENTATIVE

permittees a significant amount of flexibility to choose how to implement the permit. This Order allows Permittees the flexibility to address critical water quality priorities, namely discharges to waters subject to TMDLs, but aims to do so in a focused and cost-effective manner while maintaining the level of water quality protection mandated by the Clean Water Act and other applicable requirements. For example, the inclusion of a watershed management program option allows Permittees to submit a plan, either individually or in collaboration with other Permittees, for Regional Water Board Executive Officer approval that would allow for actions to be prioritized based on specific watershed needs. The Order also allows Permittees to customize monitoring requirements, which they may do individually, or in collaboration with other Permittees. In the end, it is up to the permittees to determine the effective BMPs and measures needed to comply with this Order. Permittees can choose to implement the least expensive measures that are effective in meeting the requirements of this Order. This Order also does not require permittees to fully implement all requirements within a single permit term. Where appropriate, the Board has provided permittees with additional time outside of the permit term to implement control measures to achieve final WQBELs and/or water quality standards. Lastly, this Order includes several reopener provisions whereby the Board can modify this Order based on new information gleaned during the term of this Order.

Before discussing the economics associated with regulating MS4 discharges, it should be noted that there are instances outside of this Order where the Board previously considered economics. First, when the Board adopted the water quality objectives that serve as the basis for several requirements in this Order, it took economic considerations into account. (See *In re Los Angeles County Municipal Storm Water Permit Litigation* (Sup. Ct. Los Angeles County, March 24, 2005, Case No. BS 080548), Statement of Decision from Phase II Trial on Petitions for Writ of Mandate, p. 21.) Second, the cost of complying with TMDL wasteload allocations has been previously considered during the adoption of each TMDL. The costs of complying with the water quality based effluent limitations and receiving water limitations derived from the 33 TMDLs, which are incorporated into this Order, are not additive. For example, the costs estimated for compliance with a TMDL for one pollutant in a watershed, such as metals, can be applied to the costs to achieve compliance with a TMDL for another pollutant in the same watershed, such as pesticides, because the same implementation strategies can be used for both pollutants. Several MS4 permittees have recognized this opportunity in the multi-pollutant TMDL implementation plans they have submitted (e.g. Ballona Creek Metals/Bacteria TMDLs and Machado Lake Pesticides/Nutrients TMDLs). In other words, the estimated cost of complying with the Ballona Creek Metals TMDL can apply to metals, pesticides, PCBs, and bacteria. The costs for complying with trash TMDLs are based on different implementation strategies (e.g., full capture devices), but those strategies are effective at removing metals and toxic pollutants as well. Thus, the costs estimated for each TMDL should not be added to determine the cost of compliance with all TMDLs. The staff reports for the various TMDLs include this disclaimer, and also discuss the cost efficiencies that can be achieved by treating multiple pollutants. Further, the Board's considerations of economics in developing each TMDL have often resulted in lengthy implementation schedules to achieve water quality standards. Where appropriate, these implementation schedules have been used to justify compliance schedules in this Order.

Economic Considerations of Regulating MS4 Discharges

It is very difficult to determine the true cost of implementing storm water and urban runoff management programs because of highly variable factors and unknown level of implementation among different municipalities and inconsistencies in reporting by Permittees. In addition, it is difficult to isolate program costs attributable to permit compliance. Reported costs of compliance for the same program element can vary widely from Permittee to Permittee, often by a very wide margin that is not easily explained. Despite these problems, efforts have been made to identify storm water and urban runoff management program costs, which can be helpful in understanding the costs of program implementation.

Economic considerations of implementing this Order were examined by primarily utilizing the data that are self-reported by the Permittees in their annual reports and a State Water Board funded study, which examined the costs of municipal MS4 programs statewide.[6] The economic impact to public agencies was tabulated based on the reported costs of implementing the six minimum control measures (Public Information and Participation, Industrial/Commercial Facilities Control, Development Planning, Development Construction, Public Agency Activities, and Illicit Connections and Illicit Discharges Elimination) required by 40 CFR section 122.26(d)(2)(iv) as well as costs associated with program management, monitoring programs, and a category described as other. As noted above, Permittees report wide variability in the cost of compliance, which is not easily explained. Based on reported values, the average annual cost to the Permittees in 2010-11 was $4,090,876 with a median cost of $687,633.

It is important to note that reported program costs are not all solely attributable to compliance with requirements of the LA County MS4 Permit. Many program components, and their associated costs, existed before the first LA County MS4 Permit was issued in 1990. For example, storm drain maintenance, street sweeping and trash/litter collection costs are not solely or even principally attributable to MS4 permit compliance, since these practices have long been implemented by municipalities. Therefore, the true program cost related to complying with MS4 permit requirements is some fraction of the total reported costs. For example, after adjusting the total reported costs by subtracting out the costs for street sweeping and trash collection, the average annual cost to the Permittees was $2,397,315 with a median cost of $290,000.

These results are consistent with the State Water Board funded study ("State Water Board Study") that surveyed the costs to develop, implement, maintain and monitor municipal separate storm sewer system management and control programs in 2004.[7] The objectives of the study were to: 1) document stormwater program costs and 2) assess alternative approaches to MS4 quality control. The six cities selected for the study were judged by

[6] Data from NPDES Stormwater Cost Survey, prepared by the Office of Water Programs, California State University, Sacramento (January 2005) and the Los Angeles County Municipal Storm Water Permit (Order No. 01-182), Unified Annual Stormwater Report, 2010 – 2011, http://ladpw.org/wmd/npdesrsa/annualreport/

[7] Currier, Brian K., Joseph M. Jones, Glenn L. Moeller. "NPDES Stormwater Cost Survey, Final Report", Prepared for California State Water Resources Control Board, California State University Sacramento, Office of Water Programs, January, 2005.

State Water Board staff as having good MS4 management programs, adequate accounting systems, and represented a variety of geographic locations, hydrologic areas, populations and incomes. The cities selected were Corona, Encinitas, Fremont, Fresno-Clovis Metropolitan Area, Sacramento and Santa Clarita. The results found that the annual total cost per household ranged from $18 to $46. The average cost was found to be $35 and the median, $36. The true mean, which is derived by dividing the total sample costs by the total sample number of households, is $29 in 2002 dollars. This study was further examined and applied to the Ventura County MS4 Permit in "*Economic Considerations of the Proposed (February 25, 2008) State of California Regional Water Quality Control Board Los Angeles Region, Order 08-xxx, NPDES Permit No. CAS004002, Waste Discharge Requirements for Stormwater (Wet Weather) and Non-Stormwater (Dry Weather) Discharges from the Municipal Separate Storm Sewer Systems within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein*," and found that when adjusted for inflation, the total annual cost to the MS4 Permittees ranged from $7.15 to $10.9 million, depending on the averaging method applied.

The State Water Board Study noted inherent limitations in the cost data quality. The most significant data quality limitation cited is that the costs provided by the municipalities were not sufficiently detailed or referenced to provide opportunity for independent review of the accuracy and completeness of the cost data. Similarly, the costs presented in the Los Angeles County Unified Annual Report ("Unified Annual Report") are not presented with supporting data or references so that they can be independently reviewed. Some of the limitations of the reported cost data are illustrated by a comparison of monitoring costs in different sections of the Unified Annual Report. In the monitoring costs section, the total costs for monitoring, including sample collection, analytical results, and sampling station maintenance was $713,409 for 2010-2011. In contrast, the same report showed the monitoring costs of $9,008,460 in the Unified Cost Table. Absent further explanation in the Unified Annual Report, this suggests that the reported costs may not be reliable.

The State Water Board Study also found that certain stormwater implementation costs included activities that provide separate and additional municipal benefits such as street sweeping and storm drain and channel cleaning. The State Water Board Study indicated that the inclusion of these costs as stormwater implementation costs is not uniform across different municipalities. In order to assess the variability of costs reported by different municipalities under the same permit and determine if Los Angeles County MS4 Permittees are reporting costs for activities that provide municipal benefits beyond storm water management and permit compliance, Regional Water Board staff reviewed costs reported by Los Angeles County MS4 Permittees in the Unified Annual Report. The reported storm water costs range from $11.45 to $928.10 per household per year. The average reported cost was $120.04 per household per year and the median cost was $57.31 per household per year. The wide spread of annual costs and the significant difference between the mean and median costs indicate that the LA County MS4 Permittees are not reporting costs in a uniform manner.

Board staff also reviewed available cost data in the Unified Annual Report for Permittees that provided separate costs regarding street sweeping and trash collection. Staff adjusted the total costs so that the costs for these multi-benefit municipal programs were not included in the storm water cost and found that the adjusted storm water costs were greatly

reduced by excluding these activities. These adjusted costs ranged from $0.00 per household per year to $903.10 per household per year. The mean adjusted rate is $42.57 per household per year and the median adjusted rate is $17.89 per household per year. Clearly, a significant portion (greater than 50%) of the costs attributed to storm water compliance activities also provide additional municipal benefits. (In the case of the Los Angeles County MS4 Permittees, some municipalities reported costs for trash collection; these costs were not reported by municipalities in the State Water Board Study.)

Finally, Board staff reviewed the cost breakdowns reported in the State Water Board Study and the Unified Annual Report for Los Angeles County MS4 Permittees. The following table summarizes the results:

Cost Category	State Water Board Study	Los Angeles County (2010-2011)
Watershed Management	6%	5%
Construction	11%	1%
Illicit Discharge	4%	2%
Industrial and Commercial	8%	1%
Overall Management	37%	5%
Pollution Prevention	2%	2%
Post Construction	3%	
Public Education	13%	2%
Monitoring	16%	3%
BMP Maintenance	Not Reported	2%
Development	Not Reported	1%
Other	Not reported	76%

The reported costs show differences between the MS4 Permittees surveyed in the State Water Board Study and the Los Angeles County MS4 Permittee costs in the following categories: construction, industrial and commercial activities, public education and monitoring. These categories all show greater proportional statewide cost allocations relative to the cost allocations by the Los Angeles County MS4 Permittees. The Los Angeles County MS4 Permittees report a cost category of BMP maintenance, which is not defined in the State Water Board Study. The management costs in the State Water Board Study were greater than the management costs reported by the Los Angeles County MS4 Permittees, but the Los Angeles County MS4 Permittees also reported a category of "Other" that accounted for a large proportion of costs, which is not defined in the Unified Annual Report.

The State Water Board Study found that cost information is crucial in making management decisions regarding storm water requirements. The report also recommends that annual reports required under MS4 permits throughout the State follow a standard format for cost reporting and that costs for all MS4 program activities (per program area) should be identified as existing, enhanced or new according to the extent that the activity was required under the previous permit, is enhanced by the permit, or is exclusively a result of compliance efforts with new provisions of the MS4 permit.

Further, there is an element of cost consideration inherent in the maximum extent practicable (MEP) standard. While the term "maximum extent practicable" is not specifically defined in the Clean Water Act or its implementing regulations, USEPA, courts, and the State Water Board have addressed what constitutes MEP. MEP is not a one-size fits all approach. Rather, MEP is an evolving, flexible, and advancing concept, which considers practicability. This includes technical and economic practicability. Compliance with the MEP standard involves applying BMPs that are effective in reducing or eliminating the discharge of pollutants in storm water to receiving waters. BMP development is a dynamic process, and the menu of BMPs may require changes over time as experience is gained and/or the state of the science and art progresses. MEP is the cumulative effect of implementing, evaluating, and making corresponding changes to a variety of technically appropriate and economically practicable BMPs, ensuring that the most appropriate controls are implemented in the most effective manner. The State Water Board has held that "MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the costs would be prohibitive." (State Water Board Order WQ 2000-11.)

In addition to considering the costs of storm water management, it is important to consider the benefits of storm water and urban runoff management programs. A recent study conducted by USC/UCLA assessed the costs and benefits of implementing various approaches for achieving compliance with the MS4 permits in the Los Angeles Region. The study found that non-structural systems would cost $2.8 billion but provide $5.6 billion in benefit. If structural systems were determined to be needed, the study found that total costs would be $5.7 to $7.4 billion, while benefits could reach $18 billion.[8] Costs are anticipated to be borne over many years. As can be seen, the benefits of the programs are expected to considerably exceed their costs. Such findings are corroborated by USEPA, which found that the benefits of implementation of its Phase II storm water rule would also outweigh the costs.[9]

Economic ~~considerations~~ Considerations of Not Regulating MS4 Discharges~~.~~

Economic discussions of storm water and urban runoff management programs tend to focus on costs incurred by municipalities in developing and implementing the programs. This is appropriate, and these costs are significant and a major issue for the Permittees. However, in adopting Order WQ 2000-11, the State Water Board further found that in considering the cost of compliance, it is also important to consider the costs of impairment; that is, the negative impact of pollution on the economy and the positive impact of improved water quality. For example, economic benefits may result through program implementation, and alternative costs (as well as environmental impacts) may be incurred by not fully implementing the program. So, while it is appropriate and necessary to consider the cost of compliance, it is also important to consider the alternative costs incurred by not fully implementing the programs, as well as the benefits which result from program implementation.

[8] LARWQCB, 2004. Alternative Approaches to Stormwater Control.
[9] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68791.

The benefits of implementation of the Los Angeles County MS4 Permit include improvements in water quality, enhancement of beneficial uses, and increased employment, income and satisfaction from environmental amenities. Most of the benefits of this permit can be identified and, in some cases, quantified in monetary terms. Others cannot be expressed in dollar terms and can only be described. For example, household willingness to pay for improvements in fresh water quality for fishing and boating has been estimated by USEPA[10] to be $158-210.62. This estimate can be considered conservative, since it does not include important considerations such as marine waters benefits, wildlife benefits, or flood control benefits. The California State University, Sacramento study corroborates USEPA's estimates, reporting annual household willingness to pay for statewide clean water to be $180.63.[11] When viewed in comparison to household costs of existing urban runoff management programs, these household willingness to pay estimates exhibit that per household costs incurred by Permittees to implement their urban runoff management programs remain reasonable.

Not regulating discharges from the Los Angeles County MS4 will result in greater pollution of rivers, streams, lakes, reservoirs, bays, harbors, estuaries, groundwater, coastal shorelines and wetlands. Urban runoff in southern California has been found to cause illness in people bathing near storm drains.[12] A study of south Huntington Beach and north Newport Beach found that an illness rate of about 0.8% among bathers at those beaches resulted in about $3 million annually in health-related expenses.[13] In addition, poor beach water quality negatively affects tourism, which in turn reduces revenues to local businesses.

Funding Sources.

Public agencies (both federal and state) recognize the importance of storm water improvement projects and have provided significant sources of funding through grants, bonds, and fee collections to help offset the costs of storm water management in Los Angeles County. The table below summarizes the funds that have been allocated to storm water management in Los Angeles County, to date.

Source of Money	Dollars	% of total costs funded by State (only for those projects which included State funding)
Only State Board-awarded funding (Propositions 12, 13, 40, 50, and 84; and federal money, 319h, 205j, ARRA)	$49,143,132	47%
Only State money from any State agency (propositions only,	$67,461,699	58%

[10] Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations. P. 68793.
[11] State Water Board, 2005. NPDES Stormwater Cost Survey. P. iv.
[12] Haile, R.W., et al, 1996. An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay. Santa Monica Bay Restoration Project.
[13] Los Angeles Times, May 2, 2005. Here's What Ocean Germs Cost You: A UC Irvine Study Tallies the Cost of Treatment and Lost Wages for Beachgoers Who Get Sick.

no federal); includes State Board, DWR, Coastal Conservancy, Fish & Game		
Total costs (approx.) for projects involving State money	$114,703,731	N/A
Prop A	$4,981,772	N/A
Prop O	$508,678,258	N/A
Measure V	$9,107,959	N/A
Total Public Funds (federal, State, local bonds and measures) expended on stormwater control projects	$645,389,932	N/A (information not available for projects funded by local bonds and measures)

In addition to current funding options, future funding options continue to be created. Assembly Bill 2554, known as the Los Angeles County Flood Control District's Water Quality Funding Initiative, is currently under consideration by the LACFCD's Board of Supervisors. If the Board of Supervisors approve the fee proposal and no majority protest is received, then it will be submitted for voter approval and could create an estimated annual revenue of $300 million to be utilized for various storm water projects including but not limited to:

- New and Existing Water Quality Projects and Programs
- Maintenance of Existing Facilities
- TMDL and MS4 Permit Implementation

Of the annual revenue, forty percent would be returned to the municipalities to create new local projects and programs and maintenance. Below are the estimated revenues that would be allocated to certain municipalities based on the estimated annual revenue of $300 million.

Municipalities	Estimated Annual Revenue
City of Los Angeles	$37 million
City of Santa Monica	$1 million
El Segundo	$600,000
Manhattan Beach	$300,000
Redondo Beach	$750,000
Unincorporated Areas on Los Angeles County	$15 million

Fifty percent of the annual revenue would be spread across nine watershed authority groups (WAGs) to develop Water Quality Improvement Plans and implement regional projects and programs. Some examples of the possible annual revenues available to the WAGs are provided below:

WAG	Estimated Revenue
Santa Monica Bay	$12 million
Upper Los Angeles River	$36 million
Lower Los Angeles River	$15 million

REVISED TENTATIVE

Upper San Gabriel River	$17 million

The remaining ten percent of the annual revenues would be allocated to the Los Angeles County Flood Control District for administration of the program and other district water quality projects and programs.

E. *Need for developing housing within the region.*

For over 100 years, this region has relied on imported water to meet many of our water resource needs. Imported water makes up approximately 70 to 75% of the Southern California region's water supply, with local groundwater, local surface water, and reclaimed water making up the remaining 25 to 30%.[14] The area encompassed by this Order imports approximately 50% of its water supply. The Los Angeles County MS4 permit helps address the need for housing by controlling pollutants in MS4 discharges, which will improve the quality of water available for recycling and re-use. This in turn may reduce the demand for imported water thereby increasing the region's capacity to support continued housing development.

A reliable water supply for future housing development is required by law, and with less imported water available to guarantee this reliability, an increase in local supply is necessary.

In this Order, the Regional Water Board supports integrated water resources approaches. An integrated water resources approach manages water resources by integrating wastewater, stormwater, recycled water, and potable water planning through the capture and beneficial use of stormwater. An integrated approach can preserve local groundwater resources and reduce imported water needs. Thus, complying with this Order can positively affect the need for developing housing in the region. Furthermore, the low impact development (LID) requirements of this MS4 permit emphasize the necessity to balance growth with the protection of water quality. LID emphasizes cost effective, lot-level strategies that replicate the natural hydrology of the site and reduces the negative impacts of development. By avoiding the installation of more costly conventional storm water management strategies and harnessing runoff at the source, LID practices enhance the environment while providing cost savings to both developers and local governments.

F. *Need to develop and use recycled water.*

Storm water runoff that travels across the urban landscape quickly becomes contaminated with the wastes inherent from urban living. This polluted water is then discharged to the surface waters and eventually the ocean where it wreaks havoc on the natural coastal ecosystem and impacts human health. If the storm water is captured and treated (or captured prior to contamination) a new resource could be added to local water supplies. If this water is more effectively harnessed and recycled, numerous benefits could be achieved. These include:

[14] Southern California Association of Governments. The State of the Region 2007 Measuring Regional Progress (Housing, Environment). December 6, 2007. http://www.scag.ca.gov/publications/index.htm.

- Regional reduction on imported water;
- Aid in the restoration of area aquifers;
- Reduction in the need for extensive public works projects; and
- Improvement in the quality of impaired water bodies.

The exact volume of storm water available for capture is dependent on the intensity and duration of storm events. Looking at land uses across the region and applying land use-specific runoff coefficients, the annual average runoff in the Los Angeles subarea is 450,000 acre-feet/year (with an average annual rainfall of 15.5 inches). The Los Angeles and San Gabriel Rivers Watershed Council estimates that, on average, about 550,000 acre-feet/year of runoff are discharged from Los Angeles area to the ocean.[15]

It is not possible to capture all MS4 discharges; however, a significant portion could be put to beneficial use. Potentially, in Los Angeles, "[i]f we could capture 80% of the rainfall that falls on just a quarter of the urban area-15% of the total watershed-we would be reducing total runoff by approximately 30%. That translates into a diversion of 43 billion gallons of water per year (132,000 acre-feet) or enough to supply 800,000 people for a year."[16] That water capture would render a savings of almost sixty million dollars of imported State Water Project water. Capturing storm water from a larger portion of the watershed could increase the volume of this "new" water even further. Unlike traditional recycled water that requires the installation of dual plumbing and intensive infrastructure, much of the storm water capture could be done with minimal infrastructure retrofits in established communities.

Larger projects (and the corresponding savings) are also possible. The County of Los Angeles recharges storm water already. While the scale of these recharge activities is limited compared to the volume of water potentially available to recharge, the value of the process is significant. For example, in 2000 "County conservation efforts captured 220,000 acre-feet of local storm water runoff that was valued at $80 million dollars."[17]

The unknown effects of infiltrating stormwater to recharge ground water have created some concern that such activities could introduce pollutants to the water supply. However, the U.S. Bureau of Reclamation has found[18]:

"Based on the findings of the WAS research, decentralized stormwater management would provide a local and reliable supply of water that would not negatively impact groundwater quality. A decentralized approach could contribute up to 384,000 acre-feet of additional groundwater recharge annually if the first ¾" of each storm is infiltrated on all parcels, enough to provide water annually to approximately 1.5 million people. The value of this new water supply would be approximately $311 million, using the MWD Tier 2 rate for 2010."

Recent studies in the Los Angeles area have also shown that in the process of infiltration through the soil, many contaminants are removed with no immediate impacts, and no

[15] http://www.lasgrwc.org/WAS/WASflyer_web.pdf
[16] Los Angeles and San Gabriel River Watershed Council. 1999. *Stormwater: asset not liability*.
[17] Los Angeles County Department of Regional Planning. 2008. 2008 Draft General Plan-Planning Tomorrow's Great Places.
[18] Los Angeles and San Gabriel River Watershed Council. 2010. Water Augmentation Study: Research, Strategy, and Implementation Report.

apparent trends to indicate that storm water infiltration will negatively impact groundwater.[19]. In areas with groundwater contamination issues, utilizing recycled storm water to recharge the aquifers may actually aid in the dilution of the buildup of salts. The value of this is hard to quantify but is an additional benefit. The use of recycled water can be accomplished in direct (such as irrigation projects or dual plumbing fixtures) or indirect (such as infiltration) ways. Both direct and indirect methods can be completed on a variety of different scales. To maximize the benefits available from using recycled water, the direct and indirect projects will need to be completed on household, neighborhood, watershed and regional scales. Currently there are a limited (but growing) number of projects in the region that can serve as examples of what may be accomplished through the development and implementation of recycled water projects. The Los Angeles County MS4 permit addresses the need for recycled water by controlling pollutants in storm water, which will result in water of improved quality with a greater potential for recycling or beneficial use. State law and policy advocates greatly expanding the use of recycled water to help meet local demand and reduce the volumes of water that are imported from other regions. Increased utilization of recycled water will require looking beyond the traditional reclaimed wastewater and will require utilizing storm water that is wasted by conveyance in the MS4 and dumping into the ocean. Storm water capture and use has not traditionally been included in the discussion of water recycling, but the process meets the definitional constraints and is bound by the same limitations and boundaries.

In addition, there are a number of Total Maximum Daily Loads (TMDLs) developed by the Regional Water Board that incorporate recycled water programs as potential implementation actions to meet TMDL requirements. These potential actions focus on both traditional water recycling and the newer storm water recycling approaches. Such recycled water programs could also reduce reliance on potable water supplies by expanding water recycling and aiding in the reclamation of poor quality, unconfined groundwater supplies. The capture, treatment and use of stormwater could augment these techniques as well. On-site capture of storm water helps prevent the water from being contaminated by urban by-products to begin with and the use of this high quality resource could reduce the unnecessary use of potable water for non-potable needs.

Some great examples of onsite capture are being demonstrated by TreePeople[20] who have demonstration projects ranging from small scale rainwater harvesting at the single family home locations, to large scale watershed projects at Tuxedo Green in Sun Valley where the project redesigned the intersection with a flood control system that conveys most stormwater under, instead of into, the busy intersection. The water is stored in a 45,000-gallon cistern to be used for irrigating the landscaping at the new pocket park, which is planted with native and drought-tolerant species.

Another state of the art project was implemented by the City of Santa Monica called the Santa Monica Urban Runoff Recycling Facility (SMURFF).[21] The project harnesses the urban runoff (primarily during the dry season) and treats it for various pollutants to create a

[19] Los Angeles and San Gabriel River Watershed Council. 2005. Los Angeles Basin Water Augmentation Study Phase II Final Report.
[20] www.treepeople.org
[21] http://c0133251.cdn.cloudfiles.rackspacecloud.com/Case%20Study%20-%20Santa%20Monica%20Urban%20Runoff%20Recycling%20Facility%20SMURFF.pdf

source of high quality water for reuse in landscape irrigation. Because the facility captures the dry weather runoff before it reaches the Santa Monica Bay it decreases a significant amount of pollutants from negatively impacting the Bay and associated beaches. The SMURFF is also open to the public and has several exhibits to raise public awareness of Santa Monica Bay pollution and the role of each individual in the watershed's health.

The County of Los Angeles Department of Public Works, Watershed Management Division has targeted the Sun Valley Watershed "…to solve the local flooding problem while retaining all storm water runoff from the watershed, increasing water conservation, recreational opportunities, wildlife habitat, and reducing stormwater pollution."[22] This aggressive plan involves several stakeholders and has implemented a variety of on-site BMPs as well as storm water infiltration retrofits and diversions.

XV. STATE MANDATES

Article XIII B, Section 6(a) of the California Constitution provides that whenever "any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service." The requirements of this Order do not constitute state mandates that are subject to a subvention of funds for several reasons, including, but not limited to, the following.

First, the requirements of this Order do not constitute a new program or a higher level of service as compared to the requirements contained in the previous permit, Order No. 01-182 (as amended). The overarching requirement to impose controls to reduce the pollutants in discharges from MS4s is dictated by the Clean Water Act and is not new to this permit cycle. (33 U.S.C. §1342(p)(3)(B).) The inclusion of new and advanced measures as the MS4 programs evolve and mature over time is anticipated under the Clean Water Act (55 Fed.Reg. 47990, 48052 (Nov. 16, 1990)), and these new and advanced measures do not constitute a new program or higher level of service.

Second, and more broadly, mandates imposed by federal law, rather than by a state agency, are exempt from the requirement that the local agency's expenditures be reimbursed. (Cal. Const., art. XIII B, §9, subd. (b).) This Order implements federally mandated requirements under the Clean Water Act and its requirements are therefore not subject to subvention of funds. This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. (30 U.S.C. §1342(p)(3)(B).) Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (*Natural Resources Defense Council, Inc. v. U.S. E.P.A*. (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. *Burbank v. State Water Resources Control Bd*. (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements

[22] http://www.sunvalleywatershed.org/watershed_management_plan/wmp-0ES.pdf

which are not "less stringent" than federal requirements]), but instead is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, *City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389; *Building Industry Ass'n of San Diego County v. State Water Resources Control Bd*. (2004) 124 Cal.App.4th 866, 882-883.)

The maximum extent practicable standard is a flexible standard that balances a number of considerations, including technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness. (*Building Ind. Asso., supra,* 124 Cal. App.4th at pp. 873, 874, 889.) Such considerations change over time with advances in technology and with experience gained in storm water management. (55 Fed.Reg. 47990, 48052 (Nov. 16, 1990).) Accordingly, a determination of whether the conditions contained in this Order exceed the requirements of federal law cannot be based on a point by point comparison of the permit conditions and the six minimum control measures that are required "at a minimum" to reduce pollutants to the maximum extent practicable and to protect water quality (40 CFR § 122.34). Rather, the appropriate focus is whether the permit conditions, as a whole, exceed the maximum extent practicable standard. In recent months, the County of Los Angeles and County of Sacramento Superior Courts have granted writs setting aside decisions of the Commission on State Mandates that held that certain requirements in Phase I permits constituted unfunded mandates. In both cases, the courts found that the correct analysis in determining whether a MS4 permit constituted a state mandate was to evaluate whether the permit as a whole -- and not a specific permit provision -- exceeds the maximum extent practicable standard. (*State of Cal. v. Comm. on State Mandates* (Super. Ct. Sacramento County, 2012, No. 34-2010-80000604), *State of Cal. v. County of Los Angeles* (Super. Ct. Los Angeles County, 2011, No. BS130730.)

The requirements of the Order, taken as a whole rather than individually, are necessary to reduce the discharge of pollutants to the maximum extent practicable and to protect water quality. The Regional Water Board finds that the requirements of the Order are practicable, do not exceed federal law, and thus do not constitute an unfunded mandate. These findings are the expert conclusions of the principal state agency charged with implementing the NPDES program in California. (Cal. Wat. Code, §§ 13001, 13370.)

It should also be noted that the provisions in this Order to effectively prohibit non-storm water discharges are also mandated by the Clean Water Act. (33 U.S.C. § 1342(p)(3)(B)(ii).) Likewise, the provisions of this Order to implement total maximum daily loads (TMDLs) are federal mandates. The Clean Water Act requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the USEPA or a state establishes or adopts a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions and requirements of any applicable waste load allocation in a TMDL. (40 CFR § 122.44(d)(1)(vii)(B).)

Third, the local agency Permittees' obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point sources (33 U.S.C.

REVISED TENTATIVE

§ 1342) and the Porter-Cologne Water Quality Control Act (Porter-Cologne Act) regulates the discharge of waste (Cal. Wat. Code, § 13263), both without regard to the source of the pollutant or waste. As a result, the "costs incurred by local agencies" to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and non-governmental dischargers. (See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Generally, the Clean Water Act requires point source dischargers, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, certain provisions of this Order do not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) Those provisions of this Order regulate the discharge of waste in municipal storm water under the Clean Water Act MEP standard, not the BAT/BCT standard that applies to other types of discharges. These provisions, therefore, regulate the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Fourth, the Permittees have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)). To the extent that the local agencies have voluntarily availed themselves of the permit, the program is not a state mandate. (Accord *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 107-108.)

Fifth, 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 XIIIB, Section (6) of the California Constitution.

Finally, even if any of the permit provisions could be considered unfunded mandates, under Government Code section 17556, subdivision (d), a state mandate is not subject to reimbursement if the local agency has the authority to charge a fee. The local agency Permittees have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order subject to certain voting requirements contained in the California Constitution. (See California Constitution XIII D, section 6, subdivision (c); see also *Howard Jarvis Taxpayers Association v. City of Salinas* (2002) 98 Cal. App. 4th 1351, 1358-1359.). Additional fee authority has recently been established through amendments to the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915, as amended by Assembly Bill 2554 (2010)) to provide funding for municipalities, watershed authority groups, and the LACFCD to initiate, plan, design, construct, implement, operate, maintain, and sustain projects and services to improve surface water quality and reduce storm water and non-storm water pollution in the LACFCD, which may directly support Permittees' implementation of the requirements in this Order. The Fact Sheet demonstrates

that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership. (See, e.g., *Apartment Ass'n of Los Angeles County, Inc. v. City of Los Angeles* (2001) 24 Cal.4th 830, 842 [upholding inspection fees associated with renting property].) The authority and ability of a local agency to defray the cost of a program without raising taxes indicates that a program does not entail a cost subject to subvention. (*Clovis Unified School Dist. v. Chiang* (2010) 188 Cal. App.4th 794, 812, quoting *Connell v. Superior Court* (1997) 59 Cal.App.4th 382, 401; *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

XVI. PUBLIC PARTICIPATION

Regional Water Board staff held a kick-off meeting on May 25, 2011 to discuss the preliminary schedule for permit development; identify potential alternative permit structures; and outline some of the major technical and policy aspects of permit development. All LA County MS4 Permittees, as well as other known interested stakeholders, were invited to attend. Ninety-five individuals attended the meeting, representing most of the permittees as well as environmental organizations. After a presentation by Board staff, Permittees and interested persons had an initial opportunity to ask questions of staff, raise concerns, and provide feedback.

At the May 25, 2011 kick-off meeting, Board staff requested input from the attendees on various permit structures. In order to solicit more focused input from permittees on alternative permit structures, and per suggestions at the kick-off meeting, Board staff developed and distributed an on-line survey to permittees using the on-line survey tool, SurveyMonkey®. The survey was distributed to all Los Angeles County MS4 Permittees on June 14, 2011 and responses were requested within two weeks. Fifty-two permittees responded using the on-line survey tool. The on-line survey sought input on several options for permit structure, including an individual permit for each municipality, a single permit for all permittees (i.e., the existing permit structure), and a single or multiple watershed-based permits.

Regional Water Board staff also held three topical workshops on December 15, 2011, January 23, 2012, and March 1, 2012. At the December 2011 workshop, staff discussed and invited feedback on: tentative permit requirements for the "minimum control measures" that comprise Permittees core storm water management program, approaches to addressing non-storm water MS4 discharges, and options for flexibility in permit requirements to address watershed priorities. At the January 2012 workshop, staff discussed and invited feedback on: tentative permit requirements to implement TMDL waste load allocations assigned to MS4 discharges and monitoring and reporting requirements for this Order. At the March 2012 workshop, staff discussed the use of water quality-based effluent limitations in this Order, discussed a revised proposal for monitoring requirements based on comments from the January 2012 workshop, and provided additional detail on proposed minimum control measure requirements.

Three Regional Water Board workshops were held during regularly scheduled Board meetings on November 10, 2011, April 5, 2012, and May 3, 2012. At the November 2011 Board workshop, staff discussed the objectives for the new permit, the status and schedule

for permit development, alternatives for permit structure, provisions to implement TMDL WLAs, and provisions for minimum control measures, and identified preliminary considerations related to provisions for non-storm water discharges, receiving water limitations, water quality-based effluent limitations, and requirements for monitoring and reporting.

Prior to the April 5, 2012 Board workshop, staff released complete working proposals of the permit provisions related to two key parts of this Order: the storm water management program "minimum control measures" and the non-storm water MS4 discharge prohibitions on March 21, 2012 and March 28, 2012, respectively. Staff provided Permittees and interested persons the opportunity to submit written and oral comments over a period of three weeks for early consideration by staff prior to the release of the tentative Order. At the April 2012 Board workshop, staff presented the working proposals and the Board invited public comments. Detailed comments were made on both working proposals, and in particular, comments were made on how to address "essential" non-storm water discharges from ~~potable~~ drinking water ~~supplies~~ supplier distribution systems and fire fighting activities in this Order.

Prior to the May 3, 2012 Board workshop, staff released complete working proposals of the permit provisions related to three other key parts of this Order: provisions for watershed management programs, TMDL-related requirements, and receiving water limitations language. Staff provided Permittees and interested persons the opportunity to submit written and oral comments over a period of three weeks for early consideration by staff prior to the release of the tentative Order. At the May 2012 Board workshop, staff presented the three working proposals and the Board invited public comments. Staff answered extensive questions from Board members following public comments.

In addition to staff and Board workshops, Regional Water Board staff met regularly with Permittees, including the LA Permit Group (a coalition of 62 of the 86 Permittees covered by this Order), the Los Angeles County Flood Control District and the County of Los Angeles, the City of Los Angeles, and interested environmental organizations including Heal the Bay, Santa Monica Baykeeper, and the Natural Resources Defense Council (NRDC). Staff also met on several occasions with other affected agencies including large public water suppliers (Los Angeles Department of Water and Power and Metropolitan Water District), small community water suppliers, and local fire departments.

Finally, staff hosted several "joint" meetings to bring together key leaders among the Permittees and environmental organizations to discuss significant issues and work towards consensus on these issues where possible. The first two of these were held on May 17, 2012 and May 31, 2012, during which the group discussed permit requirements for USEPA established TMDLs. Staff prepared a working proposal based on the areas of agreement from the May 17th joint meeting, and distributed the proposal for review prior to the second meeting on May 31st. The proposal was discussed and refined at the second meeting. A third meeting was held on June 14, 2012.

Prior to the Board's consideration of this Order, the Regional Water Board notified the Permittees and all interested agencies and persons of its intent to hold a hearing to issue an NPDES permit for discharges from the Los Angeles County MS4 and provided them

with an opportunity to submit written comments over a 45-day period. The procedures followed for submission of written comments are described in the Notice of Hearing and Opportunity to Comment published for this Order. Notification was provided through the Regional Water Board's website, the Regional Water Board's e-mail subscription service, and the LA Times. After releasing the tentative permit for public review, the Regional Water Board held a staff level workshop on July 9, 2012 to answer questions regarding the tentative permit. A Board member field tour of portions of the MS4 in the San Gabriel Valley was held on July 31, 2012.

The Regional Water Board held a public hearing on the tentative Order during its regular Board meeting on October 4-5, 2012. The Regional Water Board continued the public hearing at its next regular Board meeting on November 8, 2012. Permittees and interested persons were invited to attend. At the public hearing, the Regional Water Board heard testimony and comments pertinent to the discharge and this Order. The hearing procedures followed by the Regional Water Board are described in the Notice of Hearing and Opportunity to Comment published for this Order.

EXHIBIT B

Comments Regarding Los Angeles MS4 Tentative Order No. R4-2012-XXXX NPDES PERMIT NO. CAS004001 (issue date unspecified) – City of El Monte

1. **Numeric Water Quality Based Effluent Limitations (WQBELs) applied to dry and wet weather Total Maximum Daily Load (TMDLs) waste load allocations (WLAs) and to stormwater and non-stormwater municipal action levels (MALs) are not authorized under federal stormwater regulations and are not in keeping with State Water Resources Control Board (State Board) water quality orders (WQOs)**.

   The tentative order specifies that: *Each Permittee shall comply with applicable WQBELs as set forth in Part VI.E of this Order, pursuant to applicable compliance schedules*. The tentative order specifies two categories of WQBELs, one for USEPA adopted TMDLs and one for Regional Board/State adopted TMDLs. Regarding USEPA adopted TMDLs, it appears that BMP-WQBELs may be used to meet TMDL WLAs in the receiving water. For Regional Board/State-adopted TMDLs, the tentative order specifies a different compliance method: meeting a "numeric" WQBEL which is derived directly from the TMDL waste load allocation. For example, the wet weather numeric WQBEL for dissolved copper for the Los Angeles River is 17 ug/l.

   a. Issue: *Regional Board staff is premature in requiring any kind of WQBEL because no exceedance of any TMDL WLA at the outfall has occurred*. This is because outfall monitoring is not a requirement of the current MS4 permit or previous MS4 permits.

      The Regional Board's setting of WQBELs – any WQBEL -- to translate the TMDL WLA for compliance at the outfall is premature. Regional Board staff apparently has not performed a reasonable potential analysis as required under § 122.44(d)(1)(i), which states:

      Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any [s]tate water quality standard, including [s]tate narrative criteria for water quality."

      No such reasonable potential analysis has been performed – even though USEPA guidance requires it as part of documenting the calculation of WQBELs in the NPDES permit's fact sheet. According to USEPA's NPDES Permit Writers' Manual:

      Permit writers should document in the NPDES permit fact sheet the process used to develop WQBELs. The permit writer should clearly identify the data and information used to determine the applicable water quality standards and how that information, or any applicable TMDL, was used to derive WQBELs and

explain how the state's anti-degradation policy was applied as part of the process. The information in the fact sheet should provide the NPDES permit applicant and the public a transparent, reproducible, and defensible description of how the permit writer properly derived WQBELs for the NPDES permit.[1]

The fact sheet accompanying the tentative order contains no reference to a reasonable potential analysis -- a consequence of the fact that no outfall monitoring has been required of the Regional Board either in the current or previous MS4 permits for Los Angeles County. Outfall monitoring is a mandatory requirement under federal regulations at CFR 40 §122.22, §122.2 and §122.26. CFR 40 §122.22(C)(3) requires effluent and ambient monitoring:

*The permit requires all **effluent** and **ambient** monitoring necessary to show that during the term of the permit the limit on the indicator parameters continues to attain water quality standards.*

"Effluent monitoring," according to Clean Water Act §502, is defined as outfall monitoring:

*The term "effluent limitation" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from **point sources** into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.*

40 CFR §122.2, defines a point source as:

… 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.

Conclusion: Because Regional Board staff has not required outfall monitoring, it could have not have detected an excursion above a water quality standard (includes TMDL WLAs). Therefore, it could not have conducted a reasonable potential analysis and, as further consequence, cannot require compliance with a WQBEL (numeric or BMP-based) or with any TMDL or MAL until those burdens have been met.

Recommended Correction: Eliminate all reference to comply with WQBELs until outfall monitoring and a reasonable potential analysis have been performed.

[1]United States Environmental Protection Agency, *NPDES Permit Writers' Manual*, September, 2010, page 6-30.

b. Issue: Even if Regional Board staff conducted outfall monitoring and detected an excursion above a TMDL WLA and performed the requisite reasonable potential analysis, it cannot require a numeric WQBEL strictly derived from the TMDL WLA.

USEPA's 2010 guidance memorandum mentions that numeric WQBELs are permissible only if feasible.[2] This conclusion was reinforced by a memorandum from Mr. Kevin Weiss, Water Permits Division, USEPA (Washington D.C.). He explains:

Some stakeholders are concerned that the 2010 memorandum can be read as advising NPDES permit authorities to impose end-of-pipe limitations on each individual outfall in a municipal separate storm sewer system. In general, EPA does not anticipate that end-of-pipe effluent limitations on each municipal separate storm sewer system outfall will be used frequently. Rather, the memorandum expressly describes "numeric" limitations in broad terms, including "numeric parameters acting as surrogates for pollutants such as stormwater flow volume or percentage or amount of impervious cover." In the context of the 2010 memorandum, the term "numeric effluent limitation" should be viewed as a significantly broader term than just end-of-pipe limitations, and could include limitations expressed as pollutant reduction levels for parameters that are applied system-wide rather than to individual discharge locations, expressed as requirements to meet performance standards for surrogate parameters or for specific pollutant parameters, or could be expressed as in-stream targets for specific pollutant parameters. Under this approach, NPDES authorities have significant flexibility to establish numeric effluent limitations in stormwater permits.[3]

Reading the 2010 USEPA memorandum, together with Mr. Weiss's memorandum, creates the inescapable conclusion that (1) numeric WQBELs are permissible if "feasible" and (2) numeric WQBELs cannot be construed to only mean strict effluent limitations at the end-of-pipe (outfall) but more realistically must include surrogate parameters and other variants as well. Regional Board staff failed to examine alternative numeric WQBELs, along with BMP WQBELs, as a consequence of not conducting the appropriate analysis.

In any case, the feasibility of numeric WQBELs, whether strictly derived from TMDL WLAs or of the surrogate parameter type, the State Water Resources Control Board has determined that numeric effluent limitations are not feasible. In Water Quality Orders 2001-15 and 2009-0008 the State Board made it clear that: *we will generally not require "strict compliance" with water quality standards through numeric effluent*

[2]Memorandum from James A. Hanlon, Director, Office of Waste Management, Revisions to the November 22, 2002 Memorandum *Establishing Total Maximum Daily Load (TMDL) Waste Load Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs,* November 12, 2010*, page*
[3]Memorandum from Kevin Weiss, Water Permits Division, USEPA (Washington D.C.), March 17, 2011.

limitations," and instead "we will continue to follow an iterative approach, which seeks compliance over time" with water quality standards.

[Please note that the iterative approach to attain water quality standards applies to the outfall and the receiving water.]

More recently, the State Board commented in connection with the draft Caltrans MS4 permit that numeric WQBELs are not feasible as explained in the following provision from its most recent Caltrans draft order:

Storm water discharges from MS4s are highly variable in frequency, intensity, and duration, and it is difficult to characterize the amount of pollutants in the discharges. In accordance with 40 CFR § 122.44(k)(2), the inclusion of BMPs in lieu of numeric effluent limitations is appropriate in storm water permits. This Order requires implementation of BMPs to control and abate the discharge of pollutants in storm water to the MEP.

The State Board's decision not to require numeric WQBELs in this instance appears to have been influenced by among other considerations, the *Storm Water Panel Recommendations to the California State Water Resources Control Board in re: The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities.*

Conclusion: The Regional Board does not have the legal authority to require numeric WQBELs.

Recommended Correction: Eliminate all references to comply with numeric WQBELs.

c. Issue: There cannot be a WQBEL to attain a dry weather TMDL WLA nor a WQBEL that addresses a non-stormwater municipal action level (MAL).

The foundation for this argument lies in the federal limitation of non-stormwater discharges to the MS4 – not from or through it as the tentative order concludes. Federal stormwater regulations only prohibit discharges to the MS4 and limits outfall monitoring to stormwater discharges. This is explained in greater detail under 4. *Non-stormwater Discharge Prohibitions.*

Conclusion: Regional Board does not have the legal authority to compel compliance with dry weather WQBELs or non-stormwater MALs.

Recommended Correction: Eliminate all references to comply with numeric WQBELs.

2. **The tentative order has altered Receiving Water Limitation (RWL) language causing it to be overbroad and inconsistent with RWL in the current MS4 permit, the Ventura MS4 permit, State Board WQO 99-05, the draft Caltrans MS4 permit, and RWL language recommended by CASQA.**

   a. Issue: The proposed RWL language changes the "exceedance" determinant from water quality standards and objectives to receiving water limitations, thereby increasing the stringency of the requirement. The tentative order RWL version reads: *Discharges from the MS4 that cause or contribute to the violation of* ***receiving water limitations*** *are prohibited.*

      Compare this with what is in the current MS4 permits for Los Angeles and Ventura Counties:

      Discharges from the MS4 that cause or contribute to a violation of ***water quality standards*** *are prohibited.*

      Whereas standard RWL language limits water quality standards to what is in the basin plan, and includes water quality objectives (relates to waters of the State), the tentative order uses revised language that replaces water quality standards with the following receiving water limitation criteria:

      Any applicable numeric or narrative water quality objective or criterion, or limitation to implement the applicable water quality objective or criterion, for the receiving water as contained in Chapter 3 or 7 of the Water Quality Control Plan for the Los Angeles Region (Basin Plan), water quality control plans or policies adopted by the State Water Board, or federal regulations, including but not limited to, 40 CFR § 131.38.

      It is unclear why Regional Board staff has removed water quality standards, which is a USEPA and State Board requirement, and replaced them with the more global receiving water limitation language that include additional compliance criteria (e.g., "or federal regulations including but not limited to 40 CFR § 131.38"). Other "federal regulations" could include CERCLA (Comprehensive Environmental Remediation and Compensation Liability Act).

      Enlarging the scope of the RWL from water quality standards to a universe of other regulatory requirements exceeds RWL limitation language established in State Board WOQ 99-05, a precedential decision. The order bases compliance on discharge prohibitions and receiving water limitations on the *timely implementation of control measures and other action in the discharges in accordance with the SWMP (stormwater management plan) and other requirements of the permit's limitations*. It goes on to say that if exceedances of water quality standards or water quality objectives, collectively referred to as water quality standards

continues, the SWMP shall undergo an iterative process to address the exceedances. It should be noted that this language was mandated by USEPA.

It should be noted that the draft Caltrans MS4 permit is scheduled for adoption in September, as well as CASQA, proposes RWL language that is in keeping with WQO 99-05.

Conclusion: Regional Board does not have the legal authority to re-define RWL language to the extent it is proposing.

Recommended Correction: Replace RWL contained in the tentative order with the CASQA model or with language contained in the draft Caltrans MS4 permit.

b. Issue: By eliminating water quality standards, the tentative order has created a separate compliance standard for TMDLs and for non-TMDLs. Standard RWL language in other MS4 permits designates the SWMP[4] as the exclusive determinant for achieving water quality standards in the receiving water. Since TMDLs are enhanced water quality standards, the SWMP (or in this case the SQMP) should enable compliance with TMDLs. Instead, the tentative order specifies compliance through implementation plans – including plans that were discussed in several State/Regional Board adopted TMDLs (e.g., the Los Angeles River Metals TMDL). The absence of water quality standards also creates a separate compliance standard for non-TMDLs. According to Regional Board staff, minimum control measures (MCMs) which make up the SQMP, are intended to meet non-TMDLs pollutants. Unclear is what defines non-TMDL pollutant. If there are no water quality standards referenced in the RWL then what are the non-TMDL pollutants that the MCMs are supported to address?

   There is no authority under federal stormwater regulations to comply with any criterion other than water quality standards. The RWL language called-out in WQO 99-05, which was in response to a USEPA directive, makes it clear that water quality standards represent the only compliance criteria, not an expanded definition of receiving water limitations that exclude such criteria.

   MS4 permits throughout the State include TMDL WLAs. None of them, however, has created a compliance mechanism that excludes water quality standards as a means of attaining them. Further, the State Board has, through the draft Caltrans MS4 permit and the draft Phase II MS4 permit, articulated its policy on compliance with water quality standards:

[4]USEPA and federal stormwater regulations use stormwater management program whereas the Los Angeles County MS4 permit uses stormwater quality management plan (SQMP). In effect they are the same. They consist of 6 core programs that must be implemented through MS4 permit.

they are to be met through the implementation of stormwater management programs. Equally noteworthy is that State Board has not created a dual standard for dealing with TMDLs and non-TMDLs. This is an obvious consequence of its adherence to WQO 99-05.

With regard to implementation plans contained in TMDLs, the Regional Board has no legal authority to include them into the MS4 permit. This issue discussed in greater detail later in these comments.

Conclusion: The tentative order must be revised to restore water quality standards in RWL language and, by extension, enable compliance with TMDLs and other water quality standards through the SQMP/MCMs.

Recommended Correction: Revise the tentative order to eliminate any reference to complying with anything else except water quality standards through the SQMP; and, therewith, eliminate any reference to complying with implementation plans contained in State/Regional Board TMDLs.

3. **The tentative order does not include the iterative process, a mechanism that is integral to RWL language which serves to achieve compliance with water quality standards**.

   a. Issue: The absence of the iterative process disables a safeguard to protect permittees against unjustifiably strict compliance with water quality standards – or in this case the expanded definition of receiving water limitations -- that is a requisite feature in all MS4 permits issued in California. The tentative order circumvents the iterative process by creating an alternative referred to as the adaptive/management process which is only available to those permittees that opt for a watershed management program.

   Despite the fact RWL language in MS4 permits since the 90's have provided a description of an iterative process (the BMP adjustment mechanism), the term "iterative process" has only recently been specifically mentioned in them. The absence of this term resulted in the 9th Circuit Court Appeal's conclusion in *NRDC v. Los Angeles County Flood Control District* that there is no "textual support" in the current MS4 permit for the existence of an iterative process. This resulted in the court's conclusion that the LACFCD had exceeded water quality standards in the hardened portions of the Los Angeles and San Gabriel Rivers. More recent MS4 permit's issued in the State contain clear references to the iterative process.

   Notwithstanding the absence of water quality standards in the tentative order, the iterative process must be included as required by Water Quality Orders 2001-15 and 2009-0008, wherein the State Board made it clear

that: *we will generally not require "strict compliance" with water quality standards through numeric effluent limitations," and instead "we will continue to follow an iterative approach, which seeks compliance over time" with water quality standards*.

Moreover, both the draft Caltrans MS4 permit and the draft Phase II MS4 permit contain references to the iterative process. The draft Caltrans MS4 permit refers to the iterative process in two places: finding 20, Receiving Water Limitations and in the Monitoring Results Report. Finding 20 states:

The effect of the Department's storm water discharges on receiving water quality is highly variable. For this reason, this Order requires the Department to implement a storm water program designed to achieve compliance with water quality standards, over time through an iterative approach. If discharges are found to be causing or contributing to an exceedance of an applicable Water Quality Standard, the Department is required to revise its BMPs (including use of additional and more effective BMPs).[5]

Under the Monitoring Results Report section, the draft Caltrans MS4 permit reiterates the iterative process within the context of the following: *The MRR shall include a summary of sites requiring corrective actions needed to achieve compliance with this Order, and a review of any iterative procedures (where applicable) at sites needing corrective actions.*[6]

The draft Phase II MS4 references the iterative process in two places, in finding 35 and under its definition of MEP. Finding 35 states:

This Order modifies the existing General Permit, Order 2003-0005-DWQ by establishing the storm water management program requirements in the permit and defining the minimum acceptable elements of the municipal storm water management program. Permit requirements are known at the time of permit issuance and not left to be determined later through iterative review and approval of Storm Water Management Plans (SWMPs).

The draft Phase II MS4 permit also acknowledges the iterative process through the definition of maximum extent practicable (which is also included in the draft Caltrans MS4 permit), to the following extent:

MEP standard requires Permittees apply Best Management Practices (BMPs) that are effective in reducing or eliminating the discharge of pollutants to the waters of the U.S. MEP emphasizes pollutant reduction and source control BMPs to prevent pollutants from entering storm water runoff. MEP may require treatment of the storm water runoff if it contains pollutants. The MEP standard is

[5]See draft *Caltrans MS4 permit (Tentative Order No. 2012-XX-DWQ NPDES No. CAS000003),* page 10.
[6]Ibid., page 35.

an ever-evolving, flexible, and advancing concept, which considers technical and economic feasibility. BMP development is a dynamic process and may require changes over time as the Permittees gain experience and/or the state of the science and art progresses. To do this, the Permittees must conduct and document evaluation and assessment of each relevant element of its program, and their program as a whole, and revise activities, control measures/BMPs, and measurable goals, as necessary to meet MEP. MEP is the cumulative result of implementing, evaluating, and creating corresponding changes to a variety of technically appropriate and economically feasible BMPs, ensuring that the most appropriate BMPs are implemented in the most effective manner. This process of implementing, evaluating, revising, or adding new BMPs is commonly referred to as the "iterative approach."[7]

It should be clearly understood that the State Board is articulating clear policy on the iterative process through these two draft MS4 permits and that they must be followed by Regional Boards as subordinate jurisdictions.

Conclusion: The Regional Board has no authority to alter the iterative process/procedure by making a revised and diluted version of it available only to those MS4 permittees that wish to opt for watershed management program participation. Quite the contrary, the Regional Board is legally compelled to make the iterative process, as described herein, an undeniable requirement in the tentative order.

Recommended Correction: Regional Board staff should incorporate the iterative process into the tentative order in the findings section and in the RWL section. It should also be referenced again under a revised MEP definition.

4. **The tentative order incorrectly articulates the non-stormwater discharge prohibition to the MS4 to include discharges from and through it.**

   a. Issue: The tentative order mentions prohibiting non-stormwater discharges not only to the MS4 but from and through it as well. Federal regulations did not authorize the non-stormwater discharge prohibition to go beyond "to" the MS4. This is a serious issue because extending the prohibition from or through the MS4 would subject non-stormwater discharges (including dry weather TMDL WLAs and non-stormwater municipal action levels) to pollutant limitations at the outfall.

   The tentative order attempts to justify interpreting federal stormwater regulations to mean that non-stormwater discharges are prohibited not

[7] See State Water Resources Control Board Water Quality Order No. XXXX-XXXX-DWQ, NPDES General Permit No. CASXXXXXX, page 11

only to the MS4 but from it and through it as well by: (1) incorrectly stating the Clean Water Act §402(p)(B)(ii) of the Clean Water Act requires permittees effectively prohibit non-storm water discharges into watercourses (means receiving waters) as well as to the MS4; and (2) a misreading of Federal Register Volume 55, No. 222, 47990 (federal register) which contains an error with regard to the non-stormwater discharge prohibition.

§402(p)(B)(ii) does not, as the tentative order's fact sheet asserts, include watercourses, which according to Regional Board staff, means waters of the State and waters of the United States, both of which lie outside of the MS4. The original text of §402(p)(B)(ii) actually reads as follows: *Permits for discharges from municipal storm sewers "shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers*.[8] There is no mention of watercourses.

The tentative order's fact sheet also relies on the afore-cited federal register which states: *402(p)(B)(3) requires that permits for discharges from municipal storm sewers require the municipality to "effectively prohibit" non-storm water discharges from the municipal storm sewer.* The fact sheet is correct about this. The problem is that the federal register is wrong here. It confuses 402(p)(B)(3), which addresses stormwater (not non-stormwater) discharges from the MS4, with 402(p)(B)(2), which once again prohibits non-stormwater discharges to the MS4. It should be noted that in the same paragraph above the defective federal register language, it says that … *permits are to effectively prohibit non-storm water discharges to the municipal separate storm sewer system*.

In any case, this issue has been resolved since the federal register was published in November of 1990. All MS4 permits in the United States issued by USEPA prohibit non-stormwater discharges only to the MS4. USEPA guidance, such as the *Illicit Discharge Detection and Elimination: A Guidance Manual* bases investigation and monitoring on non-stormwater discharges being prohibited to the MS4. And, with the exception of Los Angeles Regional Board MS4 permits, MS4 permits issued by other Regional Boards also limit the MS4 discharge prohibition to the MS4. Beyond this, the draft Caltrans MS4 permit and draft Phase II MS4 permits also limit the non-stormwater prohibition to the MS4.

Conclusion: The Regional Board does not have the legal authority to extend the non-stormwater discharge prohibition from or through the MS4.

Recommended Correction: Revise the non-stormwater discharge prohibition to be limited to the MS4 only and delete all requirements that

[8]Municipal storm sewers is a truncated version of municipal separate stormwater system (MS4).

are based on the prohibition from or through the MS4. This includes the non-stormwater prohibition that is linked to CERCLA.

5. **The tentative order should not include detailed contact information for the Permittee that can and does change frequently such as in Table 2. Facility Information. A consultant's name should not be used.**

   a. Issue: Beginning on Page 1 of the order, Table 2. Facility Information includes Permittee (WDID) and Contact Information. In this table personnel names, titles, phone numbers and/or e-mails are indicated and will not likely remain the same for the duration of the permit.
   b. Issue: In many cases, a consultant name is indicated as the contact for a Permittee and this is inappropriate.
   c. The City of Carson contact personnel name is correct; however, the title is not.

   Recommended Corrections: Delete all personnel references. Indicate only the Permittee, WDID #, mailing address, phone number and contact title (example: Director of Public Works). Otherwise, provide this information in another document as it does not belong in the tentative order. Please correct the title for Patricia Elkins to read, "Storm Water Quality Programs Manager."

Comments from the City of El Monte
Regarding Los Angeles MS4 Tentative Order No. R4-2012-XXXX
NPDES PERMIT NO. CAS004001 (issue date unspecified)
Attachment E: Monitoring and Reporting Plan

1. Receiving Water Monitoring

The purpose of receiving water monitoring is to:

a. *Determine whether the receiving water limitations are being achieved,*

b. *Assess trends in pollutant concentrations over time, or during specified conditions,*

c. *Determine whether the designated beneficial uses are fully supported as determined by water chemistry, as well as aquatic toxicity and bioassessment monitoring.*

Receiving water monitoring is to be performed at various in-stream stations.

At issue is "a" because it serves to determine compliance with receiving water limitations. The Regional Board has no legal authority to compel compliance with receiving water limitations through in-stream monitoring. Monitoring requirements relative to MS4 permits are limited to effluent discharges and the ambient condition of the receiving water, as §122.22(C)(3) clearly indicates:

> *The permit requires all **effluent** and **ambient** monitoring necessary to show that during the term of the permit the limit on the indicator parameters continues to attain water quality standards.*

According to Clean Water Act §502, effluent monitoring is defined as outfall monitoring:

> *The term "effluent limitation" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from **point sources** into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.*

40 CFR §122.2 defines a point source as:

> *… 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.*

In short, effluent monitoring in a receiving water because cannot be required because it lies outside the bounds of the outfall.
Regarding monitoring purposes "b" and "c" no argument is raised here provided that it is understood that assessing trends in pollution concentrations would be: (1) limited to ambient water quality monitoring; and (2) permittees shall be not responsible for funding such monitoring. With respect to the latter, the Regional Board's surface water ambient monitoring program (SWAMP) should be charged with this responsibility. MS4 permittees fund SWAMP activities through an annual surcharge levied on annual MS4 permit fees.

Recommended Corrective Action: Delete 1(a) and make it clear that 1(b) and (c) relate to ambient monitoring that is not the responsibility of MS4 permittees.

2. Stormwater Outfall Based Monitoring

The purpose of stormwater outfall based monitoring – including TMDL monitoring -- is to:

a. *Determine the quality of a Permittee's discharge relative to municipal action levels, as described in Attachment G of this Order*,

b. *Determine whether a Permittee's discharge is in compliance with applicable wet weather WQBELs derived from TMDL WLAs*,

c. *Determine whether a Permittee's discharge causes or contributes to an exceedance of receiving water limitation*s.

Insofar as "a" is concerned, outfall monitoring for stormwater for attainment of municipal action levels (MALs) would be acceptable were it not for their purpose. MALs represent an additional monitoring requirement for non-TMDL pollutants. MALs should really be used to replace TMDL WLAs as alternatives to addressing receiving water quality. As noted in the National Research Council Report to USEPA:

> *The NSQD (Pitt et al., 2004) allows users to statistically establish action levels based on regional or national event mean concentrations developed for pollutants of concern. The action level would be set to define unacceptable levels of stormwater quality (e.g., two standard deviations from the median statistic, for simplicity). Municipalities would then routinely monitor runoff quality from major outfalls.* ***Where an MS4 outfall to surface waters consistently exceeds the action level, municipalities would need to demonstrate that they have been implementing the stormwater program measures to reduce the discharge of pollutants to the maximum extent practicable****. The MS4 permittees can demonstrate the rigor of their efforts by documenting the level of implementation through*

measures of program effectiveness, failure of which will lead to an inference of noncompliance and potential enforcement by the permitting authority

Instead of following the above, Regional Board staff has chosen to create another monitoring requirement, without regard for cost or benefit to water quality or to permittees. Non-TMDL pollutants should be not be given special monitoring attention until it has been determined that they pose an impairment threat to a beneficial use. Such a determination needs to be done by way of ambient monitoring performed by the Regional Board SWAMP. The resulting data could then be used to develop future TMDLs if necessary.

Furthermore, many of the MAL constituents (both stormwater and non-storm water) listed in Appendix G, are included in several TMDLs such as metals and bacteria. This is, of course, a consequence of the redundancy created by two approaches that are intended to serve the same purpose: protection of water quality.

Recommended Correction: Either require substitution of TMDLs with MALs or eliminate MALs entirely.

As for stormwater outfall monitoring purpose "b", such monitoring cannot be used to determine compliance with **wet weather WQBELs based on TMDL WLAs** for the following reasons:

1. The wet-weather WQBEL is based on a TMDL WLA in the receiving water that is non-ambient. As mentioned, federal regulations only require ambient monitoring in the receiving water, which by definition can never be deemed the same as wet weather monitoring. They are mutually exclusive. Regional Board staff has also incorrectly determined that a WQBEL may be the same as the TMDL WLA, thereby making it a "numeric effluent limitation." Although numerous arguments may be marshaled against the conclusion, the most compelling of all is the State Water Resources Control Board's clear opposition to numeric effluent limitations.

   In Water Quality Orders 2001-15 and 2009-0008 the State Board made it clear that: *we will generally not require "strict compliance" with water quality standards through numeric effluent limitations," and instead "we will continue to follow an iterative approach, which seeks compliance over time" with water quality standards*.

   [Please note that the iterative approach to attain water quality standards applies to the outfall and the receiving water.]

   More recently, the State Board commented in connection with the draft Caltrans MS4 permit that numeric WQBELs are not feasible as explained in the following provision from its most recent Caltrans draft order:

Storm water discharges from MS4s are highly variable in frequency, intensity, and duration, and it is difficult to characterize the amount of pollutants in the discharges. In accordance with 40 CFR § 122.44(k)(2), the inclusion of BMPs in lieu of numeric effluent limitations is appropriate in storm water permits. This Order requires implementation of BMPs to control and abate the discharge of pollutants in storm water to the MEP.

2. The State Board's decision not to require numeric WQBELs in this instance appears to have been influenced by among other considerations, the *Storm Water Panel Recommendations to the California State Water Resources Control Board in re: The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities.*

   Regarding purpose "b" it should also be noted that the Regional Board's setting of WQBELs to translate the TMDL WLA in the receiving water to the outfall is premature. Regional Board staff apparently has not performed a reasonable potential analysis as required under § 122.44(d)(1)(i), which states:

   Limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any [s]tate water quality standard, including [s]tate narrative criteria for water quality."

   No such reasonable potential analysis has been performed – even though USEPA guidance requires it as part of documenting the calculation of WQBELs in the NPDES permit's fact sheet. According to USEPA's NPDES Permit Writers' Manual:

   Permit writers should document in the NPDES permit fact sheet the process used to develop WQBELs. The permit writer should clearly identify the data and information used to determine the applicable water quality standards and how that information, or any applicable TMDL, was used to derive WQBELs and explain how the state's anti-degradation policy was applied as part of the process. The information in the fact sheet should provide the NPDES permit applicant and the public a transparent, reproducible, and defensible description of how the permit writer properly derived WQBELs for the NPDES permit.[1]

[1]United States Environmental Protection Agency, NPDES Permit Writers' Manual, September, 2010, page 6-30.

The fact sheet accompanying the tentative order contains no reference to a reasonable potential analysis.

Complicating the performance of a reasonable potential analysis is the absence of (1) outfall monitoring data; and (2) ambient water quality standards. Though federal regulations require monitoring at the outfall, the Regional Board has not required it up until now. Even if outfall monitoring data were available to determine whether pollutants concentrations in the discharge exceeded the water quality standard is not possible. This is because, as mentioned earlier, TMDL WLAs are not expressed as ambient standards. A TMDL is an enhanced water quality standard. As noted in the National Research Council's *Assessing the TMDL Approach to Water Quality Management*, a report commissioned by the United States Congress in 2001:

> *… EPA is obligated to implement the Total Maximum Daily Load (TMDL) program, the objective of which is attainment of ambient water quality standards through the control of both point and nonpoint sources of pollution.*

Recommended Correction: Eliminate this requirement.

Regarding purpose "c", the determinant for a water quality standard exceedance is in the discharge from the outfall – not in the receiving water. The use of numeric WQBELs -- though incorrectly defined and established in this instance -- represents the compliance standard in discharges from the outfall. Adding a second compliance determinant in the receiving water is unnecessary and is not authorized under federal stormwater regulations because the receiving water lies outside the scope of the MS4.

Recommended Corrective Action: Eliminate this requirement.

3. Non-storm water outfall based monitoring

The purposes of this type of monitoring are as follows:

a. *Determine whether a Permittee's discharge is in compliance with applicable dry weather WQBELs derived from TMDL WLAs.*

b. *Determine whether a Permittee's discharge exceeds non-storm water action levels, as described in Attachment G of this Order,*

c. *Determine whether a Permittee's discharge contributes to or causes an exceedance of receiving water limitations,*

d. *Assist a Permittee in identifying illicit discharges as described in Part VI.D.9 of this Order*.

Regarding “a,” This requirement is redundant in view of the aforementioned MALs and in any case is not authorized under federal stormwater regulations. 402(p)(B)(ii) of the Clean Water Act only prohibits discharges to the MS4 (streets, catch basins, storm drains and intra MS4 channels), not through or from it. This applies to all water quality standards, including TMDLs. Nevertheless, compliance with dry weather WQBELs can be achieved through BMPs and other requirements called for under the illicit connection and discharge detection and elimination (ICDDE) program, or requiring impermissible non-stormwater discharges to obtain coverage under a permit issued by the Regional Board.

Recommended Correction: Delete this requirement and specify compliance with dry weather WLAs, expressed in ambient terms, through the implementation of the ICDDE program.

Withy regard to “b”, see previous responses regarding MALs and the limitation of non-stormwater discharge prohibit to the MS4.

Recommended Correction: Delete this requirement because it exceeds the non-stormwater discharge prohibition to the MS4; and determine whether MALs or TMDLs are to be used to protect receiving water quality.

Regarding “c”, as mentioned, non-stormwater discharges cannot by applied to receiving water limitations because of they are only prohibited to the MS4, not from or through it.

Recommended Correction: Delete this requirement because it exceeds the non-stormwater discharge prohibition to the MS4.

Regarding “d”, this requirement is reasonable and in keeping with federal regulations with the exception that the identification of illicit discharges must adhere to the field screening requirements in CFR 40 §122.26. No non-stormwater discharge monitoring shall occur unless flow is first discovered at the outfall. This would trigger the implementation of additional requirements that the tentative order does not include.

4. New Development/Re-development effectiveness monitoring

The purpose of this requirement is a dubious and is not authorized under federal stormwater regulations as it relates to monitoring. To begin with, requiring such monitoring is premature given the absence of outfall monitoring in the current and previous MS4 permits that would characterize an MS4’s pollution contribution relative to exceeding ambient water quality standards. Without the determination of statistically significant exceedances of water quality standards, detected at the outfall, the imposition of runoff infiltration requirements is arbitrary. Further, there is nothing in federal stormwater regulations that require monitoring on private or

public property. Monitoring, once again, is limited to effluent discharges at the outfall and to ambient monitoring in the receiving water.

Beyond this, monitoring for BMP effectiveness poses a serious challenge to what determines “effectiveness” -- effective relative to what standard? It is also not clear how such monitoring is to be performed.

Recommended Correction: Delete this requirement.

The MRP of the tentative order proposes regional studies **“***to further characterize the impact of the MS4 discharges on the beneficial uses of the receiving waters. Regional studies shall include the Southern California Stormwater Monitoring Coalition (SMC) Regional Watershed Monitoring Program (bio-assessment), sediment monitoring for Pyrethroid pesticides, and special studies as specified in approved TMDLs (see Section XIX TMDL Reporting, below).”*

Regional studies also lie outside the scope of the MS4 permit. However, because federal regulations require ambient monitoring in the receiving water, a task performed by the Regional Board’s SWAMP, regional watershed monitoring for aforementioned target pollutants can be satisfied through ambient monitoring. This can be accomplished with little expense on the part of permittees by: (1) using ambient data generated by the Regional Board SWAMP; (2) re-setting the County’s mass emissions stations to collect samples 2 to 3 days following a storm event (instead of using a flow-based sampling trigger); and (3) using any data generated from existing coordinated monitoring programs (e.g., Los Angeles River metals TMDL CMP), provided that the data is truly ambient.

END COMMENTS

EXHIBIT C

REQUEST FOR STAY OF LOS ANGELES REGIONAL BOARD ORDER R4-2012-XXXX, NPDES Permit No. CAS004001 PURSUANT TO CALIFORNIA WATER CODE SECTION 13321

DECLARATION OF THE ASSISTANT CITY MANAGER, CITY OF EL MONTE

I, Jesus M. Gomez declare that:

1. I am the current Assistant City Manager for the **City of El Monte** ("City"), an incorporated municipality in the County of Los Angeles. I have personal knowledge of the matters and facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. On November 8, 2012, the Regional Water Quality Control Board, Los Angeles, Region, adopted the Order No. R4-2012-XXXX, NPDES Permit No. CAS004001, Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges within the Coastal Watersheds of Los Angeles County, Except those Discharges Originating from the City of Long Beach MS4 ("Order").

3. The Order incorporates several total maximum daily load (TMDL) waste load allocations (WLAs), including the Los Angeles River Bacteria TMDL, the Los Angeles River Metals TMDL, and the Los Angeles River Trash TMDL that were adopted in advance of the Order's adoption. Compliance with the bacteria TMDL alone is estimated to cost the City $2,998,355 per year over a period of about 20 years, see Attachment #1 attached herewith.

4. The Order also revises the non-stormwater discharge prohibition to include discharges from and through the MS4 in addition to "to" or "into" the MS4. Federal law only requires a prohibition of non-stormwater discharges to the MS4. Because the Order requires outfall monitoring of non-stormwater discharges and

includes TMDLs that impose dry weather limitations on bacteria and metals, an exceedance could result in a violation, exposing the City to regulatory enforcement action and third party litigation. Further, the Dominguez Channel Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants Total Maximum Daily Loads ("Harbors Toxics TMDL") names the City and other Permittees subject to the Los Angeles River Metals TMDL as responsible parties, presumably to possibly assist in the funding of the remediation of the harbors which are currently designated as CERCLA superfund sites. A non-stormwater discharge exceedance for a metal constituent detected at the City's outfall (or manhole sampling point upstream of it), could hold the City responsible for past toxic contamination of the harbors and require it to pay for its remediation. Based on remediation costs contained in the Harbors Toxics TMDL, the City could be required to spend $500,000 per year square mile over a 5 year period. For the City, this would amount to $3.5 million per year over that period.

5. On December 4, 2012, The United State Supreme Court reviewed Los Angeles County Flood Control District v. Natural Resources Defense Council over the issue of where compliance is determined: at the outfall or in the receiving water. The Court is expected to render a decision on this matter some time during the spring of next year. Should the Court rule in favor of the district, no municipality located within the Los Angeles River, including the City, can be held in violation of a TMDL if an exceedance is detected by sampling in the river. The Los Angeles River Metals and Bacteria TMDLs took effect in 2008 and early 2012 respectively. Each TMDL requires the implementation of plans and monitoring requirements that

are based on the premise that compliance is determined by sampling in the river. A stay is needed to provide time for the Supreme Court to decide this issue and, in so doing, avoid the need for the City to spend thousands of dollars needlessly to develop plans to meet TMDL WLAs and conduct in-river monitoring.

6. There will be substantial harm to the City if a stay is not granted because of the aforementioned costs associated with TMDL compliance that would take effect 45 days from November 8th. The $3 million per year that is estimated for the City to comply with the TMDLs represents roughly 6% of the City's general fund budget. Were the City to also pay for the remediation of the harbors, an additional cost of $3.5 million would be imposed on it over a 5 year period. This represents roughly 7% of the City's general fund budget.

7. There will be no substantial harm to other interested persons and to the public interest if a stay is granted. The City is situated in Reach 2 of the Rio Hondo River, which is located upstream of spreading grounds. These facilities operate to retain 90% of stormwater and 100% of non-stormwater discharged from the City. Pollutants contained in both types of discharges have no opportunity to impair any of the beneficial uses. Further, the metals TMDL is not placed on the 303(d) list for Reach 2 of the Rio Hondo, which is the authoritative document under the CWA for designating impaired water bodies. Beyond this, there has been no outfall data or in-stream monitoring data demonstrating that the City is causing or contributing to a metals or bacteria exceedance. Outfall monitoring was not a requirement under the previous Order; and there are no in-stream monitoring stations in Reach 2 of the Rio Hondo that would detect such exceedances. Further, the bacteria and metals TMDLs are

defective because they require compliance with non-ambient waste load allocations to be determined in the receiving water. A non-ambient standard for TMDL compliance imposes a stringent compliance metric that is not authorized under federal law. Since an ambient standard is not used to measure pollutants from the City's outfalls, there is no evidence linking the City's stormwater discharges to impairment of the Los Angeles River and its beneficial uses. In the final analysis there is no reason to believe that a stay would have any impact on the environment or public interest.

8. The Order's revision to receiving water limitation language requires, among other actions, compliance with unspecified federal regulations (referenced in the Order's definition section), which if not complied with, could result in a violation of a TMDL or other water quality standard, thereby exposing the City to regulatory enforcement action and third party litigation.

9. There are substantial questions of fact and law regarding the disputed action that are described in the City's petition.

10. A stay is needed to provide time for the State Board to: (1) resolve the Order's failure to comply with federal and state law and State Board water quality orders; (2) avoid the unnecessary expenditure of funds to comply with an unlawful Order that will place an additional burden on the City's budget, which is already under stress and will cause irreparable harm; (3) correct ambiguities in an Order that was hastily put together, whose requirements and revisions are arbitrary and capricious; and (4) remedy violations of administrative procedures for proper public review and comment under State Law.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 10th day of December, 2012, at the City of El Monte, California.

Jesus M. Gomez
Assistant City Manager

ATTACHMENT 1

LAR Bacteria TMDL Implementation Plan Watershed [2] Cost Estimate May 11, 2010			
City	Watershed Area sq miles	Percentage	Estimated Annual Costs for 25 Year Implementation Period [1] $216,000,000
Alhambra	7.60	1.22583%	$3,171,750
Arcadia	10.93	1.76293%	$4,088,267
Bell	2.74	0.44194%	$1,834,131
Bell Gardens	2.48	0.40001%	$1,762,571
Bradbury	1.40	0.22581%	$1,465,322
Burbank	17.35	2.79843%	$5,855,245
Caltrans	11.24	1.81293%	$4,173,588
Calabasas	5.58	0.90001%	$2,615,785
Carson	0.88	0.14194%	$1,322,203
Commerce	6.56	1.05808%	$2,885,510
Compton	8.60	1.38712%	$3,446,980
Cudahy	1.12	0.18065%	$1,388,258
Downey	5.66	0.91292%	$2,637,803
Duarte	2.30	0.37097%	$1,713,030
El Monte	6.97	1.12421%	$2,998,355
Glendale	30.62	4.93879%	$9,507,550
Hidden Hills	1.57	0.25323%	$1,512,111
Huntington Park	3.03	0.48872%	$1,913,948
Irwindale	1.89	0.30484%	$1,600,185
La Canada Flintridge	8.57	1.38228%	$3,438,723
Long Beach	16.66	2.68714%	$5,665,336
Los Angeles	281.44	45.39428%	$78,540,800
Lynwood	4.85	0.78227%	$2,414,867
Maywood	1.18	0.19033%	$1,404,772
Monrovia	10.34	1.66777%	$3,925,881
Montebello	8.36	1.34841%	$3,380,925
Monterey Park	7.66	1.23550%	$3,188,264
Paramount	4.34	0.70001%	$2,274,499
Pasadena	22.70	3.66135%	$7,327,727
Pico Rivera	3.12	0.50323%	$1,938,718
Rosemead	5.14	0.82905%	$2,494,683
San Fernando	2.41	0.38872%	$1,743,305
San Gabriel	4.12	0.66453%	$2,213,949
San Marino	3.76	0.60646%	$2,114,866
Sierra Madre	2.99	0.48227%	$1,902,938
Signal Hill	1.13	0.18226%	$1,391,010
South El Monte	2.09	0.33710%	$1,655,231
South Gate	7.48	1.20647%	$3,138,722
South Pasadena	3.43	0.55323%	$2,024,040
Temple City	4.01	0.64678%	$2,183,673
Vernon	5.08	0.81937%	$2,478,170
LA County Unincorp.	80.61	13.00182%	$23,266,310
Total	619.99	100.0000%	$216,000,000

[1] Draft LAR MTMDL Staff Report page 76. $5.4 Billion over 25 years. No inflation/bond/construction cost adjustment

[2] Assumes Shared Watershed Costs Allocated 21% base and 79% area. Other IP options could dramatically change