# California Regional Water Quality Control Board, Los Angeles Region
# Los Angeles County MS4 Permit
# Supplementary Response to Comments on the Tentative Order
# MINIMUM CONTROL MEASURES MATRIX

| Section/Topic | Comment | Commenter(s) | Response | Change Made |
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| *Provisions* | | | | |
| | Extensive monitoring studies conducted by CDPH between 1999 and 2011 have documented that mosquitoes opportunistically breed in structural stormwater Best Management Practices (BMPs), particularly those that hold standing water for over 96 hours. These structures create a potential public health concern and increase the burden on local vector control agencies that are mandated to inspect for and abate mosquitoes and other vectors within their jurisdictional boundaries. These unintended public health consequences can be lessened when structures incorporate design, construction, and maintenance principles developed specifically to minimize standing water available to mosquitoes while having negligible effects on the capacity of the BMPs to provide water quality improvements as intended. | CDPH | Appendix H includes technical specifications for LID BMPs, including criteria for Bioretention and Biofiltration BMPs to drain below the planting soil in less than 48 hours and completely drain in less than 96 hours. See Attachment H, Part 2.a.<br><br>Additionally, Appendix H includes technical specifications for rainwater harvesting, including that harvested rainwater is stored in a manner that precludes the breeding of mosquitoes or other vectors or with a draw down not to exceed 96 hours. See Attachment H, Part 4.d. | No change made. |

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| | It is critical that the capacity for vector control agencies to apply public health pesticides to MS4s is protected by not imposing additional restrictions. To this end, public health pesticides specifically should be included as exempted discharges into permitted MS4s. | CDPH | The discharge of biological and residual pesticides to waters of the US from larvicide and adulticide applications for vector control may pose a threat to existing and potential beneficial uses of waters of the US if not properly controlled and regulated. The Clean Water Act (CWA), at section 301(a), broadly prohibits the discharge of any pollutant to waters of the US, except in compliance with an NPDES permit. Biological and residual pesticides discharged into surface waters constitute pollutants within the meaning of the CWA even if the discharge is in compliance with the registration requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Therefore, coverage under an NPDES permit is required. The draft tentative order does not prohibit authorized non-storm water discharges separately regulated by an individual or general NPDES permit. Discharges of biological and residual pesticides to waters of the US are covered under WQ Order No. 2012-0003-DWQ. A categorical exemption for these types of discharges to the LA County MS4 would be contrary to the CWA and implementing regulations. | No change made. |

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| | CDPH respectfully requests that the Board strongly consider the addition of specific and concise language to the Draft Tentative Order, Order No. R4-2012-XXXX, that:<br>• draws attention to the potential unintended consequences associated with stormwater management structures (i.e., mosquito production); specifically, structural BMPs and certain Low Impact Development (LID) site design measures such as rainwater capture systems<br>• requires that MS4s operating under this NPDES General Permit minimize the potential for mosquito production in structural BMPs and certain LID site design measures capable of holding standing water to the maximum extent practicable<br>• requires that MS4s operating under this NPDES General Permit provide, on an annual basis, a list of structural BMPs and certain LID site design measures capable of holding standing water to the local vector control agency to facilitate routine inspections and control of vectors if necessary, and | | The Tentative order requires that LID and Hydromodification Control BMPs are properly selected, designed and maintained to avoid the breeding of vectors. See Part VI.D.6.a.i.(6).<br><br>The Tentative order addresses drainage criteria for bioretention and biofiltration BMPs in Attachment H. As proposed, these criteria are consistent with the *California Department of Public Health. (2012). Best Management Practices for Mosquito Control in California*, which indicates that structures designed to drain captured water within 96 hours minimize the potential for breeding vectors.<br><br>The Tentative order also requires MS4 Permittees<br>• to coordinate with other agencies as necessary to successfully implement the provisions of the order (see Part VI.A.4.a.iii), and<br>• to implement a tracking system for new development and re-development post-construction BMPs. This tracking system will contain information on the types and locations of post-construction BMPs. This information could be made available by MS4 Permittees to vector control agencies, upon request. See Part VI.D.6.d.iv. | No change made. |

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| | The April 27, 2012 revision to the Fact Sheet for NPDES Permit No. CAS000003 ORDER No. 2012-XX-DWQ, State of California Department of Transportation included a paragraph on page 18 entitled *Potential Unintended Public Health Concerns Associated with Structural BMPs.* We propose that the Board consider the addition of a similar paragraph to the Fact Sheet of the Tentative Draft Order for the purpose of raising awareness of the potential unintended consequences associated with the implementation of certain stormwater management structures and public health obligations of owner /operators as defined in the California Health and Safety Code. | CDPH | Staff revised the Fact Sheet to include the following language: *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.* | Language in the Fact Sheet revised to incorporate suggested language. |
| | The reference cited in Section 6.a.i.(6) in the footnotes should be updated. Please replace it with the following<br><br>[26] *Structures designed to drain captured water within 96 hours minimize the potential for breeding vectors. See California Department of Public Health, Best Management Practices for Mosquito Control in California (2012) at http://www.westnile.ca.gov/resources.php* | CDPH | Staff has revised the footnote to reflect the more recent reference. | Order revised. |
| | A large portion of Statewide and Regional stormwater NPDES permits have incorporated a Finding related to the potential for vector production in certain structural stormwater structures. Such a Finding ensures that Permittees are fully aware that certain stormwater structures unintentionally may produce vectors, particularly mosquitoes, and encourages collaboration with public health agencies that control vectors to mitigate any breeding that may occur. Please consider including the following language as a separate Finding and the associated reference as a footnote. | CDPH | The draft tentative order addresses this issue in several places in Part VI.D.6 and Attachment H. Additionally staff revised the Fact Sheet to include language regarding this issue. The Fact Sheet constitutes part of the findings of the Los Angeles Water Board for this Order. See Finding I. | Language in the Fact Sheet revised. |

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| FIFRA Regulated Discharges | The management of vector populations and public health has become increasingly difficult with the inclusion of additional regulations under NPDES. We fully support the vector related language proposed for inclusion in the above tentative Order by the California Department of Public Health (CDPH). In addition to the CDPH suggestions we would like the Board to address the following concerns:<br>• The additional burdens on vector control agencies created by the 2011 Statewide NPDES Permit (Water Quality Order No. 2011-0002-DWQ, General Permit No. CAG 990004) directly impact the efficiency of field operations to control vector mosquitoes. Consequently, both the statewide as well as the national mosquito control association are aiming to regain NPDES exemption of public health pesticide applications and return such applications solely to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). To ensure our ability to continue our control efforts in the future, we would like to see the language under section VI.A | San Gabriel Valley Mosquito and Vector Control District, and Greater Los Angeles County Vector Control District | Comment Noted. The proposed Order is based on laws and policy in effect at the time of permitting. If future legislation or court decisions affect components of the permit, the Order may subsequently be reopened for review and modification, if necessary.<br><br>The Regional Water Board staff agrees to include language similar to that included in the Ventura County MS4 Permit in the Fact Sheet of the Tentative Order, as follows:<br>*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.*However, the Regional Water Board staff believes that the Provision VI.A.10 is important and that the draft tentative order is clear in that pesticide applications that are currently authorized by an NPDES permit are allowed within the Proposed Order. | Suggested language added to Attachment F, Part IV.A.5 |

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| | 10. "prohibiting the discharge of any product registered under FIFRA to any waste stream that may ultimately be released to waters of the United States, unless specifically authorized elsewhere in this Order or another NPDES permit", removed or have a specific exemption of public health pesticides added.<br><br>• We find that while it has been stated that the existing Ventura County Municipal Separate Storm Sewer System Permit, Order No. 09-0057, NPDES Permit No CAS004002 has served as a template in crafting this tentative order, important vector control related language has been omitted in this draft. We ask that the Board consider including the following language from the FINDINGS section F of the Ventura County MS4 permit as a part of the language proposed by CDPH for this section:<br><br>*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. Certain Treatment Control BMPs if not properly designed, operated or maintained may create habitats for vectors (e.g. mosquitoes and rodents).* | | | |

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| Low Impact Development | Page 70, section VI.D.6.c.ii.(1) should be revised to, "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 where ground water can be used for beneficial purposes, each Permittee may…" | US EPA | The Board agrees and will include the language consistent with the suggestion. | Changes made to Order. |
| Low Impact Development | Page 71, section VI.D.6.c.ii.(2)(d) should be revised to, "Brownfield development sites where infiltration poses a risk of causing pollutant mobilization." | US EPA | The Board agrees that the circumstances where technical infeasibility exists due to a risk of creating pollutant mobilization should be clarified. | Changes made to Order. |
| Low Impact Development | There are three documents cited on page F-62 of the fact sheet where a reference citation was not included – the study by "Hawley et al.", the USGS study and the Grand River TMDL. We suggest footnotes which would provide the reference information. | US EPA | The Fact Sheet has been revised to include the citations for the references, including:<br>Hawley, 2011. "Effects of Urbanization on the Hydrologic Regimes and Geomorphic Stability of Small Streams in Southern California";<br>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;<br>Ohio EPA, Grand River (lower) TMDL<br>http://www.epa.ohio.gov/portals/35/tmdl/LowerGrand_PN_Report.pdf | Changes made to Fact Sheet. |