

**California Regional Water Quality Control Board, Los Angeles Region  
Ventura County Municipal Storm Water Discharge Permit  
Response to Comments on the Tentative Order (02-24-09)**

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
<i>Support</i>				
	Overall the Tentative Order is a significant improvement and will result in protection of water quality in a constructive and effective manner.	Ventura Countywide Stormwater Quality Management Program, City of Camarillo, City of Moorpark, City of Port Hueneme, City of Simi Valley, City of Thousand Oaks, City of Ventura, County of Ventura, Ventura County Watershed Protection District, City of Oxnard	Comment noted.	No change is required.
	Generally supportive of the approach taken in this draft permit.	U.S. EPA	Comment noted	No changes is required.
<i>Permit Development Process</i>				
Nature of Discharge	Environmentally Sensitive Areas (ESA) as described here does not match definition, missing all unimproved 303(d) reaches.	Ventura Countywide Stormwater Quality	Correction made. See County of Ventura MS4 Tentative Permit Change Sheet.	Revised the ESA description to match the ESA

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		Management Program, Attachment A, 1		definition.
Federal, State and Regional Regulations	The Permit application is incomplete for failure to include an assessment of controls for reducing the discharge of pollutants into stormwater that is not arbitrary and capricious.	Ventura Coastkeeper/ Wishtoyo, 7	The Regional Water Board did not require that the Permittee's to submit an assessment because, the USEPA published an Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems (MS4s), (40 CFR Part 122; Federal Register, Volume 61, Number 155). The memorandum explains that MS4 permit applicants and NPDES permit writers have considerable discretion to customize appropriate and streamlined reapplication requirements in subsequent term permits.	No changes are required to address this comment.
Definitions	Do not use the word watercourses in the term "non storm water discharges into the MS4 and watercourses"	Los Angeles County and Los Angeles County Flood Control District	Regional Board staff agrees that the term "watercourses" should be deleted and has been replaced by "receiving waters".	Regional Board deleted the word "watercourse" from that section.
<i>Discharge Prohibitions</i>				
	Part 4.B.1.(b).(12) needs clarification. It simple states that Permittees shall possess the legal authority to prohibit the discharge of " <u>Trash Container Leachate</u> " to the MS4. There are two questions that need to be clarified. First, on private property, such as a retail center, does the trash area need to be roofed and drained to the sanitary sewer? This is the only way that we know to address all "Leachate" from the trash area. Secondly, must the Permittees have the ability to stop trash truck on the City streets when there is a flow of liquid from the truck? This problem is one that is better addressed by the Health Department or whatever agency regulates the operation of trash trucks. Certainly the Permittees are not able to regulate the operation of trash trucks and still provide its Citizens with reliable and cost effective service.	City of Paramount	Municipalities may choose from several methods to prohibit trash container leachate from entering the MS4. The permit does not require the City to regulate the operation of trash trucks, but to regulate the discharge of leachate from trash trucks.	No changes are required to address this comment.

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Potable Water Discharges	Identify when or why a potable water discharger may need a separate NPDES permit.	Oxnard	The Permittees have the discretion to require that a prospective discharger obtain an NPDES permit prior to discharge into the MS4 from the Regional Board Executive Officer. However, the Permittees retain responsibility for whatever is discharged from the MS4 so it behooves the Permittees to control discharges into the MS4.	No changes are required to address this comment.
Swimming Pool Water	The tentative permit has differing salt limits and dechlorination requirements through out the permit.	Thousand Oaks	Staff finds that although the requirements cited in the comment were written in several different sections of the Permit, they are substantially equivalent.	No changes are required to address this comment.
Non storm water discharges	“Table 1” has 3 columns, 2 of which may be redundant.	Ventura Countywide Stormwater Quality Management Program	Regional Board staff finds that column 3 provides greater specificity on the requirements for non-stormwater discharges.	No changes are required.
Emergency Fire Fighting	There should be no conditions on emergency firefighting flows.	City of San Marino, Coalition of Practical Regulation (CPR)	Regional Board staff agrees with the commenter.	Flows from emergency firefighting are exempt and have no conditions for discharge.
Emergency Fire Fighting	There should be no requirement for pooled water to be controlled after a fire.	City of San Marino, CPR, Executive Advisory Committee	The addition of conditions for the discharge of pooled water from emergency fire fighting was unintentionally included in Table 1.	The conditions for the discharge of pooled water from fire fighting has been deleted
Non Storm Water Discharges	Part 1.A.3 is redundant with Table 1 and should be deleted.	Ventura Countywide Stormwater Quality Management Program	Table 1 provides greater detail than Part 1.A.3.	No changes are required to address this comment.

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Non Storm Water Discharges	Do not combine different terms or use them interchangeably (Wet weather, dry weather, storm water, non storm water)	Los Angeles County and Los Angeles County Flood Control District	Regional Board staff finds no conflict with the terms and their usage. The terms are clear as is their usage.	No changes are required to address this comment.
Non Storm Water Discharges and segregation of flow in Table 1	Delete table one as the term “segregate flow to prevent introduction of pollutants” requires separating flows that have been commingled for centuries.	City of La Canada Flintridge, City of San Marino, City of Paramount	To “segregate flow to prevent introduction of pollutants” simply means keep pollutants away from the surface flow of whatever the allowable discharge the Permittee is attempting to discharge or allowing to be discharged. These discharges are conditionally allowed. Essentially the above mentioned is the condition under which the discharge is allowed.	No changes are required to address this comment.
Non Storm Water Discharges	There should be no exceptions to the rule that all non storm water discharges should be prohibited.	NRDC and Heal the Bay	Regional Board staff disagrees with the commenters. This is consistent with other municipal NPDES Permits. This is the first municipal NPDES permit that requires representative end-of-pipe monitoring and through this program the Regional Board staff will obtain analytical data to help determine whether these discharges are sources of pollutants. Additionally, the Commenter may provide analytical data to show that any of these discharges is a source of pollutants and the Executive Officer may require a change at that time.	No changes are required to address this comment.
Potable Water Discharges	Allow for the occasional discharge of potable water by Permittees.	CPR	Contrary to what the comment implies, there is no prohibition on potable water discharges by Permittees, but Permittees are responsible for any affects the discharge(s) may have.	No changes are required to address this comment.
<i>Receiving Water Limitations</i>				
Receiving Water Limitations	Part 1.A.2 should clarify that the Permittees are responsible after receiving written notice from the Regional Board Executive Officer that a non storm water discharge is exceeding water quality standards.	Ventura Countywide Stormwater Quality Management Program, Los Angeles River	This section also allows the Permittees to bring these exceedances to the attention of the Regional Board Executive Officer, and proactively propose and ultimately implement protective measures to ensure that these discharges are not exceeding water quality standards. It is not the intent of this section to solely have the Regional Board’s	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
		Watershed Committee	Executive Officer notify the Permittee(s) so that the iterative process can begin. The Permittees have responsibility that Regional Board staff cannot eliminate.	
Receiving Water Limitations	Delete the word “Persist” from the Receiving Waters Limitation Section of the Draft Tentative Permit.	Ventura Coast Keeper	This language is standard language that is a result of a precedential State Water Resources Control Board decision that this Regional Water Board is implementing [SWRCB/OCC File A-1041, June 17, 1999].	No changes are required to address this comment.
Receiving Water Limitations	Add back that the public can provide documentary evidence that Receiving Water Limitations have been exceeded for the Regional Board to initiate a hearing on the exceedences.	Ventura Coast Keeper	The language that the commenter requests is redundant with the powers that the Regional Board Executive Officer already has and as such, is unnecessary. Additionally, any actions that the public wishes to take under Section 505 of the Federal Clean Water Act is in no way hindered by this language not being contained in the tentative Order.	No changes are required to address this comment.
Receiving Water Limitations	Delete the word “Violation” from the Receiving Waters Limitation Section of the Draft Tentative Permit and replace with “Exceedance”.	TECS representing Azusa, Baldwin Park, Carson, Cerritos, Claremont, Commerce, Duarte, Gardena, Glendora, Inglewood, Irwindale, Lomita, San Gabriel, San Dimas, South El Monte, and Whittier.	This language is standard language that is a result of a precedential State Water Resources Control Board decision that this Regional Water Board is implementing [SWRCB/OCC File A-1041, June 17, 1999].	No changes are required to address this comment.
<i>Storm Water Quality Management Program Implementation</i>				
Responsibilities of the	Principal Permittee Should Share In Responsibility	Ventura	The Principal Permittee is responsible for its MS4	No changes are

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Permittees	for Permittees' Compliance. Permit stating that "the Principal Permittee is not responsible for ensuring compliance of any other individual permittee"	Coastkeeper/ Wishtoyo, 4	system as is each MS4 Permittee. Each Permittee is individually responsible for its own compliance with the Order.	required to address this comment.
BMP Substitution	The prescriptive BMPs in the Construction section need a more streamlined process for differing site conditions and BMPs tailored to those conditions than the procedures within the BMP Substitution Section of the Tentative Permit.	Los Angeles County and Los Angeles County Flood Control District, CPR	Regional Board staff agrees with the commenters.	Staff has added language to allow the Municipal Permittee to decide which BMPs should be used as long as they are equally effective or achieve the same result.
<i>Development Construction Program</i>				
Local Storm Water Pollution Prevention Plan vs. Storm Water Pollution Prevention Plan	Delete requirement for a Local SWPPP as the State already requires a State SWPPP under the State Construction Permit.	City of La Canada Flintridge, City of San Marino, City of Paramount, CPR	Regional Board staff disagrees with the commenter. This was included as it is expected that Permittees place requirements on soil disturbing activities within their respective jurisdictions. The option exists that the Local SWPPP may take the place of the State required SWPPP but there is no option for replacing a Local SWPPP with a State required SWPPP.	No changes are required to address this comment.
<i>Permit Development Process</i>				
	Generally supportive of the collaborative process to develop a progressive municipal storm water permit.	Ventura Countywide Stormwater Quality Management Program, City of Camarillo, City of Moorpark, City of Port Hueneme, City	Comment noted	No changes are required.

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		of Simi Valley, City of Thousand Oaks, City of Ventura, County of Ventura, Ventura County Watershed Protection District, City of Oxnard		
	We are troubled by the circumstances of these changes, which come after a series of meetings between Regional Board staff and some stakeholders. While we believe that permit applicants, like any stakeholder, have every right to make their views known, it is incumbent on the Regional Board to ensure that pollution control language is based on more than simply the desire to accommodate these stakeholders.	NRDC, 1	Staff consideration of pollution control language from any and all parties, including NRDC, is based on a careful assessment of the feasibility and effectiveness of all BMP or program under consideration.	No changes are required
<b><i>Total Maximum Daily Load Provisions</i></b>				
	Protect Areas of Special Biological Significance (ASBS)	Ventura Coastkeeper/ Wishtoyo, 5	TMDLs developed for the Calleguas Creek, its Tributaries, and Mugu Lagoon address the discharge of pollutants to Mugu Lagoon. See the Total Maximum Daily Load Provisions, Part 6 of the Order.	No changes are required to address this comment.
	Part 5.F.5.(a).(1) proposes a double standard that is unreasonable to Permittees. Since the very first State General Construction Activity Permit the State has used the standard that the applicant must file an NOI, pay the permit fee and prepare the SVVPPP. The Applicant has <u>never</u> received a written approval for this document. In fact the State General Permit does not require any review of the document. Now the Board is imposing a requirement <u>"for the Permittees review and written approval prior to the issuance of</u>	City of Paramount	Staff does not agree that the requirement represents a double standard. Local SWPPPs account for local conditions, including the quality of existing waterbodies.	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p><u>grading or construction permit for construction or demolition projects."</u> For the very same reasons that the State does not review the SWPPP the Permittees object to be required to commit manpower and resources to the approval of these documents. If the State believes that a local SWPPP for a project that disturbs less than an acre of land is more important than the State SWPPP for a project that disturbs 50 acres of land we do not see the logic nor do we believe that the State is sending the right message to the construction industry.</p>			
	<p>Total Maximum Daily Loads (TMDLs) (Tentative Order Part 6, Page 85)</p> <p>The County and the LACFCD support the approach to only include the applicable implementation requirements of TMDLs that have been fully approved and that specifically identify Municipal Separate Storm Sewer System (MS4) responsibilities in the Basin Plan amendment. However, we remain concerned that there is no indication in the Tentative Order that the Regional Board staff has undertaken an analysis to determine whether the WLAs can be met using controls to the Maximum Extent Practicable.</p> <p>The Tentative Order incorporates Total Maximum Daily Loads (TMDLs) that are in effect as of the date of the current Tentative Order.</p>	LACDPW	<p>Staff finds that there are sufficient data on the performance of BMPs to conclude that waste loads should be reduced by implementation of BMPs. A quantitative analysis of the effects of these load reductions will be conducted after sufficient data are collected.</p>	No change is required.
	<p>TMDLs in effect (i.e., Effective TMDLs) are those that have been adopted by the Regional Board as Basin Plan amendments (and approved by the State Water Board, Office of Administrative Law [OAL], and EPA).</p> <p>The County and the LACFCD support the approach to only include applicable implementation requirements of Effective TMDLs that specifically</p>	LACDPW	<p>Staff agrees that WLAs can be expressed in the form of BMPs, but disagree that EPA guidance requires that WLAs should be expressed as BMPs. EPA guidance provides several options for expressing WLAs.</p> <p>Staff disagrees that the word "enforcement" should be eliminated from a paragraph discussing compliance. However in order to clarify</p>	The word "further" was stricken in response to this comment.



Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>identify Municipal Separate Storm Sewer System (MS4) responsibilities in the Basin Plan Amendment (BPA). Applicable implementation requirements are those that have been approved by the Regional Board and are specifically identified as MS4 responsibilities in the BPA and include, but are not limited to, allocations, compliance monitoring programs, special studies, and other specific implementation actions.</p> <p>The County and the LACFCD have previously objected to the inclusion of TMDL numeric Waste Load Allocations (WLAs) into the Los Angeles County Municipal Stormwater NPDES Permit on the basis of improper incorporation of numeric limits. Consistent with EPA guidance, the WLAs should be expressed in the form of BMPs as nonnumeric limits. Also, as previously expressed, the Tentative Order does not indicate whether Regional Board staff has undertaken any analysis to determine whether the WLAs can be met using controls to the Maximum Extent Practicable (MEP). Thus, it is unknown whether attainment of the WLAs would require efforts that go beyond that standard. To the extent, this requirement imposes an obligation beyond the MEP standard there has to be complied with Water Code §13241.</p> <p>Under the compliance monitoring portion of the TMDL section, the Tentative Order states that if any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL technical reports. The Tentative Order then says that, following these actions, the "Regional Water Board staff will evaluate the <i>need for further enforcement action.</i>" (<i>Tentative Order Part 6.V.1-8(c), Pages 87-95</i>). This implies that there was a violation of the permit and enforcement actions were taken. The word</p>		<p>ambiguities in language the word "further" was eliminated.</p>	

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	"enforcement" should be eliminated.			
	<p>The Permit must include numeric effluent limits based on waste load allocations ("WLAs") and required implementation actions for all TMDLs in effect in Ventura County.</p> <p>However, the Permit fails to include WLAs for four TMDLs in effect in Ventura County: Calleguas Creel. Watershed Salts TMDL (in effect December 2, 2008), Calleguas Creek Nitrogen TMDL (in effect July 13, 2003), Santa Clara River Chloride TMDL (in effect May 4. 2005), and Malibu Creek Nutrients TMDL (in effect March 22, 2003). In conversations with Regional Board staff, it appears that chlorides in Santa Clara and nutrients in Calleguas Creek are primarily attributed to POTWs and thus were excluded from the Draft Permit. However, the Santa Clara River Chloride TMDL includes a WLA for "other NPDES" permittees. This should be considered for inclusion in the Draft Permit. In addition although the Regional Board approved TMDL updates to the Santa Clara River Chloride TMDL and Calleguas Creek Nitrogen TMDL from late 2008 are not in effect, the previously adopted TMDLs for these waterbody-pollutant combinations are in effect. Thus these WLAs should be included in the Draft Permit.</p> <p>The absence of the Malibu Creek TMDL WLAs in the permit is particularly troublesome, as stormwater is a large source of nutrients to the Creek. High nutrient concentrations and eutrophication problems continue to plague the Malibu Creek watershed, yet the Regional Board has not included nutrient WLAs. LAs or effluent limits in any permits to date despite the fact that the TMDL was approved by the USEPA over six years ago. Thus, the Board must modify the</p>	Heal The Bay, 3	The Tentative Permit has been revised to include interim and final WLAs for Calleguas Creek Watershed Salts TMDL, Santa Clara River Chloride TMDL (Reach 3), and Malibu Creek Watershed Nutrients TMDL.	<p><b>WLAs for</b> Calleguas Creek Watershed Salts TMDL, Santa Clara River Chloride TMDL (Reach 3), and Malibu Creek Watershed Nutrients TMDL are added to Part 6, Section IV and V of the Tentative Order.</p>

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	Permit to include these numeric WLAs in the Ventura MS4 permit.			
	<p>The Permit must clearly state that numeric effluent limits based on waste load allocations are enforceable.</p> <p>The Draft Permit appears to state that an exceedance of a WLA may not be enforced upon:</p> <p>If any WLA is exceeded at a compliance monitoring site, permittees shall implement BMPs in accordance with the TMDL Technical Reports. Implementation Plans or as identified as a result of TMDL special studies identified in the Basin Plan Amendment. Following these actions. Regional Water Board staff will evaluate the need for further enforcement action."<sup>4</sup> The implementation of an implementation plan or special study does not constitute an enforcement action. A WLA must be met for purposes of water quality standards attainment and is an enforceable limit. Thus, the Permit must clarify that any exceedance of a WLA is a violation and will be enforced.</p>	Heal The Bay, 4	<p>The Tentative Permit has been revised to include:</p> <p>III. The Permittees shall comply with the following Wasteload Allocations, consistent with the assumptions and requirements of the Wasteload Allocations documented in the Implementation Plans, including compliance schedules, associated with the State adoption and approval of the TMDL at compliance monitoring points established in each TMDL (40CFR122.44(d)(1)(vii)(B).</p>	Section III is added to Part 6 of the Tentative Order to address the comment. Part 6 of the Tentative Order is renumbered accordingly
<b>Monitoring Program</b>				
Aquatic Toxicity Monitoring	Immediately running a TIE if toxicity is determined. Prefer that the TIE is triggered by back-to-back determination of toxicity, or a demonstrated pattern of toxicity.	Oxnard, 9	The Order requires that toxic samples shall be immediately subjected to Toxicity Identification Evaluation (TIE) procedures to identify the toxic chemical(s) if toxicity is determined by the standard t-test. The Order's requirement refers to Phase 1 of the TIE process, which analyzes an effluent to determine the general chemical category/ class of its toxicant. Due to the episodic nature of storm water and the very limited number of toxic monitoring events (2 during the 1 <sup>st</sup> year and then 1 per year) it is necessary to identify the general cause(s) of toxicity the first time and every time it occurs. Requiring 2 toxic events one after the other in order to identify the general cause(s) of	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			toxicity could take years and would not assist the Permittees in implementing effective BMPs to reduce and/ or eliminate toxicity.	
Reporting Program	Electronic reporting program submitted 12 months after permit adoption conflicts with Dec. 15 reporting deadline given at Part 2.4 and in Attachment H.	Ventura Countywide Stormwater Quality Management Program, Attachment A, 8	There is the Dec. 15 <sup>th</sup> compliance date for submittal of the Annual Report and there is the development of an Electronic Reporting Program, they are not one in the same and do not conflict with each other. The requirement is for electronic reporting to be submitted 12 months after Order adoption date.	No changes are required to address this comment.
Mass Emissions	Other constituents are properly sampled as grabs (ammonia, conductivity, perchlorate, O&G, TRPH, phenols, cyanide).	Ventura Countywide Stormwater Quality Management Program, Attachment A, 9	The Order is requiring that only pathogen indicators, hardness, pH, temperature, and DO be taken as grabs because, these are an appropriately sampled as grabs for the MS4 storm water permit. Whereas some of the constituents listed are not an indicator in storm water and some are appropriately sampled as grabs in other types of storm water permits.	No changes are required to address this comment.
Major Outfalls	Standard Monitoring Provisions are part “K” not “J”.	Ventura Countywide Stormwater Quality Management Program, Attachment A, 9	Correction made. See County of Ventura MS4 Tentative Permit Change Sheet.	Mass Emissions 15
Mass Emissions	Suggest “If a constituent is not detected at the MDL for its respective test method it need not be further analyzed ( <del>Delete</del> ) <u>unless the observed occurrence shows concentration greater than the state water quality objective, and/ or CTR for acute criteria.</u> ”	Ventura Countywide Stormwater Quality Management Program, Attachment A, 9	If a constituent is a non-detect during one monitoring event then there is still a need to monitor for the constituent in consecutive monitoring events, for it may be detected. For priority pollutants, MLs published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP) shall be used for all analyses, unless otherwise specified. Method Detection Levels (MDLs) must be lower than or equal to the ML value, unless otherwise approved by the Regional Board.	Mass Emissions 12

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			Staff agrees that acute criteria should be changed to chronic criteria. See County of Ventura MS4 Tentative Permit Change Sheet.	
Major Outfalls	Reference to “H” should be to “I”.	Ventura Countywide Stormwater Quality Management Program, Attachment A, 9	Correction made. See County of Ventura MS4 Tentative Permit Change Sheet.	Major Outfalls 1.(d)
Major Outfalls	Attachment “C” constituents (Tables 1 & 2) don’t match constituents listed in B7.	Ventura Countywide Stormwater Quality Management Program, Attachment A, 9	Correction made. See County of Ventura MS4 Tentative Permit Change Sheet.	Major Outfalls 7
Major Outfalls	Suggest “If a constituent is not detected at the MDL for its respective test method it need not be further analyzed ( <del>Delete</del> ) <u>unless the observed occurrence shows concentration greater than the state water quality objective, and/ or CTR for acute criteria.</u> ”	Ventura Countywide Stormwater Quality Management Program, Attachment A, 9	If a constituent is a non-detect during one monitoring event then there is still a need to monitor for the constituent in consecutive monitoring events, for it may be detected. For priority pollutants, MLs published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP) shall be used for all analyses, unless otherwise specified. Method Detection Levels (MDLs) must be lower than or equal to the ML value, unless otherwise approved by the Regional Board. Staff agrees that acute criteria should be changed to chronic criteria. See County of Ventura MS4 Tentative Permit Change Sheet.	Major Outfalls 8
Major Outfalls	Standard Monitoring Provisions are part “K” not “J”.	Ventura Countywide Stormwater Quality Management	Correction made. See County of Ventura MS4 Tentative Permit Change Sheet.	Major Outfalls 11

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
		Program, Attachment A, 9		
Major Outfalls	A reference should be added to attachment “A” for “Pollutants of Concern”.	Ventura Countywide Stormwater Quality Management Program, Attachment A, 10	Outfall monitoring results showing an exceedance of the Basin Plan objectives, and the CTR for acute criteria are to be recorded in the Annual Storm Water Report as Pollutants of Concern. Monitoring results may include constituent exceedances not listed in the historic list of “Pollutants of Concern” - Attachment “A”, the reference is not appropriate.	No changes are required to address this comment.
Aquatic Toxicity Monitoring	Add “significant” to first sentence, i.e.”...TIEs for all sites showing <u>significant</u> toxicity.” To match language in the trigger for TIE in the same section.	Ventura Countywide Stormwater Quality Management Program, Attachment A, 10	Addition made. See County of Ventura MS4 Tentative Permit Change Sheet.	Aquatic Toxicity Monitoring 14
Pyrethroid Insecticides Study	Inconsistent frequency of Pyrethroid monitoring: E.2 “shall monitor 1 sampling event per station per monitoring year” should be deleted or changed to match E.1 a, d/e it is to begin “no later than the second year of this Order” at “at least 2 stations (per watershed)” and is to be “repeated in the fifth year of the permit term” and in...	Ventura Countywide Stormwater Quality Management Program, Attachment A, 10	Section E.1.(e) shall be edited to read “The study shall be repeated every third year, following the year monitoring begins.” See County of Ventura MS4 Tentative Permit Change Sheet.	Pyrethroid Insecticides Study 1.(e)
Bioassessment	Suggest clarifying frequency i.e. “Level of effort per watershed <u>per year</u> ”	Ventura Countywide Stormwater Quality Management Program, Attachment A, 10	Clarification made. See County of Ventura MS4 Tentative Permit Change Sheet.	Bioassessment 1.(a)(1)(A)
Standard Monitoring Provisions	Request change of language at end of K.6 and K.6b to add “where applicable” to allow use of laboratories to test for constituents not included in the intercalibration study (i.e. bacteriological, toxicity,	Ventura Countywide Stormwater Quality	All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory: (a) Certified for such analyses by an appropriate governmental regulatory agency; (b) Participated in	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	and other chemical analyses).	Management Program, Attachment A, 10	'Intercalibration Studies' for storm water pollutant analysis conducted by the SMC; (c) Which performs laboratory analyses consistent with the storm water monitoring guidelines as specified in, the Stormwater Monitoring Coalition Laboratory Guidance Document, 2 <sup>nd</sup> Edition R. Gossett and K. Schiff (2007), and its revisions. These requirements are to provide minimum levels of comparability so that data sets can be combined.	
Major Outfalls	Results from major outfall stations to be compared to Basin Plan water quality objectives. Comparisons with WQO can be done for informative purposes, however these objectives are set for receiving waters and are not appropriate to determine compliance with the NPDES permit through the quality of discharges from MS4s.	Ventura Countywide Stormwater Quality Management Program, Attachment A, 10	Comment noted.	No changes are required to address this comment.
Pyrethroid Insecticides Study	The County and the LACFD suggest that in lieu of the required Pyrethroid Insecticide Study by the Ventura Permittees, that a Southern California regional study be conducted to build upon the current and proposed bioassessment monitoring and use a multiple lines of evidence approach.	County of Los Angeles Dept. of Public Works, VI., 8	The Pyrethroid Insecticides Study is for the Calleguas Creek, its Tributaries, and Mugu Lagoon Toxicity, Chlorpyrifos, and Diazinon TMDL that the Calleguas Creek Workgroup is working on. The County of Los Angeles can discuss a study with development of the County of Los Angeles MS4 permit.	No changes are required to address this comment.
Mass Emissions	Requirements with insufficient time allotted for completion - Submittal to the Regional Board of nonperformance of monitoring requirements.	County of Los Angeles Dept. of Public Works, Table 1, 12	The County of Los Angeles can discuss time allotments for completion of requirements with development of the County of Los Angeles MS4 permit.	No changes are required to address this comment.
Hydromodification Control Study	Requirements with insufficient time allotted for completion – Submittal of a letter to the Regional Board stating how they are satisfying the requirement for the Hydromodification Control Study.	County of Los Angeles Dept. of Public Works, Table 1, 12	The County of Los Angeles can discuss time allotments for completion of requirements with development of the County of Los Angeles MS4 permit.	No changes are required to address this comment.
Low Impact Development	Requirements with insufficient time allotted for completion – Submittal of a letter to the Regional Board stating how they are satisfying the requirement for the Low-impact Development Special Study.	County of Los Angeles Dept. of Public Works, Table 1, 12	Comment Noted. County of Los Angeles can discuss time allotments for completion of requirements with development of the County of Los Angeles MS4 permit.	No changes are required to address this comment.

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Mass Emissions	Requirements That Appear to be Cost Prohibitive – Flow-weighted composite sampling.	County of Los Angeles Dept. of Public Works, Table 2, 13	As required by 40 CFR 122.21(g)(7)(ii).	No changes are required to address this comment.
Pyrethroid Insecticides Study	Establishing at least two stations along the mainstems of each major watershed river for the Pyrethroid Insecticides Study.	County of Los Angeles Dept. of Public Works, Table 2, 13	Comment Noted. If applicable, the County of Los Angeles can negotiate monitoring stations with development of the County of Los Angeles MS4 permit.	No changes are required to address this comment.
Pyrethroid Insecticides Study	The study shall be repeated in the fifth year of the permit term. This contradicts Section E.I.v. where it states “trends shall be assessed over the permit term.”	County of Los Angeles Dept. of Public Works, Table 3, 14	Section E.1.(e) shall be edited to read “The study shall be repeated every third year, following the year monitoring begins.” See County of Ventura MS4 Tentative Permit Change Sheet for the Ventura Countywide Stormwater Quality Management Program, Attachment A, 10. Trends can be assessed at the end of the permit term.	Pyrethroid Insecticides Study 1.(e)
Beach Water Quality Monitoring	Incorporate in Section M the new requirement for Beach Water Quality monitoring at 10 sites. In addition, parties were in agreement for year-round weekly monitoring at the 10 sites.	Joint Letter-Natural Resources Defense Council, Heal The Bay, Cities of Ventura, Oxnard, and Simi Valley, and County of Ventura	Comment Noted. If funding from state and federal sources is not available for beach water quality monitoring during the winter season (Oct. 15-Apr.15) then the Order requires the Principal Permittee to conduct beach water quality sampling and analysis at a maximum of ten sites in accordance with the procedures and locations used in AB411 monitoring and listed.	No changes are required to address this comment.
General	Tentative Order Must Link Monitoring Data to Water Quality Standards	Ventura Coastkeeper/ Wishtoyo, 2	Through the Mass Emissions and Major Outfalls stations screening for priority pollutants, MLs published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP) being used for all analyses, unless otherwise specified, a link between monitoring and Water Quality Standards is established.	No changes are required to address this comment.
General	Tentative Order does not articulate how to make a determination of compliance with water quality standards.	Ventura Coastkeeper/ Wishtoyo, 2	See the Total Maximum Daily Load Provisions, Part 6 of the Order.	No changes are required to address this



<b>Section/Topic</b>	<b>Comment</b>	<b>Commenter(s) &amp; Page Numbers</b>	<b>Response</b>	<b>Change Made</b>
				comment.
Major Outfalls	Would like to see accompanying or descriptions of the major outfall monitoring stations.	Heal The Bay, 6	Maps of the major outfall monitoring stations has been posted on the Water Boards website at: <a href="http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/ventura_ms4/tentative.shtml">www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/ventura_ms4/tentative.shtml</a>	No changes are required to address this comment.
Major Outfalls	Permit requires a total of four monitoring events per identified major outfall each year, a subsequent subsection states that in the first year after the permit adoption, 4 major outfall stations shall be monitored. Thereafter, all major outfall stations are to be monitored annually according to the schedule. These two subsections appear to be in conflict.	Heal The Bay, 6	The two subsections are not in conflict with each other. A total of 4 monitoring events are required at the major outfalls monitored each year; and during the first year of the permit 4 major outfall stations shall be monitored and thereafter (i.e. proceeding years after the first year) all 11 major outfall stations shall be monitored.	No changes are required to address this comment.
Major Outfalls	Attachment H does not list major outfall stations.	Heal The Bay, 7	Correction made (Attachment "I" Storm Water Monitoring Program's major Outfall Stations). See County of Ventura MS4 Tentative Permit Change Sheet.	Major Outfalls 1.(d)
Mass Emissions	As we've stated above, the best way to determine compliance is to have receiving water monitoring station just below major outfall monitoring stations.	Heal The Bay, 7	Due to the topography of Ventura County placing Mass Emission stations further downstream of their present locations, can not be achieved. The Permittees and Water Board have held discussions on relocating the Mass Emission stations, but it was found to be impractical.	No changes are required to address this comment.
Dry Weather Analytical Monitoring	While we appreciate this idea in concept, the program outlined is insufficient to meet the objectives	Heal The Bay, 7	Staff disagrees. This is the first Dry Weather Analytical Monitoring at Major Outfalls and a meaningful data set shall be collected at the representative MS4 outfalls.	No changes are required to address this comment.
Dry Weather Analytical Monitoring	The Regional Board should clarify that all 5 stations in each jurisdiction should be monitored.	Heal The Bay, 7	In each jurisdiction, 1 out of 5 stations shall be monitored.	No changes are required to address this comment.
Aquatic Toxicity Monitoring	The Board should revise toxicity requirements to meet the working group's recommendations.	Heal The Bay, 8	The USEPA had several changes and comments on the working group's Technical memorandum on toxicity testing of wet and dry weather runoff draft dated August 17, 2007, that to-date have not been resolved. The Order states that when the SMC Standardized Toxicity Testing Guidance is completed, the Regional Water Board Executive	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			Officer may direct Permittees to replace the current toxicity program with the standardized guidance procedure.	
Aquatic Toxicity Monitoring	For instance, the Memorandum recommends sampling both dry and we weather events, but the Fourth Draft includes only wet weather sampling.	Heal The Bay, 8	The objective of aquatic toxicity monitoring is to evaluate if storm water (wet weather) discharges are causing or contributing to chronic toxic impacts on aquatic life.	No changes are required to address this comment.
Aquatic Toxicity Monitoring	A Toxic Reduction Evaluation (“TRE”) is only triggered if the same pollutant or class of pollutants is identified through the TIE process. TREs should be required when there is a trend of toxicity, even if the cause of the toxicity varies.	Heal The Bay, 8	When the same pollutant or class of pollutants is identified through 2 consecutive TIE evaluations, a TRE shall be performed for that identified toxic pollutant. Storm events are episodic, and depending on land use, a variety of contaminants can be present in the runoff. Receiving waters are similarly dynamic depending on inputs from point and nonpoint sources. Toxicity Identification Evaluation (TIE) procedures are performed as part of the overall TRE to characterize and identify possible sources of toxicity. The primary tool used in the toxicity identification approach is the Toxicity Identification Evaluation (TIE). Conducting a TIE is the most cost-effective TRE strategy since it enables the discharger to focus facility and monetary resources on the actual chemical stressor and tailor a mitigation and/or treatment program to eliminate the toxicity.	No changes are required to address this comment.
Aquatic Toxicity Monitoring	Additionally, each TRE action should include an implementation plan with milestones for constructing specific BMPs that meet the 75 <sup>th</sup> percentile performance criteria and target the pollutant of concern.	Heal The Bay, 8	Comment Noted.	No changes are required to address this comment.
Aquatic Toxicity Monitoring	The Permit seemingly provides an exception to sampling if a sufficient sample volume is not possible. We urge the Regional Board to include a clause that states an alternate location near the initial monitoring location should be selected if insufficient sample cannot be collected.	Heal The Bay, 8	Volume of sample shall be determined by specific test methods to be used. At a minimum, a sufficient sample volume must be collected to perform all of the required biological and chemical tests. When monitoring can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittee’s control, then within two working days the following shall be	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			<p>submitted to the Regional Water Board Executive Officer:</p> <p>(a) Statement of situation.</p> <p>(b) Explanation of circumstance(s) with documentation.</p> <p>(c) Statement of corrective action for the future. The name of the receiving water and its base level would be required as part of the explanation as to why an insufficient sample volume could not be collected. For data consistency monitoring locations for the mass emission stations shall stay standing. Monitoring for the major outfalls is at end of pipe.</p>	
Bioassessment	The Board should include 3 bioassessment monitoring in the Permit that is sufficient for determining receiving water trends and stormwater impacts on specific aquatic communities	Heal The Bay, 8	Bioassessment that focus on benthic macroinvertebrates (BMIs) in freshwater streams is a powerful tool for evaluating the ecological integrity of the State's waterbodies. Bioassessment is a tool to assess impacts from in-stream discharges such as those from Water Reclamation Plants, Industrial facilities, urban runoff, storm water (wet weather) and non-storm water (dry weather). It is not capable of determining the effects solely of storm water in receiving waters. It is an assessment tool, not a compliance tool.	No changes are required to address this comment.
	<p>Pyrethroid Insecticides Study (Tentative Order Attachment F, Tentative Monitoring Program, Section E, Page F-13)</p> <p>The County and the LACFCD suggest that in lieu of the required Pyrethroid Insecticide Study by the Ventura permittees, that a Southern California regional study be conducted to build upon the current and proposed bioassessment monitoring and use a multiple lines of evidence approach.</p>	LACDPW	Staff disagrees. Ventura County has unique land use patterns that may not be accounted for in a Regional Study. These features include discontinuous urban centers located in both upstream and downstream areas of the different watersheds. Further, there are land uses with unique pesticide usage patterns.	No changes are required to address this comment.
	Non-Stormwater vs. Dry-Weather Discharges (Tentative Order, (a) front page; (b) Finding B.10, Page 4; (c) Finding D.6, Page 9; and (d) Finding E.6, Page 11)	LACDPW	Staff disagrees that stormwater permit is ambiguous and requires a global edit. The permit contains a definition for wet weather and dry weather to eliminate ambiguity.	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>The Tentative Order erroneously mixes up the concept of stormwater with wet-weather discharges and the concept of nonstormwater with dry-weather discharges. This causes unnecessary confusion and ambiguity. To avoid this confusion and ambiguity, the Order should eliminate all references to "wet weather" and "dry weather," except where those terms are in the title of a TMDL (see Tentative Order, Part 6, VI.1, Page 86.)</p> <p>The Clean Water Act distinguishes between stormwater and nonstormwater. The Federal regulations, 40 C.F.R. 122.26(b)(13), define stormwater to mean "stormwater runoff, snow melt runoff, and surface runoff and drainage." The Tentative Order adopts this definition as the definition of stormwater in the permit. We support the Tentative Order's adoption of this definition.</p>			
	<p>Non-Stormwater Discharges to Watercourses (Tentative Order, Part 1.A.1, Page 29, Part III, Pages 55-59)</p> <p>Part 1.A.1 of the Tentative Order proposes to prohibit "non-storm discharges into the MS4 and watercourses." The reference to "watercourses" should be deleted because no authority exists for this provision. Whereas a stormwater permit regulates MS4s, it does not regulate watercourses.</p>	LACDPW	Staff has revised the word watercourses to "waters of the United States."	Part 1.A.1 and Part III are revised accordingly.
	<p>Unfunded State Mandates (Proposed Finding E.7, Pages 11-12)</p> <p>The Tentative Order contains a finding that nothing in the permit constitutes an unfunded State mandate (Tentative Order, Finding E.7, pages 11-12.). This finding is both superfluous</p>	LACDPW	See Response to Legal Comments	

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	and erroneous.			
	Where those non-Federal requirements constitute a new program or higher level of service ordered by the State or exceed the Federal requirements, those requirements can qualify as a State mandate requiring a subvention of funds. See <i>Long Beach Unified School District v State of California</i> (1990) 225 Cal.App.3d 155, 172-173. Even if the requirement derives from the Federal law, the requirement can still constitute an unfunded State mandate where the Regional Board has a choice whether to impose the requirement on the permittees. <i>Hayes v. Commission on State Mandates</i> (1992) 11 Cal.App.4th 1546, 1593-94.		See Response to Legal Comments	
	<p>Costly Requirements</p> <p>The County and the LACFCD recommend that several of the more costly permit requirements be reviewed and that the Tentative Order language allow for flexibility to use alternative methods to achieve the objective of the requirements listed in Table 2 below.</p>		Staff has discussed the provision with stakeholders affected by the permit. Adequate flexibility is provided in the current draft.	No changes are required.
	The Agreement proposes to replace the current monitoring program of the Tentative Order with a different Beach Monitoring Program.	U.S. EPA	The Tentative Order Program Beach Monitoring program was developed in consideration of the loss of State funding through AB 411 for monitoring beaches during the winter months. The Tentative Order requires Beach Monitoring at the 10 sites currently monitored under AB 411 during seasons when the AB 411 program is inoperative. The Tentative Order also specifies that sampling be in accordance with the procedures used in the AB 411 program. The Agreement requires year round monitoring with monitoring protocols used for Beach monitoring in Los Angeles County. The key difference in the monitoring protocol required by	No changes are required.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			<p>the Agreement is that the samples are collected directly in front of storm drains or streams at ankle depth. Conversely, the Tentative Order states that the existing AB 411 locations are maintained.</p> <p>Staff finds that both protocols provide different advantages: the Tentative Order would maintain the historical record that has been established at Ventura County beaches, whereas the Agreement comports the Ventura procedures with beach monitoring in Los Angeles County. However, staff understands that AB 411 monitoring will be conducted in the summer months, so the year round monitoring in the Agreement appears to be duplicative, and therefore a wasteful expenditure of public monies.</p>	
	<p>As an overarching comment, the monitoring program in the Draft Permit is difficult to evaluate, as it is unclear what monitoring is already underway and the additional monitoring locations required in the Draft Permit. As we have asked for on numerous occasions over the last year, the Board Staff should compile a list or table of all stormwater monitoring requirements in order for the public to evaluate whether the Permit's requirements, when combined with current monitoring efforts, will be sufficient. Heal the Bay has asked for the Ventura County TMDL monitoring requirements for 9 months, yet Ventura County and the Regional Board have not provided that information, thus making assessment of the adequacy of the MS4 monitoring program impossible. This additional monitoring program information is especially important given that there is only receiving water</p>	<p>Heal The Bay, 5</p>	<p>Staff prepared and transmitted a map to Heal the Bay on January 16, 2009 upon their request. This is the first Permit to include representative stormdrain sampling and WLAs to determine compliance.</p>	<p>No changes are required.</p>

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>monitoring at mass emissions locations and not throughout the watersheds. In general, though, the Permit must contain minimum monitoring requirements, which are necessary to assess compliance and impacts from the MS4. If another program covers some of these requirements, the discharger can work with this other monitoring program to coordinate logistical issues like cost-sharing.</p>			
	<p>Beach Water Quality Monitoring</p> <p>We commend Regional Board staff for requiring beach water quality monitoring at ten Ventura County beach locations in the proposed monitoring program. As you know, stormwater runoff is a major source of beach bacteria pollution:- It is critical that the Permittees be on hand to undertake beach water quality monitoring at stormwater impacted sites should the Health Department discontinue this weekly monitoring as this is a major public health issue. However, we ask that the Regional Board expand the scope of the monitoring program to include <i>year round monitoring</i> at these beach locations. Similar to what the Regional Board has required for the LA County MS4 permit for over a decade. Nuisance flows occur on a year-round basis and are a known source of bacteria to beaches. In addition for clarity purposes, the Regional Board should outline within the Permit that a minimum of <i>weekly</i> monitoring will be conducted. Although this is implied by stating that the monitoring shall be conducted in accordance with AB 411 procedures, it should be clearly stated within the Permit. Lastly, the Permit should specify that monitoring take place at the wave-wash directly in front of stormdrain and stream sources (point zero). This is necessary to ensure that the waters closest to the discharge are evaluated.</p>	<p>Heal The Bay, 6</p>	<p>However, staff understands that AB 411 monitoring will be conducted in the summer months, so the year-round monitoring in the Agreement appears to be duplicative, and therefore a wasteful expenditure of public monies.</p>	<p>No changes are required.</p>

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p data-bbox="359 245 663 272">Major Outfall Monitoring</p> <p data-bbox="359 313 993 943">The Draft Permit requires monitoring at "the end-of-pipe of major outfalls" four times per year and includes the latitude and longitude of eleven locations throughout the County that should be monitored on this cycle. Without accompanying maps or descriptions of the sites, it is nearly impossible to determine if the selected outfalls are truly representative of the discharge area. The Regional Board must ensure that appropriate land-use categories are monitored in order to be able to more readily determine if a MS4 is causing or contributing to a water quality objective exceedance, and if so, which Permittee. Drainages carrying stormwater from commercial, industrial, and high-use transportation should be prioritized. More importantly, without the more detailed descriptions of the subdrainages, the efficacy of the monitoring program for determining municipality compliance assessment can not be readily determined.</p> <p data-bbox="359 984 993 1511">In addition to outfall monitoring, there should be downstream receiving water monitoring at each of these stations in order to assist in the determination if MS4 discharges are causing or contributing to water quality standards exceedances. This monitoring program shortcoming has plagued the Regional Board in previous permits and has contributed to a lack of compliance assurance action based on exceedances of receiving water quality standards. More monitoring locations are likely merited for better compliance assurance purposes, but we can't tell based on the lack of information provided in the permit. Of note, the first draft <i>of</i> the Permit included a tributary monitoring program to identify sub-watersheds where stormwater dischargers are causing or contributing to exceedances <i>of</i> water quality objectives; the major</p>		<p data-bbox="1234 277 1822 505">Regional Board staff vetted these issues with Permittees who prepared fact sheets describing each outfall. We understand that the Permittees transmitted these outfalls to Heal the Bay. The Revised Tentative includes a description of these outfalls, which is available on the Regional Board website.</p>	<p data-bbox="1864 245 2032 375">Major outfall locations are provided in attachment F</p>



Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>outfall monitoring program must now serve this purpose as the tributary monitoring is no longer included as an element in the core monitoring program.</p> <p>Several clarifications are necessary in the Major Outfalls section of the Monitoring Program. Although the Permit requires that a total of four monitoring events shall be sampled per identified major outfall each year, a subsequent subsection states that "[i]n the first year after the permit adoption, 4 major outfall stations shall be monitored. Thereafter, all major outfall stations listed in Attachment H are to be monitored annually according to the schedule above." 8 These two subsections appear to be in conflict. At a minimum, all eleven stations must be monitored four times per year. In addition, Attachment H does not list major outfall stations. Perhaps this is a typographical error. Accordingly, the Regional Board should make necessary clarifications to the Permit.</p>			
<i>Industrial/Commercial Facilities Program</i>				
	Permittee's Combined Comments (Attachment A), Page 5	Tentative Order does not clearly specify commercial laundries as a critical source.	The Order summarizes Critical Sources to be tracked within the body of the Order and specifies facilities categorized as Critical Sources in Attachment "D": Laundries are defined in Attachment D by Standard Industrial Code 72XX as a critical source.	No changes are required to address this comment.
<i>Illicit Connections and Illicit Discharges Elimination</i>				
	Requiring permittees to map all known storm system connections and illicit connections is a bottom-up approach.	City of Oxnard, 9	The intent of this requirement is to develop a framework from which sources of elevated pollutants can be readily tracked upstream. By requiring only the VPD to do initial mapping could likely provide significant delays in identifying pollutant sources while upstream mapping is being	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			conducted.	
	Permittees should be required to map confirmed IC/ID events not reported IC/ID events.	City of Thousand Oaks, 3	The language in the current Tentative reads, “All Permittees shall map at a scale and in a format specified by the Principal Permittee incidents of illicit connections and discharges since January 2009 on their baseline maps, and shall transmit this information to the Principal Permittee no later than (3 years after Order adoption date).	No changes are required to address this comment.
	The Order requirement to map all known connection to storm drain system in 3 years conflicts with the requirement to map all pipes 18”-36”> in 5 years.	Ventura County Watershed Protection District, 2 City of Thousand Oaks, 3	Known connections in the Order refer to permitted below grade connections whose locations are likely already known to Permittees. Staff agrees that mapping may reveal additional connections, but those are likely to be un-permitted.	Staff will consider revising the mapping timelines for consistency.
	Part 5. H.1.2 must be clarified by the Board. It appears that the Board is requiring the Permittees to maintain a hotline for the reporting of IC/ID complaints. What needs to be clarified is if this requirement is met with the County wide Hotline or if each permittee is required to operate and notify the public of the telephone hotline number? If each permittee is required to implement a hotline this will be a significant burden on small cities, This makes no sense since it is unlikely that, based on past history, there will be many call to the Hotline. We believe that the County wide Hotline is the most logic solution to this issue.	City of Paramount	The Permittees may maintain a single hotline for IC/ID connections.	No changes are required.
<i>Municipal Action Levels</i>				
	The MALs provided in the Permit are seriously flawed and should be revised. <i>(Commenter submitted a Table showing the effluent performance of Treatment BMPs in conjunction to the comment submitted above).</i>	Heal The Bay, 2	MALs have been developed from nationwide sampling data of outfalls 36” or greater, none of which are reported to have treatment BMPs installed at the point of discharge. MALs were intended to assess the comprehensive municipal storm water program, which includes various programs such as Public Education Land Planning and Development, and treatment BMPs	No changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			implemented upstream of the monitored outfalls. The intent of MALs is to require appropriate assessment of municipal storm water programs and the implementation of comprehensive program improvements which may include the implementation of additional treatment BMP. Developing MALs based on the performance of treatment BMPs would require the implementation of treatment BMPs on every outfall 36”> which was the intent for including the MAL provision.	
	For the <u>full</u> duration of the tentative permit, MALs must remain a prioritization, rather than enforcement, tool.	Los Angeles County Storm Water Program Executive Advisory Committee, 1	The Tentative Order requires Permittees to develop an Action Plan to address elevated pollutant levels beginning in the third year of the Order. The Action Plan is a prioritization and implementation plan to be developed by the Permittees. Any enforcement would be for failure to develop an appropriate Action Plan.	No changes are required to address this comment.
	Assessment of compliance with MALs by monitoring a representative major outfall within each Permittee’s jurisdiction may be appropriate for Ventura County but not Los Angeles County.	Los Angeles County Department of Public Works, 2	The monitoring program and MAL compliance points in the Tentative Order were developed specifically for Ventura County’s unique characteristics. When the Los Angeles County MS4 Permit is written, an appropriate monitoring program will be developed specifically for that Order.	No changes are required to address this comment.
	MAL values should remain constant through the life of the Order.	City of La Canada Flintridge, 4 City of Paramount, 3	Staff disagrees. The Executive Officer will retain the right to revise MALs as additional data becomes available.	No changes are required to address this comment.
	The Tentative Order should be written to exempt watersheds from being required to submit an Action Plan if the pollutants are being addressed through a TMDL Implementation Plan.	Coalition for Practical Regulation.	Upon Executive Officer approval, Permittees may coordinate MAL Action Plans and TMDL Implementation Plans, but are subject to the compliance timeline of the earliest date.	No changes are required.
	Due to the recent economic downturn MALs should be implemented at a later time.	City of Moorpark, 1	MALS as written in the Tentative Order requires Permittees to develop an Action Plan to address elevated pollutant levels beginning in the third year of the Order. The Action Plan is a prioritization and implementation plan to be developed by the Permittees. The requirement to assess pollutant	No changes are required.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			sources and implement appropriate responses as part of an iterative approach has existed in every Ventura MS4 Order and is not a new requirement.	
	The sentence:“(http://unix.eng.ua.edu/~rpitt /Research/Research.shtml last visited on August 14, 2007)” exists in conjunction with MALs in several locations within the Order and appears to be a misprint that should be deleted	City of Oxnard, 4	The sentence is the website link for the database from which the MALs were developed from. The date is include to reference the database at the time staff developed the values due to the fact the database undergoes periodical revisions as additional data is included.	No changes are required to address this comment.
	Outfall monitoring stations are not adequate to determine compliance with MALs.	Surfrider Foundation, 1	Permittees have submitted land use percentages and total watershed area draining into each outfall monitoring stations. Outfall stations were selected by Permittees to be representative of typical municipal storm water discharges.	No changes are required to address this comment.
	Part 2.7 states that " <u>As additional data becomes available through the MRP or from the Regional' Subset of the National Dataset, MALs may be 'revised annually by the Executive Officer in accordance with an equivalent statistical method as that used to establish the MALs in attachment C of this order with a 90 day notification to the Permittees.</u> " Recognizing the <i>intent of the Board for the inclusion of this section the Regional Board</i> should recognize the objections that the Permittees have to this provision. This provision allows the EO to lower or raise the MALs each year during the term of the permit, while it is likely that the implementation of any plan to address the MALs will take the Permittees several years to complete. So, in year one the Permittees begin installing BMPs based on the original MAL. By year two the EO evaluates current data and revises the MAL to 75% of the initial values. To comply the implementation plan must be revised to lower levels to meet the MAL, which may include amending	City of Paramount	Staff disagrees. MALs are Action Levels, not effluent limits that are used to identify areas that require BMPs which are selected based on BMP performance criteria in the permit, which is a separate criterion. Because MALs are based on a statistical evaluation of data, as additional data become available, it is appropriate that the EO may revise MALs.  Staff also notes that Ventura County permittees find that the flexibility to revise MALs is appropriate.	No changes are required.
	The Tentative Order significantly changes the derivation and application of MALs from a numeric metric to assess compliance with the technology-	LACDPW	Comment noted	No changes are required.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	based MEP standard to one of assessing the performance of the program. The County and the LACFCD fully support this change as the modified approach is consistent with EPA guidance and with the recommendations of the State's Blue Ribbon Panel's report on the <i>Feasibility of Numeric Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities</i> .			
	Furthermore, the County and the LACFCD concur that MALs, if employed in arid regions, should be developed from datasets of similar climatic zones. The Tentative Order uses the dataset for EPA climate zone 6 (arid southwest), which is more relevant to the Ventura communities that will be, using the MALs to assess the performance of their stormwater programs.	LACDPW	Comment noted	No changes are required.
	The Tentative Order also requires an assessment of compliance with the MALs by monitoring a representative major outfall within each of the permittees' jurisdictions. Although this approach may be appropriate to Ventura County, we would note that such an approach for Los Angeles County is problematic given our extensive drainage shed and the comingling of jurisdiction stormwater discharges.	LACDPW	Comment noted	No changes are required.
	Although MALs are not intended as equivalent to attainment of water quality standards, the comparison to California Toxics Rule ("CTR") criteria brings to light flaws with the proposed values.. As shown in the following table, the proposed copper, lead, and zinc MALs are significantly less stringent than CTR criteria. For instance, the lead MAL is <i>twenty-eight times</i> less stringent than the CTR chronic criterion. Discrepancies of this magnitude are not substantiated.	Heal The Bay, 2	Staff disagrees with the HTB position and finds that the HTB position and analysis of the MALs is critically flawed. In their draft comment letter, HTB and compare the MAL values to values in the CTR values and note that the MAL values are a 10 to 100 times greater than the CTR values. What is missing from the HTB and comment letter is the fact that MALs and CTR levels are based on two different criteria; they cannot be properly compared to each other: MALs are based on the total concentration of the constituent in water whereas the CTR values are based on dissolved	No changes are required.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made																
	<table border="1" data-bbox="359 207 991 699"> <thead> <tr> <th>Parameter</th> <th>Proposed MAL (ug/L)</th> <th>CTR Alarm Criteria (ug/L)</th> <th>CTR Chronic Criteria (ug/L)</th> </tr> </thead> <tbody> <tr> <td>Total Cu</td> <td>87</td> <td>13.5</td> <td>9.38</td> </tr> <tr> <td>Total Pb</td> <td>1 2 2</td> <td>82.17-110</td> <td>3.16- 4.24</td> </tr> <tr> <td>Total Zn</td> <td>6 6 0</td> <td>122.7</td> <td>121.7</td> </tr> </tbody> </table> <p data-bbox="359 727 961 792">Table 1: Comparison of proposed MAL values and CTR criteria</p> <p data-bbox="359 829 991 1328">More important, a comparison of the MALs to actual BMP performance data shows that the MALs are flawed. The attached tables (Exhibit 1) were taken from an analysis by Geosyntec Consultants of the ASCE/EPA BMP database.<sup>3</sup> The comparison of the proposed MALs to demonstrated BMP effluent water quality clearly indicates that the MALs are set to reflect relatively poor BMP performance. For instance, the proposed MAL for total copper is 87 ug/L, while over 95% of the hydrodynamic devices in the database achieve at least 38.55 ug/L total copper. The median performance is 15.41 ug/L. As another example, the MAL for zinc is 660 ug/L, while even the worst 5% of biofilter BMPs achieve 181.28 ug/L. The median performance is 30.26 ug/L.</p>	Parameter	Proposed MAL (ug/L)	CTR Alarm Criteria (ug/L)	CTR Chronic Criteria (ug/L)	Total Cu	87	13.5	9.38	Total Pb	1 2 2	82.17-110	3.16- 4.24	Total Zn	6 6 0	122.7	121.7		<p data-bbox="1234 207 1835 467">concentration of those constituents in water. Because many pollutants associated with stormwater appear as particulates, the total concentrations typically greatly exceed the dissolved concentrations. Staff finds that the MAL values are far more equivalent to the CTR values than the discrepancy mischaracterized by HTB and NRDC.</p>	
Parameter	Proposed MAL (ug/L)	CTR Alarm Criteria (ug/L)	CTR Chronic Criteria (ug/L)																	
Total Cu	87	13.5	9.38																	
Total Pb	1 2 2	82.17-110	3.16- 4.24																	
Total Zn	6 6 0	122.7	121.7																	
	<p data-bbox="359 1344 991 1498">Although the Tentative Order revises the use of MALs from being a determination of MEP to being an assessment tool, discharges that exceed the MALs require the Permittee's to prepare and implement a MAL Action Plan. The requirements and potential</p>	<p data-bbox="1020 1344 1205 1466">City of Port Hueneme, 1, City of Fillmore, 1</p>	<p data-bbox="1234 1344 1780 1466">The intent of MALs are to assist Permittees in focusing their efforts on identifying pollutant sources which contribute to the degradation of storm water quality.</p>	<p data-bbox="1864 1344 2049 1401">No changes are required.</p>																

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	costs of the Action Plan are unknown and could be quite significant.			
	MALs are too high relative to water quality standards and constitute technology-based effluent limitations that do not reflect the MEP standard.	Ventura Coastkeeper, 3	MALs have been developed from nationwide sampling data of outfalls 36" or greater, none of which are reported to have treatment BMPs installed at the point of discharge. MALs were intended to assess the comprehensive municipal storm water program, which includes various programs such as Public Education Land Planning and Development, and treatment BMPs implemented upstream of the monitored outfalls. The intent of MALs is to require appropriate assessment of municipal storm water programs and the implementation of comprehensive program improvements which may include the implementation of additional treatment BMP. MALs were developed from and apply to outfall monitoring whereas water quality standards are applicable to receiving waters.	No changes are required to address this comment.
<i>Treatment BMP Performance</i>				
	We strongly oppose the inclusion of treatment BMP performance standards in Appendix C (we read this table as numeric effluent limits) and suggest that the Regional Board re-think its approach to achieving better treatment BMP performance through specification of unit-based process design principles for selecting and sizing treatment control BMPs. We recommend that Table 3 be either deleted or redirected for use as a design goal, and instead require the permittee to develop design criteria for treatment control BMP performance and include these criteria in an updated version of the Ventura County Stormwater Design Manual. The values given in Attachment C are in essence indirect metrics of performance and require translation into design criteria to have any meaning. For example, unit based process design principles such as the amount of runoff to be captured (design storm), expected forms	Construction Industry Coalition on Water Quality	Staff finds that treatment based BMP performance standards provide a clear method for screening out BMPs that will be ineffective in reducing pollutant loadings. These criteria have also been revised to be matched to a volumetric requirement so that they are more useful as a design goal.	Revision of Section 4.A.3 (General Requirements) that tie the values in Appendix C to the design storm.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	and concentrations of influent pollutants of concern, BMP length to width ratio, drawdown time, and other hydraulic and pollutant criteria must be integrated in a design approach for these values to have any meaning in properly designing treatment control BMPs.			
	<p>Prescriptive Nature of BMP Requirements and BMP Substitution Language (Tentative Order Part 5.A.2, Page 40)</p> <p>The prescriptive lists of BMPs in the Tentative Order need to be paired with a reasonable level of flexibility to allow BMPs to be adapted for individual sites and provide protection of water quality. The County and the District recommend two different approaches for BMP substitution, one for program substitution and one for site-specific BMP handbooks and allow substitution of the revised documents and revised BMPs that may be contained within them, without triggering the substitution clauses.</p> <p>As written, the substitution language allows for <u>site-specific BMP substitution</u> when appropriately justified, reviewed by the public, and approved by the Executive Officer. This process requires a minimum of 30 days (public review) before Executive Officer approval can be granted. It is not sufficiently flexible to allow for site-specific BMPs substitutions that are needed for individual projects or activities encountered during the day-by-day implementation of the stormwater management Program.</p>	LACDPW	<p>Staff held extensive discussions with stakeholders and permittees on this issue. Stakeholders and permittees agree that identification of specific BMPs, with appropriate substitution language provides the greatest clarity for BMP requirements. As described in the NRDC comment letter, BMPs need to be described in the permit to demonstrate that they can reduce pollutant loads from the MS4 system sufficiently to attain water quality standards.</p> <p>The differentiation of project level and site level would need further definition. Permittees may submit a request for site level BMPs for “pre-approval” for Executive Officer approval under the Revised Tentative Permit.</p>	No changes are required.
	The County and the LACFCD have strong reservations that the performance standards may be misinterpreted and used as effluent limitations and possible enforcement actions. Such instances might arise in a case where a field sample that exceeds the median design concentration is collected. Given that the treatment performance standard	LACDPW	Staff notes the comment but finds that the requested footnote is not appropriate because there is no reference in the Order to Effluent Limitations.	No changes are required.



Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>concentrations expressed in Attachment C are medians, there is an implied variability of the actual measured performance and any single sample would not provide a statistically valid assessment of median performance. A table footnote to the effect of explaining the intended use of the concentrations as design standards as well as referring to the concentrations within the Tentative Order as <i>Treatment BMP Design Performance Standards</i> will help prevent the misinterpretation or misuse of the design performance standards.</p>			
	<p>The Draft Permit's Treatment BMP performance-based criteria should be slightly modified for clarification purposes and include a design storm component.</p>	<p>Heal The Bay</p>	<p>For treatment BMPs the Revised Tentative Order incorporates a design storm standard of the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in <i>Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)</i>.</p>	<p>A design storm standard has been incorporated in the edited Tentative.</p>
	<p>Numerical treatment BMP performance standards in Appendix C could be interpreted as arbitrary numeric effluent limits which would be imposed irrespective of site specific considerations and/or storm-specific considerations.</p>	<p>Building Industry Association, 11, City of Paramount Page 4, City of La Canada Flintridge, 4,</p>	<p>For treatment BMPs the edited Tentative Order incorporates a design storm standard of the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in <i>Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)</i>. Additionally, the current Tentative Order requires Ventura County to revise their Technical Guidance Manual to include design standards for treatment BMPs.</p>	<p>A design storm standard has been incorporated in the edited Tentative.</p>
	<p>BMP design performance standard should be written as a goal rather than an absolute requirement.</p>	<p>CASQA, 4, Los Angeles County Department of Public Works, 2</p>	<p>For treatment BMPs the edited Tentative Order incorporates a design storm standard of the 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in <i>Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)</i>. Staff feels</p>	<p>Edited Tentative Order incorporates a design storm standard.</p>

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			with the adoption of a design storm it's reasonable to set a performance standard for treatment BMPs.	
	Part 4.A.3 establishes a numeric limit for the performance of BMPs as contained in Attachment C, Table 3. Permittees have reviewed the design of these BMPs against standards for the various systems, but never to meet Numeric limits for the effluent. This table does not consider the design storm or the weather conditions to which the BMP is being exposed. This design standard should be deleted or state as a performance goal rather than a performance limit.	City of Paramount	The Tentative Permit has been revised so that a numeric criterion (i.e. design storm) has been added to the BMP performance criterion.	Part 4.A.3 has been revised to include a volumetric requirement for BMP performance criteria.
	Part 4.B.2.(a) requires the Permittees to possess the legal authority through interagency agreement to control the transfer of pollutants from one agency to another through the MS4. Since these interagency agreements do not exist at this time and the permit implementation deadline is 90-days after adoption it is highly unlikely that all agencies can comply in that short period of time. We suggest that this provision be given .two years for the agreements to be created.	City of Paramount	Permittees have been working together to control stormwater and urban runoff for decades. This permit requirement has been well vetted with the permittees who find the period allowed for submitting an agreement to be adequate.	No changes are required.
	Supports the use of BMP performance criteria currently in the tentative Order, but requires the use of sizing standard to those criteria.	U.S. EPA	This issue was submitted separately in a letter from HTB, and staff agrees with this comment: the issue is incorporated in the Revised Tentative Permit. Thus, there is little difference between the Agreement and the Revised Tentative Order before the Board.	Part 4.A.3 has been revised to include a volumetric requirement for BMP performance criteria.
	<p>The Draft Permit's performance-based criteria should be slightly modified for clarification purposes.</p> <p>We commend the Regional Board for including BMP performance criteria in the Fourth Draft. One of the most effective ways to ensure the success of stormwater programs and the attainment of water quality standards is to require performance-based criteria. Appropriately, the Permit includes</p>	Heal The Bay, 1	Comment Noted. Staff has included the suggested revision into the Revised Tentative	Part 4.A.3 has been revised to include a volumetric requirement for BMP performance criteria.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>scientifically-based Treatment BMP Performance Design Standards for treatment control BMPs implemented under the provisions of this Order (subpart 4.A.3 and Attachment C), whereas the previous draft contained arbitrary BMP performance ranges. It is likely an oversight, but this Draft Permit does not include a design storm component. We ask that the Regional Board include a design storm component to the current language in order to provide certainty to the regulated community on how to apply the design criteria. Since this is a new concept, we believe that the SUSMP standards that have been used for a decade in local stormwater permits should apply. The 85<sup>th</sup> percentile storm standard in SUSMP should be used (the 85<sup>th</sup> percentile runoff event with 0.2 inches per hour intensity).</p>			
<i>Planning and Land Development Program</i>				
	<p>The term "EIA" lacks a common, understandable and implementable definition, and is too vague and ambiguous to be used as a logical standard without assigning a volume capture requirement to it. In other words, EIA is not a stand-alone standard and must use a hydraulic-based translator to have any relevance to LID BMP sizing.</p> <p>There seems to be willingness on the part of the Regional Board and the NGOs to consider a capture volume approach, without the complication and confusion created by appending EIA to it. The NGOs have acknowledged that EIA lacks meaning without a design storm volume specified and clear criteria of what would be considered non-effective impervious area. This is an important acknowledgement, which we appreciate, as it tends to show that EIA as a stand-alone concept falls short as a performance standard.</p> <p>CICWQ has often pointed out that a limitation on</p>	<p>Construction Industry Coalition on Water Quality</p>	<p>Staff agrees that there is technical controversy regarding EIA as a standard. To provide greater clarity, the Tentative Permit was revised so that the EIA standard was tied to appropriate sizing criteria to the 85<sup>th</sup> percentile, 24 hour storm. This revision will eliminate the ambiguity associated with the EIA standard. The tentative draft also has clarified the types of technologies that are available to “effectively” disconnect pervious area. Further, alternative compliance options for sites on which it is infeasible to attain the EIA standard are clarified.</p>	<p>Revisions made in Section 5.E.III.1</p>

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>EIA as a performance standard for sizing LID BMPs has created widespread confusion and misunderstanding in the development and building industry with respect to its definition, what this standard would require, and the reason for it. Proposing EIA as a performance standard has also created confusion among stormwater professionals from the principal permittee and co-permittees and consultants who support them and within Regional Board staff as well. It is quite clear that EIA does not have an agreed upon, logical definition and its suitability across all development project scales raises serious concerns about unintended consequences (such as limiting infill and redevelopment and promoting sprawl). We strongly question its utility in many project site contexts such as hillsides, bluffs, soils with restrictive layers such as hard pans, or high water tables. It may be a valid scientific concept under uncontrolled conditions (where there are no BMPs), and one that has meaning on a watershed scale where its definition first appeared, but it's utility is hampered by confusion and the need for a clear hydraulic sizing translator, such as design storm volume capture.</p>			
	<p>The current Draft Permit in section 5. E. III.1 (d) appears to allow infiltration, rainfall harvest and use, or vegetated LID BMPs to collect and treat the design storm volume that is used as a hydraulic translator for the 5% EIA standard. This apparent flexibility is found in an explanation of how to render an impervious surface "ineffective." However, in the preceding section S.E. 111.1 (c), the permit states that all structures built to render surfaces ineffective must be properly sized to infiltrate or store and use rainwater up to the water quality mitigation criteria value. This somewhat contradictory permit language and a recently surfaced Ventura County City Manager-NGO proposal both attempt to narrow</p>	<p>Construction Industry Coalition on Water Quality</p>	<p>This section of the Tentative Order has been redrafted to provide a prioritization of EIA alternatives, including considerations for biofiltration. This revision is in accordance with the US EPA definition of LID.</p>	<p>Section 5.E. III has been revised to address this comment.</p>

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>developer choices in selecting and sizing LID BMPs by restricting BMPs to only those that infiltrate or store rainfall for beneficial use. In other words, each project would require zero discharge of a design storm volume with no runoff whatsoever allowed.</p> <p>The US EPA defines LID as follows:  <i>A comprehensive stormwater management and site-design technique. Within the LID framework, the goal of any construction project is <u>to design a hydrologically functional site that mimics predevelopment conditions.</u> This is achieved by using design techniques that infiltrate, <u>filter</u>, evaporate, and store runoff close to its source.</i>  (emphasis added)</p>			
	<p>We are concerned about the current mitigation program requirements, in lieu fee program, and master planning and redevelopment provisions known as RPAMP (Redevelopment Project Area Master Plan). The current mitigation program for implementation of LID and conventional treatment control BMPs lacks coherence, detail, and specificity, and the in-lieu mitigation funding program lacks a clear connection between a determination of impracticability and exactly what is being determined to be impracticable. CICWQ suggests that only that volume of excess water that is not collected and treated at a project through the use of a preferential selection of LID BMPs (infiltration, harvest and use, evapotranspiration, and vegetated/biofiltration) and through the use of clear engineering feasibility criteria (geotechnical concerns, high ground water, pollutant plumes, etc.) be subject to off-site mitigation requirements. Then, that excess volume of water may be mitigated off-site using a similarly broad suite of LID BMPs.</p>	<p>Construction Industry Coalition on Water Quality</p>	<p>The mitigation program requirements have been revised such that the Permittees are required to develop criteria for determining infeasibility of LID on site implementation for Executive Officer approval.</p>	<p>Section 5.E. III has been revised to address this comment.</p>
	<p>Part 5.1.1.(e) establishes a new priority for the consideration of BMPs for Priority Projects. While the priority is clear the rationale for dismissing a</p>	<p>City of Paramount</p>	<p>The Land Development language has been clarified so that criteria for infeasibility determination will be developed within six months</p>	<p>Section 5.E. III has been revised to</p>

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<i>category of BMPs is not clear. The Board must provide guidance in the permit so that Permittees are not second guessed every time that they allow a lower priority of BMP rather than the first=priority of Infiltration.</i>		after permit adoption and approved by the Executive Officer.	address this comment.
	<i>Part 5.11.1.(a).(7) Creates an unreasonable level for the implementation of Water-Quality improvements for City street projects. The private project will be required to implement Water Quality BMPs because it is captured through one of the other project descriptions, but by imposing this description as a New Development project the bar is set-too low for Municipal projects. The 25000 square foot limit amounts to less than one City 'block designated for a simple overlay and the City will be required to expand the scope of work to include Water Quality improvements that are not funded by the normal street maintenance funding sources. Thus the City will be forced to delay needed resurfacing until a source of funding can be found. We believe that the trigger for street improvement projects cannot be square feet of resurfacing, but rather the cost of the proposed construction. We believe that If the construction cost was set at \$250,000 or larger the 'Cities could address the needed water quality 'improvements for a project of that size.</i>	City of Paramount	Staff disagrees. A project applicability based on area is more directly related to the pollutant load potential than a criterion based on cost.	See revised Section 5.E.III
	Part 5.111.3.(a) set an impossible-standard for the permittees to meet. The last sentence of this section states <u>"This shall be accomplished by maintaining the projects pre-project 'storm water runoff flow rate and duration."</u> This conflict and the impossible standard cannot `be included in the permit.	City of Paramount	The concept of volume matching to predevelopment hydrology is a fundamental concept of Low Impact Development. It is noted that the County of Los Angeles has already adopted a LID ordinance based on the concept of volume matching	Section 5.E. III has been revised to address this comment.
	Part 5.E.V.2.(a) must be clarified. It appears that the amendment of any listed element will trigger a full General Plan Amendment to incorporate <i>water quality and quantity</i> management considerations.	City of Paramount	The wording is clear that the requisite elements of the general plan can be updated. In discussions with permittees, staff has not been made aware of any ambiguity in this requirement.	Section 5.E. III has been revised to address this

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
				comment.
	<p>The Tentative Order establishes a performance standard for low-impact development using the concept of Effective Impervious Area (EIA). The Tentative Order requires that new development comply with an EIA of 5 percent or less in undeveloped areas</p> <p>First, the County and the LACFCD question the use of EIA as a performance standard. In the Building Industry Association's (BIA's) March 7, 2008, comment letter to the Regional Board regarding this performance standard, BIA identified a number of issues associated with the blanket application of an EIA performance standard. Some of these points noted in their comment letter include:</p> <ul style="list-style-type: none"> <li>o Five percent is an arbitrary value that has little basis in the scientific literature and could be increased to as much as 10 percent to 15 percent given local conditions.</li> <li>o Achieving this standard will require a great deal of land and appropriate groundwater conditions for infiltration, which in turn, based on land values in Ventura County, create tremendous costs and economic feasibility issues, particularly for very small projects, and infill and redevelopment projects.</li> </ul>	LACDPW	<p>Comments noted. Staff revised the definition of EIA to link it to a volume standard.</p> <p>The permit provides flexibility for alternative compliance if the 5% EIA goal cannot be attained due insufficient land or other project conditions.</p> <p>Staff agrees that a standard requiring LID provisions could be developed, However, this might not meet with numeric criteria of LID that staff agrees will be necessary.</p>	Section 5.E. III has been revised to address this comment.
	<p>The BIA comment letter also included a technical analysis of the EIA standard which substantiated the above points. These concerns along with the fact the EIA standard is redundant with the requirement to render ineffective impervious area by infiltrating or reusing the water quality volume make the EIA standard unnecessary. The Tentative Order could obtain the same result by just requiring the implementation of LID BMPs to address the water</p>	LACDPW	<p>Comment noted. However, staff is aware of the fundamental concept that underlies the differences in LID implementation technologies supported by the EPA and HtB. The Tentative permit allows filtration in accordance with all LID implementation methods as defined by EPA.</p>	No further changes are required to address this comment.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>quality storm without the additional EIA requirement:</p> <p>Next, we would submit that the Tentative Order has missed the fundamental concept of low-impact development strategies. EPA defines LID as follows:</p> <p>Next, we would submit that the Tentative Order has missed the fundamental concept of low-impact development strategies. EPA defines LID as follows:</p> <p><i>A comprehensive stormwater management and site-design technique. Within the LID framework, the goal of any construction project is to design a hydrologically functional site that mimics predevelopment conditions This is achieved by using design techniques that infiltrate, filter, evaporate, and store runoff close to its source.</i> (EPA web site: accessed on 3/24/09): <a href="http://cfpub1.epa.gov/npdes/greeninfrastructure/information.cfm#glossary">http://cfpub1.epa.gov/npdes/greeninfrastructure/information.cfm#glossary</a></p> <p>The operative words in the above definition are "mimics predevelopment conditions." The County and the LACFCD submit that this definition means that postdevelopment runoff should strive to reflect the predevelopment runoff (i.e., the pre- and postdevelopment water balances are equal). In this context, the volume of water from a storm event is accommodated by infiltration, evapotranspiration, or runoff.</p> <p>Our third comment on LID pertains to Part 5.E.III.1.(c)-(d). In this provision, the Tentative Order stipulates how impervious surfaces are rendered "ineffective" through either infiltration or store-and-reuse BMPs. As currently, drafted, the Tentative Order severely limits the choices of BMPs thereby creating challenges to the</p>			



Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>municipalities and developers in complying with this provision. The County and the LACFCD submit that this list of BMPs should be expanded to be consistent with the definition of LID. We suggest that the Tentative Order be modified to reflect the following approach:</p> <ul style="list-style-type: none"> <li>o LID BMPs shall be designed to retain the "delta v" for the 85th percentile, 24-hour storm event.</li> <li>o <i>The goal is to retain the full "delta v" by using the following hierarchy of BMPs:</i> <ul style="list-style-type: none"> <li>o Infiltration-based BMPs</li> <li>o Capture/reuse BMPs</li> <li>o Evapotranspiration BMPs</li> </ul> </li> <li>o <i>Any water quality volume that is not retained by the LID BMP shall be treated using treatment control BMPs, including biofilters, wetlands, and proprietary BMPs. A rigorous feasibility and performance criteria should be established to support implementation of the BMP hierarchy.</i></li> </ul>			

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
	<p>Although both the Agreement and the Tentative Order use a numeric metric of 5% EIA sized to an 85<sup>th</sup> percentile-24 hour storm, there is a fundamental difference in how EIA can be achieved. The Agreement mandates that EIA can only be achieved by technologies that infiltrate, store or retain stormwater on site; the Tentative Order allows biofiltration in addition to technologies that infiltrate, store or retain stormwater. Biofiltration allows some off-site release of stormwater after it is treated on site.</p>	<p>HTB/ NRDC and Ventura County Permittees</p>	<p>Both the Agreement and Tentative Order allow alternatives for complying with the EIA limit on sites where it is infeasible to attain the 5% EIA limit. The alternatives include off site mitigation and payment into a "in lieu" fund. However, on sites where it is infeasible to retain the volume of stormwater required by a 5% EIA limit, the Agreement prescribes the volume that the volume retained or infiltrated on site must meet the volume prescribed by a 30% EIA standard. The Agreement further requires off-site mitigation or payment of in lieu fees for the difference in volume between the 30% and 5 %-EIA limits. The Agreement prescribes a detailed list of criteria for determining infeasibility, whereas the Tentative Order allows the Permittees to determine infeasibility.</p> <p>The Agreement is focused on maximizing the retention or infiltration of stormwater onsite and limits the flow that can be released from the site, whereas the Tentative Order allows flows that mimic the predevelopment hydrology, if they are treated for water quality before release. This difference between the Agreement and Tentative Order is that under the Agreement, more stormwater will be retained on site with a strict limitation as to the amount to be discharged into the surface waters of Ventura County. The potential environmental effects of reduced flow on impacts to aquatic and riparian habitats might be -significant and have not been analyzed. California Fish and Game staff has contacted Board staff by phone inquiring about this provision of the Agreement and expressed concerns about habitat destruction from this requirement. Further, potential health and safety effects</p>	

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
<i>Fact Sheet</i>				
Discussion of New Requirements.	Pg 20, states that the Tentative “requires Permittees to establish watershed Citizen Advisory Groups/ Committees.” The actual language in the Tentative Order requires us to “Work with existing local watershed Citizen Advisory Groups/ Committees to develop effective methods to educate the public about storm water pollution”.	Oxnard, 4	Correction made. See County of Ventura MS4 Tentative Permit Change Sheet.	Fact Sheet- Discussion of New Requirements
<i>Agreement/ Alternative</i>				
	The Agreement requests that the Regional Board eliminate entirely from the Tentative Order all of Part 2, Municipal Action Levels. According to the Agreement, HTB and NRDC have agreed that, given their opinion of the weaknesses of the MALs in the Tentative Order, they will not object to the removal of MALs. The agreement also requested that volumetric sizing requirement be apply to the BMP criteria.	NRDC/HTB and Ventura County Permittees	<p>MALs have been an important element of Tentative Order and the previous drafts of the Ventura MS4 Permit. With the growing nationwide controversy regarding the performance of the stormwater program, there is a growing recognition of the need for numeric metrics to evaluate the effectiveness of stormwater programs. Municipal Action Levels are numeric benchmarks which are used to evaluate the MS4 effluent quality. In the existing permit, as in most MS4 programs, evaluations of the MS4 systems are based on receiving water quality, rather than end of pipe data. It is difficult to determine the pollutant loading from the MS4 system from receiving water data.</p> <p>MALs have evolved from the first draft when they were expressed as effluent limits that were to be applied to the end-of-pipe, i.e. Permittees could be fined for exceedances of the MALs. Due to a number of factors, including the variability of stormwater, the regulatory scheme of applying numeric values as effluent limits has not been promoted by US EPA or the State Board at this time. Federal regulations support a regulatory scheme that is based on BMP implementation to achieve a standard of Maximum Extent Practicable ("MEP").</p>	No changes are required, except that Part 4.A.3 has been revised to include a volumetric requirement for BMP performance criteria.

Section/Topic	Comment	Commenter(s) & Page Numbers	Response	Change Made
			<p>It is important to note that this Board has the discretion to go beyond MEP should it find necessary to achieve water quality.</p> <p>The Tentative Order incorporates MALs in accordance with the Blue Ribbon Panel Recommendations. MALs can be very useful in identifying areas that require additional BMPs. Through the extensive stakeholder-meetings Board Staff conducted, MALs were developed that are contained in the Tentative Permit. Thus, from the first draft of the-permit to the Tentative Order, MALs have changed from being expressed as effluent limits to being expressed as benchmarks for taking action to implement additional BMPs. HTB and NRDC have argued that MALs that are used as action levels are substantially weaker than the MALs in the previous drafts.</p> <p>HTB and NRDC's flawed analysis of MALs underlies the misguided Agreement condition for removing them from the Tentative Order. Staff maintains that the MALs will provide critical information on how to best expend the resources necessary to improve water quality. Staff also notes that the Tentative Order is one of the first MS4 permits nationwide to incorporate MALs coupled with one of the first MS4 monitoring programs that includes representative end of pipe monitoring. Staff believes that MALs will add an objective measure to the Ventura County stormwater permit implement watershed-wide and effective BMPs.</p>	