Public Comment
Draft Phase II Small MS4 General Permit
Deadline: 7/23/12 by 12 noon

CITY OF LOMPOC

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July 17, 2012

Mr. Charles R. Hoppin, Chair
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Comment Letter – Phase II Small MS4 General Permit

Dear Mr. Hoppin:

Thank you for the opportunity to comment on the Draft National Pollutant Discharge Elimination System (NPDES) Permit For Storm Water Discharges From Small Municipal Separate Storm Sewer Systems (Draft MS4 Permit). As a small, built-out and disadvantaged community, the City of Lompoc has a strong interest in ensuring the provisions of the Draft MS4 Permit can be implemented without functioning as a regulatory moratorium on redevelopment, infill development and economic survival of our community.

Post Construction

The Draft MS4 Permit would impose a tremendous burden on Lompoc and other small local jurisdictions. It will adversely impact business' and industries' ability to expand operations or improve properties to attract new tenants. The draft Permit's requirement to infiltrate substantial amounts of stormwater into private property as a cost of improving it, will serve to prohibit enhancement of many existing properties. Long-term urban blight can be expected in communities without parcels large enough to accommodate the required storm water infiltration facilities, combined with land values high enough to support the cost of installing and maintaining these facilities.

Further complicating implementation of the proposed Permit is the fact that exemptions are not provided in cases of technical infeasibility. Soils that do not percolate, steep slopes, close proximity to existing building foundations, infill parcels, small lot sizes, geotechnical hazards and desired densities of 30 dwelling units per acre or more, will each serve to limit development of existing parcels further, in the absence of exemptions from the infiltration requirements.

The inappropriateness of requiring the post-construction Permit provisions to apply to ministerial permits is two-fold. First, the requirement is not consistent with existing State law, because the ministerial permits do not allow imposition of conditions. Secondly, the impact on Lompoc's ability to review building permits and on property owners who would otherwise have been able to apply for a building permit and proceed directly to construction when it was issued, will be devastating, because the new rules unreasonably add significant cost and time to that ministerial process.

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Combined, the post-construction Permit provisions would function as a regulatory moratorium on development in California, except for those areas and property owners with the highest land values and greatest financial resources.

Funding

Implementation of Phase II of the Clean Water Act began after the effective date of California State Proposition 218, which requires a 2/3 majority vote before a new special tax can be levied. Thus, virtually none of the Phase II communities in California have, or can obtain, a consistent source of revenue, to address the ever-increasing number and complexity of regulations being imposed by both the State and Regional Boards. The Draft MS4 Permit requires water quality monitoring, commercial and industrial inspections, increased educational survey and documentation requirements, in addition to the post-construction requirements. Taken together, the requirements of the Draft MS4 Permit will be extremely costly to Lompoc and all local governments, with increased staffing needs, and increased needs for equipment, laboratory work, public education programs, to name a few. With no realistic source of funding available for those additional requirements, they are not feasible and, therefore, do not constitute MEP.

Many of the Draft MS4 Permit provisions developed by State Board staff constitute unfunded mandates, are inappropriate and unrealistic given the current economic environment, and needlessly impose time-consuming and expensive reporting requirements, data gathering and other provisions that have not been shown to have a direct link to improved water quality.

Therefore, we request the provisions which constitute unfunded mandates (as detailed in Attachment A) be either fully funded by the State or removed from the Permit. We request the State and regional boards direct all funding from the Industrial and Construction Permit programs to local government to cover the inspection and enforcement provisions related to the industrial/commercial and construction Draft MS4 Permit requirements, or that those provisions be removed from the Permit.

Thank you again for the opportunity to comment on the Draft MS4 Permit. A more detailed itemization of the City of Lompoc's comments is attached.

Sincerely,

John H. Linn
Mayor

Attachment A: Letter of Comment Detailed Itemization

cc: Lompoc City Council
Laurel M. Barcelona, City Administrator
Teresa Gallavan, Assistant City Administrator / Economic Development Director
California State Senator Tony Strickland
California State Assemblyman Katcho Achadjian

Comment Number 1

Article XIII B, Section 6 of California's Constitution requires the State to reimburse local governments for any new State-mandated programs or higher level of service. All draft requirements above and beyond 40 CFR 122.34 are State mandates. The following permit sections go above and beyond 40 CFR 122.34, thus are State mandates. These must be funded by the State or removed from the permit. If these draft permit sections are not funded by the State or removed from the permit, the City of Lompoc is prepared to partner with other local governments and file a claim with the State Mandates Commission.

Unfunded Mandate Order Section	Unfunded Mandate
B.4	Discharges of Incidental Runoff shall be controlled. Control of incidental irrigation runoff
E.6.c.	Enforcement Measures and Tracking - Development and implementation of an enforcement response plan.
E.7	Public Outreach and Education – Potential for Regional Board Staff requirement of Community Based Social Marketing measures
E.7.b.2	Construction Outreach and Education Program
E.9.c	Field Sampling to detect illicit discharges
E.9.d	Illicit Discharge Detection and Elimination Source Investigations
E.9.e	Spill Response Plan - Preparation of a spill response plan
E.10.c	Construction Site Inspection and Enforcement - Specification of construction site inspection timing and frequency
E.11.a	Inventory of Permittee-Owned and Operated Facilities - Development, maintenance, and annual reporting of inventory of Permittee-owned or operated facilities
E.11.c	Facility Assessment - Development, maintenance, and annual reporting of a map of Permittee-owned or operated facilities
E.11.d	Storm Water Pollution Prevention Plans - Development and implementation of Storm water Pollution Prevention Plans
E.11.e	Inspections, Visual Monitoring and Remedial Action - Specification of inspection locations and frequency

E.11.f	Storm Drain Assessment and Prioritization
E.11.g	Maintenance of Storm Drain System - Specification of frequency of monitoring and timing of cleaning of storm drain systems
E.11.h	Permittee Operations and Maintenance Activities (O&M)
E.11.i	Incorporation of Water Quality and Habitat Enhancement Features in Flood Management Facilities - Specification of assessment and implementation frequency of water quality and habitat enhancement measures in existing and proposed flood management projects
E.11.j	Landscape Design And Maintenance
E.12	Post Construction Storm Water Management Program
E.13	Water Quality Monitoring
E.14.a.ii.b	Best Management Practice and Condition Assessment
E.14.b	Municipal Watershed Pollutant Load Quantification
E.15	Total Maximum Daily Loads Compliance Requirements
E.16	Online Annual Reporting Program

In addition to the comments the City is submitting regarding the Unfunded Mandates included in the Draft MS4 Permit, the City submits the following comments on the Draft MS4 Permit.

#	Permit Element/ Issue/ Concern	Location in Draft	Comment
General			
1	Economic and Social Impacts	General	The Porter Cologne Act, Section 13000 requires the State Board to consider the economic effects of the regulation it imposes. '§ 13000. Legislative findings. The Legislature finds and declares that the people of the state have a primary interest in the conservation, control, and utilization of the water resources of the state, and that the quality of all the waters of the state shall be protected for use and enjoyment by the people of the state. The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and

			social, tangible and intangible." Many of the provisions of this draft permit are not directly related to water quality improvement and instead focus on labor intensive and expensive community surveys, procedural and recordkeeping tasks that could be simplified, achieved using a different method, or eliminated. In addition, many of the Draft permit's requirements address tasks, inspections, characterizations that are more appropriately conducted by the State Board or Regional Board staff, or are already being addressed under the General Industrial Permit, the General Construction Permit or through the implementation of the Water Efficient Landscape Ordinance provisions required by the State. Combined, this Draft permit will be economically infeasible for many permittees to implement. In smaller communities, and in disadvantaged communities, the funds are not available to cover the additional staff and funds necessary to conduct the inspections, prepare the records, take and process the samples and meet the other significant additional requirements of this Draft permit. Burdens placed on commercial and industrial uses by this Draft permit, over and above those requirements of the Industrial General Permit, will have a significant economic impact on these businesses. When both local government and local businesses are struggling to prioritize and balance competing interests of operations, profits and the storm water requirements of the new MS4 permit, long-term adverse social impacts will be felt in these currently struggling communities.
2	Permittee Action	General Throughout	Revise wording that stipulates the Permittee shall …. Where in fact the Permittee shall require the property owner/business owner, etc.
3	Maximum Extent Technically Feasible	General Throughout	Delete occurrences of Maximum Extent Technically Feasible (METF) throughout. METF is a significantly different and more stringent standard than Maximum Extent Practicable (MEP). MEP takes into account, cost, availability, acceptability and other factors, where as METF is merely a technical based standard, requiring whatever method is technically most effective, without consideration for cost or availability. This should be replaced with Maximum Extent Practicable (MEP).
4	EPA NPDES Small MS4 Storm Water Program Review	General	"EPA will evaluate the small MS4 regulations at §§122.32 through 122.36 and §123.35 of this chapter after December 10, 2012 and make any necessary revisions. (EPA intends to conduct an enhanced research effort and compile a comprehensive evaluation of the NPDES MS4 storm water program. EPA will re-evaluate the regulations based on data from the NPDES MS4 storm water program, from research on receiving water impacts from storm water, and the effectiveness of best management practices (BMPs), as well as other relevant information sources.)" "Guidance: EPA strongly recommends that until the evaluation of the storm water program in

			§122.37, no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality." The City of Lompoc asserts that, as the review of the small MS4 regulations by USEPA is scheduled within as little as six months after the proposed implementation of the revised MS4 permit, that no additional requirements beyond the minimum control measures should be imposed in this revision of the MS4 Permit.
5	Funding	General	The State Water Resources Control Board should focus its efforts on amending Proposition 218, instead of adding more requirements to the MS4 Permit, so small MS4s may have an opportunity to begin funding their existing storm water programs.
6	Conflict with State Subdivision and Land Use Laws	General	These regulations appear to be in conflict with existing California Land Use Law and the Subdivision Map Act. A land use attorney should review the proposed regulation for conflict with existing law, especially regarding the conditioning of Ministerial permits and date of effectiveness in discretionary and ministerial permits. Provisions should be consistent with existing state law.
7	Disadvantaged and Environmental Justice Communities	General	Lompoc is both a Disadvantaged Community and Environmental Justice Community. The median household income of Lompoc residents is less than 80% of the Median Household Income of California residents. The population of Lompoc is comprised of 58.3% Hispanic, African American and Native American residents, with 10.4% of the population being Caucasian, non-Hispanic (2010 census). The proposed Draft MS4 permit would place too high a burden on this community's limited resources. Though it attempts to benefit all jurisdictions equally by enacting provisions to increase water quality monitoring, recordkeeping, and inspections, it will have a disproportionately adverse financial impact on Disadvantaged and Environmental Justice communities. This will take money away from more direct beneficial water quality improvement efforts, such as those included in the City's existing Storm Water Management Program. The proposed Draft MS4 Permit is so prescriptive in nature that it removes all latitude for a community to determine where its limited resources would best be used in the effort to improve storm water quality.
8	Consistency in Outline, Organization and Terminology	General	Please review the regulation's outline levels and ensure the outline is consistent throughout. Also, for any timelines that are indicated as being required "during" a particular year, please revise the language to state the required item be completed prior to the subsequent year. For example, instead of complete component C within the 3rd permit year, state Complete component C by the 4th permit year.
9	References	General	The permit should be freestanding, without reference to or compliance with separate documents.
10	Definitions	General	Definitions should be included. Definitions are particularly needed for terms in the post construction section.

Findings			
11	Addressing MS4 Differences	Finding 28	"California Small MS4 Permittees face highly variable conditions, both in terms of threats to water quality from their storm water discharges and resources available to manage those discharges. Therefore, one set of prescriptive requirements is not an appropriate regulatory approach for all Regulated Small MS4s." The City of Lompoc believes that it is not enough to merely have two sets of "prescriptive requirements" for Traditional and Non-traditional MS4's. Additional latitude and variability must be worked into the permit, allowing agencies to better focus their resources on the problems that impact their communities most and best allocate their available resources.
Section A			
12	Disadvantaged Communities	A.3	What is required to show that a regulated small MS4's discharges do not contribute or potentially contribute to water quality impairment? Why were Small Disadvantaged Communities of over 20,000 not considered for a waiver or partial waiver of permit requirements? A disadvantaged community with a population larger that 20,000 would likely face an even more difficult economic situation than those below 20,000. A disadvantaged community larger than 20,000 has a greater number of disadvantaged persons, coupled with larger infrastructure and responsibility in addressing community needs.
Section B			
13	Allowable Non-Storm Water Discharges	B.3	The Draft Phase II Small MS4 General Permit lists allowable non-storm water discharges but does not include landscape irrigation, irrigation water, lawn watering, and individual residential car washing. According to the Federal Register, these are allowable discharges. The City of Lompoc requests that these discharges be added the list of allowable non-storm water discharges provided on page 16 of the Order.
14	Discharges of Incidental Runoff	B.4	The City of Lompoc requests this section be removed, as this task is best left to water conservation programs. The State has required local agencies adopt a water-efficient landscape ordinance. E.5.b. (ii) (i) requires technical and financial assistance and implementation guidance related to storm water-friendly landscaping. Remove the requirement to provide both financial and technical assistance, as this is an unfunded mandate. Local jurisdictions do not have the technical and financial resources to provide storm water friendly landscaping assistance. This is not a service that Cities should be asked to provide without first receiving full and direct funding from the state.

Section D			
15	Receiving Water Limitations	Section D.	Insert the word "applicable" into the second paragraph of D on page 17, as follows: "The Permittee shall comply with applicable Receiving Water Limitations..."
16	Receiving Waters	Section D.	The City proposes the following modification of the language related to Receiving Water Limitations, in order to maintain consistency with the Maximum Extent Practicable (MEP) Standard and the intended iterative process. **D. RECEIVING WATER LIMITATIONS** ~~Discharges shall not cause or contribute to an exceedance of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule (CTR), or in the applicable Regional Water Board Basin Plan.~~ 1. <u>The effect of the Permittee's storm water discharges on receiving water quality is highly variable. For this reason, this Order requires that the Permittee shall design its stormwater program to achieve</u> compl<u>iance</u> with Receiving Water Limitations <u>to the maximum extent practicable</u> through timely implementation of control measures/BMPs and other actions to reduce pollutants in the discharges and other requirements of this Order including any modifications. ~~The storm water program shall be designed to achieve compliance with Receiving Water Limitations.~~ If exceedance(s) of water quality objectives or water quality standards <u>in the receiving waters</u> persist notwithstanding implementation of <u>control measures/BMPs</u> ~~other storm water program requirements of this Order~~, the Permittee shall ~~assure~~ <u>achieve</u> compliance with Receiving Water Limitations <u>over time</u> by complying with the following procedure<u>, which reflects an iterative approach</u>: ~~1~~. a. Upon a determination by either the Regulated Small MS4 or the Regional Water Board that MS4 discharges are causing or contributing to an exceedance of an applicable water quality standard, the Regulated Small MS4 shall promptly notify and thereafter submit a report to the Regional Water Board that describes best management practices (BMPs) that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report shall include an implementation schedule. The Regional Board may require modifications to the report;

			~~2~~. b. Submit any modifications to the report required by the Regional Water Board within 30 days of notification; ~~3~~. c. Implement the actions specified in the report in accordance with the approved schedule. ~~4~~. <u>d.</u> So long as the Regulated Small MS4 has complied with the procedure set forth above and is implementing the actions, the Regulated Small MS4 does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the State Water Board or the Regional Water Board to develop additional BMPs. <u>2. If the Permittee is found to have discharges causing or contributing to an exceedance of an applicable water quality standard, the Permittee will not be determined to be in violation of this Order unless it fails to comply with the requirement to report such discharge (Provision D.1.a.), and revise its BMPs to include additional and more effective BMPs, and to implement the same. (Provisions D.1.b-c.)</u>
Section E5			
17	Education and Outreach Program	E.5	Draft Permit Section E.5 prescribes a list of over 13 public education measures that each MS4 must implement, at a minimum. Prescribing such a lengthy prescriptive list of measures is contrary to 40 CFR Section 122.24, which states that the public education program be tailored, using a mix of locally appropriate strategies, to target specific audiences and communities. This section should be revised to allow for the implementation of locally appropriate education and outreach programs and removing strict prescriptive language.
Section E6			
18	Legal Authority	E.6.a(ii)(f)	This section requires retrofitting of Industrial and Commercial facilities with stormwater BMPs. This requirement should be removed until the State performs an evaluation as to the cost impacts to the business community within the Phase II jurisdictions. CASQA BMP reference sheets are a good guidance for BMP implementation but should not be written into the legal authority section of a municipality's ordinance. This basically elevates them to code.

19	Legal Authority	E.6.a.ii.f. and g.	It is not appropriate to require MS4's to establish the legal authority to require construction sites, commercial and industrial facilities to install, implement and maintain BMPS. Phase II permittees do not have the funds or staff to oversee or enforce the terms and requirements of the Construction or Industrial Permits issued by the State, or permits of other agencies (public health). If these items remain as requirements, fees collected by the state be must directly allocated to local permittees, so agencies will have the resources to implement these regulations.
20	Legal Authority	E.6.a(ii)(h)	According to this section, MS4s must modify their ordinances to have the authority to: ▪ Enter private property for inspections ▪ Control the contribution of pollutants and flows from one portion of the MS4 to another through interagency agreements ▪ Require documentation on BMP effectiveness of industrial and commercial facilities These requirements do not seem feasible. They would require both Construction and Industrial Permit oversight by Phase 2 MS4s (which is a State responsibility). Private property owners may not allow public entities onto their land.
21	Legal Authority	E.6.a.ii.j.	Revise to read: "Permittee shall have the ability to levy citations or administrative fines against responsible parties." The timing of citations and fines should not be stipulated, as it is too specific and may not be appropriate or able to be implemented as quickly as the Draft Permit proposes. Generally, the only persons who have authority to issue citations are the police, who are often too busy and understaffed to address water leaks or other minor infractions. Issuance of a Stop Work order, or Verbal Warning could occur on-site where appropriate, but otherwise, the legal basis for an action must be evaluated and proper procedures followed, if a citation or fine is to be issued.
22	Ensuring Compliance	E.6.a.ii.i.1.	While permittees can provide authorization and take action to require that a discharger abate and clean up their discharge, spill or pollutant release within 48 hours, ensuring this occurs in this timeframe is not feasible. Other legal requirements apply, such as proper notification. However, it may take additional enforcement actions to force the property owner to take appropriate action.
23	Certification Statement	E.6.b.ii.	The items required in this section extend far beyond what is called for in a certification statement. There appears to be no reason why the standard certification used in the past, and used for construction and industrial storm water permits is not sufficient. These specific record keeping items could easily be reallocated to other permit areas more appropriate for this type of documentation.

24	Certification Reporting Timeline	E.6.b.iii.	The reporting timeline should be eliminated, as the presence of a Storm Water Ordinance should be sufficient to show the ability to enforce the terms of the permit. It is not clear what additional benefit would be gained by such a certification.
25	Enforcement Measures and Tracking	E.6.c.	This section requires the development of an Enforcement Response Plan, eliminating the autonomy of local jurisdictions to govern themselves as they deem appropriate. Moreover, the measure duplicates effort as local storm water ordinances already establish enforcement provisions and procedures. This will result in taking valuable staff time to write a Plan, when other more pressing storm water issues could have been addressed with the same resources. The City of Lompoc recommends that this section be revised to delete the requirement for development and implementation of a separate Enforcement Response Plan. Local jurisdictions will have authority under their Storm Water Ordinances to enforce against violators, while saving money and staff time in not having to prepare an explicit, separate plan to discuss the provisions of their ordinance.
26	Reporting of Non-filers	E.6.c.ii.d.	This section requires the permittees to refer non-filers for construction projects or industrial facilities subject to the State's Industrial General Permit and ongoing violations to the Regional Water Quality Control Board (RWQCB). While identifying construction permit non-filers is possible, requiring referral of industrial non-filers does not appear to be an appropriate requirement. Given the complex nature and definitions in the General Industrial permit requirements and SIC Classifications, permittees cannot be expected to clearly determine which industrial sites house what operations and would be required to be under permit. This function should be allocated to the State and Regional Board staffs, through inspections. The State Board charges significant Industrial and Construction permit fees which are intended to cover implementation of their permit program. If this task is to be allocated instead to local small municipalities, so should the related funds be allocated. This section also requires the MS4, not the RWQCB, to perform follow-up inspections, pursue enforcement actions and write demand letters if the industrial facility fails to comply. It also requires MS4s to "develop incentives or increase inspection frequency" to prevent chronic violations. This is an onerous requirement and a transfer of State permit oversight responsibilities to local municipalities who do not have the financial or staff resources to complete this task.
27	Recidivism Reduction	E.6.c(ii)(f)	The City of Lompoc recommends removal of this section, as it duplicates the requirement for permittees to have effective enforcement provisions in their Storm Water Ordinances. It is possible to identify chronic storm water violators and encourage them, through escalating enforcement provisions, to cease violations. However, it is not possible to ensure that every property owner, their agents or tenants will cease violating the regulations, even in the face of significant sanctions.

Section E7			
28	Public Outreach and Education Program Surveys and Community-Based Social Marketing	E.7.a.ii.b	This section requires small municipalities to implement surveys at least twice during the five year permit term. The referenced surveys should be clearly described as requiring non-statistical sample methods only. Statistical sampling is too costly and difficult to achieve when seeking volunteer cooperation. Non-statistical methods can also achieve the end of identifying areas where additional public information and outreach is needed. These costly, time consuming surveys generally do not get a statistically valid number of responses. The monies necessary for even one survey, estimated at over $10,000 would be better spent in educating the public in other ways and responding to complaints of illegal discharges. The City requests removal of the requirement to conduct surveys, particularly those that are intended to gauge the level of behavior change. We note that community-based social marketing strategies have been implemented successfully, only in very unique political and social environments and only with the expenditure of significant amounts of funding. Obtaining promises to change individual behavior and verifying that individual's behavior has changed is unenforceable and should not be required. It is important for the State Board to recognize that in establishing these regulations you are proposing to apply them to a wide variety of communities. Municipalities must ensure staff safety, as well as allocate their extremely limited funds to storm water education efforts that will address specific community problems in the least costly and most efficient manner possible.
29	Multiple Language Materials	E.7.a.iv.ii.d.	There is no definition, standard, threshold for when "appropriate educational materials" are required to be developed /disseminated "in multiple languages". Would this be a Census demographic standard or does the State have their own population demographic studies? This can be difficult to provide given limited budgets, as funding for translators is not available. Will the state be developing and making available more multi-language educational materials?
30	School Outreach	E.7.a.iv.ii.j.	Remove the current wording and replace with "The MS4 shall provide for storm water educational opportunities to school-age children." It is not feasible or reasonable for a MS4 to implement California's Education and Environment Initiative Curriculum (EEIC) or equivalent. This curriculum is very broad and does not directly identify storm water quality in its topic areas. In addition, in order to comply with no child left behind regulations, there is often no time to allocate to instruction beyond the basics. This is not an enforceable requirement as a result. In addition, the curriculum is not readily available, may be costly and is approved as developed, which is only for instruction by credentialed teachers. Equivalent programs would be hard to discern, as it is not possible to access the EEIC.

31	Construction Outreach and Education	E.7.b.2.	This Section constitutes an unfunded mandate and funding must be provided before this activity can be accomplished. In addition, this section is focused on construction sites <1 acre, with the assumption that there is a "construction community" to be studied, put through a pilot project, etc. Projects < 1 acre that are not part of a larger plan of development are often conducted by homeowners, volunteer groups, small business people, etc. This is not a "community" that can be easily identified. Additionally, this "community" is part of the general public, and there no need for a separate effort aimed at this sector. The requirement is also redundant as storm water ordinances prohibit discharges and will provide the means to enforce storm water requirements on all construction projects, without needing to impose all of the other inspection and review requirements identified in the construction program on homeowners and small businesses.
Section E9			
32	Identifying Priority Areas	E.9.a.ii.c	This section should include a definition for older infrastructure (what constitutes old, plus storm water and/or sewer?).
33	Illicit Discharge Inventory	E.9.b(i)	Section (i) requires the Permittee to maintain an inventory in the second year but the Reporting section (iii) states by year three. Revise (i) to allow for maintaining the inventory in the third year.
34	Illicit Discharge Inventory Reporting	E.9.b(ii)(a)	The requirement for the inclusion of the physical location of a storm drain receiving discharge from an industrial or commercial facility will often not be feasible to determine without expensive inspections and investigations by the MS4. This information should be required of industrial permittees in their industrial permits.
35	Illicit Discharge Inventory Reporting	E.9.b(ii)(a)	The 4th bullet requires the decimal latitude-longitude of the storm drain receiving discharge. Please clarify that information obtained from Google Earth is acceptable in providing this information.
36	Field Sampling to Detect Illicit Discharges	E.9.c.	The analytical monitoring costs associated with the proposed provisions of the Illicit Discharge Detection and Elimination Program (IDDE) Monitoring Program would be prohibitive for a small municipality. This program is an unfunded mandate and not required for MS4's under the CWA.
Section E10			
37	Construction General Permit	E.10.	The language in this permit assigns the work of ensuring compliance with the State's separate Construction General Permit (CGP) to the MS4 permittee, without providing them the financial resources to comply. If the State Board wants to pass along this responsibility, they need to provide the necessary financial resources to the Phase II permittees. The City of Lompoc supports proportional allocation of the full WDID Fee currently paid by the developer and submitted to the State, to local MS4's for implementation of the proposed provisions. In addition, any other

			necessary financial support to local jurisdictions must be paid to address this unfunded mandate.
38	Construction Site Inventory	E.10.a.i.	The City of Lompoc recommends only projects that meet the CGP criteria be included in the inventory, allowing permittees to use SMARTS for this database, rather than creating a redundant database. Including all projects would needlessly increase burden on local jurisdictions. In a case where there was an egregious violation of discharge prohibitions, the jurisdiction's storm water ordinance should be available to address the violation.
39	Eliminate Construction Site Inventory	E.10.a. (ii)	Inventory to include (a – i). This inventory is needlessly repetitive, would take hours of staff time to input and manage and is not directly related to whether any of the identified projects pose a risk to water quality. The term "Water bodies" needs clarification. This data should already be included in SMARTS or should be unnecessary in enforcing storm water discharge prohibitions. Continuous updating of this database would significant time and funds, resulting in no clear benefit to water quality.
40	Other Agency Permit Compliance	E.10.b.ii.c.	It is not within the role or ability of the local jurisdiction to determine whether or not a particular contractor / developer has obtained all required agency permits (federal, state, local). It is up to a property owner to determine what is required and comply with the law. Local agency staff does not have the time or ability to try to verify applications, compliance, conditions etc. of federal or state permits. That is why permit fees are paid to these agencies and not to the local government. This section should be removed from the permit.
41	Erosion and Sediment Control	E.10.b.ii.d.	Documentation again appears to be the priority over reducing soil loss and erosion and improving water quality in this section. The City of Lompoc recommends the State Board simplify and require submittal and review of an Erosion and Sediment Control Plan only.
42	Construction Inspection	E.10.c.	Requiring a QSP on-site to implement storm water BMPs and a QSP to write a SWPPP should be adequate measure to ensure there is not a storm water problem. The above mentioned storm water professionals are qualified to properly ensure storm water controls are implemented on construction sites under their authority and are responsible for ensuring that proper BMPs are implemented. Local jurisdictions should be required only to inspect each project with a SWPPP once during the dry season (June – September) and monthly through the rainy season (October through May).
43	Construction Site Inventory	E.10.c.iii.	This required database is redundant for those projects which are already entered in SMARTS under the Construction General Permit. This requirement focuses on reporting, at the expense of controlling runoff. With limited staff, permittees are forced to choose between preparing and submitting reports and taking actions to control polluted runoff. Permittees can readily understand

			and address construction runoff issues without the need for formal inventory preparation and maintenance of this redundant database, because they can reference SMARTS. This redundancy adds unnecessary time and expends precious resources without a clear improvement in water quality. In addition, the requirements for QSD and QSP oversight on construction sites, coupled with the Permittee's Storm Water Ordinance will adequately address the need for evaluation and enforcement on construction sites.
44	Reporting Requirements	E.10.c.iii.	Eliminate increases in reporting requirements and reduce the current reporting burden on Phase II communities, to increase program cost effectiveness. Increased reporting simply spends more money and has not been shown to improve water quality or the effluent from construction sites.
Section E11			
45	Weekly Visual Inspections	E. 11.e.ii.	Section E.9.e.ii should be revised to the following: "Inspections of Hotspots shall be completed biannually to ensure Standard Operating Procedures for Storm Water Pollution Prevention are being followed. Trained staff will ensure facilities are being maintained in accordance with permit requirements and take corrective actions when necessary. Non- hot spots shall be inspected every 2 years."
46	Annual Inlet Cleaning	E. 11.g.ii.b, d	Revise this section to read: "Clean all catch basins, inlets and storm conveyances once per year prior to the rainy season. Clean any problem areas again in the Spring. If blockages occur and/or complaints are received regarding inlets, response to these locations shall be made as soon as practicable to determine what action may be required, so maintenance needs can be addressed."
47	O&M Activities: BMP Evaluation	E. 11.h.i	Change BMP evaluation from quarterly to annually. In practice this has been found to be adequate to achieve maintenance and compliance, as procedures are reviewed annually.
48	Flood Management Facilities Retrofit Requirement	E. 11.i	The City of Lompoc requests the removal of this requirement from the Permit. The requirement to assess and implement changes to two flood management projects per year is inappropriate for most local jurisdictions, as unless they are flood control entities, they may never design and implement a flood management project. For an agency which does deal exclusively with flood control, this may be too onerous, as other requirements and life safety priorities may already claim the limited staff and funds they have to allocate.
49	Flood Management Projects	E.11.i.	If water quality and enhancement features are required to be incorporated into the design of flood management projects, an Umbrella Safe Harbor agreement with regard to endangered species must be granted by the California Department of Fish and Game and U.S. Fish and Wildlife service.

50	Flood Management Projects	E. 11.i.iii.	This section should be eliminated, as the permittee municipalities do not have jurisdiction over Flood Control Districts to require that flood management projects be either assessed or enhanced.
51	Grass Clippings	E. 11.j.ii.b.2.i.	Please show how reduction or elimination of grass mowing provides greater pollutant removal. Mowing is used to keep grass healthy and appropriate for the intended purpose (i.e. sports fields) or to reduce fire danger.
Section E12			
51	Consistent Allocation of Sections to Regulations	E12 a	Use consistent terminology throughout clearly identifying applicable standards. This section is too dispersed and convoluted and the actual requirements are not clearly set out. For example – Implementation Measures in E12c stipulate the requirements. However, Implementation Measures in E12d stipulate exceptions and say nothing about the requirement. It is not until five pages later, after much convoluted discussion about applicability, that the standards are discussed, split between yet another Implementation Level section, and Site Design 12d2(ii)(2). Titles and number and section placement needs to be consistent for clarity. Requirements should be at the beginning of the sections and the applicability consolidated as much as possible.
52	Redevelopment	E.12.a	Redevelopment projects can produce less impervious cover per capita than their greenfield counterparts, making it desirable to encourage redevelopment projects. Allowing for existing developed sites to maximize their utility through greater density and lot coverage directly reduces the demand for development of agricultural lands. In addition, it may not be appropriate or feasible for redevelopment projects to either infiltrate, evapotranspire or harvest/reuse the full 85th percentile storm event. As such, the City of Lompoc strongly recommends flexibility be inserted into the post-construction treatment requirements to ensure this type of development is encouraged.
53	Infeasibility	E.12.a	Site conditions will exist where full retention is neither feasible and/or desirable. Infeasibility criteria should be acknowledged and include: High groundwater table: The bottom of the infiltration practice should be a certain minimum distance above the seasonal high groundwater table. Protection of source water: Infiltration practices should be set back a certain minimum distance from a groundwater well or aquifer recharge area used for drinking water. Potential for pollutant mobilization: Infiltration practices should not be utilized in brownfield sites or other locations where pollutant mobilization is a documented or anticipated concern (sites where past use was as a gasoline station or other auto-related uses or over historic oil fields).

			Clay soils: Infiltration practices are infeasible where soils have low infiltration rates. It is important to specify what is considered a low infiltration rate. Potential geotechnical hazard: Water infiltration can cause geotechnical issues, including: settlement through collapsible soil, expansive soil movement, slope instability, and increased liquefaction hazard. Infiltration practices should not be used where geotechnical issues are a documented concern. Structural Hazard: Potential hazards associated with ground saturation due to infiltration adjacent to structures, walls, and basements, for example. Land use of concern: To prevent groundwater contamination, infiltration practices should not be used in high-risk areas such as service/gas stations, truck stops, and heavy industrial sites. This should be acknowledged in the Special Project Category Requirements (E.12.b.3). Impairment of beneficial uses: Locations where reduction of surface runoff or increase in infiltration may potentially impair beneficial uses of the receiving water. Conflict with water conservation goals: Use of evapo-transpiration and other vegetated practices may conflict with water conservation goals in arid climates (e.g., a green roof or rain garden that requires irrigation during the dry season. Note- many plants that will survive with minimal watering in an arid climate will die when inundated, even for a short time.). Lack of demand for harvested storm water: Projects must be able to demonstrate sufficient demand for harvested storm water to be able to draw down the cistern prior to the next storm event to prevent bypass. Additional implementation constraints as identified by the permittee.
54	High Density / Mixed Use	E.12.a	In addition to the criteria identified for new development projects, the City of Lompoc recommends the permit exempt from LID / Hydromodification standards high density housing projects with densities over 30 dwelling units per acre, as well as mixed use retail / office and housing projects in city centers or nodes. The environmental benefits of retaining surrounding rural and agricultural areas in open space and concentrating development in a smaller area, as well as encouraging alternative transportation and live/work arrangements consistent with mixed use development outweigh the reduction in runoff on what are in fact relatively small areas within a watershed.
55	High Density /	E12a and E12b	E.12.a and E.12.b. Eliminate redundancy. Remove reference to Timing and Reporting because these vary by provision and are defined later in the text. Consider removing this introductory

	Mixed Use		summary of requirements altogether, since it adds nothing to permit. Reference to Permittees in a Phase I permit boundary is moved to (see comment #23) Pg 26-47 *Combine E.12.a and E.12.b for clarity. Remove reference to E.12.f implementation because that is role for state and regional Water Boards. Move hydromod reporting requirements to E.12.h.* *All Permittees shall* ***regulate development to*** ~~*implement post-construction treatment measures for new and redevelopment projects and*~~ *comply with the following Sections:* *E.12.c Site Design Measures* *E.12.d Low Impact Development* ~~*Runoff Standards*~~ ***E.12.e Hydromodification Management*** ~~*E.12.f Implementation Strategy for Watershed Process Management*~~ *E.12.g Operation and Maintenance of* ~~*Post-Construction*~~ *Storm Water* ***Control*** ~~*Management*~~ *Measures* *E.12.h Post-Construction Storm Water Management Measure Condition Assessment* ***E.12.j Planning and Building Document Updates*** ~~*Reporting – By the third year Annual Report, all Permittees shall complete and have available an inventory of projects subject to post-construction treatment measures for new and redevelopment projects.*~~ ~~*E.12.b. Hydromodification Measures*~~ ~~*All Permittees shall implement post-construction hydromodification measures and comply with the following Sections:*~~ ~~*E.12.e Hydromodification Management 14*~~ ~~*E.12.f Implementation Strategy for Watershed Process-Based Storm Water Management*~~ ~~*E.12.g Operation and Maintenance of Post Construction Storm Water Management Measures*~~ ~~*E.12.h Post-Construction Storm Water Management Measure Condition Assessment*~~ ~~*Reporting –*~~ ~~*Permittees located within a Phase I MS4 permit boundary with a Regional Water Board approved Hydromodification Plan shall complete and have available a summary report in the year one Annual Report describing the strategies to implement and coordinate with the surrounding Phase I MS4 Permittee Hydromodification Plan. In subsequent Annual Reports,*~~
56	Site Design Measures, 2,500 Square Feet	E.12.c.	Eliminate the requirement for non-quantitative site design measures for development creating or replacing 2,500 square feet of impervious area. This requirement will be difficult to administer, considering the additional requirements in the remaining portions of this section and permit, and is not clearly linked to beneficial impacts as it doesn't require measures whose impacts can be quantified, requires only one method be used and then requires the METF standard. These elements are internally inconsistent.

57	Title	E.12.d	Revise title to read: **E.12.d. New and Redevelopment ~~Low Impact Development Runoff~~ Standards**
58	Effective Date	E.12.d.1(d)	Delete the following Sections: a. E.12.d.1(d)(1); and b. E.12.d.1(d)(2) 2. Replace the above deleted language with the following: a. Revise title of Section E.12.d.1(d)(1) to "Effective Date for Private and Public Development Projects." b. Add the following new paragraph under Section E.12.d.1(d)(1) as subsection (i): "As of the effective date of the new development and redevelopment requirements in the Order, all discretionary permit projects or project phases that have not been deemed complete for processing, or discretionary permit projects without vesting tentative maps that have not requested and received an extension of previously granted approvals must comply with the requirements in Section E.12.d.2., E.12.d.2, and E.12.E. For Permittee's projects, the effective date shall be the date the governing body or their designee approves initiation of the project design." c. Add the following new paragraph under Section E.12.d.(d)(1) as subsection (ii): The Permittee shall apply the low impact development runoff standards of Section E.12.d.2 to all projects both private and public development that are determined to be "regulated projects" as listed in Section E.12.d.1.(a).
59	Header	E.12.d.1.	Delete header since it's repeated below. ~~E.12.d.1. Regulated Projects~~
60	50 Percent Rule Restated	E.12.d.1(b) and (c).	(b) Where a redevelopment project, in the categories specified above, results in an increase of more than 50 percent of the impervious surface of a previously existing development, these requirements apply to the entire site. (c) Where a redevelopment project, in the categories specified above, results in an increase of less than 50 percent of the impervious surface of a previously existing development, these requirements apply only to the newly created or replaced portion.
61	Public Projects	E.12.d.1(d) and E.12.d.2	Because not all "public" projects are under the building authority of the Permittee, recommend the following revision. (d) … and public projects **constructed by the Permittee**. And on pg. 50 (2) ~~Public~~**Permittee's** Development Projects - The Permittee shall develop and implement an equivalent approach, to the approach used for private development projects, to apply the ~~most current version of the low impact~~ development runoff standards to applicable public development projects.

62	Header revision	E.12.d.2.	E.12.d.2 Low Impact Development Standards should be deleted as a header at this location. Source control should be a separate section. ~~*E.12.d.2 Low Impact Development Standards*~~ ~~*(i) Task Description – The Permittee shall implement low impact development standards to effectively reduce runoff from Regulated Projects.*~~ ~~*(ii) Implementation Level - The Permittee shall adopt and implement requirements and standards to ensure design and construction of development projects achieve LID objectives*~~ ***The permittee shall require Regulated Projects to implement measures*** *for* ***source control****, runoff reduction, storm water treatment, and* ~~*baseline*~~ *hydromodification management.* ~~*The Permittee shall require each Regulated Project to provide a map or diagram dividing the entire project site into discrete Drainage Management Areas (DMAs), and to account for the drainage from each DMA. The Permittees shall (1) implement source controls and site design measures to the extent technically feasible to reduce the amount of runoff and (2) any remaining runoff from impervious DMAs must be directed to one or more facilities designed to infiltrate, evapotranspire, and/or biotreat runoff.*~~
63	Drainage Management Areas	E.12.d.2.(ii)	It seems to be an added and unnecessary step to require a separate map with Drainage Management Areas. This information is generally provided on the grading and drainage plan and on an Erosion Control Plan.
64	Source Control Requirements	E12d.2.(ii)(1)	This section should be revised to state: "Permanent and/or operational source control BMPs shall be adopted…". The reference to the following BMPs needs to be eliminated as no BMPs are listed.
65	85th Percentile Storm Methodology	E12.d.2.(ii)(2)	This section mentions a standard, infiltration, evapo-transpiration and or harvesting reuse of the 85th percentile rainfall event. The 85th percentile storm event needs to be defined and the methodology used to determine this event provided.
66	Site Design Stipulations	E12.d.2.(ii)(2)	These "Site Design" measures should not be stipulated, as the measures necessary to infiltrate storm water on sites as variable as those found throughout California are much greater in number. It is also important, as the field develops, to allow for other structural methods of collection and infiltration which may not yet have been developed. Simply stating the requirement to infiltrate the 85th percentile storm should be enough.
67	Bio-retention Standards	E12.d.2.(ii)(3)	Are the standards given for the bioretention system intended to modify the requirement to bio-treat stated in this section? If yes, this should be clearly stated and set apart from the requirement itself.
68	Roads	E.12.d.1.(ii)(e).	Road Post-Construction Treatment requirements may be constrained in some situations by existing development, and discrete right-of-way limitations. Options for these cases should be addressed.
69	Revised Language Site Design	E.12.d.2.(ii)(2)	Revise E.12.d.2.(ii) to include the following language clearly stating the regulatory requirement. Projects that create or replace 5,000 s.f. or more of impervious area shall infiltrate the 85th percentile, 24-hour storm.

			As this is a succinct requirement and other site design measures not related to volume control already apply to Regulated Projects under Provision E.12.c (see projects >2,500 sf). The remainder whole of the Site Design Measures section should be deleted. ~~*) Site Design Measures – The following site design measures shall be used to reduce the amount of runoff to the extent technically feasible, for which retention and treatment is required. The methods are based on the objective of achieving infiltration, evapotranspiration and/or harvesting/reuse of the 85th percentile rainfall event.*~~ ~~*(a) Stream Setbacks and Buffers*~~ ~~*(b) Soil Quality Improvement and Maintenance*~~ ~~*(c) Tree planting and preservation*~~ ~~*(d) Rooftop and Impervious Area Disconnection*~~ ~~*(e) Porous Pavement*~~ ~~*(f) Green Roofs*~~ ~~*(g) Vegetated Swales*~~ ~~*(h) Rain Barrels and Cisterns*~~
70	Organization - Sizing Criteria and Source Control	E.12.d.2.3.d.	Move Numeric Sizing Criteria (pg 54) for LID measures to follow Source Control. *Numeric Sizing Criteria for Storm Water Retention and Treatment* *The Permittees shall require* ***Regulated Projects to reduce the volume of runoff from the project using measures*** ~~*facilities*~~ *designed to evapotranspire, infiltrate****, and/or*** *harvest/use,* ~~*and biotreat*~~ *storm water* ***to the MEP*** ~~*to meet at least one of the following hydraulic sizing design criteria:*~~ *(1) Volumetric Criteria* *a. The maximized capture storm water volume for the tributary area, on the basis of historical rainfall records, determined using the formula and volume capture coefficients in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998) pages 175-178 (that is, approximately the 85th percentile 24-hour storm runoff event); or* *b. The volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology in Section 5 of the California Stormwater Quality Association's Stormwater Best Management Practice Handbook, New Development and Redevelopment (2003), using local rainfall data.* ***The remaining volume of runoff that cannot be evapotranspired, infiltrated, or harvested onsite due to Special Site Conditions shall be treated and discharged based upon the following:*** *(2) Flow-based Criteria* *a. The flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or* *b. The flow of runoff produced from a rain event equal to at least 2 times the 85th percentile hourly rainfall intensity as determined from local rainfall records.*

71	Technical Guidance	E12.d.2.(ii)(3)c	Tree-box-type filters needs to be defined and a diagram provided, or a Technical Guidance Manual prepared and approved by the State Board, detailing construction requirements and providing BMP details.
72	Requirements for Planning and Building Document Updates	E.12.j(ii) and (iii).	This implementation requirement is too prescriptive. The requirements in this section are not necessarily consistent with state land use law, subdivision law and building and fire codes. In addition, it is up to the MS4 to determine the type of community it desires to have and reflect that in its General Plan and Zoning Ordinance. This requirement should be as simple a ensuring the MS4 has the ability to regulate under the permit. This section was already addressed in E.6.a. and that should be sufficient. In addition, much planning and building regulation is dictated by the state and cannot be changed by local government.
73	Organization – Infeasibility Criteria and Numeric Sizing	E.12.d.2.(ii)3(h)(b)	Move infeasibility criteria to follow numeric sizing criteria *Allowed Variations for Special Site Conditions - The ~~bioretention~~ **numeric sizing** criteria ~~in (2)~~ **for volume capture** may be adjusted for special site conditions as follows:* *~~(a) Facilities located within 10 feet of structures may incorporate an impermeable cutoff wall between the facility and the structure.~~* *(b) Facilities with documented high concentrations of pollutants in underlying soil or groundwater,* *(b) Facilities located where infiltration could contribute to a geotechnical hazard* ***to the Regulated Project or offsite properties****,* ***(c) Locations of high seasonal groundwater*** ***(d) Facilities located in proximity of a groundwater well used for drinking water*** ***(e) Locations of low permeability soils that significantly limit infiltration*** ***(f) Infill or redevelopment sites where the density and/or nature of the project would create significant difficulty for compliance with the volume retention requirement.*** ***(g) Discharge from project into underground pipe, or concrete-lined or continuously armored channel, to confluence to lake, large river (>200 sq mi), or tidally influenced waters*** ***(h) Discharge to an existing flow-control facility that regulates flow and durations which are protective of beneficial uses of receiving water downstream of the facility, and whose function would not be compromised by accepting runoff from the Regulated Project.*** ***(i) Projects creating or replacing an acre or less of impervious area and located in designated pedestrian-oriented commercial district and having at least 85% of the entire project site covered by permanent structures*** ***(j) Facilities receiving runoff solely from existing (pre-project) impervious areas*** *~~and facilities located on elevated plazas or other structures may incorporate an impermeable liner and may locate the underdrain discharge at the bottom of the subsurface drainage/storage layer (this configuration is commonly known as a "flow-through planter").~~*

			~~*(c) Facilities located in areas of high groundwater, or where connection of underdrain to a surface drain or to a subsurface storm drain are infeasible, may omit the underdrain.*~~
74	Bio-treatment Perfomance Criteria	E.12.d.2.(ii)3	Revise header for biotreatment performance criteria*(3) Storm Water Treatment Measures* ~~*and Baseline Hydromodification Management Measures – Runoff from remaining impervious DMAs must be directed to one or more facilities designed to infiltrate, evapotranspire, and/or biotreat the amount of runoff specified in below. The facilities must be demonstrated to be at least as effective as a bioretention system*~~ ***Runoff that cannot be evapotranspired, infiltrated, or harvested onsite due to Special Site Conditions shall be treated and discharged through a biotreatment system, or its equivalent,*** *with the following design parameters.*
75	Reopener	E.12.d.2.(ii)3(h)(c)	The Reopener paragraph sits awkwardly at this location. If necessary to specify a reopener of permit for LID, the paragraph should be distinguished in the outline with a header and placed in an appropriate location in the Provisions such as the end of LID section or the end of the E.12.
76	Reporting	E.12.d.2.(iii)	Reporting. Revise schedule to Year 3. Information should be collected and retained by Permittee.
77	Reporting	E.12.d.2.(iii)	(iii) Reporting – For each Regulated Project approved, the following information shall be completed and be available **starting in Year 3** ~~annually~~ ~~in the Annual Report~~:
78	Peak Runoff	E.12.e.	Hydromodification Management E.12.e. Addressing peak runoff alone has been shown to exacerbate instream conditions. This in fact is why the infiltration requirements for LID are implemented. CASQA recommends deleting the peak runoff requirements in lieu of the onsite retention of stormwater. MS4s have Flood Control programs designed to address peak runoff for downstream impacts and facility capacity. These existing programs should not be affected by this Order. This order is intended to improve upon the traditional approach of installing peak-runoff control measures alone, without assessing instream conditions or overall watershed character. Recommend delete entire provision E.12.e. ~~E.12.e. Hydromodification Management~~ ~~etc~~
79	BMP Condition Assessment	E.12.h	BMP Condition Assessment revise schedule such that effectiveness is measured after one year of data. (i) Task Description – ~~Within the third year of the effective date of the permit, the~~ The Permittee shall inventory and assess the maintenance condition of structural post-construction BMPs (including BMPs used for flood control) within the Permittee's jurisdiction. (ii) Implementation Level – **By Year 4 of the effective date of the permit,** the Permittee shall develop and implement a plan to inventory, map, and determine the relative maintenance condition

			of structural post-construction BMPs. Maintenance condition shall be determined through a self-certification program where Permittees require annual reports from authorized parties demonstrating proper maintenance and operations. The plan shall include:
80	Planning and Building Document Updates	E.12.j.	E.12.j. There are a number of problems such as schedule, specificity, and expectations. *Schedule is very challenging, requiring that by Year 1 Permittee "shall modify codes, regulations, standards, and/or specifications", and by Year 4 "shall revise general plans, specific plans, and zoning". Reviewing, identifying gaps and impediments, finding an appropriate correction, communicating that throughout agency and possible approval required at Council/commission level cannot be achieved in one year. It is unlikely that general plans would even require changes, as these are long-term planning documents for growth and resource protection that are updated infrequently due to the overall work such updates require. Permittees have Land Use and Conservation Elements that address protection of water resources from development. Further, communities in Coastal Zone would need Coastal Commission Approval of any changes.* *Typically, it is the development review process itself combined with lack of experience that hinders LID. Not General Plan policy. CASQA recommends a less prescripted process for assuring the Permittee is administering the provisions of this Order.* *Recommendation: Delete this section and replace with following…* *E.12.j Planning and Development Review Process* *(i) Task Description – The permittee shall review their planning and permitting process to assess any gaps or impediments impacting effective implementation of these post-construction requirements, and where these are found to exist, seek solutions to promote protection of watershed processes within the context of public safety and community goals for land use.* *(ii) Implementation Level – During Years 1-3, Permittee shall conduct the review using an existing guide or template already developed for MS4s (such the Municipal Regulatory Update Assistance Program (MRUAP) conducted by AHBL for the Low Impact Development Initiative (LIDI) on the Central Coast). By the end of Year 4, any changes to the planning and permitting process will be completed to effectively administer these provisions.* *(iii) Reporting. A summary of this review process, and any proposed or completed changes to the Permittee's permit program will be provided in each Annual Report.*

Section E13			
81	Water Quality Monitoring	E.13	A receiving water monitoring program is not required under the Federal Phase II Rule. This section should be removed. Receiving water monitoring should continue to be conducted by the State and Regional Boards. In arid areas and/or those where hydrology has been significantly altered by dams, channels or other structures, adequate samples are often not possible to obtain, as water flow is a trickle or non-existent, stagnant and therefore not representative of any contribution.