

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
GENERAL ISSUES				
N/A	N/A	N/A	N/A	<u>Additional comments</u> -- The Copermittees are completing a comprehensive review of all sections of the Tentative Order. We will provide additional written comments on several sections not addressed in this submittal. Additionally, we expect that as discussion of these issues continues, Copermittees positions will evolve. As such, nothing in this document should be construed as a final Copermittee position on any specific content of the Tentative Order.
N/A	N/A	N/A	N/A	<u>Tentative Order adoption schedule</u> -- The proposed schedule for adoption of the Tentative Order does not allow for substantive changes to be made based on input received during the public review process. We recommend that a second Public Workshop with RWQCB members be added to the adoption schedule, and that written responses to issues raised in the first Workshop be provided prior to the second Workshop. We are interested in RWQCB thoughts on this.
15 15 15 15 26 26 29 33 36 37	D. (intro) D.1 D.1.c D.1.d D.2 D.2.a.(2)(a) D.3.a D.3.b D.3.b.(4)(a) D.3.c	Each updated Jurisdictional Urban Runoff Management Program shall meet the requirements of section D of this Order, reduce the discharge of pollutants to the MEP, and ensure that urban runoff discharges do not cause or contribute to a violation of water quality standards. D.1 -- Each Copermittee shall implement a program which meets the requirements of this section and (1) reduces the discharge of pollutants from Development Projects to the MEP, (2) ensures urban runoff	Modify as follows: Eliminate the paraphrasing of Section A and B standards in other portions of the Tentative Order. Alternatively, reference Sections A and B.	<u>Restatement of Prohibitions and Receiving Water Limitations throughout the Tentative Order</u> – Copermittee obligations to comply with discharge prohibitions and receiving water limitations are re-stated in numerous places throughout the Tentative Order. This is problematic since anything other than a literal restatement creates an ambiguity for both compliance and enforcement purposes. For example:

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
43 46	E.2 F (Intro)	<p>discharges from Development Projects do not cause or contribute to a violation of water quality standards, and (3) controls urban runoff discharges from Development Projects that have the potential to cause increased erosion of stream beds and banks, silt pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.</p> <p>D.1.c -- For all proposed Development Projects, each Copermittee during the planning process and prior to project approval and issuance of local permits shall prescribe the necessary requirements to ensure that the discharge of pollutants from the Development Projects will be reduced to the MEP, will not cause or contribute to a violation of water quality standards, and will comply with Copermittee's ordinances, permits, plans, and requirements, and with this Order.</p> <p>D.1.d. -- Each Copermittee shall implement an updated local SUSMP which meets the requirements of section D.1.d of this Order and (1) reduces the discharge of pollutants from Development Projects to the MEP, (2) ensures urban runoff discharges from Development Projects do not cause or contribute to a violation of water quality standards, and (3) controls urban runoff discharges from Development Projects that have the potential to cause increased erosion of stream beds and banks, silt pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.</p> <p>D.2 -- Each Copermittee shall implement a construction program which meets the requirements of this section, reduces the discharge of pollutants from construction sites to the MEP, and ensures that urban runoff</p>		<p>Section A.2. states "Discharges <u>from MS4s</u> containing pollutants which have not been reduced to the maximum extent practicable (MEP) are prohibited." Whereas, section D.1(1) states that Copermittees must implement a program that "reduces the discharge of pollutants from Development Projects to the MEP." These statements have very different meanings, and should reflect the language in Sections A and B.</p> <p>Similarly, Section A.3. states "Discharges from MS4s that cause or contribute to the violation of water quality standards (designated beneficial uses and water quality objectives developed to protect beneficial uses) are prohibited." Whereas, section D.1(2) states that Copermittees must implement a program that "ensures urban runoff discharges from Development Projects do not cause or contribute to a violation of water quality standards." As above, this restatement actually modifies the meaning of Discharge Prohibition A.3 to make Copermittees responsible for <u>ensuring</u> that discharges <u>from Development Projects</u> do not cause or contribute to a violation of water quality standards rather than simply prohibiting such discharges <u>from the Copermittee MS4</u>.</p> <p>Each of the sections cited, as well as the remainder of the Tentative Order, should be thoroughly reviewed to reflect the language in Sections A and B.</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>discharges from construction sites do not cause or contribute to a violation of water quality standards.</p> <p>D.2.a.(2)(a) -- Require all individual proposed construction sites to implement designated BMPs and other measures to ensure that pollutants discharged from the site will be reduced to the maximum extent practicable and will not cause or contribute to a violation of water quality standards.</p> <p>D.3.a. -- Each Copermittee shall implement a municipal program which meets the requirements of this section, reduces the discharge of pollutants from municipal areas and activities to the MEP, and ensures that urban runoff discharges from municipal areas and activities do not cause or contribute to a violation of water quality standards.</p> <p>D.3.b. -- Each Copermittee shall implement an industrial and commercial program which meets the requirements of this section, reduces the discharge of pollutants from industrial and commercial sites/sources to the MEP, and ensures that urban runoff discharges from industrial and commercial sites/sources do not cause or contribute to a violation of water quality standards.</p> <p>D.3.b.(4)(a) -- Each Copermittee shall develop and implement a program to reduce the discharge of pollutants from mobile businesses to the MEP.</p> <p>D.3.c -- Each Copermittee shall implement a residential program which meets the requirements of this section, reduces the discharge of pollutants from residential areas and activities to the MEP, and ensures that urban runoff discharges from residential areas and activities do</p>		

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>not cause or contribute to a violation of water quality standards.</p> <p>E.2 -- Each updated Watershed Urban Runoff Management Program shall meet the requirements of section E of this Order, reduce the discharge of pollutants to the MEP, and ensure that urban runoff discharges do not cause or contribute to a violation of water quality standards.</p> <p>F (intro)-- The Regional Urban Runoff Management Program shall meet the requirements of section F of this Order, reduce the discharge of pollutants to the MEP, and ensure that urban runoff discharges do not cause or contribute to a violation of water quality standards.</p>		
Various	Various	All instances of compliance timelines expressed as specific dates.	Modify to replace dates with number of days from adoption of the Order.	<p>Specifying compliance timelines as a number of days from adoption of the Order rather than as firm dates would make it easier for interpreting them, and keeping track of them if the scheduled adoption date is not met.</p> <p>Actual dates could be specified in Attachment F as a last step when the adoption date of the Order is confirmed.</p>
15 25 43 46 RWM& RP, 22	D. (intro first paragr.) D.1.g(5) (intro) E.1 F. (intro) III.7	<p>D. -- Each Copermittee shall fully implement all requirements of section D of this Order no later than July 1, 2007, unless otherwise specified in this Order. Prior to July 1, 2007, each Copermittee shall at a minimum fully implement its Jurisdictional URMP document, as the document was developed to comply with the requirements of Order No. 2001-01.</p> <p>D.1.g(5) -- 180 days after adoption of the HMP by the Regional Board, each Copermittee shall incorporate into its local SUSMP and fully implement the HMP for all</p>	<p>Modify each occurrence of "fully implement" as illustrated for Section D below:</p> <p>D. -- Each Copermittee shall <u>commence implementation of</u> all requirements of section D of this Order no later than July 1, 2007, unless otherwise specified in this Order. Prior to July 1, 2007, each Copermittee shall <u>continue implementation of</u> its Jurisdictional URMP document, as the document was developed to comply with the requirements of Order No. 2001-01.</p>	<p><u>Use of the term "fully implent"</u> -- Order No. 2001-01 specifies numerous timeframes for the implementation of programs. The modification of existing language from "implement" to "fully implement" in this Tentative Order is of concern.</p> <p>Copermittees would like clarification on what RWQCB staff considers "fully implement" to mean, and why this modification of the existing language is necessary. For instance, does it mean that all program development or</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>applicable Priority Development Projects. Prior to approval of the HMP by the Regional Board, the early implementation of measures likely to be included in the HMP shall be encouraged by the Copermittees.</p> <p>E.1 -- Each Copermittee shall fully implement all requirements of section E of this Order no later than July 1, 2007, unless otherwise specified in this Order. Prior to July 1, 2007, each Copermittee shall collaborate with the other Copermittees within its watershed(s) to at a minimum fully implement its Watershed URMP document, as the document was developed to comply with the requirements of Order No. 2001-01.</p> <p>F. -- The Copermittees shall fully implement all requirements of section F of this Order no later than July 1, 2007, unless otherwise specified in this Order.</p>		<p>modification would be completed on the specified date, and implementation activities progressing in accordance with JURMP specifications or schedules? Or alternatively, does it mean that Copermittees would need to have completed a full year of activities at the level described in the JURMP (or WURMP or RURMP) upon its submittal?</p> <p>Because the implementation of Copermittee programs is an ongoing and iterative process over the course of the permit cycle (rather than being "set in stone" upon submittal of the JURMP, WURMP, or RURMP), achieving "full implementation" at any single point in time is not really possible. To avoid confusion, and to provide an achievable and enforceable standard for program implementation, the Copermittees recommend replacing "fully implement" with "commence implementation of."</p>

PERMIT PROVISIONS

A. Prohibitions and Receiving Water Limitations

No comments at this time

B. Non-storm Water Discharges

No comments at this time

C. Legal Authority

No comments at this time

D. JURMP

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D.1 Development Planning

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
24	g	<p>Each Copermittee shall collaborate with the other Copermittees to develop and implement a Hydromodification Management Plan (HMP) to manage increases in runoff discharge rates and durations from all Priority Development Projects, where such increased rates and durations are likely to cause increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial uses and stream habitat due to increased erosive force.</p>	<p>Modify to allow Copermittees to select a method best suited to San Diego Region, while maintaining minimum criteria, and to extend HMP completion timeframes to enable funding and completion of the required work.</p>	<p><u>Requirement of a Hydromodification Management Plan (HMP)</u> -- There are multiple approaches that can be used in preparing the HMP. The Copermittees should choose an HMP strategy that best fits the number and large size of our region's watersheds.</p> <p>In addition, submittal timeframes similar to other HMP efforts in the State are necessary due to the complexity and volume of work required to develop the HMP (9 watersheds must be studied in San Diego compared to 1 watershed in other HMP efforts).</p> <p>Copermittees are also considering alternatives for achieving the intent of the Interim HMP, or HAS, Standards for projects over 50 acres.</p>
23	e	<p>(1) Each Copermittee shall develop and utilize a watershed-based database to track and inventory approved treatment control BMPs and treatment control BMP maintenance within its jurisdiction. At a minimum, the database shall include information on treatment control BMP type, location, watershed, date of construction, party responsible for maintenance, maintenance certifications or verifications, inspections, inspection findings, and corrective actions.</p> <p>(2) Each Copermittee shall develop and implement a program to ensure that approved treatment control BMPs are operating effectively and have been adequately maintained. At a minimum, the program shall include the following:</p> <p>(a) An annual inventory of all approved treatment control BMPs within the Copermittee's jurisdiction. The</p>	<p>Modify to allow Copermittees to gather baseline data and determine appropriate inspection frequencies. Additionally, allow year-round inspections, while still requiring submittal of verification forms prior to the rainy season.</p>	<p><u>Treatment BMP Maintenance Tracking</u> – To leverage resources most efficiently, the BMP inspection program should rely on maintenance verification submittals, and field inspections of a <u>percentage</u> of the jurisdiction's inventory (i.e., spot inspections). The program should require Copermittees to adapt their inspection requirements based on statistical analysis of inspection findings, verification forms, and other relevant data.</p> <p>This section also requires all inspections to be conducted in the dry season. This would preclude inspections during most rain events when the majority of operational issues could be identified. It would also require inefficient seasonal peaks in staffing.</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>inventory shall also include all treatment control BMPs approved during the previous permit cycle.</p> <p>(b) The prioritization of all projects with approved treatment control BMPs into high, medium, and low priority categories. At a minimum, projects with drainage insert treatment control BMPs shall be designated as at least a medium priority. Prioritization of other projects with treatment control BMPs shall include consideration of treatment control BMP size, recommended maintenance frequency, likelihood of operational and maintenance issues, location, receiving water quality, and other pertinent factors.</p> <p>(c) Projects with treatment control BMPs that are high priority shall be inspected by the Copermittee annually. Projects with treatment control BMPs that are medium priority shall be inspected by the Copermittee every other year. Projects with treatment control BMPs that are low priority shall be inspected once during the five year permit cycle. All inspections shall ensure effective operation and maintenance of the treatment control BMPs, as well as compliance with all ordinances, permits, and this Order. At least 20% of the projects within a jurisdiction with approved treatment BMPs shall be inspected annually.</p> <p>(d) Requirement of annual verification of effective operation and maintenance of each approved treatment control BMP by the party responsible for the treatment control BMP maintenance.</p> <p>(3) Operation and maintenance verifications and inspections shall be required and conducted prior to each rainy season.</p>		

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
<i>D.2 Construction</i>				
No comments at this time				
<i>D.3 Existing Development</i>				
<i>D.3.a Municipal</i>				
30		<p>(b) Each Copermittee shall implement a schedule of maintenance activities for the MS4. The maintenance activities shall, at a minimum, include:</p> <p>i. Inspection of all Copermittee catch basins and storm drain inlets at least once a year between May 1 and September 30 of each year. If accumulated waste (e.g. sediment, trash, debris and other pollutants) is visible, the accumulated waste in the catch basin or storm drain shall be cleaned out. Additional cleaning shall be conducted as necessary.</p> <p>ii. Inspection of all Copermittee open channels and removal of any observed anthropogenic litter from the open channels at least once a year between May 1 and September 30, with additional inspection and removal as necessary.</p> <p>iii. Inspection, maintenance, and cleaning of other portions of the MS4 according to an established prioritized schedule.</p>	<p>Further discussion is needed before specific modifications can be proposed.</p>	<p><u>Annual Inspection of MS4s</u> -- Per the Technical Report, the stated intent of this section is to require the Copermittees to inspect and remove waste from their MS4s prior to the rainy season, and to aid them in determining cleaning priorities. However, the Copermittees already have considerable experience prior to and during this permit cycle in inspecting and prioritizing maintenance of their MS4s. Existing inspection schedules reflect that knowledge, and should not be supplanted by "one size fits all" minimum frequencies.</p> <p>Based on that experience, the Copermittees propose that modifications be made to effect three important changes:</p> <p>First, annual inspections should not be required for all facilities. It may be feasible to establish an annual inspection frequency as a default, if Copermittees could establish other less stringent schedules that they can demonstrate to be appropriate (e.g., based on experience or other appropriate factors).</p> <p>Second, the Copermittees should retain the discretion to determine when cleaning is needed. Inspection results are the best determinant of whether catch basins, inlets, and channels need</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
				<p>to be cleaned. Copermittees should use their experience in conducting inspections to decide when cleaning is needed. The accumulation of <u>any visible waste</u> is not a reasonable criterion for triggering cleaning unless such accumulation is likely to result in discharges from those devices. Many devices are designed to function effectively with some accumulation of waste.</p> <p>Third, Copermittees should be allowed to spread out their workload over the portions of the year that they determine appropriate. It is infeasible to require that all inspection and cleaning work be completed between May and September. Modified language could retain a preference for conducting work prior to the rainy season, but should ultimately allow Copermittees to determine when work should be scheduled. This would help to address existing priorities for sweeping (safety) and to even out workload over the year, including other non-rainy periods outside of the May-September window.</p>
31	D.3.a.(5)	<p>(5) Sweeping of Municipal Areas</p> <p>Each Copermittee shall implement a program to sweep municipal roads, streets, highways, and parking facilities. The program shall include the following measures:</p> <p>(a) Roads, streets, highways, and parking facilities identified as consistently generating the highest volumes of trash and/or debris shall be swept at least two times per month.</p> <p>(b) Roads, streets, highways, and parking facilities identified as consistently generating moderate volumes of trash and/or debris shall be swept at least monthly.</p>	Further discussion is needed before specific modifications can be proposed.	<p><u>Street Sweeping Prioritization and Frequencies</u> -</p> <p>- This section requires sweeping of all roads, streets, highways, and parking facilities, and requires specific frequencies based on volumes of trash generated. The Technical Report states that this requirement has been added to ensure that Copermittees are conducting sweeping, but does not provide a rationale for the mandated frequencies (biweekly, monthly, annual, and after special events) or explain the anticipated water quality benefits associated with them.</p> <p>While the Copermittees are willing to consider</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>(c) Roads, streets, highways, and parking facilities identified as generating low volumes of trash and/or debris shall be swept as necessary, but no less than once per year.</p> <p>(d) Roads, streets, highways, and parking facilities shall be swept following any special events (festivals, sporting events, etc.) at those locations.</p>		<p>the establishment of minimum frequencies, they should be based on a clear understanding of existing Copermittee efforts (including requirements for ensuring public safety first), desired water quality outcomes, the linkage of the proposed increases to those outcomes, and the cost to Copermittees to meet this new compliance standard. No such explanation has been offered in the Tentative Order or the Technical Report.</p>
D.3.b Industrial and Commercial				
34	3.b.(2)(c)	<p>(c) Within the first year of implementation of the updated Jurisdictional Urban Runoff Management Program, each Copermittee shall notify the owner/operator of each inventoried industrial and commercial site/source of the BMP requirements applicable to the site/source.</p>	<p>Modify as follows:</p> <p>(c) <u>Within the first three years</u> of implementation of the updated Jurisdictional Urban Runoff Management Program, each Copermittee shall notify the owner/operator of each inventoried industrial and commercial site/source of the BMP requirements applicable to the site/source.</p>	<p><u>First-year Notification Requirements for Businesses</u> -- This section requires that all businesses in the Copermittees' inventories be notified of their BMP requirements in first year of JURMP implementation. However, many of these businesses have already been notified of their requirements during the current Permit cycle. Additionally, Copermittees will be developing and updating their source inventories, coordinating to develop consistent standards for many business types, and developing notification materials (which must be business-specific) during this first year.</p> <p>The Copermittees propose that this requirement instead be phased in over the first three years of the Permit cycle, with first year notifications focusing on those with the highest need, e.g., new businesses, those with significant changes to BMP requirements, etc.</p>
35	3.b.(3)(b), (c), and (d)	<p>(b) Each Copermittee shall annually inspect all sites determined to pose a high threat to water quality. In evaluating threat to water quality, each Copermittee shall</p>	<p>Further discussion is needed before specific modifications can be proposed.</p>	<p><u>Compliance Verification for Industrial and Commercial Sources</u> – Copermittees must annually inspect 40 % of the total number of</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>address, at a minimum, the following: [LIST]</p> <p>(c) At a minimum, 40% of the sites inventoried as required in section D.3.b.(1) above (excluding mobile businesses) shall be inspected each year.</p> <p>(d) In addition to conducting inspections, each Copermittee shall develop and implement a program for verifying industrial and commercial site/source compliance with its ordinances, permits, and this Order, if determined to be necessary by the Copermittee. In developing the program, each Copermittee shall consider use of:</p> <ul style="list-style-type: none"> i. Compliance certifications (including submitting monitoring results, if applicable); ii. Third party inspections; iii. Facility or industry specific surveys; and iv. Other relevant factors. 		<p>sources in their respective inventories (excluding mobile businesses), including all high priority industrial and commercial sources. Per the RWQCB Technical Report, the 40% value is consistent with current Copermittee levels of effort (56% in FY 2002-03 and 47% in FY 2003-04).</p> <p>The Copermittees are currently reviewing their inventories and inspection statistics (including anticipated inventory increases under the revised Order). Our initial analysis indicates that 40% is generally above current inspection levels, and that considerable additional resources would be needed by many Copermittees to reach this level.</p> <p>Section 3.b.(3)(d) provides "voluntary" options for conducting compliance verification that are above and beyond the minimum inspection requirements. As currently drafted, there is little, if any, reason for Copermittees to seriously consider using these options. The ROWD and the draft Permit language submitted by the County both recommended the inclusion of such methods as an integral part of the Copermittees' overall compliance verification strategy.</p> <p>Site inspections are not always the most appropriate or cost-effective way to verify compliance, especially for municipalities with relatively large business inventories. Other methods such as self-certifications or 3rd party inspections can provide a cost-effective means of supplementing Copermittee site inspections to</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
				<p>assess compliance at a variety of business types. The use of such methods should include appropriate limitations (e.g., based on threat to water quality or characteristics of the business type) and quality assurance controls. The Copermittees are interested in discussing options for increasing the use of these methods to meet their basic compliance verification mandates. We request the 40% inspection target be carefully reviewed to determine whether it is reasonable and achievable, and that a more complete integration of other options for verifying compliance be considered as part of an overall strategy.</p>
D.3.c Residential				
No comments at this time				
D.4. ICID				
39 RWMP p. 8	D.4.d.(2) II.A.6.3	<p>Dry Weather Field Screening:</p> <p>Within 48 hours of receiving dry weather field screening or analytical laboratory results that exceed action levels, the Copermittees shall either conduct an investigation to identify the source of the discharge or provide the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. Obvious illicit discharges (i.e. color, odor, or significant exceedances of action levels) shall be investigated immediately</p>	<p>Modify Dry Weather Field Screening requirements as follows:</p> <p>Within two business days, where applicable and feasible, of receiving dry weather field screening results that exceed action levels, the Copermittees shall conduct an investigation to identify the source of the discharge or provide the rationale for why the discharge does not pose a threat to water quality and does not need further investigation.</p> <p>After receiving laboratory analytical results that exceed action levels, the Copermittees shall conduct an investigation to identify the</p>	<p><u>Follow-up Times for Dry Weather Field Screening Investigations</u> -- A 48-hour turnaround time for follow-up investigations based on field results is generally achievable, except when initial investigations are conducted on Fridays. That situation would require Copermittees to return to the site for investigations over the weekend.</p> <p>The Permit should instead require Copermittees to return to the site <u>within two business days</u>. The requirement that "obvious illicit discharges...be investigated immediately" would remain unchanged.</p> <p>Based on Copermittee experience, strict</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
			<p>source of the discharge as soon as reasonably possible or provide the rationale for why the discharge does not pose a threat to water quality and does not need further investigation. Copermittees shall provide the rationale for the timing of the investigations of laboratory analytical action level exceedances in their JURMP Annual Reports. Obvious illicit discharges (i.e. color, odor, or significant exceedances of action levels) shall be investigated immediately.</p>	<p>adherence to a 48-hour turnaround time for follow-up investigations based on laboratory results would provide negligible water quality benefits. Most action level exceedances due to laboratory results are related to bacteria. Field experience with source investigations for bacteria has shown that in most cases obvious illicit connections or illegal discharges cannot be pinpointed as the sources. The main sources typically appear to be natural wildlife waste, organic material decomposition, and improper disposal of pet waste. These types of sources usually cannot be easily and quickly eliminated, and follow-up within 48 hours would be of minimal marginal benefit at best. Where discharges from sanitary sewer lines are the source of the high bacteria readings, they are also accompanied by high ammonia readings, which would be detected by the field screening for ammonia. Thus, discharges from sanitary sewer lines would still be investigated promptly.</p> <p>Other laboratory analytical constituents occasionally observed to exceed their respective action levels include diazinon, heavy metals, and oil & grease. In virtually every instance in which one of these pollutants is reported to be over its action level, the source is a transient discharge, and the pollutant is well below the action level or not detected in the sample taken for follow-up investigation. Generally the transient discharges leading to these exceedances do not last more than a day at most, and since laboratory results are not received until at least five days after sampling, returning within 48 hours for a follow-</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
				up investigation would not provide a significant water quality benefit. When these pollutants are the result of a significant illicit connection or illegal discharge, they are usually accompanied by other signs detectable by field screening, such as an oily sheen and abnormal color or odor. Where such observations are made, discharges would still be required to be investigated promptly.
D.5. Education Component				
No comments at this time				
E. WURMP				
C-11	Attachment C	Watershed Water Quality Activity – An activity (such as BMP implementation or a similar management measure), implemented as part of a larger watershed water quality protection strategy, which directly and significantly abates the source(s) and/or reduces the discharge of pollutants causing the high priority water quality problem(s) within a watershed. The activity must be newly implemented during the cycle of this Order. Jurisdictional activities which significantly exceed and are exhibited to be more protective of water quality than the baseline jurisdictional requirements of section D may be considered Watershed Water Quality Activities. This may include additional jurisdictional controls implemented in compliance with sections D.2.c(3), D.3.a(2)(e), D.3.b(2)(e), and D.3.c(2)(f) of this Order, provided these jurisdictional additional controls meet all other requirements of this definition and this Order. Such jurisdictional activities need not be implemented watershed-wide but must conform to the strategy developed under section E.2.g to be considered Watershed Water Quality Activities. Activities implemented on a regional basis which significantly	Modify as follows: Watershed Water Quality Activity - An activity (such as BMP implementation or a similar management measure), implemented as part of a larger watershed water quality protection strategy, which directly abates the source(s) or reduces the discharge of pollutants causing the high priority water quality problem(s) within a watershed. [INSERTION OF PARAGRAPH] Targeted monitoring may be considered a Watershed Water Quality Activity if (1) there is an element of the monitoring program that directly results in the abatement of source(s) or reduction of pollutant discharges causing the high priority water quality problem(s); and (2) monitoring activities are part of a phased watershed water quality activity implementation plan. The implementing Copermittee(s) must demonstrate the	The Copermittees appreciate the considerable effort that has gone into developing a workable definition of “watershed water quality activity”, but believe some additional modifications are needed. <ol style="list-style-type: none"> (1) Deletion of “and significantly” in describing source abatement. Significance is an arbitrary and unenforceable criterion for activity selection. Copermittees must already develop and justify an overall WURMP strategy (section E.2.g), conduct annual assessments, and modify activities as appropriate (section I.2). (2) Modification of “and/or” to “and” or “or”. The term “and/or” is used in several instances throughout this section. Each has been modified to avoid conveying an ambiguous meaning. (3) Deletion of “newly implemented during the cycle of this Order”. Credit should

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>exceed and are exhibited to be more protective of water quality than the baseline jurisdictional requirements of section D may be considered Watershed Water Quality activities for a watershed, provided the activities directly and significantly abate the source(s) and/or reduce the discharge of pollutants causing the high priority water quality problem(s) within the watershed. For jurisdictional or regionally based activities to be considered Watershed Water Quality Activities in a watershed, the Copermittee must implement the activities at all applicable locations throughout its portion of the watershed, and not just in one or a few locations. TMDL activities which meet the criteria of this definition discussed above may also be considered Watershed Water Quality Activities.</p>	<p>relationship of such monitoring to the watershed strategy and how the monitoring will be used to identify future activities that directly abate the source(s) or reduce the discharge of pollutants causing the high priority water quality problem(s) within a watershed. Monitoring may not constitute more than 25% of any Copermittee's total watershed water quality activities over the course of the permit cycle.</p> <p>Jurisdictional activities which significantly exceed and are exhibited to be more protective of water quality than the baseline jurisdictional requirements of section D may be considered Watershed Water Quality Activities. This may include additional jurisdictional controls implemented in compliance with sections D.2.c(3), D.3.a(2)(e), D.3.b(2)(e), and D.3.c(2)(f) of this Order, provided these jurisdictional additional controls meet all other requirements of this definition and this Order. Such jurisdictional activities need not be implemented watershed-wide but must conform to the strategy developed under section E.2.g to be considered Watershed Water Quality Activities. Activities implemented on a regional basis which significantly exceed and are exhibited to be more protective of water quality than the baseline jurisdictional requirements of section D may be considered Watershed Water Quality Activities for a watershed, provided the activities directly abate the source(s) or reduce the discharge</p>	<p>be given for existing activities as long as they continue to demonstrate pollutant reduction and are related to the watershed strategy into the next Permit cycle. A requirement to only use "newly implemented" activities may actually present an incentive to discontinue existing beneficial activities.</p> <p>(4) Addition of targeted monitoring as a qualifying Watershed Water Quality Activity. This change utilizes language noted in the RWQCB Technical Report (p.77) regarding monitoring activities.</p> <p>(5) Deletion of "and not just in one or a few locations" from the sentence "For jurisdictional or regionally based activities to be considered Watershed Water Quality Activities in a watershed, the Copermittee must implement the activities at all applicable and feasible location(s) throughout its portion of the watershed, and not just in one or a few locations." There may be instances when a Watershed Water Quality Activity may be applicable in only one or a few locations. The activity has to be implemented at all applicable and feasible locations and the implementing Copermittee would need to demonstrate this.</p> <p>The Copermittees also request clarification on whether an activity conducted in a given year can be counted toward the minimum</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
			<p>of pollutants causing the high priority water quality problem(s) within the watershed. For jurisdictional or regionally based activities to be considered Watershed Water Quality Activities in a watershed, the Copermittee must implement the activities at applicable and feasible location(s) throughout its portion of the watershed. TMDL activities which meet the criteria of this definition discussed above may also be considered Watershed Water Quality Activities".</p>	<p>requirements in subsequent years. Activities shown to be effective should continue to be used as long as they continue to be effective, regardless of whether they have been counted in a previous year.</p>
44	E.2.i(1)	<p>Short-term - At a minimum, each Copermittee shall implement two Watershed Water Quality Activities within its portion of each watershed annually".</p>	<p>Modify as follows: "Short-term - At a minimum, each Copermittee shall implement two Watershed Water Quality Activities within its portion of each watershed annually. Short-term activities shall mean those activities that are to be completed during the life of this Order and demonstrate forward progress on an annual basis".</p>	<p><u>Definition of Short-term Watershed Water Quality Activity</u> -- It is unclear whether the definition of short-term activities is meant to allow only those which can be completed in a single year (i.e., implemented annually). The overall strategy developed for each watershed should include a selection of activities designed to best achieve its overall objectives. Restricting short-term activities to those that can be completed in a single year will unnecessarily exclude viable options.</p> <p>The proposed modification incorporates the existing Order 2001-01 definition to clarify that short-term activities can include any qualifying activity which will be completed during the permit cycle (rather than annually), and adds "and demonstrate forward progress on an annual basis". It does not change the requirement to initiate two activities each year.</p>

F. RURMP

No comments at this time

G. Fiscal Analysis

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
47	G.3	[4th sentence] The fiscal analysis shall identify the expenditures incurred by the Copermittee over the Annual Report's reporting period.	Modify as follows: Delete this sentence.	<p><u>Copermittee reporting on expenditures</u> -- The fiscal analysis section of the Tentative Order significantly expands the responsibilities of Copermittees over those in the existing Order. As described in the ROWD, the Copermittees support the development of improved methods of analysis and increased consistency across their programs.</p> <p>The Copermittees generally support this section as drafted, with the exception of the fourth sentence, which would require that they report on expenditures incurred over the previous fiscal year. As discussed at the RWQCB December 14, 2005 Workshop of fiscal analysis requirements, the Copermittees do not feel that a requirement to report on past year expenditures is appropriate or feasible.</p> <p>For most Copermittees, implementation activities are embedded in dozens of individual departments and programs. Many of the costs currently projected in Copermittee fiscal analyses must be estimated as a percentage of an existing cost (e.g., BMP implementation costs are estimated as a percentage of a CIP, staff costs as a percentage of existing inspections, etc.). While it is generally reasonable to use such methods for projecting costs during program planning, it would be impossible to track the actual expenditures associated with those estimates over the reporting period. Additionally, the value of this information in assessing Copermittee compliance would minimal since expenditures are not an indicator of</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
				performance.
H. TMDLs				
No comments at this time				
I. Program Effectiveness Assessment				
49, 50, 51, 52	1.1.(b), 1.2.(b), 1.3.(b), 1.4.(b)	<p>1.1.(b) -- Where monitoring data exhibits persistent water quality problems, jurisdictional activities or BMPs applicable to the water quality problems shall to be modified and improved on at least an annual basis to correct the water quality problems.</p> <p>1.2.(b) -- Where monitoring data exhibits persistent water quality problems, Watershed Water Quality Activities and Watershed Education Activities applicable to the water quality problems shall to be modified and improved on at least an annual basis to correct the water quality problems.</p> <p>1.3.(b)-- Where monitoring data exhibits persistent water quality problems, regional activities applicable to the water quality problems shall to be modified and improved on at least an annual basis to correct the water quality problems.</p> <p>1.4.(b) -- Where monitoring data exhibits persistent water quality problems, BMPs applicable to the water quality problems shall to be modified and improved on at least an annual basis to correct the water quality problems.</p>	<p>Modify as follows:</p> <p>1.1.(b) -- Where monitoring data exhibits persistent water quality problems, jurisdictional activities or BMPs applicable to the water quality problems shall be modified and improved on as necessary to correct the water quality problems.</p> <p>1.2.(b) -- Where monitoring data exhibits persistent water quality problems, Watershed Water Quality Activities and Watershed Education Activities applicable to the water quality problems shall be modified and improved on as necessary to correct the water quality problems.</p> <p>1.3.(b)-- Where monitoring data exhibits persistent water quality problems, regional activities applicable to the water quality problems shall be modified and improved on as necessary to correct the water quality problems.</p> <p>1.4.(b) -- Where monitoring data exhibits persistent water quality problems, BMPs applicable to the water quality problems shall be modified and improved on as necessary to correct the water quality problems.</p>	<p><u>Time frames for modification of Copermittee programs</u> -- The last sentence of each of these sections unrealistically implies that activities and BMPs can be reviewed and modified as part of each annual review cycle. The Copermittees agree that annual reviews are necessary and useful, but the current phrasing of these sections would also <u>require</u> annual modification and improvement based on those reviews. This doesn't make sense since the effectiveness of Copermittee compliance strategies in addressing water quality problems cannot often be meaningfully evaluated within a one-year period.</p> <p>Copermittees should continue to be responsible for documenting water quality problems, and for making appropriate program modifications in response to them, but the phrase "on an annual basis" be replaced in each section with "as necessary" to allow appropriate schedules for modification to be established.</p>
50	1.2.a.(5)	Utilize outcome levels 5 and 6 to assess the	Delete this requirement or modify as follows:	<u>Use of Level 5 and 6 Outcomes Annually</u> -- As

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		effectiveness of implementation of the Watershed Urban Runoff Management Program as a whole, focusing on the high priority water quality problem(s) of the watershed. These assessments shall exhibit the impact of Watershed Urban Runoff Management Program implementation on the high priority water quality problem(s) within the watershed.	<u>Where applicable and feasible</u> , utilize outcome levels 5 and 6 to assess the effectiveness of implementation of the Watershed Urban Runoff Management Program as a whole, focusing on the high water quality problem(s) of the watershed.	<p>drafted, this section would require a level of analysis that is impractical on an annual basis. The Copermittees' ROWD specifically recommended that annual analysis of Level 5 and 6 outcomes be limited to a qualitative review of results from the Receiving Waters Monitoring Program, and that correlation of program implementation to changes in water quality be conducted only as part of the long-term (5-year) effectiveness assessment. Because of the complexity and expense of this analysis, it is unrealistic to expect it can be completed annually.</p> <p>This section should be qualified with "where applicable and feasible" as has already been done for Watershed Water Quality Activities and Water Education Activities (I.2.a.(1)(a) and I.2.a.(1)(b)), and the last sentence removed.</p>
J. Reporting				
53-56, D-1 to D-4, E-1 to E-5 RWM&RP, 15 to 22	J Att. D Att. E RWM&RP	Section J – Reporting (pp. 53-56) Attachment D (Individual JURMP Contents) Attachment E (Individual JURMP Annual Report Contents) Receiving Waters Monitoring & Reporting Program, Section III, pp. 15-22 (Reporting Program)	Modify as follows: Consolidate all reporting requirements into a single section or attachment.	<p><u>Consolidation of submittal and reporting requirements</u> -- Detailed requirements for submittals and reports are spread throughout multiple sections of the Tentative Order. The Copermittees recommend that all reporting requirements for the JURMP, WURMP and RURMP be contained in a consistent location. Consolidation would make it easier to follow and therefore understand these requirements. Section G of the 11-1-05 draft permit language submitted by the County provides an example of how these requirements could be consolidated.</p> <p>The Copermittees further suggest that the</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
				Receiving Water Monitoring and Reporting Program contain only monitoring requirements associated with the Monitoring Program annual report.
53 55 16 18	J.1.b J.2.c III.1.b III.2.c	Unified JURMP (Common Activities) Unified WURMP (Common Activities) Unified JURMP Annual Report (Common Activities) Unified WURMP Annual Report (Common Activities)	Modify as follows: Either delete these sections or move them under J.3 (RURMP) and modify accordingly.	<u>Consolidation of Unified JURMP and Unified WURMP submittals under the RURMP</u> -- With the creation of a RURMP, there is no longer a need for stand-alone JURMP and WURMP common activities sections. These should instead be incorporated as sections of the RURMP, and deleted as separate requirements. Their inclusion in the RURMP is implicit in Section J.3.a. However, if RWQCB staff prefers to make the requirement for this content more explicit, it could be achieved by moving the text from J.1.b and J.2.c into J.3 and making minor modifications. Corresponding changes should also be made to the annual reporting requirements contained in Receiving Waters Monitoring & Reporting Program, Section III.1.b and III.2.c, pp. 15-22 (Reporting Program).

K. Modification of Programs

No comments at this time

L. All Copermittee Collaboration

No comments at this time

M. Principal Permittee Responsibilities

No comments at this time

N. Receiving Water Monitoring and Reporting Program

See below under Receiving Water Monitoring and Reporting Program No. R9-2006-0011

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
O. Standard Provisions, Reporting Requirements, and Notifications				
No comments at this time				
Attachment A. Basin Plan Prohibitions				
No comments at this time				
Attachment B. Standard Provisions, Reporting Requirements, and Notifications				
No comments at this time				
Attachment C. Definitions				
No comments at this time				
Attachment D. JURMP Contents				
No comments at this time				
Attachment E. JURMP Annual Report Contents				
See above under General Issues				
Attachment F. Scheduled Submittal Summary				
No comments at this time				
Receiving Water Monitoring and Reporting Program No. R9-2006-0011				
RWM& RP, p.9	2.A.8 2.A.9	<p>2.A.8. -- The Copermittees shall collaborate to develop and implement a monitoring program to effectively measure and assess the presence of pyrethroids in urban runoff and receiving waters, as well as assess the impacts of pyrethroids on beneficial uses.</p> <p>2.A.9. -- The Copermittees shall collaborate to develop and implement a monitoring program to effectively measure and assess the presence of trash (anthropogenic litter) in urban runoff and receiving waters, as well as assess the impacts of trash on beneficial uses.</p>	<p>Remove requirements to assess the impact of pyrethroids and trash on beneficial uses as follows:</p> <p>2.A.8. -- The Copermittees shall collaborate to develop and implement a monitoring program to effectively measure and assess the presence of pyrethroids in urban runoff and receiving waters.</p> <p>2.A.9. -- The Copermittees shall collaborate to develop and implement a monitoring program to effectively measure and assess the presence of trash (anthropogenic litter) in urban runoff and receiving waters.</p>	<p><u>Assessment of Beneficial Uses</u> -- These sections would require that Copermittees assess the impacts on beneficial uses from pyrethroids and trash in discharges from their MS4s. This is above and beyond what is stated as the purpose (goals) of the overall Receiving Waters Monitoring Program, Sections I.A & I.B.</p> <p>Since the Region 9 Basin Plan does not contain numerical water quality objectives for either of these two constituents, and the most closely applicable narrative objectives are too vague to facilitate such assessment, this requirement would unreasonably burden the Copermittees with the development of applicable objectives.</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
				<p>The assessment of beneficial uses, and the development of water quality standards to protect them, are conducted by the RWQCB as part of the existing regulatory process (Basin Plan Amendments, Identification of 303(d) Impaired Waterbodies, TMDLs, SWAMP).</p> <p>In the absence of clearly defined standards for assessing the impacts on beneficial uses from pyrethroids and trash, Copermittee responsibilities should be limited to 1) monitoring and assessing these constituents in urban runoff and receiving waters, 2) developing methods to reduce them, and 3) assessing the effectiveness of their programs in reducing them.</p> <p>The responsibilities identified above are consistent with the overall purpose of the Monitoring Program (I.A.1-8). Additionally, the above-mentioned responsibilities could identify whether conditions in receiving waters are protective or likely to be protective of beneficial uses, consistent with Section I.B.1.</p>
RWM& RP, p.9	2.A.8 through 12	<p>8. PYRETHROIDS MONITORING The Copermittees shall collaborate to develop and implement a monitoring program to effectively measure and assess the presence of pyrethroids in urban runoff and receiving waters, as well as assess the impacts of pyrethroids on beneficial uses. This monitoring program shall be implemented within each watershed and shall begin no later than the 2007-2008 monitoring year.</p> <p>9. TRASH MONITORING The Copermittees shall collaborate to develop and</p>	Further discussion is needed before specific modifications can be proposed.	<p><u>New Monitoring Programs</u> – In addition to the modification of existing monitoring programs, the Tentative Order requires the establishment of several new elements:</p> <ul style="list-style-type: none"> ✦ Pyrethroids monitoring ✦ Trash monitoring ✦ MS4 discharge monitoring ✦ Source identification studies ✦ TMDL monitoring

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>implement a monitoring program to effectively measure and assess the presence of trash (anthropogenic litter) in urban runoff and receiving waters, as well as assess the impacts of trash on beneficial uses. This monitoring program shall be implemented within each watershed and shall begin no later than the 2007-2008 monitoring year.</p> <p>10. MS4 DISCHARGE MONITORING The Copermittees shall collaborate to develop and implement a monitoring program to characterize pollutant discharges from MS4 outfalls in each watershed during wet and dry weather. Outfalls to be monitored shall be representative of the outfalls within each watershed in terms of size, flow, drainage area conditions (such as land use), etc. The program shall include rationale and criteria for selection of outfalls to be monitored. The program shall at a minimum include collection of samples for those pollutants causing or contributing to violations of water quality standards within the watershed. Frequency of monitoring and monitoring methods shall ensure monitoring which is representative of outfall discharge flow and pollutant conditions. This monitoring program shall be implemented within each watershed and shall begin no later than the 2007-2008 monitoring year.</p> <p>11. SOURCE IDENTIFICATION STUDIES The Copermittees shall collaborate to develop and implement a monitoring program to identify sources of discharges of pollutants causing the high priority water quality problems within each watershed. The monitoring program shall include focused monitoring which moves upstream into each watershed as necessary to identify sources. The monitoring program shall use source</p>		<p>The Copermittees are currently reviewing each of these in detail to better understand their intent, potential approaches to implementing them, costs and technical requirements, and their relationship to existing priorities. A priority for this review is to determine consistency with existing goals and core management questions, as well the general approach articulated in the SMC Model Stormwater Monitoring Program for MS4s in Southern California. Additionally, the Copermittees seek to ensure consistency and maximum integration with existing implementation and monitoring program elements (WURMPs, MS4 maintenance, mass loading monitoring, temporary watershed assessment stations, dry weather monitoring, etc.).</p> <p>The Copermittees will continue fleshing out these requirements, and intend to submit detailed written comments on them. We would welcome dialogue with RWQCB staff during that time.</p>

Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 5/4/2006

Priority Issues for April 26, 2006 RWQCB Workshop

Page	Section	Current Language	Proposed Changes	Comments
		<p>inventories and "Threat to Water Quality" analysis to guide monitoring efforts. This monitoring program shall be implemented within each watershed and shall begin no later than the 2007-2008 monitoring year.</p> <p>12. TMDL MONITORING All monitoring shall be conducted as required in Investigation Order No. R9-2004- 0277 for Chollas Creek.</p>		
RWM& RP, p.8	II.6.b	<p>(3) Re-sampling shall be implemented within 24 hours of receipt of analytical results for coastal storm drains where:</p> <p>(a) Both storm drain and receiving water samples exceed AB 411 or Basin Plan standards for any bacterial indicator.</p> <p>(b) The storm drain sample exceeds 95th percentile observations of the previous year's data for any bacterial indicator.</p>	<p>Modify Coastal Storm Drain Monitoring Program requirements as follows:</p> <p>(3) Where applicable and feasible, re-sampling shall be implemented within one business day of receipt of analytical results for coastal storm drains where:</p> <p>(a) Both storm drain and receiving water samples exceed AB 411 or Basin Plan standards for any bacterial indicator.</p> <p>(b) The storm drain sample exceeds 95th percentile observations of the previous year's data for any bacterial indicator.</p> <p>(4) If re-sampling cannot be conducted within one business day, it must be implemented at the next feasible opportunity and written justification as to the delay in re-sampling must be submitted in the appropriate Copermittee Report.</p> <p>[RENUMBER REMAINING SECTIONS ACCORDINGLY]</p>	<p><u>Follow-up Times for Coastal Storm Drain Monitoring</u> – As with dry weather monitoring, re-sampling under the Coastal Storm Drain Monitoring Program cannot always be conducted within a strict time frame (in this case 24-hours). The following changes would provide the needed flexibility to take into consideration factors normally outside of Copermittee control (weather conditions, rain and/or wet periods when sampling cannot occur, laboratory staffing/hours, staff availability, or potential weekend/holiday work):</p> <p>(1) Addition of "Where applicable and feasible"</p> <p>(2) Modification of "24-hours" to "one business day"</p> <p>(3) Addition of sub-section II.6.b.(4) as shown (remaining text would need to be renumbered accordingly).</p>

