

Draft Definition of Prior Lawful Approval for Priority Development Projects
Revised June 23, 2015

Revise Provision E.3.e.(1)(a) as follows:

e. PRIORITY DEVELOPMENT PROJECT BMP IMPLEMENTATION AND OVERSIGHT

Each Copermittee must implement a program that requires and confirms structural BMPs on all Priority Development Projects are designed, constructed, and maintained to remove pollutants in storm water to the MEP.

(1) Structural BMP Approval and Verification Process

(a) Each Copermittee must require and confirm that all Priority Development Projects implement the requirements of Provision E.3, except that the Copermittee may allow previous land development requirements to apply to a Priority Development Project if ~~all of the following~~ conditions of Provision E.3.e.(1)(a)(i) or Provision E.3.e.(1)(a)(ii) are met:

(i) The Copermittee has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d.:

[a] aApproved¹ a design that incorporates the storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs consistent with the previous applicable MS4 permit requirements;² AND

[b] Issued a private project permit or approval, or functional equivalent for public projects, that authorizes the Priority Development Project applicant to commence construction activities based on a design that incorporates the storm water drainage system approved in conformance with Provision E.3.e.(1)(a)(i)[a], AND

[c] Confirmed that there have been construction activities on the Priority Development Project site within the 365 days prior to the effective date of the BMP Design Manual, OR the Copermittee confirms that construction activities have commenced on the Priority Development Project site within the 180 days after the effective date of the BMP Design Manual, where construction activities are undertaken in reliance on the permit or approval, or functional equivalent for public projects, issued by the Copermittee in conformance with Provision E.3.e.(1)(a)(i)[b].

[d] All subsequent private project permits or approvals, or functional equivalent for public projects, that are needed to implement the

¹ For public projects, a design stamped by the City or County Engineer, or engineer of record for the project is considered an approved design.

² Order Nos. R9-2007-0001, R9-2009-0002, and R9-2010-0016 for San Diego County, Orange County, and Riverside County Copermittees, respectively

design initially approved in conformance with Provision E.3.e.(1)(a)(i)[a], must be issued within 5 years of the effective date of the BMP Design Manual. The storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs must remain in substantial conformity with the design initially approved in conformance with Provision E.3.e.(1)(a)(i)[a].

- (ii) The Copermittee does not have the land use authority or legal authority to require a Priority Development Project to implement the full requirements of Provision E.3. ~~has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, issued a building permit, or functional equivalent, that authorizes the Priority Development Project applicant to commence construction activities, based on a design that incorporates the approved storm water drainage system for the Priority Development Project in its entirety; AND~~
- ~~(iii) The Copermittee confirms that there have been construction activities on the Priority Development Project site within the 365 days prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, OR the Copermittee confirms that construction activities will commence on the Priority Development Project site within the 180 days after the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, where construction activities are undertaken in reliance on the building permit, or functional equivalent, issued by the Copermittee in conformance with Provision E.3.e.(1)(a)(ii).~~