



**Response to Comments on the Draft Statewide
Stormwater Permit and
Time Schedule Order
Comments Received on the Draft Permit Posted on
June 25, 2021, with Comment Period Ending on
August 27, 2021**



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**Response to Comments on
Draft Statewide Stormwater Permit and Draft Time Schedule Order
California Department of Transportation
Written Comment Period: June 25, 2021 - August 27, 2021**

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Introduction

On June 25, 2021, the State Water Board published a Hearing Notice and Request for Comments on the draft Statewide Stormwater Permit (draft Order) and draft Time Schedule Order for the California Department of Transportation. The State Water Board Hearing to receive oral comments was conducted on July 20, 2021. The written comment period was from June 25, 2021, to August 27, 2021, at 12:00 p.m. The State Water Board received 14 comment letters.

The State Water Board has evaluated all submitted comments. This Response to Comments provides the commenter name, summary of each comment, the draft Order and draft Time Schedule Order provision addressed by the comment and response, which includes revised text where applicable.

- Comments are organized into 10 categories. The first column in the table provides the comment category and the comment number within the category (e.g., 9.05 is category nine, comment number five).
- Comment letters on the draft Order and draft Time Schedule Order are available on request. Please send an email request to staff at Sheena.Dhillon@waterboards.ca.gov.

Terms and Acronyms

Term or Acronym	Definition
40 C.F.R.	Title 40, Code of Federal Regulations
6PPD-quinone	N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine-quinone
Department	California Department of Transportation
DWQ	Division of Water Quality
draft Order	draft Statewide Stormwater Permit for California Department of Transportation, published for public comment on June 25, 2021
draft Time Schedule Order	draft Time Schedule Order for California Department of Transportation, published for public comment on June 25, 2021
et seq.	"and the following", which denotes a series of applicable draft Order sections
existing Order	existing Department of Transportation Statewide Stormwater Permit, Order 2012-0011-DWQ as amended
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
California Ocean Plan	Water Quality Control Plan for Ocean Waters of California (https://www.waterboards.ca.gov/water_issues/programs/ocean/docs/oceanplan2019.pdf)
Regional Water Boards	Regional Water Quality Control Boards
SMARTS	Stormwater Multiple Application and Report Tracking System
State Water Board	State Water Resources Control Board
TMDL	Total Maximum Daily Load
Trash Provisions	Trash Provisions are the statewide water quality objective for trash, the prohibition of discharge, and associated implementation requirements set forth in the California Ocean Plan (https://www.waterboards.ca.gov/water_issues/programs/trash_control/docs/trash_app_d_121015.pdf) and set forth in the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (https://www.waterboards.ca.gov/water_issues/programs/trash_control/docs/trash_appendix_e_121615.pdf)
U.S. EPA	United States Environmental Protection Agency
Water Boards	Collectively the State Water Board and the Regional Water Boards
WQO	Water Quality Order

Comment Categories

Comment Category	Comment Category Description
1.	Draft Order
2.	Draft Attachment A, Fact Sheet
3.	Draft Attachment B, Acronyms, Abbreviations, and Definitions
4.	Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
5.	Draft Attachment D, TMDL Implementation Requirements
6.	Draft Attachment E, Trash Implementation Requirements
7.	Draft Attachment F, Monitoring Requirements and Monitoring Reporting
8.	Draft Time Schedule Order
9.	General
10.	Costs

List of Commenters and Associated Comment Numbers

Comment Numbers	Commenter	Representative
4.01, 4.03, 4.06, 5.16, 6.01, 6.02, 10.01, 10.02	California Transportation Commission	Hilary Norton, Chair
9.02, 9.07, 9.08, 9.09	Los Angeles County Metropolitan Transportation Authority	Emmanuel Liban, Chief Sustainability Officer
4.04, 4.05, 5.04, 5.05	Orange County Department of Public Works	Amanda Carr, Deputy Director
4.07, 5.06, 6.03, 6.04	Stone Creek Environmental Consulting	Colleen Hunt
1.05, 1.06, 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 9.01	TECS Environmental	Ray Tahir
4.08, 9.04	The City of San Diego, Stormwater Department	Andrew Kleis, Deputy Director of the Stormwater Department
2.08, 4.09, 4.10, 5.07, 5.08, 6.12	United States Environmental Protection Agency, Region IX	Elizabeth Sablad, Program Manager
1.08, 1.09, 2.07, 3.01, 4.02, 4.11, 4.18, 5.03, 5.09, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.17, 6.05, 6.06, 6.13, 6.14, 7.01, 7.02, 8.01, 8.02	Department of Transportation	Janice Benton PE, Chief Engineer
6.07, 9.06	Center for Biological Diversity	Emily Jeffers
4.17	Contech Engineered Solutions	Vaikko Allen, Director Stormwater Management
4.12, 4.13, 5.02, 9.03	City of Los Angeles	Michael Scaduto, PE ENV SP, Acting Division Manager

Comment Numbers	Commenter	Representative
1.07, 4.19, 6.08, 6.09, 6.10, 6.11, 9.05	California Stormwater Quality Association	Karen Cowan, Executive Director
4.15, 4.16	City of Huntington Beach, Department of Public Works	Jim Merid, Environmental Services Manager
1.01, 1.02, 1.03, 1.04, 4.14, 5.01, 6.15, 7.03, 8.03	California Coastkeeper Alliance	Sean Bothwell, Executive Director

Response to Comments

<p>Comment Number</p>	<p>Comment Category 1: Draft Order</p>
<p>1.01</p>	<p><u>Commenter</u>: California Coastkeeper Alliance</p> <p><u>Comment Summary</u>: Draft Order, section 3.4, Violations of Water Quality Objectives and Standards</p> <p>Draft Order section 3.4, regarding violations of water quality objectives and standards, must be revised to include a “cause or contribute” clause that is clear, precise, and enforceable and that addresses any discharge that causes or contributes to a violation of water quality objectives.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise draft Order, section 3.4 as follows:</p> <p style="padding-left: 40px;">Discharges that cause or contribute to violations of water quality standards or water quality objectives, or impacts the beneficial uses established in a water quality control plan or in a promulgated policy and applicable WQOs_of the State or Regional Water Boards are prohibited.</p> <p><u>Comment Response</u>: Revisions have been made in response to the comment. Revisions have been made to draft Order section 3.4 and to draft Fact Sheet section A5.4. The language has been revised to encompass any discharge from the Department’s municipal separate storm sewer system (MS4), including unauthorized non-stormwater, and unidentified uses and objectives established but not explicitly listed, such as in federal regulations. Water quality orders were not referenced because water quality orders do not establish beneficial uses.</p> <p>Draft Order, section 3.4 has been revised as follows:</p> <p style="padding-left: 40px;">3.4 Exceedances of Water Quality Objectives and Standards</p> <p style="padding-left: 80px;">Discharges that cause or contribute to an exceedance of a water quality objective or unreasonably affect a beneficial use are prohibited.</p> <p>Draft Fact Sheet, section A5.4 has been revised as follows:</p>

Comment Number	Comment Category 1: Draft Order
	<p>A5.4 Discharge Prohibition for Violations of Water Quality Objectives and Standards</p> <p>This Order prohibits discharges that cause or contribute to exceedances of water quality objectives or that unreasonably effect beneficial uses.</p>
<p>1.02.a</p>	<p><u>Commenter</u>: California Coastkeeper Alliance</p> <p><u>Comment Summary</u>: This is a three-part comment (i.e., comment numbers 1.02.a, 1.02.b, and 1.02.c) for Draft Order, section 13.10, Monitoring and Records Provisions</p> <p>Photo documentation should be submitted along with the Department’s site inspection reports and sampling data to the Stormwater Multiple Application and Report Tracking System (SMARTS). Photos should be associated with metadata that identifies who took the photo, and when and where the inspections were conducted, and photos were taken. The Department’s reports are very cursory and photo documentation would provide accountability.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Add the following new section to draft Order, section 13.10:</p> <ul style="list-style-type: none"> 5. Records of inspection information shall be uploaded to SMARTS and include the following: <ul style="list-style-type: none"> a. The date, exact place, and time of the inspection; b. The individual(s) who performed the inspection; c. Two photos documenting the inspection; and d. The results of the inspection. <p><u>Comment Response</u>: Revisions have been made in response to the comment. The following requirements have been added to draft Attachment C, sections C3.5 and sections C3.6 and to draft Attachment G, Table G-1:</p>

Comment Number	Comment Category 1: Draft Order									
	<p>C3.5 Maintenance and Operations</p> <p>The Department shall describe the compliance protocol for maintenance and non-maintenance facility and highway maintenance activities described in sections C3.5.1 through 3.5.5, below. For activities that include inspections, inspection reports shall be prepared and submitted that include the following information: (1) date and time; (2) location (physical address or GIS location); (3) name of inspector; (4) results of inspection; (5) photographs that document conditions; and (6) recommendations. Inspection reports shall be uploaded to SMARTS within 60 days of an inspection.</p> <p>C6 Inspection Reports</p> <p>Upload inspection reports to SMARTS within 60 days of the inspection.</p> <p>G3 REQUIRED REPORTS, PLANS, MONITOIRNG DATA and NOTIFICATION DUE DATES</p> <p>Table G-1, Reporting and Notification Due Dates</p> <table border="1" data-bbox="363 894 1883 1084"> <thead> <tr> <th data-bbox="363 894 905 935">[:]</th> <th data-bbox="905 894 1312 935"></th> <th data-bbox="1312 894 1883 935"></th> </tr> </thead> <tbody> <tr> <td data-bbox="363 935 905 1008">Maintenance Facility Inspection Reports</td> <td data-bbox="905 935 1312 1008">Attachment C, sections C5.18 and C6</td> <td data-bbox="1312 935 1883 1008">Upload to SMARTS within 60 days of the inspection</td> </tr> <tr> <td data-bbox="363 1008 905 1084">Post-Construction Inspection Report</td> <td data-bbox="905 1008 1312 1084">Attachment C, sections C5.18 and C6</td> <td data-bbox="1312 1008 1883 1084">Upload to SMARTS within 60 days of the inspection</td> </tr> </tbody> </table>	[:]			Maintenance Facility Inspection Reports	Attachment C, sections C5.18 and C6	Upload to SMARTS within 60 days of the inspection	Post-Construction Inspection Report	Attachment C, sections C5.18 and C6	Upload to SMARTS within 60 days of the inspection
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Comment Number	Comment Category 1: Draft Order
1.02.b	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Stormwater Management Plan, Draft Attachment C</p> <p>The State Water Board and applicable Regional Water Boards should do frequent spot reviews of the Department’s self-inspections to verify whether thorough inspections are being conducted.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. The Regional Water Boards are responsible for overseeing a wide variety of complex programs, including the Department’s statewide stormwater Order. As such, it is appropriate to allow the Regional Water Boards to exercise their discretion to determine when and how to exercise their inspection authority.</p>
1.02.c	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Order, section 13.9, Monitoring and Records Provisions</p> <p>Provide local municipalities with the authority to conduct Caltrans site inspections, similar to the authority provided to local municipalities to inspect industrial facilities in the Industrial General Stormwater Permit.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise draft Order, section 13.9 as follows:</p> <p style="padding-left: 40px;">Upon the presentation of credentials and other documents required by law, the Department shall allow representatives of the State Water Board, Regional Water Boards, U.S. EPA and/or local Municipalities to (33 United States Code section 1318(a)(4)(B); Title 40, Code of Federal Regulations (40 C.F.R.) section 122.41(i); Water Code sections 13267 and 13383).</p> <p><u>Comment Response:</u> No change has been made in response to this comment. Whereas the federal regulations clearly grant authority to MS4s to inspect industrial facilities that discharge to their storm sewer system, (40 C.F.R.</p>

Comment Number	Comment Category 1: Draft Order
	122.26(d)(2)(i)), such clear authority is not available to municipalities to inspect non-industrial facilities, including the Department’s MS4.
1.03	<p><u>Commenter</u>: California Coastkeeper Alliance</p> <p><u>Comment Summary</u>: Draft Order, section 3.3, Trash</p> <p>Prevent the Department from mowing trash because mowing generates small trash pieces that are more easily transported by wind, ultimately to waterways. This trash can persist in the environment for decades, polluting the water and harming fish and animals that mistake it for food. The commenter appreciates the State Water Board’s attempt to stop the Department from mowing trash and creating a more pervasive problem by requiring the Department to remove trash as part of the Stormwater Management Plan, but fears that this provision will be disregarded, lost, and/or minimized if it remains as a small unnoticed provision in the draft Order’s Stormwater Management Plan. Move this provision into the draft Order as a Discharge Prohibition under the Trash provision.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: In draft Order, section 3.3, Trash, add a new Discharge Prohibition related to removing trash prior to mowing.</p> <p>3.3 Trash</p> <p>The discharge of trash to surface waters of the State or the deposition of trash where it may be discharged into surface waters of the State is prohibited. Compliance with this discharge prohibition shall be achieved through compliance with the trash requirements in Attachment E of this Order.</p> <p>The mowing of trash within Department-owned vegetated right of ways is prohibited. The Department shall remove trash before mowing from vegetated right of ways and dispose of the trash appropriately. Compliance with applicable Water Quality Objectives for trash is not achieved through compliance with this discharge prohibition.</p> <p><u>Comment Response</u>: Revisions have been made to Attachment C, section C3.5.3.1 in response to the comment. As noted in the comment, draft Order, section 3.3 prohibits the discharge of trash and implements that prohibition</p>

Comment Number	Comment Category 1: Draft Order
	<p>through the trash requirements in Draft Attachment E. In a change from the existing Order, the draft Order now explicitly requires that the Department develop procedures to collect trash prior to mowing. The present location of this requirement in the draft Order is appropriate. And though the Department is required to address all provisions of the Stormwater Management Plan’s requirements, Water Board oversight will ensure this provision is adequately addressed. In addition, the list in section C3.5.3.1 has been re-ordered to make the trash collection requirement more prominent, as follows:</p> <p><i>C3.5.3.1 Runoff Management</i></p> <p>The Department shall describe procedures, programs, and systems for maintenance of existing roads, highways, and bridges to reduce runoff pollutant concentrations and volumes entering surface waters according to the following requirements:</p> <ol style="list-style-type: none"> 1. Collect trash before mowing vegetated areas and dispose of the trash appropriately; 2. Prioritize watershed pollutant reduction opportunities (e.g., improvements to existing best management practices). Priority shall be given to sites in sensitive watersheds or where there is an existing or potential threat to water quality;
1.04	<p><u>Commenter</u>: California Coastkeeper Alliance</p> <p><u>Comment Summary</u>: Draft Order section 13.8, Duty to Provide Information, and Fact Sheet section A9.3.3.4, Contractor Compliance</p> <p>Require Caltrans to notify the State and Regional Water Boards when one of its contractors is required to enroll in one of the Construction Stormwater Permits.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise draft Order, section 13.8, Duty to Provide Information as follows:</p>

Within a reasonable time specified by the State Water Board, Regional Water Boards, or U.S. EPA, the Department shall furnish records, reports, or information required to be kept by this Order, and shall furnish any information requested to determine whether cause exists for modifying, revoking, and reissuing, or terminating this Order or to determine compliance with this Order. (40 C.F.R. section 122.41(h)). The Department shall notify the State Water Board and the applicable Regional Board when its contractors need to obtain regulatory permit coverage under the Construction Stormwater General Permit and/or the Lake Tahoe Construction Stormwater General Permit, as required.

Revise draft Fact sheet, Attachment A, section A9.3.3.4, Contractor Compliance as follows:

This Order requires the Department to ensure its contractors comply with the applicable requirements of this Order and regulatory coverage is obtained under the Statewide Construction Stormwater General Permit and Lake Tahoe Construction Stormwater General Permit, as required. The Department shall notify the State Water Board and the applicable Regional Water Board when its contractors need to obtain regulatory permit coverage, as required.

Comment Response: Revisions have been made to section 13.8 in response to the comment. Section A9.3.3.4 will not be revised. The requirement in section 13.8 has been revised to require the Department to inform the Water Boards when a contractor fails to obtain required construction stormwater permit coverage. Notification is not required when contractors appropriately obtain construction stormwater permit coverage. Revisions to Draft Order section 13.8, Duty to Provide Information, are as follows:

13.8 Duty to Provide Information

Within a reasonable time specified by the State Water Board, Regional Water Boards, or U.S. EPA, the Department shall furnish records, reports, or information required to be kept by this Order and shall furnish any information requested to determine whether cause exists for modifying, revoking, and reissuing, or terminating this Order or to determine compliance with this Order. (40 C.F.R. section 122.41(h)).

The Department shall notify the State Water Board and the applicable Regional Water Board when its contractors fail to obtain required regulatory coverage under the Statewide Construction Stormwater General Permit and/or the Lake Tahoe Construction Stormwater General Permit.

Comment Number	Comment Category 1: Draft Order
1.05	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> Draft Order, section 2.2, Legal Authorities</p> <p>The draft Order generally refers to Clean Water Act section 402 as the legal basis for MS4 permits. Clean Water Act 402 is expansive, this reference should be narrowed down to specify the legal authority.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. Clean Water Act section 402 establishes the NPDES permitting system, including permits for municipal separate storm sewer systems.</p>
1.06	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> Draft Order, section 7.2, New or Revised Water Quality Objectives or Total Maximum Daily Loads</p> <p>The title of this section should be changed from “Water Quality Objectives” to “Water Quality Standards.” Water quality standards are used by U.S. EPA while the state uses water quality objectives. However, basin plans give deference to water quality standards.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. The term “Water Quality Objectives” is correct. Section 13050(b) of the Porter-Cologne Water Quality Control Act (March 2021) defines water quality objectives as follows: “‘Water quality objectives’ means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.”</p>

1.07	<p><u>Commenter:</u> California Stormwater Quality Association</p> <p><u>Comment Summary:</u> Draft Order, section 3.1, Maximum Extent Practicable, and section 3.2.5, Compliance Plan for Areas of Special Biological Significance</p> <p>The discharge prohibition language referencing the prohibition on discharges containing pollutants that have not been reduced to the maximum extent practicable in draft Order, section 3.1 should reference the trash requirements of Draft Attachment E, including the Trash Implementation Plan. Similarly, as compliance with the discharge prohibition related to trash in draft Order, section 3.2.4.1 regarding Areas of Special Biological Significance is achieved through implementation of the approved Trash Implementation Plan developed according to the Trash Provisions, the Areas of Special Biological Significance Compliance Plan in section 3.2.5 should reference Draft Attachment E, including the Trash Implementation Plan.</p> <p><u>Commenter's Suggested Draft Order Language:</u></p> <p>Revise draft Order, section 3.1 as follows:</p> <p>3.1 Maximum Extent Practicable</p> <p>Stormwater discharges regulated under this Order containing pollutants that have not been reduced to the maximum extent practicable are prohibited. The Department shall achieve the pollutant reductions described in this Prohibition through compliance with the provisions of this Order, and implementation of its approved Stormwater Management Plan, as described in Attachment C, and implementation of its approved Trash Implementation Plan, consistent with Attachment E.</p> <p>Revise draft Order, section 3.2.5 as follows:</p> <p><i>3.2.5 Compliance Plan for Areas of Special Biological Significance</i></p> <p>Discharges shall be in accordance with an approved Areas of Special Biological Significance Compliance Plan. Attachment C provides information for the Areas of Special Biological Significance Compliance Plan. Compliance with the prohibition of trash to Areas of Biological Significance shall be met through the Statewide Trash Implementation Plan and requirements of Attachment E. The Areas of Special Biological Significance</p>
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Comment Number	Comment Category 1: Draft Order
	<p>Compliance Plan and the Statewide Trash Implementation Plan are subject to review and consideration of approval by State Water Board Executive Director.</p> <p><u>Comment Response:</u> No changes have been made in response to this comment.</p> <p>Regarding the requested change to draft Order, section 3.1: The section references compliance with the draft Order as a whole; draft Attachment E is incorporated through that reference.</p> <p>Regarding the requested change to draft Order, section 3.2.5: the prohibition of discharge of trash to Areas of Special Biological Significance predates and is separate from the water quality objectives, discharge prohibitions, and implementation requirements established by the Trash Provisions and reflected in draft Order, section 3.3 and Draft Attachment E. Although compliance with one may aid the Department in achieving compliance with the other, compliance with both is independently required.</p>
1.08	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Order</p> <p>The draft Order is well organized. It is easier to find specific requirements in this draft Order when compared with the existing Order. The final order document should be packaged such that all attachments are in a single document with bookmarks for each section and subsection.</p> <p><u>Commenter's Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> The Department's support of these organizational changes is appreciated.</p>
1.09	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Order</p> <p>The Department supports the due date change for submittal of the Annual Report to November 30 of each year, rather than the October 1 date in the existing Order.</p>

Comment Number	Comment Category 1: Draft Order
	<p><u>Commenter's Suggested Draft Order Language</u>: No requested changes.</p> <p><u>Comment Response</u>: The Department's support of this change is appreciated.</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
2.01	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> Draft Order; Draft Attachment A, Draft Fact Sheet, section A3.2, Permitting Background</p> <p>The Findings in the Draft Order and Draft Attachment A, section A3.2, references Water Quality Order (WQO) 99-06 in error. The correct order is WQO 99-05. Further, WQOs and Division of Water Quality (DWQs) are not the same. DWQs refer to permits or Orders and differ from Water Quality Orders.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. The draft Order correctly references Order 99-06-DWQ (NPDES Permit for Storm Water Discharges from the Department of Transportation), which may be found on the State Water Board web page for 1999 Water Quality Orders (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/wqo99.shtml). Order WQ 99-05 is a response to a petition to amend NPDES Permit CAS108740 for stormwater discharges from the Orange County Flood Control District and Incorporated Cities of Orange County in the San Diego Region.</p>
2.02	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> Draft Attachment A, Draft Fact Sheet, section A3.2, Permitting Background</p> <p>The second paragraph draft Attachment A, section A3.2 cites Clean Water Act 402(p) and 40 C.F.R. 122.26(a)(1)(v) as the sources of the Water Boards’ authority to regulate stormwater discharges from MS4s, but those provisions do not specifically confer upon the State the authority to regulate stormwater discharges. That authority comes from elsewhere based on the State as a delegated authority for implementing the Clean Water Act.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
	<p><u>Comment Response:</u> Revisions have been made in response to the comment. Draft Attachment A, Draft Fact Sheet, section A3.1, Permitting Background has been revised as follows:</p> <p>A3.1 Federal Regulatory Background</p> <p>[3]</p> <p>U.S. EPA, as the permitting authority, delegated the NPDES permitting program for California to the Water Boards; therefore, the State and Regional Water Boards issue NPDES permits for the regulation of municipal stormwater discharges; the State Water Board issues statewide NPDES permits and the Regional Water Boards issue individual and regionwide NPDES permits. The process for U.S. EPA authorization of states, tribes, or territories to administer the NPDES program is defined in Clean Water Act section 402(b) and 40 C.F.R. section 123.</p>
2.03	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> Draft Attachment A, Fact Sheet, section A4.2, California Environmental Quality Act (CEQA) Draft Attachment A, section A4.2, “Per Water Code section 13389, the action to adopt an NPDES permit is exempt from the provisions of the California Environmental Quality Act.” While true, it leaves out the following contained in Public Resources Code 21000(g), which requires that state agencies, like the Department, comply with CEQA clearances for discretionary projects:</p> <p>(g) It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
	<p><u>Comment Response:</u> No change has been made in response to the comment. The quoted provision does not create any exception to Water Code section 13389’s general exemption from CEQA for NPDES permits. The provision expresses the general expectation that despite the exemption, state regulatory agencies shall keep the goals of CEQA in mind. The Water Boards support the intent expressed in the Public Resources Code that major consideration be “given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian,” and that intent is reflected in the draft Order.</p>
2.04	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> Draft Attachment A, Fact Sheet, section A4.3.5, Impaired Waters on the Clean Water Act 303(d) List</p> <p>Draft Attachment A, section A4.3.5 incorrectly states that an impaired water is placed on the 303(d) list when technology-based effluent limits are not met. This was true before the Ninth Circuit court of appeal ruled in 1999 (Arizona Defenders of Wildlife v. Browner) that Clean Water Act 301 does not apply to MS4 permits. Technology-based effluent limits are authorized only under Clean Water Act 301. An impaired water is determined when water quality monitoring shows exceedances of water quality standards, notwithstanding the implementation of the stormwater management plans sub-programs containing structural and non-structural controls, which is reflective of Clean Water Act 402(p)(3)(B)(iii).</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. The referenced text in the draft Order simply references Clean Water Act section 303(d)(1)(A), which establishes the requirements for identification of impaired water bodies: “Each State shall identify those waters within its boundaries for which the effluent limitations required by section 1311(b)(1)(A) and section 1311(b)(1)(B) of this title are not stringent enough to implement any water quality standard applicable to such waters.”</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
2.05	<p><u>Commenter</u>: TECS Environmental</p> <p><u>Comment Summary</u>: Draft Attachment A, Fact Sheet, section A6, Effluent Limitations</p> <p>Draft Attachment A, section A6:</p> <ol style="list-style-type: none"> 1. References section (b)(1)(A) of the Clean Water Act, but apparently left out the words Clean Water Act section 301; 2. References 40 C.F.R. 122.44, which requires technology-based effluent limitations. Technology-based effluent limitations are a Clean Water Act 301 requirement that does not apply to MS4 permits; and 3. Incorrectly refers to the maximum extent practicable standard as a technology-based standard. Again, technology-based effluent limitations are a 301 requirement, not a 402(p)(3)(B)(iii) requirement. According to federal guidance issued in a 2016 letter from U.S. EPA to the State Water Board, maximum extent practicable is defined as an iterative process when implementing 40 C.F.R. 122.26(d)(iv), which calls for the implementation of a stormwater management plan and several sub-programs. <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the first and third comments, but revisions have been made in response to the second comment, as described below:</p> <ol style="list-style-type: none"> 1. No change has been made in response to the first comment. The sentence begins with the following language: “Section 301(b)(1)(A) of the Clean Water Act” 2. In response to the second comment, draft Attachment A, section A6, paragraph one, sentence two has been revised as follows. <p>A6 EFFLUENT LIMITATIONS</p> <p>“Section 301(b)(1)(A) of the Clean Water Act and 40 C.F.R. section 122.44 generally require that NPDES permits include technology based effluent limitations. Pursuant to Clean Water Act section 402(p)(3)(B)(iii),</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
	<p>however, municipal stormwater dischargers are required to comply with the technology-based standard to “reduce the discharge of pollutants to the maximum extent practicable.</p> <p>3. No change has been made in response to the third comment. The draft Order language is correct. “Maximum extent practicable” is a technology-based standard involving iterative improvements over time.</p>
2.06	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> Draft Attachment A, Fact Sheet, section A7, Receiving Water Limitations</p> <p>Through the Ninth Circuit Court decision <i>Natural Resources Defense Council, Inc. v. County of Los Angeles</i>, the draft Order suggests that the iterative process is not valid. While the Ninth Circuit correctly concluded that the iterative process on its own does not forgive violations, when the iterative process is implemented with the stormwater management plan it operates to prevent violations (except in the case of discharges of toxic materials). Further, in a 2016 letter from U.S. EPA Region IX to the State Water Board, U.S. EPA stated that the stormwater management plan/iterative process defines the maximum extent practicable standard.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Draft Fact Sheet, section A7, reflects the Ninth Circuit’s conclusion that a discharger’s engagement in the iterative process does not shield a discharger from enforcement or from citizen suits based on violations of permit terms prohibiting exceedances of water quality standards. This does not undermine the validity of the iterative process, which remains an important part of the draft Order.</p>
2.07	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment A, Fact Sheet, section A4.5, Cost of Compliance</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
	<p>Section A4.5 states that “[a]n economic analysis provided in the Trash Amendments determined that the Department’s expenditures were estimated to increase by \$37 million in total capital costs and \$15 million per year for operation and maintenance of structural controls.”</p> <p>The Department recently provided an updated cost estimate under separate cover. The Department states that its costs have increased and requests that these new cost estimates be included in section A4.5 of the draft Fact Sheet.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> On October 11, 2021, the Department shared with State Water Board staff the Department’s broad overview of initial cost forecasts related to requirements in this Order. This was a PowerPoint presentation that was titled Caltrans 2021 Cost Impact Assessments: Statewide Stormwater and Construction General Permits, which was presented by the Department at the October 12-13, 2021, California Transportation Commission meeting. The PowerPoint is available as an attachment on SMARTS as Attachment ID 3060883 under WDID 5S34CT000001 (https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.xhtml). State Water Board staff found the forecasts to be non-representative of the requirements of this Order, especially the representation of trash-related requirements and TMDL implementation requirements. The projected costs included existing costs associated with compliance with the previous Order, existing trash TMDL requirements, and a San Francisco Bay Water Board Cease and Desist Order. State Water Board staff provided feedback regarding the following: (1) interpretation of the statewide Trash Provisions and resulting trash-related requirements, and (2) requirements related to TMDL implementation and Department-specific wasteload allocations.</p> <p>For a detailed discussion of how State Water Board staff considered the costs of the draft Order, please refer to the response to comment 10.02, which contains revisions to draft Fact Sheet section A4.5.</p>
2.08	<p><u>Commenter:</u> U.S. EPA, Region IX</p> <p><u>Comment Summary:</u> Draft Attachment A, Fact sheet, section A9.4, Statewide Trash Provision Requirements</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
	<p>The commenter appreciates the discussion of the revised plan that has been provided in the Fact Sheet for the public notice version of the draft Order and supports the provisions of the draft Order related to updates to the Department’s assessment of significant trash generating areas and implementation of trash controls.</p> <p>The draft Fact Sheet misstates U.S. EPA regulations by stating that they require permits for urbanized areas of 10,000 population or more; this should be revised to 50,000 or more.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise Draft Fact Sheet, section A9.4 as follows:</p> <p style="padding-left: 40px;">Federal regulations require urbanized areas with populations of 50,000 or more to be permitted. Urbanized areas are defined by the United States Census Bureau.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. The revisions clarify that the Department’s trash assessment of significant trash generating areas may not omit consideration of cities with a population of less than 50,000. In addition, the commenter is correct that “urbanized areas” as defined by the Census Bureau only include those places with a population of 50,000 or more. References to urbanized areas have been removed and new language has been inserted:</p> <p>Draft Fact Sheet, section A9.4, Trash Assessment Methodology Within Municipal Systems, item 6 has been revised as follows:</p> <p>A9.4 Statewide Trash Provision Requirements</p> <p>Trash Assessment Methodology Within Municipal Systems</p> <p>6. The Department’s Trash Implementation Plan’s determination of significant trash generating areas in municipalities only assessed portions of the Department’s right-of-way in urbanized areas. Urbanized Areas are defined by the Census Bureau as areas with a population of 50,000 or more. However, many municipalities with populations of less than 50,000 are regulated by this Order. As a result, portions of the Department’s right-of-way that pass through approximately 175 permitted municipal separate storm sewer systems with a population under 50,000 that are regulated under the statewide Phase II Small Municipal</p>

Comment Number	Comment Category 2: Draft Attachment A, Draft Fact Sheet
	<p>Permit, an unknown number of permitted municipal separate storm sewer systems under the various Phase I Large Municipal Permits, and an unknown number of unpermitted municipalities and other areas were excluded from the Department's trash assessment. The Trash Provisions apply to the Department's entire right-of-way. There is no basis to exclude portions of the Department's right-of-way that pass through municipalities with populations of less than 50,000 from the Department's trash assessment.</p>

<p>Comment Number</p>	<p>Comment Category 3: Draft Attachment B, Acronyms, Abbreviations, and Definitions</p>
<p>3.01</p>	<p><u>Commenter</u>: Department of Transportation</p> <p><u>Comment Summary</u>: Draft Attachment B, Acronyms, Abbreviations, and Definitions</p> <p>There is no definition of “receiving water” in draft Attachment B. The draft Order should define the extent of responsibility by providing the definition of “receiving water” and by specifying where receiving water begins and ends in relation to the connection to the “end of pipe.”</p> <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: The definitions section of draft Attachment B has been revised to include the definition of “receiving waters” as follows:</p> <p>Receiving Waters. For the purpose of this Order, receiving waters means waters of the United States, as defined under the Clean Water Act.</p>

<p>Comment Number</p>	<p>Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements</p>
<p>4.01</p>	<p><u>Commenter</u>: California Transportation Commission</p> <p><u>Comment Summary</u>: Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.10, Post-Construction Requirements</p> <p>Due to the time necessary to plan and design transportation projects, currently there are many projects under development and some projects that are ready for construction. There will be cost and schedule impacts if these projects are required to comply with the draft Order requirements. Allow projects currently in the environmental, design, or construction phases of development to be grandfathered under the existing Order.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. The draft Order already provides that certain projects that have progressed beyond a certain point and that commence construction within a set period may continue to comply with the existing Order’s post-construction requirements. Specifically, draft Attachment C, section C3.10, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements includes the following provisions related to the Department’s project initiation phase:</p> <p>C3.10 Post-Construction Requirements</p> <p>The Department shall describe the plans, designs, implementation, and maintenance for post-construction best management practices, which shall be consistent with the requirements in section C3.10.1 through C3.10.10, below. These requirements are applicable to all new and redevelopment projects that (1) meet the size thresholds provided in this Attachment and (2) that have not completed the project initiation phase as of the Effective Date of this Order or that have completed the project initiation phase prior to the effective date of this Order but have not commenced construction within five years of the effective date of this Order. The Department may submit a request for an extension for long-lead projects to the State Water Board Executive Director for review and consideration of approval in coordination with the Regional Water Board Executive Officer.</p>

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
4.02	<p><u>Commenter</u>: Department of Transportation</p> <p><u>Comment Summary</u>: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.3.3, Portland Cement Concrete and Asphalt Concrete Grindings, item 1</p> <p>Section C3.3.3, item 1 prohibits the discharge of stormwater runoff that has contacted portland cement concrete or asphalt concrete grindings. Revise this so that it only applies to temporary stockpiles of portland cement concrete or asphalt concrete grindings.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise Attachment C, section C3.3.3, item 1 to read:</p> <p style="padding-left: 40px;">The discharge to waters of the state of stormwater runoff that has come in contact with temporary stockpiles of portland cement concrete or asphalt concrete grindings is prohibited.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. This provision is intended to prevent the formation and discharge of leachate from grindings, regardless of whether grindings are temporary, permanent, or stockpiled.</p>
4.03	<p><u>Commenter</u>: California Transportation Commission</p> <p><u>Comment Summary</u>: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.16, Program Evaluation, Field Compliance Evaluations, Self-Audits, and Effectiveness</p> <p>The commenter had the following two questions:</p> <p style="padding-left: 40px;">What performance measures are built into the draft Order to determine whether requirements have met the intended water quality goals?</p> <p style="padding-left: 40px;">Is the State Water Board evaluating the performance of each requirement to determine the overall benefits to each waterbody?</p>

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No revisions have been made. The draft Order includes performance measures such that Water Boards can determine compliance with the requirements, including compliance with waste load allocations in TMDL watersheds:</p> <p>Draft Attachment C, section C3.16 requires the Department to annually conduct an Overall Program Effectiveness Evaluation that includes identification of quantifiable effectiveness measurements for each best management practice, including measurements that link best management practice implementation with improvement of water quality and beneficial use conditions.</p> <p>Draft Attachment D, TMDL Implementation Requirements, section D3.2 requires the Department to submit an Annual TMDL Compliance Status Report that includes a proposed list of waste load allocations with which the Department has come into compliance, all completed compliance activities, all planned activities for the forthcoming two fiscal years, project status reports, and other compliance activities.</p> <p>While the draft Order was under development, State Water Board staff worked with the Department, the Regional Water Boards, and stakeholders to evaluate the effectiveness of the provisions in the existing Order.</p>
4.04	<p><u>Commenter:</u> Orange County Department of Public Works</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.2.1, Municipal Coordination Plan</p> <p>The Municipal Coordination Plan in draft Attachment C, section C3.2.1 should be developed with local municipal input to provide a means for its districts and the municipalities to enhance communications and develop more formal, consistent approaches for stormwater compliance tasks regulated through different permits.</p> <p>Currently, there are some requirements on other Phase I MS4 permit that require coordination with the Department, and these same requirements should be reflected and addressed through the Municipal Coordination Plan. For example, Order R9-2017-0077 (Trash Requirements for South Orange County) includes additional requirements for</p>

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p>MS4 permittees to coordinate with the Department. A Municipal Coordination Plan developed with local agency input can better define communication channels between the agencies and the Department, ensure implementation of commensurate compliance procedures for adjoining Department and municipal right of way regulated through different permits, and establish procedures for developing other cooperative agreements between the agencies.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise draft Attachment C, section C3.2.1, Municipal Coordination Plan, as follows:</p> <p style="padding-left: 40px;">The Department shall work with local municipalities to develop a District-specific Municipal Coordination Plan <u>to be included</u> in its Stormwater Management Plan, that provides the strategy for compliance with the following requirements:</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Section C3.2.1 item 2 requires the Department to “[c]ommunicate, cooperate, and collaborate with other MS4s and their programs, including establishing local agreements with municipalities, flood control agencies, or districts as necessary or appropriate.” Development and approval of the Municipal Coordination Plan is subject to State Water Board approval and, while the draft Order does not mandate that the Department consult with local agencies during the development of the Municipal Coordination Plan, State Water Board oversight will help ensure that the strategies required by section C3.2.1 are adequately addressed. Due to the large number of municipalities with which the Department interacts, it is appropriate that the Department be able to exercise its discretion in determining how to and when to reach out to local agencies in the development of its plan.</p>

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
4.05.a	<p><u>Commenter:</u> Orange County Department of Public Works</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.10.1, Alternative Compliance Projects Located Within or Outside the Right-of-Way</p> <p>The existing Order provides opportunities for the Department to work with municipalities and watershed groups and to contribute funding to watershed projects through cooperative implementation agreements. The draft Order should maintain the established funding mechanism in the existing Order so that the Department can continue to collaborate in these important projects.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The draft Order continues to encourage the Department to engage in collaborative projects with its watershed partners, including other MS4 permittees. Unlike the existing Order, however, the draft Order does not offer any form of compliance based solely on the amount of funding that the Department contributes to a Cooperative Implementation Agreement project because the draft Order no longer uses the compliance unit approach for TMDL implementation. While both the existing Order and the draft Order were designed with the intention of ultimately achieving compliance with wasteload allocations, it is intended that this change will focus the Department’s work in TMDL watersheds, including its participation in cooperative agreements, more specifically on those watersheds where it must make progress in achieving wasteload allocations.</p>
4.05.b	<p><u>Commenter:</u> Orange County Department of Public Works</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.10.1, Alternative Compliance Projects Located Within or Outside the Right-of-Way</p>

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p>Provide more flexibility to the Department to collaborate with municipalities and implement alternative compliance projects offsite when a greater benefit to water quality is identified than would be achieved by the standard onsite post-construction requirements.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise Draft Attachment C, section C3.10.1, as follows:</p> <p>Alternative compliance may be achieved outside the Department’s project limits, either within or outside the Department’s right-of-way, including within another Department project. An alternative compliance project may be a cooperative agreement with another entity. If the Department determines that all or any portion of on-site treatment for a project is infeasible on-site or an offsite project provides either a greater benefit to water quality or an equivalent water quality benefit but also provides multiple benefits (e.g. water supply), the Department shall prepare a proposal for alternative compliance for review and consideration of approval by the State Water Board Executive Director in coordination with the applicable Regional Water Board Executive Officer.</p> <p>The Department’s proposal shall include documentation supporting the determination of infeasibility or the determination of greater benefit to water quality or an equivalent water quality benefit and multiple benefits. Alternative compliance shall be based on an equivalent rate such as acres of right-of-way to acres of an alternative compliance project; proportional responsibility calculated from pollutant loadings at the right-of-way compared to the loadings at an alternative compliance project; the Department’s land use coverage in the watershed; or other methods as approved by the State Water Board Executive Director in consultation with the applicable Regional Water Board Executive Officer. Examples of potential alternative compliance projects include the following:</p> <ol style="list-style-type: none"> 1. Maximizing stormwater treatment design and construction beyond the minimum mandatory post-construction best management practice controls. 2. Cooperating with municipalities for post-construction best management practice controls or cost-sharing projects.

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p>Alternative compliance projects that the Department implements outside the project limits shall include provisions for the long-term maintenance of such alternative compliance projects.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Where it is feasible to construct a stormwater management control at a Department project site, the draft Order, like the existing Order, prioritizes addressing on-site stormwater conditions so that as the Department continuously maintains its highway system, its discharges are addressed with new and updated best management practices as needed and do not cause or contribute to existing or future water quality problems. The draft Order encourages multiple benefit projects, both cooperative and individual, in other ways.</p>
4.06	<p><u>Commenter:</u> California Transportation Commission</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.3.3, Portland Cement Concrete and Asphalt Concrete Grindings</p> <p>The Federal Highway Administration supports and promotes the use of recycled highway materials in pavement construction in an effort to preserve the natural environment, reduce waste, and provide a cost-effective material for constructing highways. The commenter requests the basis for the prohibition on reusing pavement grindings.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The requirements in section C3.3.3 do not prevent or prohibit the Department from reusing grindings if:</p> <ol style="list-style-type: none"> 1. The Department complies with its January 12, 1993, Memorandum of Understanding with the Department of Fish and Wildlife regarding the reuse of grindings in embankments, shoulder backings, and other areas within its right of way, as referenced in the Department’s November 2017 Highway Design Manual, section 110.11, or subsequent updates thereof; and

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p>2. The Department complies with the requirements of local and state regulations, and Titles 22 and 27 of the California Code of Regulations for management of temporary stockpiles of portland cement concrete and asphalt concrete grindings.</p>
4.07	<p><u>Commenter</u>: Stone Creek Environmental Consulting</p> <p><u>Comment Summary</u>: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.9, Public Education and Outreach Program, item 1</p> <p>Section C3.9, item 1 states that Regional Water Boards may have separate NPDES discharge permits or Basin Plan requirements for non-stormwater discharges, including conditionally exempt non-stormwater discharges. The draft Order should list any specific regional requirements which are already adopted.</p> <p><u>Commenter's Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. With the continual expiration and adoption of Regional Water Board permits, any list added to the draft Order itself cannot be guaranteed to remain reliable. Instead, the public should use the Regional Quality Water Board Directory (https://www.waterboards.ca.gov/about_us/contact_us/rwqcb_directory.html), available on the State Water Board website, to contact the appropriate Regional Water Board office with questions concerning Regional Water Board non-stormwater discharge requirements. As any future Regional Water Board non-stormwater waste discharge requirements would be required to go through a public notice process, the public may elect to receive future Regional Water Board Public Notices through the Regional Water Boards' websites to ensure they receive notice of potential future permitting actions. In addition, each Regional Water Board has a public "Notices" link on its main webpage.</p>

<p>4.08</p>	<p><u>Commenter:</u> The City of San Diego, Stormwater Department</p> <p><u>Comment Summary:</u> Draft Attachment A, Fact sheet, section A9.4, Statewide Trash Provision Requirements and section A9.7.2, Cooperative Implementation Agreements; and Attachment C, section C3.10, Post-Construction Requirements</p> <p>It is difficult for the Department to participate and fund cooperative projects that are located outside of the Department’s right-of-way, even when such projects benefit the state by supporting TMDL compliance. Expand draft Attachment A, section A9.7.2’s cooperative agreement language to include non-TMDL areas where the Trash Assessment Plan has determined there is 4 generated on the Department’s right-of-way and where there are joint treatment opportunities. Incorporate language into draft Attachment C, section C3.10 that incorporates these principles as well as other permit language, such as that in draft Attachment A, section A9.4 that encourages cooperative agreement opportunities.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Add to Attachment C, section C3.10:</p> <p>In meeting the requirements of this Order and Time Schedule Order, the Department may participate in cooperative implementation agreements with other NPDES permitted agencies or parties to implement projects and other institutional controls that result in joint compliance with their respective Orders, including but not limited to maintenance and enforcement efforts. Agreements providing for a watershed approach to compliance are encouraged where the Department and other regulated agencies or parties determine that joint action is appropriate through contributing to project funding or other resources needed to achieve compliance. This Order authorizes the Department to achieve waste load reductions and satisfy its TMDL obligations, Significant Trash Generating Area obligations, or investigative Order obligations through cooperative projects and institutional controls that manage the Department’s right of way or the watershed for TMDL-specific pollutants, and areas outside of the right of way that contain run-on TMDL-specific pollutants, Significant Trash Generating Areas, or other investigative Order obligations. The level of waste load reduction credit granted to the Department for such joint watershed management activity shall be proportional to the funding level provided or as agreed to by the parties involved.</p>
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Comment Response: No change has been made to Attachment C in response to the comment, but a clarification has been made to Attachment A.

The draft Order already encourages joint implementation of projects extensively throughout the draft Order, including to address TMDLs and trash-related requirements.

A clarification has been made to draft Attachment A, section A9.7 stating that compliance with waste load allocations is not proportional to funding:

A9.7 Total Maximum Daily Loads

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The State Water Board and the Department determined that it was appropriate to require the Department to directly demonstrate compliance with applicable waste load and load allocations without a secondary tracking process; therefore this Order does not continue the “compliance unit” process of the previous permit. Direct demonstration of compliance with TMDL requirements ensures that the Department’s budget for implementing best management practices in TMDL areas is spent for projects that address the Department’s TMDL obligations.

Where there is more than one responsible party in a TMDL, Department-specific waste load allocations may be a portion of the total waste load allocation. Where Department-specific waste load allocations are incorporated into this Order, the Department shall comply with the waste load allocations. Waste load allocations are not transferable between the Department and another responsible party. Waste load allocations are not transferable between TMDLs or TMDL watersheds. Where a Department-specific waste load allocation or attainment strategy is not defined in a TMDL or in this Order, the Department may propose an approach that addresses its responsibility as determined by one of the following methods if the chosen method is consistent with the underlying waste load allocation and as reviewed and approved by the Executive Director in consultation with the applicable Regional Water Board Executive Officer: (a) a TMDL watershed group’s modeling results, (b) proportional land-area, (c) proportional flow, (d) as determined in a Regional Water Board’s Basin Plan, or (e) other method. This Order does not allow the Department to calculate a Department-specific waste load allocation based on the amount of funding it provides towards a compliance project. While funding is an

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	important consideration as the Department chooses projects, funding does not correlate directly to the water quality-based requirements of the TMDLs.
4.09	<p><u>Commenter:</u> U.S. EPA, Region IX</p> <p><u>Comment Summary:</u> Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.5.5, Asset Management Plan</p> <p>While the draft Order does include many of the components of an Asset Management Plan, it should include certain additional requirements to get the full benefits of an Asset Management Plan.</p> <p>Although NPDES regulations do not include a requirement for a specific item called an “Asset Management Plan,” the regulations at 40 C.F.R. 122.41(e) do require “proper operation and maintenance” of all facilities and systems for controlling pollutant discharges that are used by a permittee to achieve compliance with permits. Asset Management Plans are useful tools for achieving more consistent performance of the pollutant control systems used to achieve compliance with permits, thereby providing improved protection of the environment, while also minimizing the costs associated with the operation of these systems.</p> <p><u>Commenter’s Suggested Draft Order Language:</u></p> <p>Add the following items to draft Attachment C, Storm Water Management Plan, section C3.5.5:</p> <ol style="list-style-type: none"> 5. Inventory of MS4 assets including hard assets such as structural stormwater controls and other assets such as key personnel; 6. A description of the required level of the performance of the assets (essentially complying with the MS4 permit) along with the likelihood and consequences of failure of each asset; 7. A prioritized program for maintenance, rehabilitation and replacement of assets; and 8. Plan for ensuring adequate financial resources for implementation of the plan.

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p><u>Comment Response:</u> The following revisions have been made to draft Attachment C and draft Attachment A in response to the comment:</p> <p>Draft Attachment C:</p> <p><i>C3.2.3 Fiscal Planning Strategy and Annual Fiscal Analysis Reports</i></p> <p>The Department shall include the Fiscal Planning Strategy and the Annual Fiscal Analysis Reports, as described below:</p> <ol style="list-style-type: none"> 1. The Fiscal Planning Strategy shall be included in the Stormwater Management Plan. The Fiscal Planning Strategy shall address the fiscal strategy to comply with this Order for the following stormwater program elements: <ol style="list-style-type: none"> a. Installation, implementation, inspection, maintenance, rehabilitation, and replacement of all stormwater related assets and best management practices; b. Development, implementation, and iterative improvement of an effective stormwater monitoring program; and c. Retention of qualified personnel to implement and manage the stormwater program. 2. The Annual Fiscal Analysis Report shall be submitted in each Annual Report. The Department shall submit an Annual Fiscal Analysis Report of its statewide stormwater management program in each Annual Report. At a minimum, the annual fiscal analysis shall provide the following: <ol style="list-style-type: none"> a. Funds allocated for stormwater asset rehabilitation and replacement activities, as identified in the Asset Management Plan and Retrofit Plan. b. Funds allocated for trash reduction and implementation as required in Attachment E; c. Funds allocated to each Department District for compliance with this Order;

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	<ul style="list-style-type: none"> d. Funds allocated for each element of the Stormwater Management Plan; e. Funds allocated for an effective stormwater monitoring program; f. Funds allocated for reporting; g. Comparison of actual past year expenditures with the current year expenditures and the next year proposed expenditures for each Stormwater Management Plan element; h. Discussion of how the funding met the goals specified in the Stormwater Management Plan and District Annual Workplans; i. Description and cost of all cost sharing agreements with other parties in implementing the Stormwater Management Program; and j. A Fourth-Year Budget Analysis for consideration of the next 5-year permit cycle of this Order. This analysis shall be submitted in the fourth year’s Annual Fiscal Analysis Report and no later than 180 days before the expiration date of this Order. <p><i>C3.5.5 Asset Management Plan</i></p> <p>For this Order, asset management is the process of managing stormwater best management practices capital assets to minimize total cost of owning and operating those assets. To treat stormwater to comply with this Order and to ensure the satisfactory condition of all stormwater best management practices assets implemented and installed during this and previous permit terms, the Department shall meet the following asset management requirements:</p> <ol style="list-style-type: none"> 1. The Department shall implement and update its current asset management program through June 30, 2025 to address changing conditions, resources, and requirements. 2. The Department shall prepare and implement a revised Asset Management Plan by June 30, 2025 in accordance with the requirements below. The Department may include elements of the revised Asset

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	<p>management Plan by referencing specific sections and portions from its existing plans and programs.</p> <ol style="list-style-type: none"> 3. The Asset Management Plan shall provide an asset inventory that includes the following: (i) location (latitude, longitude, and watershed); (ii) type and design criteria of asset and structural best management practices. (iii) date of construction; (iv) party responsible for maintenance; (v) dates and findings of maintenance verifications, maintenance description, life cycle, maintenance cycle, and description of each asset; and (vi) corrective actions and/or resolutions when applicable. 4. The Asset Management Plan shall include an asset assessment strategy for prioritizing and scheduling maintenance, rehabilitation, and replacement of inventoried assets. The strategy shall include: <ol style="list-style-type: none"> a. A process for prioritizing and scheduling operation and maintenance activities. b. A process for evaluating the current condition of each asset and for identifying the need for the rehabilitation and replacement of each asset. The process shall include: <ol style="list-style-type: none"> i. Identification of the minimum condition necessary to achieve adequate performance level for each asset or asset type, including procedures. ii. Identification of the current performance level and effectiveness of each asset. Asset effectiveness shall be based on, at a minimum, factors such as design, capacity, and condition and function relative to the asset’s design, intended operating conditions, and intended function, as necessary and applicable. iii. An evaluation or forecast of costs necessary for the rehabilitation and replacement of assets through the end of the current permit term. On an ongoing basis, the Department shall compare these projections with available funding sources to determine the best manner in which to fund the operation, maintenance, rehabilitation, and replacement of assets. iv. Identification of potential climate change-related threats to assets and appropriate adaptation strategies.

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	<p data-bbox="415 355 1902 423">5. The Department shall report any asset rehabilitation and replacement activities and costs in the Annual Fiscal Analysis Report.</p> <p data-bbox="317 443 1010 475">Draft Attachment A, Fact Sheet, section A9.3.5.9:</p> <p data-bbox="365 513 1140 545">A9.3.5.9 Asset Management Plan and Retrofit Program</p> <p data-bbox="365 574 1944 1159">This Order requires the Department to maintain and improve its existing asset management plan and to prepare and implement a Retrofit Plan. The asset management plan will ensure ongoing installation, maintenance, and operation of its assets. The Clean Water Act requires that NPDES permits include requirements to develop and implement operation and maintenance procedures and financial plans sufficient to ensure their future operational integrity to comply with permit discharge conditions. Although NPDES regulations do not include a requirement for a specific item called an “Asset Management Plan,” the regulations at 40 C.F.R. 122.41(e) do require “proper operation and maintenance” of all facilities and systems for controlling pollutant discharges that are used by a permittee to achieve compliance with permits. U.S. EPA has encouraged stormwater, drinking water, and wastewater utilities to develop and implement asset management plan tools to provide the tracking and planning framework needed to meet these requirements. U.S. EPA has also encouraged water utilities to use modern analytical planning tools to support deployment of greener, more sustainable, better integrated water infrastructure improvements to help implement NPDES permit requirements. Asset Management Plans are useful tools for achieving more consistent performance of the pollutant control systems used to achieve compliance with permits, thereby providing improved protection of the environment, while also minimizing the costs associated with the operation of these systems.</p> <p data-bbox="365 1182 1917 1365">A retrofit program identifies, prioritizes, upgrades, or replaces existing best management practices where there is a lack of adequate stormwater treatment. Retrofit also includes the correction of prior design or performance deficiencies, improving recharge and infiltration performance, addressing pollutants of concern, demonstrating new technologies. A retrofit program is necessary to mitigate the ongoing effects of pollutants discharged in runoff from existing Department roadways. Such programs are a recommendation of EPA’s MS4 Permit</p>

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	Improvement Guide (EPA 833-R-10-001).
4.10	<p><u>Commenter:</u> U.S. EPA, Region IX</p> <p><u>Comment Summary:</u> No section referenced. The draft Order should include a requirement for a retrofit program to mitigate the ongoing effects of pollutants discharged in runoff from existing Department roadways, with a focus on green infrastructure for any new controls. Such programs are a recommendation of EPA’s MS4 Permit Improvement Guide (EPA 833-R-10-001). draft Order U.S. EPA’s 2018 Transportation Stormwater Permit Compendium (EPA-833-R-18-001) includes some model permit requirements for the Department that U.S. EPA recommends be considered by the State Water Board for inclusion in the draft Order.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comments. Two new sections have been added (sections C3.5.6 and C3.17) for a retrofit program and for reporting the status of retrofits in draft Attachment C and supporting text has been added to the Fact Sheet as follows:</p> <p>Draft Attachment C:</p> <p><i>C3.5.6 Best Management Practices Retrofit Program</i></p> <p>The Department shall prepare and implement a Best Management Practices Retrofit Program that includes, but is not limited to, identifying, prioritizing, and either upgrading or replacing existing best management practices as described below.</p> <p>The Retrofit Program shall include the following components:</p> <ol style="list-style-type: none"> 1. Create a prioritized list of implemented best management practices for retrofitting. This includes best management practices at high-risk of failure, due, for example, to impacts such as climate change, landslides, age, deferred maintenance, or other causes. It also includes best management practices not providing adequate stormwater treatment, for which correction of design deficiencies or performance

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	<p>deficiencies is needed, or for which the Department identifies other needs to be addressed. This includes the prioritization of best management practices implemented under sections C3.5.3.1, Runoff Management; section C3.5.3.4, Landslide Management Plan; section C3.10.6, Post-Construction Long-Term Operation and Maintenance Plans; section C5.16, Inventory of Best Management Practices; and other components of the Stormwater Management Plan.</p> <ol style="list-style-type: none"> 2. Phase-in completion of retrofits over the term of the Order at a rate of 2 percent per year starting with the third year after the Effective Date of the Order and then 3 percent per year thereafter over the term of the Order. 3. Report the status of retrofits according to section C3.17. <p>C3.17 Annual Report of Retrofits</p> <p>The Department shall annually report the status of its Best Management Practice Retrofits Program, including the prioritized list of retrofit projects, the rate of retrofits, and the number of completed retrofits per year.</p> <p>Draft Attachment A, Fact Sheet, section A9.3.5.9:</p> <p>A9.3.5.9 Asset Management Plan and Retrofit Program</p> <p>This Order requires the Department to maintain and improve its existing asset management plan and to prepare and implement a Retrofit Plan. The asset management plan will ensure ongoing installation, maintenance, and operation of its assets. Clean Water Act requires that NPDES permits include requirements to develop and implement operation and maintenance procedures and financial plans sufficient to ensure their future operational integrity to comply with permit discharge conditions. Although NPDES regulations do not include a requirement for a specific item called an “Asset Management Plan,” the regulations at 40 C.F.R. 122.41(e) do require “proper operation and maintenance” of all facilities and systems for controlling pollutant discharges that are used by a permittee to achieve compliance with permits. U.S. EPA has encouraged stormwater, drinking water, and wastewater utilities to develop and implement asset management plan tools to provide the tracking and planning</p>

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	<p>framework needed to meet these requirements. U.S. EPA has also encouraged water utilities to use modern analytical planning tools to support deployment of greener, more sustainable, better integrated water infrastructure improvements to help implement NPDES permit requirements. Asset Management Plans are useful tools for achieving more consistent performance of the pollutant control systems used to achieve compliance with permits, thereby providing improved protection of the environment, while also minimizing the costs associated with the operation of these systems.</p> <p>A retrofit program identifies, prioritizes, upgrades, or replaces existing best management practices where there is a lack of adequate stormwater treatment. Retrofit also includes the correction of prior design or performance deficiencies, improving recharge and infiltration performance, addressing pollutants of concern, demonstrating new technologies. A retrofit program is necessary to mitigate the ongoing effects of pollutants discharged in runoff from existing Department roadways. Such programs are a recommendation of EPA’s MS4 Permit Improvement Guide (EPA 833-R-10-001).</p>
4.11	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.10.2, Projects Subject to Post-Construction Treatment Requirements</p> <p>Comparing a transportation MS4 to a traditional MS4 for purposes of establishing a post-construction runoff control acreage threshold does not account for the constraints associated with the linear and high-speed environment, pollutant sources, and loading discharges associated with a transportation MS4. The 10,000 square foot post-construction treatment threshold should apply only to projects within non-Department MS4 permit areas. In watersheds with less than 10 to 25 percent imperviousness and/or outside a non-Department MS4 permit area, the post-construction treatment threshold remains at one acre.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The Stormwater Management Plan, described in draft Attachment C, specifies a decrease from the existing Order’s post-construction requirement</p>

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	<p>trigger for redevelopment projects that create new impervious surface area. Compared to the existing Order, the trigger was reduced from a 1 acre to 10,000 square feet. This reduced trigger is equivalent to standards established in other state permits for post-construction stormwater requirements that apply to transportation projects. Furthermore, Phase I Municipal Separate Storm Sewer System Permits issued by the Regional Water Boards have much smaller thresholds for post-construction treatment requirements, as listed below:</p> <ul style="list-style-type: none"> • North Coast Regional Water Board threshold: 5,000 square feet, • Central Coast Regional Water Board threshold: 2,500 square feet, • Los Angeles Regional Water Board threshold: 5,000 to 10,000 square feet, • Central Valley Regional Water Board threshold: 5,000 square feet, • Santa Ana Regional Water Board threshold: 5,000 square feet, and • San Diego Regional Water Board threshold: 2,500 to 10,000 square feet <p>In addition, the San Francisco Bay Municipal Regional Stormwater Permit, Order R2-2015-0049, requires a threshold of 5,000 square feet for new and redevelopment projects that create or replace impervious surface areas and road projects that replace existing impervious surface areas.</p>
4.12	<p><u>Commenter</u>: City of Los Angeles</p> <p><u>Comment Summary</u>: Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.10.1, Alternative Compliance Projects Located Within or Outside the Right-of-Way</p> <p>Where possible, the State Water Board should include changes to incentivize participation in existing watershed planning processes. Modify new and redevelopment requirements so that the need to document when treating onsite runoff is infeasible is waived if an offsite project that provides a benefit to water quality is identified in coordination with a local watershed group.</p>

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	<p><u>Commenter’s Suggested Draft Order Language:</u> Revise draft Attachment C3.10.1, as follows:</p> <p>Alternative compliance may be achieved outside the Department’s project limits, either within or outside the Department’s right-of-way, including within another Department project. An alternative compliance project may be a cooperative agreement with another entity. If the Department determines that all or any portion of on-site treatment for a project is infeasible on-site, the Department shall prepare a proposal for alternative compliance for review and consideration of approval by the State Water Board Executive Director in coordination with the applicable Regional Water Board Executive Officer. Alternatively, if the Department enters into a collaborative agreement with an MS4 Permittee to implement a project or projects included in a watershed plan, a demonstration of on-site infeasibility is not required. For these projects, the Department shall prepare a proposal for alternative compliance for review and consideration of approval by the State Water Board Executive Director in coordination with the applicable Regional Water Board Executive Officer, but onsite feasibility shall not be a consideration for approval.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The draft Order prioritizes addressing Department-specific runoff from Department project sites as projects are implemented to ensure that pollution from the Department’s right-of-way is addressed to the maximum extent practicable. Because the Department is in a constant process of maintaining its right-of-way, this will help ensure that runoff from the Department’s highway system will always be addressed except where infeasible and will help prevent such runoff from contributing to future water quality issues.</p>
4.13.a	<p><u>Commenter:</u> City of Los Angeles</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.2.1, Municipal Coordination Plan</p> <p>To facilitate better alignment with local MS4 permittees, require the Department’s engagement in existing watershed planning processes. The draft Order should include changes in the Municipal Coordination Plan requirements to ensure coordination.</p>

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	<p><u>Commenter’s Suggested Draft Order Language:</u> Revise draft Attachment C, section C3.2.1:</p> <p>The Department shall work with local watershed groups/MS4 permittees to develop a Municipal Coordination Plan to be included in its Stormwater Management Plan.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Please note that section C3.2.1 item 2 requires the Department to “[c]ommunicate, cooperate, and collaborate with other MS4s and their programs, including establishing local agreements with municipalities, flood control agencies, or districts as necessary or appropriate.” Development and approval of the Municipal Coordination Plan is subject to State Water Board approval and, while the draft Order does not mandate that the Department consult with local agencies during the development of the Municipal Coordination Plan, State Water Board oversight will help ensure that the strategies required by section C3.2.1 are adequately addressed. Due to the large number of municipalities with which the Department interacts, it is appropriate that the Department be able to exercise its discretion in determining how to and when to reach out to local agencies in the development of its plan.</p>
<p>4.13.b</p>	<p><u>Commenter:</u> City of Los Angeles</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.2.1, Municipal Coordination Plan</p> <p>Provide a comment period for the Municipal Coordination Plan for local watershed groups and Regional Water Board staff.</p> <p><u>Commenter’s Suggested Draft Permit Language:</u></p> <p>Revise draft Attachment C, section C3.2.1.4:</p> <p>Upload district-specific municipal coordination plans to the State Water Board’s Stormwater Multiple application and Report Tracking System (SMARTS). Upload to SMARTS within one month after the State Water Board Executive Director conditionally approves the Stormwater Management Plan. The Department shall notify the</p>

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	<p>appropriate Regional and State Water Board staff upon uploading to SMARTS to initiate a 60-day comment period for review by the local watershed stakeholders and Regional Water Board staff.</p> <p><u>Comment Response:</u> No change has been in response to the comment. The Municipal Coordination Plan is a part of the Department’s larger Stormwater Management Plan, for which public notice and the opportunity for a public hearing is provided in draft Attachment C, section C5.17.</p>
4.13.c	<p><u>Commenter:</u> City of Los Angeles</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.5.3.1, Runoff Management</p> <p>Align the Department’s implementation priorities with watershed groups.</p> <p><u>Commenter’s Suggested Draft Permit Language:</u></p> <p>Revise draft Attachment C, section C3.5.3.1, item 1 as follows:</p> <p style="padding-left: 40px;">Prioritize watershed pollutant reduction opportunities (e.g., improvements to existing best management practices). Priority shall be given to sites in sensitive watersheds or where there is an existing or potential threat to water quality and watershed pollutant reduction opportunities shall be aligned with local watershed priorities identified by MS4 permittees;</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Although the Department is encouraged to prioritize projects as described by the commenter, the Department’s funding sources do not necessarily align with such priorities.</p>
4.13.d	<p><u>Commenter:</u> City of Los Angeles</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C5.15, District Annual Workplans</p>

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	<p>Ensure that the Department works with local watershed groups in the development of District Annual Workplans and meets with the Regional Water Board Executive Officer prior to submittal.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise draft Attachment C, section C5.15, second paragraph as follows:</p> <p style="padding-left: 40px;">Department staff shall coordinate with watershed agencies in the development of District-specific Annual Workplans. In addition, prior to submittal of the District Annual Workplans, Department staff shall meet with Regional Water Board staff to discuss District Annual Workplan alternatives and to ensure that appropriate post-construction controls are included in the project development process through review of the Workplan and early consultation and coordination between the Department and Regional Water board staff.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The Municipal Coordination Plan requires that the Department “Communicate, coordinate, and collaborate with municipal separate storm sewer system agencies and their programs.” As part of the Stormwater Management Plan, the Municipal Coordination Plan is subject Water Board oversight, which will ensure that the Department’s processes for municipal coordination meet this requirement.</p>
4.14	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C4, Areas of Special Biological Significance Compliance Plan</p> <p>While the draft Order requires the Department to comply with the Areas of Special Biological Significance Exception, a further requirement for compliance monitoring is needed. The Department must demonstrate that its compliance plan will sufficiently meet the legal requirements articulated in the Areas of Special Biological Significance Exception.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise section C4, item 10 as follows:</p>

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	<p>Demonstrate compliance with Instantaneous Maximum Water Quality Objectives (Chapter II, Table 3, of the Ocean Plan) or 90 percent reduction in pollutant loading during storm events. The Department shall include one or more of the following for each location/parameter pair in Table C-1: receiving water monitoring, discharge monitoring, or demonstration of no discharge.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. Revisions have been made to section C4 to more accurately reflect the requirements of the Areas of Special Biological Significance General Exception. The changes focus the Department’s requirements more specifically on the ultimate compliance endpoint of ensuring that its discharges do not cause or contribute to alterations of natural ocean water quality. The changes also remove the language referring to “loads from other sources” because the Department is responsible for the quality of discharges from its system, however the pollutants get there. The following changes have been made to the draft Attachment C and draft Attachment A, Fact Sheet:</p> <p>Draft Attachment C, section C4:</p> <p>C4 Areas of Special Biological Significance Compliance Plan</p> <p>No later than 12 months after the Effective Date of this Order, the Department shall submit an Areas of Special Biological Significance Compliance Plan to the State Water Board Executive Director for review and consideration of approval. The State Water Board shall provide public notice of the proposed Areas of Special Biological Significance Compliance Plan and a minimum 30-day period for public comments. The Areas of Special Biological Significance Compliance Plan shall address the locations and monitoring results in Table C-1, which indicate that discharges may be causing or contributing to alterations of natural ocean water quality in Areas of Special Biological Significance.</p> <p>Draft Attachment C, section C4, items 2 and 3:</p> <ol style="list-style-type: none"> 2. Map showing priority discharge locations, surface drainage of stormwater runoff, areas of sheet flow of stormwater runoff, priority discharge locations, and any structural best management practices already

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	<p>implemented and/or best management practices to be installed in the future to control the pollutants that are causing exceedance of the natural ocean water quality.</p> <p>3. Implementation schedule with annual milestones for the type and installation date of best management practices. The implementation schedule shall ensure that natural ocean water quality conditions are achieved and maintained by either reducing flows from impervious surfaces, reducing pollutant loading, or a combination thereof. The implementation schedule shall be designed to bring the Department’s discharges into compliance with the requirements of General Exceptions as soon as is practicable. The Department shall include documentation verifying that selected best management practices are designed such that the effluent will meet the natural ocean water qualities in the receiving water.</p> <p>Draft Attachment C, section C4, item 4:</p> <p>4. Description of the measures by which all non-authorized non-stormwater discharges (e.g., dry weather flows) will be eliminated, and how these measures will be maintained, monitored, and documented.</p> <p>Draft Attachment C, section C4, item 10:</p> <p>10. Strategy to ensure Department discharges to areas listed in Table C-1, or in areas where future alterations of natural ocean water quality are detected, do not cause or contribute to those alterations. The Department’s strategy shall include one or more of the following to demonstrate that the Department is not causing or contributing to the alteration of natural ocean water quality for each location/parameter pair in Table C-1 and location/parameter pairs of future alterations of natural ocean water quality in areas of special biological significance to which the Department discharges: modeling, receiving water monitoring, discharge monitoring, or a demonstration of no discharge.</p> <p>Draft Attachment A, Fact Sheet, section A5.2:</p> <p>A5.2 Stormwater and Non-Stormwater Discharges into Areas of Special Biological Significance</p> <p>[]</p>

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	<p>This Order requires the Department to submit an updated Areas of Special Biological Significance Compliance Plan to the State Water Board Executive Director for review and consideration of approval within 12 months after the adoption date of this Order. The Department is required to install best management practices per the locations described in Table C-1, Attachment C, Stormwater Management Plan. Table C-1 lists the relevant locations where monitoring indicates that stormwater discharges are causing or contributing to alterations of natural ocean water qualities in Areas of Special Biological Significance.</p>
4.15	<p><u>Commenter</u>: City of Huntington Beach, Department of Public Works</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements</p> <p>Draft Attachment E only requires the Department to address trash in areas identified as Significant Trash Generating Areas. There is no requirement to address trash outside of these areas, nor are there any requirement to conduct street sweeping on any scheduled basis. The lack of such scheduled street sweeping is a source of friction between the Department and adjacent municipalities and leads to municipalities fielding complaints from the general public about excessive trash and debris and addressing trash in their own sewer system generated on the Department’s right-of-way. This problem is also not addressed in the Department’s 2016 Statewide Stormwater Management Plan. The draft Order should include prescriptive requirements consistent with Phase I MS4 Permit requirements that require street sweeping on a regular, scheduled basis.</p> <p><u>Commenter’s Requested Change</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. The draft Order includes multiple new requirements for the control of trash, including an explicit requirement to collect trash before mowing and, most notably, requirements to implement the Trash Provisions. The Trash Provisions require the Department to address trash from its significant trash generating areas. So far, this applies to the 16,645 acres of significant trash generating areas already identified. The draft Order requires the Department to submit an updated Trash Assessment Methodology Plan and conduct further trash assessment which will result in identify more significant trash generating areas. In addition, the Water Boards may identify additional significant trash generating areas for</p>

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	<p>the Department to address. The Department is also required to coordinate trash mitigation measures with municipalities in areas where trash generation is shared by both the municipality and the Department. It is anticipated that implementation of the draft Order will result in a significant reduction of trash generation from the Department’s right-of-way. Once the effects of this become apparent, the State Water Board may consider a variety of steps, including requiring additional measures for the control of trash in the Department’s Permit or expanding the scope of the Trash Provisions to address more areas.</p>
4.16	<p><u>Commenter</u>: City of Huntington Beach, Department of Public Works</p> <p><u>Comment Summary</u>: No section referenced.</p> <p>The metric for cleaning stormwater drainage systems as defined in the Department’s 2016 Statewide Stormwater Management Plan is inconsistent with the intent of the state and federal laws which require dischargers to address pollutants such as trash in a manner to prevent downstream impacts to receiving water bodies. The 2016 Statewide Stormwater Management Plan only requires the cleaning of inlets/catch basins when trash “has accumulated to a depth of 50 percent of the inlet or catch basin capacity” (see section 8.2.8 of the Department’s 2016 Stormwater Management Plan, Baseline Stormwater Drainage Facilities Inspection and Cleaning Program). This is unacceptable and the Department should be held to a higher standard.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. This comment relates to the Department’s Stormwater Management Plan, which is not the subject of this written comment period. That said, the draft Order requires the Department to design and maintain full capture systems to a level that achieves hydraulic capacity for the peak flow rate generated by a one-year, one-hour storm event up to fifty percent of trash capacity. Increasing maintenance intervals for lesser trash capture volumes would result in unnecessary and burdensome maintenance costs without a commensurate benefit. Should the commenter wish to comment on the Stormwater Management Plan directly, draft Attachment C, section C5.17 of the draft Order provides that the Stormwater</p>

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	Management Plan shall be updated annually, with revisions subject to public notice and the opportunity for a public hearing.
4.17	<p><u>Commenter</u>: Contech Engineered Solutions</p> <p><u>Comment Summary</u>: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.10.10, Vector Control, item 1</p> <p>Revise draft Attachment C, section C3.10.10, item 1 regarding vector control to harmonize the requirements with the vector control standards of the trash program. The 96-hour drawdown, repeated from the existing Order, has been interpreted by the Department as prohibiting treatment systems that include standing water, significantly limiting structural options for trash control. Since the existing Order was adopted, Aedes mosquitos have proliferated throughout the state, which lay eggs in moist areas, including simply wet trash on dry ground. This makes inspection and treatment a more effective control than just eliminating standing water. The proposed language below is borrowed verbatim from the vector control accessibility requirements for full capture system certification developed by the Mosquito and Vector Control Association of California in conjunction with the State Water Board.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise section C3.10.10, item 1 as follows:</p> <p style="padding-left: 40px;">The Department shall design, operate, and maintain best management practices to (a) minimize mosquito production and (b) allow for full visual access to all areas for presence of standing water, and when necessary, allow for treatment of mosquitoes. This limitation does not apply in the Lake Tahoe Basin and in other high-elevation regions of the Sierra Nevada above 5,000 feet elevation with similar alpine climates.</p> <p><u>Comment Response</u>: Revisions have been made in response to the comment. Draft Attachment C, section C3.10.10, item 1, has been clarified because the California Department of Public Health formally provided the State Water Board revised text to section C3.10.10, item 1 as follows:</p>

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	<p><i>C3.10.10 Vector Control</i></p> <p>The Department shall develop and implement post-construction stormwater best management practices to control mosquitoes and vectors in compliance with the following conditions:</p> <ol style="list-style-type: none"> 1. The Department shall design, operate, and maintain best management practices to (a) minimize mosquito production and (b) drain within 96 hours of the end of a rain event unless specifically designed to control vectors through other features. The Lake Tahoe Basin and in other high-elevation regions of the Sierra Nevada above 5,000 feet elevation with similar alpine climates are exempt from the vector control-related post-construction requirements of this paragraph between October 1 and April 15. In addition, the requirements of this paragraph do not apply to Certified Full Capture Systems installed for compliance with the Trash Provisions and Attachment C if the installation complies with local Mosquito Vector Control District guidance.
4.18	<p><u>Commenter</u>: Department of Transportation</p> <p><u>Comment Summary</u>: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.10.10, Vector Control</p> <p>The requirement to design, operate, and maintain best management practices to drain within 96 hours of a rain event inhibits the Department from adopting many new treatment technologies, like Hydrodynamic Separators, that do not drain but can be inspected and maintained to minimize mosquito production. Additionally, the Sierra Nevada Mountains are not the only mountain range in California with elevations greater than 5,000 feet. The State Water Board should remove the specific reference to it.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise section C3.10.10 as follows:</p> <p>The Department shall design, operate, and maintain best management practices to (a) minimize mosquito production and (b) deploy designs that allow for full visual access to all areas for presence of standing water, and when necessary, allow for treatment of mosquitoes or best management practices certified by the State</p>

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p>Water Resources Control Board. This limitation does not apply in the Lake Tahoe Basin and in other high-elevation regions above 5,000 feet elevation with similar alpine climates.</p> <p><u>Comment Response:</u> Please see the revisions shown in comment 4.17, above. Revisions have been made in response to this comment. This section has been updated for consistency with the latest guidance from the California Department of Public Health, which does not agree that the ninety-six-hour drawdown should be removed but has updated its guidance to conform with the Trash Provisions. The California Department of Public Health has provided the State Water Board revised text to C3.10.10.1, shown above in comment number 4.18. The California Department of Public Health based the 96-hour drainage exemption recommendation on studies conducted in the Sierra Nevada Mountains. Other mountain ranges may have different vector and atmospheric conditions in which the exemption is inappropriate. The draft Order will retain the reference to the Sierra Nevada Mountains.</p>
4.19	<p><u>Commenter:</u> California Stormwater Quality Association</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C4, Areas of Special Biological Significance Compliance Plan</p> <p>The draft Order is inconsistent at times with the General Exception to the Areas of Special Biological Significance discharge prohibition. For instance, and most notably, the General Exception requires dischargers to develop an Areas of Special Biological Significance Compliance Plan to “specifically address the prohibition of non-storm water runoff and the requirement to maintain natural water quality for storm water discharges to an Area of Special Biological Significance.” The General Exception does not require that a Compliance Plan be developed for discharges that are exceeding the California Ocean Plan Instantaneous Maximum Water Quality Objectives or to achieve a 90 percent reduction in pollutant loading during storm events. Instead, the General Exception requires that structural best management practices meet the minimum threshold of being designed to meet California Ocean Plan instantaneous maximum water quality objectives or be designed to reduce the pollutant load by 90 percent. The draft Order language should be entirely consistent with the General Exception.</p> <p><u>Commenter’s Suggested Draft Order Language:</u></p>

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p>To ensure that the requirements of the draft Order are consistent with the General Exception, Draft Attachment C, section C4, should be modified as follows:</p> <p>No later than 12 months after the Effective Date of this Order, the Department shall submit an Areas of Special Biological Significance Compliance Plan to the State Water Board Executive Director for review and consideration of approval. The Areas of Special Biological Significance Compliance Plan shall address the locations and monitoring results in Table C-1, which indicate that discharges are causing or contributing to alterations of natural ocean water qualities in the Areas of Special Biological Significance.</p> <p>The Department’s Areas of Special Biological Significance Compliance Plan shall include the following information:</p> <ol style="list-style-type: none"> 3. Implementation schedule for the type and installation date of best management practices. The implementation schedule shall ensure that natural ocean water quality conditions are achieved and maintained by either reducing flows from impervious surfaces, reducing pollutant loading, or a combination thereof. The Department shall include documentation verifying that selected best management practices are designed such that the effluent will meet the natural ocean water qualities in the receiving water. 4. Description of the measures by which all non-authorized non-stormwater discharges (e.g., dry weather flows) will be eliminated, and how these measures will be maintained, monitored, and documented. 5. Description of inspections once prior to the beginning of the rainy season and once during the rainy season for stormwater outfall drains equal to or greater than 18 inches in diameter or width. 6. Descriptions of the necessary best management practices to achieve pollutant reductions to comply with the special conditions in the General Exception. ... 10. Technical description of best management practices to control stormwater runoff discharges during a design storm, including the achievement, on average, of the following target levels:

Comment Number	Comment Category 4: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Implementation Requirements
	<p><u>Comment Response:</u> Please see the revisions shown in comment 4.14, above. Revisions have been made in response to this comment to more accurately reflect the requirements of the Areas of Special Biological Significance General Exception. The changes focus the Department’s requirements more specifically on the ultimate compliance endpoint of ensuring that its discharges do not cause or contribute to alterations of natural ocean water quality. The changes also remove the language referring to “loads from other sources” because the Department is responsible for the quality of discharges from its system, however the pollutants get there.</p>

<p>Comment Number</p>	<p>Comment Category 5: Draft Attachment D, TMDL Implementation Requirements</p>
<p>5.01</p>	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.3, TMDL Compliance Plan</p> <p>Numeric effluent limits must be included because these limits are feasible and required. The State Water Board must articulate that the Department-specific numeric waste load allocations must be articulated as numeric effluent limits. The State Water Board must properly incorporate numeric effluent limits, as required by the Clean Water Act. The Clean Water Act, its implementing regulations, and case law require the State Water Board to regulate discharges with numeric effluent limits whenever feasible. U.S. EPA’s November 22, 2002, memorandum states that permitting authorities have flexibility with the implementation of waste load allocations in stormwater permits including best management practices or numeric effluent limitations. The updated memorandum stressed the importance of clear, specific, and measurable effluent limits and recommended that when feasible, numeric effluent limits be used. (40 C.F.R. sections 124.8, 124.9 and 124.18.).</p> <p>Moreover, for TMDLs identified in Attachment One of the comment letter, the applicable specific numeric waste load allocations should be incorporated into the draft Order as numeric effluent limitations.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Draft Attachment D, Total Maximum Daily Load Implementation Requirements, section D3.3, includes multiple options for demonstrating compliance with waste load allocations, which includes discharge monitoring (among other kinds of monitoring), so long as the demonstration is consistent with the requirements and assumption of the waste load allocation.</p> <p>Further, under 40 C.F.R. section 122.44(k)(2) and (k)(3), the State Water Board may impose best management practices for control of stormwater discharges in lieu of numeric effluent limitations. Consistent with precedential State Water Board Orders WQ 91-03 and WQ 91-04, the draft Order allows the Department to implement best management practices to comply with the requirements where appropriate.</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>As the commenter states, on November 12, 2010, U.S. EPA issued a revision to the November 22, 2002, memorandum in which it had “affirm[ed] the appropriateness of an iterative, adaptive management best management practices (best management practice) approach” for improving stormwater management over time. In the revisions, U.S. EPA recommended that in the case the permitting authority determines that municipal separate storm sewer system discharges have the reasonable potential to cause or contribute to a water quality excursion, the permitting authority, where feasible, may include numeric effluent limitations as necessary to meet water quality standards. However, the revisions recognized that the permitting authority’s decision as to how to express water-quality based effluent limitations as numeric effluent limitations or best management practices, would be based on an analysis of the specific facts and circumstances surrounding the permit. Moreover, with regard to TMDLs specifically, the provisions incorporated in this permit are “consistent with the assumptions and requirements” of the relevant wasteload allocations.</p>
5.02	<p><u>Commenter</u>: City of Los Angeles</p> <p><u>Comment Summary</u>: Attachment D, TMDL Implementation Requirements, section D3.3, TMDL Compliance Plan Incentivize coordination to achieve TMDL compliance through alignment of Department projects with MS4 permittees’ watershed planning efforts, including through leveraging existing watershed models, providing funding for existing project opportunities, and collaborating on the identification and implementation of new project opportunities.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise draft Attachment section D3.3, item 10, as follows:</p> <p>10. A tabulated list and accompanying description of the Department’s compliance strategy to achieve compliance with each TMDL. Approval by the State Water Board Executive Officer shall be streamlined where TMDL Compliance Plans are developed in coordination with local MS4 permittees, leverage existing watershed planning efforts (e.g., modeling analyses, monitoring, source assessments), and are consistent with local watershed management plans (e.g., watershed management programs).</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p><u>Comment Response:</u> No change has been made in response to the comment. The State Water Board is committed to working with the Department to approve plans that meet the Order’s requirements as expeditiously as possible.</p>
5.03	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Attachment D, TMDL Implementation Requirements, section D3.2, Annual TMDL Compliance Status Reports, item 3, and section D3.3, TMDL Compliance Plan</p> <p>Section D3.3 requires annual submittal of a TMDL Compliance Plan while section D3.2 item 3 requires reporting planned activities for the forthcoming two fiscal years in the Annual TMDL Compliance Status Report. The annual submittal requirement is also inconsistent with the Department’s biennial State Highway Operation and Protection Program, which is the Department’s master document for planning projects and identifying funding sources. The annual preparation and submittal of the TMDL Compliance Plan will only increase the cost of compliance without providing additional planning value. The update and submittal should be made biennial to align with these other requirements and processes.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The annual update is independent of the Department’s State Highway Operation and Protection Program’s two-year forecast. In contrast, the purpose of the two fiscal-year look ahead is so that Regional Water Board staff may evaluate proposed stormwater controls before the Department submits plans to the State Highway Operation and Protection Program. The purpose of the annual TMDL Compliance Plan update is to track implementation and TMDL compliance progress and to propose updates. These updates do not need to ignore the constraints of the State Highway Operation and Protection Program.</p>
5.04	<p><u>Commenter:</u> Orange County Department of Public Works</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D5.1, Cooperative Agreements</p> <p>The commenter supports the compliance incentives provided in the draft Order for the Department to enter into cooperative agreements with the local TMDL compliance groups for planning, program implementation, key watershed projects, and other co-funded compliance tasks proportionate to the Department’s watershed tributary area and suggests a change to further encourage cooperative agreements for TMDLs.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise draft Attachment D, section D5.1 as follows:</p> <p style="padding-left: 40px;">The Department is encouraged to establish cooperative agreements for implementation efforts, such as joint implementation actions and/or special implementation studies with other parties that have responsibility for a TMDL or TMDLs, including those promulgated after the adoption of this Order. Subject to written approval by the Regional Water Board’s Executive Officer and the Deputy Director of the Division of Water Quality, the Department may satisfy some or all of the Department’s TMDL obligations through projects outside of the Department’s right-of-way, provided that the projects, in combination with other dischargers’ projects in the watershed, are consistent with attaining the waste load allocations for the watershed. Where the Department enters into a Cooperative Agreement, the allocation of the resulting waste load reductions between the Department and the cooperating agencies should be proposed as part of the Cooperative Agreement and shall be documented in the TMDL Compliance Plan.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Please note that under the circumstances described in Attachment D, the Department may enter into cooperative agreements. Further, the draft Order only addresses those TMDLs included in the draft Order. TMDLs promulgated after the Adoption Date must be separately incorporated.</p>
5.05	<p><u>Commenter:</u> Orange County Department of Public Works</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, Table D-2</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>Draft Attachment D, Table D-2 of the draft Order contains TMDLs with which the Department is to comply that includes TMDLs in the Santa Ana Region, but does not include the Newport Bay Selenium TMDL. Include the Newport Bay Selenium TMDL in draft Attachment D, Table D-2 along with associated requirements.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The Newport Bay Selenium TMDL assigns implementation responsibility to named dischargers. There are two primary categories of dischargers identified in the TMDL: MS4 permittees and Other NPDES permittees. The Implementation Plan identifies the entities included in these categories. However, the Department is not identified as a discharger to whom TMDL implementation responsibility is assigned.</p>
5.06	<p><u>Commenter:</u> Stone Creek Environmental Consulting</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.3, TMDL Compliance Plan The TDML Compliance Plan and subsequent updates should be available for public review and comment prior to approval by the State Water Board Executive Director.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to this comment. The State Water Board shall provide public notice of the TMDL Compliance Plan and its updates and a minimum 30-day public comment period.</p> <p>Draft Attachment D, section D3.3, second paragraph has been revised as follows:</p> <p style="padding-left: 40px;">D3.3.1 ...</p> <p style="padding-left: 40px;">The Department shall submit an updated TMDL Compliance Plan annually by November 30 of each year. The Department shall submit the TMDL Compliance Plan and subsequent annual updates for review and consideration of approval by the State Water Board Executive Director. Prior to consideration of approval, the State Water Board Executive Director will publicly notice and issue the updated Prioritized Inventory of Reaches for a 30-day public</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>comment period, with a limited scope for public comments on the initially submitted TMDL Compliance Plan, or on the subject Plan update, as applicable. Upon approval by the State Water Board Executive Director, the Department shall begin implementation.</p> <p>Draft Time Schedule Order, section 1 has been revised as follows:</p> <p>Order 202X-XXXX-DWQ requires the Department to develop, submit, implement, and annually update a TMDL Compliance Plan that provides the Department’s strategies to comply with TMDL requirements by the final compliance date of this time schedule order. The Department’s TMDL Compliance Plan, and subsequent updates, must address the requirements of Order 202X-XXXX-DWQ and of this time schedule order. The Department shall submit the TMDL Compliance Plan, and subsequent updates, for review and consideration of approval by the State Water Board Executive Director. The State Water Board will provide a minimum 30-day public comment period prior to consideration of approval of the proposed TMDL Compliance Plan, and/or updates thereof. Upon approval of the TMDL Compliance Plan and subsequent updates, the Department shall immediately implement all terms and provisions of the approved updated Plan to comply with the interim and final compliance dates in this time schedule order.</p>
5.07.a	<p><u>Commenter:</u> U.S. EPA, Region IX</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.3, TMDL Compliance Plan, item 10.a</p> <p>The commenter supports the direct incorporation of waste load allocations, believes that it will ensure greater consistency with the TMDLs, and suggests several revisions.</p> <ul style="list-style-type: none"> • Revise draft Attachment D, section D3.3 item 10 to retain the eighth strategy for complying with waste load allocations (miscellaneous factors).

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<ul style="list-style-type: none"> Revise the first compliance strategy involving modelling in draft Attachment D, section D3.3.10.a, to require that the modelling “<i>quantitatively</i> demonstrate that best management practices reduce pollutant loads to comply with TMDL waste load allocations.” <p><u>Commenter’s Suggested Draft Order Language:</u> Specific text was not provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. The revised text is shown below.</p> <p>Draft Attachment D, section D3.3 item 10.h, has been added to be consistent with the Time Schedule Order. An eighth compliance strategy has been added to Draft Attachment D as section D3.3 item 10.h, as follows</p> <ul style="list-style-type: none"> h. <i>TMDL-Specific Demonstrations.</i> Demonstration that the waste load allocation is attained through other factors as described by the specific TMDL. <p>Draft Attachment D, section D3.3 item 10.a has been revised as follows:</p> <ul style="list-style-type: none"> a. <i>Modeling Analysis.</i> Modeling analysis, including analysis of cooperative projects, that quantitatively demonstrates that best management practices reduce pollutant loads to comply with TMDL waste load allocations.
5.07.b	<p><u>Commenter:</u> U.S. EPA, Region IX</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.3, TMDL Compliance Plan, item 10.a</p> <p>The commenter states that the State Water Board’s draft Time Schedule Order is reasonable given the large number of applicable TMDLs and that many TMDL deadlines have already passed. The commenter had further comments regarding the requirements for specific TMDLs:</p> <ul style="list-style-type: none"> Scott River Sediment and Temperature TMDL. Table D-1 in draft Attachment D indicates that this TMDL requires no additional requirements above baseline Permit requirements; however, Table A-2 (draft Attachment A) includes TMDL-related reductions for sediment and Table A-4 included temperature requirements as well.

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>The specific sediment and temperature requirements for the Department for this TMDL are found in section D5.7 of draft Attachment D.</p> <ul style="list-style-type: none"> • Clear Lake Nutrients TMDL. The Fact Sheet indicates that all stormwater permittees in the watershed (including the Department) were assigned a phosphorus waste load allocation of 2000 kg/yr. The draft Fact Sheet notes that the Department has about 135 miles of roadways in the watershed, or less than 0.1% of the watershed. However, the draft Fact Sheet needs further explanation regarding how this leads to the waste load allocation of 100 kilograms per year for the Department. • Truckee River Sediment TMDL. This TMDL had assumed that implementation of the requirements of the Department’s existing Order and other control programs would achieve compliance with the TMDL by the 2028 deadline. Hence, the draft Order only requires implementation of basic permit requirements. However, the TMDL had also required a progress report at the halfway point (2018) to evaluate progress toward meeting the 2028 sediment reduction goals, and whether additional controls might be appropriate for control programs such as the draft Order. The draft Fact Sheet for the draft Order should comment on whether such an assessment was conducted, the findings of the assessment, and whether additional controls for the Permit may be appropriate (or not) based on the assessment. <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment.</p> <p>Draft Attachment A has been revised to explain that the North Coast Water Board determined that the Department’s stormwater management plan was adequate and effective to control of sediment and temperature in the Scott River and the need for further specific requirements were not necessary. The following text has been added:</p> <p>A9.7.4.1.15 Scott River Sediment Total Maximum Daily Load</p> <p>Contribution Specific to the Department: The Department’s sediment contribution and proportional responsibility are not specified in the TMDL. On August 8, 2020, North Coast Water Board staff calculated Department-specific sediment load allocations, which are listed in Table A-2 of this Attachment. However, under</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>the Action Plan for the Scott River Sediment TMDL, the North Coast Water Board evaluated the adequacy and effectiveness of the Department’s Stormwater Program to prevent, reduce, and control sediment waste discharges in the Scott River watershed and determined that the Department’s stormwater management program was adequate and effective to control of sediment in the Scott River and no further specific requirements were necessary at this time.</p> <p>A9.7.10.1.7 Scott River Temperature Total Maximum Daily Load</p> <p>Contribution Specific to the Department</p> <p>The TMDL does not include specific allocations for the Department and the proportional contribution from the Department’s roads is not identified. North Coast Water Board staff determined the Department’s level of proportional responsibility for the TMDL allocation. However, under the Action Plan for the Scott River Temperature TMDL, the North Coast Water Board evaluated the adequacy and effectiveness of the Department’s Stormwater Program to prevent, reduce, and control elevated water temperatures in the Scott River watershed and determined that the Department’s stormwater management program was adequate and effective to control temperature in the Scott River and no further specific requirements were necessary at this time.</p> <p>For the Clear Lakes Nutrients TMDL, the following revised text has been inserted into draft Fact Sheet, section A9.7.4.5.1:</p> <p>A9.7.4.5.1 Clear Lake Nutrients Total Maximum Daly Load</p> <p>Final Waste Load Allocations and Contributions Specific to the Department: Waste load allocations for phosphorus are assigned to point source discharges regulated under NPDES permits. The point source dischargers in the Clear Lake watershed are the stormwater permittees. The Clear Lake Nutrients TMDL (section 4.5.10 of the Sacramento River and San Joaquin River Basin Plan, Fifth Edition) specifies the Department’s waste load allocation. Waste load allocations for the NPDES permittees discharging to the lake or tributaries are as follows: a). Lake County Stormwater permittees (Lake County, City of Clearlake, City of Lakeport) – 2,000 kilograms phosphorous per year, and b). the Department – 100 kilograms phosphorous per year.</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>For the Middle Truckee River Sediment TMDL, the following revised text provides clarification and has been inserted into Draft Fact Sheet at section A9.7.4.6.2:</p> <p>A9.7.4.6.2 Middle Truckee River Watershed Sediment Total Maximum Daily Load</p> <p>Description: The Lahontan Water Board adopted the Middle Truckee River Watershed Sediment TMDL, which was subsequently approved by U.S. EPA on September 16, 2009. Excessive suspended sediment concentrations during high river flows impact the aquatic life beneficial uses. State highways run parallel, and in proximity, to the entire 39-mile reach of the Truckee River regulated by this TMDL. The Department’s highway facilities in this watershed also include State Highway 89 from the outlet of Lake Tahoe to the Town of Truckee and Interstate 80 from the Town of Truckee to the California-Nevada state line. The TMDL recommends a 10-year evaluation of annual data to determine if revisions are needed to the TMDL implementation plan. The Lahontan Water Board has not determined that further stormwater management activities should be implemented in the watershed by the Department. Progress towards meeting the Middle Truckee River Sediment is conducted annually. The Lahontan Water Board reports that the 2014 monitoring report estimated annual sediment load to the river for the compliance point at Farad as 2,169 tons per year, which is less than the loading capacity of 40,300 tons per year (based on water year 1996 to 1997). Lahontan Water Board speculates that the sharp decline in suspended sediment is due, in part, to drought conditions. The 2016 Water Quality Report Card for sediment in the Middle Truckee River (https://www.waterboards.ca.gov/about_us/performance_report_1920/plan_assess/tmdl_outcomes/r6_mid_truckee_r_sediment.pdf) also states that “The tributaries and outfalls are continually monitored to develop a multi-year, robust dataset to evaluate stormwater management activities, and identify and prioritize future stormwater management activities in the watershed.”</p>
5.08	<p><u>Commenter:</u> U.S. EPA, Region IX</p> <p><u>Comment Summary:</u> Draft Attachment D, section D3.3 TMDL Compliance Plan; and Draft Time Schedule Order, section 1.2, Compliance Strategy for Each TMDL</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>The draft Time Schedule Order requires compliance with the requirements for a compliance plan found in draft Attachment D, which include a prioritization of TMDL compliance activities. For further clarity, the draft Time Schedule Order should cite the section of draft Attachment D where the Compliance Plan can be found (section D.3.3) rather than just referring to draft Attachment D. Additionally, the Time Schedule Order (section 1.2) only refers to compliance strategies found in draft attachment D. For greater clarity, the Time Schedule Order should note the specific section of draft Attachment D section D3.3.10, where the compliance strategies can be found.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. The following changes have been made to the Time Schedule Order:</p> <p>Time Schedule Order section 1.2 has been revised, as follows:</p> <p style="padding-left: 40px;">1.2 Compliance Strategy for Each TMDL</p> <p style="padding-left: 40px;">In its TMDL Compliance Plan, for each TMDL listed in Table TSO-1 below, the Department shall provide detailed planning elements for compliance with provisions in Attachment D, section D3.3, of Order 202X-XXXX-DWQ, and a compliance strategy per provisions in section D3.3.10.</p>
5.09	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.3, TMDL Compliance Plan</p> <p>The draft Order changes the demonstration of TMDL compliance from compliance units in the existing Order to meeting waste load allocations. This will require the Department to determine pollutant load reductions from past compliance unit projects delivered under the existing Order. The uncertainty of the pollutant reduction credits until these determinations are approved presents a challenge for planning future projects and allocating limited resources. Under the approval timelines outlined in the draft Order, the Department will not be able to plan and program stormwater TMDL mitigation projects until the 2026 State Highway Operation and Protection Program cycle, further delaying construction. The Water Board should continue to facilitate discussions regarding waste load allocations in a</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>timely manner that help provide clarity and consistency in the required compliance actions that will result in waste load reductions and optimize the available resources to accelerate their implementation through on-system retrofits and off-system regional partnerships.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. While the draft Order carries over the existing Order’s requirement to ultimately comply with TMDL waste load allocations (see Attachment IV, page 30, section A.3.c.v of the existing Order), it is understood that the removal of the compliance unit process will present certain challenges. Discussions will continue with the Department regarding its waste load allocations so that Water Board staff can continue to provide clarity and consistency to the Department while it implements the Order’s TMDL requirements.</p>
5.10	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.4, Regional Water Board-Specific Reports, item 2, Cooperative Projects.</p> <p>The requirement to obtain Regional Water Board approval for all cooperative and other agreements will prolong implementation efforts and may result in delayed compliance. The draft Order should require timely approvals of the Department’s project proposals by the Regional Water Boards.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. The requirement to obtain Regional Water Board approval has been revised. Instead, cooperative projects, like other projects, will be included in TMDL Compliance Plan, or as addendums to the TMDL Compliance Plan. Draft Attachment D, Sections D3.4 and D5.1 have been revised as follows:</p> <p>D3.4 Regional Water Board-Specific Reports</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>[:] 2. ...</p> <p>D5.1 Cooperative Agreements</p> <p>The Department may satisfy some or all of the Department’s TMDL obligations through projects outside of the Department’s right-of-way, provided that the projects, either alone or in combination with other dischargers’ projects in the watershed, are consistent with attaining the waste load allocations for the watershed. Prior to implementation of projects pursuant to cooperative agreements or other agreement (e.g., regional, task force, local, watershed, and Regional Water Board agreements), the allocation of the predicted waste load reductions between the Department and the cooperating agencies should be proposed as part of the Cooperative Agreement and shall be documented in the TMDL Compliance Plan. Following implementation of a cooperative agreement project, the actual waste load reductions claimed must be based on the constructed best management practice, and the Department must address and report on any discrepancy between the predicted planned and actual waste load reductions claimed, which must be reported in the annual TMDL Compliance Status Report. The Department should consult with Regional Water Board staff before entering into cooperative agreements to ensure that the projects are consistent with attaining with the relevant waste load allocations.</p> <p>With item 2 removed from section D3.4 as shown above, D3.4 now applies only to the Lahontan, North Coast, and San Diego Regional Water Boards. Therefore, "D3.4" has been removed from the last column of Table D-2 for all other regions.</p>
5.11	<p><u>Commenter</u>: Department of Transportation</p> <p><u>Comment Summary</u>: Draft Attachment D, TMDL Implementation Requirements, section D5.7, North Coast Water Board Sediment TMDLs</p> <p>The sediment load reduction targets for the Mad River and Trinity River watersheds assume that the Department’s roads are similar to forest roads in the sub-watersheds. This is inconsistent with the notable difference in landslide</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>loads observed between sub-watersheds with and without State Highways. While these determinations are ongoing, the draft Order should be modified to indicate that the load reductions in draft Attachment D, section 5.7 are provisional and subject to revision as the Department and the Regional Water Board continue to engage on this issue to work towards developing an acceptable TMDL Compliance Demonstration Plan.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. North Coast Water Board staff developed Department-specific load reductions based on extensive discussions and exchanges of information between Water Board and Department staff. Regional Water Board staff refined the approach and load allocations based on comments and input from the Department. The final sediment loads and load allocations are the Department’s obligations under the TMDLs. To determine these final values, North Coast Water Board staff used the “proportional responsibility” method for 9 sediment TMDLs in the North Coast region.</p> <p>On January 1, 2021, the Department proposed an alternative method, its “reduction factor” method. North Coast Water Board staff did not concur with the Department’s method for the following reasons: (1) the Department did not consider all loads, (2) the reduction factor method did not follow the TMDL process to develop load allocations, and (3) North Coast Water Board staff identified a notable difference in landslide loads between subwatersheds with and without state highways. Thus, the North Coast Water Board staff did not approve the reduction factor method as an acceptable alternative.</p> <p>While the reduction factor proposal was incongruent with the "proportional responsibility" method applied by the North Coast Water Board staff, staff did uncover the potential for refining the Department’s sediment load reduction responsibility where TMDL documents provide sufficient detail. North Coast Water Board staff refined the proportional responsibility method for two watersheds (Mad and Trinity) which had sufficient information to re-calculate sediment loads and load allocations associated with state highways on a subwatershed basis. This allowed North Coast Water Board staff to exclude watersheds without state highways from the proportional responsibility calculation. Revised sediment loads have been incorporated and are shown in two tables at the end of this this Response to Comments.</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>No further revisions will be made. The draft Order does not allow for continued modification of the Department-specific load reductions.</p> <p>As part of the process of clarifying the Department’s TMDL obligations, changes have been made to the language regarding [several TMDL’s] Department-specific responsibility. A table showing these changes is included at the end of this Response to Comments document.</p>
5.12	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D5.6, Requirements for Temperature TMDLs, item 1, and section D5.7.1.2, Temperature Load Reductions</p> <p>The draft Order should allow compliance with temperature TMDLs via sediment controls, as sediment can increase temperature in receiving waters. However, section D5.7.1.2 only gives temperature reduction credit for planting in riparian areas. The draft Order should be updated with a mechanism to convert tons of sediment control to riparian acreage.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The North Coast Water Board temperature TMDLs are designed to achieve riparian restoration targets. The temperature TMDLs express load allocations as the percent of shade along a stream segment. This draft Order must implement the North Coast Water Board temperature TMDLs in a way that is consistent with the requirements and assumptions of the waste load allocations. Here, that is achieved by requiring riparian restoration according to the Department’s proportional responsibility. Any revision to the TMDL allocations must be made through the TMDL adoption or revision process.</p>
5.13	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D5.9, Requirements for Los Angeles Water Board Trash TMDLs</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>A trash reduction credit is given to structural controls but not Full Trash Capture Equivalency controls. This is inconsistent with the Trash Provisions, which give credit for Full Trash Capture Equivalency. The draft Order should allow Full Trash Capture Equivalency to achieve trash TMDL compliance (e.g., structural, and non-structural controls) instead of only structural controls.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise section D5.9, item 2 as follows:</p> <p style="padding-left: 40px;">Trash Reduction Allocations. Trash reduction allocations are the gallons per year of trash that the Department shall remove or reduce from its jurisdiction to satisfy its trash load allocations.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. While the Trash Provisions do not apply to areas addressed by the Los Angeles Water Board’s Trash TMDLs, those TMDLs were updated to allow full capture system equivalency as defined by the Trash Provisions. Changes to draft Attachment D, section D5.9, item 1 have been made to reflect the compliance language in the Los Angeles Water Board Trash TMDLs, which allows full capture system equivalency as defined by the Trash Provisions, as follows:</p> <p style="padding-left: 40px;">D5.9 Requirements for Los Angeles Water Board Trash Total Maximum Daily Loads</p> <p style="padding-left: 40px;">[:]</p> <p style="padding-left: 40px;">1. Trash Control Measures. The Department shall comply with waste load allocations by installing, operating, and maintaining any combination of full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls for all storm drains that capture runoff from significant trash generating areas to achieve full capture equivalency as defined by the Trash Provisions in the Inland Surface Waters, Enclosed Bays, and Estuaries of California Plan. Information on what qualifies as a full capture system and how to demonstrate full capture equivalency is included in Attachment E.</p>
5.14	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D5.11.2, Sacramento-San Joaquin Delta Methylmercury TMDL</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>The municipal allocations apply to the Department in subareas where the Department’s storm drain system pipes are connected to their sewers. If the Department’s pipes are not connected, then full subarea allocations apply. This language puts the burden of all waste load outside municipal areas on the Department and disregards contributions from other sources, like agriculture legacy mining or other land uses. Full sub-area allocations will require separate evaluations in each subarea of this TMDL.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> For the Sacramento-San Joaquin Delta Methylmercury TMDL, revise paragraph 3 of section D5.11.2 as follows:</p> <p style="padding-left: 40px;">Where the Department’s storm sewer system is located within a Delta subarea but outside the jurisdiction of a municipal separate storm sewer system listed in the above table, the Department shall comply with the urban runoff load allocations for each Delta subarea in proportion to its land use footprint.</p> <p><u>Comment Response:</u> Clarifying revisions have been made to draft Attachment A and draft Attachment D in response to the comment. However, the characterization of the urban nonpoint source load allocations applicable to the Department’s discharges is inaccurate. There are a variety of allocations included in the TMDL applicable to different sources of pollutants to the impaired receiving water. The urban (nonpoint source) runoff load allocation only applies to pollutants from urban nonpoint runoff sources, which are categorized as sources from urban areas not encompassed by a MS4 service area (Table 4-17 in the Central Valley Basin Plan) such as the Department’s discharge. It does not include pollutants from other sources, such as agriculture, legacy mining, or other land uses. Where the Department is not the only discharger to which a particular load allocation applies (for example, if it shares an allocation with another urban runoff point or nonpoint source), it may propose a strategy in the TMDL Compliance Plan to address the Department’s share of the allocation. The following changes have been made to draft Attachment D, section D5.11.2, and draft Fact Sheet, section A9.7.4.5.3:</p> <p style="padding-left: 40px;"><i>D5.11.2 Sacramento-San Joaquin Delta Methylmercury TMDL</i></p> <p style="padding-left: 40px;">[:]</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements																		
	<p>Where the Department’s storm sewer system is located within a Delta subarea but outside the jurisdiction of a municipal separate storm sewer system listed in the above table, the Department shall comply with the urban (nonpoint source) runoff load allocations for each Delta subarea shown in the table below, or if the Central Valley Water Board adopts revised load and waste load allocations in Phase 2 of the Delta Mercury Control Program and associated TMDL, the Department shall comply with the assigned revised allocations and monitoring requirements.</p> <p>Applicable in Storm Sewer System Discharges Located Within a Delta Subarea but Outside the Jurisdiction of a Municipal Separate Storm Sewer System</p> <table border="1" data-bbox="367 643 1621 1071"> <thead> <tr> <th data-bbox="367 643 716 797">Delta Subarea</th> <th data-bbox="716 643 1073 797"></th> <th data-bbox="1073 643 1621 797">Urban (Nonpoint Source) Runoff Load Allocation (grams per year)</th> </tr> </thead> <tbody> <tr> <td data-bbox="367 797 716 850">Central Delta</td> <td data-bbox="716 797 1073 850"></td> <td data-bbox="1073 797 1621 850">0.14</td> </tr> <tr> <td data-bbox="367 850 716 904">Mokelumne River</td> <td data-bbox="716 850 1073 904"></td> <td data-bbox="1073 850 1621 904">0.018</td> </tr> <tr> <td data-bbox="367 904 716 958">Sacramento River</td> <td data-bbox="716 904 1073 958"></td> <td data-bbox="1073 904 1621 958">0.62</td> </tr> <tr> <td data-bbox="367 958 716 1011">San Joaquin River</td> <td data-bbox="716 958 1073 1011"></td> <td data-bbox="1073 958 1621 1011">0.0022</td> </tr> <tr> <td data-bbox="367 1011 716 1071">West Delta</td> <td data-bbox="716 1011 1073 1071"></td> <td data-bbox="1073 1011 1621 1071">0.066</td> </tr> </tbody> </table> <p>Draft Fact Sheet, section A9.7.4.5.3</p> <p>A9.7.4.5.3 Sacramento-San Joaquin River Delta Estuary Methylmercury Total Maximum Daily Load</p> <p>Description: The Central Valley Water Board adopted the Sacramento-San Joaquin River Delta Estuary Methylmercury TMDL, which was subsequently approved by U.S. EPA on October 20, 2011. The TMDL identified the Delta as impaired by mercury because fish had elevated levels of mercury that posed a risk for human and wildlife consumption. The intent of the TMDL is to reduce concentrations of methylmercury in fish by controlling sources of both methylmercury and total mercury. Methylmercury levels in fish are strongly correlated with mercury</p>	Delta Subarea		Urban (Nonpoint Source) Runoff Load Allocation (grams per year)	Central Delta		0.14	Mokelumne River		0.018	Sacramento River		0.62	San Joaquin River		0.0022	West Delta		0.066
Delta Subarea		Urban (Nonpoint Source) Runoff Load Allocation (grams per year)																	
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West Delta		0.066																	

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>concentration in water and watershed conditions that induce methylation of mercury in the water body; therefore, load and waste load allocations are in the form of annual aqueous methylmercury loads. The TMDL was adopted as a Basin Plan amendment that includes a control program to reduce methylmercury and inorganic mercury in the Delta. The first phase of the Delta Mercury Control Program required discharging entities to develop characterization and control studies to evaluate approaches for managing methylmercury. Central Valley Water Board staff are required to review Phase 1 of the program and TMDL for possible revision of the program, which may include revised load and waste load allocations.</p> <p>Final Waste Load Allocations and Contributions Specific to the Department: The Department is participating in the Delta Regional Monitoring Program in order to satisfy compliance with Phase 1 TMDL monitoring requirements. Because methylmercury levels in fish are correlated with methylmercury levels in water, load and waste load allocations are in the form of annual aqueous methylmercury loads. Load and waste load allocations are not specifically assigned to the Department but the Department is a contributor of methylmercury within the urban runoff (nonpoint source) and point source categories as listed in the tables below. The Department shall comply with the allocations shown in the tables below, or if the Central Valley Water Board adopts revised load and waste load allocations in Phase 2 of the Delta Mercury Control Program and associated TMDL, the Department shall comply with the assigned revised allocations and monitoring requirements. Where the Department is not the only discharger to which a particular load allocation applies (for example, if it shares an allocation with another urban runoff point or nonpoint source), it may propose a strategy in the TMDL Compliance Plan to address the Department’s share of the allocation.</p> <p>Final Methylmercury TMDL Compliance Deadlines: Methylmercury allocations shall be met as soon as possible, but no later than the final compliance date of January 1, 2030. As part of the Phase 1 Delta Mercury Control Program Review, the Central Valley Water Board may adopt revised load and waste load allocations, and a new final compliance date.</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
5.15	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.2, Annual TMDL Compliance Status Reports, and section D3.3, TMDL Compliance Plan</p> <p>The draft Order requires the Department to submit documents to individual Regional Water Boards showing its pollutant reduction associated with all compliance units delivered under the existing Order to be approved project-by-project. Compliance units achieved per the existing Order were reported annually and reviewed and approved by the Water Boards. The Department will continue collaboration with local municipalities and State/Regional Water Boards to develop a process to quantify the waste load reduction attributable to projects associated with past compliance units and for future compliance unit projects currently in the project development process.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The existing Order ultimately requires compliance with TMDL waste load allocations (see existing Order, Attachment IV, page 30, section A.3.c.v), a requirement that is carried over into the draft Order. The TMDL Compliance Plan does not require the Department to convert compliance units to pollutant reduction. Section D3.3, item 1 states, “A technical discussion that describes the proposed translation from previously earned compliance units under the existing Order to compliance with TMDL waste load allocations in this Order.” In section D3.2, item 1, the Department is required to comply with the proposed list of TMDL waste load and load allocations. Section D3.2, item 1 states, “Proposed list of TMDL waste load and load allocations with which the Department has come into compliance, including documentation demonstrating compliance and any ongoing maintenance or other efforts necessary to sustain compliance.”</p>
5.16	<p><u>Commenter:</u> California Transportation Commission</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D3.3, TMDL Compliance Plan</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p>With the limitations of installing best management practices in a transportation environment and with the new TMDL compliance methodology, does the State Water Board have a list of approved stormwater best management practices publicly available that will ensure compliance with all of the requirements in the draft Order?</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Compliance with waste load allocations is not a new TMDL compliance methodology. The existing Order ultimately requires compliance with TMDL waste load allocations (see existing Order, Attachment IV, page 30, section A.3.c.v). While the compliance unit process was designed to drive achievement of that goal, the compliance endpoint remains the same: compliance with waste load allocations. While the Water Boards do not have a list of approved stormwater best management practices, the Department has implemented best management practices for its linear transportation system for many years under the existing Order and its prior iterations. The Department developed its October 2018 “Treatment Best Management Practices Technology Report” and April 2021 “Department Best Management Practices Pilot Study Guidance Manual” as best management practices selection tools.</p> <p>Under draft Order, section D3.3, the TMDL Compliance Plan, the Department may propose its TMDL compliance mechanism from one or more of eight different methods. The best management practices available to the Department, in addition to the flexibility provided by the draft Order, will allow the Department to achieve compliance with applicable TMDLs by 2034 as provided in the draft Time Schedule Order.</p>
5.17	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment D, TMDL Implementation Requirements, section D5.9, Requirements for Los Angeles Water Board Trash TMDLs</p> <p>The Los Angeles Regional Water Board Trash TMDL reduction allocation quantities are gallons per year that the Department shall remove or reduce to satisfy its trash load allocations. This language could be interpreted as only allowing credit for trash that is removed from discharges and excluding any source reduction or institutional measures.</p>

Comment Number	Comment Category 5: Draft Attachment D, TMDL Implementation Requirements
	<p><u>Commenter’s Suggested Draft Order Language:</u> Revise section D5.9, item 2 as follows:</p> <p>Trash Reduction Allocations. Trash reduction allocations are the gallons per year of trash that the Department shall remove or reduce from its jurisdiction to satisfy its trash load allocations.</p> <p><u>Comment Response:</u> Please see the revisions shown in comment 5.13, above. Revisions have been made in response to the comment. Changes to draft Attachment D, section D5.9, item 1 have been made to reflect the compliance language in the Los Angeles Water Board Trash TMDLs, which allows full capture system equivalency as defined by the Trash Provisions.</p>

<p>Comment Number</p>	<p>Comment Category 6: Draft Attachment E, Trash Implementation Requirements</p>
<p>6.01</p>	<p><u>Commenter:</u> California Transportation Commission</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements, and Draft Time Schedule Order</p> <p>Based on the required timelines, the compliance dates for trash and TMDLs seem to be unattainable. When developing the time schedule order for Trash and TMDLs, describe how the State Water Board considered funding constraints, project development schedules or the feasibility of siting/installing stormwater best management practices in a linear transportation system?</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The existing Order requires compliance with TMDL waste load allocations by 2034, which is the date carried over to the draft Time Schedule Order and which the State Water Board had previously found was sufficient time for the Department to address its TMDL obligations. The draft Order clarifies TMDL implementation requirements by concluding the compliance unit approach and focusing more specifically on wasteload allocation achievement, including by finding that for 15 TMDLs, compliance with the baseline Order requirements satisfies the requirements of the TMDL without any additional actions needed.</p> <p>The trash requirements in draft Attachment E are not addressed through the draft Time Schedule Order. The compliance date for the trash requirements in draft Attachment E is drawn from the State Water Board-adopted Trash Provisions, which state “[i]n no case may the final compliance date be later than fifteen (15) years from the effective date of these Trash Provisions.” The effective date of the Trash Provisions was December 2, 2015, which was the date the Office of Administrative Law approved the Trash Provisions. Therefore, the Department must comply with the Trash Provisions by no later than December 2, 2030. This date cannot be altered through the draft Order or the draft Time Schedule Order.</p>

Comment Number	Comment Category 6: Draft Attachment E, Trash Implementation Requirements
6.02	<p><u>Commenter</u>: California Transportation Commission</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements</p> <p>The Department is involved in multiple efforts related to trash. Will the State Water Board collaborate with and allow the Department to identify ways to leverage these efforts to minimize expenditures and still meet overall trash reduction goals?</p> <p><u>Commenter's Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. The Trash Implementation Requirements, draft Attachment E, section E7, includes multi-year interim milestones that provide the Department flexibility in implementing its trash reduction program. The Department may determine the most efficient methods to satisfy the Trash Provision's requirement of full trash capture. The Water Boards will review the Department's reports and will provide input into the adequacy of the Department's progress.</p>
6.03	<p><u>Commenter</u>: Stone Creek Environmental Consulting</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements, section E6, Full Capture System Equivalency</p> <p>Draft Attachment E, section E6 states:</p> <p style="padding-left: 40px;">The full capture system equivalency is a trash load reduction target that the Department quantifies by using an approach, and technically acceptable and defensible assumptions and methods for applying the approach, for review and consideration of approval by the State Water Board Executive Director.</p> <p>Specify that a technical report in support of any full capture system equivalency determination must be submitted for review and consideration of approval by the State Water Board Executive Director.</p> <p><u>Commenter's Suggested Draft Order Language</u>: No specific text provided.</p>

Comment Number	Comment Category 6: Draft Attachment E, Trash Implementation Requirements
	<p><u>Comment Response:</u> No change has been made in response to the comment. Draft Attachment E, section E6 already requires the Department to submit its full capture system equivalency approach for “review and consideration of approval by State Water Board Executive Director.” That is, section E9 requires that the Department provide the technically acceptable and defensible assumptions and methods as part of its trash assessment approach for approval by the State Water Board Executive Director. The State Water Board Executive Director will not be able to review or consider approval without such details.</p>
6.04	<p><u>Commenter:</u> Stone Creek Environmental Consulting</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements, section E7, Trash Reduction Milestones, section E9, Trash Assessment Methodology Plan, and section E11.1, Procedures and Schedules</p> <p>Draft Attachment E, sections E7, E9, and E11.1 require plans to be submitted to the State Water Board Executive Director for review and consideration of approval. These should be made available for public review and comment.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to this comment. The State Water Board shall provide public notice of the Trash Assessment Methodology Plan in section E9 and the Trash Monitoring Plan in section E11.1, as well as updates to these plans, and a minimum 30-day public comment period. No specific public notice and public comment period will be provided for any proposed alteration to the milestones in section E7, but changes have been made to that section to make clear that such alterations may only be proposed to the two interim milestones and not to the final compliance requirement, as well as to make clear that such changes should be proposed as part of the Trash Monitoring Plan, which will itself be subject to public notice and a public comment period pursuant to the changes below.</p> <p>Draft Attachment E, section E7 has been revised as follows:</p> <p>E7 TRASH REDUCTION MILESTONES AND FINAL COMPLIANCE</p>

Comment Number	Comment Category 6: Draft Attachment E, Trash Implementation Requirements
	<p>The Department shall report its status towards compliance with the Trash Requirements of this Order, annually in the Trash Annual Monitoring Report described in section E12 of this Attachment, per the following Trash Reduction Milestones:</p> <ol style="list-style-type: none"> 1. First Milestone. By December 2, 2025, the Department shall achieve full capture system equivalency at 35 percent or more of the 16,645 acres of Significant Trash Generating Areas identified in its April 12, 2019 Statewide Trash Implementation Plan submitted to the State Water Board. 2. Second Milestone. By December 2, 2028, the Department shall achieve full capture system equivalency at 70 percent or more of the following: <ol style="list-style-type: none"> a. The 16,645 acres identified in the Department’s April 12, 2019 Statewide Trash Implementation Plan submitted to the State Water Board, plus b. The acres identified as Significant Trash Generating Areas in its Revised Trash Assessment Map required in section E10. 3. Final Compliance. By December 2, 2030, the Department shall achieve full capture system equivalency at 100 percent of the acres identified as Significant Trash Generating Areas in the Revised Trash Assessment Map required in section E10. 4. Until the Department completes its Trash Monitoring Plan as required in section E11, the Department shall implement its existing procedures and schedules to achieve compliance with the above milestones. 5. The Department may submit its own Trash Reduction Milestones for State Water Board Executive Director review and consideration of approval as part of the Trash Monitoring Plan required in section E11.1. If approved, the Department’s own Trash Reduction Milestones will supersede the above First and Second Milestones. Without approval of custom Trash Reduction Milestones, the Department must comply with the milestones above. <p>Draft Attachment E, section E9, second paragraph has been revised as follows:</p>

Comment Number	Comment Category 6: Draft Attachment E, Trash Implementation Requirements
	<p>By the Effective Date of this Order, the Department shall amend its Trash Assessment Methodology Plan submitted on April 12, 2019 and submit the amended Trash Assessment Methodology to the State Water Board Executive Director for review and consideration of approval. The Executive Director will provide a 30-day public .</p> <p>As shown in the response to comment number 6.12, Draft Attachment E, section E11.1 has been revised as follows:</p> <p>Within six months of receiving Executive Director approval of its Trash Assessment Methodology, the Department shall develop and submit a Trash Monitoring Plan for State Water Board Executive Director review and consideration of approval. The Trash Monitoring Plan shall contain procedures and schedules demonstrating, at minimum, the following elements:</p>
6.05.a	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements, section E4, Significant Trash Generating Areas</p> <p>The acronym and definition of significant trash generating areas in draft Attachment E, section E4 needs to be consistent with the Statewide Trash Provisions definition shown in draft Attachment B.</p> <p><u>Commenter’s Recommended Change:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Draft Attachment E’s references to significant trash generating areas are consistent with draft Attachment B; however, as an implementation requirement it adds a specific requirement to assess Department right-of-way within regulated MS4s to ensure all significant trash generating areas are identified.</p>
6.05.b	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements, section E7, Trash Reduction Milestones</p>

Comment Number	Comment Category 6: Draft Attachment E, Trash Implementation Requirements
	<p>Since the State Water Board has not yet approved the Department’s assessment of 16,645 acres of significant trash generating areas, the percentage milestones the Department is required to meet may fluctuate depending upon the latest assessment of the significant trash generating areas, which means the reduction milestones are reversible if the full capture system equivalency is not sustained and significant trash generating areas acreage assessment changes. The acreage of significant trash generating areas should be finalized or considered a milestone so that the target is not constantly shifting. Modify draft Attachment E, section E7 so that the text confirms that the 16,645 acres from the Department’s April 12, 2019 Statewide Trash Implementation Plan submitted to the State Water Board is approved.</p> <p><u>Commenter’s Recommended Change:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The draft Order recognizes the current 16,645 acres of significant trash generating areas as a starting point in year one, so it is unnecessary to approve them separately. The significant trash generating area acreage will increase as a result of the assessment required by this draft Order and the Department will make implementation adjustments necessary to meet the milestones. Since the Department has already identified over 16,645 significant trash generating area acres, the Department can begin their planning and trash implementation reduction processes immediately in accordance with its April 12, 2019, trash implementation plan. While the Department’s implementation plan will likely change to satisfy the draft Order’s Monitoring Plan Requirements, progress in achieving the first milestone can begin immediately.</p>
6.06	<p><u>Comment:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements, section E11.1, Procedures and Schedules, item 7</p> <p>The requirement to compare the quantity of trash discharged from the Department’s MS4 from year-to-year is infeasible. The Department can calculate the reduction in trash from full trash capture treatment best management practices, but year-to-year comparison would need a beginning baseline.</p>

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	<p><u>Commenter's Recommended Change:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. Section E.11.2.3 of draft Attachment E requires the Department to estimate trash generation in all Significant Trash Generating Areas based upon trash assessment. This establishes the Department's baseline trash generation. The Department may use the On-Land Visual Trash Assessments approach developed by Bay Area Stormwater Management Agencies Association and sponsored by the State Water Board to calculate a baseline. Although the On-Land Visual Trash Assessments approach was not specifically developed for highways, the baseline trash generation established via the On-Land Visual Trash Assessments approach may serve as surrogates. The Department, using the On-Land Visual Trash Assessments approach, will be able to calculate annual trash reduction and demonstrate full capture equivalency as required by the Trash Provisions. The Department may develop its own trash assessment approach that must be approved by the State Water Board Executive Director.</p>
6.07	<p><u>Commenter:</u> Center for Biological Diversity</p> <p><u>Comment Summary:</u> No section referenced.</p> <p>The Trash Provisions specifically prohibit the discharge of microplastics into the state's waterbodies and the draft Order mandates full capture of trash. The State Water Board must ensure trash from tire tread does not enter the state waterways in conformity with the Clean Water Act and the Trash Provisions.</p> <p><u>Commenter's Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The Trash Provisions provide that "Dischargers with NPDES permits that contain specific requirements for the control of Trash that are consistent with these Trash Provisions shall be determined to be in compliance with this prohibition [of discharge of Trash] if the dischargers are in full compliance with such requirements." This draft Order includes specific requirements that are consistent with the Trash Provisions by requiring that the Department address all significant trash generating areas via certified full capture systems or full capture system equivalency.</p>

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6.08	<p><u>Commenter</u>: California Stormwater Quality Association</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements, section E4, Significant Trash Generating Areas, item 5</p> <p>Draft Attachment E, section E4 includes five examples of Significant Trash Generating Areas within the Department’s jurisdiction. items 1 through 4 are consistent with the Trash Provisions. However, item 5 is new. While this new item is consistent with the intent of the Trash Provision, it should include consultation with the Department in the decision-making process.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise section E4, item 5 as follows:</p> <p style="padding-left: 40px;">Areas identified by the State Water Board Executive Director in consultation with the Department and the appropriate Regional Water Board Executive Officer to be significant trash generating areas.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. The Trash Provisions provide the State Water Board Executive Director authority to direct the Department to implement trash treatment controls in areas or facilities that generate substantial amounts of trash. Water Board staff will work closely with the Department on its permit program implementation program and will generally expect to conduct some preliminary discussions with Department staff prior to a formal designation of additional trash generating areas.</p>
6.09	<p><u>Commenter</u>: California Stormwater Quality Association</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements, section E5, State Water Board Certified Full Capture Systems, and section E6, Full Capture System Equivalency</p> <p>Draft Attachment E sections E5 and E6 are in conflict with each other and with the Trash Provisions. Section E5.1 requires the Department to install certified full capture systems, which is an option for compliance, but is not required by the Trash Provisions, which also allow for full capture system equivalency. In addition, E5.2 states that</p>

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	<p>“Installation of full capture systems that are not certified by the State Water Board Executive Officer will not satisfy the Trash Implementation Requirements of this Order.”</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Replace the current sections E5 and E6 as follows:</p> <p>The Department shall install certified full capture systems, as defined in the Trash Provisions, and as provided below:</p> <ol style="list-style-type: none"> 1. The Department may install full capture systems that are certified by the State Water Board Executive Director to meet the requirements of the Trash Provisions in Significant Trash Generating Areas. Certified full capture systems are listed on the State Water Board’s Trash Implementation Program website (www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html). <p>Certified full capture system traps all particles 5-millimeters or greater, and have a design treatment capacity that is either:</p> <ol style="list-style-type: none"> a. Not less than the peak flow rate, Q, resulting from a one-year, one-hour storm in the sub-drainage area, or b. Designed and sized to carry at least the same flows as the corresponding storm drain. <p>The Rational equation is used to compute the peak flow rate: $Q = C \cdot I \cdot A$, where Q = design flow rate (cubic feet per second); C = runoff coefficient (dimensionless); I = design rainfall intensity (inches per hour, as determined per the rainfall isohyetal map specific to each region, and A = sub-drainage area (acres).</p> <ol style="list-style-type: none"> 2. In areas where the Department chooses not to implement Full Capture Systems and is seeking equivalency to certified full capture systems, the Department shall demonstrate that any combination of certified full capture systems, multi-benefit projects, other treatment controls, and/or institutional controls achieves full capture equivalency. Full capture system equivalency is a trash load reduction equivalent to the performance of full capture systems that are properly installed, operated, and maintained for all storm drains that capture runoff from Significant Trash Generating Areas. The full capture system equivalency is a trash load reduction target that the Department quantifies by using an approach, and technically acceptable and defensible assumptions and

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	<p>methods for applying the approach, for review and consideration of approval by the State Water Board Executive Director.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. The Department may use any combination of certified full capture systems and other trash treatment controls. Draft Attachment E, section E5 has been revised as follows:</p> <p>E5 STATE WATER BOARD-CERTIFIED FULL CAPTURE SYSTEMS</p> <p>The Trash Provisions require the Department to address all significant trash generating areas either through the use of certified full capture systems or through an approach that achieves full capture system equivalency. The Department is not required to demonstrate full capture system equivalency (section E6) where it installs certified full capture systems, as defined in the Trash Provisions and as provided below:</p> <ol style="list-style-type: none"> 1. Certified full capture systems are those that are certified by the State Water Board Executive Director. Certified full capture systems include both trash treatment control devices and multi-benefit treatment systems. Certified full capture systems include both trash treatment control devices and multi-benefit treatment systems. Certified full capture systems are listed on the State Water Board Trash Implementation Program website (www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html). <p>Certified full capture systems trap all particles 5-millimeters or greater, and have a design treatment capacity that is either:</p> <ol style="list-style-type: none"> a. Not less than the peak flow rate, Q, resulting from a one-year, one-hour, storm in the sub-drainage area, or b. Designed and sized to carry at least the same flows as the corresponding storm drain. <p>The Rational equation is used to compute the peak flow rate: $Q = C \cdot I \cdot A$, where Q = design flow rate (cubic feet per second); C = runoff coefficient (dimensionless); I = design rainfall intensity (inches per hour, as determined per the rainfall isohyetal map specific to each region, and A = sub-drainage area (acres).</p>

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	<p>To add a new trash treatment control device to the State Water Board Executive Director’s Certified Full Capture System List of Trash Treatment Control Devices, the Department shall submit a Trash Treatment Control Device application to the State Water Board Executive Director. The Executive Director will issue a written determination approving or denying the certification of the proposed trash treatment control device.</p> <p>2. Installation of other treatment controls that are not certified full capture systems will not satisfy the requirements of this section; however, they may be considered as part of an approach to achieve Full Capture System Equivalency under section E6.</p> <p>E6 FULL CAPTURE SYSTEM EQUIVALENCY</p> <p>For areas where the Department is not implementing all certified full capture systems and is seeking approval of a full capture system equivalency approach, the Department shall demonstrate that any combination of other treatment controls, source control activities, and/or institutional controls achieves full capture equivalency. Full capture system equivalency is a trash load reduction equivalent to the performance of certified full capture systems that are properly installed, operated, and maintained for all storm drains that capture runoff from Significant Trash Generating Areas. Full capture system equivalency is a Trash load reduction target that the Department quantifies by using an approach, and technically acceptable and defensible assumptions and methods for applying the approach, for review and consideration of approval by the State Water Board Executive Director.</p>
6.10	<p><u>Commenter</u>: California Stormwater Quality Association</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements, section E9, Trash Assessment Methodology Plan, section E10, Trash Assessment Revised Map, and section E11, Trash Monitoring Plan Requirements</p> <p>Pursuant to a State Water Board 13383 Order, the Department submitted a Statewide Trash Implementation Plan on November 30, 2018. Development of this plan included building a geographic information system (GIS) database with identification of significant trash generating areas. The Statewide Trash Implementation Plan was developed in</p>

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	<p>accordance with the Trash Amendments and is intended to be the implementation document supporting compliance with the Trash Amendments. The majority of the required information in the referenced subsections are provided in the Statewide Implementation Plan in 2019. The draft Order should not impose multiple new planning requirements, especially when full compliance is required in 9 years and the Department is already moving forward with budgeting and planning for the implementation of these controls, but rather should recognize that the Department’s Statewide Trash Implementation Plan as sufficient to meet the requirements of the Trash Amendments; thus, not requiring additional planning documents.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. As discussed in the draft Fact Sheet, the Department did not conduct trash assessment to accurately identify all significant trash generating areas within its right of way. This draft Order requires the Department to conduct trash assessment at its right of way within all regulated MS4s which will increase the acreage of significant trash generating areas, and to submit its trash assessment methodology to State Water Board Executive Director for approval. In addition, there are significant gaps of information contained in the Department’s Trash Implementation Plan that must be addressed to satisfy the Trash Provisions. For example, the Department’s Trash Implementation Plan contains no schedule to meet interim milestones as required by the Trash Provisions. The Department must maintain, and provide when required, adequate records of its progress in achieving full capture equivalency. The requirements in draft Attachment E are necessary to evaluate such progress.</p>
6.11	<p><u>Commenter:</u> California Stormwater Quality Association</p> <p><u>Comment Summary:</u> Attachment E, Trash Implementation Requirements, section E10, Trash Assessment Revised Map</p> <p>Section E10 requires the Department to submit a revised map identifying Significant Trash Generating Areas. Revised maps were submitted in April 2019 with the updated Trash Implementation Plan and should not have to be revised and submitted again. Delete section E10 and replace with a requirement for the Department to reassess its</p>

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	<p>Significant Trash Generating Areas during implementation as part of an adaptive management process required no sooner than five years from the initial approval of the Statewide Trash Implementation Plan.</p> <p><u>Commenter's Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. To adequately plan and budget to meet interim milestones, this draft Order requires the Department to establish a baseline of significant trash generating areas sooner rather than later. It is anticipated that a significant amount of additional significant trash generating areas acreage will be added following the additional trash assessment required by the draft Order. In addition, the Trash Provisions require the Department to coordinate with regulated municipalities to address locations with sources of trash from both the municipality and the Department. Delaying identification of these significant trash generating areas within regulated municipalities with populations of less than 50,000, as the Department has been done in its current trash assessment, would significantly and unnecessarily limit the timeframe for such coordination.</p>
6.12	<p><u>Commenter:</u> U.S. EPA, Region IX</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements, section E11.1, Procedures and Schedules</p> <p>Draft Attachment E, Trash Monitoring Plan, section E11.1 requires implementation of the Trash Monitoring Plan prior to State Water Board review/approval of the plan; it should be updated to require implementation only after approval of the Trash Monitoring Plan.</p> <p><u>Commenter's Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made to section E11.1 in response to the comment, as follows</p> <p>E11.1 Procedures and Schedules</p>

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	<p>Within six months of receiving Executive Director approval of its Trash Assessment Methodology, the Department shall develop and submit a Trash Monitoring Plan for State Water Board Executive Director review and consideration of approval. The Trash Monitoring Plan shall contain procedures and schedules demonstrating, at minimum, the following elements:</p>
0	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements, section E9, Trash Assessment Methodology Plan</p> <p>Section E9.3 states:</p> <ol style="list-style-type: none"> 2. The Department’s trash assessment methodology shall: <ol style="list-style-type: none"> a. Identify all locations or facilities within the Department’s jurisdiction that are located outside of its municipal separate storm sewer systems where trash accumulates in substantial amounts; <p>All of the Department’s jurisdiction is covered under its permit, so it’s not necessary to identify locations or facilities located outside of its jurisdiction.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Delete section E9, item 2.a:</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. The word “its” has been replaced with “other” because the requirement only applies to those parts of the Department’s jurisdiction that are located outside of other permitted MS4s. The Department’s comment triggered further reconsideration of the content of sections E9, E 10 and E12, and the changes are shown below. The following revision has been made:</p> <p>E9 TRASH ASSESSMENT METHODOLOGY</p> <p>The <u>Department’s</u> Trash Assessment Methodology shall establish mechanisms to assess the Department’s entire transportation system regulated under this Order. The Trash Assessment Methodology- shall include all requirements set forth in sections E9.1 through E9.4, below.</p>

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	<p>By the Effective Date of this Order, the Department shall <u>amend its Trash Assessment Methodology submitted on April 12, 2019 and submit the amended Trash Assessment Methodology to the State Water Board Executive Director for review and consideration of approval. The Executive Director will provide a 30-day public comment period, and consider public comments prior to consideration of approval of the amended Trash Assessment Methodology.</u></p> <p>The amended Trash Assessment Methodology must address the deficiencies in the Trash Assessment Methodology submitted on April 12, 2019 and include all the following required elements.</p> <ol style="list-style-type: none"> 1. Regardless of the population, trash assessments shall include the Department’s rights-of-way that are within a municipal separate storm sewer system’s jurisdiction. 2. The Department’s a amended trash assessment methodology shall demonstrate compliance with the requirements of this Attachment, and includes: <ul style="list-style-type: none"> [:] 3. The Department’s trash assessment methodology shall: <ol style="list-style-type: none"> a. Identify all locations or facilities within the Department’s jurisdiction that are located outside of other permitted municipal separate storm sewer systems where trash accumulates in substantial amounts. <ul style="list-style-type: none"> [:] d. Include technical details on how substitutes for visual assessments are performed, which shall include data sources, type of statistical analysis, and other documentation necessary to fully describe the substitute in technical terms. e. Identify locations where substitutes for visual assessments are performed.

E10 REVISED TRASH ASSESSMENT MAP

Within six months of receiving Executive Director approval of its Trash Assessment Methodology as required in section E9, the Department shall revise its trash assessment map to implement the Executive Director-approved trash assessment methodology identifying the Department's Significant Trash Generating Areas by geographic information system mapping of Significant Trash Generating Areas (as required in section E9.1.b).

E12 OFFSITE/ONSITE TRASH TREATMENT DUE TO INFEASIBILITY

The following information provides the requirements for offsite trash treatment:

1. Where the Department finds that it is infeasible to implement trash controls sufficient to achieve full capture system equivalency, due to: (1) site-specific limitations within the Department's right-of-way or (2) health and safety concerns, the Department shall submit an Offsite Trash Treatment Project proposal for equivalent offsite treatment through implementation of permanent structural trash control devices for review and consideration of approval by the Deputy Director of Water Quality. Implementation of controls is not considered infeasible where the trash generated at the significant trash generating area can be treated through implementation of controls in the jurisdiction of the immediately adjacent municipal separate storm sewer system. Any such proposal must include, if applicable:
 - a. Specific identification of the significant trash generating area or portion of significant trash generating area for which achievement of full capture system equivalency is infeasible;
 - b. Demonstration that the trash generated at the significant trash generating area cannot be treated through implementation of controls in the jurisdiction of the immediately adjacent municipal separate storm sewer system, if any;
 - c. Detailed explanation of the factors that have made achievement of full capture system equivalency infeasible;
 - d. Detailed proposal for equivalent offsite compliance, measured by the volume of trash captured, through implementation of permanent structural trash control devices at locations not subject to specific requirements for the control of trash under the Trash Provisions or through an NPDES permit, WDR, or waiver of WDRs. Equivalent offsite compliance is the treatment of an equal or greater amount of trash

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	<p>than would be treated at the significant trash generating area for which treatment is infeasible. The off-site locations shall be determined as follow:</p> <ul style="list-style-type: none"> i. The locations must be outside the Department’s right-of-way, have significant trash generation, and must discharge to the same receiving water body or watershed as the significant trash generating area for which treatment is infeasible. ii. If the Department cannot identify locations with significant trash generation within the same receiving water body or watershed, the Department may select a location within the Department’s right-of-way without significant trash generation that discharges to the same water body or watershed as the significant trash generating area for which treatment is infeasible. iii. If the Department cannot identify locations consistent with subsections E12.d.i-ii above, the Department may select locations with significant trash generation that do not discharge to the same water body or watershed as the significant trash generating area for which treatment is infeasible. <ul style="list-style-type: none"> e. Detailed quantitative justification of the Department’s assessment that the proposal will result in equivalent trash treatment on an ongoing basis; and f. Copies of any agreements with non-Department entities necessary for access to, the installation of, and the long-term operation and maintenance of the offsite trash control devices. <ol style="list-style-type: none"> 2. Prior to approval or denial of a proposal for offsite trash treatment, State Water Board staff shall provide public notice of the proposal and a minimum 30-day period for public comments. 3. The Department shall report on the status of the offsite trash control devices and associated agreements annually in the Trash Annual Monitoring Report. 4. Upon receiving approval for a proposal, the Department shall identify the location(s) that will not achieve full capture equivalency in its Revised Trash Assessment Map and the equivalent offsite location(s).

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	<p>5. No proposal for an Offsite Trash Treatment Project will be approved for implementation prior to passage of the First Milestone in Section E.7 this Attachment.</p>
<p>6.14</p>	<p><u>Commenter</u>: Department of Transportation</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements, section E9, Trash Assessment Methodology Plan</p> <p>Section E9.2.c requires the Department to assess all homeless encampments within its right-of-way as part of its trash assessment methodology. In many cases, homeless encampments are an incidental or migrating problem. Tracking all incidental homeless encampments is impossible.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Revise section E9, item 2.c as follows:</p> <p style="padding-left: 40px;">2. The Department’s trash assessment methodology shall: ... c. Include an assessment of known homeless encampments within the Department’s right-of-way.</p> <p><u>Comment Response</u>: Revisions have been made in response to the comment, as follows:</p> <p>E9 TRASH ASSESSMENT METHODOLOGY</p> <p>[§]</p> <p>3. The Department’s trash assessment methodology shall:</p> <p style="padding-left: 40px;">[:]</p> <p style="padding-left: 80px;">c. Include an assessment of known homeless encampments within the Department’s right-of-way.</p>
<p>6.15</p>	<p><u>Commenter</u>: California Coastkeeper Alliance</p> <p><u>Comment Summary</u>: Draft Attachment E, Trash Implementation Requirements</p>

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	<p>The State Water Board should require Caltrans to comply with the Trash Provisions Water Quality Objective independent of the requirement to comply with the Trash Discharge Prohibition. Compliance with the Trash Prohibition should not provide “safe harbor” for compliance with the Trash Provisions Water Quality Objective. The State Water Board should clearly articulate this difference by including the Trash Amendment’s Water Quality Objective into draft Attachment E.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Add a new section E1 as follows:</p> <p>E1 Trash Water Quality Objective. Trash shall not be present in inland surface waters, enclosed bays, estuaries, and along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance.</p> <p>E2 Trash Discharge Prohibition. The Department shall comply with the prohibition of discharge of trash to surface waters of the state or deposition of trash where it may be discharged into surface waters of the state through compliance with the requirements of this Attachment.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. While the water quality objective for trash is encompassed by the draft Order’s General Provisions regarding receiving water limitations and the draft Order does not purport to deem the Department in compliance with the water quality objective for trash through implementation of the draft Order’s requirements, the following changes have been made to the draft Fact Sheet:</p> <p>A9.4 Statewide Trash Provision Requirements</p> <p><u>Statewide Trash Provisions</u></p> <p>In 2015, the State Water Board adopted Resolution 2015-0019 amending the Water Quality Control Plan for Ocean Waters of California, and Part 1 of the Water Quality Control Plans for Inland Surface Waters, Enclosed Bays, and Estuaries of California to include statewide provisions for the control of trash, which are hereinafter referred to as the Trash Provisions. The Trash Provisions, which became effective December 2, 2015, include a new water quality objective stipulating that “Trash shall not be present in inland surface waters, enclosed bays, estuaries, and along shorelines or adjacent areas in amounts that adversely affect beneficial uses or cause nuisance,” as well as a statewide prohibition on the discharge or the deposition of trash to waters of the State.</p>

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	Compliance with the prohibition of discharge and deposition of trash is achieved through implementation of the requirements of this Order and any other applicable NPDES permits or waste discharge requirements.

<p>Comment Number</p>	<p>Comment Category 7: Draft Attachment F, Monitoring Requirements and Monitoring Reporting</p>
<p>7.01</p>	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment F, Monitoring Requirements and Monitoring Reporting, section F2.12.7.1, Project I – Twenty Beaches and Creeks Bacteria Monitoring</p> <p>The monitoring requirement contradicts an agreement between the Department and San Diego Water Board staff, who have concurred that the Department is in compliance with the TMDL requirements for Project I Twenty Beaches.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise draft Attachment F, section F2.12.7.1, item 2 as follows:</p> <p style="padding-left: 40px;">The Department may conduct compliance monitoring to demonstrate the effectiveness of best management practices in controlling bacteria loads for this TMDL. A selection of three representative locations within the TMDL shall be chosen and monitored once per permit cycle. Monitoring shall be once per dry season and during two rain events per wet season. This monitoring shall occur once every five years per location.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The language in the draft Order was developed based on the TMDL and in collaboration with San Diego Regional Water Board staff on August 10, 2021 and discussed with the Department on August 30, 2021. Outfalls are to be monitored weekly during the dry season and three times in wet weather for two reasons: 1) to maintain the consistency in the monitoring requirements for the MS4 Phase I permittees and for the Department; and 2) to adequately capture the spatial and temporal variability of outfall discharges from the Department, especially considering that the monitoring will only be conducted twice in five years. Additionally, weekly sampling in the dry season will allow enough samples to calculate the geometric mean during the dry season. The Department’s recommendation to monitor once per dry season would not allow for a geometric mean to be calculated. For wet weather, monitoring three rain events allows for trend assessment while only two samples would not.</p>

Comment Number	Comment Category 7: Draft Attachment F, Monitoring Requirements and Monitoring Reporting				
7.02	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Attachment F, Monitoring Requirements and Monitoring Reporting, section F2.12.7.2, Chollas Creek Dissolved Copper, Lead, and Zinc; and draft Attachment A, draft Fact Sheet, section A9.7.8, Pollutant Category—Diazinon TMDL</p> <p>Diazinon does not need to be monitored because it is banned. Update the draft Order to reflect this.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to the comment. The San Diego Regional Water Board Chollas Creek TMDL for Diazinon has been added to Table D-1 of Attachment D. TMDLs listed in Table D-1 do not require any additional monitoring or other implementation actions beyond implementation of baseline draft Order requirements. Compliance with these requirements equates to compliance with these TMDLs. The following row has been reinserted into draft Order Table D-1:</p> <table border="1" data-bbox="350 878 1354 951"> <tr> <td data-bbox="350 878 585 951">San Diego</td> <td data-bbox="585 878 913 951">Chollas Creek</td> <td data-bbox="913 878 1121 951">Diazinon</td> <td data-bbox="1121 878 1354 951">D3.2</td> </tr> </table> <p>While there are TMDLs for diazinon, none require monitoring for diazinon. Further, neither draft Attachment A, the draft Fact Sheet nor draft Attachment F, the Monitoring Requirements and Monitoring Reporting, specify any diazinon monitoring requirements.</p> <p>Note that there are two TMDLs for Chollas Creek: diazinon is a separate TMDL from the metals TMDL. Diazinon is not addressed by the metals TMDL.</p>	San Diego	Chollas Creek	Diazinon	D3.2
San Diego	Chollas Creek	Diazinon	D3.2		
7.03.a	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> This is a 6-Part Comment (comments 7.03.a – 7.03.f) on Monitoring that includes draft Attachments E and F and the Time Schedule Order</p>				

Comment Number	Comment Category 7: Draft Attachment F, Monitoring Requirements and Monitoring Reporting
	<p>The draft Order lacks the appropriate amount of monitoring to determine whether the Department is in compliance, including whether it is causing or contributing to an exceedance of water quality objectives. Clean Water Act section 308 requires monitoring where necessary to determine whether a discharge is “in violation of any such effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance.” Modifications to the draft Order should be made to require site-specific monitoring for all Department-specific waste load allocations and waste load allocations that have been translated into Department-specific allocations.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Make the following changes to draft Attachment F and the draft Time Schedule Order:</p> <p>Add the following additional requirement to draft Attachment F2.2:</p> <p style="padding-left: 40px;">Where a Department-specific waste load allocation applies, the Department shall identify each drainage area at all discharge locations, conduct on-site sampling, and ensure samples are representative of the stormwater discharge leaving each drainage area.</p> <p>Add the following additional requirement to the draft Time Schedule Order, Compliance Schedule (page 3):</p> <p style="padding-left: 40px;">The following compliance schedule sets forth actions that the Department shall take to demonstrate compliance with the TMDLs listed in Table TSO-1. The compliance schedule includes TMDL interim milestones for the Department to maintain scheduled compliance progress. The TMDL interim milestones are actions to be completed during progressive stages during the compliance schedule, with the requirement for the Department to demonstrate its progress towards compliance with all the TMDLs listed in Table TSO-1 by conducting site-specific monitoring and ensuring samples are representative of the stormwater discharge leaving each drainage area.</p> <p><u>Comment Response:</u> No changes have been made in response to these comments. The draft Order and draft Time Schedule Order are consistent with the requirements of the Clean Water Act. Draft Attachment D, D3.3, TMDL Compliance Plan, allows the Department to select one or more of eight different strategies to demonstrate compliance with TMDLs, including modeling and monitoring, subject to the approval of the State Water Board</p>

Comment Number	Comment Category 7: Draft Attachment F, Monitoring Requirements and Monitoring Reporting
	Executive Director. Any demonstration must be consistent with the requirements and assumptions of the waste load allocation. Please also see our response to comment 5.01, which goes into more depth.
7.03.b	<p><u>Commenter</u>: California Coastkeeper Alliance</p> <p><u>Comment Summary</u>: Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements; and Draft Attachment F, Monitoring Requirements and Monitoring Reporting Requirement</p> <p>Require individual facility monitoring based on the size and threat to water quality associated with the Department’s facility activities.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to this comment. Draft Attachment C, section C3.5 requires the Department to prepare Facility Pollution Prevention Plans, to inspect, implement corrective actions, report, and to timely resolve violations. The Regional Water Boards may review inspection reports and inspect facilities, and when necessary, order the Department to conduct compliance activities such as monitoring.</p>
7.03.c	<p><u>Commenter</u>: California Coastkeeper Alliance</p> <p><u>Comment Summary</u>: Draft Order, section 5.1.1, Exceedance of Applicable Water Quality Standard</p> <p>Allow third-party monitoring results to inform the Department’s Stormwater Management Plan. Allow third-party monitoring results to act as a notice that the Department is causing or contributing to a receiving water exceedance.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Add the following additional requirement to draft Order, section 5.1.1:</p>

Comment Number	Comment Category 7: Draft Attachment F, Monitoring Requirements and Monitoring Reporting
	<p>If the Department is notified through water quality sampling by a third-party that the Department’s discharge is causing or contributing to an exceedance of an applicable water quality standard, the Department shall notify the relevant Regional Water Board Executive Office and submit a detailed technical report as articulated above.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. The Regional Water Boards may review third-party monitoring and, when necessary, order the Department to conduct additional compliance activities. The Department has no control over third-party monitoring, including how such third-party monitoring relates to the Department’s discharges; the quality of sampling, reporting limits, and analysis; the accreditation status of the laboratory’s analytical methods; and any steps to make in response to such monitoring.</p>
7.03.d	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Attachment E, Trash Implementation Requirements</p> <p>Require the Department’s trash visual assessment monitoring to include strict liability. As is, a visual assessment methodology is insufficient on its own to determine compliance with full capture system equivalency requirements because observation of trash upstream of an MS4 does not establish causation between those observations and the actual discharge of trash into a waterway.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Add the following additional requirement to draft Attachment E:</p> <p style="padding-left: 40px;">Where the Department selects a “visual assessment method” to determine compliance with the Order’s Trash Discharge Prohibition, and the interim milestones herein, the Department is strictly liable for the discharge of trash in violation of the Trash Discharge Prohibition.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. The Department’s compliance with the Trash Provisions’ prohibition of discharge is based on implementation of the requirements of the draft Order. The Department is required to submit a Trash Assessment Methodology Plan and a Trash Monitoring Plan to the State Water Board Executive Director that are subject to approval. Upon approval, the Department shall thereafter implement the Trash Assessment Methodology Plan and Trash Monitoring Plan to demonstrate compliance with the</p>

Comment Number	Comment Category 7: Draft Attachment F, Monitoring Requirements and Monitoring Reporting
	<p>requirements of Attachment E. Among other items, the Trash Assessment Methodology must include details of how full capture equivalency (section E6) is determined. The Department’s methodology must rely on technically acceptable and defensible assumptions and methods. Visual trash assessment will be part of the methodology. In addition, the Department is required to annually report progress in attaining the interim milestones and compliance with full capture system equivalency. In total, the above documents will provide the Water Boards adequate oversight information regarding the Department’s compliance with the Trash Discharge Prohibition.</p>
7.03.e	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Attachment F, Monitoring Requirements and Monitoring Reporting Requirement</p> <p>Require the Department to conduct receiving water monitoring by 2030 to demonstrate compliance with the trash water quality objective.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to this comment. The draft Order does not require receiving water monitoring for trash. Instead, it requires the Department to report any receiving water monitoring that it may voluntarily conduct. As discussed in the draft Fact Sheet, receiving water monitoring is unlikely to demonstrate the Department’s compliance because the Department is generally one of many sources of trash in any watershed.</p>
7.03.f	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C4, Areas of Special Biological Significance Compliance Plan; and draft Attachment F, Monitoring Requirements and Monitoring Reporting Requirement</p> <p>Allow public comment after the Department has finalized its Areas of Special Biological Significance characterization monitoring and has submitted a final Areas of Special Biological Significance Compliance Plan.</p>

Comment Number	Comment Category 7: Draft Attachment F, Monitoring Requirements and Monitoring Reporting
	<p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to this comment. The State Water Board shall provide public notice of the Areas of Special Biological Significance Compliance Plan and its updates and a minimum 30-day public comment period.</p> <p>Attachment C, section C4, first paragraph has been revised as follows:</p> <p style="padding-left: 40px;">No later than 12 months after the Effective Date of this Order, the Department shall submit an Areas of Special Biological Significance Compliance Plan to the State Water Board Executive Director for review and consideration of approval. The State Water Board shall provide public notice of the proposed Areas of Special Biological Significance Compliance Plan and a minimum 30-day period for public comments. ...</p>

<p>Comment Number</p>	<p>Comment Category 8: Draft Time Schedule Order</p>
<p>8.01</p>	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Time Schedule Order, section 1, TMDL Compliance Plan</p> <p>The text for the TMDL Compliance Plan in the Time Schedule Order stating that the Department “shall immediately implement” does not allow time for the project planning and programming process that the Department is required to follow per state and federal mandates.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Revise Time Schedule Order, section 1 as follows:</p> <p style="padding-left: 40px;">Upon approval of the TMDL Compliance Plan, the Department shall immediately begin planning and programming to implement all terms and provisions of the approved TMDL Compliance Plan to comply with the interim and final compliance dates in this Time Schedule Order.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The TMDL Compliance Plan is a planning document that includes a schedule for completing interim and final milestones for each of the TMDLs listed in the draft Time Schedule Order. The Department should take its project planning and programming processes into account when drafting the TMDL Compliance Plan. Immediate actions would only be required if the TMDL Compliance Plan were adopted and approved after milestone dates in the plan itself or the plan otherwise required such immediate actions.</p>
<p>8.02.a</p>	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u> Draft Time Schedule Order</p> <p>How does partial compliance with a TMDL apply towards interim milestones?</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p>

Comment Number	Comment Category 8: Draft Time Schedule Order
	<p><u>Comment Response:</u> Revisions have been made in response to this comment. The Interim milestone is a target goal for the Department to achieve compliance with a certain number of TMDLs in a three-year period. The Time Schedule Order has been revised to allow partial compliance with multiple TMDLs to be combined to meet the interim milestone. Full compliance is still required for all TMDLs identified in the Time Schedule Order Table TSO-1 by the December 31, 2034 deadline.</p> <p>Time Schedule Order, Compliance Schedule Section, the following changes have been made:</p> <p style="text-align: center;">COMPLIANCE SCHEDULE</p> <p>The following compliance schedule sets forth actions that the Department shall take to demonstrate compliance with the TMDLs listed in Table TSO-1. The compliance schedule includes TMDL interim milestones for the Department to maintain scheduled compliance progress. The TMDL interim milestones are actions to be completed during progressive stages during the compliance schedule, with the requirement for the Department to demonstrate its progress towards compliance with all the TMDLs listed in Table TSO-1.</p> <p>The Department shall implement the following four -year TMDL interim milestones to track the rate of compliance with waste load allocations, calculated from the following formula:</p> <p style="text-align: center;">(63 TMDLs) / (Year 2034 – Year 202X) = Average Annual Rate of Compliance 4-Year Interim Average Milestone Compliance Rate = Annual Rate of Compliance x 4 years</p> <p>Where “X” in the formula is the second year after the Adoption Date of this time schedule order.</p> <p>The Department may comply with the above milestones by quantifying the percentage of required waste load reduction achieved for individual TMDLs, subject to approval of a method for quantifying the waste load reduction submitted with the Department’s TMDL Compliance Plan. Therefore, for example, if the Department achieves fifty percent of the required waste load reduction each for two TMDLs, the Department would have achieved the</p>

Comment Number	Comment Category 8: Draft Time Schedule Order															
	<p>equivalent of full required waste load reduction for one TMDL. Achievement of excess waste load reduction for a particular TMDL shall not be credited toward required waste load reduction for another TMDL.</p> <p>If the Department is unable to meet the average annual rate of compliance in a year, the Department must ensure that the subsequent annual rates of compliance are increased to comply with the 4-year interim average milestone compliance rate.</p> <p>Compliance Schedule / Milestones Table</p> <table border="1" data-bbox="310 613 1955 1192"> <thead> <tr> <th data-bbox="310 613 1115 654">Milestone</th> <th data-bbox="1115 613 1955 654">Compliance Date</th> </tr> </thead> <tbody> <tr> <td data-bbox="310 654 1115 781">TMDL compliance per 4-year TMDL interim average milestones compliance rate</td> <td data-bbox="1115 654 1955 781">4-year average TMDL milestone compliance rates as calculated from above formula for the 63 TMDLs listed in Table TSO-1</td> </tr> <tr> <td data-bbox="310 781 1115 870">TMDL Compliance Plan</td> <td data-bbox="1115 781 1955 870">Within 12 months of the Adoption Date of Order 202X-XXXX-DWQ</td> </tr> <tr> <td data-bbox="310 870 1115 997">Annual Coordination Meeting with State and Regional Water Board representatives to discuss compliance progress with compliance schedule</td> <td data-bbox="1115 870 1955 997">By March 1 – Annually</td> </tr> <tr> <td data-bbox="310 997 1115 1053">Annual TMDL Status Report</td> <td data-bbox="1115 997 1955 1053">By July 1 – Annually</td> </tr> <tr> <td data-bbox="310 1053 1115 1143">Compliance with all TMDL deadlines identified in Table TSO-1</td> <td data-bbox="1115 1053 1955 1143">By December 31, 2034</td> </tr> <tr> <td data-bbox="310 1143 1115 1192">Final TMDL Compliance Report</td> <td data-bbox="1115 1143 1955 1192">By June 30, 2035</td> </tr> </tbody> </table>		Milestone	Compliance Date	TMDL compliance per 4-year TMDL interim average milestones compliance rate	4-year average TMDL milestone compliance rates as calculated from above formula for the 63 TMDLs listed in Table TSO-1	TMDL Compliance Plan	Within 12 months of the Adoption Date of Order 202X-XXXX-DWQ	Annual Coordination Meeting with State and Regional Water Board representatives to discuss compliance progress with compliance schedule	By March 1 – Annually	Annual TMDL Status Report	By July 1 – Annually	Compliance with all TMDL deadlines identified in Table TSO-1	By December 31, 2034	Final TMDL Compliance Report	By June 30, 2035
Milestone	Compliance Date															
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Final TMDL Compliance Report	By June 30, 2035															
8.02.b	<p><u>Commenter:</u> Department of Transportation</p> <p><u>Comment Summary:</u></p>															

Comment Number	Comment Category 8: Draft Time Schedule Order
	<p>Where excess waste load reduction is achieved in a TMDL watershed, allow the Department to bank that excess and apply it towards alternative compliance (Provision C3.10) to make up for shortfalls in addressing post-construction treatment requirements.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. TMDLs are adopted to attain and maintain water quality goals in impaired water bodies. The requirements are water quality-based. In contrast, the post-construction requirements of the existing Order are meant to ensure that site-specific pollutant runoff is controlled as the Department does projects in the area, regardless of the quality of the receiving water. The draft Order does not allow for lessened post-construction requirements where a water body is not impaired or where the Department has achieved its TMDL obligations because any additional waste load reduction achieved by TMDL-specific projects or post-construction requirements will help to ensure the water body stays in attainment of TMDL goals or avoids impairment entirely.</p>
8.03.a	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> This is a 3-part comment (8.03.a – 8.03.c) on the draft Time Schedule Order</p> <p>Explicitly define the consequences for the Department if it fails to comply with the draft Time Schedule Order’s interim milestones and final compliance requirements. The draft Time Schedule Order should ensure the Department’s timely compliance. The State Water Board must hold polluters accountable for meeting water quality standards.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comments. The draft Time Schedule Order has requirements and actions. It states, “Failure to comply with a provision of this Time Schedule Order may result in further action authorized by law for being out of compliance, including an enforcement action pursuant to Water</p>

Comment Number	Comment Category 8: Draft Time Schedule Order
	Code section 13268, 13350, and 13385. The State Water Board reserves its right to take any enforcement actions authorized by law.” An enforcement action is necessarily fact-specific and dependent on the violation itself.
8.03b	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Time Schedule Order</p> <p>The State Water Board should require the Department to demonstrate compliance with the Time Schedule Order’s interim milestones by requiring site-specific, individual compliance monitoring.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. item 1 in the Time Schedule Order’s Compliance Schedule requires submittal of a TMDL Compliance Plan per the draft Order. Draft Order Attachment D, section D3.3, TMDL Compliance Plan, allows eight different ways to demonstrate compliance, including monitoring. The TMDL Compliance Plan requires the Department to choose an appropriate method of demonstrating compliance, subject to State Water Board Executive Director approval. Such demonstrations must be consistent with the requirements and assumptions of the waste load allocations.</p>
8.03c	<p><u>Commenter:</u> California Coastkeeper Alliance</p> <p><u>Comment Summary:</u> Draft Time Schedule Order</p> <p>The State Water Board should not grant additional time extensions for TMDL implementation due to “funding alignment” concerns. The Department’s TMDLs are not new, nor are the compliance requirements new to the draft Order. Sixty-two of the Department’s TMDLs have already exceeded or will exceed their compliance window during the duration of the draft Order.</p> <p>As stated by the State Water Board, during the implementation of the existing Order, the “Department prioritized all reaches in the 84 TMDL watersheds for which the Department had responsibility for implementation of source control measures and best management practices.” The Department is, or at least should be, already implementing</p>

Comment Number	Comment Category 8: Draft Time Schedule Order
	<p>best management practices for its TMDLs; and therefore, no additional delays to create “funding alignment” should be necessary. The State Water Board should only provide delays due to the Department’s “funding alignment” for only the Department’s four new TMDLs. As the State Water Board indicates, since the existing Order was adopted, four more TMDLs were adopted by the Regional Water Boards or were established by the U.S. EPA, with which the Department has the responsibilities to comply. The four new TMDLs include the Los Angeles Water Board’s San Gabriel River, Estuary and Tributaries Indicator Bacteria TMDL; the San Francisco Bay Water Board’s Pescadero-Butano Watershed Fine Sediment TMDL; the San Francisco Bay Water Board’s Petaluma River Bacteria TMDL; and the San Diego Water Board’s Los Penasquitos Lagoon Sediment TMDL. These four TMDLs should be the only TMDLs that the State Water Board should consider a funding alignment.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comments. The draft Time Schedule Order, granting the Department until the end of 2034 to comply with many of its TMDLs with final compliance dates prior to that date, is not proposed to be adopted solely on the basis of funding alignment concerns. Under the existing Order, the State Water Board established 2034 for TMDL compliance. The draft Time Schedule Order keeps this same target date but, like the draft Order, focuses on ending the existing Order’s “compliance unit” process to an approach focused solely on attaining and demonstrating compliance with waste load allocations. The draft Time Schedule Order recognizes that this may require new planning and implementation for the Department’s required demonstrations of compliance.</p>

Comment Number	Comment Category 9: General
9.01	<p><u>Commenter:</u> TECS Environmental</p> <p><u>Comment Summary:</u> General comment</p> <p>The commenter and others were not sent Lyris notices announcing the July 7, 2021 workshop or the July 20, 2021 public hearing, denying their participation.</p> <p><u>Commenter's Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. In accordance with 40 C.F.R. 124.10(c)(2)(iv) and Water Code 13167.5, the draft Order and accompanying documents were posted to the State Water Board's website and notice was distributed by email to those who had requested notices of Board Meetings and notices related to municipal stormwater permitting issues. The public may receive emails related to State Water Board actions, draft documents, and other items by going to the State Water Board's subscriptions page at https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html, and following the instructions there to provide contact information, selecting categories for notification, and subscribing.</p>
9.02	<p><u>Commenter:</u> Los Angeles County Metropolitan Transportation Authority</p> <p><u>Comment Summary:</u> General comment</p> <p>The draft Order will require current permittees to unenroll from existing Order coverage and then re-enroll under the reissued permit within 14 days of effective. Enrollment will require significant investment from Los Angeles Metropolitan Transportation Authority, partners and contractors to achieve compliance with the new requirements, including updates to stormwater pollution prevention plans, increased monitoring, and increased involvement from Qualified Stormwater Pollution Prevention Plan Developers and Qualified Stormwater Pollution Prevention Plan Practitioners. Projects contracted with active waste discharge identification numbers at the time of permit effectiveness should be allowed to continue unabated under the existing Order (i.e., a grandfather clause) so as not to be over-burdened with the</p>

Comment Number	Comment Category 9: General
	<p>requirement to make such a significant change during construction. Alternatively, the timeframe for enrollment under the reissued permit should be extended.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. All aspects of the comment pertain to the Statewide Construction General Permit, not the draft Order. The only permittee under the draft Order is the California Department of Transportation.</p>
9.03	<p><u>Commenter:</u> City of Los Angeles</p> <p><u>Comment Summary:</u> General comment</p> <p>The commenter supports the approach taken by the monitoring provisions in draft Attachment F of the draft Order allowing the Department to work cooperatively with local agencies to maximize monitoring resources.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The commenter’s support is appreciated.</p>
9.04.a	<p><u>Commenter:</u> The City of San Diego, Stormwater Department</p> <p><u>Comment Summary:</u> Designate the Los Penasquitos Lagoon TMDL as a high priority project to meet full compliance.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The draft Order does not differentiate priorities of TMDL projects. Furthermore, the San Diego Regional Water Board has acknowledged that the Department has made substantial contributions to the lagoon marsh restoration while being a relatively small contributor of pollutants to the watershed.</p>

Comment Number	Comment Category 9: General
9.04.b	<p><u>Commenter</u>: The City of San Diego, Stormwater Department</p> <p><u>Comment Summary</u>: Provide a separate list of Department projects organized by the individual Regional Water Board regions. This would help ensure that projects are not missed due to the current grouping mechanism.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. All 88 TMDLs listed in the draft Order have requirements for the Department to achieve compliance with waste load allocations. A separate list of the Department’s projects within each Regional Water Board region can be requested from each Regional Water Board office.</p>
9.05.a	<p><u>Commenter</u>: California Stormwater Quality Association</p> <p><u>Comment Summary</u>: General comment. This is a 3-part comment, as detailed in comments 9.05.a through 9.05.c.</p> <p>The changes to the TMDL implementation requirements will impact the ability of municipalities to partner with the Department to fund and implement projects through cooperative agreements. The draft Order requires the development of multiple plans that must each be negotiated and approved, including requiring approval for watershed projects. This creates challenges in identifying and implementing projects, including time delays. The changes may also inadvertently limit the amount of funding the Department contributes to a project to the proportion of the wasteload allocation assigned to the Department, which will severely limit the available funding to municipal partners. The California Stormwater Quality Association offers to work with the State Water Board and the Department’s staff to develop a permitting approach to maintain the current funding mechanism and the use of the Cooperative Implementation Agreements, which allows for statewide collaboration and funding. As a starting point, the California Stormwater Quality Association recommends the modifications to the draft Order, shown below.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: Make the following revisions to draft Attachment C: Draft Attachment C, section C3.2.1, Municipal Coordination Plan first sentence</p>

Comment Number	Comment Category 9: General
	<p>The Department shall work with local watershed groups to develop a Municipal Coordination Plan to be included in its Stormwater Management Plan,</p> <p>Draft Attachment C, section C5.15, District Annual Workplans, second paragraph</p> <p>Department staff should coordinate with watershed agencies in the development of District-specific Annual Workplans. In addition, prior to submittal of the District Annual Workplans, Department staff shall meet with Regional Water Board staff to discuss District Annual Workplan alternatives and to ensure that appropriate post-construction controls are included in the project development process through review of the Workplan and early consultation and coordination between the Department and Regional Water board staff.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The Municipal Coordination Plan requires that the Department “Communicate, coordinate, and collaborate with municipal separate storm sewer system agencies and their programs.” As part of the Stormwater Management Plan, the Municipal Coordination Plan is subject Water Board oversight and public review per draft Attachment C, section C5.17, which will ensure that the Department’s processes for municipal coordination meet this requirement.</p>
9.05.b	<p><u>Commenter:</u> California Stormwater Quality Association</p> <p><u>Comment Summary:</u> Provide language to incentivize coordination where possible through streamlined approval processes and opportunities for offsite, regional solutions.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> Make the following revisions:</p> <p>Commenter’s suggested revisions to draft Attachment D, section D3.3, item 10:</p> <p>10. A tabulated list and accompanying description of the Department’s compliance strategy to achieve compliance with each TMDL. Where TMDL Compliance Plans are developed in coordination with local TMDL/watershed stakeholders and are supported by existing watershed planning efforts (e.g., modeling analyses, monitoring,</p>

Comment Number	Comment Category 9: General
	<p>source assessments), approval by the State Water Board Executive Officer shall be expedited. One or more of the following compliance strategies shall be identified for each TMDL:</p> <p>Commenter’s suggested revisions to draft Attachment C, section C3.10.1, first paragraph.</p> <p>Alternative compliance may be achieved outside the Department’s project limits, either within or outside the Department’s right-of-way, including within another Department project. An alternative compliance project may be a cooperative agreement with another entity. If the Department determines that <u>(a)</u> all or any portion of on-site treatment for a project is infeasible on-site or <u>(b)</u> an offsite project provides a greater benefit to water quality, the Department shall prepare a proposal for alternative compliance for review and consideration of approval by the State Water Board Executive Director in coordination with the applicable Regional Water Board Executive Officer.</p> <p><u>Comment Response:</u> No change has been made in response to these two comments.</p> <p>Regarding the suggested change to draft Attachment D: The State Water Board is committed to working with the Department to approve complete plans that meet the Order requirements as expeditiously as possible.</p> <p>Regarding the suggested change to draft Attachment C: the existing Order and draft Order both prioritize addressing Department-specific runoff from Department project sites as projects are implemented to ensure that pollution from the Department’s right-of-way is addressed to the maximum extent practicable. Because the Department is in a constant process of maintaining its right-of-way, this will help ensure that runoff from the Department’s highway system will always be addressed except where infeasible and will help prevent such runoff from contributing to future water quality issues.</p>
9.05.c	<p><u>Commenter:</u> California Stormwater Quality Association</p> <p><u>Comment Summary:</u> As an alternative to the above recommended language changes and to streamline the multiple planning processes, the State Water Board should modify the draft Order such that a TMDL compliance plan is required to supplement the Stormwater Management Plan. The TMDL compliance plan could be developed to address municipal coordination and updated annually to address the need for District-specific Annual Work Plans.</p>

Comment Number	Comment Category 9: General
	<p><u>Commenter's Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment. The Stormwater Management Plan is a broad, overarching document while the TMDL Compliance Plan consists of targeted plans specific to water body-pollutant combinations. The Stormwater Management Plan is reviewed and modified on a permit term basis while the TMDL Compliance Plan is modified annually. Requiring the Department to update their Stormwater Management Plan annually would increase the cost of compliance substantially without a corresponding benefit. Any coordination activities would be included in the Annual TMDL Compliance Status Reports.</p>
9.06	<p><u>Commenter:</u> Center for Biological Diversity</p> <p><u>Comment Summary:</u> General comment</p> <p>Require limitations on tire tread wear particles and associated toxic chemicals, including N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine-quinone (6PPD-quinone), causing widespread mortality among juvenile coho salmon. The State Board should impose an outright ban of 6PPD in tires or at least control and treatment strategies to ensure the state's waterways remain safe for salmon and other aquatic species. Such action is required to protect the beneficial uses established in Regional Water Board Basin Plans that specifically provide for excellent quality for species provided under the Endangered Species Act and protect water quality for anadromous salmon.</p> <p><u>Commenter's Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment because a holistic approach is being taken by the California Department of Toxic Substances Control. In addition, the Department of Toxic Substances Control states that if 6PPD or 6PPD-quinone were regulated in stormwater, many municipalities would have to adopt expensive special handling measures to meet any discharge permits limits.</p> <p>The Department of Toxic Substances Control has proposed to list motor vehicle tires containing N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD) as a Priority Product under the Safer Consumer Products regulations; 6PPD-quinone is a reaction product of 6PPD. Thus, 6PPD has been listed as a pre-regulated and proposed Priority Product to</p>

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	<p>provide a holistic approach to this contaminant. See the California Department of Substances Control (https://dtsc.ca.gov/scp/motor_vehicle_tires_containing_6ppd) webpage for more information on this proposed Priority Product. For updates on the status of this listing, please contact the Department of Toxic Substances Control at SaferConsumerProducts@dtsc.ca.gov.</p> <p>Due to the emerging status of this constituent, at this time there are no established Maximum Contaminant Levels; there are no waterbodies listed as impaired due to 6PPD-quinone in the State Water Board’s First Revised Proposed Final Staff Report for the 2020-2022 Integrated Report for Clean Water Act 303(d) List and 305(b) Report (https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html); and no 6PPD-quinone analytical methods approved by the California Environmental Laboratory Accreditation Program.</p>
9.07	<p><u>Commenter</u>: Los Angeles County Metropolitan Transportation Authority</p> <p><u>Comment Summary</u>: Include a “grandfather” clause for projects related to enhancing public transit for the 2028 Summer Olympic Games that are in the design or construction phase.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment.</p> <p>The Department will be the only permittee under the Order; it will not cover the Los Angeles County Metropolitan Transportation Authority. That said, to the extent the commenter is relying on the completion of Department projects currently in development that would be permitted under the draft Order, the draft Order already provides that certain projects that have progressed beyond a certain point and that commence construction within a set period of time may continue to comply with the existing Order’s post-construction requirements. Specifically, draft Attachment C, Stormwater Management Plan, section C3.10 of the draft Order includes the following language:</p> <p>The Department shall describe the plans, designs, implementation, and maintenance for post-construction best management practices, which shall be consistent with the requirements in section C3.10.1 through C3.10.10. These requirements are applicable to all new and redevelopment projects that (1) meet the size thresholds provided in this</p>

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	<p>Attachment and (2) that have not completed the project initiation phase as of the Effective Date of this Order or that have completed the project initiation phase prior to the effective date of this Order but have not commenced construction within five years of the effective date of this Order. The Department may submit a request for an extension for long-lead projects to the State Water Board Executive Director for review and consideration of approval in coordination with the Regional Water Board Executive Officer.</p>
9.08	<p><u>Commenter</u>: Los Angeles County Metropolitan Transportation Authority</p> <p><u>Comment Summary</u>: Rather than re-allocating limited project funds to renegotiated contracts and redesign, it should be allowed to continue implementing its Construction Water Program across its highway projects, without having to stall its program.</p> <p>Projects already in progress and those already out for bid at the time of draft Order adoption should be “grandfathered,” maintaining the applicable regulations under the existing Order for these projects. Alternatively, create a process that maintains schedule and cost for current projects and pending projects already under contract.</p> <p><u>Commenter’s Suggested Draft Order Language</u>: No specific text provided.</p> <p><u>Comment Response</u>: No change has been made in response to the comment. The Department is the only permittee that can be enrolled in the draft Order once adopted. Specifically, the Los Angeles County Metropolitan Transportation Authority is not required to enroll under the draft Order. That said, to the extent the commenter is relying on the completion of Department projects currently in development that would be permitted under the draft Order, the draft Order already provides that certain projects that have progressed beyond a certain point and that commence construction within a set time period may continue to comply with the existing Order’s post-construction requirements.</p> <p>Specifically, draft Attachment C, Stormwater Management Plan, section C3.10, Post-Construction Requirements, of the draft Order includes the following:</p> <p>The Department shall describe the plans, designs, implementation, and maintenance for post-construction best management practices, which shall be consistent with the requirements in section C3.10.1 through C3.10.10, below.</p>

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	<p>These requirements are applicable to all new and redevelopment projects that (1) meet the size thresholds provided in this Attachment and (2) that have not completed the project initiation phase as of the Effective Date of this Order or that have completed the project initiation phase prior to the effective date of this Order but have not commenced construction within five years of the effective date of this Order. The Department may submit a request for an extension for long-lead projects to the State Water Board Executive Director for review and consideration of approval in coordination with the Regional Water Board Executive Officer.</p>
9.09	<p><u>Commenter:</u> Los Angeles County Metropolitan Transportation Authority</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements, section C3.2.1, Municipal Coordination Plan; and draft Attachment D, TMDL Implementation Requirements, section D5.1, Cooperative Agreements</p> <p>The draft Order proposes new monitoring requirements, reporting requirements, and water quality limits based on TMDLs that apply to local transportation agencies whose highway projects stretch across numerous watersheds. These projects may disturb soil for which the transportation agencies are not responsible, and the application of the TMDL requirements would result in significant cost increases for the projects. Provide sufficient time for local transportation agencies to coordinate with their partners across jurisdictions and obtain necessary funding and contract modifications for projects within the Department’s right-of-way.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> No change has been made in response to the comment.</p> <p>The draft Order will not regulate the Los Angeles County Metropolitan Transportation Authority and will not require the Los Angeles County Metropolitan Transportation Authority to monitor or to report. The Department will be the only permittee and is responsible for implementation. The draft Order will not prohibit municipalities from coordinating projects with the Department. The Los Angeles County Metropolitan Transportation Authority is not responsible for implementing or complying with the Department-specific TMDL waste load allocations in the draft Order. Additionally, both the existing Order and the draft Order require that the Department ultimately comply with applicable TMDL waste load allocations</p>

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	and the draft Order, through the associated Time Schedule Order. The draft Order retains the existing Order's 2034 compliance date for TMDLs with final compliance dates that fall before 2034. Additionally, it clarifies that for many TMDLs, no actions beyond compliance with the baseline requirements of the order are needed.

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10.01	<p><u>Commenter:</u> California Transportation Commission</p> <p><u>Comment Summary:</u> Draft Attachment C, Stormwater Management Plan and Areas of Special Biological Significance Requirements; draft Attachment D, TMDL Implementation Requirements; and draft Attachment E, Trash Implementation Requirements</p> <p>The cost of implementing new post-construction treatment and pavement grinding requirements (draft Attachment C), TMDL compliance requirements (draft Attachment D), and trash requirements (draft attachment E) may cause a significant strain on transportation funding, thereby impairing the Department’s ability to meet statutory goals and to deliver other transportation improvements necessary to meet the state’s coequal safety, environment, economic growth, and quality of life goals. The State Water Board should work with the Department to explore other practicable mechanisms within the permit process that would achieve important water quality benefits in a manner that does not impede the delivery of critical transportation infrastructure projects while achieving the state’s important water quality goals.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> For a detailed discussion of how State Water Board staff considered the costs of the draft Order, please refer to the response to comment 10.02, which contains revisions to draft Fact Sheet section A4.5. Draft Attachment C, grindings: The discharge of non-exempt non-stormwater (such as leachate from grindings) to an MS4 was prohibited in the existing Order. Due to instances where grindings were not adequately protected from stormwater run on and runoff, the draft Order recognizes that grindings are a potential source of pollutants if not adequately protected. Preventing stormwater from coming into contact with grindings is already necessary to comply with the requirement to prevent the discharge of leachate and to ensure compliance with the requirement to not discharge stormwater contaminated by contact with grindings.</p> <p>Draft Attachment D, TMDLs: While the draft Order does change the planning framework for TMDL compliance, it shares the extended timeframe for compliance (the 2034 target date for many TMDLs) with the existing Order as</p>

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	<p>well as the same target goal for compliance with waste load allocations. Of the 88 TMDLs included in the draft Order, 84 of them were already included in the existing Order. Additionally, while the existing Order’s compliance unit process incentivized the Department to implement TMDL projects in all watersheds, the draft Order includes findings that 15 TMDL pollutants require no additional implementation activities beyond baseline order requirements. It is anticipated that this will help offset any potential increased costs attributable to the new planning requirements and four new TMDLs.</p> <p>Draft Attachment E, trash: The Trash Provisions were adopted on April 7, 2015, in close consultation with stakeholders, including the Department. The draft Order includes requirements to implement the Trash Provisions that is consistent with those adopted requirements. Coordination with the Department to implement cost-effective best management practices will continue.</p>
10.02	<p><u>Commenter: California Transportation Commission</u></p> <p><u>Comment Summary:</u> Water Code sections 13170 and 13241 require the State Water Board to consider economics when establishing water quality objectives, as noted in the draft Fact Sheet. The State Water Board should not adopt the draft Order until it further coordinates with the Department to develop and distribute a robust cost estimate that clarifies the program costs attributable to program compliance.</p> <p><u>Commenter’s Suggested Draft Order Language:</u> No specific text provided.</p> <p><u>Comment Response:</u> Revisions have been made in response to this comment. Draft Fact Sheet section A4.5, regarding the Consideration of the Cost of Compliance has been expanded. As noted by the commenter, Water Code sections 13170 and 13241 require consideration of economics when establishing water quality objectives. The action to adopt an NPDES permit does not establish any water quality objectives, nor are section 13241’s provisions regarding economic considerations applicable when an NPDES permitting action is limited to implementation of federal law, as is the case here. However, costs were considered in the development of the draft Order.</p> <p>In addition to the reduced costs described in the revisions to the Fact Sheet below, the reports required under Draft Order section D3.4 have been eliminated. This will reduce the costs associated with report preparation and</p>

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	<p>revisions associated with cooperative projects and agreements. The Department should still consult with Regional Water Board staff before entering into cooperative agreements to ensure that the projects are consistent with complying with the relevant waste load allocations. See the response to comment 5.10 above for more on this specific topic.</p> <p>The following revisions have been made to the draft Fact Sheet, section A4.5:</p> <p>A4.5 Consideration of Cost of Compliance</p> <p>The State Water Board has considered the requirements for the Department to implement best management practices to meet the minimum “maximum extent practicable” standard required by federal law and has determined that the costs reflect this standard. Consistent with State Water Board Order WQ 2000-11 (www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2000/wq2000_11.pdf), cost is simply one relevant factor that should be considered in determining whether a permit reflects the maximum extent practicable standard. The maximum extent practicable standard is an evolving, flexible, and advancing concept that considers technical and economic feasibility. Because of the numerous advances in stormwater regulation and management and the size of the Department’s municipal separate storm sewer system, this Order does not require the Department to fully incorporate and implement all advances in a single permit term; this Order takes an incremental approach that allows for ongoing prioritization and effective use of limited Department funds. While costs associated with the statewide Trash Provisions (https://www.waterboards.ca.gov/water_issues/programs/trash_control/documentation.html) and TMDL requirements are discussed below, they are not subject to the maximum extent practicable standard.</p> <p>Per the continued regulatory compliance approach of the previous Order and prior permit iterations, the Department will continue to incur costs in complying with TMDL-related waste load allocations and implementing the iterative process as required by this Order.</p> <p>Consistent with State Water Board Resolution 2013-0029 (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2013/rs2013_0029.pdf), State Water Board staff considered the cost of permit compliance during the development of this Order. State Water Board staff held regular and routine meetings, often up to twice weekly, from 2017-2022, to develop permit</p>

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	<p>requirements that protect water quality per federal and state regulations and law and that are compatible with the Department’s existing protocols and established Stormwater Management Plan. During these meetings, State Water Board staff provided Department staff and staff of the California Transportation Commission guidance in understanding permit requirements and the various options this Order provides the Department to demonstrate compliance.</p> <p>Where appropriate, this Order continues existing requirements from the previous Order and amendments.</p> <p>1. Potential Additional Compliance Costs to Maintain Water Quality Protection</p> <p>This Order may increase the Department’s cost of permit compliance due to the following changes from the previous Order:</p> <ul style="list-style-type: none"> a. Revised Trigger for Post-Construction Treatment <p>The previous Order required the Department to install permanent post-construction best management practices for projects of 1-acre or greater. This Order reduces the trigger for post-construction best management requirements from 1-acre to 10,000 square feet. The trigger reduction provides for the necessary water quality protection dependent on permanent stormwater management after construction and is consistent with the standards established in other regional water quality control board Phase I permits for post-construction stormwater requirements that apply to transportation projects, as discussed in more detail in Section A9.3.10 of this Fact Sheet.</p> b. New Requirements for an Asset Management Plan and a Best Management Practices Retrofit Plan <p>Similar to other NPDES permits, this Order requires the Department to develop and implement an Asset Management Plan and a Best Management Practices Retrofit Plan that focus on the Department’s stormwater assets (in contrast to its transportation assets). The new asset management and retrofit requirements were developed in coordination with Department staff to incorporate the Department-specific stormwater management elements in the Department’s existing Transportation Asset Management Plan, Maintenance Staff Guide, and State Highway System Management Plan.</p>

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	<p>While this Order adds some new requirements, the asset management and retrofit plan requirements are customized to be compatible with the Department’s existing protocols.</p> <p>The State Water Board anticipates that the stormwater-specific Asset Management Plan and the Retrofit Plan will result in cost savings in the long term. In the March 2017 Asset Management Programs for Stormwater and Wastewater Systems: Overcoming Barriers to Development and Implementation (https://www.epa.gov/sites/default/files/2018-01/documents/overcoming-barriers-to-development-and-implementation-of-asset-management-plans.pdf), U.S. EPA states that asset management plan benefits will vary by utility, but potential benefits include reduced overall costs for both operations and capital expenditures, prolonged asset lifecycle and enhanced long term asset performance, and confidence in capital planning regarding rehabilitation, repair, and replacement decision making.</p> <p>c. New Requirements to Implement 2015 Statewide Trash Provisions</p> <p>This Order includes trash management-related requirements to implement the statewide Trash Provisions. While costs associated with implementing the Trash Provisions are expected to be significant, these new costs are for actions that directly improve water quality. The Trash Provisions were adopted by the State Water Board in 2015, and the Department participated in the Trash Provision development and adoption process. During the State Water Board’s consideration of the Trash Provisions, the State Water Board complied with the Water Code (https://www.waterboards.ca.gov/laws_regulations/docs/portercologne.pdf) sections 13170 and 13241, subdivision (d) requirements to consider economics when establishing water quality objectives. The Department’s capital expenditures and annual costs were considered for compliance, as detailed in the Trash Provisions’ Economic Considerations (https://www.waterboards.ca.gov/water_issues/programs/trash_control/docs/trash_c_040715.pdf).</p> <p>Economic considerations are not a cost-benefit analysis, but a consideration of potential costs of foreseeable measures to comply. The cost considerations provided during the development and adoption of the Trash Provisions determined that the Department’s expenditures were estimated to</p>

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	<p>increase by \$34.5 million in total capital costs and almost \$15 million per year for operation and maintenance of structural controls. The State Water Board understands that the initial cost estimates in 2015 may not represent final implementation costs for a variety of reasons, including inflation and a greater-than-expected number of hot spots related to unhoused communities. In an effort to make the most use possible of the time available under the Trash Provisions, the State Water Board began working with the Department shortly after the adoption of the Trash Provisions to plan implementation of those requirements. The incorporation of the Trash Provisions into this Order is the next step in the implementation process, and it continues the Department’s implementation efforts as initially order through the State Water Board’s June 2, 2017 Water Code section 13383 Order (https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.xhtml) as SMARTS Attachment ID 1937083 under WDID 5S34CT000001) issued to the Department.</p> <p>Conversely, the State Water Board anticipates that the costs of the continued implementation of the Trash Provisions’ standardized statewide requirements in this Order will be offset at least in part through prevention of potential costs related to future impairments and/or additional trash TMDLs with requirements applicable to the Department. In summary, the Department is required to:</p> <ol style="list-style-type: none"> i. Develop and implement a Trash Assessment Methodology Plan, subject to State Water Board Executive Director Approval, to accurately identify significant trash generating areas within the Department’s right of way, as previously required by the June 1, 2017 13383 Order. A requirement in the 13383 Order required the Department to include the following elements in its Trash Assessment Methodology Plan: <ul style="list-style-type: none"> • Identification of all locations or facilities within the Department’s jurisdiction that are located outside of the jurisdiction of permitted municipal separate storm sewer systems where trash accumulates in substantial amounts; • A visual assessment of all highway segments, highway on-ramps, and highway off-ramps within or adjacent to the jurisdiction of permitted municipal separate storm sewer systems to identify where trash accumulates in substantial amounts; and

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	<ul style="list-style-type: none"> • An assessment of all known unhoused communities within the Department’s right-of-way. <p>ii. Install, operate, and maintain any combination of certified full capture systems, other treatment controls, and/or institutional controls for all storm drains that capture runoff from Significant Trash Generating Areas (as previously required in the June 1, 2017 13383 Order);</p> <p>iii. Develop and implement a Trash Monitoring Plan, subject to State Water Board Executive Director approval, that:</p> <ul style="list-style-type: none"> • Demonstrates that such combination of certified full capture systems, other treatment controls, and/or institutional controls achieve full capture system equivalency; • Estimates the trash generation in all Significant Trash Generating Areas based upon trash assessments; • Demonstrates compliance with interim milestones, and • Provides an assessment of the amount of annual trash reduction. <p>2. Reduced and Minimized Compliance Costs</p> <p>In contrast to the potential increases in permit compliance costs discussed above, many changes have been made from the previous Order that may offset, at least in part, any potential increased costs. This Order provides clarity to the Department’s regulatory obligations, including TMDL-related obligations, and eliminates or modifies the following requirements found in the previous Order:</p> <p>a. Termination of Two-Tier Monitoring Requirements</p> <p>This Order does not continue the Tier 1 and Tier 2 monitoring requirements. The previous Order required the Department to conduct monitoring in two tiers as follows:</p> <p>i. Sites required to be monitored under the General Exception to the California Ocean Plan’s prohibition of discharge into Areas of Special Biological Significance and sites in impaired watersheds for which the Department has been assigned a waste load allocation, and</p>

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	<p data-bbox="533 355 1892 423">ii. Monitoring of all locations where the Department has previously conducted characterization or other types of monitoring.</p> <p data-bbox="506 444 1940 732">With regard to the characterization monitoring and Areas of Special Biological Significance monitoring, the Department’s monitoring data submitted under the existing Order has fulfilled its obligations and no additional such monitoring is needed. Similarly, monitoring for many TMDLs is still required and may be needed for other specific TMDLs to make the demonstrations required under the TMDL Demonstration of Compliance Plan, discussed below. As part of its Areas of Special Biological Significance Compliance Plan, the Department may demonstrate compliance through one of the following mechanisms: modeling, receiving water monitoring, discharge monitoring, or a demonstration of no discharge.</p> <p data-bbox="459 769 1793 797">b. Choice of Methods to Demonstrate Compliance with TMDL Pollutant Wasteload Allocations</p> <p data-bbox="506 818 1940 1105">This Order allows the Department to demonstrate compliance with TMDL waste load allocations through implementing one or more of the methods listed below, as appropriate and consistent with the requirements of the applicable TMDL waste load allocations. These methods maximize the use of existing information and minimize monitoring and reporting costs. By including the following methods (described in more detail in Attachment D, section D3.3), the State Water Board anticipates that the Department will be able to demonstrate that it is currently in or approaching compliance with waste load allocations through cost-effective methods, thus reducing the overall cost of implementing this Order:</p> <ul data-bbox="558 1127 1115 1391" style="list-style-type: none"> • Modeling analysis, • Receiving water quality monitoring, • Loads from other sources, • Discharge sampling, • Mass-based waste load, • Allowable exceedance days, • No discharge, and

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	<ul style="list-style-type: none"> • Other miscellaneous factors <p>c. Removal of Compliance Units Process</p> <p>The previous Order required implementation of a compliance unit process as a tracking mechanism for the Department’s implementation of projects intended to ultimately achieve compliance with waste load allocations. As discussed in the Fact Sheet of the previous Order, this process established a 20-year timeframe (through 2034) for implementation of activities aimed at addressing an estimated 33,000 acres of Department TMDL right-of-way, or 1,650 acres per year. At the time, the State Water Board estimated that this would cost \$176,000 per acre, resulting in an annual compliance cost of up to \$290,000,000. The previous Order also allowed the Department to accumulate compliance units through its contributions to collaborative efforts at a cost of \$88,000 per compliance unit, resulting in a minimum annual cost based on these contributions of \$145,000,000. Through this process, the Department was expected to have achieved compliance with its TMDL-related requirements. This Order does not continue the compliance unit tracking process. Although the projects were designed to and did positively impact watersheds, the compliance unit tracking process allowed the Department to accumulate compliance units for work related to TMDLs which in some cases did not correlate to the Department’s responsibility under the TMDL.</p> <p>The requirements in this Order focus the Department’s responsibility on contributing to work in TMDL watersheds that will satisfy its specific obligations under the TMDLs. For 15 TMDLs, no work beyond implementation of the baseline requirements of the Order is required by the Department (Attachment D, Table D-1). For the remaining 83 TMDLs and TMDL water-body pollutant combinations, the Order requires that the Department develop its own strategies to demonstrate actual compliance with TMDL requirements, and in some instances provides much greater specificity on what exactly the TMDLs require. Once compliance is achieved and a demonstration of compliance is approved by the State Water Board Executive Director, the Department is required to simply maintain that compliance and focus its TMDL implementation budget on TMDLs that require additional compliance activities.</p>

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	<p>The State Water Board anticipates some additional increased costs in the short term associated with the Department’s development and submittal of a TMDL Compliance Plan. However, the State Water Board anticipates that elimination of the compliance unit tracking process in the previous Order, combined with the implementation of Department-specific TMDL requirements in Attachment D of this Order, will result in a net cost savings because the Department’s expenditures will be focused directly on attaining compliance with applicable a waste load allocations and because the Order establishes clear methods by which the Department can demonstrate final compliance with TMDL requirements. Importantly, while the programmatic requirements have changed, both this Order and the previous Order required the Department to ultimately comply with its waste load allocations.</p> <p>d. Clarified Department-specific TMDL Waste Load Allocations</p> <p>During the development of this Order, State Water Board staff held numerous meetings with Department representatives and individual Regional Water Board staff to determine the Department’s regulatory obligation under each TMDL in which the Department is identified as a contributor to the associated receiving water impairment. This Fact Sheet identifies in detail the group or Department-specific wasteload allocations to which the Department is subject. In some cases, it provides further discussion to clarify or make more specific the Department’s TMDL obligations. These requirements and the compliance approaches were developed with Department input and allow the Department to fund or implement projects that directly address compliance with its wasteload allocations.</p> <p>e. Identified Compliance with 15 TMDL Pollutants through Permit Compliance</p> <p>As mentioned above, this Order identifies 15 TMDLs or TMDL water body-pollutant combinations in Table D-1 of Attachment D with which the Department is in full compliance through its compliance with the non-TMDL requirements of this Order. Therefore, the Department is not required to conduct additional TMDL-specific compliance projects for these identified TMDLs.</p> <p>f. Specific TMDL-Compliance Requirements or Plans for 81 TMDLs or TMDL Water Body-Pollutant Combinations</p>

Comment Number	Comment Category 10: Costs
	<p>This Order identifies 81 TMDLs or TMDL water body-pollutant combinations in Tables D-2 and D-3 of Attachment D with which the Department will be in compliance upon its fulfillment of specific compliance actions or through demonstrations made and approved under the TMDL Compliance Plan. During the development of this Order, State Water Board staff held numerous meetings with Department representatives and individual Regional Water Board staff to develop the specific compliance actions for many TMDLs that are compatible with the Department’s existing protocol and established stormwater management programs. Additionally, for 62 of these TMDLs and TMDL water body-pollutant combinations, the State Water Board adopted Time Schedule Order 202X-XXXX, providing the Department until December 31, 2034 to comply with the applicable TMDL requirements. This continues the time schedule provided under the prior iteration of this Order for the Department’s TMDL compliance.</p> <p>3. Department Reporting of Compliance Costs</p> <p>As with the previous Order, the State Water Board notes that costs associated with regulatory municipal stormwater permit compliance are not easily tracked, nor are those costs solely attributable to compliance with an NPDES municipal stormwater permit. Requirements such as storm drain maintenance, street sweeping, and trash and litter collection predate the Department’s NPDES municipal stormwater permits. Additionally, many structural best management practices installed in the Department’s right of way are standard engineering practice for highway drainage and other transportation facility needs, including infrastructure operations and maintenance. Therefore, the cost that are many times associated with regulatory municipal stormwater management are not implemented solely to comply with permit requirements. The 2005 NPDES Stormwater Cost Survey (https://www.owp.csus.edu/research/papers/papers/NPDES_Stormwater_costsurvey.pdf) developed by the California State University, Sacramento - Office of Water Programs found that only 38 percent of program costs were new costs solely attributable to compliance with NPDES municipal stormwater permit requirements; the remainder were either pre-existing or resulted from enhancement of pre-existing programs. Following the State Water Board’s August 12, 2020 Guidance for Obtaining MS4 Permit Compliance Costs (https://www.waterboards.ca.gov/water_issues/programs/stormwater/storms/docs/ms4costrptguide.pdf), this</p>

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	<p>Order requires the Department to submit its the actual cost of implementation of the Department’s storm water management program. Due to the extensive, distributed nature of the Department’s highway system, its municipal stormwater system, and stormwater discharges, this Order provides the Department with options to demonstrate compliance, allowing for regional environmental variables, effectiveness data for best management practices including treatment controls, modeling capabilities, that as implemented, will vary in compliance costs. Though no precise estimates can be drawn, the State Water Board anticipates that the changes it has made and the requirements it has crafted in consultation with the Department and other stakeholders will help offset increased costs of compliance incurred relative to the prior iteration of this Order.</p>

Table A-3. Calculations of Sediment Load Allocations (tons per year)

Watershed	Watershed Area (square miles)	Road Density (miles per square mile)	Total Road Length (miles)	State Highway Length (miles)	Ratio of State Highway Length to Total Road Length (percent)	Watershed Road Sediment Load less Road Surface Erosion (tons per square mile per year)	Department Sediment Load (tons/year)	Watershed Road Sediment Load Allocation Less Road Surface Erosion (tons per square mile per year)	Department Sediment Load Allocation (tons per year)	Department Load Reduction Responsibility (tons per year)
Albion River	43	8.5	365.5	0.36	0.10%	170	7.2	44	1.9	5.3
Big River	181	6.9	1248.9	15.04	1.21%	88	191.8	20	43.4	148.4
Eel River, Upper Main	708	7.1	5026.8	45.92	0.92%	21	135.8	11	70.9	64.9
Eel River, Middle Fork	753	7.1	5346.3	19.17	0.36%	54	145.8	39	105.7	40.1
Eel River, Lower Main	300	5.8	1740.0	47.46	2.75%	43	351.9	9	73.7	278.1
Eel River, South Fork	689	3.6	2480.4	115.60	4.69%	559	17950.1	151	4848.2	13101.9
Garcia River	114	5.5	627.0	2.70	0.43%	509	249.9	204	100.0	149.9
Gualala River	299	4.8	1435.2	1.44	0.10%	570	171.0	69	20.6	150.4
Mad River ¹	374	2.2	8234.0	22.04	2.70%	455	4595.0	51	515.0	4056.0
Navarro River	316	6.6	2085.6	51.15	2.45%	370	2867.5	176	1362.6	1504.9
Noyo River	113	6.8	768.4	10.16	1.34%	77	115.0	22	32.8	82.2
Redwood Creek	282	5.4	1522.8	22.55	1.48%	1278	5336.8	205	855.6	4481.2
Scott River	814	6.2	5046.8	41.33	0.82%	23	153.3	10	66.7	86.6
Ten Mile River	120	7.9	948.0	0.95	0.10%	38	4.6	9	1.1	3.5
Trinity River ¹	1694	2.3	159.5	219.29	4.00%	7725	219.3	851	88.9	6875.0
Trinity River, South Fork	931	3.3	3072.3	52.99	1.75%	122	1959.0	22	352.3	1606.7
Van Duzen River	428	5.5	2354	46.58	1.98%	53	448.9	8	67.8	381.1

Note to Table A-3

¹ The Department's proportional responsibility for the Mad River and Trinity River are calculated at a subwatershed level and exclude subwatersheds without State Highways.

Attachment D, section D5.7

Department-Specific Sediment Load Allocations in the North Coast Water Board Region

TMDL Name	Existing Load (tons/year)	Load Allocation (tons/year)	Reduction Needed (%)	Sediment Load Reduction (tons/year)
Albion River	7	2	74	5
Big River	193	44	77	149
Eel River, Upper Main	137	68	50	68
Eel River, Middle Fork	147	105	28	41
Eel River, Lower Main	354	74	79	280
Eel River, South Fork	8,027	4,871	73	1,3157
Garcia River	251	100	60	150
Gualala River	171	21	88	150
Mad River	4,595	515	88	4,056
Navarro River	2,868	1364	52	1,504
Noyo River	116	33	71	83
Redwood Creek	5,337	856	84	4,481
Scott River	153	67	57	87
Ten Mile River	5	1	76	4
Trinity River	7,725	88	89	6,875
Trinity River, South Fork	1,983	358	82	1,625
Van Duzen River	447	68	85	379

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Section	Revised Text
General	Corrections for typographical, punctuation, and grammatical mistakes are not listed in this Clarifications but are shown in the proposed Order.
Order, section 13.9	<p>13.9 Inspection and Entry</p> <p>Upon the presentation of credentials and other documents as may be required by law, the Department shall allow the State Water Board, Regional Water Boards, U.S. EPA, and/or their authorized representatives (including an authorized contractor acting as their representative) (33 United States Code section 1318(a)(4)(B); 40 C.F.R. section 122.41(i); Water Code sections 13267 and 13383) to:</p>
Fact Sheet, A4.3.1	<p><i>A4.3.1 Antidegradation Policy</i></p> <p>Federal regulations at 40 C.F.R. section 131.12 require water quality standards to include an antidegradation policy consistent with the federal policy. The State Water Board established California’s antidegradation policy through State Water Board Resolution 68-16, Statement of Policy with Respect to Maintaining High Quality of Waters in California, which incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution 68-16 requires that existing water quality be maintained unless degradation is justified based on specific findings. The Water Quality Control Plans implement, and incorporate by reference, both the State and federal antidegradation policies. Permitted discharges shall be consistent with the antidegradation provisions of 40 C.F.R. section 131.12 and State Water Board Resolution 68-16.</p> <p>This Order is consistent with the above-stated antidegradation policies and provisions. This Order regulates the Department’s statewide MS4; this Order may authorize discharges to at least some surface waters that are high quality with regard to some pollutants. The State Water Board expects that the controls in this Order would not permit degradation in high quality waters, but to the extent that degradation does occur, this Order would comply with antidegradation requirements for discharges to any high quality waters. This Order continues the previous level of water quality protection for waters of the United States and any affected non-federal waters of the state as the previous Order, and further protects water quality in the following ways:</p>

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	<ul style="list-style-type: none"> · This Order implements trash control measures statewide per the 2015 State Water Board Statewide Trash Provisions. The Trash Provisions require the Department to install full capture systems or achieve full capture system equivalency in all significant trash generating areas throughout its municipal separate storm sewer system; · This Order contains new asset management, best management practice retrofit, and other stormwater program measures to ensure resiliency of best management practices installed to manage stormwater discharges; · In contrast to the previous Order’s compliance unit system, which required implementation of best management practices on acres of TMDL right-of-way under the presumption that compliance with TMDL waste load allocations would ultimately be achieved in all or most cases, this Order requires the Department to specifically plan for and demonstrate compliance with applicable TMDL waste load allocations; · The previous Order only required implementation of its post-construction best management practices requirements for construction projects that involved one acre or more of land disturbance activities. This Order reduces that threshold to 10,000 square feet, less than one quarter of the previous threshold. <p>Because of these improvements to the water quality protections afforded by the previous Order and the fact that the state highway system is not substantially expanding, only minor increases, if any, in discharges beyond those authorized by the previous Order are expected. As a result, a simple antidegradation analysis is warranted.</p> <p>This Order is designed to make maximum use of the Department’s limited budget. As discussed in section A4.5 of this Fact Sheet, this Order will almost certainly increase the cost of compliance compared to the previous Order. Other more expensive controls would take away from the Department’s other beneficial projects. The construction and maintenance of the statewide highway system supports important economic and social development. The highway system allows for the efficient distribution of goods and services to people throughout the state. The highway system also provides a primary transportation option for people to travel throughout the state for social reasons, including experiencing new environs and connecting with each other.</p> <p>As a statewide public transportation system agency, the Department’s projects are all designed to serve the public. The State Water Board understands that given the Department’s limited budget, increases in the cost of stormwater compliance will result in less funding available for other projects and programs that serve the public. State Water Board staff has engaged in extensive discussions with Department and California Transportation Commission staff on how the Department’s budget may be used to achieve maximum benefit to the people of the State.</p>

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	<p>The discharges authorized by this Order are necessary, and there are no cost-effective alternatives that would prevent or lessen any degradation associated with permitted discharges to high quality waters. A complete prohibition of discharges to high quality waters is not practicable because the Department’s MS4 is associated with essential statewide roadway infrastructure that cannot be relocated. Unlike other systems and projects regulated by NPDES stormwater permits, the Department’s jurisdiction is already largely developed. While there will of course be additions to the Department’s highway system, much of the activity regulated by this Order consists of redevelopment of and adjustments to the existing highway footprint. Thus, while the requirements listed above will of course apply to any expansion of the Department’s highway system, the Department will primarily have the effect of building upon the previous Order’s requirements to further reduce pollutant discharges to receiving waters.</p> <p>Importantly, the Department’s right-of-way, and therefore the area available to implement stormwater best management practices, in most cases only expands slightly beyond the existing paved highway footprint. Therefore, while this Order increases the requirements placed upon the Department to address its stormwater discharges, it does not prescribe or strongly incentivize large-scale stormwater retention as other NPDES stormwater permits have, due to the limited land/opportunities available for retention structures that would not compromise motorist safety due to potential ponding on the roadway. While the State Water Board supports retention where possible, this Order is designed to allow the Department to adapt its stormwater program to the wide variety of environments through which its highway system passes to make the most use of its budget to achieve the maximum benefit to water quality.</p> <p>This Order was developed with ample opportunity for public participation, including a written comment period, public workshops in July 2021 and June 2022, a State Water Board hearing in July 2021, and a State Water Board meeting in June 2022. During the development of this Order, State Water Board staff met repeatedly with stakeholders, including staff from the Department and California Transportation Commission, and representatives of municipalities and environmental non-governmental organizations.</p> <p>The State Water Board finds that this Order protects existing uses by requiring implementation of best management practices as well as compliance with receiving water limitations, and Trash and TMDL-related requirements. In addition, the Regional Water Boards retain the ability to impose additional sampling and monitoring requirements, if necessary.</p> <p>This Order complies with Resolution No. 68-16 as it applies to high quality waters because any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water, and will not result in water quality less than that prescribed in the policies. As explained above, the Department’s activities are essential to economic and social development, and consistent with the maximum benefit to the people of the State to authorize stormwater discharges associated with those activities, so long as the discharges comply with statutory and regulatory requirements. This Order includes requirements that will result in treatment or control of the discharges to the maximum extent practicable, to assure that a</p>

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	pollution or nuisance will not occur, and the highest water quality consistent with maximum benefit to the people of the State will be maintained.
Fact Sheet, A5.2	<p>A5.2 Stormwater and Non-Stormwater Discharges into Areas of Special Biological Significance</p> <p>[:]</p> <p>The Water Quality Control Plan for Ocean Waters of California prohibits stormwater discharges to Areas of Special Biological Significance unless the discharges comply with State Water Board Resolution No. 2012-0012, Approving Exceptions to the California Ocean Plan for Selected Discharges into Areas of Special Biological Significance, Including Special Protections for Beneficial Uses. The Department has applied for and been granted an exception to the prohibition on the condition the Department complies with the special protections specified in the General Exception and contained in this Order.</p>
Fact Sheet, A9.3.10	<p><i>A9.3.10 Post Construction Requirements</i></p> <p>[:]</p> <ul style="list-style-type: none"> • San Diego Regional Water Board threshold: 2,500 to 10,000 square feet.
Fact Sheet, A9.3.10.5	<p><i>A9.3.10.5 Alternative Compliance Projects Located Within or Outside the Right-of-Way</i></p> <p>This Order provides an alternative method for complying with the numeric sizing criteria for projects where on-site treatment is infeasible. Under the alternative method, compliance may be achieved outside the Department’s project limits, either within or outside the Department’s right-of-way, including within another Department project. An alternative compliance project may be implemented pursuant to a cooperative agreement with another entity. Alternative compliance projects should be designed, if possible, to treat the same pollutant-waterbody combinations within the same watershed as an on-site project would have treated.</p>

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Fact Sheet, A9.4	<p>A9.4 Statewide Trash Provision Requirements</p> <p> <u>Statewide Trash Provisions</u></p> <p> [:]</p> <p> The Trash Provisions require the Department to comply with the prohibition of trash discharge by installing, operating, and maintaining any combination of certified full capture systems, other treatment controls, and/or institutional controls for all storm drains that capture runoff from significant trash generating areas. Where certified full capture systems are not installed, the Department shall demonstrate that such combinations of other treatment controls, and/or institutional controls achieve full capture system equivalency. Certified full capture systems are those that are certified by the State Water Board Executive Director. Certified full capture systems include both trash treatment control devices and multi-benefit treatment systems. Certified full capture systems are listed on the State Water Board’s Trash Implementation Program website (www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html). Additionally, the Department and other municipal separate storm sewer system permittees that are subject to the Trash Provisions shall coordinate their efforts to install, operate, and maintain full capture systems, other treatment controls, and/or institutional controls in significant trash generating areas and priority land uses.</p>
Fact Sheet, A9.7.2	<p><i>A9.7.2 Cooperative Implementation Agreements</i></p> <p> The Department participates in cooperative implementation agreements with other agencies/parties to implement projects that result in or progress towards compliance with TMDLs. In most instances, the agreements address a watershed approach to compliance, and the Department’s participation is through contributing project funding. This Order allows the Department to comply with its TMDL obligations, through cooperative projects. The Department may satisfy some or all of the Department’s TMDL obligations through projects outside of the Department’s right-of-way, provided that the projects, either alone or in combination with other dischargers’ projects in the watershed, are consistent with attaining the waste load allocations for the watershed.</p>

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Fact Sheet, A9.7.4.8.1	<p><i>A9.7.4.8.1 Los Peñasquitos Lagoon Sediment Total Maximum Daily Load</i></p> <p align="center">[:]</p> <p>Final Compliance Deadline: The final sediment TMDL compliance deadline is July 14, 2034.</p>
Fact Sheet, A9.7.4.8.2	<p><i>A9.7.4.8.2 Rainbow Creek Total Nitrogen and Total Phosphorus Total Maximum Daily Load</i></p> <p align="center">[:]</p> <p>Description: The San Diego Water Board adopted the Rainbow Creek Total Nitrogen and Total Phosphorus TMDL to address the nutrient impairments (i.e., total nitrogen and total phosphorus); subsequently, U.S. EPA approved the TMDL on March 22, 2006. Rainbow Creek was placed on the 303(d) list of "water quality limited" water bodies in 1996 because nutrient concentrations in the water body did not meet the objective for nitrates in municipal supply or the numeric goals for biostimulator substances. Additionally, elevated nutrient concentrations have caused excessive algal growth. <u>The Rainbow Creek TMDL is provided in Chapter 7 of the San Diego Water Board Basin Plan, which states that the Department is expected to take all actions necessary to meet its nutrient wasteload reductions and that "compliance with the nutrient waste load reductions will be accomplished through the development and implementation of best management practices...."</u></p> <p>Final Waste Load Allocations and Contributions Specific to the Department. <u>At the time of the TMDL's adoption, the Department's mass load contributions were 153 kilograms total nitrogen per year and 14 kilograms total phosphorous per year (Table 7-12 of the San Diego Water Board Basin Plan), which represented four percent of the total land use runoff contributions to the annual total nitrogen and total phosphorus surface water loads. As stated in the March 22, 2006, Final Technical Report for the Rainbow Creek TMDL, the Department's Interstate-15 watershed drainage area is 120 acres that consists of approximately 23 acres of impervious roadway and median and 98 acres of vegetated land area. The Department's final 2021 total phosphorus wasteload allocation from Interstate-15 stormwater runoff is 5 kilograms per year for total phosphorous and is 49 kilograms per year for total nitrogen.</u></p> <p><u>To control nutrients, the Department has implemented best management practices within the Interstate-15 drainage area, including right-of-way street sweeping, storm drain inlet maintenance and cleaning, erosion and sediment controls, collaborative activities to support source identification from other dischargers in the Rainbow Creek watershed,</u></p>

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	<p><u>discontinuing fertilizing, and discontinuing irrigation. In addition, the Department has sponsored nitrogen and phosphorous pollutant source investigations within its right-of-way and a geotechnical study assessing the infiltration capacity of the Interstate-15 right-of-way for installation of structural best management practices (Feasibility Geotechnical Investigation for Infiltration Basins and Trenches, Interstate Route I-15, Rainbow Valley Area San Diego and Riverside, Counties, California Contract No. 43A0182, January 2008). The San Diego Water Board has reviewed these studies. The investigations conclude that other than aerial deposition of auto exhaust, there are no other known sources of nitrogen or phosphorous within the Department’s control within the Interstate-15 right-of-way drainage area to the Rainbow Creek Watershed. Further, the Department concluded that geology in the right-of-way area was natural rock with very low infiltration rates and was not suitable for the installation of structural best management practices.</u></p> <p><u>The Department conducted monitoring during the October through April wet weather months from October 2012 to April 2016 and from October 2020 to April 2021. With continued implementation of technically feasible best management practices, the Department has achieved a 63 percent mass load reduction of total nitrogen in stormwater runoff and a 36 percent mass load reduction of total phosphorus in stormwater runoff over this 8year monitoring and reporting period. Based on the 2012 through 2021 monitoring data, the Water Boards have determined that the Department has achieved compliance with the 2009, 2011, and 2013 interim wasteload allocations for total nitrogen and total phosphorus. The Department’s stormwater runoff mass load reduction was within 20 percent of the final 2021 wasteload allocations for total nitrogen and total phosphorus. On average, the Department has reduced its stormwater runoff mass loading of total phosphorus and total nitrogen from 6 to 18 percent annually based on the 2012 mass loading through implementation of non-structural best management practices. With continued implementation of current Department non-structural best management practices, the Department may achieve the final wasteload allocations in the near future.</u></p> <p><u>In addition, the Department has sponsored nitrogen and phosphorous pollutant source investigations within its right-of-way and a geotechnical study assessing the infiltration capacity of the Interstate-15 right-of-way for installation of structural best management practices (Feasibility Geotechnical Investigation for Infiltration Basins and Trenches, Interstate Route I-15, Rainbow Valley Area San Diego and Riverside, Counties, California Contract No. 43A0182, January 2008). The San Diego Water Board has reviewed these studies. The investigations conclude that other than aerial deposition of auto exhaust, there are no other known sources of nitrogen or phosphorous within the Department’s control within the Interstate-15 right-of-way drainage area to the Rainbow Creek Watershed. Further, the Department</u></p>

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	<p><u>concluded that geology in the right-of-way area was natural rock with very low infiltration rates and was not suitable for the installation of structural best management practices.</u></p> <p>The Department's mass load contributions are 200 kilograms total nitrogen per year and 14 kilograms total phosphorous per year, which represent 4 percent of the land use, specifically from Interstate I-15 runoff. The Department-specific total phosphorous waste load allocation is 5 kilograms per year. The Department-specific total nitrogen allocation is 49 kilograms per year.</p> <p><i>Final Compliance Deadline:</i> The final compliance deadline for the TMDL <u>was</u> December 31, 2021.</p>
<p>Fact Sheet, A9.7.5.1.1</p>	<p><i>A9.7.5.1.1 San Francisco Bay Polychlorinated Biphenyls Total Maximum Daily Load</i></p> <p>[:]</p> <p>On October 21 and December 29, 2020, the San Francisco Bay Water Board staff provided clarification about the allocations: polychlorinated biphenyl treatment needs are satisfied through the treatment acres calculated for mercury (i.e., 2,970 acres of right-of-way). Further, atmospheric deposition distributes mercury (but not polychlorinated biphenyls) relatively uniformly across Bay Area watersheds; and atmospherically deposited mercury constitutes a large percentage of the mercury found in all urban runoff. Further, polychlorinated biphenyls shall be targeted through the specific choice of treatment locations because higher credit will be given for implementing projects in more contaminated land use areas.</p> <p>This is an incentive for projects that benefit both mercury and polychlorinated biphenyl load reductions. For treatment projects implemented in old industrial land use areas, the Department shall receive an acreage credit of three times the credit recognized for projects implemented in the Department's right-of-way (one acre credit for each acre treated).</p> <p>The basis of this ratio is that the ratio of polychlorinated biphenyl yield from old industrial to old urban land use (the Department's right-of-way is assumed to have this yield) is 86:30 (approximately 3:1) , and the ratio of these land uses for mercury is 1300:215, or 6:1.</p> <p>Because of the higher pollutant yield (both PCBs and mercury) in old industrial land use areas, projects implemented in old industrial land use areas are recognized as having a higher pollutant removal benefit. Moreover, applying the 3:1</p>

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	<p>mercury ratio to polychlorinated biphenyls is conservative since a higher ratio (up to 6:1) could be justified. The reference for these ratios is found in the March 23, 2017 report, Interim Accounting Methodology for TMDL Loads Reduced, that was prepared for the Bay Area Stormwater Management Agencies Association. Consequently, achieving specific mercury load reductions is an appropriate driver for deriving areal treatment requirements because mercury will be found in all the Department’s runoff while polychlorinated biphenyls are primarily concentrated in certain old industrial land uses, may not be.</p> <p>In addition to land uses, polychlorinated biphenyl sources also include polychlorinated biphenyl-containing caulk in existing roadways.</p> <p><i>Final Waste Load Allocations and Contributions Specific to the Department:</i> All stormwater runoff sources share a two kilogram per year waste load allocation. A Department-specific contribution is not specified. This Order requires that polychlorinated biphenyl-containing caulk in the Department’s rightofway be identified, removed, and properly disposed of prior to or during the demolition, replacement, or rehabilitation of existing roadways, bridges, and other structures containing such material in accordance with the Department’s standard operating procedures for this material.</p>
<p>Fact Sheet, A9.7.10.1</p>	<p>A9.7.10.1 North Coast Region Temperature Total Maximum Daily Loads</p> <p>[:]</p> <p>The temperature TMDLs assign load allocations as the percent of shade along a stream segment. This Order implements the temperature TMDLs by requiring riparian restoration according to the Department’s proportional responsibility. Activities involving the removal of riparian vegetation may require other federal permits and a Clean Water Act section 401 water quality certification, which will contain more specific conditions regarding the removal and/or establishment of vegetation within federal waters. These requirements are intended to prevent alterations to natural receiving water temperature from Department activities.</p> <p>[:]</p>

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Section	Revised Text					
	<p align="center">Table A-4</p> <table border="1" data-bbox="634 371 2002 501"> <thead> <tr> <th data-bbox="634 371 1018 501">Watershed</th> <th data-bbox="1018 371 1475 501">Area of Department Highways in the Watershed (acres)</th> <th data-bbox="1475 371 2002 501">Department's Proportional Responsibility of Riparian Shade (acres)</th> </tr> </thead> </table>			Watershed	Area of Department Highways in the Watershed (acres)	Department's Proportional Responsibility of Riparian Shade (acres)
Watershed	Area of Department Highways in the Watershed (acres)	Department's Proportional Responsibility of Riparian Shade (acres)				
Attachment B, Definitions	<p>Certified Full Capture Systems. Certified full capture systems are trash full capture systems that are certified by the State Water Board Executive Director. Certified full capture systems include both trash treatment control devices and multi-benefit treatment systems. Certified full capture systems are listed on the State Water Board's Trash Implementation Program website (www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html).</p>					
Attachment B, Definitions	<p>Cooperative Agreement. Cooperative agreements are agreements with other agencies/parties to implement projects, either within or outside of the Department's right-of-way, that result in, or progress towards, compliance with TMDLs. Cooperative agreements for the purposes of compliance with TMDL-related requirements in this Order, are for the implementation of cooperative projects, that either alone or in combination with other dischargers' projects in the watershed, are consistent with complying with the Department's waste load allocations for the watershed.</p>					
Attachment B, Definitions	<p>Storm Sewer System Asset Management. Storm sewer system asset management is the practice of managing stormwater infrastructure capital assets to minimize the total cost of owning, managing and operating the system(s). According to the Clean Water Act Regulations (40 C.F.R. section 122.41), NPDES permits must include requirements for dischargers to develop and implement operations and maintenance procedures and financial plans sufficient to ensure future operational integrity and to help their facilities to comply with permit discharge conditions. A storm sewer system infrastructure asset is any long-lived capital asset that is operated as part of a system or network. Asset Management Plans prioritize the most necessary projects by cataloging assets, identifying performance objectives, completing a life-cycle analysis, and identifying appropriate maintenance schedules.</p>					
Attachment D, D3.2 item 5	<p>D3.2 Annual TMDL Compliance Status Reports</p> <p align="center">[:]</p>					

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Section	Revised Text
	<p>The Annual TMDL Compliance Status Report shall include the following information for the TMDLs listed in Tables D-1, D-2, and D-3:</p> <p>[:]</p> <p>5. Tabulated list of cooperative agreements that includes the name of each agreement, signatories or major participating entities, the impaired waterbody, the waste load allocation/TMDL pollutant, project type (e.g., within the Department’s right-of-way, outside the Department’s right-of-way, monitoring, best management practices, etc.), and the applicable waste load allocation implementation requirement. (See Attachment B, for the definition of cooperative agreements.)</p>
<p>Attachment D, D3.4</p>	<p>D3.4 Regional Water Board-Specific Reports</p> <p>[:]</p> <p>3. <u>San Diego Water Board, Chollas Creek TMDL Reporting</u>. In the TDML Compliance Plan and Annual TMDL Compliance Status Reports, the Department shall report the status of Chollas Creek TMDL best practices implementation including: (i) current and proposed best management practices and treatment acres implemented through cooperative agreements; (ii) existing acreage treated with existing Department-specific best management practices; (iii) proposed Department-specific best management practices and acreage to be treated for the upcoming year; and (iv) proposed total acreage that will be treated with Department-specific best management practices by the compliance deadline. The Department shall demonstrate that the implementation schedule will be sufficient to meet the Department’s waste load allocation interim and final deadlines.</p>
<p>Attachment D, D5.7</p>	<p>D5.7 North Coast Water Board Sediment and Temperature Total Maximum Daily Loads</p> <p>Activities involving the removal of riparian vegetation may require other federal permits and a Clean Water Act section 401 water quality certification, which will contain more specific conditions regarding the removal and/or establishment of vegetation within federal waters. These requirements are intended to prevent alterations to natural receiving water temperature from Department activities.</p>

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Attachment D, D5.8	<p>D5.8 San Francisco Bay Water Board Mercury and Polychlorinated Biphenyls Total Maximum Daily Loads</p> <p>[:]</p> <p>2. Polychlorinated Biphenyls and Mercury TMDL Compliance Plan. The Department shall submit its plan for polychlorinated biphenyls and mercury treatment controls in the TMDL Compliance Plan, which is described in section D3.3, above. For polychlorinated biphenyls, this plan shall cover the reporting period from the Adoption Date of this Order through March 29, 2030. For mercury, this plan shall cover the reporting period from the Adoption Date of this Order through February 12, 2028. The plan shall include the following information:</p> <p>a. A schedule for planned implementation of control measures to treat 2,970 acres by March 29, 2030 for polychlorinated biphenyls and by February 12, 2028 for mercury. The schedule and updates to the schedule shall include the watershed, type of best management practice, installation date, and location by coordinates for controls planned in the following five years.</p> <p>[:]</p> <p>d. Identify the selected best management practices option for each location by choosing and reporting on one of the following options:</p> <p>ii. Implement best management practices in areas managed by municipalities, local agencies, or private entities to which runoff from the Department’s right-of-way is discharged. Treatment controls implemented in old urban and industrial areas within municipalities will be credited three times the acres of the Department’s right-of-way treated. Old urban land use describes urbanized areas developed by 1974 according to the Interim Accounting Methodology published by the Bay Area Stormwater Management Agencies Association in 2017; or</p> <p>[:]</p>
Attachment D, D5.10	<p>D5.10 Requirements for Los Angeles Water Board Other Total Maximum Daily Loads</p> <p>For the Los Angeles Water Board region, the Department shall comply with the monitoring requirements in Attachment F and the implementation requirements provided below:</p>

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Section	Revised Text
	<p>The Department shall comply with best management practices implementation requirements through selection of one of the following options:</p> <ol style="list-style-type: none"> 1. The Department shall participate, or continue to participate, in cooperative agreement projects (as defined in Attachment B) with other entities and agencies, which contribute to the construction and maintenance of regional structural best management practices projects that will treat applicable TMDL pollutants for compliance with waste load allocations; <p>[;]</p>
<p>Attachment D, D5.14.2</p>	<p><i>D5.14.2 Chollas Creek Dissolved Copper, Lead, and Zinc</i></p> <p>The Chollas Creek Dissolved Copper, Lead, and Zinc TMDLs require the Department to implement and maintain best management practices, to monitor, and to report. The dissolved copper, lead, and zinc TMDLs for Chollas Creek are summarized in section A9.7.5.4 of Attachment A of this Order.</p> <p>[;]</p> <ol style="list-style-type: none"> 2. The Department shall plan, implement, and report on one of the following options: <ol style="list-style-type: none"> a. Cooperative Agreements. Implement best management practices through cooperative agreement projects (as defined in Attachment B) within areas managed by municipalities, local agencies, or private entities. Best management practices implemented through cooperative agreements shall treat TMDL-pollutants to comply with the Department’s waste load allocations by the interim and final compliance dates; or <p>[;]</p>
<p>Attachment D, D5.14.3</p>	<p><i>D5.14.3 Los Penasquitos Lagoon Sediment</i></p> <p>Monitoring shall be implemented and reported according to the requirements in Attachment F of this Order.</p> <p>The Department shall meet its sediment load reduction and tidal and non-tidal salt marsh restoration by participation in cooperative watershed agreements or by Department-specific implementation.</p>

Clarifications and other Revisions

Section	Revised Text															
	<p>In addition to the tidal and non-tidal salt marsh restoration efforts, the Department’s required sediment load reduction is 48 tons per wet season by the final TMDL compliance date of July 14, 2034. The Department shall meet the following interim milestones:</p> <p>Interim Milestones</p> <table border="1" data-bbox="551 500 2263 967"> <thead> <tr> <th data-bbox="551 500 1051 651">Interim TMDL Compliance Date</th> <th data-bbox="1051 500 1593 651">Interim Milestones as Percent Reduction in Sediment Loading</th> <th data-bbox="1593 500 2263 651">The Department’s Interim Sediment Load Reduction (tons per wet season)</th> </tr> </thead> <tbody> <tr> <td data-bbox="551 651 1051 756">July 14, 2019 through July 13, 2023</td> <td data-bbox="1051 651 1593 756">20 percent reduction</td> <td data-bbox="1593 651 2263 756">9.6</td> </tr> <tr> <td data-bbox="551 756 1051 828">July 14, 2023</td> <td data-bbox="1051 756 1593 828">40 percent reduction</td> <td data-bbox="1593 756 2263 828">19.2</td> </tr> <tr> <td data-bbox="551 828 1051 899">July 14, 2027</td> <td data-bbox="1051 828 1593 899">60 percent reduction</td> <td data-bbox="1593 828 2263 899">28.8</td> </tr> <tr> <td data-bbox="551 899 1051 967">July 14, 2029</td> <td data-bbox="1051 899 1593 967">80 percent reduction</td> <td data-bbox="1593 899 2263 967">38.4</td> </tr> </tbody> </table> <p>To meet the requirements of this TMDL, the Department shall implement one of the options listed below:</p> <ol style="list-style-type: none"> 1. The Department shall participate in cooperative agreements with local agencies, regional agencies, or private entities to ensure successful restoration of 80 percent of the 1973 acreage of tidal and non-tidal lagoon salt marsh (346 acres) in the Los Penasquitos Lagoon, or 2. The Department shall demonstrate through best management practices implementation that its best management practices contribute to tidal and non-tidal salt marsh restoration and that the Department has met the 48 tons per wet season proportional responsibility for the sediment load reduction through: <ol style="list-style-type: none"> a. Self-monitoring, which shall also be used to demonstrate the Department’s compliance with the interim milestones. 	Interim TMDL Compliance Date	Interim Milestones as Percent Reduction in Sediment Loading	The Department’s Interim Sediment Load Reduction (tons per wet season)	July 14, 2019 through July 13, 2023	20 percent reduction	9.6	July 14, 2023	40 percent reduction	19.2	July 14, 2027	60 percent reduction	28.8	July 14, 2029	80 percent reduction	38.4
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	<p>b. Submittal of a work plan with the TMDL Compliance Plan (required in section D3.3, above). The work plan shall identify and list existing, proposed, and in-progress best management practices in the Los Peñasquitos Watershed used to meet the Department’s required sediment load reduction. For each best management practices, the list must include the best management practice type, the location (e.g., longitude and latitude), the date of implementation, frequency of maintenance, date of last maintenance, functional design criteria (i.e., volume, flow rate, etc.), and amount of sediment captured.</p> <p>c. The Department may implement treatment controls within the Department’s right-of-way or in areas managed by municipalities, local agencies, or private entities to which runoff from the Department’s right-of-way is discharged.</p>																
<p>Attachment D (Tables D-1 and D-2) and Time Schedule (Table Order TSO-1)</p>	<p>The following additions have been made to Table D-1:</p> <table border="1" data-bbox="459 805 2314 1016"> <thead> <tr> <th>Regional Water Quality Control Board</th> <th>TMDL Impaired Waterbody</th> <th>TMDL Pollutant</th> <th>Specific Reporting Requirement in this Attachment</th> </tr> </thead> <tbody> <tr> <td>San Diego</td> <td>Chollas Creek</td> <td>Diazinon</td> <td>D3.2</td> </tr> </tbody> </table> <p>The following changes have been made to Table D-2:</p> <table border="1" data-bbox="459 1084 2314 1284"> <thead> <tr> <th>Regional Water Board</th> <th>TMDL Impaired Waterbody</th> <th>TMDL Pollutant</th> <th>Specific Reporting Requirements in this Attachment</th> </tr> </thead> <tbody> <tr> <td>Central Valley</td> <td>Clear Lake</td> <td>Nutrients</td> <td>D3.2, D3.3, D5.1, and D5.11.3</td> </tr> </tbody> </table>	Regional Water Quality Control Board	TMDL Impaired Waterbody	TMDL Pollutant	Specific Reporting Requirement in this Attachment	San Diego	Chollas Creek	Diazinon	D3.2	Regional Water Board	TMDL Impaired Waterbody	TMDL Pollutant	Specific Reporting Requirements in this Attachment	Central Valley	Clear Lake	Nutrients	D3.2, D3.3, D5.1, and D5.11.3
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Clarifications and other Revisions

Section	Revised Text			
	The following changes have been made to Table D-3:			
	Regional Water Board	TMDL Impaired Waterbody	TMDL Pollutant	Specified Reporting and Implementation Requirements in Attachment D
	San Diego	Rainbow Creek	Total nitrogen and total phosphorous	<u>D3.2, D3.3, D3.4, D5, D5.1, D5.2, and D5.3</u>
	The following changes have been made to Table TSO-1 in the Time Schedule Order:			
	Regional Water Board	Watershed	Total Maximum Daily Load	Final Compliance Deadline
	San Diego	Rainbow Creek	Total nitrogen and total phosphorous	December 31, 2021

Clarifications and other Revisions

Section	Revised Text
Attachment E, E3	<p>The following clarification has been made to Attachment E, section E3:</p> <p>E3 TRASH PROVISIONS IMPLEMENTATION</p> <p>[:]</p> <ol style="list-style-type: none"> 1. The Department shall install, operate, and maintain any combination of full capture systems, other treatment controls, and/or institutional controls for all storm drains that capture runoff from Significant Trash Generating Areas. The Department shall develop and implement monitoring plans that demonstrate that such combinations achieve full capture system equivalency. 2. The Department shall coordinate efforts with municipal separate storm sewer system permittees subject to NPDES permits that implement the Trash Provisions, to install, operate, and maintain full capture systems, other treatment controls, and/or institutional controls in Significant Trash Generating Areas and/or Priority Land Uses.
Attachment E, E8	<p>The following clarification has been made to Attachment E, section E8:</p> <p>E8 ANNUAL TRASH REDUCTION ASSESSMENT</p> <p>The Department shall provide an annual assessment of the amount of trash reduction achieved through implementation of full capture systems, other treatment controls, and institutional controls. The annual trash reduction assessment shall be reported in the Trash Annual Report described in section E12, below.</p>
Attachment E, E11.1	<p>The following clarification has been made to Attachment E, section E11.1:</p> <p>E11.1 Procedures and Schedules</p> <p>[:]</p> <ol style="list-style-type: none"> 4. The effectiveness of implemented full capture systems, other treatment controls, and/or institutional controls, <p>[:]</p> <ol style="list-style-type: none"> 6. Necessary maintenance of the full capture systems, other treatment controls, and/or institutional controls. Maintenance frequency shall not be less than maintenance frequencies required for best management practices in Attachment C (Stormwater Management Plan) of this Order.

Clarifications and other Revisions

Section	Revised Text
Attachment E, E11.2	<p>The following clarification has been made to Attachment E, section E11.2:</p> <p>E11.2 Maps, Trash Generation, Trash Controls, and Tracking</p> <p>[:]</p> <p>2. Geographic information system-mapped locations of all implemented full capture systems, other treatment controls, and/or institutional controls;</p> <p>[:]</p> <p>4. Identification of each implemented full capture systems, other treatment controls, and/or institutional controls.</p>
Attachment E, E12	<p>The following clarification has been made to Attachment E, section E12:</p> <p>E13 ANNUAL TRASH MONITORING REPORT REQUIREMENTS</p> <p>[:]</p> <p>8. Description of each of the implemented full capture systems, other treatment controls, and/or institutional controls.</p>
Attachment F F2.12.2.1	<p>F2.12.2.1 Mercury Monitoring Options for the San Francisco Bay Water Board</p> <p>[:]</p> <p>2. Self-Monitoring. Develop and implement a mercury monitoring plan to quantify the mercury loads or load reductions achieved through treatment, source control, and other management efforts. Bedded fine sediment shall be sampled a minimum of four wet weather events per year over the term of the Order. Sample locations shall be at or near a point of discharge from the right-of-way and into the system that discharges stormwater into San Francisco Bay.</p> <p>[:]</p>

Clarifications and other Revisions

Section	Revised Text
<p>Attachment F F2.12.7.1</p>	<p>F2.12.7.1 Project I – Twenty Beaches and Creeks Bacteria Monitoring</p> <p>[:]</p> <p>2. Department-Specific Monitoring Program. The Department may conduct compliance monitoring to demonstrate the effectiveness of best management practices in controlling bacteria loads for this TMDL. Receiving water and outfall monitoring must be conducted. Receiving water monitoring shall be conducted in three representative watersheds annually for the permit term. For each of the twenty beaches and creeks watersheds, outfalls shall be monitored weekly during the dry season and a minimum of three rain events during one wet season. This monitoring shall occur twice per permit term. Sampling must occur in two different sampling years. Sample locations, number of samples, sampling time, methods, and frequencies shall be representative of pollutant concentrations or loadings in discharges from the Department’s right-of-way or shall be representative of the effects of discharges from the Department’s right-of-way on water qualities in the TMDL waterbodies. If there is no flow during dry weather, the Department must document and record visual observations.</p>
<p>Attachment F F2.12.7.2</p>	<p>F2.12.7.2 Chollas Creek Dissolved Copper, Lead, and Zinc</p> <p>The TMDLs require monitoring and reports to assess the effectiveness of implemented best management practices to meet the waste load allocations. The Department shall perform monitoring by choosing and implementing one of following two options:</p> <p>1. Cooperative Watershed Receiving Water Monitoring Program. The Department may participate in or contribute to a cooperative watershed monitoring program with the other responsible municipalities (i.e., cities of La Mesa, Lemon Grove, and San Diego; the Port of San Diego; and the County of San Diego), as approved by the State Water Board Executive Director in consultation with the San Diego Water Board Executive Officer. Receiving water shall be sampled monthly during the wet season. Receiving water monitoring shall demonstrate watershed compliance/non-compliance with the waste load allocations; or</p> <p>2. Self-Monitoring. The Department may develop and conduct compliance monitoring to demonstrate the effectiveness of best management practices at outfalls to achieve waste load allocations. Representative outfalls shall be</p>

Clarifications and other Revisions

Section	Revised Text
	<p align="center">monitored for applicable metals for one rain event per year over three separate years during the wet season per the permit term or per every five years, whichever is less. Monitoring shall be representative of the effects of the Department’s discharges on water quality.</p>
<p>Attachment F F2.12.7.3 (R9 edits on 8/19/21)</p>	<p>F2.12.7.3 Los Pe?asquitos Lagoon Sediment Monitoring [:]</p> <p>2. Self-Monitoring. The Department may develop and conduct compliance monitoring to demonstrate the effectiveness of best management practices and to demonstrate compliance with the load reduction. Sampling locations, number of samples, sampling time, methods, and frequencies shall be included in the monitoring plan.</p> <p>a. The Department shall demonstrate effectiveness of best management practices through monitoring a minimum of either (i) 20 percent of the total inventoried best management practices in the Los Pe?asquitos Watershed or (ii) a total of three best management practices in the Los Pe?asquitos Watershed, whichever is greater. The minimum number of treatment best management practices selected for monitoring must be representative of the BMPs being relied upon by the Department for meeting the Department’s Required Sediment Load Reduction. Monitoring for the BMPs selected by the Department must be conducted annually for 3 rain events during the wet season (October 1 through April 30); and</p> <p>b. The Department shall monitor representative outfalls draining from the Los Pe?asquitos, Carroll Canyon, and Carmel Creek locations prior to entering the Los Pe?asquitos Lagoon. Monitoring shall address, at a minimum, representative values of flow rates and total suspended solids concentrations from the Department’s outfalls. The Department shall monitor outfalls during three storms during two wet seasons over the permit term. The wet season is defined as October 1 through April 30.</p>

**Public Comments regarding
Proposed Draft Statewide Caltrans Stormwater Permit**

- [Notice](#)
- Deadline to receive comments by: August 27, 2021 by 12 noon

Commenter(s)	Submitted by:
California Coastkeeper Alliance	Sean Bothwell
California Department of Transportation	Janice Benton
California Stormwater Quality Association	Karen Cowan
California Transportation Commission	Hilary Norton
Center for Biological Diversity	Emily Jeffers
City of Huntington Beach	Jim Merid
City of Los Angeles Sanitation & Environment	Michael Scaduto
City of San Diego Stormwater Department	Andrew Kleis
Contech	Vaikko Allen
County of Orange and the Orange County Flood Control District	Amanda Carr
Los Angeles County and the Los Angeles County Flood Control District	Mark Pestrella Paul Alva
Los Angeles County Metropolitan Transportation Authority	Emmanuel CB Liban
Solano County	Pejman Mehrfar
Stone Creek Environmental Consulting	Colleen Hunt
TECS Environmental	Ray Tahir
United States Environmental Protection Agency, Region IX	Elizabeth Sablad

For further information on this topic, please contact:

Sheena Dhillon at Sheena.Dhillon@waterboards.ca.gov