

Alternative Compliance

In this Chapter:

- ▶ *Information on using Alternative Compliance for options on where LID treatment is provided.*

9.1 What Is Alternative Compliance?

Provision C.3.e of the Municipal Regional Stormwater Permit (MRP) allows municipalities to grant “alternative compliance” to new development or redevelopment projects in lieu of requiring full onsite treatment of the Provision C.3.d amount of stormwater runoff and pollutant loads with low-impact development (LID) measures. **Projects that receive alternative compliance must still provide LID treatment in full**, but all of the treatment does not have to take place onsite. There are no special eligibility criteria for using alternative compliance. If your project is required to provide LID treatment, it may use alternative compliance to meet these requirements. There is no requirement to make LID impracticability or infeasibility findings in order to use alternative compliance. The MRP offers two options for using alternative compliance, described in Section 9.2, sets deadlines for constructing offsite alternative compliance projects (Section 9.3), and sets a timeline for the alternative compliance provision to take effect.

9.2 Categories of Alternative Compliance

A project may use either of the alternative compliance options listed below.

9.2.1 Option 1: Partial LID treatment at an off-site location

Projects may treat a portion of the required amount of stormwater runoff using LID on-site or offsite at a joint treatment facility and **treat the remaining portion of runoff at an offsite project** within the same watershed. Offsite LID treatment measures must provide an equivalent quantity of hydraulically-sized treatment of both stormwater runoff and pollutant loads and achieve a net environmental benefit.

JOINT TREATMENT FACILITY

A joint treatment facility **treats runoff from multiple sites** at a nearby, offsite location.

OFFSITE EQUIVALENT TREATMENT PROJECT

An offsite equivalent treatment project provides off-site LID treatment for a surface area or volume and pollutant loading of storm water runoff, equivalent to that of the proposed new

development or redevelopment project for which alternative compliance is sought. Examples of acceptable equivalent treatment projects include the installation of hydraulically-sized LID treatment measures in a nearby parking lot, or other development where hydraulically-sized LID treatment measures were not previously installed.

9.2.2 Option 2: Payment of in-lieu fees

Projects may treat a portion of the required amount of stormwater runoff using LID on-site or offsite at a joint treatment facility and **pay equivalent in-lieu fees to treat the remaining amount** of stormwater runoff with LID treatment measures at a Regional Project.

IN-LIEU FEES

In-lieu fees provide the monetary amount necessary to treat an equivalent quantity of stormwater runoff and pollutant loading with hydraulically-sized LID treatment measures at a Regional Project **and** the monetary amount necessary to share a proportionate amount of the operation and maintenance costs of the Regional Project.

REGIONAL PROJECT

A regional project is a regional or municipal stormwater treatment facility located in the same watershed as the project seeking alternative compliance.

9.3 Offsite or Regional Project completion deadlines

9.3.1 Timeline for construction of offsite project

Construction of the offsite LID treatment project must be completed by the time the subject project is completed. If the offsite project is not completed in time, the offsite project must, for each additional year up to three years, provide additional treatment of 10% of the required amount of stormwater runoff and pollutant loads. For example, an offsite project completed two years after the subject project would be required to provide LID treatment for 20% more stormwater runoff and pollutant loads than if the offsite project had been completed in time.

9.3.2 Timeline for construction of a Regional Project

The regional project must be completed within three years of the subject project. This can be extended to five years only with Regional Water Board approval. In order for the Water Board to grant the extension to five years, the applicant must have demonstrated good-faith efforts to implement the regional project by applying for the necessary permits and having the necessary funds encumbered for project completion.

9.4 Alternative Compliance Effective Date

The Alternative Compliance provision and the LID treatment requirements both go into effect December 1, 2011. Projects deemed complete after this date may use alternative compliance to meet the LID treatment requirements for LID treatment. Projects deemed complete before December 1, 2011 do not have to use LID for stormwater treatment if the project has been diligently pursued¹ by the project applicant. The Alternative Compliance provision does not apply to public projects for which funding has been committed and construction is scheduled to begin by December 1, 2012.

¹ Diligent pursuance may be demonstrated by the project applicant's submittal of supplemental information to the original application, plans, or other documents required for any necessary approvals of the project.