

Alternative Compliance

This chapter provides information on using Alternative Compliance options where LID treatment is required.

9.1 What is Alternative Compliance?

Provision C.3.e of the Municipal Regional Stormwater NPDES 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” that is shared with an adjoining project), and then **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 the stormwater from more than one property** at an offsite but nearby 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 provide both hydraulically-sized treatment (in accordance with Provision C.3.d) with LID treatment measures of an equivalent quantity of stormwater runoff and pollutant loading, ***and*** a proportional share of the operation and maintenance costs of the Regional Project.

REGIONAL PROJECT

A Regional Project is a regional or municipal stormwater treatment facility that discharges to the same watershed as the Regulated Project. The Regional Project must achieve a net environmental benefit.

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 within three years after the end of construction of the Regulated Project.

9.3.2 Timeline for construction of a Regional Project

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

9.4 When Does the Alternative Compliance Provision Take Effect?

The use of alternative compliance is optional, but if it is used, the projects must comply with the requirements for implementing alternative compliance included in the MRP, as reissued on November 19, 2015, ***beginning January 1, 2016***. The alternative compliance requirements in Provision C.3.e of the reissued MRP supersede any alternative compliance policies previously approved by the Regional Water Board Executive Officer.