

## 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 Permit (MRP) allows new development or redevelopment projects to use one of two options for “alternative compliance” instead of providing full onsite treatment of the Provision C.3.d amount of stormwater runoff with low-impact development (LID) treatment measures. Projects that choose 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, nor is there a requirement to determine that LID is impracticable or infeasible in order to use alternative compliance; any project may use alternative compliance to meet these requirements. The MRP offers two options for using alternative compliance: 1) offsite treatment; or 2) payment of in-lieu fees to a Regional Project. Specific requirements, including deadlines for constructing offsite alternative compliance projects, are described below.

### 9.2 Categories of Alternative Compliance

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

#### 9.2.1 Option 1: LID Treatment at an Offsite Location

Projects may use offsite LID treatment measures, or a combination of onsite and offsite LID treatment measures, to achieve treatment of the required amount of stormwater runoff. For example, a project could treat half of the required runoff on-site and treat the remaining half at an adjoining site at a joint (shared) facility. Alternatively, a project could treat the entire amount of its C.3.d volume at a separate site within the watershed. The MRP requires that any offsite facilities provide equivalent pollutant removal benefits—that is, site pollutant loads in runoff to the LID treatment measures are comparable.

A joint treatment facility **treats the stormwater from more than one project**. For example, a facility constructed as part of a project that is appropriately located and of sufficient

size to treat runoff from existing or anticipated development on surrounding properties would be considered a joint treatment facility.

An offsite equivalent treatment project provides offsite 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 LID treatment measures in a nearby parking lot, or other development where LID treatment measures are not previously installed. The offsite LID treatment measures must remain for the life of the project that uses them for alternative compliance.

### 9.2.2 Option 2: Payment of In-Lieu Fees

Projects may treat all or a portion of the required amount of stormwater runoff by paying in-lieu fees to a program that builds and operates a regional or municipal LID treatment facility, if such a facility exists within the same watershed as the project.

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 a proportional share of the operation and maintenance costs of the Regional Project. Check with the municipality that has jurisdiction for your project to determine whether a Regional Project is available as an alternative compliance option.

## 9.3 Offsite or Regional Project Completion Deadlines

### 9.3.1 Timeline for Construction of an Offsite Project

Construction of an offsite LID treatment project must be completed within three years after the end of the construction of the project seeking alternative compliance.

### 9.3.2 Timeline for Construction of a Regional Project

The Regional Project must be completed within three years of the project seeking alternative compliance. This can be extended to five years only with prior Regional Water Board Executive Officer approval. In order for the Executive Officer 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 Provision Effective Dates

All projects seeking alternative compliance should comply with the requirements in the Municipal Regional Permit reissued on November 19, 2015.