

Alternative Compliance

This chapter provides information on using Alternative Compliance options where LID treatment is required and cannot be accommodated onsite.

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 some or all of the treatment may be provided offsite.** 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 Regional¹ or Offsite² 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

¹ **Regional Project** – A regional or municipal stormwater treatment facility that captures runoff from a drainage area larger than the parcel on which it is located and discharges into the same watershed as the Regulated Project.

² **Offsite Project** – A stormwater treatment facility that discharges into the same watershed as the Regulated Project and is located at a different public or private parcel or property (e.g., right-of-way) from the Regulated Project

an adjoining site or at a joint treatment facility³. 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, i.e., offsite pollutant loads in runoff to the LID treatment measures are comparable to onsite loads, and achieve a net environmental benefit.

An offsite alternative compliance project must provide 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, plus a net benefit (e.g., treatment of additional runoff or pollutant load). Examples of acceptable alternative compliance projects include the installation of LID treatment measures in a nearby parking lot, street right of way, or other development where LID treatment measures are not previously installed. The offsite LID treatment measures must remain and be maintained 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 program and/or facility exists.

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 or Offsite Project and a proportional share of the operation and maintenance costs of the project. The Regional or Offsite Project must achieve a net environmental benefit, through a net increase in impervious surface treated, and/or a net reduction in flow and/or pollutant load. Check with the municipality that has jurisdiction for your project to determine whether a Regional or Offsite Project is available as an alternative compliance option.

9.3 Offsite or Regional Project Completion Deadlines

Construction of an Offsite or Regional LID treatment project must be completed within three years after the end of the construction 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 Offsite or 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 July 1, 2022.

³ A joint treatment facility treats the stormwater runoff from more than one development project.