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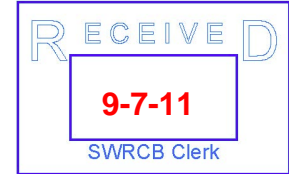
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September 7, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Subject: **City of Santa Barbara Comment Letter – Draft Phase II Small MS4 General Permit**

Dear Ms. Townsend:

Thank you for the opportunity to comment on the Draft Phase II Small MS4 General Permit (Draft General Permit). The City of Santa Barbara (City) respects the importance of the Phase II regulations for protecting and improving storm water quality and appreciates the State Water Resources Control Board staff effort in developing a Draft General Permit for statewide application. The City's review of the Draft General Permit indicates there are considerable changes to the existing storm water requirements that will have a significant impact on MS4 permittees and may not provide any appreciable water quality benefit.

This letter includes a brief background about the City's Storm Water Management Program (SWMP), followed by general comments on the Draft General Permit. The City believes these comments can improve the effectiveness of the General Permit and help to meet the objectives of the Clean Water Act. Attached to this letter are comments that highlight the City's specific concerns with the Draft General Permit. Finally, the City wishes to register its general agreement with the detailed comments submitted by the California Storm Water Quality Association (CASQA).

Santa Barbara's Storm Water Management Program

Even though the City continues to face significant challenges to funding its City programs, Santa Barbara is very proud of the storm water program that it has developed, actively implements, and funds. Santa Barbara's Storm Water Management Program (SWMP) was developed in compliance with the Existing Permit, and was approved by the Central Coast Regional Water Quality Control Board (Regional Board) in January 2009. Prior to that, the City's SWMP was voluntarily implemented, per City Council direction, since early 2006.

In 2008, the City completed its *Storm Water Best Management Practices (BMP) Guidance Manual* to provide strategies and guidelines for the protection of water

quality and reduction of non-point source pollutant discharges within the City to the Maximum Extent Practicable (MEP). Preparation of the Guidance Manual included an extensive outreach effort with local stakeholders and City staff. The Guidance Manual has effectively become the City's interim-hydrmodification control criteria. However, the City is also participating in the Regional Board's Joint Effort to develop a regional-wide Hydrmodification Plan (HMP) and Low Impact Development (LID) requirements.

The City has produced and implemented an exemplary SWMP over the past seven years. As reflected in the City's Storm Water Annual Reports for 2009 and 2010, Santa Barbara is effectively implementing its SWMP and is committed to continuing to do so. Santa Barbara has a focused water quality enforcement program, an award-winning public outreach and education program, an intensive water quality monitoring program, a targeted business inspection and assistance program, a GIS mapping program, and a city-staff training program to highlight just a few. The City's SWMP has been consistently praised by Central Coast Regional Water Quality Control Board staff, as it exceeds the NPDES requirements and meets MEP. Water Board staff conducted an audit on the City's SWMP in June 2011, and preliminary comments have been positive and complimentary. After this large City investment in a City-specific water quality improvement program, and community buy-in to the program, it is the City's wish to maintain the existing City SWMP implementation and goals, with improvements and adjustments to be implemented annually, as needed, per City and Water Board staff recommendations.

For more information about the City's storm water program, please visit the City Creeks Division website: www.sbcreeks.org.

City Comments on the Draft General Permit

Comment 1: Maintain the Maximum Extent Practicable (MEP) standard. The proposed prescriptive requirements detailed in the Draft General Permit are prohibitively expensive and time consuming. These significant increases in program costs are not warranted by the nominal, if any, water quality benefits that might be achieved. The new General Permit should maintain the MEP standard and provide flexibility for municipalities to implement and improve upon successful and cost-effective water quality improvement programs.

The Draft General Permit exceeds the MEP standard and does not allow enough flexibility for permittees to develop successful and cost effective storm water programs to achieve water quality objectives within the confines of limited resources. Permittees vary greatly and a one-size fits all approach for Phase II permittees throughout the State

is inefficient and ineffective. A less prescriptive, more flexible approach utilizing MEP would result in greater compliance and better water quality outcomes.

The MEP standard of best management practice (BMP) implementation is adequate to address storm water pollution, as described below by the EPA in the Final Report to Congress on the Phase II Storm Water Regulations:

40CFR (II)(H)(3)(a)ii Water Quality-Based Requirements

In the first two to three rounds of permit issuance, EPA envisions that a BMP-based storm water management program that implements the six minimum measures will be the extent of the NPDES permit requirements for the large majority of regulated small MS4s. Because the six measures represent a significant level of control if properly implemented, EPA anticipates that a permit for a regulated small MS4 operator implementing BMPs to satisfy the six minimum control measures will be sufficiently stringent to protect water quality, including water quality standards, so that additional, more stringent and more prescriptive water quality based effluent limitations will be unnecessary.

Comment 2: Avoid unfunded state mandates. All draft permit provisions above and beyond the federal requirements are unfunded State mandates and should be removed from the Draft General Permit or funded by the State.

Title 40 of the Code of Federal Regulations (40 CFR), Section 122.34(e)(2) states:

“EPA strongly recommends that until the evaluation of the storm water program in 122.37 [after December 10, 2012], no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality.”

State Board staff have not provided an analysis equivalent to an approved Total Maximum Daily Load (TMDL) to support the draft permit requirements that go above and beyond the federal storm water requirements.

Article XIII B, Section 6 of California’s Constitution requires the State to reimburse local governments for any new State-mandated programs or higher level of service. Several permit sections go above and beyond federal requirements and should be removed from the Draft General Permit, including but not limited to:

E.4.c Development and implementation of an enforcement response plan

E.4.d Ensure adequate resources to comply with order; annual fiscal analysis

E.7.c Analytical monitoring to locate illicit discharges

- E.7.e Preparation of a spill response plan
- E.10 Trash Reduction Program
- E.11 Industrial/Commercial Facility Runoff Control Program
- E.13 Receiving Water Monitoring
- E.14.c Municipal watershed pollutant load quantification

Comment 3: Remove the new water quality monitoring requirements. The proposed requirements for receiving water monitoring are contrary to federal storm water regulations, require an excessive use of limited local agency resources, and would be an unfunded mandate from the State. This requirement should be removed from the Draft General Permit.

Section E.13 stipulates requirements for assessing the chemical impacts on receiving waters resulting from urban runoff, costly follow-up analysis and action in the form of Toxicity Reduction Evaluations (TRE) or Toxicity Identification Evaluations (TIE), and reporting of water quality standard exceedances. These requirements are not consistent with the EPA's Federal Phase II Rule and would have a significant adverse financial impact on small MS4's statewide, misdirecting funding for practicable and effective programs that will directly protect water quality.

The City of Santa Barbara is fortunate to have a relatively extensive water quality monitoring program that exceeds the existing Phase II regulations. However, water quality monitoring is expensive and subject to large temporal variation and statistical uncertainty. Therefore water quality monitoring often does not result in direct water quality benefits until large data sets are collected over time and properly analyzed, which also takes significant time and resources. Based on past experience, the City believes that new receiving water monitoring should not be considered until a future permit term, and certainly not until after EPA's federal rulemaking is completed.

Comment 4: Remove the requirement for municipalities to ensure that adequate resources are available to comply with the General Permit. The Draft General Permit attempts to mandate specific policy directives without providing any funds. The requirement that Permittees ensure that adequate resources are available to comply with all the provisions of this permit is not realistic under current national, state, and local economic conditions and in a post-Proposition 218 environment. Mandating the expenditure of funds also offers no assurance that there will be improvements to water quality. These attempts to prescribe expenditures will redirect limited local revenues from important municipal priorities. These expenditures are policy decisions that must remain at the local government level. The permit needs to be flexible to allow municipalities to develop programs that fit the unique needs of the individual communities.

The City of Santa Barbara is committed to improving surface water quality. Our ongoing goal is to implement a program that demonstrates efficient and effective methods for improving storm water quality. We appreciate the opportunity to provide comments to your staff and look forward to working together on implementing a successful and cost-effective Storm Water Management Program. If you have any questions, please do not hesitate to contact me.

Sincerely,



Cameron Benson, Manager

City Creeks Restoration/Water Quality Improvement Division

Cc: Jim Armstrong, *City Administrator*
Paul Casey, *Community Development Director*
Nancy Rapp, *Parks and Recreation Director*
Christine Andersen, *Public Works Director*
Stephen Wiley, *City Attorney*

Attachment (Table) – City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Discharge Prohibitions			
1	Allowable Non-Stormwater Discharges	B.3	<p>Within the Federal Register¹ it states “The illicit discharge and elimination program need only address the following categories of non-storm water discharges if the operator of the small MS4 identifies them as significant contributors of pollutants to its small MS4: water line flushing, <u>landscape irrigation</u>, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, <u>irrigation water</u>, springs, water from crawl space pumps, footing drains, <u>lawn watering</u>, <u>individual residential car washing</u>, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and <u>street wash water...</u>”</p> <p>The Draft Phase II Small MS4 General Permit lists allowable non-stormwater discharges but does not include landscape irrigation, irrigation water, lawn watering, individual residential car washing, and street wash water. According to the Federal Register, these are allowable discharges.</p> <p><i>City Recommendation;</i> <i>Add landscape irrigation, irrigation water, lawn watering, individual residential car washing, and street wash water to the list within B.3.</i></p>
2	Discharges of Incidental Runoff – Detect and Correct Timeline	B.4.a	<p>Correction of leaks and repairs might not be able to done in 72 hours if noticed late on Friday and if a contractor needs to be hired. Remove the reference to 72 hours and 1000 gallons (B.4.a). Repairs should be completed within a reasonable time as determined by the permittee. Permittees lack the resources and staff to correct and enforce this requirement, which is beyond the federal mandate for storm water programs.</p> <p><i>City Recommendation;</i> <i>This language should be deleted since there is already an educational requirement with reference to the Water Efficient Landscape Ordinance .</i></p>

¹ Volume 64, No. 235, December 8, 1999, Page 68756

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Program Management			
3	Legal Authority – Implementation Level	E.4.a(ii)(f)	This section requires retrofitting of Industrial / Commercial (I/C) facilities with stormwater BMPs. The City recommends removing retrofitting requirements until the State can fully assess the cost impacts within Phase II jurisdictions where this requirement applies.
4	Legal Authority – Implementation Level	E.4.a(ii)(g)	<p>This section requires permittees to request a copy of the NOI as well as supporting documents. Permittees should only need to request the WDID#.</p> <p><i>City Recommendation;</i></p> <p>(g) Request from a construction site or industrial facility operator <u>the WDID # a copy of the NOI submitted to</u> <u>obtained from</u> the Water Boards. <u>The Permittee may also request as well as</u> supporting materials such as storm water pollution prevention plans (SWPPPs), inspection reports, and monitoring results, information required by local development policy or public health regulations, and other information deemed necessary to assess compliance with this Order <u>and/or the local codes and ordinances</u>. The Permittee shall also have the authority to review designs and proposals <u>applications</u> for new development and redevelopment to determine whether adequate BMPs will be installed, implemented, and maintained during construction and after final stabilization (post-construction).</p>
5	Legal Authority – Implementation Level	E.4.a.(ii)(l)	<p>This section requires permittees to control the contribution of pollutants and flows from one portion of the MS4 to another portion through interagency agreements with other MS4s. Permitted MS4s should be required to control only the pollutants within their jurisdiction.</p> <p><i>City Recommendation Option #1 (Preferred)</i></p> <p><i>Delete provision.</i></p> <p><i>City Recommendation Option #2</i></p> <p><i>If this requirement is retained, a longer timeframe for compliance must be provided, as it can be very time consuming to reach interagency agreements, and the timing depends on the cooperation of other parties, placing the schedule outside an individual Permittee’s control.</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Program Management			
6	Enforcement Measures and Tracking – Enforcement Response Plan	E.4.c	City recommends that this section be revised to allow for the permittees, where applicable, to <u>demonstrate</u> that they already have applicable ordinances or policies and the ability to implement and enforce them to the Maximum Extent Practicable (MEP), rather than developing a new plan that duplicates the processes described in the ordinances/policies.
7	Enforcement Measures and Tracking – NPDES Permit Referrals	E.4.c(ii)(d)	<p>This section requires the permittees to refer non-filers for construction projects or industrial facilities subject to the State’s IGP as well as ongoing violations to the RWQCB. The permit should not arbitrarily determine when an ongoing violation should be referred to the Regional Board since every case is different.</p> <p>It should also be noted that there is an existing mechanism for reporting non-filers to the State Water Board. This section should be revised to have permittees use the reporting form within 30 days on the State Water Board’s website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/nonfiler_form.shtml</p> <p><i>City Recommendation</i> (2) Refer ongoing violations to the appropriate Regional Water Board provided that the Permittee has made a good faith effort of progressive enforcement to achieve compliance with its own ordinances. At a minimum, the Permittee’s good faith effort shall include documentation of two follow-up inspections and two warning letters or notices of violation. In making such referrals, the Permittee shall include, at a minimum, the following information: (a) Construction project or industrial facility location (b) Name of owner or operator (c) Estimated construction project size or type of industrial activity (including Standard Industrial Classification or North American Industry Classification System if known) (d) Records of communication with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Program Management			
8	Enforcement Measures and Tracking – Enforcement Tracking	E.4.c(ii)(e)	The City recommends that this section be removed as this requirement is too onerous.
9	Ensure Adequate Resources to Comply with Order	E.4.d.(ii)	<p>Permittees should not be required to spend the time and resources to document expenditures. Further, Permittees should not be required to submit financial information to the State Board, nor make it part of the public record via the annual report. Water Code section 13360(a) states that no State Board order shall specify the manner in which compliance is achieved.</p> <p><i>City Recommendation:</i> <i>Delete provision</i></p>
10	Ensure Adequate Resources to Comply with Order – Documenting Expenditures	E.4.d.ii.(c)	Permittees should not be required to spend the time and resources to document expenditures. Further it is a duplicative requirement to estimate the preceding reporting period’s expenditures during the final four years of the term when that information was also submitted in the previous year.
Public Outreach			
11	Implementation Level – Budget	E.5.b.(ii)(a)	<p>This section requires the development of a strategy that must include a budget for implementing the tasks. Permittees do not break down budgets for small projects or tasks. Permittees should not be required to break the budget down further than what is required in E.4.d.ii.</p> <p><i>City Recommendation</i> <i>Modify the permit language as follows:</i></p> <p>(a) <i>Develop and implement a public education strategy that establishes education tasks based on water quality problems, target audiences, and anticipated task effectiveness. The strategy must include identification of who is responsible for implementing specific tasks, <u>and a schedule for task implementation, and a budget for implementing the overall Public Education and Outreach Program tasks....</u></i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Public Outreach			
12	Implementation Level – Baseline	E.5.b.(ii)(b)	<p>Statistical surveys (baseline, follow-up) could cost upwards of \$30,000 to conduct and analyze. Surveys are not a proven method and are not economical. The City suggests language incorporate the use of non-statistical surveys or equivalent. Permittees will develop measurable goals (how many, how often) that allow the community outreach program to be economically feasible.</p>
13	Implementation Level – CBSM	E.5.b-d	<p>CBSM strategies are difficult and expensive to fully implement, given that they are based on the application of psychology-based concepts that are most appropriately implemented by professionals. These strategies are also not appropriate for all target audiences. It is estimated the Public Education and Outreach section alone will cost upwards of \$600,000 in the first year and \$450,000 in subsequent years to comply for a large Phase II MS4. This requirement should be replaced with one that calls for incorporating the most readily achievable principles and goals of CBSM.</p> <p>While it might be possible to measure an increase in knowledge about stormwater, measuring behavioral changes is very hard, if not impossible. Many Phase I communities are finding it difficult (if not impossible) to demonstrate reductions in pollutant releases within a five year timeframe. Behavioral changes often take many years to take an effect. Recycling has taken well over 20 years to get to the point it is now.</p> <p><i>City Recommendation</i> <i>City strongly recommends the removal of all requirements related to CBSM.</i></p>
14	Implementation Level – Appropriate Educational Materials	E.5.b(ii)(e)	<p>There is no definition, standard, or threshold provided for when “appropriate educational materials” are required to be developed/disseminated “in multiple languages”. The permittee should determine its own demographic and develop materials accordingly.</p> <p><i>City Recommendation</i> <i>“Development and dissemination of educational materials in multiple languages when appropriate, as determined by the Permittee.”</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Public Outreach			
15	Implementation Level - CBSM	E.5.b – d	<p>The term “credible source” implies that the permittees must pay a marketing firm to develop a message. The permittee should have the ability to develop and determine individual messages.</p> <p><i>City Recommendation</i> <i>Modify the permit language as follows:</i> (5) Use education messages that are specific, easy to remember, from a credible source, and appropriate for the target audience.</p>
16	Industrial/Commercial Outreach and Education Program – Implementation Level	E.5.c.ii [page 29]	<p>Implementation within the first year is too aggressive a timeline for the scope of this provision, especially when a similar effort is expected to be conducted within the same time period for the general public.</p> <p><i>City Recommendation:</i> <i>This provision should be divided into phases to allow the MS4 to focus the first year on evaluating current programming or lack thereof and setting reasonable targets and then meeting the targets set in the subsequent four reporting years.</i></p>
17	Industrial/Commercial Outreach and Education Program – Inventory	E.5.c.ii.a [page 29]	<p><i>City Recommendation:</i> <i>This provision should be deleted since the inventory of the high priority industrial and commercial facilities will be developed under the Industrial/commercial Section per E.11.a.ii.a&e.</i></p>
18	Industrial/Commercial Outreach and Education Program – Reference Correction Needed	E.5.c.ii.a [page 29]	<p>The section quoted in the draft permit E.7.b is incorrect since this section refers to high priority areas and not industrial and commercial facilities.</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Illicit Discharge Detection and Elimination			
19	Identifying Priority Areas – Reword	E.7.b.ii	<p>If the permittee identifies all the priority areas, and they constitute less than 20% of the urbanized area, the Permittees should not have to pick another area just to meet a 20% minimum mandated threshold.</p> <p><i>City Recommendations</i> The Permittee shall, at a minimum, identify the following as priority areas and 20 percent of the Permittee’s urbanized boundary shall be identified as priority for this program element using the following screening criteria: <u>The Permittee shall inventory the following priority areas:</u></p> <ul style="list-style-type: none"> (a) Areas with infrastructure that is more likely to have illicit connections and a history of sewer overflows or cross-connections; (b) Industrial, commercial, or mixed use areas; (c) Areas with a history of past illicit discharges; (d) Areas with a history of illegal dumping; (e) Areas with onsite sewage disposal systems; (f) Areas <u>that directly discharge to upstream</u> of sensitive water bodies; and (g) Areas that drain to outfalls greater than 36” that directly discharge to the ocean.
20	Field Screening – Task Description & Implementation Level	E.7.c.i & ii	<p><i>City Recommendations</i> City recommends the following language changes:</p> <ul style="list-style-type: none"> (a) Identify stations within each priority area where field screening will take place. (b) Conduct dry weather field screening at each station identified above at least once a year. (d) Conduct a follow-up investigation if the benchmarks associated with the constituents are exceeded. <u>deemed necessary</u>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Illicit Discharge Detection and Elimination			
21	Field Screening to Detect Illicit Discharges – Implementation Level	E.7.c.ii	<p>This entire section should be replaced with an Urban Watch-type dry weather flow monitoring program that emphasizes visual monitoring of outfalls. Monitoring stations may be selected non-randomly according land use and pollutants of concern. Number of monitoring stations should ensure adequate coverage of priority areas. Dry weather flows will be monitored visually, and if warranted, with field test kits for odor, pH, temperature, orthophosphates, NH3, color, grease/oil film, and/or trash. No monitoring should occur within 72 hours of the last rain or during snowmelt periods as these will not produce representative samples of dry weather flow. Follow-up investigations are required if warranted.</p> <p>If any monitoring needs to be done to track the source of an illicit discharge, it should be done where it is logical such as in heavy commercial or industrial areas and then only at certain key confluent manholes. If pollutants are detected, then more intensive upstream source tracking should be performed. Otherwise, monitoring should be on an ad hoc and as-needed basis to allow for the numerous variables. Some pollutants are visually detectable while others require field test or laboratory analysis. Always requiring analytical (interpreted to mean laboratory) analysis is unnecessarily expensive.</p>
22	Field Screening - Implementation	E.7.c.ii.a	<p>This section states: “If the Permittee is made aware of illicit discharges that occur...outside of the priority areas, the Permittee shall include field screening stations in those areas.” However, it would be overly burdensome to start a new field screening station for every illicit discharge that may be reported. Instead, the procedures for responding to an illicit discharge should be followed and new areas added if they meet the established criteria.</p> <p><i>City Recommendation</i></p> <p>(a) <i>Identify stations within each priority area where field screening and analytical monitoring will take place. In addition, if the Permittee is made aware of illicit discharges a response will be initiated per section E.7.e. that occur during the permit term outside of the priority areas, the Permittee shall include field screening stations in those areas. Stations shall be selected according to one of the following methods:</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Illicit Discharge Detection and Elimination			
23	Field Screening - Reporting	E.7.c.iii	<p>This section states “If the Permittee finds that after two subsequent field screening tests have been completed that the field screening station is dry, select an alternate station for monitoring.” If this section remains, specify that if a whole area of grids is dry twice in a row, then the area can be removed from monitoring.</p> <p><i>City Recommendations</i> Modify the following language: (iii) Reporting – <i>By September 15, 2015 online Annual Report, submit a report summarizing the field screening and analytical monitoring program procedures, including a summary of the field screening and illicit discharge investigation results. If the Permittee finds that after two subsequent field screening tests have been completed that the field screening station is dry (i.e., no flowing or ponded runoff) or the flows are due to natural sources (i.e., natural spring) <u>the station may be removed from the program and an alternate station for monitoring.</u> In subsequent online Annual Reports, the Permittee shall assess the IDDE program to determine whether updates are needed.</i></p>
24	Source Investigations – Task Description	E.7.d.i	<p>Requires written procedures by May 2016; however, the spill response plan is required in year one (2013).</p> <p><i>City Recommendation</i> Modify the permit language as follows: Recommend that this potential timeline conflict be revised (i.e., the deadline for the spill response plan be aligned with May 2016 deadline).</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Illicit Discharge Detection and Elimination			
25	Source Investigations – Implementation Level	E.7.d.ii.c & d	<p><i>City Recommendation</i> Modify the permit language as follows: (ii) Implementation Level - At a minimum, the Permittee shall conduct investigation(s) to identify and locate the source of any illicit discharge. <u>The investigation shall be initiated within 48 hours of the Permittee becoming aware of the suspected illicit discharge.</u></p> <p>(d) If the observed discharge is intermittent, the Permittee shall document that a minimum of three (3) separate investigations were made <u>in an attempt to observe the discharge when it was flowing using best professional judgment.</u> If these attempts are unsuccessful or the Permittee is unable to determine the source of the discharge, the Permittee shall include written documentation in the online Annual Report.</p>
26	Source Investigations – Implementation Level	E.7.d.ii.e	<p>This section states: “...Permittee shall immediately notify the responsible party of the problem and require the responsible party to conduct all necessary corrective actions to eliminate the illicit discharge within 48 hours of notification.”</p> <p>This may not be feasible. For example, an illicit discharge could occur and the Permittee may not be able to immediately identify the responsible party. Additionally, if the illicit discharge occurs on a weekend or during a large public event, it may not be feasible to eliminate the illicit discharge within 48 hours (i.e. contractors and equipment may not be readily available).</p> <p><i>City Recommendation</i> Modify permit language as follows: “...Permittee shall immediately notify the responsible party of the problem and require the responsible party to conduct all necessary corrective actions to eliminate the illicit discharge within 48 <u>72</u> hours of notification; <u>high risk spills should be cleaned up as soon as possible.</u>”</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Construction			
27	General Comment – MEP	E.8	<p>Overall the level of effort identified in section E.8 goes beyond MEP for small MS4s. As a result, significant effort by the small MS4s will be required in order to meet the reporting requirements, which will not necessarily improve water quality and is likely to increase fines and suits for paperwork violations.</p> <p><i>City recommendation: Reconsider the construction requirements identified in section E.8 and work with the Phase II permittees and the Regional Water Board's to develop a set of requirements focused on erosion and sediment control principles and MEP - and with less of a focus on the reporting efforts.</i></p>
28	General Comment – WDID Fee	E.8	<p>The language in the draft Phase II permit appears to put the work of ensuring compliance with the CGP on the MS4 without providing them the financial resources to do so. If the State Water Board transfers this responsibility to Phase II permittees through the Phase II permit, the State must provide the financial resources to defray their costs associated with CGP compliance responsibilities.</p> <p><i>City recommendation: The State Water Board should develop a mechanism to share the WDID Fee currently paid by the developer and submitted to the State.</i></p>
29	General Comment – Reporting Requirements	E.8	<p>The draft Phase II permit significantly increases reporting obligations under the construction element. Increased reporting expends resources that can be better applied to assuring quality plan reviews, educational outreach, and a field presence by agency staff. With limited staff, small MS4s are forced to choose between preparing and submitting reports and taking actions to control runoff.</p> <p><i>City Recommendation: Eliminate the increased reporting requirements and reduce the current reporting burden on small MS4s. The permit should emphasize the more cost effective approach which includes plan review, educational outreach, and focused field inspections that are customized to the local jurisdiction.</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Construction			
30	Construction Site Inventory – Redundancy	E.8.a.	<p>This inventory requirement will create a redundant database to the existing SMARTS database for projects covered by the CGP. Small MS4s can access SMARTS for this information. This redundancy adds unnecessary time and expends precious resources for the small MS4s.</p> <p><i>City Recommendation: Eliminate the inventory requirement and direct small MS4s to use SMARTS to obtain inventory information for projects in their jurisdiction.</i></p> <p><i>Although City strongly recommends that the inventory requirement is replaced with the ability of the Permittees to use the SMARTS system to obtain the information that they need – additional recommendations are provided below if the Board does not make this change.</i></p>
31	Plan Review and Approval – Permitting	E.8.b.ii.(c)	<p>The US ACOE requires that all other permits be in place prior to issuing the 404 permit. It is not possible to have the 404 permit prior to issuing a grading and building permit. This is a classic <i>Chicken and Egg scenario</i> and costs thousands of dollars for projects whose proponents and consultants try to address order of permits.</p> <p><i>City Recommendation: Revise this language to read “Require that the Erosion and Sediment Control Plan list applicable permits including, but not limited to the State Water Board’s CGP, State Water Board 401 Water Quality Certification, U.S. Army Corps 404 permit, and California Department of Fish and Game 1600 Agreement. Include as a condition of the grading permit that the Operator submit evidence to the MS4 that all permits required for the project have been obtained prior to commencing ground disturbing activities.”</i></p>
32	Plan Review and Approval – Documentation and check list vs. controlling erosion	E.8.b. (ii) (e)	<p>Documentation again appears to be the priority over reducing soil loss and erosion and improving water quality. Simply require review of the erosion control plan for conformance with the erosion control ordinance.</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Construction			
33	Plan Review and Approval – Reporting	E.8.b. (iii)	Reduce reporting requirements. In order to properly comment, this section needs more detail. Reporting often takes resources away from controlling erosion and protecting water quality.
34	Inspection and Enforcement – Evaluate and Update Existing Programs	E.8 c [page 41]	<p>Footnote 26 appears to provide a welcome opportunity for currently permitted small MS4s to demonstrate that existing programs are protective of water quality. In reality however, it is unlikely that this flexibility will be exercised because it is unknown what level of water quality protection will be provided by the yet untried provisions of the draft Phase II Permit.</p> <p><i>City Recommendation: Provide guidance that is noticed concurrently with the revised permit on how a small MS4 would document and obtain approval for an ‘in-lieu’ program.</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Construction			
35	Inspection and Enforcement – Inspection frequency	E.8.c.ii	<p>The prescriptive nature of the permit requirements will prevent small MS4s from applying local knowledge and priorities to the inspection program. While small MS4’s can add to the inspection priorities, they cannot delete any of the mandated inspections. A potential unexpected negative consequence to mandated inspection frequencies is this: Inspectors may quickly drive around town and note every construction site they drive by as “inspected”, to meet the permit, rather than productively and efficiently focusing on projects that really do need their attention.</p> <p>Projects in sediment impaired watersheds will be subject to the CGP risk level 2 or 3 or LUP type 2 or 3 requirements with their higher level BMPs and runoff monitoring. Given the higher state level scrutiny on these projects, local resources might be better focused on known problem sites than distributing resources across all sites in a watershed.</p> <p>With the realities of the resource limitations of small MS4s, it will be infeasible to focus the inspection workload within a short period of time prior to predicted rain events or following actual rain events. Small MS4s need the flexibility to uniformly distribute inspection workloads.</p> <p>The most frequent inspections are required for sites that will be subject to the CGP, which requires the Owner to appoint a QSP to perform routine and storm-related inspections. Requiring similar inspections by the MS4 permittee is unnecessary for these already highly inspected sites. Additionally, the presence of a local inspector will divert the QSP’s attention from her/his Rain Event Action Plan, inspection, and maintenance activities.</p> <p>Prior to implementing any additional reporting or mandated inspection requirements, the State Board must consider the cost effectiveness of the reporting compared to improvements in water quality.</p> <p><i>City Recommendation: Establish a permit condition that requires agencies to develop an inspection program to conduct adequate inspections to control soil erosion and sediment discharge. The frequency and other inspection prioritization criteria should be suggested guidelines – not requirements, and need to be labeled as such.</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Construction			
36	Training – Compliance with CGP	E.8 d	The last paragraph implies that all projects must comply with the BMP requirements of the CGP. If the project is under an acre, the jurisdiction should be able to determine what appropriate BMPs will be required. It is not reasonable or feasible to require every project to comply with CGP BMP requirements if they do not meet the CGP acreage requirements.
37	Training – QSD/QSP	E.8.d.	<p>Qualification as a QSD and QSP requires an extensive background in engineering, erosion and sediment control, geology, landscape architecture, or hydrology. The plan review and inspection staff of most small MS4s tends to be early in their careers and new to the construction/erosion control field. As such they typically do not have professional registrations nor do they have the experience that would allow them to obtain the professional certifications that are the pre-requisites for QSD or QSP qualification. When needed, such as for capital projects subject to the CGP, small MS4s contract for QSD and QSP services.</p> <p>Training existing staff or hiring staff qualified to obtain QSP and QSD certification is beyond the resources of small MS4s and is not practical.</p> <p><i>City Recommendation: Eliminate the requirement for Phase II MS4s to obtain QSD or QSP certification for inspection, plan review staff or individuals supervising these staff. In lieu of this, City recommends that the requirement be modified to require that inspection; plan review staff; or an individual supervising inspectors and plan reviewers complete the QSP and QSD training respectively. That is, require the completion of the QSP or QSD course and passing the exam, but do not require completion of the underlying certification (e.g. CPESC, CISEC, PE, PG).</i></p>
38	Education – Reporting Requirements	E.8.e.	We agree that distribution of materials and outreach programs to the development, engineering, contracting, home-building, and resident communities is effective, but City recommends eliminate the reporting requirements in favor of distributing cost effective information. Further, Section E.5.d outlines a construction public education and outreach program. Recommend placing these requirements in one section only, not both.

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Pollution Prevention / Good Housekeeping			
39	SWPPPs – Redundant Requirement	E.9.d	<p>City recommends that the Permittees be allowed to utilize an existing document if that document includes the necessary information required within the SWPPP.</p> <p><i>City Recommendations</i></p> <p><i>Modify the permit language as follows:</i></p> <p><i>(ii) Implementation Level – The Permittee shall implement the following:</i></p> <p><i>(c) <u>At a minimum, the SWPPP will address the following:</u></i></p> <ul style="list-style-type: none"> - <i><u>Facility specific information (location, owner, address, etc.)</u></i> - <i><u>Purpose of the document</u></i> - <i><u>Key staff/contacts at the facility</u></i> - <i><u>Site map with drainage identified</u></i> - <i><u>Identification of significant materials that are handled and stored at the facility that may be exposed to stormwater</u></i> - <i><u>Description of potential pollutant sources</u></i> - <i><u>Best management practices employed at the facility</u></i> - <i><u>Spill control and cleanup – responses to spills</u></i> <p>If a Permittee already has an equivalent document (such as a Hazardous Materials Business Plan, Standard Operating Procedure, etc.) that contains the above information, that may be utilized in the same capacity as the SWPPP. Additionally, the identification of “significant materials” should be consistent with CUPA and Environmental Health definitions.</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Pollution Prevention / Good Housekeeping			
40	Inspections, Monitoring and Remedial Action – Quarterly visual inspections	E.9.e.ii.b	<p>For a government entity with statewide facilities such as California Department of Correction and Rehabilitation, the inspection component would require at least one staff, one day per week per facility. Combined with the level of inspection and reporting required in this section, this represents a significant staff demand. In addition, the likely hotspots are buildings and structures with established storage areas, permanent BMPs, and regular staff, without much change to configuration of the sites.</p> <p><i>City Recommendation</i> <i>City suggests the following inspection frequencies:</i></p> <ul style="list-style-type: none"> <i>a) Quarterly Hotspot visual inspections (not weekly)</i> <i>b) Semi-annual Hotspot comprehensive inspections (not quarterly)</i> <i>c) Semi-annual Hotspot visual observations of stormwater and non-stormwater discharges (not quarterly)</i> <p><i>Annual Non-Hotspot Inspections (same as current permit)</i></p>
41	Inspections, Monitoring and Remedial Action – Remediation of problem sites	E.9.e.ii.c	<p>The requirement to complete BMPs in 3 days is too short. Facilities consist of permanent buildings and BMPs. If structural BMPs are needed, physical alterations to the site may be necessary which will require more than 3 days to design and construct.</p> <p><i>City Recommendation</i> <i>Suggest using language such as “<u>shall be remedied as soon as practicable and reported/tracked within the annual report.</u>”</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Pollution Prevention / Good Housekeeping			
42	Assessment and Prioritization – Storm drain system definition	E.9.f	<p><i>City Recommendation</i></p> <p><i>Clarify Catch Basin definition—E.9.f directs Permittees to prioritize all catch basins. The definition states these are also considered drain inlets. Our interpretation of this definition is a drain inlet with structures such as grates, sumps, inlet/outlet structure, or other related infrastructure intended to convey stormwater runoff.</i></p> <p><i>City suggests excluding simple culvert pipes, such as those installed under a rural driveway allowing cars to cross over roadside ditches, in the definition of catch basin. Inclusion of these in the required maintenance schedule would significantly increase the effort of this task with limited water quality benefit, especially in rural areas. Additionally, most of these are to be maintained by homeowners.</i></p>
43	Assessment and Prioritization – Minimum High Rank	E.9.f.ii	<p><i>City Recommendation</i></p> <p><i>City recommends that the minimum percentage of high priority catch basins be removed. 20% is an arbitrary number that is not MEP and has no quantifiable benefit to water quality. We suggest amending the language to include the ability to reduce or rerank high priority infrastructure as trash or debris issues are mitigated without a % minimum.</i></p>
44	Maintenance – Cleaning Frequency	E.9.g.ii.b	<p>Cleaning all basins that are 1/3rd full is arbitrary and not a good use of limited resources as some of the catch basins that are 1/3rd full may not be a problem – likewise, other catch basins that are less than 1/3 full may be a problem. Depending on the number of catch basin to be cleaned, cleaning within a week may not be feasible. Some catch basins may fill to 1/3 multiple times during a winter.</p> <p><i>City Recommendation</i></p> <p><i>Suggest the language be changed to:</i></p> <p><i><u>“Annually inspect catch basins (prior to storm season) and establish a cleaning schedule that targets high priority sites.”</u></i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Pollution Prevention / Good Housekeeping			
45	O&M Activities: BMP Inspection	E.9.h.i	<p><i>City Recommendation</i></p> <p><i>Change to the quarterly assessment to an <u>annual</u> assessment. In practice, this has been found to be adequate to demonstrate maintenance and compliance, as personnel are trained annually so that if water quality issues are noticed, then O&M personnel will take care of them. In addition, in areas that receive snow, most of the items listed such as outdoor events and outdoor maintenance activities, cannot be inspected quarterly.</i></p>
Trash Reduction			
46	Trash Reduction – Trash abatement plan	E.10(ii)	<p>This section incorporates requirements that go beyond the Phase II program that is contemplated within the Code of Federal Regulations. Additionally, this section makes the assumption that all of the permittees require a trash reduction program and that the majority of trash is generated by the commercial retail/wholesale sector. The 20% minimum is arbitrary and has no apparent nexus with water quality. As a result, this type or program approach may not end up targeting high trash generating areas and/or targeting the pollutants of concern within a community.</p> <p><i>City Recommendation</i> <i>Delete this provision.</i></p>
Industrial/ Commercial Facility Runoff Control Program			
47	General – Remove Requirement	E.11 All	<p>An Industrial/Commercial inspection program was never anticipated under the Federal Phase II Rule. These sections should be deleted.</p> <p><i>City Recommendation</i> <i>City strongly recommends that the provisions related to industrial/commercial inspections be deleted and, instead, that the industrial/commercial provisions be limited to provision E.5.c Industrial /Commercial Outreach and Education Program, which requires inventorying business locations (per E.7.b criteria; which is different than inventory requirements in section E.11.a.) and providing outreach regarding best management practices.</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Industrial/ Commercial Facility Runoff Control Program			
48	Inventory – Modification	E.11.a.ii.a	<p>The Permittee is given one year to develop the required inventory, which includes a substantial list of required information such as pollutants potentially generated by the facility/source, SIC codes, nature of the business and a narrative description of the products or services provided at each facility. For many permittees this will require a field visit to each business. The timeframe for completing this work is not reasonable. It is estimated that for a community with a population of 100,000 people, there are 1,000 I/C facilities that would fall within the inventory categories. MS4s should be allowed the first year to identify I/C facilities that fall within the required categories. The permit should limit inventory information within the first year to I/C name and location only. Expanded inventory information such as that listed in E.11.a.ii.a would be developed during the permit term with the Permittee showing progress towards completion each year.</p> <p><i>City Recommendation</i> Provide a phased approach over the permit term for the development of the industrial/commercial inventory.</p>
49	Commercial Facilities/Sources – Modification	E.11.a.ii.b.1	<p>The list of commercial facilities is extensive and should be reevaluated and paired down to a much smaller list similar to those required by the Ventura or Bay Area MS4 Permits (see Attachment B). The list can be modified over multiple permit cycle terms with the focus in the first permit term on higher stormwater pollutant generating facilities.</p> <p><i>City Recommendation</i> Either significantly reduce the list of commercial facilities that are included within this program element or allow the Permittee to select the types of facilities that are addressed within their jurisdiction based on their local attributes and needs. The permit could identify that each Permittee select up to five facility categories to address during this permit term.</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Industrial/ Commercial Facility Runoff Control Program			
50	IGP Coverage – Modification	E.11.a.ii.c	<p>The Permittee is required to determine, during the first year, if facilities that are required to be covered under a NPDES stormwater permit have done so. This should be an ongoing effort with no timeframe attached.</p> <p><i>City Recommendation</i> <i>This provision should be modified to indicate that this is an ongoing effort. During the first year the Permittee can identify how they intend to determine if facilities are covered and show progress in implementation during each reporting period.</i></p>
51	Facility Prioritization – Modification	E.11.a.ii.e,g	<p>In section (g), the Permittee is required to annually prioritize the inventory based on extensive specific criteria. This is already requested in item e. Duplicating this work annually is not an efficient use of limited resources.</p> <p><i>City Recommendation</i> <i>Delete provision (g) since it directly duplicates provision (e).</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Industrial/ Commercial Facility Runoff Control Program			
52	Stormwater BMPs and Inspections – Remove Requirements	E.11.b, c, d and e	<p>According to the permit, the permittee must “require industrial and commercial facilities included in the inventory to select, install, implement and maintain storm water BMPs.” This is stating that commercial and industrial facilities should be retrofitted. Further, the Permittees are required to notify facilities of these requirements by 2014. The expectation that businesses are going to make significant structural changes (site grading changes, berming, new roofing areas, etc.) to meet the standards in this Permit is unreasonable. Additionally, many of the businesses listed are tenant business and do not own property. How is a Permittee to compel or require a tenant business to make changes to a site they do not own?</p> <p><i>City Recommendation</i> As indicated in previous comments, City recommends that the Industrial/ Commercial provision be limited to inventory and outreach in this permit term. As such City recommends that this section be deleted and replaced with a reference to the outreach requirements specified in E.5.c.</p>
53	Staff Training	E.11.f.	<p><i>City Recommendation</i> Based on our earlier comments regarding the need to focus the industrial/commercial program on inventorying and outreach only, the training requirement should be deleted since it is more applicable to the inspection portion of the program element.</p>
Post-Construction			
54	General Comment – Organization	E.12 All	<p><i>City Recommendation</i></p> <ol style="list-style-type: none"> 1) To improve clarity, revise format such that water quality/85th percentile stands as one header, and hydromod/watershed characterization another. 2) Under hydromod, include the watershed characterization (do not separate the sediment budget). <p>Adjust the timeline to phase in post-construction requirements starting with the integration of water quality/LID criteria, followed by progress toward hydromod criteria.</p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
55	General Comment – Timing		<p><i>City Recommendation</i></p> <p><i>More time should be allotted for the development of a post-construction program. The subwatershed baseline should be developed by Year 4 after the effective date of the permit, and hydromodification criteria should be required in a subsequent permit cycle.</i></p>
56	Watershed characterization – Methodology	E.12.b.1	<p>The detailed requirement for a watershed baseline characterization/sediment budget for Phase II communities exceeds EPA’s 6 minimum control measures and exceeds the ability of most MS4s to comply with this provision. Based upon similar watershed characterizations, this effort is expensive and requires sophisticated technical expertise. Even with the best professionals working together, there is no agreed-upon or commonly used method to identify “dominant watershed processes potentially affected by changes in storm water runoff caused by new and redevelopment projects” that a permittee can then use to establish development criteria. The few Phase I MS4s who have completed such studies have all utilized different approaches resulting in different criteria and applicability. The only common factor is cost: such studies have all been in the range of \$500 - \$1M with the bulk paid by grants.</p> <p><i>City Recommendation</i></p> <p><i>Until the state can provide a method for linking receiving water impacts to site development criteria, this requirement should be deleted or modified to a method that can be conducted using desktop watershed characterization methods and readily available information. Anything less increases MS4 exposure to third party lawsuits due to an inability to meet the permit objectives.</i></p> <p><i>At a minimum, City recommends this section be integrated into the hydromodification portion of the permit, and be limited to characteristics which are readily available or easily determined using desktop techniques, and characteristics addressed in other parts of this Order (e.g. IDDE and monitoring). The characterization factors should be focused and limited to development of hydromodification controls (which should be addressed in the next permit term).</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
57	Watershed Characterization – Consistency with Joint Effort	E.12.b.1	The watershed characterization should be kept to the methodology and parameters being examined under the Region 3 Joint Effort. The permit should be explicit about allowing other approaches approved by a Regional Board, such as Regional 3 Joint Effort.
58	Watershed Characterization – Rapid Assessment	E.12.b.1.d	<i>City Recommendation</i> <i>The rapid stream assessment requirement should be removed from this permit. The Watershed Characterization should be limited to desktop analyses only with the possibility of adding in a field component in future years. Center for Watershed Protection’s Unified Stream Assessment is a continuous stream walk that is very time intensive. This process typically requires 40 hours of in-office preparation and 40+ hours of in-office post-processing, and results in a large amount of data that will likely go unused. Additionally, the estimate of time spent in the field depends on the number of stream miles. A team of two can typically cover 2 to 3 stream miles in a day, depending on stream conditions.</i>
59	Sediment budget	E.12.b.2.	<i>City Recommendation</i> <i>If retained:</i> <i>a) Note that a sediment budget is scheduled to be developed (May 2013) before the watershed characterization (May 2015), but implementation is based upon the information gathered in Section E.12.b.1. Revise to coincide schedule with E.12.b.1.</i> <i>b) Delete this as a separate item. It is part of a watershed characterization attribute. “Sediment supply and delivery to stream channels” is already noted as a watershed process under item (e) E.12.b.1.</i> <i>The referenced methodology (Reid and Dunne, 1996) is not readily available, requires an extensive and costly effort to implement, and will require municipalities to hire a consultant to complete. This reference should be removed and instead specifics on the desktop, in-office sediment budgeting effort that is expected should be clearly outlined within the permit text.</i>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
60	Water Quality Runoff Standards	E.12.b.3	<i>City Recommendation</i> <i>Add the word “discretionary” to the first sentence under the title, so as to read, “The Permittee shall require all discretionary projects fitting the category descriptions...”</i>
61	Water Quality Runoff standards – Terminology	E.12.b.3	<i>City Recommendation</i> <i>Capture, “infiltrate and evapotranspire” should be changed to “retain (infiltrate, evapotranspire, and/or harvest).”</i>
62	Water Quality Runoff standards – Pre-project conditions	E.12.b.3	<i>City Recommendation</i> <i>The Water Quality Runoff Standard should be modified from a full-retention requirement to one that requires projects to match pre-project conditions. This acknowledges the volume of rainwater that would naturally infiltrate or Et. Due to underlying soils/bedrock, some sites would not naturally absorb that the full 85th percentile storm event. New development should not be expected to exceed these natural, background hydrologic conditions. Additionally, acknowledging pre-project conditions would provide a built in crediting system for redevelopment projects.</i>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
63	Water Quality Runoff Standards – Infeasibility	E.12.b.3	<p><i>Site conditions will exist where full retention is neither feasible and/or desirable. Infeasibility criteria should be listed (as in multiple Phase I permits including Ventura) and include the following:</i></p> <ul style="list-style-type: none"> • <i><u>High groundwater table:</u> The bottom of the infiltration practice should be a certain minimum distance above the seasonal high groundwater table.</i> • <i><u>Protection of source water:</u> Infiltration practices should be set back a certain minimum distance from a groundwater well.</i> • <i><u>Potential for pollutant mobilization:</u> Infiltration practices should not be utilized in brownfield sites or other locations where pollutant mobilization is a documented concern.</i> • <i><u>Clay soils:</u> Infiltration practices are infeasible where soils have low infiltration.</i> • <i><u>Potential geotechnical hazard:</u> Water infiltration can cause geotechnical issues, including: settlement through collapsible soil, expansive soil movement, slope instability, and increased liquefaction hazard. Infiltration practices should not be used where geotechnical issues are a documented concern.</i> • <i><u>Land use of concern:</u> To prevent groundwater contamination, infiltration practices should not be used in high-risk areas such as service/gas stations, truck stops, and heavy industrial sites. This should be acknowledged in the Special Project Category Requirements (E.12.b.3).</i> • <i><u>Impairment of beneficial uses:</u> Locations where reduction of surface runoff or increase in infiltration may potentially impair beneficial uses of the receiving water as documented in a site-specific study or watershed plan.</i> • <i><u>Conflict with water conservation goals:</u> Use of evapotranspiration and other vegetated practices may conflict with water conservation goals in arid climates (e.g., a green roof that requires irrigation during the dry season).</i> • <i><u>Lack of demand for harvested stormwater:</u> Projects must be able to demonstrate sufficient demand for harvested stormwater to be able to draw down the cistern prior to the next storm event to prevent bypass.</i> • <i>Additional implementation constraints as identified by the permittee.</i>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
64	Water Quality Runoff Standards – Offramps	E.12.b.3	<p><i>City Recommendation</i></p> <p><i>All regulated projects (including special project categories) should have the option of considering volume-based (bioretention areas) AND flow-based BMPs if the full retention requirement cannot be met. The permit should allow the use of bioretention areas with underdrains where infiltration is infeasible. Text edits specific to these sections are provided below:</i></p> <ul style="list-style-type: none"> <i>Page 66: ...Runoff from the 85th percentile storm that cannot be captured, infiltrated, and evapotranspired must be treated via a <u>volume-based or flow-through device. Flow-through devices</u> must be designed to treat runoff at a flow rate produced by a rain event...</i> <i>Page 67: ...If this standard cannot be met, the volume of runoff equivalent to the excess volume must be captured, infiltrated, and evapotranspired within the same subwatershed that cannot be infiltrated must be treated via a <u>volume-based or flow-through device. MS4s have the option of setting up an offsite mitigation program where the amount that was not retained onsite is infiltrated within the same subwatershed.</u></i> <p><u><i>Where infiltration is infeasible or discouraged due to geotechnical constraints, bioretention may provide underdrains.</i></u></p>
65	Water Quality Runoff Standards – Offsite Mitigation	E.12.b.3	<p>Permittees should not be required to create and administer an offsite mitigation program. Establishing an offsite mitigation program should be optional due to the administrative burden that it places on small local governments. Nationally, offsite mitigation programs have presented numerous challenges for local governments and as such have been abandoned by several communities including Clark County, WA and Howard County, MD.</p> <p><i>City Recommendation</i></p> <p><i>Revise the permit provision as follows:</i></p> <p><i>If this standard cannot be met...excess volume must be <u>may be</u> captured, infiltrated, and evapotranspired within the same subwatershed <u>through an offsite mitigation program.</u></i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
66	Water Quality Runoff standards – High rank recharge and/or discharge subwatershed	E.12.b.3	<p>Provide clarification / definition / metric for subwatersheds with a “high rank” for groundwater recharge and/or discharge. See discussion on watershed characterization ranking above.</p> <p>Including Special Projects in this category of full onsite infiltration is inappropriate - many types of Regulated Special Projects (i.e. auto repair, gasoline outlets, etc) should provide pre-treatment prior to infiltration onsite, and many redevelopment projects of this nature are located in areas with existing soil contamination. This paragraph needs to include the infeasibility criteria discussed above.</p>
67	Water Quality Runoff Standards – Exclusions	E.12.b.3.i.(a)(1)	<p><i>City Recommendation</i></p> <p><i>Add the following type of exemptions/clarifications in a separate subsection related to exemptions:</i></p> <ul style="list-style-type: none"> • <i>Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Removing and replacing a paved surface to base course or lower, or repairing the roadway base is not considered a routine maintenance activity.</i> • <i>The following road maintenance practices are exempt: pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regarding drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, and vegetation maintenance.</i> • <i>Redevelopment of existing single-family structures is exempt.</i> <p><i>Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are exempt.</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
68	Water Quality Runoff Standards – Treatment Thresholds	E.12.b.3.i.(a)(5)	<p>Where defining treatment of remaining runoff to the MEP, the City suggests the following be used to address this issue:</p> <p><i>Treatment BMPs shall be selected based on the primary class of pollutants likely to be discharged from the project (e.g., for automotive-related land uses, TSS, metals, and oil and grease). Treatment BMPs shall be selected that have a high or medium effectiveness for the pollutants of concern as identified in the City Stormwater BMP Handbook for New Development or an adopted local stormwater BMP design manual.</i></p>
69	Water Quality Runoff standards – Road Projects	E.12.b.3.i.(d)	<p>Many small MS4s do not treat runoff from public roadway projects and will assume that the “building and planning authority of a Permittee” refers to the zoning code where development permits are issued. Since MS4s are exempt from issuing themselves development permits for public roadway projects, they will not apply this criteria to public road projects.</p> <p><i>City Recommendation</i> <i>Revise as follows:</i> <i>Any of the following types of road projects that create 10,000 square feet or more of newly constructed contiguous impervious surface and that <u>are public road projects and/or fall under the building and planning authority of a Permittee:</u></i></p>
70	Interim Hydromodification Management	E.12.b.4	<p><i>City Recommendation</i> <i>Interim hydromodification standards should be removed and implementation of the stormwater retention standard in E.12.b.3 be deemed compliance with hydromodification requirements during the interim period. Implementing one set of criteria and changing those criteria within one or two years places undue burden on MS4s and particularly on development community, whose permit approval process for projects > 1 acre of development often span several years.</i></p>

City of Santa Barbara Specific Comments on Draft Phase II Small MS4 General Permit

Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
71	Hydromodification – Exemptions for alternate approaches	E.12.b.4	<p>Allow permittees with existing or in-progress RWQCB-approved hydromodification development standards to fulfill this requirement. For example, Region 3 is in process of developing criteria for hydromodification based upon a similar but slightly different approach than shown in this permit. The outcome may include different criteria than an 85th percentile for volume, or a 2-yr/5-yr recurrence interval for volume and rate. Also applicability criteria should be established (i.e., hydromodification controls should only be required where there is a risk of increased creek bed or bank erosion downstream).</p> <p><i>City Recommendation</i> Delete the interim hydromodification requirement; or Revise as follows: 1) <i>Task Description – By May 15, 2016, the Permittee shall use....</i> <u>Specific Exclusions</u> <u>Any RWQCB-approved long-term watershed process management plan or approach shall supersede all E12 requirements in this permit, and upon Executive Officer approval of this approach, this permit shall no longer regulate the affected MS4s.</u> <i>Implementation Level...etc.</i></p>
72	Long-Term Watershed Process Management	E.12.b.5.ii (a)	<p>All of the terms used in this subsection are vague in terms of establishing numeric criteria.</p> <p><i>City Recommendation</i> These terms should either be defined and metrics provided or, preferably, the listed items should be removed and a reference to future guidance developed by the State Water Board staff (with input or assistance from City) should be inserted.</p>

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Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
73	Long-Term Watershed Process Management	E.12.b.5	<p>As discussed above under Watershed Characterization, hydromodification control criteria is a new and evolving area of stormwater management. There are no current models to follow or approaches with known adaptations to small MS4s. For example, in California the approach is research-oriented and highly technical, with approximately four existing models (Contra Costa, Alameda, Sacramento, San Diego), and several currently under research (Ventura, Orange County, Region 3). In each, the outcome and approach have been totally different. None have attempted to integrate groundwater recharge, ET, sediment supply/delivery, and water quality fate and transport as proposed in this permit. It is therefore unreasonable to delegate this responsibility to Small MS4s.</p> <p><i>City Recommendation</i></p> <p><i>The entire section E.12.b.5 should be deferred to another permit cycle or until such time a reasonable approach can be provided.</i></p>
74	Operation and Maintenance – Mosquito and vector control	E.12.b.8 (b) and (c)	<p>It is outside authority of MS4 to establish legally enforceable mechanisms requiring private property owners to provide access to other agency’s staff, including vector control or State Water Board staff.</p> <p><i>City Recommendation</i></p> <p><i>Revise as follows:</i></p> <p><i>(b) Conditions of approval or other legally enforceable agreements or mechanisms for all Regulated Projects and Regulated Special Projects that require the granting of site access to all representatives of the permittee, local mosquito and vector control agency staff, and Water Board staff, for the sole purpose of performing O&M inspections of the installed treatment system(s) and hydromodification control(s) (if any).</i></p>

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Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Post-Construction			
75	New – Additional Standards	n/a	<p>In addition to water quality standards, regulated projects should also be required to implement site design techniques (e.g., minimize land disturbance) and source controls (e.g., storm drain stenciling and fueling area design) where applicable, similar to WQO-2003-0005.</p> <p><i>City Recommendation</i></p> <p><i>The permit should be revised to include these provisions for consistency and clarity throughout the state.</i></p>

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Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Receiving Water Monitoring			
76	General Comment – Remove Requirement	E.13 All	<p>A monitoring program was never anticipated under the Federal Phase II Rule. This section should be deleted. Receiving water monitoring should be considered in a future permit term and after EPA’s federal rulemaking is completed.</p> <p><i>City Recommendation</i> Remove requirement.</p> <p><i>Instead, City strongly recommends an expansion of the statewide or regional SWAMP Bioassessment and Stream Pollution Trends (SPoT) monitoring programs. This approach would be cost-effective for permittees and the State. Also, this approach would produce better data quality and would result in a more consistent, statistically valid, and scientifically defensible monitoring design. It would also naturally leverage knowledge of locally-important pollutants gained from existing data (Phase I, SWAMP, USGS, etc.).</i></p> <p><i>The proposed broad requirements imply that Phase II discharges may have more of an impact on receiving waters than Phase I discharges. If we accept that Phase II discharges have the same impacts as Phase I discharges, it stands to reason that Phase II programs should monitor only the constituents that been shown to cause 303(d) listings in Phase I areas. We recommend that SWAMP take advantage of existing water quality information from Phase I programs to better leverage monitoring resources toward quantifying problems that are much more likely to occur.</i></p>

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Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Program Effectiveness			
77	BMP Condition Assessment – Implementation Level	E.14.b(ii) & E14.b(ii)(a)	<p><i>City Recommendation</i> <i>Instead of requiring the Lake Tahoe BMP Rapid Assessment methodology, City recommends the following replacement language:</i></p> <p><u><i>“Develop and implement a methodology to inventory, map and determine the maintenance condition of the Post Construction BMPs. Maintenance condition may be determined through a self-certification program where permittees require annual reports by other parties demonstrating proper maintenance and operations”.</i></u></p> <p><i>This would be in line with the language in the permit which states “The methodology shall be a simple and repeatable field observation and data management tool that determines relative condition of structural post-construction BMPs.</i></p> <p>In the following permit section; the permittee is required to inventory and map existing and proposed post-construction BMPs in to GIS.</p> <p><i>City Recommendation</i> <i>Post-construction BMPs should not be mapped until installed – remove “proposed”.</i> <i>(a) Inventory and map existing and proposed post-construction BMPs.</i></p>

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Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
Program Effectiveness			
78	Municipal Watershed Pollutant Load Quantification	E.14.c	<ul style="list-style-type: none"> • This section should not apply to the traditional permittees with a population greater than 25,000 due to the fact they are required to conduct monitoring under E.13. • Load quantification should not be so prescriptive about how, where and when loads are quantified; this level of specificity in the permit is not MEP. • Recommend increasing the threshold to 50,000 <p>The section requires permittees to quantify annual subwatershed pollutant loads.</p> <ul style="list-style-type: none"> • Remove the requirement for permittees to identify stormwater retrofit opportunities. The requirement states, “The report shall also identify storm water retrofit opportunities” and includes a footnote that reads “The permittee shall use the Center for Watershed Protection’s guide on Urban Stormwater Retrofit Practices.” Permittees have limited funds and will not be able to retrofit their systems. • The Center for Watershed Protection’s Watershed Treatment Model requires permittees quantify the annual subwatershed pollutant loads. This includes mapping 24 data areas including the sanitary sewer lines and other utilities using GIS. Keep this section consistent with IDDE. • Indicate that the Center for Watershed Protection’s Watershed Treatment Model is an optional tool to assist in quantifying loads but that its use is not required. Permittees should be allowed to determine their own methodology for quantifying loads.
79	Municipal Watershed Pollutant Load Quantification – Task Description	E.14.c.(i)	Clarify that this is a desktop exercise and that no water quality sampling is necessary to quantify loads. The requirement for identifying stormwater retrofit opportunities should be removed.

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Comment #	Permit Element/Issue/Concern	Location in Draft	Comment
TMDLs			
80	TMDL Compliance Requirements – Implementation Actions	E.15.a and E.15.b	Attachment G should not expand the TMDL implementation actions beyond their referenced Basin Plans. Requirements in Attachment G appear to go above and beyond what has been adopted in the Basin Plan Amendments (BPA). For example, in Region 3 the SLO Creek TMDL for Pathogens includes a long list of requirements taken from the Stormwater Management Plan—not from the referenced Resolution. In Region 2, requirements referenced from Region 2 pathogen BPAs for Tomales Bay, Richardson Bay, and Napa River are found in Region 3 BPAs (Required Pathogen Implementation Actions; R3-2004-0142, San Luis Obispo Creek Pathogen TMDL and R3-2006-0025, Watsonville Slough Pathogen TMDL). The State Board is assuming the legal authority to change these TMDL implementation requirements without a BPA and associated public input process.
81	TMDL Compliance Requirements – Implementation Actions	E.15.a and E.15.b	Recognizing that there are over 1300 waterbodies in California listed as impaired and needing TMDLs, Attachment G projects a path whereby Phase II MS4s will over time be subject to many more site-specific limitations and implementation requirements. The State Board should consider constraining the RWQCBs to a menu of cost-effective measures that can be imposed on MS4s to provide some local, inter-regional, and statewide consistency. The State Board should also consider requiring that future TMDLs simply require compliance with this general permit rather than vice-versa.
82	Reporting – Clarification	General	<p>In various elements of the Permit, the Permittee is required to submit certain information (e.g. inventory of construction sites – E.8.a.iii). What kind of data can be uploaded into SMARTS? It will be important for the Permit to clearly state the capabilities of SMARTS so Permittees can collect data in appropriate formats to allow for easy uploads for annual reporting (pdf, word, etc). In addition, there should be a template for SMARTS once it is functioning so that the Permittees have clear direction regarding the type of information that will be required, the format that it will be required in, and the extent of the reporting and data fields for each element.</p> <p><i>City Recommendation</i> <i>Recognizing that SMARTS does not yet work for MS4s, this requirement should include a caveat such as “...with each online Annual Report via SMARTS, <u>once it is functioning for Phase II MS4s.</u>”</i></p>