



San Francisco  
Water Power Sewer  
Services of the San Francisco Public Utilities Commission



September 8, 2011

By EMAIL, FAX and U.S. MAIL

Charles R. Hoppin, Chair and State Water Board Members  
c/o Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000



**Re: San Francisco Public Utilities Commission and the Port of San Francisco Comments on the Draft Phase II MS4 General Permit**

Dear Chair Hoppin and State Water Board Members:

The Port of San Francisco and the City and County of San Francisco Public Utilities Commission (collectively “San Francisco”) respectfully submit the following comments on the proposed Draft Phase II MS4 General Permit. We appreciate this opportunity to provide input about how the proposed permit should be modified to avoid being unnecessarily onerous while still achieving effective stormwater management and protect receiving water quality.

**1. Streamline reporting, adjust timelines, and eliminate impractical elements**

We support the proposed regulation’s overarching goals of accountability and environmental stewardship. We believe these goals can be achieved while streamlining aspects of the proposed regulation which in their present form are overly prescriptive and burdensome for the value derived. In several instances the information requested is either already available to the Board or is not necessary to ensure Permittees are implementing their programs. In addition, some proposed timelines need adjustment to make compliance feasible and achievable. In a table format below we provide comments on specific provisions where we have identified problematic provisions and include recommended alternative language or requirements.

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**2. Clarify potential liability in Receiving Water Limitations**

We strongly recommend that Section D.4 (Receiving Water Limitations) be modified in light of the recent case, Natural Resources Defense Council v. County of Los Angeles, No. 10-56017, 2011 U.S.App. LEXIS 14443 (9<sup>th</sup> Cir. July 13, 2011). If a Permittee is making good faith efforts to remedy the cause of an exceedance of water quality standards by following the process outlined in Section D, the Permittee should not be considered in violation of the discharge permit prohibition and thus vulnerable to an enforcement action. Rather than a violation, water



quality standard exceedances should trigger in-depth assessments, similar to the San Diego Water Board's Triad Approach to Determining Follow-Up Action. This approach uses chemistry, toxicity, and benthic alteration to determine the priority of follow-up actions. See R9-2010-0016 Receiving Waters and MS4 Discharge Monitoring and Reporting, Attachment E at 10 (November 10, 2010).

State permit writers have considerable leeway in how, or even whether MS4 discharges are required to comply with water quality standards (see Defenders of Wildlife v. Browner, 191 F.3d 1159 (9<sup>th</sup> Cir. 1999)) and in defining "exceedance." Therefore, this common understanding of water quality standard compliance in stormwater permits should be explicitly and clearly stated in the Phase II MS4 General Permit.

Accordingly, we recommend that the text in this section be revised as follows: "So long as the Regulated Small MS4 has complied with the procedure set forth above and is implementing the actions, the Regulated Small MS4 *has not violated water quality standards prohibitions* and does not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the State Water Board or the Regional Water Board to develop additional BMPs."

**3. Continue arrangement of separate permits for the Port of San Francisco and the City and County of San Francisco**

We request that the current arrangement of the Port of San Francisco and the City and County of San Francisco each having their own Phase II MS4 General Permit continue. The Port, while part of the jurisdiction of the City and County of San Francisco, has its own policies, procedures, ordinances and Commission, as well as a unique environment and stakeholders. The Port and the City have substantially different municipal storm water management issues, and thus different approaches to managing their storm water. It would be ineffective to apply the same approach to work in implementing program elements for both Port property and the rest of San Francisco. To ensure efficiency and effectiveness of efforts, the Port of San Francisco and the San Francisco Public Utilities Commission plan to enter into an agreement to coordinate efforts, which they also did under the last permit and which has proven effective to date. Therefore, we request that the Port of San Francisco be issued a separate MS4 Permit from the rest of the City and County of San Francisco.

**4. List the City and County of San Francisco and the Port of San Francisco on Attachment J**

Attachment J should include the City and County of San Francisco and the Port of San Francisco since each has an MS4 population which serves a population of less than 5,000. We further request that corrected Attachment J be released with the next version of the permit.

## 5. Correct Permittees listed on Attachments C and E

We respectfully request that you remove the San Francisco Unified School District from the Attachment C list for Region 2, and the City College of San Francisco, SF State University, University of San Francisco, and the San Francisco VA Medical Center from the Attachment E list for Region 2, because each of these facilities discharges stormwater to San Francisco's combined sewer system and not a receiving water body.

## 6. Specific provision comments

San Francisco provides the following additional comments on specific provisions of the proposed permit.

#	Section	Comment
<b>Findings</b>		
<b>E.4: Program Management Element</b>		
1	<b>E.4.a, p.19: <u>Legal Authority</u></b>	We request that the compliance timeline be extended to 2014. More time is needed for implementation of this section because existing ordinances will likely need to be revised and new ordinances written and adopted. This is a complicated process in most jurisdictions and can involve longer timelines due to coordination necessary with other agencies and departments.
2	<b>E.4.c (ii) (d), p.22: <u>Implementation Level</u></b>	This section requires Permittees to refer non-filers for construction projects of industrial facilities subject to the State's IGP and ongoing violations to the RWQCB. The draft Order has a list of documentation that the Permittee must submit. However, this reporting requirement would be duplicative of an existing mechanism for reporting non-filers to the State Water Board. We therefore recommend that this section be revised to require Permittees to use the reporting form (i.e., the non-filer form) which already exists on the State Water Board's website within 30 days. There should be no related reporting required in the Annual Report.
3	<b>E.4.d (ii) (a) to (e), p.24: <u>Implementation Level</u></b>	The level of minute analyses required in this section appears to be excessive and overly burdensome for the benefit derived. We therefore suggest the following changes which we believe are better tailored to the goals of this permit: Delete sections (a) through (e) and replace with <i>"Conduct an annual fiscal analysis of the estimated resources needed and allocated for the stormwater program including: staff assigned and estimated costs; capital and operations and maintenance costs; and a description of the source of funds."</i> If the proposed language change is not accepted, we request that this requirement be removed from the draft permit in its entirety.
<b>E.5: Public Outreach and Education Program</b>		
4	<b>E.5.b, p.25-28: <u>Public Outreach and Education, General Comment</u></b>	The Task Description requires Permittees to <u>measurably</u> increase the knowledge of targeted communities, and <u>measurably</u> change behavior of targeted audiences. While a quantifiable benefit is of course desirable, increasing knowledge and changing behavior within a community are very difficult endeavors are subject to several variables that cannot be controlled by an MS4 Permittee. <ul style="list-style-type: none"> <li>Public outreach, education, and behavior change draw from the realm of the social sciences. Affecting change in this context can not be guaranteed. A performance standard that requires such</li> </ul>

#	Section	Comment
		<p>measurable change is unrealistic.</p> <ul style="list-style-type: none"> <li>• ‘Measurable’ is not defined and, consequently, is limited in its meaning. In this context, measurable change is typically expressed with statistical methodologies and qualifiers such as statistical significance and confidence levels. Without the benefit of more methodological guidance, a Permittee can reasonably interpret ‘measurable’ to mean statistically significant with directionality. There does not appear to be a basis for assessing magnitude.</li> </ul> <p>In addition, we do not support the proposed requirement to implement CBSM (or its equivalent) because it is a highly resource intensive protocol, not one especially applicable to an MS4 context, and not directly linked to water quality improvement. In particular:</p> <ul style="list-style-type: none"> <li>• CBSM is a social science methodology drawing from psychology, statistical analysis, social survey design and implementation, and public outreach campaigns. It requires several skills that are not typical of the skill sets found among staff at MS4 Permittees.</li> <li>• The CBSM model is most successful when there is a well-defined community that acknowledges itself as such. Office workers who share a building or dog-walkers that repeatedly visit the same dog park are examples. It is this community self-awareness that facilitates the reinforcement of new normative behaviors that is so essential to the CBSM approach. Many areas within an MS4 jurisdiction do not benefit from this sense of community, which can be undermined by transiency, large and open distances, and variations in schedules among others.</li> <li>• The metric for CBSM is the community survey. Survey results about knowledge and behavior are indirect measures of the real goal of keeping the bay waters clean. Even the cbsm.com case study of the Check, Clean, Dry campaign to prevent the spread of didymo alga in New Zealand waters acknowledged that survey results were not a guarantee of success in achieving the primary goal.</li> <li>• It is probable that these efforts would require the use of consultants with significant costs. A casual survey of local jurisdictions that have performed such CBSM projects suggests that the project costs per effort will easily exceed \$100,000 and can easily approach \$250,000 or more. To require this type of expenditure in an era of tight budgets, only to measure indicators that are at least one step removed from the real goal, seems ill advised.</li> <li>• This requirement would be highly difficult for San Francisco to implement because most of the MS4 areas in San Francisco are open space/parks. People come to these places from non-MS4 locations all over the City and also from wider bay area locations.</li> </ul> <p>Therefore, we recommend that increasing knowledge and changing behavior be <u>goals</u> Permittees are required to promote but that specific measureable results not be required.</p>

#	Section	Comment
5	<b>E.5.b (i), p.25:</b> <u>Task Description</u>	Demonstrating a measurable increase in knowledge and change in behavior is infeasible for the reasons stated earlier. In addition, it will likely take more than the 5 year permit period for there to be any marked changes in knowledge and behavior. Therefore, we request that the following language be added to the 3 <sup>rd</sup> sentence: "The Public Outreach and Education Program shall <i>strive to</i> (1) measurably increase the knowledge . . . ."
6	<b>E.5.b (ii) (a), p.26:</b> <u>Implementation Level</u>	<p>For reasons previously stated, we believe that requiring CBSM is unwise and unrealistic. Therefore, we request that this section be amended as follows: "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, a schedule for task implementation, and a budget for implementing the tasks. The strategy must demonstrate how specific high priority storm water quality issues in the community or local pollutants of concern are addressed. <del>The Permittee shall use Community-Based Social Marketing (CBSM) strategies or equivalent.</del>"</p> <p>Although the phrase "or equivalent" is included in this sentence, this would not provide sufficient flexibility in terms of the approach that can be taken by Permittees since, as discussed previously, the CBSC "level" has unrealistic attributes.</p>
7	<b>E.5.b (ii) (b), p.26:</b> <u>Implementation Level</u>	We believe this section is too prescriptive and does not allow sufficient flexibility for Permittees to tailor the best approach for their situation (for example, surveys may not be best mechanism for gauging program effectiveness). We therefore request that this section be amended as follows: " <del>Implement surveys at least twice during the five year permit to gauge level of awareness and behavior change in target audiences and effectiveness of education tasks. Develop and implement a program to gauge the effectiveness and impact of the Public Outreach and Education element of the storm water program.</del> "
8	<b>E.5.b (ii) (c), p.26:</b> <u>Implementation Level</u>	We recommend that this section be deleted based on the general infeasibility of implementing the CBSM strategy which is commented on above.
9	<b>E.5.b (ii) (g), p.26:</b> <u>Implementation Level</u>	We agree with the public comments made by other Permittees that the 20% goal appears to be arbitrary and likely will be difficult to measure. Therefore, we request that the following text be amended as follows: "Distribution of the educational materials, using whichever methods and procedures determined appropriate during development of the public education strategy, in such a way that is designed to convey the program's message <del>to 20% of the target audience each year;</del> "
10	<b>E.5.b (iii), p.28:</b> <u>Reporting</u>	The 3 <sup>rd</sup> and 4 <sup>th</sup> sentences of this section appear to be duplicative of program elements listed in the previous section. Therefore we recommend the following changes to this text. "By September 15, 2013 online Annual Report and annually thereafter, report on the public education strategy and general program development and progress. By September 15, 2017 online Annual Report, summarize <i>any</i> changes

#	Section	Comment
		<p>in public awareness and behavior resulting from the implementation of the program and any modifications to the public outreach and education program. <del>Report on the public education and CBSM strategies such as pilot programs, survey results, research on barriers to desired behaviors and benefits of desired behaviors, commitments from target audience to implement desired behavior, prompts, implementation of the social norms/modeling, education messages, incentives for desired behaviors, methods for removing barriers to behavior change, development of education materials, methods for educational material distribution, public input, Water Efficient Landscape Ordinance, technical and financial assistance for storm water friendly landscaping, reporting of illicit discharges, proper application of pesticides, herbicides, and fertilizers, elementary school education, reduction of discharges from charity car washes, mobile cleaning and pressure washing operations, and landscape irrigation efforts. Annually report number of trainings, describe the technical and financial program and implementation, and the study and results to date.</del> For each whole five years of the permit life, submit the online Annual Report summarizing <del>the changes in public awareness and behavior</del> <i>the effectiveness of the Public and Outreach Program.</i>"</p>
11	<b>E.5.c (i), p.28:</b> <u>Task Description</u>	As noted earlier, demonstrating a measurable increase in knowledge and change in behavior is infeasible. In addition, it will likely take more than the 5 year permit period for there to be any marked change. Therefore, we request that the 3 <sup>rd</sup> sentence be revised as follows: "The Public and Outreach Program shall <i>strive to</i> measurably increase . . . ."
12	<b>E.5.c (ii) (c), p.29:</b> <u>Implementation Level</u>	We recommend that this section be deleted based on the general infeasibility of implementing the CBSM strategy which is commented on above.
13	<b>E.5.c (iii), p.30:</b> <u>Reporting</u>	We request that the second sentence of this section be revised as follows: "This includes a watershed-based inventory of high priority facilities, outreach strategy and implementation, <del>implementation of CBSM, pilot projects, research on barriers to desired behaviors and benefits of desired behaviors, commitments from target audience to implement desired behavior, prompts, implementation of the social norms/modeling, education messages, incentives for desired behaviors, methods for removing barriers to behavior change,</del> outreach materials, and distribution of outreach materials."
14	<b>E.5.d (i), p.31:</b> <u>Task Description</u>	As noted previously, demonstrating a measurable increase in knowledge and change in behavior is infeasible. In addition, it will likely take more than the 5 year permit period for there to be marked changes in knowledge and behavior. Therefore, we request that the 3 <sup>rd</sup> sentence be revised as follows: "The multi-media program shall <i>strive to</i> (1) measurably increase the knowledge of the construction community regarding the municipal storm drain system..."
15	<b>E.5.d (ii) (c), p.31:</b> <u>Implementation Level</u>	This section should be deleted based on the general infeasibility of implementing the CBSM strategy which is commented on above.
16	<b>E.5.d (iii), p.32:</b> <u>Reporting</u>	We request that the 2 <sup>nd</sup> sentence be revised as follows: "This includes a watershed-based inventory of high priority residential and commercial construction sites, outreach and education strategy and



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		implementation, <del>implementation of CBSM, pilot project, research on barriers to desired behaviors and benefits of desired behaviors, commitments from target audience to implement desired behavior, prompts, implementation of the social norms/modeling, education messages, incentives for desired behaviors, methods for removing barriers to behavior change.</del>
<b>E.6: Public Involvement and Participation</b>		
17	<b>E.6 (i), p.32: Task Description</b>	We request that the date of this requirement be changed from “2013” to “2014.” San Francisco has a wastewater CAC in place but the composition and/or participants do not match the very specific requirements listed in the draft Order and therefore a new, additional CAC would need to be formed.
<b>E.7: Illicit Discharge Detection and Elimination Program</b>		
18	<b>E.7, p.33: Compliance Tiers</b>	We respectfully request that you delete the different, earlier compliance timelines shown for Renewal Tradition Small MS4 Permittees. We do not believe that these shortened timelines would allow adequate time for proper implementation of the IDDE program.
19	<b>E.7.c, p.35-36: General Comment</b>	We respectfully note that analytical monitoring of dry weather discharges is highly resource intensive and that most Permittees have neither the staff nor the financial resources to do this. In addition, other, less costly methods often suffice as any <i>observed</i> non-stormwater discharges can be investigated and sources likely identified without sampling. In fact, it is our understanding that most jurisdictions take samples <i>after</i> other methods to identify sources of illicit discharges are taken and have not been successful. Therefore, we recommend that this permit element be revised as follows below.
20	<b>E.7.c, p.35: Subsection Heading</b>	Revise title: “Field <del>Screening Observations</del> to Detect Illicit Discharges”
21	<b>E.7.c (i), p.35: Task Description</b>	Revise 1 <sup>st</sup> sentence: “By May 15, 2015, the Permittee shall develop and implement a dry weather field <del>screening and analytical monitoring program observation</del> procedures to detect and eliminate illicit connections and illicit discharges to the MS4.”
22	<b>E.7.c (ii), p.35: Implementation Level</b>	Revise 1 <sup>st</sup> sentence: “The program shall consist <del>(1) of field observations; (2) field screening monitoring; and (3) analytical monitoring</del> at selected stations.”
23	<b>E.7.c (ii) (a), p. 35: Implementation Level</b>	Revise 1 <sup>st</sup> and 2 <sup>nd</sup> sentences: “Identify stations within each priority area where field <del>screening and analytical monitoring observations</del> will take place. In addition, if the Permittee is made aware of illicit discharges that occur during the permit term outside of the priority areas, the Permittee shall include field <del>screening observation</del> stations in those areas.”
24	<b>E.7.c (ii) (b), p. 36: Implementation Level</b>	Revise as follows: “Conduct dry weather field <del>screening and analytical monitoring observations</del> at each station identified above at least once a year.”
25	<b>E.7.c (ii) (c), p. 36: Implementation Level</b>	Revise as follows: “ <del>Sample runoff according to appropriate quality assurance/quality control techniques and if</del> <i>If</i> flow or ponded runoff is observed at a field <del>screening observation</del> station and there has been at least seventy-two (72) hours of dry weather. <del>The, the</del> Permittee shall

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		<del>also</del> record general information such as time since last rain, <del>precipitation depth of last rain</del> , site description ( <del>e.g., type of flow (sheet, concentrated, channel), runoff velocity and flow, dominant land uses</del> ), and visual observations (e.g., odor, color, clarity, presence of trash and other debris)."
26	<b>E.7.c (ii) (d), p.36:</b> <u>Implementation Level</u>	Revise as follows: " <del>If illicit discharge is observed, c</del> Conduct a follow-up investigation <i>in accordance with E.7.d if the benchmarks associated with the constituents are exceeded.</i> "
27	<b>E.7.c (iii), p. 36:</b> <u>Reporting</u>	Revise 1 <sup>st</sup> and 2 <sup>nd</sup> sentences: "By September 15, 2015 online Annual Report, submit a report summarizing the field <del>screening and analytical monitoring-observation</del> program procedures, including a summary of the field <del>screening observation</del> and illicit discharge <del>investigation observation</del> results. If the Permittee finds that after two subsequent field <del>screening observation</del> tests have been completed that the field <del>screening observation</del> station is dry..."
28	<b>E.7.d (ii) (e), p. 37:</b> <u>Implementation Level</u>	In addition, corrective action within 48 hours is often infeasible due to legal and other administrative requirements. We therefore request that "48 hours" be changed to "14 days." We also recommend adding the following sentence at the end of this section: " <i>In the case of an illicit connection, it must be terminated within 180 days of completion of the investigation.</i> "
<b>E.8: Construction Site Storm Water Runoff Control Program</b>		
29	<b>E.8.a (i), p.39:</b> <u>Task Description</u>	The construction site inventory requires inclusion of grading and construction activities which are "less than one acre if part of a larger common plan or development or sale." We believe that to be consistent with the State's Construction General Permit that this language should be clarified to read: "less than one acre if part of a larger common plan or development or sale <i>which is larger than one acre.</i> "
30	<b>E.8.a (ii) (c), p.39:</b> <u>Implementation Level</u>	The construction site inventory is required to include "The proximity of all water bodies . . . ." We believe that it is good policy to allow the Permittee to determine proximity based upon site specific factors which may include potential impact, topography, soil type, etc. We therefore request that the text be modified to state: "The proximity all water bodies <i>which could be foreseeably impacted</i> , water bodies listed as impaired..."
31	<b>E.8.a (ii) (c), p.39:</b> <u>Implementation Level</u>	We believe this requirement should be removed (or at a minimum revised) because it is inconsistent with current processes involving other agencies. The provision would require Erosion and Sediment Control Plans to verify coverage under all permits prior to issuance of a grading/building permit; however the US Army Core of Engineers requires issuance of all other permits prior to issuance of the 404 permit.
32	<b>E.8.b (ii) (b), p.40:</b> <u>Implementation Level</u>	We respectfully request that this requirement to quantify expected soil loss for different BMPs be removed until additional guidance is provided which standardize these calculations. Soil loss can vary based topography, soil type, and rainfall intensity and therefore an accurate calculation would be difficult to achieve without this guidance.
<b>E.9: Pollution Prevention/Good Housekeeping for Permittee Operations Program</b>		
33	<b>E.9.d, p.48:</b> <u>Task Description</u>	Please provide a checklist/template detailing the specific contents required for submittal per Section E.9.d Storm Water Pollution Prevention Plans for



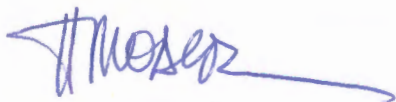
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		Municipal Operations.
34	<u>E.9.d (i), p.48: Task Description</u>	Many of the facilities covered by this section will already have a SWPPP or equivalent in place. We recommend that the proposed permit not require duplication of this effort. Therefore, we request that the last sentence be revised as follows: “By May 15, 2015, the Permittee shall develop and implement SWPPPs for pollutant ‘hotspots’ <i>if those facilities do not already have an SWPPP or equivalent plan (e.g. SPCC, Hazardous Materials Business Plan).</i> ”
35	<u>E.9.e (ii) (a) - (d), p.48-49: Implementation Level</u>	We believe that this section needs additional tailoring, as the proposed inspection frequency is onerous and likely duplicative. Hot spot sites will have trained staff and likely already have a SWPPP or SPCC in place, either of which would require regular inspections. In addition, weekly and quarterly observations are already required when SPCC’s are in place and most hotspots are likely already covered with an individual industrial permit. We suggest that this section be deleted and replaced with: <i>“Inspections by trained staff of hot spots shall be completed annually to ensure facilities are being maintained in accordance with permit requirements and take corrective actions when necessary. Non-hotspots will be inspected every two years.”</i>
36	<u>E.9.g (ii) (a), p.50: Implementation Level</u>	Inspections are best done prior to the first rain event to ensure water quality is protected. Therefore, we recommend that the last sentence be revised as follows: “At a minimum, inspect all catch basins of high priority systems annually <i>prior to the first rain event of the Wet Season.</i> ”
37	<u>E.9.h (i) and (ii), p. 51: Task Description and Implementation Level</u>	Quarterly basis assessment of Permittee’s O&M activities and inspection of all BMPs appears to be excessive for the benefit derived, as compared with an annual review. We therefore recommend that the requirement should be changed from “a quarterly” to “an annual.”
38	<u>E.9.i, p.52: Incorporation of Water Quality and Habitat Enhancement Features in Flood Management Facilities</u>	Currently the definition of Flood management facilities is not adequately clear to differentiate between typical stormwater conveyance infrastructure and other types of flood management facilities. We therefore recommend that the following sentence be added to the end of the glossary definition: “Facilities or structures designed for the explicit purpose of controlling flood waters safely in or around populated areas (e.g., dams, levees, bypass areas). <i>Flood management facilities do not include traditional stormwater conveyance structures (e.g. stormwater sewerage, pump stations, catch basins, etc.)</i> ”
39	<u>E.9.k (iii), p.54: Reporting</u>	We believe that additional time should be provided to develop the training program after the facility inventory is complete. Therefore, because the inventory is required by 2013, we recommend that the reporting date for the training program should be changed from “2013” to “2014.”
<b>E.11: Industrial Commercial Inventory</b>		
40	<u>E.11.a (ii) (c),p.57: Implementation Level</u>	Similar to the comments made in response to section E.4.c (ii) (d), this reporting requirement would be duplicative of an existing mechanism for reporting non-filers to the State Water Board. We therefore recommend that this section be deleted or revised to require Permittees to use the reporting form (i.e., the non-filer form) which already exists on the State Water Board’s website within 30 days. There should be no related reporting required in the Annual Report.
41	<u>E.11.b (i) and (ii),</u>	It will take time of the Permittee after the inventory is complete to contact

#	Section	Comment
	<b>p.58: <u>Task Description and Implementation Level</u></b>	each industrial and commercial facility and begin requiring the appropriate BMPs. Therefore, we request that the implementation date be changed from "2014" to "2015."
42	<b>E.11.c (iii), p.61: <u>Reporting</u></b>	The Task Description above (E.11.c (i)) indicates this program task is not due until May 2016, and therefore, it makes more sense to have the annual reporting begin after this date. We request that the reporting date be changed from "2015" to "2016."
43	<b>E.11.e (ii) (c), p.62: <u>Implementation Level</u></b>	Similar to the comments made in response to section E.4.c (ii) (d), this reporting requirement would be duplicative of an existing mechanism for reporting non-filers to the State Water Board. We therefore recommend that this section be deleted or revised to require Permittees to use the reporting form (i.e., the non-filer form) which already exists on the State Water Board's website within 30 days. There should be no related reporting required in the Annual Report
<b>E.14: Program Effectiveness Assessment and Improvement</b>		
	<b>E.12, p. 64</b>	The current MS4 permit requires San Francisco to develop post-construction stormwater management regulations and implement a local ordinance that enforces those regulations. Accordingly, San Francisco promulgated Stormwater Design Guidelines in January, 2010 as the resulting post-construction stormwater management regulations and the Stormwater Management Ordinance in May, 2010 as the resulting local enforcement ordinance. We look forward to complying with the reporting requirements specified in the new MS4 Compliance Tier d (populations less than 25,000), but as the proposed regulation currently stands, we lack sufficient direction about what and how to report. Other sections of the proposed permit which have referenced 2009-0009 DWQ-CGP have included specifics (e.g., inventory of construction sites) but this section's reference to 2009-0009 DWQ-CGP is devoid of such needed specifics. We respectfully request that the components of compliance be made specific and clear so that we can continue to implement our SDG and report appropriately about it in the Annual Report.
44	<b>E.14, p.86: <u>Program Effectiveness Assessment and Improvement</u></b>	We request that this section not apply to Permittees with MS4 populations of 5,000 or less (Attachment J) because this level of assessment required is infeasible for the very small size of these small MS4s.  If, however, this section remains applicable to Attachment J Permittees, we suggest the following revisions:
45	<b>E.14.a(ii) (c) (2), p.87: <u>Implementation Level</u></b>	It will likely be infeasible to show quantifiable behavioral change data within the permit period. We therefore request that the second sentence be revised as follows: "The Permittee shall, <i>to the extent feasible</i> , develop quantitative data using measurement methods including, but not limited to, the following..."
46	<b>E.14.c (ii), p. 90: <u>Implementation Level</u></b>	The pollutant concentration data from the National Stormwater Quality Database is likely to be non-representative of local conditions. These efforts will require significant staff time and are unlikely to produce useful information. We believe that this time could be better spent implementing other elements of the stormwater program. Therefore, we


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		request that the implementation level of this section be rewritten to exclude this Database.
47	<b>E.14.d, p.90:</b> <u>Stormwater Program</u> <u>Modifications</u>	This section requires that information from work done per E.12.b and E.14.b be used. However, if neither of these two sections applies to a Permittee, the Permittee will not be able to comply with this section. We therefore recommend that the text be revised as follows: "Compliance Tiers a) All Permittees shall comply with the requirements of this section, <i>with the exception of those Permittees that are not required to comply with sections E.12.b and E.14.b.</i> "
<b>Table 1: Specific Section E Provisions for New Traditional Small MS4s with a Population less than 5,000 &amp; Non-Traditional Small MS4s1</b>		
48	<b>General</b>	We request that References to this table be updated throughout to clarify that renewal Permittees are not covered by this table.

Thank you for this opportunity to provide input on the NPDES Draft Phase II MS4 General Permit. We hope our comments are useful in achieving an effective regulation which will help further responsible stewardship of the water environment.

Sincerely,



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