RESPONSE TO SIGNIFICANT COMMENTS
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR
STORM WATER DISCHARGES
ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE
ACTIVITIES (GENERAL CONSTRUCTION PERMIT)
ORDER NO. 2009-0009-DWQ
NPDES PERMIT NO. CAS000002

The State Water Board's Response to Significant Comments is responsive to all significant comments submitted on the April 22, 2009 draft permit as well as the significant comments voiced at the public meeting on September 2, 2009. All written comments submitted on the April 22, 2009 draft permit are available to view at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits_comments2009june.shtml

Commentor ID Number	Company	Representative
1	Alhambra Unified School District	Cynthia L. Martin
2	American Council of Engineering Companies of California	Paul Meyer
3	Associated General Contractors of America, San Diego Chapter	Jim Ryan
4	Associated General Contractors of California	Thomas T. Holsman
5	Bay Planning Coalition	Ellen Johnck
6	California Alliance for Jobs	Joe Cruz
7	California Association of REALTORS	Elizabeth Gavric
8	California Business Properties Association	Rex S. Hime
9	California Chamber of Commerce	Valerie Nera
10	California Construction and Industrial Materials Association	Gary Hambly
11	California Manufacturers and Technology Association	Mike Rogge
12	Coalition for Adequate School Housing	Ian Padilla
13	Construction Employers' Association	Michael Walton
14	Regional Council of Rural Counties	Staci Heaton
15	ATS Working Group	Joe Gannon

16	Berg and Berg Developers, Inc.	Myron Crawford
17	Best Best & Krieger LLP	J.G. Andre Monette
18	Bonita Unified School District	Ann Sparks
19	Both-Napa Valley State Park	Bruce Lund
20	Brash Industries	Marvin H. Sachse
21	California Board for Professional Engineers and Land Surveyors	David E. Brown
22	California Building Industry Association	Timothy L. Coyle
23	California Coastkeeper Alliance	Linda Sheehan
24	California Construction & Industrial Materials Association	Gary Hambly
25	California Council for Environmental and Economic Balance	Robert W. Lucas Gerald D. Secundy
26	California Department of Transportation	G. Scott McGowen
27	California Independent Petroleum Association	Rock Zierman
28	California Retailers Association	William E. Dombrowski
29	California Storm water Quality Association	Chris Crompton
30	Cemetery and Mortuary Association of California	Jerry Desmond
31	Center for Environmental Compliance, Inc. on behalf of National Storm water Center	John Whitescarver
32	Central Coast Regional Water Quality Control Board	Michael J. Thomas
33	City of Camarillo	Lucia McGovern
34	City of Chula Vista	Khosro Aminpour
35	City of Garden Grove	Keith G. Jones
36	City of Huntington Beach	Tony Olmos
37	City of Irvine	Mike Loving
38	City of Los Angeles	Robert Vega
39	City of Orange	John W. Sibley
40	City of Oxnard	Mark. S. Norris
41	City of Placentia	Troy L. Butzlaff
42	City of Riverside	Thomas J. Boyd
43	City of Roseville	Rob Jensen
44	City of San Diego Storm Water Department	Kris McFadden
45	City of San Jose	Edward K. Shikada
46	City of San Juan Capistrano	Ziad Mazboudi

47	City of Santee	James O'Grady
48	City of Villa Park	Jason Carson
49	Coalition for Adequate School Housing	Kathy Tanner
50	Coalition for Practical Regulation	Kenneth C. Farfsing
51	Coronado Unified School District	Jeffrey Felix
52	County of Lake, Public Works Department	Thomas R. Smythe
53	County Sanitation Districts of Los Angeles County	Michael Sullivan
54	County School Facilities Consortium	Anna M. Ferrera
55	Covina-Valley Unified School District	Susan Cross Hume
56	Department of Defense Regional Environmental Coordinator for EPA Region IX	C.L. Stathos on behalf of Rear Admiral Hering
57	Downey Unified School District	Buck Weinfurter
58	Eastern Municipal Water District	Jayne Joy
59	Engineering & Utility Contractors Association	Tara McGovern
60	EnviroCert International, Inc.	David Ward
61	Etiwanda School District	Douglas M. Claflin
62	Fresno Metropolitan Flood Control District	Bob Van Wyk
63	General Public	Teresa Jordan (4)
64	Granite Construction Incorporated	Tom Walbom
62	Graniterock	Tina Lau
66	Grossmont Union High School District	Scott H. Patterson
67	Heal the Bay	Kirsten James Mark Gold
68	Hunton & Williams LLP on behalf of Utility Water Act Group	Brooks M. Smith
69	Lancaster School District	Michael McClatchey
70	Ledesma and Meyer Construction Company Inc.	Kris Meyer
71	Little Lake City School District	John Shook
72	Los Angeles County Office of Education	Ferris Trimble
73	Los Angeles County Office of Education	Pam Gibbs
74	Los Angeles County Office of Education on behalf of the ABC USD	Robert Kay
75	Los Angeles Department of Water and Power	Katherine Rubin
76	Los Angeles Unified School District	Neil Gamble
77	Lozeau Drury LIP on behalf of Northern California Carpenters Regional	Michael R. Lozeau

	Council	
78	National Association of Home Builders	Susan Asmus
79	Oceanside Unified School District	Dr. Robyn Phillips
80	Orange County Department of Education	Andrea Sullivan
81	Orange County Public Works	Chris Crompton
82	Orange County Vector Control District	Mike Saba
83	Orange Unified School District	Kevin Emenaker
84	Palo Verdes Peninsula Unified School District	Pearl A. Iizuka
85	Poway Unified School District	Michael Tarantino
86	Ramona Unified School District	David Ostermann
87	Regional Council of Rural Counties	Stacy Heaton
88	Rialto Unified School District	Anna Ulibarri
89	Rick Engineering Company	Jayne Janda-Timba
90	Rio Hondo College	Gus Gonzalez
91	Riverside County Flood Control and Water Conservation District	Mark H. Wills
92	Riverside County Office of Education	Lindsay Currier
93	Roger Turner and Associates, Inc.	Roger Turner
94	Sacramento Regional County Sanitation District	Lysa Voight
95	San Diego County Office of Education	Joanne M. Branch
96	San Francisco Bay Regional Water Board	Shin-Roei Lee
97	San Jacinto Unified School District	Scott Shira
98	San Marcos Unified School District	Katherine Tanner
99	San Mateo Countywide Water Pollution Prevention Program	Matthew Fabry
100	San Ysidro School District	Manuel Durazo
101	Santa Clara Valley Urban Runoff Pollution Prevention Program	Jill C. Bicknell
102	Santee School District	Christina Becker
103	Sempra Energy (San Diego Gas & Electric Company & Southern California Gas Company)	Michael Murray
104	Solana Beach School District	William Banning
105	Southern California Edison	Hazem Gabr
106	Stoel Rives LLP on behalf of the American Council of Engineering Companies of California	James P. Corn
107	Storm Water Resources, LLC	Jeanne Duarte

108	Storm Water USA	Laurie Demers
109	Torrance Unified School District	Phil Fielding
110	Tustin Unified School District	Brock Wagner
111	Unified Port of San Diego	David Merk
112	United States Environmental Protection Agency Region IX	Douglas E. Eberhardt
113	Valley Center-Pauma Unified School District	Gary Pay
114	Valley Center-Pauma Unified School District	Dr. Lou Obermeyer
115	Vista Unified School District	Steve Presley

ACTIVE TREATMENT SYSTEMS

Commentor ID	ATS Comment Summary	Comment Response
15	Attachment F, (H.1.2) - Suggested Change: H. ATS Instrumentation 1. The ATS shall be equipped with instrumentation that automatically measures and records influent and effluent water quality data and flow rate. 2. The minimum data recorded shall be consistent with the Monitoring and Reporting requirements below, and shall include: a. Influent Turbidity b. Effluent Turbidity c. Influent pH d. Effluent pH e. Residual Chemical f. Effluent Flow rate g. Effluent Flow volume	Edits made
20	Finding 48 Is the installation of gel floc logs considered an ATS system?	If the BMP involves the addition of a chemical flocculant to aid in the treatment, the discharger is required to comply with the ATS requirements.
20	Page 35, K.1 A statement is made that there are two general types of ATS systems. “Both types are considered reliable, can consistently produce a discharge less than 10 NTU and have been used successfully at many sites in several states since 1995 to reduce turbidity to very low levels.” Although not named specifically if the second ATS system is electro coagulation it does not fit into the foregoing description. 1) no chemical additive is used, 2) no data has been located that demonstrates electro coagulation as a cost effective ATS for turbidity in California. No cost analysis has been included in the Fact Sheet. Our calculations show that an ATS installation could increase the cost of a single family house by over $10,000.	Comment Noted.
25	Attachment F, p. 9 Section M.5.a. Active Treatment System (ATS) Monitoring Requirements - Noncompliance Reporting This section infers that “…any indication of toxicity…” is a violation of the permit. However, the phrase “…any indication of toxicity…” is not defined. Many toxicity tests recognize a certain amount of attrition can occur to the test organisms during the test that is completely unrelated to the water that is being tested. It is important that this natural attrition is not considered to be an indication of toxicity.	Comment Noted. This requirement addresses the potential toxicity impacts which may be caused by the release of additives/polymers into receiving waters.
25	Permit,p.11 Finding 67 through 69 NELs and ATS Performance NELs for ATS units are not justified for ATS installations at this time or until the California experience is shown to mirror the experience elsewhere. NALs only are currently appropriate.	Comment Noted. ATS systems lend themselves to NELs for turbidity and pH because of their known reliable treatment.
25,26	Permit,p.11 Finding 70. ATS Throughput and the design storm The Finding should provide process design and cost basis and rationale for the ten year storm criterion. This criterion is excessive for proper design. The five year storm is more appropriate and has been used in the permit in the numeric effluent limitations section (except it should reference NALs, which are more appropriate	The compliance storm event established for ATS discharges is based on the industry-standard for ATS design. Attachment F states that "ATS shall be designed to capture and treat (within a 72-hour period) a volume equivalent to the runoff from a 10-year, 24-hour storm event…"

Commentor ID	ATS Comment Summary	Comment Response
	at this time). ATS's require large areas to treat storm water. The larger the event that must be caught, the greater retention volume required. Most locations in the North Coast region do not have space for ATS. A more likely compliance event might make this an possible solution in tight locations.	
32	Fact Sheet - Page 34, K., ATS Requirements: This section states "(... Monitoring Requirements for Storm Water Treatment Systems that Utilize Chemical Additives to Enhance Sedimentation"), the Construction Storm Water Program at the State of Washington's Department of Ecology... “The blue highlighted Construction Storm Water Program hyperlink does not function.	Hyperlink eliminated
32	Fact Sheet - Page 34, K., ATS Requirements: This section also states "Due to the potential toxicity impacts, which may be caused by the release of additives/polymers into receiving waters, this General Permit establishes residual polymer monitoring and toxicity [testing] requirements have been established in this General Permit for discharges from construction sites that utilize an ATS in order to protect receiving water quality and beneficial uses." The section reads better if "testing: is added after toxicity.	Edit made
45	ATS use requires toxicity testing. This appears to be a poor use of resources. The Board, rather than having all dischargers in the state sample continuously, should certify coagulants as ‘safe’ if they have been adequately tested. Requirements for toxicity testing should be eliminated and replaced by documentation to demonstrate proper operation and maintenance of the ATS.	Toxicity testing requirements have been established in the CGP for discharges from ATS due to the potential toxicity impacts caused by the release of additives/polymers into receiving waters.
45	We also recommend streamlining ATS information to encourage use including: operator and personnel training, operation and maintenance plan, spill prevention plan, health and safety plan, jar tests, filter following coagulation, effluent monitoring/sampling, and reporting.	Comment Noted
45,47	Attachment F Active Treatment Systems (ATS) Requirements. The ATS NELs are considerably lower than the NEL for projects not using ATS, this gap will cause less people to use ATS/promote not using ATS. Is it better that ATS is used with turbidity readings of less than 50 NTU being attained in runoff? Or is it preferable for a project to attain turbidity readings of approximately 500 NTU in its discharges? If the answer is the former, then there should be an incentive for Responsible Parties to use ATS. Recommend Drafting Permit language in a manner that encourages feasibility of use.	The CGP does not encourage or discourage the use of specific BMPs. Attachment F includes all requirements subject to ATS use. This applies when dischargers choose to implement ATS on their project site. Numeric effluent limitations for ATS were established based on the efficiency of the systems at many sites.
56	Fact Sheet pg 34: ATS should be defined here. The fact sheet says that "statistical analysis of potential complications" must be conducted for an ATS, however this requirement is not found in the Permit itself.	Statement has been deleted. The Fact Sheet now states that "The effective design of an ATS requires a detailed survey and analysis of site conditions."

Commentor ID	ATS Comment Summary	Comment Response
56	Attachment F H-ATS Instrumentation Rather than requiring ATS Toxicity Testing and Continuous Data Logging for all ATS projects, the Board should consider establishing a voluntary pilot program for sampling and analysis for these BMPs. Continuous data logging is excessive and unnecessary and should be eliminated due to the resources required.	Comment Noted
56	K-ATS Requirements K-70: Is an exceedance an exemption or a violation?	An exceedance of the 10-year, 24-hour ATS compliance storm event provides an exemption to the Numeric Effluent Limitations established for ATS discharges.
58	ATS The use of Active Treatment Systems (ATS) should be removed from the permit. Construction and land disturbance activities are temporary actions which make storm water flows difficult to control. ATS are ideal for permanent structures, but for application and control in temporary situations, ATS can be difficult to manage. Passive systems are more ideal and still can be effective.	Comment Noted. ATS discharges have the potential to release coagulants to receiving water in excessive amounts. Attachment F includes all requirements subject to ATS use. This applies when dischargers choose to implement ATS on their project site.
65	ATS (NEL): Graniterock is opposed to the use of a broadly applied, single numeric limit for turbidity for discharges from an ATS unit that would determine compliance in all environmental settings and for all storm events. While ATS units can reduce turbidity levels significantly, there is a high likelihood that these units will depress turbidity levels well below natural levels and cause harm to an aquatic ecosystem. The Fact Sheet notes that the ATS NEL is based on the Blue Ribbon Panel's report, however the DCGP does not appear to have incorporated the Panel's concerns. Graniterock recommends that the Board base ATS action levels on existing background conditions instead of the unnaturally low level of 10 NTU, and require performance standards to be sensitive to the receiving water.	Comment Noted
65	ATS: If not used properly polymers and flocculents could kill fish and cause significant detriment to the ecosystem. We're concerned that our sites could trigger CEQA if we're adding chemicals to a sensitive habitat, or discharging to a stream in which there are endangered species. The ATS discharge limits are so low that the risk of high use of polymer in order to reach such levels could be high. Additionally, ATS units have not been broadly used in construction sites and there is little field analysis of its benefits for varying types of project. Currently ATS units have been used at larger projects, but its benefits and effectiveness at the small and medium sized job sites are as yet untested or very limited tested. Graniterock asks the Board be more cautious in its encouragement of ATS use until more field assessments are done.	We agree that if not used properly, polymers and flocculents could cause negative impacts to receiving waters, therefore the CGP includes stringent numeric effluent limitations, operation requirements, and monitoring requirements subject to ATS use.
77	Sites over 5 acres should use ATS since it is consistent with BAT.	ATS is one of the options a discharger may use on their project

Commentor ID	ATS Comment Summary	Comment Response
		site. The CGP does not establish a project size threshold for ATS because other factors may warrant the use of an ATS system such as soil types.
112	Attachment F (Section 1.4) should require that discharges of ATS effluent to a sanitary sewer system comply with EPA pretreatment regulations if the system does not have a pre-treatment program. The 2009 proposed permit does provide that compliance is required with pre-treatment requirements for sewer systems which have a pre-treatment program (as we requested in our June 2008 comments), but the permit does not require compliance with EPA pretreatment regulations for sewer systems without a pre-treatment program, as we also requested in our June 2008 comments.	Comment Noted

BEST MANAGEMENT PRACTICES (BMPs)

Commentor ID	BMP Comment Summary	Comment Response
22,50	Attachment D, Section E.4 – Table 1 gives a slope percentage of 0-25% with sheet flow not to exceed 20 feet. Commenter feels this is too restrictive and could be easily misinterpreted as applicable to pad areas, resulting in excessive amounts of silt fence or straw wattle. Recommend providing a fourth slope percentage of 0-10% with a corresponding increase in sheet flow length, and clarify any exceptions for pad or level areas. (Same recommendation for Risk 3 sites in Attachment E, Section E.4)	Sheet flow length percentages were chosen to be consistent with specified slopes for BMPs in the CASQA Construction BMP Handbook.
22,26	Attachment E, Section D.4 – The procedure to perform an analysis ensuring that pre-construction soil loss is equivalent to post-construction soil loss is strongly opposed, as it is a numeric limit for sediment discharge. Where would actual measurement of the predictive soil loss occur? Is it at the property line? Is it a summed value if multiple discharge points are located within one construction project boundary? Would additional discharge analysis be necessary about and beyond the turbidity measurement? Commenter believes the 1:3 relationship between turbidity and suspended sediment concentration is faulty. Recommend deleting this requirement.	Agreed. This requirement has been removed.
22,25	Attachment E, Section F – Concerning “Risk Level 3 dischargers shall evaluate the quantity and quality of run-on and runoff through observation and sampling.” When do dischargers sample run on and for what constituents? Is sampling a requirement or an option? Request clarification on run-on sampling procedures.	We have eliminated this language from the CGP as it is redundant and conflicts with other requirements.

Commentor ID	BMP Comment Summary	Comment Response
22	Attachment D, Section E.3 – How does a discharger provide soil stabilization (erosion control) on areas you are actively working? Soil stabilization and erosion controls include erosion control blankets, vegetation, mulch, etc. A discharger cannot work in these areas if they are covered with a soil stabilization measure. Need clarification on expected BMP types to be used during "active" construction.	This requirement applies to areas where it is appropriate such as stockpiles located in areas of a construction site disconnected from daily activities. This clarification has been made to the section.
22	Attachment D, Section B.7 – What does it mean to document all housekeeping BMPs in the SWPPP mean? Does it mean that you are supposed to include what housekeeping BMPs you intend to use? Does it mean that you are supposed to document all that you are currently using or have used at the site?	Because the SWPPP is submitted as part of the PRD package prior to commencement of construction activities, it should include the housekeeping BMPs the discharger intends to implement. After initial submittal, the QSD may make any revisions to the SWPPP.
22	Attachment C, Section D.3 – Not supportive of this requirement to "…consider the use of plastic materials resistant to solar degradation," because it is unnecessarily prescriptive and the phrase "when more environmentally friendly alternatives exist" is highly subjective and open to wide interpretation. Recommend deleting Section D.3, and the same statements in Attachments D and E as well.	The State Water Board has recently initiated a plastic debris program aimed at reducing the amount of plastic material (both pre- and post-production) discharged to our waters. Construction materials used at construction sites have proven to be part of the waste materials that cause or contribute to impairment of water quality standards. This requirement is consistent with the goals of the plastic debris program and is necessary to help reduce all discharges of plastic to California's waters.
22	Attachment C, Section D.1 – Recommend deleting the requirement to implement effective wind erosion control. This requirement is redundant as all air districts in California permit and enforce fugitive dust control standards.	Fugitive dust control requirements are not consistent throughout the State and they are not the same as "wind erosion" requirements.
25	Attachment E, p. 6 Section E.8. Definition "The RWQCB may require Risk Level 3 dischargers to implement additional site specific sediment control requirements if the implementation of the other requirements in this section are not adequately protecting the receiving waters." How will "adequately protecting the receiving waters" be determined?	The Regional Water Boards may determine if additional site sediment controls are necessary based on sampling results submitted in the annual reports.
26	Attachment C, D& E Section B.l.b Cover and berm stockpile materials that are not actively being used. Stockpiles containing living organisms should be handled in a manner that preserves the beneficial qualities of the product e.g., topsoil, mulch and compost. The permit should accommodate for this.	Long term stockpiling is discouraged for many reasons, but the biggest threat it poses is from sediment discharges, thus this requirement is necessary.
26	As a result of Caltrans linearity, there is a multitude of adjacent properties with run-on, including non-point source run-on, e.g., agricultural properties. The permit language creates unlimited and excessive permittee liability. Caltrans suggests a provision clearly permitting the temporary diversion of run-on around the project site.	The CGP states: "Risk Level 1 dischargers shall effectively manage all run-on, all runoff within the site and all runoff that discharges off the site. Run-on from off site shall be directed away from all disturbed areas or shall collectively be in compliance with the effluent limitations in this General Permit."

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26	Order, Section I.E.38, p.6; Section I.E.42, p.7 Permit prohibits discharge of non-storm water pollutants; discharge of any debris prohibited The permit prohibits the discharge of plastic. All erosion control blankets that contain plastic will be prohibited; this would also include any sod that contains plastic netting. This could mean that any BMP that is left in place will not be able to contain plastic, clarification is needed. and Zero thresholds cannot be complied with: For example, a piece of sand from a sand blasting operation, dust due to excavation., hauling, and public traffic on gravel surfaces, and trash from the public. There must be acceptable discharges for minor dust, sand, and non-storm water. Minor non-storm water discharges, it is imperative to identify any and all and that they be in the permit application of these “types of discharges” Caltrans suggests a variance in the permit for these types of "discharges"	It is our belief that it is possible to comply with this requirement.
26	We are concerned that the permit references Caltrans materials, and specifically the "Caltrans" RUSLE2 program. The RUSLE2 program was developed for Caltrans projects and it is not appropriate for a Caltrans design tool to be the reference for all stakeholders subject to this permit. Additionally, this program has not yet been finalized internally, making it premature even for internal use. Caltrans requests the Board eliminate the reference to "Caltrans" RUSLE2.	"Caltrans RUSLE2" references have been deleted.
29	Appendix 2 –Basin Sizing CASQA recommends that the examples provided in Appendix 2 be removed from the Draft CGP and that examples or similar detailed guidance be integrated into the forthcoming update of the CASQA Construction BMP Handbook. CASQA recommends that additional sediment basin sizing options, similar to options currently presented Order 99-08-DWQ be added to Appendix 2. In particular the options should include the following from Order 99-08-DWQ: • Option 1 (method meeting local requirements), • Option 3 (Stokes Law and a larger design storm), and • Option 4 (other method that is protective). The Draft CGP states that Basins “shall, at a minimum, be designed to reduce incoming suspended soil particles having diameters of 0.02-mm and larger from the runoff volume of a 2-year, 24-hour storm by 90%." CASQA recommends that the permit state that performance criteria (90% removal) is a “target,” and that the percent removal target be reduced; we are unaware of research studies that support “90%” reduction using the method presented in Appendix 2. As noted previously, (see comment # 11) the consistency between the compliance storm event and the design criteria need to be addressed. The appendix does not specify a minimum detention time within the basin; this should be clarified in the permit or in the CASQA Construction BMP Handbook. Finally, CASQA suggests changing Vol_{min} in Equation 4 to clearly reference the design storm (i.e., “The basin volume shall be based on the design storm or a minimum	Appendix 2 has been eliminated from the CGP. Permit language has also been revised referencing CASQA's Construction BMP Handbook for proper design of Sediment Basins.

Commentor ID	BMP Comment Summary	Comment Response
	volume of 3,600 cubic feet per acre.")	
32	Fact sheet - Page 29, c., Good Housekeeping: The General Permit should add the need for spill protection and clean up in the SWPPP.	The CGP addresses spill protection and cleanup in the "Good Housekeeping - Waste Management" requirements.
32	Fact sheet - Page 29, f., Sediment Control: This section states "Sediment control BMPs should be .... The discharger is required to consider perimeter control measures such as: installing silt fences or placing hay bales or straw wattles below slopes." Using hay bales is highly likely to concentrate flows and cause erosion. Hay bales have very limited success on construction sites (e.g., back up silt fence). Hay bales should be removed from a suggested list of sedimentation BMPs. More appropriate suggestions would be: gravel bag ...I-hook barriers upstream of storm drain inlets, catch basin/drain inlet filters, sediment basins or traps.	Clarification language added
42	Run-on The City objects to the requirement to effectively manage all site run-on, particularly in consideration of street and other MS4-related projects. Streets, catch basins and gutters are part of a local agency's MS4; inherently they are designed to accept all run-on. As part of a public agency's MS4, street projects may receive run-on from more than thirty acres of private property developed prior to current storm water protection regulations. Currently, during construction, such projects divert dry weather run-on away from active disturbed soils where feasible; wet weather run-on is filtered and detained, where possible, but may be required to bypass BMPs for safety reasons. As a result, the requirement to manage run-on and direct flow away from disturbed areas is not always feasible for MS4-related projects. An exemption is requested.	Disagree that an exemption should be given. The CGP requires: "Risk Level 1 dischargers shall effectively manage all run-on, all runoff within the site and all runoff that discharges off the site. Run-on from off site shall be directed away from all disturbed areas or shall collectively be in compliance with the effluent limitations in this General Permit."
44	Attachment C, Section I.7.a, page 10 Attachment D, Section I.11.a, page 17 Attachment E, Section I.11.a, page 18 Does the requirement to collect a sample during any breach, malfunction, leakage, or spill apply outside of scheduled visual inspections? The relationship between breach, malfunction, leakage, and spill, and actual sampling duties is not clear. Please clarify what sampling actions must be taken to address a spill. Reword “shall collect a sample” to “shall collect one or more samples”	The discharger must sample if it suspects any event (like the ones mentioned, whether visually observed or not) occurred that could result in the discharge of pollutants to surface waters that would not be visually detectable in storm water.
62	Wind Erosion Control Plans & Air Deposition The draft document provides no detail with respect to the standards or enforcement provisions of the requirement to implement effective wind erosion control. The measures necessary to avoid wind erosion are the same measures used to minimize the generation of dust. The State already assigns responsibility for construction-related dust control to Regional Air Pollution Control Districts. By extension, implementation of existing dust control rules will control wind erosion. Since Regional Air Pollution Control	Fugitive dust control requirements are not consistent throughout the State and they are not the same as "wind erosion" requirements. Some parts of the State may experience more erosion due to wind-driven mechanisms than to precipitation and runoff.

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	Districts already have the legislative mandate and expertise necessary to structure, review, approve and enforce dust control regulations. Wind erosion control plans should not be mandated in this permit.	
62	Design Storm The Permit language does not specify a design storm (specific intensity and duration) that can be used as the basis to plan site-specific BMPs. The use of an 85th percentile storm event as a threshold event, below which a site is expected to remain in compliance, ignores the need for developers to be prepared to withstand small high intensity events and, conversely, may require operators to respond strongly to prolonged, innocuous, low- intensity events incapable of producing sustained or substantial runoff.	Comment Noted. There is no design storm specified for BMPs in the CGP. The CGP does specify compliance storm events for exemption from NELs. For a Risk Level 3 site the compliance storm is the 5-year 24-hour event. For a Risk Level 3 site using an ATS, the compliance storm is the 10-year 24-hour event.
65	Impacts of run-on need to be considered: We find the issue of run-on to be very important to achieving water quality standards, and request that the CDGP also allow a site and run-on evaluation and exemption for NEL exceedances if NELs are to remain in the permit. Managing run-on is of particular concern in the road and public infrastructure industry, as many sites experience direct, uncontrollable run-on from surrounding hills or residential areas. Naturally occurring erosion problems can't be handled by something as easy as diverting the flow and, in heavy rains, would likely overwhelm the contractor's best attempts at treatment control. Additionally, many freeway projects are adjacent and/or downstream from residential back yards in which fertilizers and other chemicals with the potential to alter pH are used, outside of the contractor's control. If an NEL is to remain in place, there should be an exemption for run-off if background levels or run-on levels already fail to meet the NEL standard.	The requirement to sample run-on/runoff from other sites has been eliminated from the CGP.
67	The Board should require that BMPs installed at construction sites perform as well or better than 75% of the BMPs in the ASCE/EPA database for 303(d) listed waters. The Board should require that BMPs in sub-watersheds that have no demonstrated water quality impairments (i.e., not on the 303(d) list as impaired) or that are not on the list of SUSMP development categories meet at least the 50th percentile performance (median) for the term of this permit.	We disagree. We feel that our approach to setting the BAT/BCT standard is the most appropriate.
82	The District is aware that numerous non structural and structural Best Management Practices (BMPs) will be implemented and/or installed within existing areas as new projects and developments occur, as required by the provisions of this proposed General Permit and associated Storm Water Pollution Prevention Plans (SWPPPs). Although structural storm water treatment BMPs are designed to improve water quality by treating sources of urban and suburban storm water and other run off sources, they may become overgrown with vegetation, become clogged with debris, or become subject to other	Dischargers are responsible for ensuring that water quality BMPs are consistent with other requirements, including those related to vector control.

Commentor ID	BMP Comment Summary	Comment Response
	conditions which create persistent areas of shallow water habitat conducive to the breeding of mosquitoes. Thus, vector minimization strategies with respect to the design and long term maintenance of these BMP features need to be considered in order to protect public health.	
89	Attachment C, Section B.c, page 1 Will all chemicals need to be stored in watertight containers or in a storage shed (completely enclosed)? If the material is actively being used, can this text be replaced to state "secondary containment"?	This requirement has been clarified.
89	Attach C Pg. 6 Sec. G. 5 h: Is there criteria for the photographs taken and submitted?	No "criteria," but the photos should be representative of actual site conditions, and be time stamped (dated).
89	Attach D Pg. 4. Sec. B 7: Please clarify this statement. Does this mean that Risk Level 1 projects are not required to document all housekeeping BMPS in the SWPPP?	Implementation of site BMPs are required to be in compliance with this CGP. The SWPPP is a required tool for the discharger to use to organize information about the site/keep records. Information that demonstrates site compliance is required to be kept in the SWPPP. It is up to the discharger to decide what information to put in the SWPPP that demonstrates compliance. Many of the elements that were in the SWPPP requirements of the previous order 99-08-DWQ have now been added as direct permit requirements (e.g.: good housekeeping)
91	Section B.1.b. of Attachments C, D, and E of the April 2009 Draft CGP describes the use of BMPs for covering and berming stockpiles of various construction materials. Would the application of soil stabilizers qualify as "covering" for soil stockpiles?	The CGP does not recommend specific BMPs to be used on project sites scenarios.

COST

Commentor ID	Cost Comment Summary	Comment Response
22, 25, 45, 53, 56, 59, 87, 105,	Lack of Substantive Economic Analysis – The State Board's cost analysis for measuring turbidity and pH at construction sites does not take into consideration cost of labor to perform testing, training costs, transportation, consultant's fees if an outside consultant is used, or report writing. Additionally, the analysis does not address the likely exceedances, and the legal and administrative costs to the permittee. Cost analyses have also not been conducted for design storm compliance, bioassessment monitoring, and to comply with post-construction requirements.	Comment noted.

Commentor ID	Cost Comment Summary	Comment Response
56	Is it cost effective (for a large military facility) to require risk level 1 sites to inspect visually all drainage points 48 hours/2 business days before a rain event? Some of the rain events are forecasted inaccurately, which means a lot of work when there may not even be a storm coming. Therefore, each time a qualifying rain event is predicted, ALL storm water drainage areas, ALL BMPs, and ANY storm water containment area must be visually observed 48 hours before the event??	Commentor does not provide information to support a cost effective determination.
78	The administrative burden for the State Water Board to implement numeric limits will also be significant. The state should develop a cost estimate of administering this program prior to adoption to evaluate the workload that will be generated as a result of this rule. There will also be an impact on local governments as they may revise ordinances, programs and supporting materials and procedures of construction storm water management as a result of this permit. There is much lower administrative burden that will be associated with an action level approach. Action levels require a much less administrative effort from the state whilst adequately protective of water bodies.	Numeric Effluent Limitations will simplify the work required by staff and any person attempting to measure compliance (e.g. Federal, State, local government employees, members of the public). NELs also provide the discharger a better measure of overall site performance.
87	Commentor particularly apprehensive about the additional cost and enforcement of the proposed post-construction requirements contained in the draft. We oppose any efforts to require non-MS4 municipalities to be responsible for ensuring that post-construction requirements are maintained once a construction project is complete. If local governments are to oversee post-construction requirements at any time, we feel the Permit is not the appropriate vehicle to establish such a directive, but should be handled through CEQA revisions. This would allow local governments to oversee post-construction mechanisms from the beginning of the planning process.	This permit is often cited in CEQA determinations as the only means by which water quality impacts are to be mitigated, therefore we believe the CGP is the appropriate mechanism to enforce post-construction requirements.
112	We recommend the figure of$27,500 (civil penalty) in the proposed permit be updated to the current $37,500 (73 FR 75340, December 11, 2008) and also note the amount may be further adjusted in the future in accordance with the Federal Civil Penalties Inflation Adjustment Act.	Order, Section IV.R (Penalty Amounts) has been updated so the civil penalty is now $37,500 (73 FR 75340, December 11, 2008). Footnote: may be further adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act.

GRANDFATHERING OF EXISTING PROJECTS

Commentor ID	Grandfathering Comment Summary	Comment Response
22, 76, 107	Grandfathering Clause – Fact sheet states “Construction projects covered under Water Quality Order No. 99-08-DWQ that are beyond the design stages shall obtain permit coverage at the Risk Level 1.” Request clarification about projects that are “beyond design stage”	"Beyond design stage” was included in error, and has been removed from the fact sheet language.
25	Fact Sheet, page 12, Section II.D (Grandfathering) – Language should be revised to also state that existing linear projects have a grandfathering provision as described in Attachment A.2.	Section clarified to include grandfathering language for small linear construction. The Small LUP Permit (Order No. 2003-0007) will be rescinded when this Order becomes effective, and therefore the language in Attachment A.2 was also revised with grandfathering language consistent with the grandfathering language for traditional construction projects.
26, 45, 49, 54, 70, 76, 98	Although there appears to be a transition period mentioned in the permit, many of our construction projects span several years, and reassessment and adding new requirements on projects already reopened, scheduled, and budgeted will cause delays to or jeopardize economic recovery projects. Many construction projects will likely be Risk Level 2 or 3 sites requiring a significant amount of public resources (approximately three or more times the current effort) and will likely cause delays on construction projects. This will greatly impact the movement of goods and services. Dischargers suggest a remedy allowing projects that are "grandfathered" into the Level 1 risk, to continue at that risk level until completion of the project, rather than for the limited two year period.	Existing projects permitted under Order No. 99-08-DWQ will be grandfathered into the new CGP as Risk Level 1. This includes publicly funded (e.g.: schools) projects. If such project cannot be completed in the twoyear grace period, the discharger can always appeal to the Regional Water Board. A Grandfathering provision has also been added for the Post-Construction requirements to take effect three years after permit adoption, or at a later date at the discretion of the Executive Officer of the Regional Water Board.
37, 38	Finding 37 & Permit Section II.B.4.b Clarification is necessary on the definition for existing projects. As currently written the permit language does not provide the applicant with the necessary information to determine permit coverage since "beyond the design stage" is vague and subject to interpretation. Also, Regional Water Boards need to request changes in a timely manner after adoption of the permit. Wording changes are suggested as follows: "This General Permit grants an exception from the Risk Determination requirements for existing projects that have obtained a WDID under Water Quality Order No. 99-08-DWQ. For certain projects, adding additional requirements to these projects may not be cost effective. All Construction projects covered under Water Quality Order No. 99-08-DWQ that have obtained a WDID shall obtain permit coverage at the Risk Level 1. Within (30 days of approval of this order) the Regional Boards have the authority to require a Risk Determination to be performed on projects currently covered under Water Quality Order No. 99-08-DWQ where they deem it	An existing project is one with an active NOI (Notice of Intent) under State Water Board Order No. 99-08-DWQ. The definition of design stage varies between project entities, and therefore cannot be condensed into one definition. "Beyond design stage” was included in error, and has been removed from the fact sheet language. The findings have been revised to include two circumstances when it may be appropriate for the Regional Water Boards to require a discharger covered under 99-08-DWQ to recalculate the sites’ risk level. These circumstances are: (1) when the discharger has a demonstrated history of noncompliance with State Water Board Order No. 99-08-DWQ or; (2) when the discharger’s site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3

Commentor ID	Grandfathering Comment Summary	Comment Response
	necessary."	requirements.
42, 56	Grandfathering The grandfathering clause will allow for a fiscally responsible transition to the new COP. We request criteria for which Regional Board or State Board staff would request a risk assessment to a grandfathered project. Knowing the criteria, the City would be better able to prepare required documentation or coordinate project reviews in a fiscally managed process.	The findings have been revised to include two circumstances when it may be appropriate for the Regional Water Boards to require a discharger covered under 99-08-DWQ to recalculate the sites' risk level. These circumstances are: (1) when the discharger has a demonstrated history of noncompliance with State Water Board Order No. 99-08-DWQ or; (2) when the discharger's site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3 requirements.
1,18, 51, 55, 57, 61, 66, 69, 71, 72, 73, 74, 79, 80, 83, 84, 85, 86, 88, 90, 92, 95, 97, 100, 102, 104, 109, 110, 113, 114, 115	New regulations governing construction projects usually contain a "grandfathering" exemption so that construction projects do not have to be redesigned to meet requirements that did not exist at the time of state agency approval; and, state funded projects that have received their "full and final" apportionment do not have to be abandoned or delayed because funds are insufficient to complete the project. Without a "grandfathering" exemption for projects already in progress, millions of dollars will be spent in redesigning construction projects, school construction will be dramatically delayed, and many projects will be abandoned or scaled back until additional funding is obtained to pay for the increased project cost resulting from the revised Draft Permit requirements.	[Existing projects covered under 99-08-DWQ will be grandfathered into the new CGP as Risk Level 1. Also, Post-Construction requirements will take effect three years after the adoption date of the permit, or later at the discretion of the Executive Officer of the Regional Water Board.
53	Existing projects should continue coverage under the existing General Construction Storm Water Permit (General Permit). Districts recommend that a provision be made to allow existing projects to apply for an extension of the exemption for projects requiring more than two years after adoption of the Draft Construction General Permit to complete construction. For public agencies, construction work, as well as compliance with storm water regulations, is dictated by legal contracts between the public agency and the contractor.	We cannot legally have 99-08 in effect at the same time as the new order. Existing projects permitted by 99-08 will be grandfathered into the new CGP as Risk Level 1. This includes publicly funded (e.g.: schools) projects. Also, Post-Construction requirements will take effect three years after the adoption date of the permit, or later at the discretion of the Executive Officer of the Regional Water Board.post-construction

LEGAL COMMENTS

Commentor ID	Legal Comment Summary	Comment Response
1,18, 22, 49, 51, 55, 57, 61, 66, 69, 70, 71, 72, 73, 74, 79, 80, 83, 84, 85, 86, 88, 90, 92, 95, 97, 100, 102, 104, 109, 110, 113, 114, 115	Before the State Water Board can adopt the permit, it must take into account the factors set forth in Water Code sections 13241 and 13263, which include an analysis of "economic considerations" and the "water quality conditions that could reasonably be achieved."	We disagree. Because the Construction General Permit (permit) is an NPDES permit, there is no legal requirement to address the factors set forth in Water Code sections 13241 and 13263, unless the permit is more stringent than what federal law requires. (See *City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 618, 627.) None of the requirements in this permit are more stringent than the minimum federal requirements, which include technology-based requirements achieving BAT/BCT and strict compliance with water quality standards. The inclusion of numeric effluent limitations (NELs) in the permit do not cause the permit to be more stringent than current federal law. NELs and best management practices (BMPs) are simply two different methods of achieving the same federal requirement: strict compliance with state water quality standards. Federal law authorizes both narrative and numeric effluent limitations to meet state water quality standards. The use of NELs to achieve compliance with water quality standards is not a more stringent requirement than the use of BMPs. (State Water Board Order No. WQ 2006-0012 (*Boeing*).) Accordingly, the State Water Board does not need to take into account the factors in Water Code sections 13241 and 13263.
22, 78	The State Water Board exceeds its authority to require post-construction controls in a permit for construction site discharges.	We disagree. Both State and federal law allow for the regulation of post-construction discharges of storm water, and no law expressly precludes the inclusion of such controls in a general NPDES permit for construction activity. Post-construction controls are not a brand new regulatory mechanism in the permit. State Water Board Order No. 99-08-DWQ required post-construction controls in the SWPPP that were to be implemented at the time of termination. Under Clean Water Act section 402(a)(1), the State Water Board has the authority to regulate "the discharge of any pollutant, or combination of pollutants," which invariably includes post-construction discharges from construction sites. (See also Water Code section 13377.) The U.S. EPA also requires a discharger of storm water associated with construction activity to describe its "[p]roposed measures to control pollutants in storm

Commentor ID	Legal Comment Summary	Comment Response
		water discharges that will occur after construction operations have been completed . . . .” (40 C.F.R. § 122.26(c)(1)(ii)(D).) In order to protect the beneficial uses of surface waters from the impacts of storm water runoff, the State Water Board must control the long-term consequences of construction activity. When the natural landscape is converted into an impervious surface, rainfall is no longer absorbed by the soil; it becomes storm water runoff. And but for the occurrence of construction activity, there would be no impervious surfaces. We also believe that the discharger is the most knowledgeable about the construction site and the various best management practices necessary to control runoff once construction is complete. The discharger will realize significant savings in implementing post-construction controls because they are a more cost-effective, long-term solution than ongoing active treatment systems that may require subsequent physical modification. Accordingly, the permit is an appropriate mechanism to regulate post-construction discharges of storm water.
22	Post-construction requirements in the permit conflict with the powers of lead agencies in CEQA.	We disagree. The California Court of Appeal held in *County of Los Angeles v. State Water Resources Control Board* (2006) 143 Cal.App.4th 985, 1005, that Chapter 3 of CEQA does not apply to NPDES permits. In addition, Water Code section 13389 broadly exempts the State and Regional Water Boards from the requirements of CEQA when adopting “any waste discharge requirement” pursuant to Water Code Chapter 5.5 (which applies to NPDES permits). (Wat. Code § 13389; State Water Board Order No. WQ 2000-11.) Because post-construction requirements are part of the permit, and because this is an NPDES permit, there is no conflict with CEQA. Moreover, because California has federal approval to issue the permit, the State Water Board retains discretion to impose appropriate water pollution controls, and is not limited by local agencies’ land use laws in order to ensure compliance with State water quality standards and the Clean Water Act. (See, e.g., *Building Industry Assoc. of San Diego County v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 883-84.)

Commentor ID	Legal Comment Summary	Comment Response
22	The State Water Board must respond to comments on prior drafts of the permit that were submitted in 2007 and 2008.	We disagree. There is no legal requirement to respond to comments on prior actions of the State Water Board; the State Water Board is only required to respond to comments on the adopted permit. There is no reason for us to respond to comments on prior draft permits because those draft permits were not the bases of the hearing or the final adopted permit.
22	Because the numeric effluent limitation (NEL) for turbidity ignores the naturally occurring levels of sediment in the water, the NEL violates the Clean Water Act because it will force a discharger to cause pollution of receiving waters. Also, naturally occurring turbidity/pH is not considered an anthropogenic "addition" of a pollutant, and thus does not constitute a "discharge of a pollutant." Therefore, the discharger has no legal responsibility to control these pollutants.	We disagree. The commentor confuses technology-based numeric effluent limitations with receiving water limitations. Technology-based numeric effluent limitations only impose limits on the effluent, and not the receiving water. Therefore, a Risk Level 3 discharger does not need to take into account the naturally occurring turbidity and pH in the receiving water in order to ensure that its effluent satisfies the respective NAL or NEL.
22	The NEL for pH is unjustifiably vague and overly broad.	We disagree. The NEL for pH is a very specific numeric range: from 6.0 to 9.0. The NEL for pH is also narrowly applied to only Risk Level 3 dischargers.
22	In its comments on the U.S. EPA's proposed national effluent limitation guidelines for the construction and development industry, the State Water Board urged the U.S. EPA not to mandate a numeric effluent limitation for all construction sites. Therefore, the State Water Board cannot justify proposing a turbidity NEL when it publically urged the U.S. EPA not to take such an approach.	We disagree. The State Water Board is not bound by any earlier comments made by its staff. Moreover, this commentor has not only taken the State Water Board staff's comment to the U.S. EPA out of context, but the above claim is also irrelevant to the adoption of the California construction general permit. State Water Board staff was responding to the U.S. EPA's proposal to establish a nationwide NEL of 13 NTU applicable to all construction sites. State Water Board staff commented to the U.S. EPA that an across-the-board NTU of 13 is too stringent for a variety of reasons. State Water Board staff urged the U.S. EPA to "allow a mechanism for adjusting (upwards) or eliminating this numeric effluent limitation [of 13 NTU] in circumstances where discharges containing turbidity at or below 13 NTU could cause receiving water impacts." The commentor chose to quote this sentence, but leave out any reference to the 13 NTU, and instead include a reference to this permit's 500 NTU. Clearly, State Water Board staff was referring to the U.S. EPA's proposed NEL of 13 NTU that would apply to all sites, and not this permit's NTU of 500 for only Risk Level 3 sites. The commentor's claim is also irrelevant because our letter to the U.S. EPA concerned a *national* effluent limitation guideline. Comments received on this *statewide* general

Commentor ID	Legal Comment Summary	Comment Response
		permit for construction activities should be limited to this permit only.
22	The permit confers unfettered discretion upon the Regional Boards to terminate permit coverage and modify permit terms without notice or due process.	We disagree. The Regional Boards' authority to terminate coverage for failure to comply with the permit's requirements is part of the Regional Board's long-established directive to implement and enforce the permit. However, the State Water Board has limited the Regional Boards' discretion with respect to requiring a discharger to recalculate its risk level. (See Finding #37.)
22	The State Water Board cannot justify imposing numeric effluent limitations using the standard of best professional judgment.	We disagree. There are two approaches for developing technology-based effluent limitations: (1) national effluent limitation guidelines (ELGs) issued by the U.S. EPA; and (2) in the absence of ELGs, limitations developed on a case-by-case basis using best professional judgment (BPJ). (Clean Water Act § 301(b).) The U.S. EPA has not yet issued an effluent limitation guideline for storm water. Without an applicable effluent limitation guideline, the State Water Board must use its BPJ in order to develop a technology-based effluent limitation. Over the years, we have compiled reams of information and data on storm water in California. With this information, we have carefully applied our BPJ to develop technology-based effluent limitations for pH and turbidity in storm water. Once the U.S. EPA issues an effluent limitation guideline for storm water, then we will follow that guideline.
23	Pursuant to *Friends of Pinto Creek v. EPA,* 504 F.3d 1007 (9th Cir. 2007), the permit cannot authorize any new discharges to water bodies listed as impaired by any pollutant likely to be found in storm water discharges associated with construction or land disturbing activities.	We disagree. *Friends of Pinto Creek* does not apply to this permit because the permit already prohibits storm water discharges and authorized non-storm water discharges from causing or contributing to an exceedance of any applicable water quality objectives or water quality standards. Moreover, the permit does not allow any amount of sediment in excess of the pre-development discharges of sediment to be discharged into receiving waters.
24	The permit creates unintended confusion as to coverage for surface mining activities. Because surface mining operations (active and inactive) are covered under the Industrial General Permit, the permit should set forth a general exclusion for mining facilities operating under the Industrial General Permit.	The comment is noted. When the Industrial General Permit is revised, we will make sure to address this confusion. Until then, it is up to the discharger to decide whether it needs to file for coverage under the Construction General Permit.
25, 27, 56, and	The routine maintenance exemption is too restrictive and needs to be expanded	We agree. The routine maintenance exemption in finding #24 has

Commentor ID	Legal Comment Summary	Comment Response
numerous other commentors	to include other activities, such as routine military training activities and range maintenance on federal lands.	been modified to be consistent with 40 C.F.R. § 122.26(b)(15)(i). This exemption is now broader and applies to many more activities.
27	This is the first time that the statewide CGP applies to oil and gas facility construction discharges. This places a substantial burden on members to "get up to speed." Requests a workshop to explain permit requirements to oil and gas facility owners and operators and extend comment period so newly regulated oil and gas community can provide more informed comments. Also requests that the State Water Board provide a phase-in period for oil and gas facilities.	This is incorrect. Oil and gas construction facilities that discharge storm water contaminated with overburden, raw material, and other products (including sediment) have been subject to the permit since at least 2005, when section 323 of the Energy Policy Act amended the CWA by adding construction activities to the definition of oil and gas exploration and production operations or facilities. Moreover, State Water Board No. 99-08-DWQ did not specifically exempt oil and gas construction facilities from permit coverage. From June 2006 through November 2008, sediment-only discharges were excluded from permit coverage, however this rule was vacated by the Ninth Circuit Court of Appeals in *Natural Resources Defense Council v. U.S. E.P.A.* (9th Cir. 2008) 526 F.3d 591. Therefore, the requirement to obtain permit coverage for an oil and gas construction facility that discharges *contaminated* storm water is old news, and so there should be no reason why oil and gas construction facilities would have to "get up to speed." The only significant change for an oil and gas construction discharger is that it must now obtain permit coverage for sediment-only discharges. As the commentor correctly points out, the permit regulates two types of discharges from oil and gas construction facilities: (1) discharges contaminated only with sediment; and (2) discharges of storm water that become contaminated by contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the construction site.
28	The term "landowner" is too restrictive for the permitting of joint development projects. An "Expanded Landowner Permitting Model" should be incorporated into the permit: the meaning of "landowner" should be modified to include a party holding a property interest that is less than fee title, such as an easement holder or licensee.	This comment is noted. In light of the complexity of real estate transactions, the State Water Board will consider this proposal in future permit actions. Meanwhile, the State Water Board will continue its long-time policy and practice of requiring the landowner to file for the NOI.
32	A discussion of the potential applicability of mandatory minimum penalties and civil liability should be included into a separate finding. Finding number 56 notes that numeric effluent limit exceedances are violations of the General	We disagree. There is no legal requirement that the laws regarding mandatory minimum penalties and civil liability be included in the permit. The State Water Board is currently in the

Commentor ID	Legal Comment Summary	Comment Response
	Permit, but does not discuss the application of mandatory minimum penalties, pursuant to Water Code section 13385. The fact sheet must also be revised accordingly.	process of adopting a Water Quality Enforcement Policy, which was prepared by the Office of Enforcement. If a discharger has questions about the application of penalties and the potential for civil liability, then those questions will be answered in this enforcement policy.
103	For oil and gas construction activities, the permit language can be misinterpreted to mean that the discharge of any quantity of sediment triggers the need for a permit. This is not accurate, as permit coverage is only triggered when an oil and gas transmission project causes an exceedance of a water quality standard.	We disagree. Permit coverage is required for both actual and *threatened* exceedances of a water quality standard.
106	The State Water Board does not have the legal authority to adopt an Order that explicitly authorizes the practice of civil engineering by persons who are not registered or licensed as civil engineers. Allowing non-registered persons to perform civil engineering functions violates the Professional Engineers Act and the Administrative Procedure Act.	We agree. We do not have the legal authority to adopt an Order that explicitly authorizes the practice of civil engineering by persons who are not registered or licensed as civil engineers. In keeping with our view, nowhere in the permit do we expressly state that unregistered or unlicensed civil engineers are allowed to do work required of a registered or licensed civil engineer. To the extent that work on a construction site requires civil engineering, we assume that the discharger will only hire a registered or licensed civil engineer, and not, for example, a geologist or landscape architect. Moreover, if a discharger hires someone who is not a registered or licensed civil engineer, we assume that he or she will not practice civil engineering. In an abundance of caution, however, we have (1) included a finding in the Order that the Professional Engineers Act requires all engineering work to be performed by a California licensed engineer; and (2) removed the provision that a person can be a Qualified SWPPP Developer if he or she has a minimum of five years experience in developing SWPPPs for construction sites.
106	The electronic certification under penalty of perjury is too broad and contains opinions that are not a proper subject of certification. Moreover, the scope of statements made under penalty of perjury must be limited to factual representations, not opinions. The language in subdivision J contains opinions.	We disagree. The certification we use is a statement that is required by federal law in 40 C.F.R. section 122.22(d).
107	Do mandatory minimum penalties apply to a Risk Level 2 or 3 site that exceeds an NEL during an extended rain event and is required to conduct sampling twice a day for every day that it rains?	The General Permit will remove any language that does not comport with a "storm event, daily average" approach, Therefore, dischargers subject to an NEL are still subject to mandatory minimum penalties for an exceedance of an effluent limitation, but will accrue only one (1) numeric effluent limitation-related violation

Commentor ID	Legal Comment Summary	Comment Response
		per day, regardless of how many samples are taken to characterize the effluent.
112	Finding number 23 incorrectly suggests that emergency construction activities are exempt from NPDES permit requirements. While the Construction General Permit may not be the appropriate mechanism for emergency construction activities, the finding should clarify that such activities are not exempt, and that the Regional Boards may use their enforcement discretion in determining appropriate permitting requirements in emergency situations.	We agree. The permit has been revised accordingly and we have removed the exemption. However, to accommodate public emergencies that require immediate construction, the permit provides a thirty-day grace period for the filing of permit registration documents.
112	Finding number 21 does not fully describe the requirements for permitting of construction activities at oil and gas exploration, production, processing, or treatment operations, or transmission facilities. Moreover, pursuant to 40 C.F.R. 122.26(c)(1)(iii), these types of activities would be subject to the Industrial General Permit, not the Construction General Permit. Finding 21 should be moved into Section C of the Findings which lists activities not covered by the General Permit. Footnote #2 should also be deleted.	The State Water Board does not agree that oil and gas construction activities discharging storm water contaminated only with sediment are subject to the Industrial General Permit instead of the Construction General Permit. Section 122.26(c)(1)(iii) only states that "[d]ischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit." This section mentions that such activities are subject to a storm water general permit, and does not mention a specific type of general permit. Regarding footnote #2, the comment is noted.

MAINTENANCE

Commentor ID	Maintenance Comment Summary	Comment Response
25, 26, 29, 33, 45, 50, 59, 62, 89, 91, 101	The definition of routine maintenance is more complex and restrictive than the definition for the same term in Order 99-08. EPA does not limit "routine maintenance" to "only road shoulder work, dirt or gravel road re-grading, or ditch clean-outs." See, e.g., 64 FR 68722, 68773; federal CGP for Large Construction Activity, App. A (definitions). To eliminate the inconsistency, the sentence purportedly limiting routine maintenance ("only to shoulder work, dirt or gravel road re-grading or ditch clean-outs") should be deleted.	The routine maintenance exemption language has been revised to be consistent with the U.S. EPA regulations.

MONITORING

Commentor ID	Monitoring Comment Summary	Comment Response
20, 22, 25, 29, 30. 33, 36, 39, 45, 47, 50, 53, 62	Receiving Water – remove Receiving water sampling, other than where a direct discharge occurs, could be costly, involve safety and trespass issues, and has little scientific value in isolating the impacts from a construction site's discharge water on receiving water.	Sampling of the receiving water is only required of Risk Level 3 and LUP Type 3 sites who exceed their NEL and have a direct discharge to receiving waters. Once a site exceeds its numeric limit, there is a potential threat to water quality.
20	Page 16 10.a. ii Visual inspections are to be made during daylight hours. In other Permit sections inspections should be during working hours. Which is correct, day light or business hours?	Business hours.
20	Page 13, 4. f. A 5 day notification required. If SSC and Bioassessment analysis is required results will require two to three weeks for lab analysis.	The 5-day notification requirement applies to field samples.
22	Section I.2: Do weekly and storm event inspection forms need to be certified by the inspector or LRP? Will these weekly and rain event inspection forms need to be certified with the statement contained in Section 4.J?	Visual monitoring records shall be certified by the trained storm water inspector. Any sampling and monitoring records included in the Annual Report shall be certified by the LRP during submittal of the Annual Report.
22	Attachment C, Section I.6.a.ii – The statement suggests that dischargers do not need to monitor non-storm water discharges during regular weekly inspections. Dischargers are required to install non-storm water BMPs to protect against erosion and the discharge of pollutants. Dischargers are required to observe all in place of BMPs during regular inspections. Inspecting non storm water BMPs is part of a "normal" inspection process and we question the inclusion of this permit language. Recommend deleting Section I.6.a.ii since non-storm water BMPs are already included in weekly inspections.	Comment Noted. Quarterly inspections are required specifically to address non-storm water discharges. During regular inspections of BMPs, if non-storm water discharges are found, they should be sampled.
22	Attachment C, Section I.4 – The exemptions for visual observation and sample collection clause is confusing and should be incorporated into the previous section, I.3. Since no sampling is required at risk level 1 sites, suggest renaming the section as Visual Observation Exemptions.	Section I.4 has been renamed to "Visual Observation Exemptions"
22	Attachment D, Section I.10.b.i (Effluent Sampling Locations) – When do dischargers perform the "non-storm water and/or authorized non-storm water" sampling? At quarterly inspections? At regular inspections? What if there is not sufficient volume to sample? Recommend clarification of when sampling is to occur and what flow conditions trigger monitoring.	Dischargers are required to conduct visual observations for (authorized or unauthorized) non-storm water discharges quarterly and shall sample effluent at all discharge points where non-storm water and/or authorized non-storm water is discharged off-site.
22, 25	(Particle Size Analysis) – Commenter is not familiar with "justifying an alternative project risk" process or procedure, and seeks clarification on this process and how sediment basin performance relates to this process.	During the project Risk Determination process, an alternative to the sediment risk assessment provided by the State Water Board in the permit is to conduct a sitespecific sediment risk assessment which includes a Particle Size Analysis.

Commentor ID	Monitoring Comment Summary	Comment Response
22	Attachment E, Section I.17 – There is no justification for a 30-acre trigger for bioassessment monitoring. Request clarification and an explanation of why 30 acres was selected as a trigger. It is unlikely that the bioassessment could differentiate an impact of a construction project from an impact of natural variability or processes occurring within a given watershed over such a short time period as biology from impacts caused by large storm events, a variety of ambient factors including other processes occurring in the same watershed, or by the construction project itself. How will the assessment be used by the State Water Board? Will any follow up reporting be required? What will the outcome be if effects are noted? Recommend deleting Bioassessment monitoring requirement	30 acres was used as the trigger to be consistent with the US EPA's description of projects that pose a significant risk to water quality (Effluent Limitation Guidelines http://www.epa.gov/guide/construction/proposed/index.html#reqs). The assessment will be used (in conjunction with SWAMP) to link the effects of construction on stream biota and health. In the event that a link to stream degradation took place and is linked to a construction project, enforcement may follow.
23	Monitoring Requirements Must Be Expanded to All Dischargers – The monitoring requirements should be expanded to ensure the goals of the Draft Permit and water quality standards are being met	Comment Noted. The CGP is structured such that monitoring requirements are appropriate to a project site's risk to water quality.
25	Fact Sheet, page 20, Section II.I.1.a (Qualifying Rain Event) – Clarify the meaning of "…at the time of discharge." Additionally, is the ½ inch over a specified number of hours, a calendar day, etc.. and from what starting time?	Statement has been revised to state "For this requirement, a qualifying rain event is one producing precipitation of ½ inch or more of discharge."
25	Permit page 10, Finding 57 (Receiving Water Limitations) – This statement infers that a receiving water standard may be the de facto discharge limit when it is the more restrictive of the two limits. Receiving water limits are not necessarily effluent limits and the permit should make this clear.	Comment Noted. Receiving water limitations are considered water quality based effluent limitations.
26	Attachment C, 4.a.ii, p.9 Normal Business Hours Define "normal business hours". Our projects sometimes are constructed during nights and weekends only. Are normal business hours Monday through Friday, 9 a.m. to 5 p.m.?	Comment noted, language changed. Business hours are anytime work is being conducted on the site.
26	Attachment D, Section 1.4.c, p.12 At minimum, Risk Level 2 dischargers shall collect three samples per day. If rainfall starts at the end of the day, three samples will not be collected. Caltrans suggests that clear protocols be developed regarding all aspects of the sampling and monitoring, before being subject to application of numeric permit compliance measures.	Three samples are required for averaging purposes.
26	Attachment E. Section 17, p.22 Appendix 5 Bioassessment Monitoring Requirements appears to be duplicative of the requirements under CEQA. Is the required monetary bioassessment mitigation requirement intended to serve as a programmatic means of project level mitigation of environmental impacts? Would landscape projects be exempted from this requirement if there were no/minimal change in pervious surface? The exact amount of fee payable to Cal State Chico Foundation is unclear. The website link on p.2, second paragraph is not	Bioassessment is not a mitigation, but a snap shot of the condition of the receiving water before the construction project (Risk Level 3 site over 30 acres) begins and a follow up set of samples after the project is complete. Projects under the CGPdo not all go though CEQA. A landscape project would have to do bioassessment if it is required to be permitted by the CGP, is projected to be over 30 acres, and is a Risk Level 3 project. The

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	accessible.	link is a place holder for the completed map of the State of California's sampling times for benthic organisms (based on eco regions).
29	CASQA suggests that the Construction Site Monitoring Program requirements be issued in a format modifiable by the Executive Director (ED). The monitoring and reporting requirements of most WDRs/NPDES permits are issued as a separate document, with the specific provision that the ED may make modifications. This is important for monitoring programs, which may need to be adjusted during the term of a permit. Authorizing the ED to approve these changes allows a less burdensome process as the program goes through its initial learning curve.	An Executive Director can authorize additional monitoring requirements through the issuance of a separate order.
29	Bioassessment Similarly, bioassessment requirements for projects located at a significant distance from the receiving water do not add value or information about the impacts of the individual construction sites on the receiving waters. CASQA recommends that bioassessment monitoring requirements be eliminated from the permit entirely. If it is retained, this requirement should be limited to projects meeting all of the following criteria: • Risk Level 3; and • Disturb more than 30 acres; and • Receiving water is within the boundaries of the project or immediately adjacent to the project site.	Language has been changed to state that projects are subject to bioassessment if they are Risk Level 3, are over 30 acres, and have a direct discharge to the receiving water.
29	Monitoring CASQA recommends that item I.5.b from Attachments D and E be deleted from each of the Construction Site Monitoring Program (CSMP) (i.e., delete the requirement to collect effluent samples at all discharge points). This deletion will allow dischargers to design CSMPs that are representative of a site's effluent discharges, without necessarily mandating every location be sampled. CASQA believes that the frequency of monitoring is excessive. In essence, the Draft CGP requires construction sites to sample effluent every day of every qualifying event. CASQA recommends that the sampling frequency be limited to a maximum of two qualifying events per month.	The intent of the monitoring language is for dischargers to ensure that storm water discharge collected and observed represent the flow an characteristics of the discharge off the project.
30	We continue to have serious concerns that the currently proposed "self monitoring" proposal has the potential to be similarly abused. A Board-sponsored construction storm water sampling program, funded in part by dischargers, would likely generate higher quality data that could be used to maximize the protection of receiving water quality.	Nothing in the CGP prevents the creation of supplemental sampling efforts, and in fact the permit provides relief for those dischargers who chose to participate in regional or watershed based monitoring programs.
32, 34, 45, 59, 62,	Risk 2 & 3 sampling frequency language confusing. The table indicates first hour plus samples from first and last hour of every day of normal operations ...minimum 3 samples per day. We feel it is better to require the discharger collect 3 samples per day during rain events equal to or exceeding 1/2 inch or	Sampling requirements have been revised to state that a "Minimum of 3 samples per day characterizing discharges associated with construction activity from the entire project disturbed area."

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	more. This would apply to storm events that cause discharge and those discharges occurring during normal operations. Discharge periods lasting beyond one or more days must have samples collected during the first and last hour of normal operations, plus one mid-day sample. The General Permit needs to insure samples are collected and stored without exceeding hold times or conditions. According to latest EPA guidelines, pH hold time is limited to 15-minutes; turbidity 48-hours at 4°C.	
32	Fact Sheet - Page 23, I.d.i., Bioassessment Monitoring: We recommend that State Board storm water staff have all bioassessment sections of this General Permit reviewed by the SWAMP Bioassessment Coordinator, Pete Ode.• For example, in Section I.d.i of the Fact Sheet - Bioassessment Monitoring, it states that "Higher levels of appropriate aquatic species tend to indicate a healthy stream; whereas low levels of organisms can indicate stream degradation." Though this is approximately true, the language is awkward. "Level" implies concentration at a minimum this statement should be edited to say "higher numbers or percentages of appropriate aquatic species." The process of using benthic organisms to determine stream health is quite a bit more complex, and involves calculation of various metrics, combining these metrics into single scores that are used for that Ecoregion's Index of Biotic Integrity, and determining if scores are significantly different from upstream or pre-construction condition. Pete could help draft the language where bioassessment is mentioned throughout the permit. The Permit should specify the metrics that must be applied and bioassessment compliance limits. It's not clear whether the dischargers will be allowed any decline in scores from upstream to downstream, or pre- to post- construction, or how the data will be used to show accountability. Also, though it is clear in Bioassessment Appendix 5, it is unclear in the Fact Sheet that both upstream/downstream and pre-construction/post-construction monitoring are required. We assume this means four sites in total. It should be clarified in the Fact Sheet. Bioassessment sampling requires trained field crews who know what they are doing. Without training, the dischargers themselves are not capable of doing this monitoring successfully. Having SWAMP-trained field samplers do this work should be part of being "SWAMP Comparable" and should be a requirement of the General Permit. Another facet of SWAMP Comparability is that data be collected under a SWAMP approved Quality Assurance Program Plan (QAPP). These are non-trivial documents to develop. The Storm Water Program should either make sure that a robust template QAPP on bioassessment and other monitoring components is available online for adapting by various projects or they should encourage an approach where dischargers	Pete Ode helped develop the requirements in the Appendix 5 along with Tom Suk. Appendix 5 as well as the Fact Sheet state that the bioassessments must be done in accordance with SWAMP, "level" language in the Fact Sheet has been changed. We are not requiring the completion of a QAPP or the submittal of one. The dischargers are not to do the bioassessments themselves; if they are not trained, then they would not be doing the assessments in compliance with SWAMP. The number of samples depend on the number of discharge points into the receiving water. It could be one discharge point, it could be several. The idea is 4 samples per discharge point (2 preconstruction, 2 post-construction).

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	pay fees to Chico State (or another single entity) to do the monitoring for them under an already approved QAPP. This would result in far better quality data and in a consistent format.	
34	Attachment C, Section 1.8 Page 11 "Risk Level 1 dischargers utilizing a sediment basin and/or justifying an alternative project risk shall report a soil particle size analysis, using test method ASTM D-422 (Standard Test Method for Particle-Size Analysis of Soils), as revised, to determine the percentages of sand, very .fine sand, silt, and clay on the site. The percentage 0.1 particles less than 0.02 mm in diameter must also be determined. Comment: On larger construction sites, soil characteristics may vary considerably with location and depth. It may be appropriate to provide explanation that for designing sedimentation basins, particle size analysis of the predominant exposed soil layers during each phase of grading and construction within drainage areas discharging to that sedimentation basin should be considered.	The sediment basin design requirements have been eliminated from the permit, and are now incorporated in CASQA's updated Construction BMP Handbook.
37	Finding 61. What is the basis for requiring bioassessment monitoring since there does not appear to be any way to correlate the data that will be collected with the ambient conditions? What is the basis for requiring projects greater than 30 acres to perform bioassessment?	The basis is that construction sites that are large and high risk (Risk Level 3) have the potential to discharge large amounts of sediment that can be detrimental to aquatic life. The 30acre limit was used as the trigger to be consistent with the US EPAs description of projects that pose a significant risk to water quality (Effluent Limitation Guidelines http://www.epa.gov/guide/construction/proposed/index.html#preqs). The assessment will be used (in conjunction with SWAMP) to link the effects of construction sediment pollution on stream biota and health. In the event that a link to stream degradation took place and is linked to a construction project, enforcement may follow.
39	Revise the General Permit to require sampling only during daylight hours when it is safe to do on normal working days. Sampling during the first hour of a storm event may not be practical.	Comment Noted. Sampling is required during business hours.
40	Effluent Monitoring We support the inclusion of effluent monitoring requirements that focus on providing information to the discharger and regulator to use in the evaluation of BMP implementation. However, we suggest that a daily average discharge concentration be used to assess compliance with the NAL and we support using a statistical approach to evaluate effluent data to assess compliance with Action Levels.	Permit language has been revised to clarify that daily averages are required to assess compliance with NALs.
40	We appreciate that the state has focused receiving water monitoring requirements on Risk Level 3 sites where there has been an exceedance of an	Nothing in the CGP prevents the creation of supplemental sampling efforts, and in fact the permit provides relief for those

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	effluent limitation. However this does not fully address the concerns regarding the utility of the monitoring information for project sites that are significantly distant from the receiving water. Most of the runoff from construction sites in Oxnard discharges into public or private storm drains which are commingled with runoff that may include discharges from open space, urban runoff, industrial sites, other construction sites, and agricultural lands. This type of monitoring would be better conducted by a defined state directed project, such as the Surface Water Ambient Monitoring Program (SWAMP) or Total Maximum Daily Load (TMDL) based monitoring program.	dischargers who chose to participate in regional or watershed based monitoring programs.
40	Similarly, the bioassessment monitoring requirement would also be better suited to the SWAMP or TMDL programs rather than a condition of the GCP. However, if it is included in the GCP, we recommend that this type of monitoring be restricted to project sites disturbing greater than 30 acres, that have a Risk 3 level, and are adjacent to environmentally sensitive areas or to a 303(d) listed water body.	To be a Risk Level 3 you are discharging into sediment sensitive waters, that is why (if over 30 acres) bioasessment is required.
42	Monitoring The City continues to be concerned about safety, access, data reliability and cost of monitoring receiving waters, or in a Municipal Separate Storm Sewer System (MS4). Because of potential data reliability issues, the City is concerned that improperly gathered or analyzed data may result in future impairment listings or unsubstantiated costs for remediation. Therefore, the City recommends in-lieu fees to fund a new Receiving Water Monitoring Fund, either held by the State Water Board or managed directly by the local agencies. Use of the funds would be limited to monitoring receiving waters directly impacted by the project.	Nothing in the CGP prevents the creation of supplemental sampling efforts, and in fact the permit provides relief for those dischargers who chose to participate in regional or watershed based monitoring programs.
44	Fact Sheet, Section II.I.1.b, page 20 “Monitoring for non-visible pollutants must be required at any construction site…” Text in draft permit states this monitoring only occurs if exposure is observed during visual inspection, but the Draft Fact Sheet indicates that monitoring shall occur at any construction site when the exposure of construction materials occurs and where a discharge can cause or contribute to an exceedance of a water quality objective. Please clarify	Non-visible pollutant monitoring is required during any breach, malfunction, leakage, or spill observed during a visual inspection which could result in the discharge of pollutants to surface waters that would not be visually detectable in storm water.
44	Attachment C, Section I, page 7 Attachment D, Section I, page 10 Attachment E, Section I, page 10 Table 1: “Monthly” Non-Storm Water Discharge Visual Inspection This is required on a “quarterly” basis in other sections of the attachment and fact sheet	Tables revised to say "quarterly."
44	Attachment E, Section I.4.h, page 13 At what frequency shall sampling of RWs occur?	There is no frequency for receiving water sampling established. The requirement is for receiving water monitoring to be conducted at Risk Level 3 project sites with an exceedance of an

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		NEL and with a direct discharge to receiving waters.
44	Attachment E, Section I.17.b.iv, page 22 “Invest $7500.00 x The number of samples required” This amount seems exceptionally high compared to current costs associated with Bioassessment monitoring. What is the basis for such a high cost?	It costs the Surface Water Ambient Monitoring Program (SWAMP) $7,500 to obtain one reference sample. Since this in-lieu money will be spent on obtaining reference samples, this is the amount we estimate to be needed by our partners at Chico State University.
44	Attachment C,D,E (Non-Visible Pollutant Monitoring Requirements) It is unclear from the text whether samples are collected if there is no rain event. Please clarify.	Non-visible pollutant monitoring is required during any breach, malfunction, leakage, or spill observed during a visual inspection which could result in the discharge of pollutants to surface waters that would not be visually detectable in storm water.
45	San José continues to recommend that such monitoring be conducted outside the Permit as a comprehensive, programmatic effort since the impacts in the stream cannot be related directly to the project and is better done on a watershed level.	Nothing in the CGP prevents the creation of supplemental sampling efforts, and in fact the permit provides relief for those dischargers who chose to participate in regional or watershed based monitoring programs.
45	The Permit provides no direction on how a watershed-based monitoring program would be qualified and what participation would be required. San José again recommends that this provision be clarified or addressed outside of the Permit in a comprehensive programmatic effort.	Comment Noted
52	Table 5 indicates samples must be taken in the first hour of any new discharge and at during the first and last hour of each work day. It also specifies a minimum of 3 samples per day. This minimum does not appear to be appropriate. If a new discharge begins during the middle of the work day, a sample would not have been collected at the beginning of the day. If a new discharge continues through subsequent days, samples can be collected during the first and last hour of each work day, but not within the first hour of discharge. Therefore, it appears the minimum number of samples per day should be 2, not 3.	Sampling requirements have been revised to state that a “Minimum of 3 samples per day characterizing discharges associated with construction activity from the entire project disturbed area.”
52	Is discharge sampling required when a project has been stabilized for the winter and no construction operations are occurring?	Discharge sampling is required for all Risk Level 2 & 3 sites until a Notice of Termination is filed and approved.
52	Instead of using the term Suspended Solids Concentration (SSC), the use of standard terminology such as Total Suspended Solids (TSS) would be more appropriate.	Testing for Suspended Solids Concentration (SSC) is not the same lab protocol as Total Suspended Solids and they are not equal. TSS does not include the dissolved fraction of sediments in the water column so was not used as the test method in the CGP.
52	Please clarify the definition of "Whether a project drains to a sediment-sensitive.	The CGP defines a direct discharge as “a discharge that is

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	Water body." Does this mean drains directly to or is located within the watershed of a sediment-sensitive water body? If this is based on the watershed, is it the watershed of the closed assessed water body? For example the Clear Lake watershed is not sediment impaired, nor does it have MIGRATORY as a beneficial use, while it drains to the Sacramento-San Joaquin Delta, which has beneficial uses of COLD, SPAWN and MIGRATORY beneficial uses. Does the Clear Lake watershed "drain to a sediment-sensitive water body"?	routed directly to waters of the United States by means of a pipe, channel, or ditch (including a municipal storm sewer system), or through surface runoff." During the electronic PRD submittal process, GIS maps of watersheds designated as high receiving water risk will be provided.
53	The requirement for benthic macro invertebrate bioassessment prior to commencement of construction activity and after project completion (Attachment E, Section 17 and Appendix 5) for Risk Level 3 is inappropriate. Since the intent of this monitoring appears to be associated with increased sedimentation concerns, requiring in stream conditional habitat monitoring would be appropriate, but the macro invertebrate collection and subsequent taxonomic identification is unnecessary. Additionally, regional and site specific bioassessment monitoring is already in widespread use through NPDES permitting and various regional and statewide monitoring programs. Any need for long-term macro invertebrate community monitoring data should utilize these already existing programs.	We agree and will support the use of existing stations and data where appropriate.
56	While data collection is necessary for future decision-making, the amount of sampling/data collection required by this permit is onerous and should be reduced. Such sampling and analysis requires expertise not normally found on a construction site, creating a potentially significant financial burden. A summary of sampling requirements in the permit include: Bioassessment monitoring, NAL exceedance sampling, receiving water monitoring, particle size analysis. Run-on sampling requirements, A TS toxicity testing and continuous flow monitoring.	Comments noted.
56	J - Sampling, Monitoring, Reporting and Record Keeping J-61 (rev. 62): For Risk Level 3 sites larger than 30 acres this General Permit requires bioassessment sampling before and after project completion to determine if significant degradation to the receiving water's biota has occurred. Bioassessment sampling guidelines are contained in this General Permit. -This section indicates that the purpose of Bioassessment Monitoring is to "determine if significant degradation to the receiving water's biota has occurred", however it does not indicate the ramifications of such a determination. - Bioassessment Monitoring should be dropped from the Permit altogether. "Snapshot" data collection is statistically insignificant and indefensible, and cannot responsibly be used to draw conclusions or make decisions. Additionally, benthic data is notoriously variable (seasonally, annually, location within stream and dependent upon	Comment Noted. Every type of sampling/monitoring has variation. The CGP has specified what time of year to take the sampling depending on what area of the state in a GIS map of the State of California's Eco Regions. This will allow for less variability in the sampling.

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	weather and the person collecting the sample) and requires multiple years of data collection and expert analysis.	
56	J-62 (Rev 63): A summary and evaluation of the sampling and analysis results will be submitted in the Annual Reports. Requiring submittal of Annual Reports is duplicative and unnecessary. This reporting requirement should be eliminated. The SWPPP has traditionally been the center of the construction program and should remain so.	Submittal of Annual Reports to the State Water Board is necessary for dischargers to demonstrate compliance with the CGP.
56	16a-ii, Table 1: RL1 dischargers shall conduct one visual observation (inspection) quarterly.... Table 1 indicates monthly monitoring requirements; I6a-ii indicates quarterly. Is one or both correct and why.	Risk Level 1 dischargers are required to conduct visual non-storm water discharge inspections quarterly.
56	Attachment E 1-4: Storm Water Effluent Monitoring Requirements: Why should risk level 3 projects keep sampling receiving water if the first sample is clean? More information needed	Receiving water monitoring is required for Risk Level 3 dischargers that have exceeded an NEL and have a direct discharge into receiving waters.
65	Bioassessment Clarification It is not apparent the rationale for requiring bioassessments, as the main goal of the DCGP is to minimize the effects of erosion and sediment. We understand that the Blue Ribbon Panel recommended bioassessments, but that was only in the context of sites that use (ATSs) where polymers and coagulants are used. Bioassessment has not been conducted as a regular part of storm water management on construction sites, and we fail to see why it should be required outside of ATS use if the goal and benefit assessment of the DCGP is sediment reductions. Graniterock requests that the bioassessment requirement be removed or modified to: - Be a requirement only if chemical treatments are used as part of an ATS direct discharge into a water body listed as impaired for sediment. - Clarify who would be required to conduct bioassessment - Clarify bioassessment guidelines. The guidelines provided in Appendix 5 do not provide sufficient details, and some key referenced information (such as when to conduct bioassessment sampling) is not available to the public due to broken website links. - Define wadeable. - Clarify the definition of “tributary” - Limit this requirement for a direct discharge only The term “wadeable” is not defined in the permit, and we fear that such a subjective descriptor could result in ephemeral streams or ditches with barely a trickle of water being roped into needing bioassessment. Also, it is unclear how to assess if a project “may” discharge	Only construction projects over 30 acres, and are Risk Level 3 must do a bioassessment. In addition, the site will only have to do a bioassessment if it directly discharges (as defined by the CGP) into the receiving water. The link will work once the final permit is done. The GIS map has been created that lays out the times bioassessment must be conducted by dischargers for the State of California. The times differ depending on the eco region a project would fall under. Bioassessment can be used for high risk sites (Risk Level 3) to provide information on the effect of sediment on the aquatic biota in the event that there is a discharge.
65	Bioassessment: The bioassessment sampling requirement should be for a direct discharge into a water body that meets the definitions noted above and that is within the project boundaries. For example, a highway site could discharge into a storm drain that is part of a storm system that eventually discharges into a listed	Agree. We understand the problem with being responsible for commingled discharge. Therefore, only Risk Level 3 construction projects that are over 30 acres and that directly discharge to receiving waters must do a bioassessment

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	water body or a tributary of a listed water body many miles away. In this instance, bioassessment monitoring would be extremely difficult (if not impossible) and would not be an adequate assessment of the project's impacts. If the water body of interest lies outside of the project boundary, other dischargers could be inputting into the water system and any assessment completed would not be representative of the site's impact on the environment. Also, it would be nearly impossible to establish the point of discharge from which to collect representative upstream and downstream samples.	
65	Monitoring and Sampling: Currently the permit states that dischargers shall conduct visual observations, inspections and sampling during business hours only. There is no allowance for business operations that occur at night, as many highway and infrastructure projects start at night to minimize impacts to the general public. However, there is such an allowance for non-storm water observations, which are only required during daylight hours (sunrise to sunset). A similar clause should be put in place for the storm water discharge inspection and collection, since observations may not be accurately completed in the dark. Further, there are significant safety issues. Most of our projects are on public highways and roads, and it would be extremely unsafe to attempt visual observations or sample collections at night around highways. Finally, normal operations should be better defined to explicitly exclude non-construction or non-soil disturbing activities, i.e. paperwork, meetings, maintenance, etc.	The monitoring requirements have an exemption for the collection of samples: 1) during dangerous weather conditions such as flooding and electrical storms, and 2) outside of scheduled site business hours.
65	Authorized Non-Storm water Discharges: It may not always be feasible to collect samples and monitor these non-storm water discharges. For example, water used for irrigation or dust control is typically not a full flow but is a seep or a moist spot. It is unclear how to collect the requested information and what the expected monitoring frequency is. One potential option would be to sample the source of the irrigation or dust control water, but there are difficulties with that as well. For example, will the contractor need to collect a sample from the irrigation system each time it is turned on? What if the project job wishes to use recycled water or collected storm water? What if the source of water is inaccessible? The intent of authorizing non-storm water discharges is to establish a category of discharges that pose no harm to the environment, and requiring a sampling and monitoring program for water already considered harmless would be a drain on resources, including time, without any benefit to water quality. Graniterock requests that the requirement to sample authorized non-storm water discharges be removed.	This requirement is the only way to ensure compliance with the Federal regulations and case law regarding non-storm water discharges and non-visible pollutants.
67	At a minimum, receiving water monitoring should be conducted at all sites,	Sampling of the receiving water is only required of Risk Level 3

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	regardless of risk level, if a NAL is exceeded. In addition, we recommend that the list of constituents monitored be expanded to include TSS and metals.	sites that exceed applicable NELs, Exceedance of an NEL suggests that the discharge has the potential to threaten water quality. The CGP also only requires Risk Level 3 sites to conduct receiving water monitoring if they that have a direct discharge to receiving waters. The intent of this provision was also to provide information and data on the effectiveness of the NELs - so that in the course of this permit cycle the Sate Water Board could learn how NELs relate to the overall goal of water quality protection. Finally, all requirements are meant to be related to a site's risk to water quality so as to encourage dischargers to better plan and implement construction activities.
67	Many high risk sites will not be required to do bioassessment monitoring. This is inappropriate, as much smaller sites have the potential to impact stream biota. Instead, we recommend that the State Board at a minimum require bioassessment monitoring for all Risk 3 sites, as was the case in the last iteration of the draft permit.	Bioassessment is a potentially powerful tool to notice landscape, pollution and hydrologic impacts on receiving waters. For sites less than 30 acres, though, there is a good chance that the information gained from bioassessment will not be statistically correlated to the activities at the construction site, since most planning watersheds in California range in size from 3,000 to 10,000 acres. Also, it is not always feasible to conduct bioassessment monitoring at smaller sites, where the "signal to noise ratio" will be much higher.
78	The requirement for some sites to conduct bioassessment monitoring is also difficult and not warranted. Watersheds are impacted by several factors. Depending on location, size, and proximity to natural features active construction and existing development are but two of the myriad of contributors to water quality impairment. Bioassessment monitoring is expensive and the purpose of the resulting data is not clear provided the level of effort it takes to collect such extensive data. The State Water Board should eliminate the requirement for bioassessment monitoring from this permit and simplify the overall permitting regime.	Only a subset (over 30 acres) of the highest risk sites (Risk Level 3) is required to do bioassessment. Bioassessment is appropriate at that level considering the potential damage sediment discharges could have on sediment sensitive water bodies due to construction activity.
89	Attach C Pg. 8. Sec. I 3 a: Define a qualifying rain event	A qualifying rain event is one producing precipitation of ½ inch or more of discharge.
89	Attachment C Pg. 8 Sec. 3 b Please clarify the term "derived from and discharged subsequent to".	This means that the discharger is required to monitor visually any discharge (discharge derived from that particular rain event and then actually discharges "subsequently" due to that rain event) from a qualifying event that discharges 1/2 inch or more.
89	Attachment C Pg. 8 Sec. 3 c: Please change the term "business hours" to "job	Business Hours

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	site hours" to be consistent with the rest of the permit.	
89	Attachment C Pg. 8. Sec. I 3e i: How can you visually observe/identify any spills, leaks, or uncontrolled pollutant sources prior to each qualifying rain event? Should it read "after" instead of "prior"?	In the event that a spill occurs on the site (e.g.: oil/gas for equipment, cement spill/paint), it should be cleaned up before the next qualifying rain event so that it does not have the potential to discharge.
93	This does not preclude a permittee from properly managing their construction site, implementing appropriate BMPs and monitoring the site, but monitoring should not require the testing for sediments, pH and other constituents noted in the general Permit for discharges to dry stream beds. Requiring this testing in the permit will cost a permittee without any real benefit	Comment Noted
99	Issue construction site monitoring requirements in a format that may be modified by the Executive Officer. The new monitoring requirements are a significant departure from the requirements in the current Construction General Permit. There will necessarily be substantial learning on the part of both dischargers and regulators. For this reason, it is advisable that the Water Board issue monitoring requirements in a format that will allow the Executive Officer flexibility in modifying requirements to respond to new learning achieved by regulators and dischargers in the course of implementation.	Such an idea would possibly require a public review of the individual requirements. By prescribing monitoring requirements, we are able to be specific enough that permitees are not writing their own individual permits.
105	Errata Page 1, changes to Table 4 and 5 The errata changes for Risk Level 3 sites appear to fundamentally change the monitoring requirements in the Draft CGP. As written in the errata, Risk 3 sites only need to perform effluent and receiving water monitoring if the NEL is exceeded. This is a major departure from the Draft CGP. In addition, the errata appears to create a paradox by stating that NEL monitoring is only required after an NEL has been exceeded. SCE recommends that the State Board review the first page of the errata to ensure greater clarity in monitoring requirements.	Effluent sampling for Risk Level 2 & 3 sites, and LUP Type 2 & 3 sites are required for all qualifying rain events. Sampling of the receiving water is only required of Risk Level 3 sites who exceed their NEL, once a site exceeds their numeric limit, this is a sign that there is a potential threat to water quality. The CGP also only requires sites that have a direct discharge/connection (as defined in the permit) to their receiving water to sample.
111	Section I.J.59 requires all visual monitoring inspections to remain onsite during the construction period and for a minimum of three years. At the Port, records are stored at the Port administration building following the completion of construction. It is recommended that the provision be revised to allow records to be stored offsite with the LRP upon completion of construction.	Comment Noted. The requirement is for records to remain onsite during construction activities. Once construction activities have commenced, records may be kept elsewhere but must be available upon request for a minimum of three years.
111	Section III.C.6 states that the authorized non-storm water must be monitored and meet applicable NALs and NELs. It is unclear whether this provision applies to Risk Level 1 sites. Please clarify whether this provision is or is not applicable to the Risk Level 1 sites.	NALs and NELs do not apply to Risk Level 1 sites

NUMERIC ACTION LEVELS (NALs) AND NUMERIC EFFLUENT LIMITATIONS (NELs)

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15, 22, 56	It is unclear what defines corrective actions when an NAL is exceeded. The draft permit seems to indicate that the permit holder must take corrective actions so that further discharges are below the NAL. Is that the case? What if following sampling events exceed the NAL? What if the steps taken by the discharger after the first NAL exceedance were not sufficient to prevent further NAL exceedances? Is that a violation of the permit? Please see the references to the permit and factsheet below. We think this should be clearly stated.	The permit states that, in the event that any effluent sample exceeds an applicable NAL, the discharger must electronically submit all storm event sampling results to the State Water Board no later than 10 days. Additional reporting requirements may be required (if a Regional Water Board requests one) in the form of an NAL Exceedance Report, which must describe any corrective actions taken to address the problem(s). The actual corrective actions needed would depend on many variables.
15	Numeric Action Limits (NALs) at 250 NTU and Numeric Effluent Limits (NELs) at 500 NTU are not providing clean enough water to protect these aquatic species and prevent destruction of their habitats. Technology is available that can provide the desired water quality and the concern of cleaning the construction storm water runoff “too much” is a fallacy. ATS could be designed to “side stream” some unfiltered water and blend that with treated water to give the ideal amount of “natural” sediment. However, ATS Workgroup doesn’t see that as being a problem, in all our combined years of experience, we have not seen “too clean” of water causing stream erosion because of a “lack of sediment”	We disagree. There are many pathways for a discharger to achieve compliance with the effluent and receiving water limitations in the CGP, including ATS, if needed. This requires strict compliance with State water quality standards.
17	The Permit includes numeric effluent limits (“NELs”) and numeric action levels (“NALs”) for turbidity and pH. Both requirements have the potential to significantly increase the cost of compliance with questionable benefit to water quality. Neither condition is appropriate for inclusion in the Permit. The NELs are likely to lead to significant confusion and provide a potentially false assessment of compliance. The Permit’s Fact Sheet states that the NEL represents the minimal level of control and does not necessarily represent compliance with the narrative effluent limitations or the receiving water language in areas with more protective water quality objectives. The State Board has received numerous comments and testimony indicating that existing data does not support an NEL approach at this time. Given this testimony, and the overall lack of data supporting NELs, the Permit should be revised to remove the NEL provisions. The NALs present a similar challenge. To the extent that they can be construed as effluent limits, public agencies could incur liability under Porter Cologne’s mandatory minimum penalty requirements when test results exceed pre-established NALs. Additionally, at this time it is unclear whether accurate effluent limitations (or action levels) could be determined with the level of certainty necessary to justify liability. It appears that effective implementation of traditional	The NELs will reduce confusion regarding compliance. Exceedance of an NAL will not lead to mandatory minimum penalties.

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	BMPs during construction will have equivalent or superior benefits to water quality as the implementation of NALs; Compliance with the Permits testing requirements will cost time and money that could be dedicated to implementing such BMPs at the project site. The State Board should therefore remove both the NEL and NAL requirements from the Permit.	
19	Numeric limits for rural and generally undeveloped landscapes that are part of a Parks and Recreation setting should have General Development Permit numerical effluent requirements held to background water quality (local site run on by constituent) plus a reasonable allowance for temporary ground disturbance prior to final stabilization. Please consider trail building, major maintenance or retro fit as unique. Trail system projects can easily exceed one acre do to their linear nature, can be close to watercourses and other points of public interest and can have a fairly long period before they fully stabilize. As an example; having to maintain a two mile linear BMPs with absolute numeric limits for one or two rainy seasons before that trail segment fully integrates into the local environment is impractical, largely un doable, and will kill the development or major re fit of trail systems on park lands. In order to keep improving back country linear facilities, I suggest a special section of the new regulations and permit requirements for linear features designed for beneficial public use. The numeric limitations for water quality should be tied to a tapered numeric limit. One that starts at say 500 NTU over background (at trail/watercourse intersection monitoring points) for season one, and has to get under 100 NTU within five years with required annual inspection at all such points. That way the trail performance gets monitored and reported. The trail gets maintained and improved over time to meet the needs and requirements of the intent of the CWA, et all.	Comment Noted. We will evaluate the suggested approach over the term of this next permit and adjust, if appropriate, at the next reissuance.
20	Turbidity NAL of 500 NTU is not consistent with the data (or SSC to turbidity 3:1 ratio given see original comment for this one)	The CGP establishes a turbidity NAL of 250 NTU.
20	We have evaluated pH on numerous construction sites and industrial sites as well and never found and out of range pH. Admittedly concrete has a high pH, but that is in the concretes pore structure. It concrete wash water combine readily with CO2 to reduce the pH below 8.5. It is a simple test but not a particularly significant scientifically for impacts on the environment.	The commenter does not provide any evidence to substantiate the claim.
20	Page 9, H. 51 and Page 29, V. B. 3. b. Page 29, V. B. 3. b. “high risk of pH discharge,” see note Page 9, H. 51. This General Permit includes an NEL for pH that applies only at projects that exhibit a “high risk of high pH discharge.” Please define a facility that has a high risk of high pH discharge. Is there any scientific	Projects that exhibit a “high risk of high pH discharge” would be sites that are in the construction stage (complete vertical or complete utilities) when the use of alkaline construction materials such as concrete, mortar, and lime (etc) are being used in large

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	data to show that in the field storm water discharges have elevated pH values? The category of “High risk of high pH discharge” should be eliminated from the Permit unless data showing elevated pH values in the discharge can be provided.	amounts. Such materials are known to cause an increase in the alkalinity of water. The reason the pH NEL is not for all projects at all times is that during the grading phase and the post-construction phase, materials that could cause an increase in the pH level of the water are not present or minimal and in most cases a low risk to water quality. In the event that materials are stored or present in high amounts known to cause an increase in pH, these materials need to be accounted for and pH samples must be taken as described in the General Permit.
20	Page 11, K. and Page 29, V. B. Clarification of the discharge exemption from a Compliance Storm Event exceedance would be appreciated.	The purpose of the compliance storm is to weed out storms that are above the anticipated amount of precipitation based on weather patterns and rainfall data. Dischargers are not expected to be responsible for NEL exceedances caused by large storm events (storm events above the 5year 24-hour storm) that cannot be adequately planned for on a construction site/with available BMPs.
20	Page 28 Table 1 pH measurement with litmus paper is not calibrated and should be exempted. Minimum detection limits for pH is typically expressed in % not MDL. If the turbidity meter is to be calibrated, it should be so stated in the table. Minimum detection limits for a turbidity meter should be replaced with either resolution or accuracy values.	Comment Noted. The option of using litmus pH paper for collecting pH data has been taken out of the CGP. Most turbidity meters have resolution, accuracy and detection limits.. Any instruments used to collect data should be calibrated as a standard practice. The instructions should be stated in the users’ manual.
20	Page 29, V. B. 4 States NEL violation results are to be filed within 3 day of the results. Other statements indicate 5 days for filing. Which is correct?	Comment Noted. Language changed to 5 days not 3. This was an error in the permit language.
20, 22, 26, 27, 30, 33, 40, 49, 53, 54, 59, 65, 75, 78, 91, 99, 105, 107, 111, 116	Recommend the NEL on storm water discharges be deleted; and instead conduct 3rd - party data collection and analysis for the next five years to provide information for future numeric criteria development. 1) The eco-region data used for NEL development for turbidity are limited and should not be used. 2) The proposed pH NEL is not “clearly above the normal observed variability” 3) The typical pH of rainfall falls outside the proposed NEL 4) The four data points (enforcement) used to develop the turbidity NEL are not representative of conditions encountered throughout California. 5) The pH and turbidity NELs do not consider background conditions in receiving waters 6) Numerous studies demonstrate that turbidity in receiving waters often exceed 500 NTU 7) No scientific basis was given for the assumed 1:3 relationship between turbidity and suspended sediment concentrations. 8) There is no evidence provided to define the technology that would consistently achieve a turbidity of 500 NTU in	Nothing in the CGP prevents the creation of supplemental sampling efforts, and in fact the permit provides relief for those dischargers who chose to participate in regional or watershed based monitoring programs.

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	construction site effluent.	
22, 68, 98, 101, 105	Finding 52 – The 500 NTU NEL is unsupported in the technical and scientific literature. Recommend removing the requirement for an NEL and adopting the "Bridge Approach"	The "bridge approach" suggested by CBIA is really not too different than the CGP, with the exception that NELs would not be included. Nothing in the CGP prevents the creation of supplemental sampling efforts, and in fact the permit provides relief for those dischargers who chose to participate in regional or watershed based monitoring programs.
22, 25, 26, 29, 36, 40, 42, 59, 99, 105	The 5-yr, 24-hr Compliance Storm Event for Risk Level 3 discharges has no substantial evidence to support it. Recommend replacing the 5-yr, 24-hr storm with the 2-yr, 24-hr storm event as an NAL design storm. For some construction sites, the 2-yr, 24-hr event has been used as a target for sizing sediment basins and a limited subset of other BMPs.	The 5year, 24-hour compliance storm event represents the balancing point between protecting water quality and program resources available to investigate claims.
22	NALs have not been properly developed in light of the lack of sufficient supporting data. The draft permit improperly implies that exceedances of NALs would equate to permit violations.	Exceedances of NALs do not constitute permit violations. The permit states that, in the event that any effluent sample exceeds an applicable NAL, the discharger must electronically submit all storm event sampling results to the State Water Board no later than 10 days. Additional reporting requirements may be required (if a Regional Water Board requests one) in the form of an NAL Exceedance Report, which must describe any corrective actions taken to address the problem(s). The actual corrective actions needed would depend on many variables.
25	Please provide the data on construction BMP pollutant removal performance what was used to determine the TBEL. Not only would this help explain the limit of 500 NTU, it would provide guidance to dischargers for ensuring that construction sites are in compliance.	Comment Noted. The fact sheet has been changed to clarify our rationale for NELs.
25	Fact Sheet, page 17, Section II.F.2.a – This section should be revised to clarify that NALs do not apply to Risk Level 1 and LUP Type 1 sites.	The section has been revised to clarify that NALs apply to Risk Levels 2 & 3 and LUP Types 2 & 3 .
25	Fact Sheet, page 18, Section II.F.2.a.ii – Section should be revised to provide the justification for the 250 NTU NAL.	Comment Noted. 250 NTU is a high enough value to signal a discharger that the on-site BMPs may not be working properly, but allows for an opportunity to evaluate the site and take corrective actions to avoid the exceedance of an NEL.
29	NELs CASQA does not believe that the revised Fact Sheet or Draft CGP address the technical questions and issues that we and other stakeholders raised in previous comments including the validity of the 3:1 ratio used to interpolate Suspended Sediment Concentration (SSC) as turbidity. Nor has the State Water Board addressed the questions regarding the data sets and	We used our collective best profeesional judgment, not just the results of the data analysis in the fact sheet, to arrive at the conclusion that 500 NTU was the appropriate level to measure compliance with the existing BAT/BCT standards.

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	statistical evaluation of the data to establish the NELs. The available data sets including the Simon, et al., study and the data from Central Valley enforcement cases appear sufficient to establish an action level, but are not sufficient to establish an effluent limitation. SSC data reported in Simon et al., show significant variation at the 1.5 recurrence event typically ranging 2 to 4 orders of magnitude within individual ecoregions, indicating that frequent excursions above the median are expected.	
29	NALs As noted in previous comments, CASQA supports the use of NALs as an appropriate next step in the assessment and regulation of construction storm water discharges. Action levels provide a quantitative measure of performance and hard trigger for improving site practices for construction site operators. However, compliance with the NALs should be assessed based on daily averages, not single samples. CASQA recommends that the use of the daily average of the collected samples allowed for in the NEL compliance assessment be incorporated into and used to assess whether site discharges meet the NAL. A compliance storm event for NAL assessment similar to what has been provided to NEL needs to be provided. While the liabilities associated with permit violations do not exist, numeric values whether action levels or effluent limits, should not be used to assess runoff quality from large events.	Section V.C of the CGP has been revised to clarify that compliance with the NALs is assessed based on storm event daily averages. Because NALs are unenforceable, a compliance storm event is not necessary. The permit states that, in the event that any effluent sample exceeds an applicable NAL, the discharger must electronically submit all storm event sampling results to the State Water Board no later than 10 days. Additional reporting requirements may be required (if a Regional Water Board requests one) in the form of an NAL Exceedance Report, which must describe any corrective actions taken to address the problem(s). The actual corrective actions needed would depend on many variables.
30	The Draft Permit continues the practice of determining exceedance of NEL and NAL levels by using a single discharge sample. CMAC believes that comparing the average of all samples taken during a particular period (e.g., a day) would provide a more accurate picture of a project's true discharge.	The CGP no longer uses a single discharger sample to determine compliance with the NELs and NALs. Compliance is now determined by a "daily storm event average."
32	Fact Sheet - Pages 13-14, F.1.i. pH NELs: "Proper implementation of BMPs should result in discharges that are within the range of 6.0 to 8.5 pH Units." NEL standards should read 6.0 to 9.0 pH standard units.	Edit made
32	Fact Sheet - Pages 15-17, ii. Turbidity NEL: For protection of aquatic life we have set 25 NTU as a guideline value for determining whether steelhead waters are impaired for the 303(d)/305(b) integrated report. This is based on levels that cause visual impairments and impacts to feeding behavior. If volume of runoff from a construction site is high, a discharge limit of 500 NTU could result in the receiving water exceeding 25 NTU, resulting in potential new listings and impacts to steelhead or coho salmon, which are listed as threatened or endangered species. The argument in the fact sheet on page 16 appears to be more based on what is cost effective than on what is environmentally protective. The median Suspended Sediment Concentration (SSC) level for a 1.5 year storm in various ecoregions doesn't address whether those systems are	The dischargers must comply with both the effluent limitations (in some cases, turbidity not to exceed 500 NTU) and the receiving water limitations. There may be instances where a site is in compliance with its effluent limitations but not its receiving water limitations (like the scenario the comment suggests). In this case, the Regional Water Board has discretion to enforce the Basin Plan's water quality standards.

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	impaired or not. Many waterways are already impaired by excessive sediment, so we are not sure that the approach used to come up with a limit is protective. We recommend that the discharge limit either be based on the median value of systems that are known to not have a sediment impairment, or that it be measured above and below the discharge in receiving water with a limit that is more protective of fish resources (for example, shall increase background concentrations no more than 25 NTU).	
32	Fact sheet - Page 28, b., Effluent Standards: This section states "All dischargers are subject to the narrative effluent limitations specified in the General Permit. .. Risk Level 2 dischargers that pose an intermediate risk to water quality .... " Terms like "medium risk" and "intermediate risk" should be standardized throughout the document, preferably to Risk Level 2.	Edits made
33	Numeric Action Levels (NALs) Compliance with the NALs should be assessed based on daily average, not single samples.	Section V.C of the CGP has been revised to clarify that compliance with the NALs are assessed based on storm event daily averages.
37	pH has been listed as a daily average in Section V.B.3. Daily average is not defined in the permit but is stated in way that it is likely applied as an instantaneous or daily maximum in Section V.B.4. The conflict between these sections has to be clarified and the NEL derivation has to be in line with the definition in Section V.B.3. Daily Average pH Limits appear in the permit, but the calculation of daily average needs to be defined and other issues addressed as noted below. -There is no practical application of daily average pH limits. Individual samples should not be averaged mathematically (because they are read in a log scale) and combining samples to take one pH reading is not technically correct either (since the lowest or highest pH sample is likely to affect the reading and be erroneously labeled to represent the entire site) and average pH does not provide any meaningful information to initiate corrective actions. -Furthermore, it is well know that pH levels in rainfall can be outside of the proposed NELs which may lead to compliance issues that are difficult to resolve and violations that the discharger has no possible means of correcting. The SWRCB needs to carefully evaluate the reasoning behind the selection of these pH limits and consider all the underlying issues with rainfall pH levels. -The following is suggested for revisions to Section V.B.4: "If an analytical effluent sampling result is outside the range of pH NELs (i.e., is below the lower NEL for pH or exceeds the upper NEL for pH) or exceeds the turbidity NEL (as listed in Table 1), the discharger is in violation of this General Permit and shall electronically file the monitoring results found to be in exceedance within 5	Permit language has been revised to clarify that daily average results are not an instantaneous maximum.

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	business days of obtaining the results."	
37	V.B.S. Compliance Storm Event. Need to clarify definition of design storm event versus compliance storm event (Appendix 2 - sediment basin sizing versus Fact Sheet page 17). We are in favor of the Compliance Storm Event of 5yr and 24 hr established for Risk Level 3 Sites.	A design storm is the storm size/frequency used to design structural storm water BMPs (e.g.: detention basin has to be designed to hold this size of storm). A compliance storm is the storm size chosen where dischargers are responsible for site run off/discharges resulting from a storm less than or equal to the design storm.
37	The permit NALs and NELs for pH may not be as valuable as anticipated and it needs to be thoroughly examined since ambient pH conditions (rainfall, soils, groundwater, etc.) are likely to be outside the acceptable range currently being considered. What does the SWRCB anticipate the gains or benefits of regulating pH from construction sites be when the timeframe of risk (use of such materials) is very limited. Minor rewording recommended as shown: For Risk Level 2 and 3 dischargers, the lower pH NAL is 6.5 pH units and the upper pH NAL is 8.5 pH units. The discharger shall take actions as described below if the discharge is outside of this range of pH values.	Risk Level 3 dischargers are required to ensure that their construction sites' effluent is between 6.0-8.0 pH units. Risk Level 2 dischargers are not required to comply with the pH NEL, but they must compare effluent samples to the pH NAL of 6.5-8.5 pH units. If an NAL is exceeded, they must do a site evaluation. In all Risk Levels, the discharger is still required to not cause or contribute to an exceedance of any water quality standards (e.g.: basin plan).
43	NAL / NEL The addition of more stringent standards applicable to water bodies must be clarified whether a discharger can be in violation with applicable basin plans for turbidity; even though they are may be in compliance with NAL or NEL requirements of the Permit. Specifically, do basin plan exceedances require any reporting, or documenting?	The NALs and NELs in the permit are technologybased standards. It is possible to be in compliance with the NALs and NELs, and be non-compliant with the water qualitybased standards in Regional Board Basin Plans.
44	Fact Sheet Section II.F.1.i, page 15 "The chosen proposed limits were established by calculating three standard deviations…from highway construction sites in California." This paragraph cites a Caltrans study as the basis for the pH range, and refers to three standard deviations. Page 18 appears to cite the same study, but only refers to using a single standard deviation. Please clarify.	The three standard deviation method is used to set the NELs, while the one standard deviation method is used to the NALs.
44	Fact Sheet Section II.F.1.i, page 15 "Proper implementation of BMP's should result in discharges that are within the range of 6.0 – 8.5 ph units." This range appears to be a blend of NAL (6.0-9.0 pH) and NEL (6.5-8.5 ph). Is this the intended and correct range? A different pH range is stated on page 18.	Sentence edited to state: "Proper implementation of BMPs should result in discharges that are within the range of 6.0-9.0 pH units."
44	Fact Sheet, Section II.I.1.c, page 21 "Subsequently, all Risk Level 2 and 3 dischargers must perform sampling and analysis of storm water discharges…" Inconsistent use of word "storm water" pertaining to Effluent monitoring requirements.	Sentence edited to state: "Subsequently, all Risk Level 2 and 3 dischargers must perform sampling and analysis of effluent discharges…"
44	Fact Sheet, Section II.I.1.c, page 22 Table 5: Storm Water Effluent and footnote 13 Table 5 is titled "Storm Water Effluent" Monitoring Requirements by Risk	The fact sheet has been clarified.

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	Level. The footnote defines new discharges as any storm or non-storm water discharge. Given the recent trend towards using the EPA definitions for storm water and non-storm water, the monitoring requirements as described in the table are unclear. Does this table refer only to runoff generated during storm events or is it also applicable to non-storm water flows? If the latter, then perhaps the title of the table should read “Storm Water and Non-Storm Water…”	
45	NAL Exceedance Report. What is the purpose of submitting NAL exceedance reports? The reporting window indicates no immediate use to the Board. We suggest that this information is most efficiently included in the annual report.	An NAL Exceedance Report is only submitted upon Regional Board request. The report must describe any corrective actions taken to address the exceedance problem(s). The actual corrective actions needed would depend on many site specific variables.
45	NEL Violation Report. A significant amount of information appears to be missing regarding the Board’s response to an NEL Violation Report, including any system of warnings, minimum mandatory fines, etc. Please include this information in the Permit for appropriate public review.	It is not appropriate for the CGP to address enforcement options resulting from noncompliance.
50	Numeric Action Levels (NALs) should be used as an interim approach. A 250 NTU value for the NAL is too low of an upset value to use, due to natural background variation.	The purpose of the NAL is to provide operational information regarding the performance of the measures used at the site to minimize the discharge of pollutants and to protect beneficial uses and receiving waters.
50	We are pleased that a design storm has been included, but the 5 year 24 hour storm is excessive and inconsistent with most municipal storm sizes used. We encourage the 85th percentile 24 hour storm be used.	The 5year, 24-hour compliance storm event represents the balancing point between protecting water quality and program resources available to investigate claims.
56	H-54: Determining Compliance with Numeric Effluent Limitations 1. Title is "Determining Compliance with Numeric Effluent Limitations", however, discussion is about Numeric Action Levels (NALs).	NALs serve as a tool to determine if a site is compliant with Numeric Effluent Limitations.
56	V. Effluent Standards VB-NELs: Table 1 Question achievability of "0" as a minimum detection limit for Turbidity; RL2 does have NELs for Turbidity and pH (See Att 3, table 3, Pg. 20). Either change text or table.	Agree. The language has been changed. The Detection Limit must be 1-10 NTUs.
56	Fact Sheet pg 13-18: This section should clearly explain the difference between NELs and NALs.	The NEL (under Effluent Limitation) and the Numerical Action Level are both defined in the glossary.
56	Fact Sheet pg 15: Although Simon et al. (2004) presented a range of 500 to 1650 NTU, the Board selected the low end of this range without clear explanation as to why. The Board should justify the selection of 500 NTU.	The fact sheet has been changed to reflect additional rationale to support the NELs.
56	Fact Sheet pg 25: Conflicting reporting intervals for NAL exceedances and NEL violations are stated at various locations in the permit documents (below). The	Comment Noted. Risk Levels 2/3, LUP Types 2/3 storm event sampling results are due within 10 days, and an NAL

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	correct values should be listed in a table. - Risk Level 2/3, LUP Type 2 NAL exceedance report storm event sampling results within 10 days - Risk Level 3/LUP Type 3 NEL violation - report storm event sampling results within 5 days - NEL violation must be reported within 3 days -NEL violation must be reported within 24 hours.	Exceedance Report is due upon request by the Regional Water Board. Risk Level 3/ LUP Type 3 storm event sampling results are due within 5 days, and an NEL Violation Report is due within 24 hours after the NEL exceedance has been identified.
58	NALs With regard to Numeric Action Levels. Page 9. Paragraph 54 sets a pH NAL of 6.5 to 8.5. EMWD recommends an exception statement be added for ambient condition that exceeds the pH NAL. The turbidity NAL included in this paragraph should also be removed. Rather than setting a limit of 250 NTU. A reduction in turbidity would adequately show the BMPs effectiveness.	Comment Noted. 250 NTU is a high enough value to signal a discharger that the on-site BMPs may not be working properly, but allows for an opportunity to evaluate the site and take corrective actions to avoid the exceedance of an NEL.
59	The CGP must still identify appropriate statistics to be used to establish corresponding NALs, and the statistical analyses need to be provided in supporting technical documents for review. EUCA supports the California Building Industry Association (CBIA) proposal based on a bridge approach to setting Action Levels. This approach will provide a bridge between the next two generations of construction storm water permits, an NAL data collection program should be conducted during the upcoming permit cycle to provide critically needed information to aid the State Water Board in determining what provisions should be included in the subsequent permit.	Comment Noted. 250 NTU is a high enough value to signal a discharger that the on-site BMPs may not be working properly, but allows for an opportunity to evaluate the site and take corrective actions to avoid the exceedance of an NEL.
65	Turbidity Does Not Measure Sediment Loading: The numeric effluent limit relies on using turbidity to assess sediment levels when there is no clear, scientific, repeatable relationship between the two. The permit uses a relationship of 1:3. Total Suspended Solids (TSS) to turbidity, to calculate the proposed single numeric effluent limit of 500 NTU, but this was based only on three specific sites monitored at distinct (but unspecified) time frames. Graniterock has conducted limited research into turbidity and sediment levels, and all supporting scientific literature that we have reviewed shows that sediment-turbidity relations can vary significantly based on site geology, slopes, vegetation, and rain event specific parameters. For example, the USDA Forest study referenced was unable to establish a single TSS-turbidity relationship for the watersheds just within their study boundaries; it would be impossible to establish a relationship that would work for all types of watersheds. A single numeric effluent limit based on turbidity with the potential for violations and fines is not appropriate at this time. We are not opposed to using turbidity as an indicator of BMP effectiveness and believe using the numeric action levels to assess site erosion controls can be beneficial to improving water quality. However, having penalties and violations issued for this untested new approach towards water quality will at the minimum result in	It is true that turbidity does not adequately measure the complete sediment loading in most discharges. But it is our BPJ that turbidity is an adequate parameter to use given the relatively low cost and instantaneous results the method provides. It also can be performed with minimal training. Additionally, Risk Level and Type 3 sites are at risk of discharging fine sediment (this is considered in the risk determination methodology) so turbidity is appropriate to use at sites with this risk determination.

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	confusion and litigation, and not result in improved storm water management that betters water quality.	
65	Single, NEL for pH is not appropriate: The use of a pH numeric effluent limit is not appropriate because it does not consider natural conditions. Potential natural inputs of pH that could affect the levels in the storm water discharge, such as naturally alkaline or acidic springs and vegetative matting. A stand-alone numeric limit also does not factor in pre-existing conditions that may be beyond the control of the contractor. The “one-size fits all” pH numeric limit currently proposed does not allow for consideration of pre-existing or uncontrollable conditions, which could set up certain sites for noncompliance. Instead, the DCGP should rely on the action level framework to target efforts.	This is a technology-based limitation and is appropriate to set at one level for all of the sites subject to the NELs.
65	Compliance Storm Event: The compliance storm event for the Risk 3 level dischargers is a 5-year, 24-hour storm event yet the compliance storm event for ATS discharges is the 10-year 24-hour event. Graniterock requests that the ATS compliance storm event be changed to match the Risk Level 3 discharger’s compliance storm event, that is, a 5- year, 24-hour storm event.	The compliance storm event established for ATS discharges is based on the industry-standard for ATS design. Attachment F states that "ATS shall be designed to capture and treat (within a 72-hour period) a volume equivalent to the runoff from a 10-year, 24-hour storm event…"
65	It is unclear whether the compliance storm event would apply to NAL exceedances at the Risk Level 2 and Risk Level 3 tiers. Graniterock recommends including the NAL in the compliance storm event exemption as the same issues that necessitate a compliance storm event for an NEL also apply for an NAL.	The Compliance Storm Event does not apply to NAL exceedances since there is no violation associated with an NAL exccedance.
67	The turbidity NEL/NAL is set far too high to be protective of receiving waters and will not promote the use of effective BMPs. Thus, we urge the State Board to set a performance-based turbidity based on existing studies on BMP effluent quality. At a minimum, the State Board should set a NEL that is no greater than 73 NTUs	The NELs will stay as technology-based limitations. Dischargers are still responsible to not cause or contribute to an exceedance of water quality standards.
67	The range of the pH NELs is too great and is not protective of receiving waters. We urge the board to revise the NEL pH range to 6.5 – 8.5, which is consistent with Regional Basins Plans such as Regions II and IV, and to require that this NEL be met during all phases of a construction project (having it for “high risk” project of pH weakens this regulation).	Comment Noted. Language kept as is. Projects that exhibit a “high risk of high pH discharge” would be sites that are in the construction stage (complete vertical or complete utilities) when the use of alkaline construction materials such as concrete, mortar, and lime (etc) are being used in large amounts. Such materials are known to cause an increase in the alkalinity of water. The reason the pH NEL is not for all projects at all times is that during the grading phase and the post-construction phase, materials that could cause an increase in the pH level of the water are not present or minimal and most cases a low risk to water quality. In the event that materials are stored or present in high amounts known to cause an increase in pH, these materials

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		need to be accounted for and pH samples must be taken as described in the CGP.
67	State Board staff should revise the draft permit to apply NELs to Risk 2 and 3 sites at a minimum, since there is no zero risk for a risk level 2.	Comment Noted. Disagree. Language kept as is.
67	Mandatory NAL exceedance follow-ups. As the permit is drafted, there appears to be no incentive for dischargers to do anything other than paperwork when an NAL is exceeded. The only way to make this NAL feedback loop effective is if the regional boards are prepared to develop a prompt and comprehensive program to follow-up reported NAL exceedances with site inspections.	The permit states that, in the event that any effluent sample exceeds an applicable NAL, the discharger must electronically submit all storm event sampling results to the State Water Board no later than 10 days. Additional reporting requirements may be required (if a Regional Water Board requests one) in the form of an NAL Exceedance Report, which must describe any corrective actions taken to address the problem(s). The actual corrective actions needed would depend on many variables.
77	We agree with numeric limits, but for sites not using ATS, they should be under a turbidity NEL of 50 NTU not 1000 NTU	Comment Noted. The CGP sets a Turbidity NEL of 500 NTU
77	Is turbidity based on BCT or BAT? Must be compatible with BAT since BCT only applies to 5 constituents as designated by the EPA.	Comment Noted. It is our best professional judgment that turbidity is a surrogate parameter for total suspended sediments (TSS) and therefore BCT applies.
77	It should not be left up to the site to decide if they are at a high pH risk or not. pH should be required across the board.	Disagree. It would be unfair to require sampling for a pollutant at all times when the pollutant is not present on the site at all times. Projects that exhibit a “high risk of high pH discharge” would be sites that are in the construction stage (complete vertical or complete utilities) when the use of alkaline construction materials such as concrete, mortar, and lime (etc) are being used in large amounts. Such materials are known to cause an increase in the alkalinity of water. The reason the pH NEL is not for all projects at all times is that during the grading phase and the post-construction phase, materials that could cause an increase in the pH level of the water are not present or minimal and most cases a low risk to water quality. In the event that materials are stored or present in high amounts known to cause an increase in pH, these materials need to be accounted for and pH samples must be taken as described in the CGP.
77	Risk 2 Sites Should Be Required To Sample Receiving Water When Action Levels Are Exceeded	The purpose of the NAL is to provide operational information regarding the performance of the measures used at the site to minimize the discharge of pollutants and to protect beneficial uses and receiving waters.

Commentor ID	NAL/NEL Comment Summary	Comment Response
98	NALs The challenge for the NALs at this time is the ability to determine accurate effluent limitations that would justify any liability. With the existing knowledge, it appears that effective implementation of traditional BMPs during construction will have equivalent or superior benefits to water quality as the implementation of NALs. Compliance with the Permit's testing requirements will cost time and money that could be dedicated to implementing such BMPs at the project site. The District therefore requests that the State Board remove the NAL requirements from the Permit.	The purpose of the NAL is to provide operational information regarding the performance of the measures used at the site to minimize the discharge of pollutants and to protect beneficial uses and receiving waters.
99	Base compliance with Numeric Action Levels (NALs) on daily average of samples. To establish a more accurate assessment of site>conditions, we recommend assessing compliance with NALs based on a daily average of a minimum of three samples, rather than a single sample (Section V.C and Attachments D and E of the Tentative Order).	Section V.C of the CGP has been revised to clarify that compliance with the NALs are assessed based on storm event daily averages.
99	Identify compliance event for NALs. Runoff quality from large storm events should not be assessed using NALs. A compliance event should be identified for NALs, as has been included for Numeric Effluent Limits (Section V.B.5 of the Tentative Order).	Because NALs are unenforceable, a compliance storm event is not necessary.
105	NAL Exceedance Report Draft Fact Sheet page 25 item 3b “In the event that any effluent sample exceeds an applicable NAL, all Risk Level 2 and LUP Type 2 dischargers must electronically submit all storm event sampling results to the state and regional water boards no later than 10 days after the conclusion of the storm event.” Other sections of the permit state that both Risk Level 2 and 3 dischargers must comply with NALs. The excerpt above appears to exempt Risk Level 3 dischargers from the requirement to submit a NAL Exceedance Report. SCE recommends clarifying the requirement that Risk Level 3 dischargers are also subject to NAL exceedance reporting requirements.	Comment Noted. Fact Sheet language has been revised to clarify that Risk Levels 2&3 and LUP Types 2&3 dischargers are subject to NAL Exceedance Reporting.

PERMIT EFFECTIVE DATE

Commentor ID	Permit Effective Date Comment Summary	Comment Response
25, 29, 33,	Recommend that the State Water Board provide for an implementation start date of July 1, 2010. Implementation of the many new proposed requirements in the Draft Permit during the upcoming rainy season will be very difficult.	The permit has an effective date of July 1, 2010.
26	Order, Section D, B.4.h, p. 14 Permit implementation period is inadequate to change policies and practices, which will ensure compliance with this permit.	The permit has an effective date of July 1, 2010.

Commentor ID	Permit Effective Date Comment Summary	Comment Response
	Though staff has discussed likely implementation scenarios, one hundred (100) days is an inadequate amount of time to issue new specifications, change orders, and policies that will ensure compliance with this permit.	
30	Irrespective of the particular provisions included in the final Permit, CMAC members will need time to transition their activities to ensure compliance with any new regulations. As such, CMAC requests that the effective date of the final Permit not occur until after the coming wet season.	The permit has an effective date of July 1, 2010.
53	Section n .B.4.c is unclear as to which permit dischargers provides coverage. In Section II.BA.c, for dischargers "scheduled to begin construction activities on or after the adoption date of this General Permit [insert adoption date of permit] but prior to [insert 14 days after effective date of permit]," it is unclear which permit provides coverage. The SWRCB's intention, presumably, is for coverage to occur under the terms of the new permit; otherwise, permittees would immediately have to reapply after the effective date. However, part II.B.6 states "During the period this permit is subject to review by the USEPA, the prior permit (State Water Board Order No. 99-08-DWQ) remains in effect." Adding "for existing dischargers" at the end of the sentence would clarify for whom Order No. 99-08- DWQ is in effect.	Prior to the July 1, 2010 effective date, all dischargers will obtain coverage under the previous 99-08-DWQ permit.
59	Strongly recommend a delay of implementation of the permit until after the 2009/2010 rainy season. In addition to allowing existing dischargers time to redesign their compliance approach and documentation, projects that are on the cusp of going into construction that have planned for compliance with 99-08-DWQ, will be afforded similar planning time. The implementation delay would also better coincide with the QSD and QSP training under development by the State Water Board with the assistance of a stakeholder group, and with the revision of the Construction BMP Handbook, both of which will be instrumental for dischargers in complying with the new requirements.	The permit has an effective date of July 1, 2010.
62	Training & Certification Phase In The proposed 100-day transition period between SWB adoption of the new Permit and the Permit effective date will not allow sufficient time for public agencies and the development community to acquire an understanding of the mechanics of the new permit or project and agency budgets to accommodate additional costs that will come with attempts to sustain compliance on new or existing Permitted construction sites. The Permit phase-in period should be extended to 180 days or the start of the next wet weather season, whichever date is further away.	The permit has an effective date of July 1, 2010.
62	Annual Report The term compliance year is not defined in the draft fact sheet or order. The term should be defined in the permit order or Appendix 7— Glossary	The permit has an effective date of July 1, 2010.

Commentor ID	Permit Effective Date Comment Summary	Comment Response
	of Terms. Our recommendation is that the compliance year should run from July 1 to June 30. This would cover the wet weather season and give the discharger 2 months to report on the prior compliance year.	
91	[DISAGREE WITH] An implementation effective date after the end of the 2009-2010 rainy season.	The permit has an effective date of July 1, 2010.
99	Phase in implementation of draft permit's requirements. The draft permit introduces significant new requirements and procedures. If it were to go into effect without allowing a reasonable phase in period, it could disrupt active and plans for shovel-ready construction sites and result in un-planned, additional costs. Municipalities wiII need time and additional resources to implement a wide range of new requirements, we estimate should be at least one-year or more, and the draft permit should avoid becoming effective during the middle of a wet season.	The permit has an effective date of July 1, 2010.
101	Implementation Effective Date – For ongoing projects covered under the existing permit, the limited “grandfather” provisions in the draft permit do not provide a practical time frame for projects to comply, especially if the permit is adopted in the fall of 2009. Board staff has stated that the permit will not apply to the 2009-2010 rainy season, but according to the draft permit, ongoing projects have only 100 days to submit revised or newly required documents. In addition, public projects have the added challenge that construction budgets are approved years in advance and cannot absorb the increased cost of compliance with the new permit. SCVURPPP requests that: 1) the deadline for ongoing projects to submit Permit Registration Documents be extended to July 1; and 2) capital improvement projects funded within the next two years of adopted capital budgets be grandfathered, i.e., allowed to obtain permit coverage at Risk Level 1.	The permit has an effective date of July 1, 2010.
107	Implementation I recommend that the Board delay the implementation of the permit requirements until after the rainy season. It is likely that the Board will adopt this permit during the summer. Changing the requirements during the rainy season will cause disruptions and additional costs. Setting the effective implementation date after the rainy season will allow for planning and adjustments during the dry season.	The permit has an effective date of July 1, 2010
111	The Port requests that the SWRCB delay the implementation of the new Permit requirements for existing projects until the end of the rainy season, If implementation is required during the rainy season, this will cause disruptions and additional costs to re-design SWPPPs and to develop Rain Event Action Plans (REAPs), and to obtain the services of appropriately qualified SWPPP	The permit has an effective date of July 1, 2010.

Commentor ID	Permit Effective Date Comment Summary	Comment Response
	Practitioner (QSPs) and Qualified SWPPP Developer (QSDs). Setting the effective implementation date for existing projects during the dry season will allow projects to plan and modify documents and site controls when it will be easier and less costly to make changes.	
112	Section II.B.4.a should also be made consistent with section II.B.5 concerning the date when a discharger is covered by the permit. Section II.B.4.a indicates that coverage begins when PRDs are "accepted" (the meaning of which is not clear) while section II.B.5 indicates that coverage begins when a discharger receives a WDID number. Section II.B.4.a also indicates PRDs should be submitted to the Board no later than 14 days prior to commencement of construction. This implies that final action to accept the PRDs and permit coverage can be expected within the 14 days. However, Attachment B requests dischargers to allow 30 days to receive a WDID number; section II.B.5 indicates that permit coverage does not begin until receipt of the WDID number. The fact sheet in section I.B.2 indicates that public review of permit applications would be available, including public hearings when appropriate. However, the review process is somewhat vague. We suggest a specific time frame (such as within 14 days of posting a new NOT on the State Board's website) during which time a member of the public could submit comments on an NOT or request a public hearing. The permit should also include a provision which would allow the State Board to require an individual permit or coverage under a separate general permit based on the Board's review of the PRDs.	There is no recommended time frame for PRD submittal. The Order will be edited to clarify that permit coverage will commence once all PRD's and the annual fee are submitted, and a WDID number is received. The Order gives the Regional Water Boards authority to require individual permits through "submittal of Waste Discharge/NPDES permit applications for Regional Water Board consideration of individual permits." The NOI portion in the State Water Board's SMARTS system requests general construction site information required in electronic form.

PERMIT REGISTRATION DOCUMENTS (PRDs)

Commentor ID	PRD Comment Summary	Comment Response
16	This permit requires a 90 day public review period for SWPPP plans that were previously reviewed on ministerial basis by competent municipal staff prior to issuing grading permits. Most likely because of the additional paperwork and process necessary to implement the public process you would add an additional 60 days causing 150 days of unnecessary and costly delays.	The public review period is now 0 days for the CGP. Once a complete set of PRDs are submitted, and first annual fee payment has been made, a WDID number will be generated in SMARTS, and automatically sent to the Legally Responsible Person.
25, 26, 34, 38, 53, 89, 103, 105	Permit, p.14 II.B.4.a. Permit Coverage This section states: "Permit coverage shall not commence until the PRDs and the annual fee are received by the State Water Board…." The permit does not provide any time frame within which the SWRCB should respond with the WDID receipt letter. The permit should be revised to specify this time frame.	Once a complete set of PRDs are submitted, and first annual fee payment has been made, a WDID number will be generated in SMARTS, and automatically sent to the Legally Responsible Person.

Commentor ID	PRD Comment Summary	Comment Response
25	Permit, p.23 IV.I.1.a.i. Electronic Signature and Certification Requirements The Draft Permit inexplicably revised EPA's standard provision to redefine the discharger into the "Legally Responsible Person" (or LRP) and the "Approved Signatory"; this both confusing and unnecessary. The Draft Permit also inexplicable redefines the role of the "Duly Authorized Representative" to the equivalent position of the discharger. These sections should be revised to be consistent with EPA's standard provisions. Additionally, utilities operate across large geographic areas and have many divisions of responsibility for company operations. As such, it is imperative that, consistent with EPA's regulations, the Draft Permit does not contain language that would preclude a corporation or other discharger from having one or more authorized signatories and/or duly authorized representatives.	The CGP requires an LRP to establish an account in the SMARTS system. The LRP may designate Approved Signatories who have legal authority to sign, certify, and electronically submit PRDs and Notices of Termination on behalf of the LRP.
25	Permit, p.15 II.B.5. If, alternately, the discharger must wait until he has a WDID receipt letter in hand it is imperative that: 1) the permit makes this clear, and 2) the SWRCB institutes an electronic process that updates the discharger on the status of the approval and the WDID letter. The permit also should clarify a finite time in which the Regional Board has to send the WDID receipt letter. The permit should also provide a mechanism to be utilized in the event the SMART system is not functional.	Once a complete set of PRDs are submitted, and first annual fee payment has been made, a WDID number will be generated in SMARTS, and automatically sent to the Legally Responsible Person.
25	Permit, p.18 Section II. D. 3.b. The RUSLE 2 methodology should be provided for review and comment.	Comment Noted. Since the RUSLE2 methodology is still in development, we have made it optional to use either RUSLE or RUSLE2 to satisfy requirement II.D.3.b.
25	Permit, p.16 II.C.2.e. Revised Fee submittal for change in acreage/ownership 30 days is a standard business invoice payment practice due to reasonable processing time. The permit should be revised to allow 30 business days.	Comment Noted. For a change in acreage/ownership the discharger has 30 days to file revisions to the PRDs. Payments of revised annual fees are due within 14 days of filing the revisions.
25	The Draft Permit proposes that almost all submittals to the SWRCB will be conducted electronically. The Draft Permit is not clear on the procedures that will be used for the electronic submittals. Since it is not practical for responsible corporate officials to individually prepare and upload the many submittals required by the Draft Permit, it is imperative that the SWRCB's procedures for this process are designed in a flexible manner such that internally authorized administrative staff at corporations can also prepare and upload the submittals to the SWRCB web-site for the ultimate review and certification by a responsible corporate official or a duly authorized representative.	The CGP requires an LRP to establish an account in the SMARTS system. The LRP may designate Approved Signatories who have legal authority to sign, certify, and electronically submit PRDs and Notices of Termination on behalf of the LRP. "Data submitter" may also be designated in SMARTS who can electronically submit reports or other information required by this permit but cannot certify.
26	Order, Section II.D, p.l7 Notice of Termination (NOT) requirements and NOT	The Regional Water Boards may be contacted for flexibility for

Commentor ID	PRD Comment Summary	Comment Response
	submittal language need flexibility for unusual geologic and hydraulic conditions. NOT language should include language to address unusual geological conditions, such as rock cuts, areas of active landslide, or places where, for hydraulic or geologic reasons, the area cannot support vegetative cover. Clarification is needed on the duration for which permittees will be required to pay annual fees for post-construction BMPs.	unusual and hydraulic conditions.
26	Caltrans suggests the State Board maintain the process in the Caltrans statewide NPDES Permit (99-06-DWQ) for filing of Notices of Construction.	The CGP requires that all dischargers must electronically file PRD's which include a Notice of Intent.
26	Caltrans, like many public agencies, is frequently not the "land owner" and in many cases does not hold title to the underlying property. Caltrans operates much of the state's conventional highway system under various property rights, e.g., prescriptive rights and easements. This prevents Caltrans from assuming the duties for the Legally Responsible Person. Caltrans suggests including a provision for public agencies similar to that of the Linear Underground Projects, whereby the LRP does not need to be the "land owner".	Comment Noted
29	SMARTS Currently, some MS4 permits, (e.g., those issued in Regions 7 and 8) allow for the permitting of municipal construction projects under the MS4 permit, which require compliance with the substantive provisions of the CGP. The approach allows for consolidation of CGP requirements for MS4 permittees as part of their MS4 permit review and enforcement. Similarly, the Caltrans Statewide MS4 permit provides that the Caltrans District submits a Notice of Construction to the appropriate Regional Water Board. It is not clear that either of these types of permitting arrangements has been considered, and the SMARTS should be made compatible with this type of permitting arrangement, which is a valuable integration of construction and municipal storm water permitting requirements.	Comment Noted. The CGP will require all dischargers (including Caltrans) to submit Notices of Intent for coverage.
29	Fee Payment Sections II.B.4.b and II.C.2.e require on-going projects to submit fees within 7 and 14 days respectively of filing PRDs for coverage under the new permit and filing changes of project size. The specified time periods are inadequate for most public entity and many private entities to request, process, and cut checks. CASQA recommends that these time periods be changed to 30-days from receipt of the notice.	Checks may be processed and cut prior to the electronic PRD submittal in order to submit fees within 7 days.
29	SMARTS CASQA recommends that SMARTS include an automatic response to confirm submittals. The automatic response, should acknowledge submitted documents and reports with a tracking number. The tracking number would provide Dischargers evidence of submittals (date, document type, etc.) for their files.	Comment Noted. SMARTS will send an automatic e-mail to the Legally Responsible Person (LRP) when anything is submitted into the system under their account.

Commentor ID	PRD Comment Summary	Comment Response
29	SMARTS Given the noncompliance consequences of submittal errors, in addition to the significant and sudden system demands, CASQA encourages the State Water Board to allow paper submittals of Permit Registration Documents (PRDs) and associated report requirements for two years in order to ensure accuracy and reliability of the new database system. Furthermore, to expedite PRD processing, CASQA recommends development of an electronic payment option within SMARTS.	Comment Noted. The State Water Board does provide PRD paper submittal but the discharger must demonstrate hardship. The State Water Board has considered accepting electronic payments but it was determined to be too expensive for the agency.
30	One of the three methods to make this showing is that "the vegetative cover is self-sustaining and at least 70% of the soil on each individual parcel is uniformly covered by live, actively growing plant matter in contact with the soil." In the 2008 Comment Letter, CMAC requested that the Board expressly clarify that this "self-sustaining" requirement should not be construed as implying that a vegetated area cannot be irrigated. Unfortunately, CMAC's reasonable request has not been incorporated into the Draft Permit, As a result, ambiguity continues to exist regarding the interpretation of this requirement.	Comment Noted
33	Permit Registration Documents (PRDs) We offer the following suggestions to further improve the e-filing process: 1. We encourage the State water Board to allow paper submittals of PRDs and associated reports for two years in order to ensure accuracy and reliability of the new database system — Storm Water Multi-Application and Report Tracking System (SMARTS). 2. We recommend that the time periods for submittal of permit fees be changed from the current required 7 and 14 days to 30 days from receipt of the notice. The specified time periods are inadequate for our city to request, process, and cut checks. 3. It is recommended that the proposed SMART system send an e-mail of all submitted PRDs and Notice of Terminations (NOTs) to the local municipality.	1. The State Water Board does provide PRD paper submittal but the discharger must demonstrate hardship. 2. The State Water Board has the Fee Schedule posted on our website for dischargers to determine their application fees prior to PRD submittal. 3. SMARTS will send an automatic e-mail to the Legally Responsible Person (LRP) when anything is submitted into the system under their account.
33, 40	SWPPPs and Permit Registration Documents (PRDs) We support the changes made in the Draft GCP regarding the 14-days advance submission period allowed to submit PRDs to the State Water Board. The 14-day window for advance submission of the PRDs appears to be workable for most projects and will not account for untimely delays. We also support the change to eliminate the regulatory and public review/comment/hearing of the SWPPPs before the start of construction. However, we recommend that SWPPPs for traditional projects not be submitted with the PRDs, but prior to start of construction, as is allowed for LUPs.	Comment Noted. Submittal of the SWPPP during the PRD process is necessary to provide additional project information. Any amendments to the SWPPP made after this point does not require re-submittal into SMARTS.
34	Attachment B, Section J.2.h - 0 Page 3 "Site Map(s) includes: a ... . b ... . c. '" " Comment: Areas of soil disturbance and locations of erosion 'and sediment control BMPs on a construction site change on a continuous basis. Staging	Initial site maps are necessary during the PRD process for public review of all documents pertaining to the construction activities.

Commentor ID	PRD Comment Summary	Comment Response
	areas and construction site configurations are not known at the time of PRD submittal due to the fact that the contractor finalizes these details shortly before the start of construction activities. Any submittals required as part of the PRD package will be unrealistic and subject to change. It is recommended that such information be included in the site SWPPP and updated as required during the course of construction activities.	
37	The permit also needs some changes to clarify that it is not the responsibility of the previous owner of a project property to terminate coverage until the new owner has filed the PRDs. The previous owner does not have any control over the new owner's responsibility to file the PRDs. The recommended language change is: "Dischargers may terminate coverage for such a parcel when the parcel has either achieved "Final Stabilization" or when the parcel has been sold and the title to the property has been transferred."	Property owners may require submittal of PRDs as a contingency to sale completion.
40	Legally Responsible Person (LRP) City staff recommends that the current Order 99-08-DWQ language be maintained in the GCP that allows an owner or operator to certify permit requirement documents and to delegate this authority in accordance with corporate policy to appropriate individuals, including those individuals responsible for compliance such as a construction manager. The draft CGP's revised definition of a LRP will present a challenge for projects conducted by the City which are usually subject to long-term contracts under which the contractor is responsible. These legal contracts usually transfer compliance responsibility to the "operator" of the project and it would not be appropriate for the City or landowner to be involved in the certifications.	Comment Noted
42, 45	SMARTS The City is concerned about the reliability of the Storm Water Multi-Application and Report Tracking System (SMARTS). The beta version of this application is not yet publicly available for testing. Therefore, it is not possible for the City to evaluate the functionality, accuracy, reliability or efficiency of the application. Furthermore, because of the infancy of this application, the City is concerned about its ability to reliably manage the tens of thousands of permit registration documents and follow-up documentation that need to be processed within the first 100 days after permit adoption, or for the July 1 submittal requirement for annual reports. Therefore, to allow continued development and testing for a reliably stabile and accurate SMARTS, the City recommends a phased-in approach for SMARTS requirements, with paper documentation for at least two years, along with system verification each submitted item.	There will be a testing phase by a set of selected dischargers. Since the permit will not be effective until July 1, 2010, SMARTS will be available prior to allow dischargers to begin to register leading up to the effective date. A phased in approach will not work due to workload of taking hard copy PRDs and uploading to the web for public review.
56	B-Obtaining Permit Coverage Traditional Construction Projects B4-b: After 100 days, all pre-existing dischargers under 99-08 will have their NOI's terminated	We agree. The Regional Boards have the authority to require that a discharger conduct a risk assessment regardless of exemption

Commentor ID	PRD Comment Summary	Comment Response
	and subject to filing new PRDs, however, they are still exempt for 2 years from the adoption date from risk determinations other than RL 1. Is it not implicit that in that re-registering the discharger will now come under the new permit requirements; and could be required by the Water Board to perform a risk determination (and thereby potentially obtain a higher risk level)?	from the Risk Determination requirements in the CGP. The Findings have been revised to state that the State Water Board finds that there are two circumstances when it may be appropriate for the Regional Water Boards to require a discharger to recalculate the site's risk level; 1) When the discharger has a demonstrated history of noncompliance with 99-08-DWQ, or 2) When the discharger's site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3 requirements.
56	D-Obtaining and Modifying General Permit Coverage D-36 When can we see SMARTS II, will there be adequate time for the conversion? Procedures need to be identified for submission and payment.	There will be a testing phase by a set of selected dischargers. Since the permit will not be effective until July 1, 2010., SMARTS will be available prior to allow dischargers to begin to register leading up to the effective date. Forms of acceptable payment are check, money order, cashiers check. Electronic payment (Visa or M/C) are possible at this time.
58	Coverage Section II.,B., 5., of the permit states the discharger is only considered covered by this General Permit upon receipt of a Waste Discharger Identification (WDID) number assigned and sent by the State Water Board Storm Water Multi-Applications and Report Tracking System (SMARTS). EMWD recommends that permit coverage be revised throughout these documents to indicate permit coverage shall commence when the PRDs and associated fees are received by the SWRCB.	Once payment is received it will be posted and WDID number assigned.
68	The electronic filing of storm water pollution prevention plans by applicants/permittees is neither appropriate nor required. The Board explains that the filing of the SWPPP is required as a result of recent federal court cases involving EPA's permits for municipal separate storm sewers and concentrated animal feeding operations. But this explanation is misleading, since another federal court case involving EPA's permit for construction activity (the only one that is directly analogous here) specifically upheld EPA's decision not to require the filing of a Storm Water Pollution Prevention Plan. See Texas Independent Producers and Royalty Owners Association v. EPA, 410 F.3d 964 (7th Cir. 2005). The Board dismisses this case as "not binding or controlling" in a footnote (see CGP Fact Sheet at p. 2), but fails to meaningfully acknowledge its persuasive effect --being the only one of the three cited cases to arise in the exact same factual context as here (i.e., the public availability of SWPPPs under CGPs). In short, the Texas case is the case most relevant here and the one that	Language has been added to the permit stating that "any information provided to the Regional Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted."

Commentor ID	PRD Comment Summary	Comment Response
	least supports the Board's proposed approach. If the Board persists in requiring the filing of a plan, then it will need to offer some other legal justification for doing so. We urge the Board to qualify the requirement to electronically file SWPPPs for homeland security reasons. Under the CGP, a permittee's SWPPP must identify a number of sensitive site details, including the location of bulk chemical storage areas, access points and access controls. To minimize homeland security risks, the Board should give permittees some meaningful opportunity to protect these types of details from disclosure to the public (e.g., by submitting redacted or confidential versions of their plans).	
89	SMARTS Please provide guidelines for the electronic submittal process. During the public hearings the process was discussed and it appeared that the process was still being developed but when the process has been finalized please provide a guidance document on how to file electronically all documents required. This would be very useful to the dischargers.	Help Manuals will be developed for dischargers to use. The system will also have questions "?" marks that users can click on for additional help.
89	Attachment B, page 2, Section E Please define construction activity. Is that mobilizing construction, dropping lumber, bringing in the job trailer, disturbing soil, and etc.	Construction activity includes but is not limited to, clearing, grading, grubbing, or excavation, or any other activity that results in a land disturbance of equal to or greater than one acre.
89	Attachment B, Page 3, Section J.2 Will 5 site maps need to be submitted to reflect the 5 distinct phases of construction as described on page 3 of the Findings?	Comment Noted
89, 105	Permit, Pg. 14. Sec. II. B.4a: What is the annual fee schedule? Please provide the fee schedule.	The Fee schedule is updated regularly and can be accessed through the State Water Board accounting website
105	Homeland Security Requirements SCE recommends that utility companies be exempt from having their Permit Registration Documents posted on the internet for public review due to Homeland Security requirements.	Language has been added to the permit stating that "any information provided to the Regional Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted."
105	Storm Water Multi Application Reporting and Tracking System (SMARTS) SCE recommends the State Board provide web-based training for dischargers and grant SCE access to the online and reporting SMARTS system for review and feedback before it goes "live." This will ensure a smooth transition from the current method of submittal to the new SMARTS system.	There will be a testing phase by a set of selected dischargers. Since the permit will not be effective until July 1, 2010, SMARTS will be available by that time for dischargers to register under the new permit.
111	The Draft Permit is not clear on the differences and responsibilities of the Discharger and the Legally Responsible Person (LRP). Although it appears that the Permit uses these terms interchangeably, certain requirements appear specific to each party. The issue of who must or is allowed to apply for permit	"Discharger" is defined as the Legally Responsible person or entity subject to this General Permit.

Commentor ID	PRD Comment Summary	Comment Response
	coverage and who is authorized to enter data into SMARTS should be clarified. A table of responsibilities for the Discharger and LRP is recommended. If the Discharger and the LRP are the same party, the Permit should be revised to use one term consistently. It is recommended that Section IV.I include a table listing all of the potential documents that may be required by this permit, the identity of the corresponding qualified individual who must prepare and certify the documents, and the date or timeline by which the documents must be uploaded to SMARTS.	

POST-CONSTRUCTION REQUIREMENTS

Commentor ID	Post-Construction Comment Summary	Comment Response
17	While the conditional exemption for publicly funded projects provided in Permit section XIILA. 1 is a step in the right direction, it does not guarantee that a public agency project will not be subject to the Permit's post-construction requirements. This is problematic for public agencies whose projects must serve specific purposes that may conflict with the Permit's post-construction requirements, and/or require approvals from other state agencies that are not aware of or sympathetic to the Permit's requirements. This oversight from other state agencies creates a system under which certain types of facilities are exempt from local building and zoning ordinances. (See e.g. Cal. Gov. Code § 53091, 53094.) Where drainage requirements, such as the Permit's post-construction and site-design BMP requirements, are so comprehensive they impact the design of a project, they may conflict with this statutory scheme.	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
22	Finding 71 – Recommend deleting finding. The inclusion of post-construction requirements in the general construction storm water permit is inappropriate, unnecessary, and duplicative of efforts already underway to regulate hydromodification impacts from new and redevelopment projects.	The post-construction requirements in the CGP apply to areas outside of municipalities with post-construction requirements already in place.
22, 29, 58	Permit Page 17 - In regards to a "long term maintenance plan will be designed for a minimum of five years, and will describe the procedures to ensure that the post-construction storm water management measures are adequately maintained": Is the plan written in the SWPPP? -Where is it kept? -What does it include? -Does it include HOA requirements or maintenance requirements for public agencies that will maintain post-construction BMPs? -How does the permit holder require a municipality or new homeowners to comply with this	To comply with this requirement the discharger must certify that there is a longterm maintenance plan as defined in the CGP and approved by the State or Regional Water Board staff reviewing the NOT. If this requirement is met, the permit coverage is terminated and there is no permit mechanism available to enforce this requirement.

Commentor ID	Post-Construction Comment Summary	Comment Response
	requirement? -How does the plan ensure that post-construction measures are adequately maintained when they are the responsibility of the new land owner and not the permitee? -How will the State Board enforce a permit violation for post-construction maintenance plans when the construction permit has been terminated?	
22, 25, 27, 29, 37, 40, 49, 50, 54, 65, 67, 76, 78, 91, 98, 107	Post-Construction– Because many projects undergo a multi-year design and entitlement process well before a construction permit application is filed, regulation of post-construction impacts via a construction permit is not appropriate nor the best way to accomplish the State's goals. We do recommend the permit include some language indicating that hydromodification impacts both pre-construction and post-construction be addressed during the CEQA process using appropriate, technically accepted methods and/or meet the requirements established under the local MS4 permit.	Comment Noted. The CGP is the best regulatory measure to enforce post-construction requirements directly on projects due to the fact that the discharger in this permit is the party most knowledgeable to comply. A provision has also been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
26	Caltrans has concerns about the post-construction language and suggests removing post-construction BMP requirements, as these types of BMPs are more effectively and efficiently implemented under the MS4 permit process.	It is our understanding that Caltrans projects requiring CGP coverage would not have to comply with the post-construction requirements in Section XIII due to the fact that the projects will be in Phase I areas and Caltrans has an approved SWMP.
26, 29	Order, Section 1, D46, p.8 Set-Back Credit What is the minimum distance to qualify for the setback and what is the credit, specifically? What will the basis be for a local agency or a Regional Water Board in establishing a setback?	Comment noted
29	Post-Construction Applicability It is not clear where the runoff reduction requirements do not apply – in areas of the state where there is an approved Phase I or Phase II SWMP (as stated in the Draft CGP) or in areas where the approved SWMP includes a SUSMP-like requirement (as stated in the Fact Sheet.) The Fact Sheet Figures 3 and 4 on pages 37 and 38 appear to misrepresent the actual areas covered by MS4 permits that are subject to SUSMP requirements. For example, on Figure 4, areas in eastern San Diego County are shown as SUSMP applicable areas, whereas these areas are rural not urbanized. We recommend that the State Water Board revisit the methodology used in rendering these GIS maps to ensure they depict the areas subject to the MS4 SWMPs.	The State Water Board will provide a new, accurate map and GIS layer as part of the online enrollment process (and available on our website as guidance) to better reflect these boundaries.
29	Continuous Simulation Models –Post-construction The Fact Sheet (pg. 39, Second Paragraph, Last Sentence) indicates that "dischargers are given the option of using Appendix 4 to calculate the required runoff volume or a watershed process-based, continuous simulation model such as EPA's Storm Water Management Model (SWMM) or Hydrologic Simulation Program – Fortran (HSPF)." • CASQA would like to know what process is set up for the approval of	The process is to submit this argument via the SMARTS2 system and the appropriate Regional Water Board will review. The PRDs must contain a plan for how the discharger intends to comply with the post-construction requirements. The actual "deadline" to completely demonstrate compliance with post-construction requirements is the NOT approval milestone.

Commentor ID	Post-Construction Comment Summary	Comment Response
	the submitted calculations for both Appendix 4 and SWMM and HSPF model runs. • Does the Board have staff available to review and approve these submittals in the 14 days prior to construction that these items must be submitted with the PRDs?	
29	Post-Construction Section XIII.A, of the draft permit limits application of the new and re- development requirements to avoid duplication with other water quality regulatory requirements. CASQA recommends that projects with 401 Water Quality Certifications or Waste Discharge Requirements (WDRs) that address hydromodification requirements also be exempt from this section of the Draft CGP.	We disagree - CWA 401 certifications and related waste discharge requirements apply to the dredge and fill of waste directly to waters of the United States, whereas this permit applies to discharges of storm water on the adjacent landscape, so the two permitting actions should not conflict with each other.
29	Post-Construction – Waiver Section XIII.A.1 states that “owners of publicly funded projects may appeal to the appropriate Regional Board for an exception to the requirements of this Section XIII.” CASQA recommends that the waiver not be limited to public agencies. The ability to request a waiver should be available to all permit applicants.	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
29	Post-Construction The Draft CGP, pg. 35, Section XIII Post-Construction Standards A.3, requests applicants to provide permit documents to Regional Water Board staff at least 30 days prior to the use of any structural control measure used to replicate the pre-project water balance. The Draft CGP is not clear on what constitutes a structural control measure that will trigger the review and approval process. Many control measures that use landscape and landform are actually highly engineered control measures, such as a bioretention swale, or constructed wetland. The Draft CGP does not clearly convey when dischargers must seek approval of the Regional Water Board (prior to use in the design, prior to use of the device [i.e. at the end of the construction project]), nor is it clear when the Regional Water Board will respond to a submission. CASQA is concerned that projects may be delayed pending Regional Water Board approval of the structural control measures. CASQA requests that the approval requirement be removed from the permit or that a submittal and response time frame be explicitly stated.	We consider any measure not listed as a credit in Appendix 2 to be a structural control. Dischargers are encouraged to use our credit system or submit clear rationale for use of structural controls as early as possible to avoid delays.
29	Post-Construction The Draft CGP says the discharger must replicate the pre-project water balance, then goes on to define “water balance” as the amount of rainfall that becomes runoff. • Does satisfactory completion of the worksheets in Appendix 4 constitute compliance with the water balance matching requirement or are additional measures/documentation required? • If a discharger uses a computer model instead of the worksheets, does he/she have to match pre- and post-project runoff volumes only or other parameters as well? • CASQA requests	Yes, completion of the worksheets in Appendix 2 satisfies this requirement. If the discharger uses a model they must demonstrate how they intend to meet the "pre-project water balance." This may include any of the following parameters: runoff volume; time of concentration; drainage density; drainage pattern, EVT, and others. We have provided some clarification in the Findings.

Commentor ID	Post-Construction Comment Summary	Comment Response
	that specific criteria for the other modeling techniques be provided for clarity and consistency across the state.	
29	Post-Construction Section XIII.A.4, of the Draft CGP, specifies that "(f)or projects whose disturbed project area exceeds two acres, the discharger shall preserve the pre-construction drainage density for all drainage areas serving a first order stream or larger stream and ensure that post-project time of runoff concentration is equal or greater than pre-project time of concentration." • Preserving the drainage density for all projects is exceptionally restrictive and greatly limits site uses. • There are many effective BMPs, including Low Impact Development (LID) approaches that can be used to meet performance goals such as runoff volume reduction and pollutant load reduction. • Maintaining existing drainage density will encourage sprawl and increase the cost of development without benefiting water quality beyond what other equally effective approaches could provide. • The footnote defining a first order stream "as a stream with no tributaries" does not clearly define stream order. There are various nomenclatures for streams used by different government agencies, such as blue lines on USGS quad maps, California State hydrologic numbers used by DWR, and similar numbers used by State and Regional Water Boards. Additionally, not all of the Regional Water Boards provide a clear, high resolution map from which the appropriate stream watershed number can be determined. CASQA recommends that the requirement to preserve drainage density be deleted, while keeping the requirement to maintain post-project time of concentration equal to or greater than pre-project, which will have a similar effect without limiting development options onsite.	We disagree. Preserving drainage density is a principle of LID. Maintaining drainage density can be achieved through various LID approaches.
29	Fact Sheet Post-construction CASQA reiterates its recommendation that pages 39-42 of the Fact Sheet (discussion of channel protection, bank full stages including outdated Rosgen reference) be deleted or moved to an appendix for use as needed.	Comment Noted. We feel it is relevant, important and technically sound rationale.
29	Appendix 4.1 – Post-construction worksheet The Excel Spreadsheet App4_1_postcon.xls has the following errors and issues: • The Porous Pavement Credit Worksheet lists a duplicate: o "Area of Cobbles less than 12 inches deep and over soil" with two separate Runoff Reduction Factors. • The Porous Pavement Credit Worksheet lists 0.40 as a runoff reduction credit for "Area of Poured Porous Concrete or Asphalt Pavement with less than 4 inches of gravel base (washed stone)". Is this factor the same across the state? The 85th percentile storm event will vary from place to place. • The same worksheet cites the BASMAA standards which were designed only for the San Francisco Bay	Comment Noted. In the interest of trying to keep this simple the runoff reduction credits are statewide.

Commentor ID	Post-Construction Comment Summary	Comment Response
	Area. Please justify the applicability of this criterion across the state. • The Tree Planting Credit Worksheet cites the Sacramento and South Placer Region Manual. Please justify the applicability of this criterion across the state. • Additional time is requested to review the excel spreadsheet which was originally released in a locked format with several calculations hidden from public review.	
29	Appendix 4 -Instructions The instructions lead the preparer of the SWPPP through several actions to input data. Most of these instructions seem straightforward; however, they should be tested by several persons over several iterations before being placed into use. The experience of our members who tested the system was that the crediting mechanism is not fully described in its purpose, function or use. • What is to be done with the credit number gained after using the calculator? • Is a negative number good or bad? • How do the users understand that need to go back and make further improvements to reach State Water Board desired criteria for treatment and flow control? The following presents some specific comments on the Appendix 4 instructions: • The Map Instructions should be edited to read: o The discharger must submit a small-scale topographic map of the site and drainage areas draining to the site to show existing contour elevations, pre- and post-construction drainage divides, and the total length of stream in each watershed area. • Step 8 should be edited to read: o “Volume/Area that cannot be addressed…” • Steps 8 and 9 both request that “Volume/Area that cannot be addressed using non-structural practices must be captured in structural practices and approved by the Regional Water Board.” The materials identified in this step are submitted with the Notice of Termination, which is at construction completion, making it infeasible for design changes to be made.	Comment Noted.
32	Fact Sheet - Pages 37-38, L. Post-Construction Requirements, Figure 4: The figure is somewhat misleading. It indicates the areas outside the Phase II MS4s would be covered only by post-construction requirements in the new General Permit. However, it is highly likely the Counties will require similar post-construction design criteria for construction projects outside of the MS4. It would be very difficult to separate projects within and outside IV1S4 jurisdictions. We recommend revision of this section for better clarity.	Comment Noted. We will provide a new, accurate map and GIS layer as part of the online enrollment process (and available on our website as guidance) to better reflect these boundaries.
37	The responsibility for the post-construction BMPs should not be the QSD, who is not the discharger. The responsibility for the maint/operation of these BMPs should be the discharger, since they are the one on the NOI/responsible even after project gets an NOT.	We do not understand your comment but will point out that the discharger is ultimately responsible for complying with all the requirements of this permit, including the post-construction BMPs used (if applicable).
52	The Fact Sheet does not require post-construction requirements in areas	The CGP establishes the following criteria for exemption of post-

Commentor ID	Post-Construction Comment Summary	Comment Response
	covered by Standard Urban Storm Water Management Plans (SUSMP's) in Phase I and II MS4 permits. The Draft Order only mentions Phase I and II MS4 permit coverage. As SUSMP's are not required for all Phase II communities, the Fact Sheet and the Draft Order are not consistent. Please clarify.	construction requirements: 1) the project must be located within an area subject to post-construction standards of an active Phase I or II municipal separate storm sewer system (MS4) and 2) has an approved Storm Water Management Plan.
52	Lake County applied its Storm Water Management Plan under its Phase II MS4 Permit to the entire county not just the state designated urban boundaries shown in Figure 3 of the Factsheet . Are the post-construction requirements waived for the entire County, or just the designated urban boundaries?	The post-construction requirements are waived for those areas already subject to post-construction standards of an active Phase I or II MS4, and have an approved Storm Water Management Plan.
56	XIII-Post-construction Standards A-l: (pg 35) Is the Department of Defense and its installation qualifies as a publicly funded project and therefore exempt?	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
59	A phase in permit is necessary to prevent disruption of projects which are on-going and which have been designed as of the implementation date of the revised permit. It is infeasible for projects currently in construction to redesign to meet this standard. For projects, which are not yet in active construction, but have completed the design and/or have completed environmental review processes (e.g., NEPA, CEQA assessments and local planning approvals), redesign would be prohibitively costly and likely to jeopardize existing regulatory approvals.	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
59	The tentative order is unclear in delineating where the runoff reductions do not apply with regards to having a phase I or phase II SWMP or in areas where the SWMP includes a SUSMP provision. The tentative order allows publicly funded projects to apply to the Regional Board for a waiver of the post-construction standards, but the criteria for obtaining the waiver and timing to apply for the waiver are not clear. In addition, there is no rationale for allowing only publicly funded projects to apply for the waiver.	The CGP establishes the following criteria for exemption of post-construction requirements: 1) the project must be located within an area subject to post-construction standards of an active Phase I or II municipal separate storm sewer system (MS4) and 2) has an approved Storm Water Management Plan. The current exemption language reflects a balance between fairness and workload impacts to our program and staff.
67	Using the “pre-project” condition as opposed to the pre-development condition to calculate the water volume to be retained onsite is not protective of water quality.	Comment Noted. Pre-project conditions are applicable to areas subject to the post-construction requirements since these areas are not located within a Phase I or II MS4 with post-construction standards already in place. Also, "pre-development" conditions can be very subjective and difficult to determine.
67	Finally, the post-construction requirements call for the discharger to preserve the “pre-construction drainage density” which is defined as the miles of stream length per square mile of drainage area. The State Board must clarify how this requirement is to be implemented.	Preserving drainage density is a principle of LID. Maintaining drainage density can be achieved through various LID approaches.

Commentor ID	Post-Construction Comment Summary	Comment Response
67	The post-construction standards section requires that dischargers implement BMPs to reduce storm water pollution after the project is completed. We support this requirement; however, the State Board should link this to performance-based criteria (flow based req not enough) . See geo syntec examples	The runoff reduction requirements using the rational calculation in this general permit represents the most effective and efficient approach to ensure that sites do not cause or contribute to further degradation of downstream beneficial uses and water quality. This is due to the flexibility and simplicity of the approach, including the online calculator and credit system. We believe that it is the most appropriate way to regulate the construction permit dischargers that do not have overlapping municipal separate storm sewer system (MS4) permit coverage.
76	Please clarify and confirm that all school projects that discharge into existing storm drains and concrete channels are exempt from hydromodification requirements.	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
89	Permit Section XIII.A.1, page 35 What is the process for appealing to the appropriate Regional Board for an exception to this requirement? What is the time frame?	This provision has been deleted. A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
89	Permit Section XIII.A.3, page 35 Please describe "volume that cannot be addressed using non-structural practices"? How is this approved by the Regional Board? Do we need to submit a Water Quality Management Plan to the Regional Board? Will it be reviewed? What is the timeline for this?	"Volume that cannot be addressed using non-structural practices" can be interpreted as volume controlled through structural controls. We consider any measure not listed as a credit in Appendix 2to be a structural control. Dischargers are encouraged to use our credit system or submit clear rationale for use of structural controls as early as possible to avoid delays. Approval, and timeframes may differ by Regional Water Board. When seeking Regional Board approval for the use of structural practices, dischargers must document the infeasibility of using nonstructural practices on the project site, or document that there will be fewer water quality impacts through the use of structural practices
89	Permit Section XIII.A.4, page 35 What is the intent of drainage density?	Preserving drainage density is a principle of LID. Maintaining drainage density can be achieved through various LID approaches.
91	The discharger's obligation to comply with the runoff reduction requirements does not apply if the discharger's project is "located within an area subject to post-construction standard of an active Phase I or II MS4 permit that has an approved Storm Water Management Plan." [emphasis added] The meaning of	The CGP establishes the following criteria for exemption of post-construction requirements: 1) the project must be located within an area subject to post-construction standards of an active Phase I or II municipal separate storm sewer system (MS4) and

Commentor ID	Post-Construction Comment Summary	Comment Response
	an “active (as opposed to “inactive MS4 permit) is not clear. Is “approval” of the Storm Water Management Plan by the Regional Board Executive Officer satisfactory (as opposed to the Regional Board)? The San Diego Region RWQCB does not approve Storm Water Management Plans (SWMP) at the staff or Board level. What is the discharger’s obligation if the MS4 permittees have submitted a SWMP to the Regional Board and no action of any kind has been taken by the Regional Board, the Regional Board Executive Officer, or Regional Board staff?	2) has an approved Storm Water Management Plan. If a SWMP is not approved, the discharger is required to comply with the post-construction requirements in the CGP.
91	The State Board and the Regional Boards already have the authority to regulate hydromodification through Clean Water Act Section 401 Water Quality Certifications or through Waste Discharge Requirements. Duplicative regulation of hydromodification is not necessary.	The post-construction requirements in the CGP apply to areas outside of municipalities with post-construction requirements already in place.
99	Provide additional flexibility for MS4 permits without Storm Water Management Plans and for non-SUSMP permittees. Section XIII Post-Construction Standards has requirements that must be met unless the project is "located within an area subject to post-construction standards of an active Phase I or II municipal separate storm sewer system (MS4) permit that has an approved Storm Water Management Plan." The San Francisco Bay Regional Water Quality Control Board is developing a municipal regional storm water permit that would replace the requirement for a Storm Water Management Plan. The draft permit should allow the exception from Section XIII's requirements if a Phase I or II permit is adopted that addresses hydromodification and post-construction BMPs. Attachment B also lists under "H. Additional PRD Requirements Related to Construction Type" requirements for calculating post-construction water balance if a project is located in an unincorporated area of the state "not covered under an adopted Phase I or II SUSMP requirements." This exception should be broadened to cover non-SUSMP Phase I or II permits that have adopted hydromodification requirements.	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
105	Applicability of Post-Construction Requirements While SCE is sympathetic to the difficulty and challenge of finding an appropriate permitting mechanism, adding post-construction requirements to a construction permit is not the appropriate or default tool to solve the issue. However, if the post-construction requirements are adopted, the Draft Permit needs to provide a grandfathering clause for projects that are past the design stage. SCE recommends removing post-construction requirements from the Draft CGP. A more appropriate regulatory tool would be a local or statewide MS4 Permit.	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.
105	Post-construction The requirement to match pre-project hydrology is not	A finding has been added clarifying that LUPs are not subject to

Commentor ID	Post-Construction Comment Summary	Comment Response
	reasonable or appropriate for linear projects. This requirement would make it impossible to grade any construction site, particularly linear projects. Exempting linear projects would take into account the realities of particularly steep or narrow locations common in linear construction. Restrictions against altering the pre-project site hydrology would make the project infeasible. SCE recommends eliminating the requirement to maintain pre-project hydrology for linear construction projects.	post-construction requirements, and clarification language will be added to the Fact Sheet.
107	Post-Construction The draft permit allows publicly-funded projects to apply to the Regional Board for a waiver of the post-construction standards. Why is this limited to public-funded projects. Clarification is needed of what constitutes a "public-funded project". Is it waiver an option for projects funded with public money that is being constructed by a private developer (i.e., a joint project for freeway interchange improvements that is funded in part by private monies and in part by public monies)? What is the process for requesting a waiver. What types of information would be necessary to submit to the Regional Boards?	A provision has been added to the permit for post-construction requirements to take effect three years from the adoption date of the CGP, or later at the discretion of the Executive Officer of the Regional Water Board.

REGIONAL WATER BOARD AUTHORITY

Commentor ID	Regional Board Authority Comment Summary	Comment Response
22, 50, 59, 89	Recommend the authority given to the Regional Boards to redo the risk assessment approach be removed. This authority creates tremendous jeopardy and uncertainty for a discharger because the scope and budget of a construction project may be increased substantially should the risk level for a project be adjusted upwards.	This authority is necessary to enforce upon dischargers that intentionally omit project site information in order to calculate a lower risk level. The Findings have been revised to state that the State Water Board finds that there are two circumstances when it may be appropriate for the Regional Water Boards to require a discharger to recalculate the site's risk level; 1) When the discharger has a demonstrated history of noncompliance with 99-08-DWQ, or 2) When the discharger's site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3 requirements.
25	Permit, p.37 XV.A. Risk Re-evaluation The wording implies that the SWRCB/ RWQCB are imposing a higher risk level without allowing a real re-evaluation. The wording should allow a project proponent to demonstrate/explain their re-evaluation for serious consideration by the SWRCB/RWQCB.	Disagree. There may have been an error in the dischargers assessment of their construction site, the Regional Board reserves the right to ask for corrections or a resubmittal. A "reevaluation" may just be correcting an error or providing clarification, it does not directly mean a complete reassessment of Risk without the opportunity for an explanation from the

Commentor ID	Regional Board Authority Comment Summary	Comment Response
		discharger.
26	Caltrans has a statewide permit already: Caltrans cannot be forced into 34 different ways of doing business and still be consistent. We request clarification on how this may affect our construction projects, as any additional resources in construction change orders would cause delays to publicly funded construction projects. Caltrans recommends removal of the language conferring discretionary authority to the Regional Boards. If Regional Board discretion is granted, it should be based upon quantitative trigger(s) within a fixed time frame to avoid an open-ended process.	It is out of the scope of the CGP to put a time limit on the Regional Boards for making decisions about change requests, or give statewide criteria. The Findings have been revised to state that the State Water Board finds that there are two circumstances when it may be appropriate for the Regional Water Boards to require a discharger to recalculate the site's risk level; 1) When the discharger has a demonstrated history of noncompliance with 99-08-DWQ, or 2) When the discharger's site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3 requirements.
37	Regional Boards are given the authority to require extra permit requirements and they are given no deadline to do so, leaving permit status up in the air for dischargers. We suggest that within 30 days of adoption of the order, the Regional Water Boards be allowed to request dischargers to review their risk level which allows 70 days for the discharger to adapt their PRDs to address the request. Once the discharger has submitted their PRDs they should only be subjected to limited revisions of their risk level determination, as to not create conditions that are unfair or arbitrary. Also see comment on Finding 0.37 below for additional language. The Regional Water Boards must receive guidance and direction that defines and limits their role and the timeline of their activities to: 1) reduce arbitrary and unfounded oversight; 2) implement uniform requirements across the state; 3) implement a comparable level of compliance and enforcement between regions.	It is out of the scope of the CGP to put a time limit on the Regional Boards for making decisions about change requests, or give statewide criteria. The Findings have been revised to state that the State Water Board finds that there are two circumstances when it may be appropriate for the Regional Water Boards to require a discharger to recalculate the site's risk level; 1) When the discharger has a demonstrated history of noncompliance with 99-08-DWQ, or 2) When the discharger's site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3 requirements.
45	The Draft Permit delegates enforcement to the Regional Water Quality Control Boards (RWQCB). However, the Draft Permit does not provide specific criteria, parameters, or guidelines for enforcement. In addition, the actions allowed to be taken by the RWQCB include rescinding Permit coverage, requiring individual Permit coverage, and additional monitoring and reporting. The Permit should establish RWQCB criteria for when and why a Permit should be rescinded, when a why an individual Permit is required, and when and why additional monitoring and reporting would be required.	It is out of the scope of the CGP to put a time limit on the Regional Boards for making decisions about change requests, or give statewide criteria.
1, 18, 51, 55, 57, 61, 66, 69, 71, 72, 73, 74, 79, 80, 83, 84,	The education community already has four State agencies: the Division of the State Architect; the Office of Public School Construction; the California Department of Education; and the Department of Toxic Substance Control reviewing its construction design plans. Adding the regional boards as a fifth	The Regional Boards need to review the projects coming in under the CGP. The new CGP has lots of requirements that need the expertise of those who work in the State Storm water field and enforce the permit requirements.

Commentor ID	Regional Board Authority Comment Summary	Comment Response
85, 86, 88, 90, 92, 95, 97, 100, 102, 104, 109, 110, 113, 114, 115	review agency does not make logical sense. It is more economical and practical to have one of the existing four agencies perform storm water compliance review. This permit also needs to place some restrictions on the Regional Boards so that regulations more stringent than the intent of the SWRCB are not mandated.	
70	Regional Board Authority The educational construction community already has four State agencies: the Division of the State Architect; the Office of Public School Construction; the California Department of Education; and the Department of Toxic Substance Control reviewing its construction design plans. Adding the regional boards as a fifth review agency does not make logical sense. It is more economical and practical to have one of the existing four agencies perform storm water compliance review. This concern is especially relevant now because of the state economy and the projected reductions in staff of state agencies. It is not realistic to assume regional boards will be fully staffed to perform this function and with the State budget and economy in crisis mode, it is highly unlikely that regional water boards be able to hire the additional staff that will be necessary to perform this work. They are also fearful the regional boards will be more stringent in their requirements and cause “unfair actions” which would require appeals etc.	The Regional Boards need to review the projects coming in under the CGP. The new CGP has lots of requirements that need the expertise of those who work in the State storm water field and enforce the permit requirements.
89	Finding 37 The last sentence states "The RWQCBs have the authority to require Risk Determination to be performed on projects currently covered under Water Quality Order No. 99-08-DWQ where they deem it necessary". Please provide an explanation as to how the RWQCBs will make this determination. What are their criteria? When in the process will this determination occur? All dischargers are grandfathered in (for traditional projects) as Risk Level 1 The progress as we understand it would be as follows: A discharger will prepare a SWPPP in accordance with Risk Level I requirements and then submit electronically their PRDs and then start constructing their project.	Each Regional Board will have its own Region-specific process for evaluating the Risk Levels in this permit. It is out of the scope of the CGP to put a time limit on the Regional Boards for making decisions about change requests, or give statewide criteria.
91	Sections XV.A and XV.B of the April 2009 Draft COP provide that the Regional Board staff may terminate coverage under the Construction General Permit if they do not agree with the dischargers risk level determination or if they determine that an individual NPDES permit is appropriate. The Permittees support CASQAs request that SMARTS notify local agencies with jurisdiction if the Regional Board terminates coverage on a project.	The system will not notify local municipalities, but local municipal staff can log into SMARTS and run reports to view terminated NOIs.

REPORTING

Commentor ID	Reporting Comment Summary	Comment Response
20, 25, 29, 65, 75, 99, 111	Storm water sampling results are to be reported to the State and Regional Water Boards via the electronic data system, no later than 5 days after the conclusion of the storm event. What if the samples are sent for laboratory analysis which during the wet season can require up to three weeks for unexpedited processing.	We believe that five days (for Risk 3 & LUP Type 3) and 10 days (for Risk 2 & LUP Type 2) is sufficient enough time to report pH and turbidity field samples electronically.
20	Clarification is required to define the differences between exceedance information entered into the Storm database contrast to the NAL Exceedance Report. Is the NAL Exceedance Report printed out from the SMARTS database or is it a separate document?	The permit states that, in the event that any effluent sample exceeds an applicable NAL, the discharger must electronically submit all storm event sampling results to the State Water Board no later than 10 days. Additional reporting requirements may be required (if a Regional Water Board requests one) in the form of an NAL Exceedance Report, which must describe any corrective actions taken to address the problem(s). The actual corrective actions needed would depend on many variables.
20	Page 26, 3.b Method detection limit(s) (MDLs) are required in the NAL Exceedance Report but field instruments rarely have MDL information.	Comment Noted
20	Please develop an alternate term for the phrase: “Less than the method detection limit” as it will not fit in most data reporting forms.	We suggest forms use: "<MDL."
20	Page 10, H.55 and Page 10, H. 56, 64 Is the NAL Exceedance Report generated from the SMARTS database or is it a separate report? Is the NEL Exceedance Report generated from the SMARTS database or is it a separate report? As self reporting of an NEL constitutes self reporting of a Permit violation, the self reporting entity is liable for prosecution under the clean water act citizen suit provisions. As the Permit requires mitigation of all NELs, will protection from litigation be provided if NEL mitigation is implemented?	The NAL Exceedance Report and the NEL Violation Report are not generated from the SMARTS database. They are separate reports developed by the discharger. NELs are a violation of the permit, therefore no protection from litigation is provided if NEL mitigation is implemented.
20	Page 21, 16, a. A 24 hour notification is required. See 20 above. These notification are essentially the same, but slightly different. Perhaps the wording can be less confusing and more consistent.	Risk Level 3 and Type 3 LUPs subject to NELs are required to submit all storm event sampling results electronically no later than 5 days after the conclusion of the storm event. Because exceedances of an NEL constitutes a permit violation, an NEL Exceedance Report must be submitted within 24 hours after the NEL exceedance has been identified.
20	Page 5, 3. Electronic reporting is with 3 days. States NEL violation results are to be filed within 3 day of the results. Other statements indicate 5 days for filing. Which is correct?	Requirement revised to state that analytical results exceeding the NELs for ATS shall be filed electronically within 24-hours of obtaining the results.
25	Fact Sheet, Page 25, Section II.I.3.a & b (NEL & NAL Reports) & Relevant other locations– This section should be revised to clarify that the reporting requirement	Fact sheet language is correct in stating that all Risk Level 3 and LUP Type 3 dischargers are required to electronically submit all

Commentor ID	Reporting Comment Summary	Comment Response
	is only applicable when there has been an exceedance of a NEL and NAL, and that only data for the pollutant exceeding the NEL and NAL should be reported. The permit should also be revised to state that the data showing the exceedance shall be reported within 14 calendar days after the receipt of all of the monitoring results.	storm event sampling results to the State Water Board no later that 5 days after the conclusion of the storm event. The Fact Sheet is also correct in stating that all Risk Level 2 and LUP Type 2 dischargers are required to electronically submit all storm event sampling results to the State and Regional Water Boards no later than 10 days after the conclusion of the storm event. We believe that five days (for Risk 3 & LUP Type 3) and 10 days (for Risk 2 & LUP Type 2) is sufficient enough time to report pH and turbidity field samples electronically.
25	Permit, p.38 XVI.D. and E. Annual Report Forms Will there be standard Annual Report Forms with adequate provision for comments on the data submitted?	A standard Annual Report Form will be available
25	Attachment A,pp.53 and 63 L.4.k.iv.3; L.5.m.iv.3. NAL Report These sections state: “Description of the current BMPs associated with the effluent sample that exceeded the NAL and the proposed corrective actions taken.” These sections should be revised to state: “Description of the current BMPs associated with the effluent sample that exceeded the NAL and the proposed corrective actions to be taken.”	NAL Exceedance Reports are required upon Regional Board request.
25	Attachment A, p. 60 Table 8 Reporting Limits The analytical reporting limits imply that results should be reported below lab reporting limits and Method Detection Limits. This will create confusion and incorrectly reported results. In addition the precision and accuracy of results below the lab’s MDLs is unknown. Generally, State Certified Laboratories do not report levels below the reporting limit unless specifically request. Labs should not report results below the analytical Method Detection Limits.	The intent of the headings in Table 8 is not to report below the minimum detection limits.
32	Fact Sheet - Page 26, I. 3.c., Annual Report: The section should also require the discharger submit the Chain of Custody forms with lab reports .	Additional requirement included.
32	Fact sheet - Page 26, I. 3.c., Annual Report: This section indicates Construction Annual Reports will go into SWARM, which is for Industrial Annual Reports. Our understanding is that Construction Annual Report are to be entered into a new separate system called SMARTS.	The Fact Sheet has been revised to clarify that Annual Reports will be submitted into SMARTS.
40, 59	Reporting We recommend that the new GCP maintains the current annual reporting date of July 1 and that the report focus on the previous rainy season (October through April). We feel that a July report provides sufficient time to properly assess the past and coming rainy season.	The annual reporting due date was moved to September 1st to provide a separation from the Industrial Annual Report due date of July 1st. This better accommodates the Regional Board's workload in reviewing Industrial and Construction annual reports submitted.
44	Attachment E, Section I.4.f, page 13 “Risk 3 dischargers shall electronically	This requirement applies to pH and turbidity field samples.

Commentor ID	Reporting Comment Summary	Comment Response
	submit all storm event sampling results…" Does this apply to only pH and turbidity, or to all samples collected? In regards to samples that must be analyzed in a lab setting, normal turnaround time for most labs exceeds 5 days (usually 7-10 business days). This requirement expedites lab sample turnaround, thereby increasing costs for lab services.	
47	Section XVI Annual Reporting Requirements Requiring an annual report is not an efficient use of resources. It diverts money from preventing pollution and focuses on paperwork. It is recommended that detailed records be kept at the site for inspector review.	We disagree. Reporting is necessary for dischargers to verify compliance with the requirements in the permit.
59	Recommend the elimination of the NAL exceedance reports. Inclusion of information on NAL exceedances would be better included in the annual report where the exceedance, corrective actions, and subsequent water quality monitoring can be assessed more thoroughly.	An NAL Exceedance Report is only required upon Regional Board request.
67	If the NAL/ NEL system is maintained in the permit, dischargers should be required to report NAL violations within 2 days (just like NEL violations).	Exceedances of the NALs does not constitute permit violations. An NAL Exceedance Report is only submitted upon Regional Board request. The report must describe any corrective actions taken to address the exceedance problem(s). The actual corrective actions needed would depend on many site specific variables.
75	NEL Violation Report [section L.5.n.ii. p.63] The CGP states that an NEL Violation Report must be submitted no later than five days after an NEL exceedance has been identified. The logistics of collecting samples, delivering them to a laboratory, performing analyses and reporting in such a short time span will be problematic. If the State Board intends to take some sort of immediate action necessitating a quick turn around time, then LADWP suggests telephoning the State Board within five business days of knowledge of the violation, followed by a written report in 14 days, as required in other general permits. However, if there is no specific intent to use these results for an immediate enforcement action, LADWP suggests that the results be submitted to the State Board along with the quarterly report.	Risk Level 3 and Type 3 LUPs subject to NELs are required to submit all storm event sampling results electronically no later than 5 days after the conclusion of the storm event. Because exceedances of an NEL constitutes a permit violation, an NEL Exceedance Report must be submitted within 24 hours after the NEL exceedance has been identified.
89	Finding 54 Please clarify when an NAL Report will need to be submitted and clarify the term "directly enforceable."	The permit states that, in the event that any effluent sample exceeds an applicable NAL, the discharger must electronically submit all storm event sampling results to the State Water Board no later than 10 days. Additional reporting requirements may be required (if a Regional Water Board requests one) in the form of an NAL Exceedance Report, which must describe any corrective actions taken to address the problem(s). The actual corrective

Commentor ID	Reporting Comment Summary	Comment Response
		actions needed would depend on many variables.
89	Finding 55 Please clarify what information is reported in the SMARTS system when a discharger has a NAL exceedance. What is the time frame for the RWQCB to request a NAL Exceedance Report from the discharger.	The permit states that, in the event that any effluent sample exceeds an applicable NAL, the discharger must electronically submit all storm event sampling results to the State Water Board no later than 10 days. Additional reporting requirements may be required (if a Regional Water Board requests one) in the form of an NAL Exceedance Report, which must describe any corrective actions taken to address the problem(s). The actual corrective actions needed would depend on many variables.

RISK ASSESSMENT

Commentor ID	Risk Assessment Comment Summary	Comment Response
20	Page 26, 1.a. The RUSLE equation variable of C = Cover factor (erosion controls) and P = Support Practices (sediment controls) have been set to 1, an assumption of no application of erosion and sediment controls. This is an inappropriate application of these RUSLE variables. If erosion and sediment control BMPs are correctly deployed the amount of sheet and rill erosion (tons/acre) will be significantly reduced, which should result in a lower risk classification.	The use of RUSLE in our CGP is for estimating overall risk of soil loss and is not meant to model the actual performance of BMPs or effluent characteristics at the site.
20	The use of the RUSLE equation does not take into account the sediment that is re-deposited on the site. It only accounts for the soil that is erodible, and therefore does not accurately reflect the amount of soil discharged off site.	Modeling sediment yield requires very complex methods and data input to accurately assess. The use of RUSLE in the CGP is for estimating overall risk of soil loss and is not meant to model sediment yield.
20	Page 18, 3. b. The RUSLE2 equation is different than the RUSLE equation used for risk factor calculations. Which is the correct equation to be used for NOT filing, RUSLE or RUSLE2.	We have made it optional to use either RUSLE or RUSLE2 to satisfy requirement II.D.3.b.
23	Inappropriate Exemptions - Exempting dischargers from critical permit elements based on their Risk Level does not protect water quality or aid in permit compliance determinations	We disagree. The CGP provides the same level of water quality, regardless of risk level. The level of effort to comply may vary, but the level of water quality protection is the same due to the common effluent and receiving water limitations.
25	For receiving water risk assessment, where landowners are or will be participating in the TMDL implementation (e.g., funding construction, operation and maintenance of regional sediment control facilities), the receiving water risk for these landowners' projects should be low.	We disagree - TMDLs are responsive to impaired water bodies and therefore represent a higher risk scenario.

Commentor ID	Risk Assessment Comment Summary	Comment Response
25	Fact Sheet, page 27, Figure 1 – The State Water Board should make the Statewide map of K*LS available as a standard GIS file so dischargers can determine which KLS area they are in.	An interactive statewide map of K values and a separate map of LS values in California will be available in the SMARTS system so that dischargers may determine project risk during the Permit Registration Document submittal process by entering project location information.
25	Fact Sheet, page 31, Section II.J.2.a.i – The Fact Sheet should be revised to include other definitions of Type 1 based on sediment and receiving water risk determinations.	The Fact Sheet has been revised to include the additional definitions of Type 1 based on sediment and receiving water risk determinations.
25	Permit page 7, Finding 45 – Projects should not have the same risk throughout all phases. Once grading and stabilization is complete, their risk should be recalculated based on the vertical build phase and, as the risk level changes, so should their requirements.	Phases typically overlap during construction. Determining when a project has officially completed one construction phase, and has moved to the next is subjective.
29, 40	Risk Approach CASQA strongly supports a tiered risk approach to construction site regulation. The Draft CGP appropriately connects water quality risk posed by a construction site to the practices necessary to assure protection of water quality. The tiered risk approach, which provides increasingly protective BMPs along with graded monitoring and compliance evaluation tools, provide the incentive to site operators to voluntarily lower risk factors. The addition of the rainfall erosivity waiver to the current draft completes the tiered risk approach giving very small projects scheduled in the dry season with a waiver of- permit requirements.	Comment Noted
30	According to the Draft Permit, a site could be 100% covered in mats, blankets or bonded fiber matrix, but would have the same risk level as a completely denuded, bare site. This is poor public policy and unfair. Thus, upon implementation of BMPs, risk levels should decrease. The Board should revise the Draft Permit to grant credit or risk reduction for dischargers who implement BMPs.	We recognize that compliance with the permit should reduce risk at all sites, but the purpose of the risk methodology is to estimate overall soil loss and erosion prior to implementing any controls.
37	Finding 44 The finding states that the risk of accelerated erosion and sedimentation depends on various factors including the proximity to receiving water bodies. We don't believe that the risk of accelerated erosion and sedimentation has a correlation to the proximity of the receiving waters and that this is not appropriate and should be deleted. The other factors listed are relevant including climate, topography and soil type. We believe that the risk of impacting receiving waters is present and related to the proximity, but not to "accelerated erosion." Suggested change is to eliminate proximity to receiving water bodies as a risk factor.	The finding is accurate as it relates proximity to receiving water to wind and water erosion and sedimentation. For traditional construction projects, the CGP risk methodology does not include a risk factor for "proximity to receiving water." In the case of linear utility projects the risk methodology uses "proximity to receiving water" as a risk factor due to the unique nature of linear projects.

Commentor ID	Risk Assessment Comment Summary	Comment Response
38	Appendix I - Risk Determination Worksheet Receiving Water Risk The second condition on this spreadsheet, "A.2. Does the disturbed area discharge to a water body with designated beneficial uses of SPAWN & COLD & MIGRATORY?" is broad and includes a number of water bodies that cannot be impacted from sediment releases associated with construction sites. Additionally, it is very difficult to attribute what the impact from a construction discharge will have on a receiving water body when there are multiple .discharges into the receiving water body, including natural erosion. The criterion A.I is adequate and should be the only one used since it covers the water bodies that are impaired due to sediment.	We disagree - watershed boundaries are fairly easily determined and the combination of these beneficial uses represents the type of water bodies highly sensitive to sediment discharges.
39	Include a feature on the K*LS map that will allow the value to pop-up when a cursor is placed over a location.	Comment Noted. We will try to provide this functionality in the SMARTS2 system.
45	The monitoring requirements, especially for risk level 3 projects, are excessive and will not likely produce water quality benefits or useful data commensurate with cost. In particular, the receiving water and bioassessment sampling requirements have limited nexus with individual project sites. These provisions do not take into account the mixing of runoff from multiple discharges and dilution of runoff in the MS4 by the time it reaches receiving waters. Nor does this provision consider receiving waters that are ephemeral or tidally-influenced. San Jose requests that any monitoring requirements be directly related to the construction sites.	The bioassessment and receiving water monitoring requirements only apply to Risk Level 3 sites, and only when the site directly discharges into the receiving water. A site must also be 30 acres or larger for bioassessment monitoring requirements to apply.
45	dischargers who implement less risky construction practices, such as assigning a setback from creeks and reducing the size of area disturbed during rainy season.	The setback credit was removed from the last draft in an interest to simplify the risk determination process.
50	Hydrologic sub watershed areas should not be used as planning areas CPR is concerned with the use of hydrologic sub-areas in the Draft Permit. The use of these large sub-areas increases a site's potential to be hydrologically connected to a receiving water. State Board staff does not present sufficient justification for using such an expansive contributing area when determining receiving water risk. The use of large hydrologic sub-areas could result in many construction sites being classified as Risk Level 3 sites even though they are miles from any receiving water and are unlikely to actually be high risk sites. The use of smaller planning areas being used will allow for more accurate risk level calculations.	We agree - we now have planning watersheds since they are the smallest watershed unit used in the CALWATER 2.2.1 system and better reflect the risk to receiving waters.
56	G-Determining and Reducing Risk G: 46. Setbacks from streams and wetlands are encouraged, where is the “credit(s)” given for setbacks? Is there a calculation and listing for reducing risk determination and post-construction storm water standards?	The setback credit was removed from the last draft in an interest to simplify the risk determination process. Setbacks are referred to as "buffers" in the post-construction credit system.

Commentor ID	Risk Assessment Comment Summary	Comment Response
59	Recommends that the risk assessment be performed by the owner of the project and that the risk must be included in bid documents. Currently, contractors are required to include costs for compliance with the CGP in their bids. However, to maintain fairness in the bidding process, contractors will need to know the risk in order to appropriately assess the total cost of the project. Therefore, there should be language in the CGP requiring project owners to include the risk assessment in bid documents	The bid process is outside the scope of the CGP's authority and even if this requirement were stated it would not be enforceable.
65	The Fact Sheet's Figure 1 is used to obtain the K*LS values for use in the RUSLE equation. LS is the effect of topography on erosion and K is the soil erodability factor, and Figure 1 provides the product of these two values (what we refer to as the K*LS value). This figure is a quick way to calculate risk, but Figure 1 is not representative of actual conditions. For instance, the Santa Cruz Area has one K*LS value no matter the location. This means the model groups construction on the peak of the Santa Cruz Mountains in the same risk category as construction on the first marine terrace (relatively flat area which the majority of the town is built on). The lithology of the mountains and of the low lands on which the town is built is the same, but the slopes (the S values) are not because they can range from 0-14% grade; given these significant differences, how can the K*LS value be the same for both locations? This is one of many areas that Figure 1 does not address properly.	Figure 1 of K*LS in the Fact Sheet is an example of the GIS map being developed for inclusion in the SMARTS system. During the Permit Registration Document completion process, a permittee will be able to access GIS maps of K and LS to be able to determine those RUSLE factors based on project location.
65	Improvements are needed to the RUSLE Equation model The root of the problems with the use of the RUSLE equation is that the equation was developed for the agriculture industry. With proper construction site staging based on seasonality, erosion risks can be minimized but the RUSLE equation is not capable of factoring this in. If the RUSLE equation is to be used in the construction field, there should be a period of field testing and refinement to ensure that the model works appropriately for construction jobs. This is especially important as the RUSLE equation will determine what sorts of compliance risks the contractor faces, and fallacies in the model could lead to costly fines, violations, and litigation.	Comment Noted
65	RUSLE Equation should be seasonal to account for actual erosion risks The RUSLE equation calculates risk factors based on erosion values for the entirety of a job, including the dry season, and not just for when erosion is actually occurring (that is, the rainy season). This means the RUSLE equation inaccurately over-states the real environmental risks posed by a multi-year job site. The RUSLE equation is a useful tool for estimating erosion risks from a job site, however it should be used to calculate seasonal erosivity. Resources are	Calculating "seasonal" risks has many potential problems with enforcement. When a discharger calculates a risk level, factors such as the project length is factored into the R-value. Projects open through multiple seasons are appropriate to have a higher risk due to their project length. It is our opinion that projects designated as Risk Level 3 do no more than Risk Level 1 projects during the dry season, because NALs and NELs are only

Commentor ID	Risk Assessment Comment Summary	Comment Response
	limited, especially in the current economic conditions, and it is necessary to maximize the resources available for those periods of actual risk.	triggered by rain events.
78	NAHB is pleased that the risk based calculation has been simplified in this draft permit. However, there are still issues that have to be resolved as discussed in detail in the CBIA comments. For example, the State Water Board is not providing credit for site practices that reduce risk such as phased disturbance and application of erosion and sediment practices. The risk determination worksheet is still highly complex and difficult to comprehend. There are also some factors, such as the LS factor, that could vary on large construction projects and this variability must be accurately captured in the worksheet. There is room for further simplification to ensure ease of use by permittees. It takes a considerable amount of effort to calculate risk based on the spreadsheets developed. In addition, the idea of requiring some advanced BMPs on sites that pose high risk to the environment is reasonable. However, the monitoring and reporting requirements are excessive. The risk calculation worksheet should be simplified so that significant delay and resource is not spent on determination of risk level.	Comment Noted. We believe the CGP contains the appropriate risk methodology.
89	Attach D Pg. 8, Sec. H 3 b: Does the Risk Level need to be re-calculated at time the REAP is prepared? How do I change my risk level as I progress through construction?	No, the risk level is only calculated once, at the beginning of the project, or if a Regional Water Board requires a new risk calculation.
94	LS Factor The Numeric Effluent Limitations included in section B on page 28 are assigned based on Risk Level 2 or 3. Section 8 on page 34 (and other pages and sections) discusses risk level s 2 and 3. Assignment of a site to risk level 2 or 3 is dependent on the Risk Determination Worksheet shown in Appendix I. This worksheet uses a page titled "LS". It is unclear on the sheet titled "LS" which values would be used for a number that falls in between the specific values shown on the table. For example 980 falls between 800 and 1000. Are the numbers under the column titled "Sheet Flow Length (ft)" upper limits? The worksheet should provide direction on how to interpret the table or interpolate numbers greater than or less than those specific values shown on the table. Also, please clarify values for sheet flow lengths exceeding 1000 ft?	The values between data points should be interpolated to get the correct LS value. Sheet flow lengths rarely (if ever) exceed 1000 feet in natural systems. Flow often becomes concentrated at flow lengths less than 1000 feet. RUSLE does not predict erosion from concentrated flow.
94	The Sediment Risk Factor Worksheet may not work well for long, linear projects that have varying soil types and slopes. This is a comment specific to using the weighted average "K" and "LS" values. The entire project will be combined into a single risk category when multiple risk categories might be more applicable and protective of waterways. SWRCB staff should consider this when evaluating sites and SWPPP plans. A note could be added to the sheet titled "Sediment Risk"	Comment Noted.

Commentor ID	Risk Assessment Comment Summary	Comment Response
	that provides an upper limit for use of a weighted average when calculating "K" and "LS" values.	
96	The time of the year in which a construction project is active greatly affects its Risk Level. This built-in deterrent to construction during the wet season should be more “advertised” in the Fact Sheet and the Risk Determination Worksheet	Comment Noted
99, 105, 111	We recommend consideration of a distance from the receiving water for inclusion as a factor of the Risk Determination Worksheet (Appendix 1).	The setback credit was removed from the last draft in an interest to simplify the risk determination process.
103	Sediment Risk The sediment risk evaluations should be streamlined to only be required when the project area is considered a medium or high receiving water risk. Linear project areas that are low receiving water risks due to their distance from sediment sensitive water bodies should be assigned a low sediment risk based on their decreased potential for impacting that water body.	We disagree. A project with low receiving water risk can still present high risk of soil loss. Overall project risk should be a combination of sediment (soil loss) risk and receiving water risk.
105	KLS Map Draft Fact Sheet Page 27 Catalina Island and several other islands off the California coast are not assigned a KLS value, despite the fact that these locations often have active construction projects. SCE recommends that State Board provide a GIS map to replace the KLS map. In addition, the State Board should provide a GIS map of sediment sensitive water bodies and the 5- year, 24-hour storm maps.	An interactive statewide map of K values and a separate map of LS values in California will be available in the SMARTS system so that dischargers may determine project risk during the Permit Registration Document submittal process by entering project location information.
112	Although the details of the risk analysis and related permit requirements have been modified in the current version, we continue to support the risk-based approach proposed in the, revised 2009 permit. We had recommended in our June 2008 comments that the Board try to estimate the fraction of projects that would fall into the various risk categories. Such an estimate was not provided for the 2009 proposal, and we still believe it would be worthwhile to provide additional perspective on the implications of the permit and its requirements.	Estimation of project fractions in Risk Levels 1, 2,&3: The State Water Board will include an estimation of projects falling under Risks 1, 2, & 3 based on the criteria in the permit.

STORM WATER POLLUTION PREVENTION PLANS (SWPPPs) & RAIN EVENT ACTION PLANS (REAPs)

Commentor ID	SWPPP/REAP Comment Summary	Comment Response
22, 89	Remove REAP references in Attachment C, Section H.2.d and Section H.3.e.ii since REAPs are not required for Risk Level 1 sites.	References have been removed.
25	Fact Sheet, page 30, Section II.J.1.i (REAP) – This section should clarify when a REAP is necessary.	The Fact Sheet has been revised to state that the REAP is required 48 hours prior to a likely precipitation event forecast of 50% or greater possibility.

Commentor ID	SWPPP/REAP Comment Summary	Comment Response
26	Order, Section XI.A, p.36 The QSD shall ensure the SWPPP is amended to ensure that BMPs installed after construction are completed and maintained. The QSD is either the contractor or their consultant. It is likely the QSD will not be involved in the maintenance of permanent BMPs.	The QSD is only responsible for the amendments to the SWPPP. They should be in contact with the project contractor and available to make the necessary updates to the SWPPP as the site changes. They are not directly responsible for doing BMP maintenance.
26	Attachment D Rain Event Action Plan " ... to have a 50% or greater chance of producing precipitation ... " At what time period? One hour before, 48 hours before? What happens with the sudden onset of the forecast of rain, as in tropical monsoonal patterns?	48 hours prior to any likely precipitation event (forecast of 50% or greater probability), the QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event.
29	Finding 73. (SWPPP) Propose: "This General Permit requires the implementation of a SWPPP. The SWPPP must include documentation showing implementation of the SWPPP, including but not limited to documentation of site inspections and revisions to the SWPPP. A QSP shall be in responsible charge of implementing the SWPPP."	We disagree. The SWPPP is an unenforceable element of the permit, therefore the CGP requires the QSP to oversee implementation of BMPs to comply with the permit.
29	REAPS CASQA suggests clarifying that the REAP be developed concurrent with the start of each phase of construction and implemented 48 hours in advance of a forecasted likely rain event. For projects qualifying as Risk Levels 2 and 3, the REAP appears to duplicate many aspects of the pre-storm inspection. Further clarification on the relationship of the REAP to pre-storm inspections to eliminate redundant efforts is needed. The provided REAP templates include a Post-Construction REAP. The title of this REAP is confusing because within the context of the permit, post-construction typically refers to the activities and period following the completion of construction and the termination of permit coverage. Based on the content of this REAP template, it appears directed to the period following vertical construction but prior to the achievement of final stabilization. CASQA recommends that this REAP be re-titled Final Landscaping and Site Stabilization Phase.	REAP templates for each phase of construction may be developed concurrent with the start of each phase of construction. 48 hours prior to any likely precipitation event, the QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event. Findings and CGP language has also been revised to replace the post-construction phase to "Final Landscaping and Site Stabilization Phase."
33	We request a grandfathering in of training requirements for Storm Water Pollution Prevention Plans (SWPPPs) that were prepared for projects under Order 99-08-DWQ and that any revisions necessary to meet the new CGP requirements be allowed to be made by the original SWPPP preparer and practitioner. Please also see the “Risk Assessment” comments for further recommendations on implementation requirements for existing projects.	Using an original SWPPP is fine, however, The CGP does not enforce the permit requirements through the SWPPP, therefore its content only needs to reflect site conditions and show that the site is in compliance with the permit requirements. Beyond that it is up to the discharger's discretion.
33	Rainfall Event Action Plans (REAPs) We suggest clarifying that the REAP be developed concurrent with the start of each phase of construction and implemented 48 hours in advance of a forecasted likely rain event. Also, Finding	REAP templates for each phase of construction may be developed concurrent with the start of each phase of construction. 48 hours prior to any likely precipitation event, the

Commentor ID	SWPPP/REAP Comment Summary	Comment Response
	47 (p. 8) needs to be clarified to identify that REAPs are not required for traditional Risk Level I projects or Linear Underground/Overhead Projects (LUPs).	QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event. Finding 47 has been revised to clarify that Risk Level 1 projects and LUPs are not subject to the REAP requirements.
34	Section I.G.47, Page 8 "Therefore, a Rain Event Action Plan (REAP) is necessary to ensure that active construction sites have adequate erosion and sediment controls implemented prior to the onset of a storm event, even if construction is planned only during the dry season. " Comment: Please add the following sentence: "This requirement does not provide a waiver for implementing adequate Best Management Practices throughout the year, as required by local jurisdictions."	Proposed language has been added.
34	Attachment D, Section H.I Page 7 "Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall develop a Rain Event Action Plan (REAP) 48 hours prior to any likely precipitation event. A likely precipitation event is any weather pattern that is forecast to have a 50% or greater chance of producing precipitation in the project area. " Comment: On larger construction sites, protection of all exposed portions of the site requires extensive preparations and work, including the procurement of materials and equipment, as well as mobilization of erosion control companies on site. Normally, 48 hours does not provide sufficient time to fully stabilize the site. It is recommended to provide explanation that a Rain Event Action Plan is for the necessary repairs to existing BMPs and the implementation of minor additional BMPs before a predicted storm event.	48 hours prior to any likely precipitation event, the QSP is required to develop the specific rain event REAP which should be designed to protect all exposed portions of a site. Exposed areas of an active construction site pose a significant risk to discharges of sediment laden storm water into receiving water bodies.
38	Draft General Permit, Pg 8, Section I.G, Item 47, and Appendix 3 The draft Permit has multiple timeline requirements for the preparation and implementation of the Rain Event Action Plans. A more clear-cut requirement would be to have it prepared at the onset of construction activities and implemented prior to the anticipated rain event. Also define the anticipated rain event to be when there is at least a 30% chance of rain.	REAP templates for each phase of construction may be developed concurrent with the start of each phase of construction. 48 hours prior to any likely precipitation event, the QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event.
42	SWPPP The City encourages the State to hold the project's Legally Responsible Person responsible for all CGP site reporting and maintenance requirements. Such accountability should be consistently assigned throughout the CGP. For example, maintenance of the SWPPP should be the responsibility of the Legally Responsibly Person, not the Qualified SWPPP Developer (QSD), as indicated in the Draft CGP.	Maintenance of the SWPPP will be done by the QSD, but the LRP is the entity legally responsible for sites performance and compliance with the permit.
42	REAP The City continues to question the need for a Rain Event Action Plan	Although the SWPPP may contain general BMP guidance,

Commentor ID	SWPPP/REAP Comment Summary	Comment Response
	(REAP) checklist, given that sites for all risk levels require: a) a SWPPP to identify all potential pollutant-generating activities and sources and b) pre-rain event inspections for BMPs and discharge potential. As redundant documentation requiring certification (increased cost) without providing additional water quality protection (no benefit), the REAP would be a misuse of public funds. In order to increase both the consistency of requirements and inspections both on a single site and among sites, it is recommended that REAP requirements be incorporated into the SWPPP and/or site inspection checklist, as appropriate.	REAPs are specific to rain events and the current construction phase the project is in. REAP templates for each phase of construction may be developed concurrent with the start of each phase of construction. 48 hours prior to any likely precipitation event, the QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event.
45	The addition of REAP templates (Appendix 3) in this Draft will make the plans more consistent and is appreciated. However, the provision to develop a new REAP 48 hours prior to every likely storm event is redundant and duplicates aspects of the pre-storm inspection. Please modify requirement so that a REAP may be prepared at the start of each phase of construction and implemented prior to likely rain events.	The REAP templates have been eliminated from the CGP and will be included in CASQA's Construction BMP Handbook. 48 hours prior to any likely precipitation event, the QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event.
56	M-SWPPP Requirements M-73: Who will develop and implement the SWPPPs during the two years QSD and QSPs have to get trained and “qualified”?	During the two years QSDs and QSPs have to get trained and qualified, the SWPPPs will continue to be developed based on the requirements in DWQ-99-08
56	XIV -SWPPP Requirements Why is there no attachment explaining SWPPP preparation section XIV is inadequate. Permit assumes discharger must seek instruction on SWPPP preparation using the QSD/QSP requirement, but doesn't state it.	The CGP has many of the elements that used to be included in the SWPPP as direct permit requirements. The discharger decides what to put in the SWPPP for a given site as long as they can still demonstrate permit compliance.
56	Attachment D, Section H:REAP The requirement for a REAP seems onerous and a duplication of effort. It requires that a REAP be prepared (by a QSD/not QSP?) within 48 hours of ANY likely precipitation event; likely defined as 50% or greater chance of precipitation. Again, these forecasts are unreliable and there is already a requirement for visual inspections. In reality, there is only 24 hours allotted for preparation and implementation of the REAP. Why must both be done? This information will/can be captured during the visual inspections. This is just another costly exercise.	REAPs are specific to rain events and the current construction phase the project is in. REAP templates for each phase of construction may be developed concurrently with the start of each phase of construction. 48 hours prior to any likely precipitation event, the QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event.
59	The draft permit states development (implementation) of REAP is needed “within 48 hours prior to any likely precipitation event”, then later states 50% or greater forecast of precipitation in the project area. The term “Likely” in NOAA table is 60-70 % chance. EUCA recommends implementation of the REAP for 60-70% chance events. The language in the Fact Sheet and order are inconsistent regarding the Risk Level of projects that must implement REAPs.	The Fact Sheet has been revised to state that the REAP is required 48 hours prior to a likely precipitation event forecast of 50% or greater probability.

Commentor ID	SWPPP/REAP Comment Summary	Comment Response
59	It is unclear whether amendments/updates to the SWPPP trigger submittal of the revised document through the electronic system. Recommend that additional guidance be provided on the level of amendment or update of a SWPPP that would trigger electronic resubmission.	The discharger only has to submit a SWPPP once. The discharger is required to keep the SWPPP updated and onsite, but does not have to resubmit the document online as it is updated.
62	Rain Event Action Plan Hours of Operation This General Permit requires Risk Level 2 and 3 dischargers to develop and implement a Rain Event Action Plan (REAP) designed to protect all exposed portions of their sites within 48 hours prior to any likely precipitation event. Forecasts are normally issued for 12-hour time periods. The District interprets the REAP requirements to read that a REAP must be developed and implemented within 48 hours of a forecasted rain event that equals or exceeds 50% as predicted and reported by NOAA on its web site. The fact sheet states that forecasts are issued every 12 hours. It does not give relief to the Discharger if the forecast is issued during non-operating hours. If it is the intention of the permit to make dischargers responsible for REAP development and implementation 24 hours a day, seven days a week, this needs to be articulated in the permit and fact sheet.	The intention of the permit is not to make dischargers responsible for REAP development and implementation "24 hours a day, 7 days a week." REAP templates for each phase of construction may be developed concurrently with the start of each phase of construction. 48 hours prior to any likely precipitation event, the QSP is required to develop the specific rain event REAP which shall be implemented no later than 24 hours prior to the likely precipitation event.
75	Rain Event Action Plan (REAP) [section I.G.47, p.8] The draft CGP requires the discharger to obtain forecast information from the NOAA website, which defines "likely" as precipitation as 60 - 70 percent. For consistency, the State Board should define this trigger using the likely chance as 60 percent or greater. Also, preparing a REAP for every storm event with a "likely" probability is labor intensive. Many storm events occur that lack the intensity to result in a discharge.	The Fact Sheet and Permit have been revised to state that the REAP is required 48 hours prior to a precipitation event forecast of 50% or greater probability.
82	It would be pertinent and beneficial to have vector minimization considerations added to a subsection of Attachment A (Linear Underground/Overheads Requirements) of the proposed Permit, where SWPPP information and requirements are specified.	The CGP does not give specific guidance on BMP design standards. The permit refers to the CASQA BMP Handbook for Construction for the design of sediment basins etc. This handbook mentions vector issues specific BMPs may have.
89	Permit Section XIV.A, page 36 How can a QSD "ensure" that all SWPPPS are amended or revised when there is a significant change to the project? The QSD will be a consultant hired by the discharger to prepare the SWPPP. In this paragraph I believe the QSD needs to be replaced with the discharger/LRP.	Section has been revised to state that the discharger shall ensure the SWPPP is revised or amended by a QSD.
89	Permit Section XIV.D, page 36 Please confirm how "during working hours" is defined. Does a sign need to be posted at the project entrance with the working hours? Please define the term "while construction is occurring". Does this mean while the site is "active"? Please note that there may be a situation where there is a rain event, and no construction is currently occurring, then the SWPPP may	Business hours

Commentor ID	SWPPP/REAP Comment Summary	Comment Response
	not be onsite.	
96	The Rain Event Action Plan (REAP) templates provide an opportunity to guide dischargers in evaluating whether they are in a “period of high risk of pH discharge” and therefore are required to sample for pH. Please work this into the REAP checklists.	The REAP templates have been eliminated from the CGP and will be included in CASQA's Construction BMP Handbook.
112	Section XIV of the proposed permit is very brief concerning the required content of a SWPPP. Attachment H of the 2008 proposed permit (which was removed in the 2009 proposed permit) had provided the framework for the SWPPP and its basic components. This information would facilitate compliance with the permit and we would suggest the 2009 proposed permit include similar information. A summary of this information would be helpful in the same way that the list of documents comprising the PRDs is helpful.	The Order de-emphasizes the contents in the SWPPP by including all enforceable requirements in the permit itself. Minimal SWPPP requirements are included in Section XIV of the Order.

TOTAL MAXIMUM DAILY LOADS (TMDLs)

Commentor ID	TMDL Comment Summary	Comment Response
22	The Order needs to make a distinction between sediment impaired receiving waters that have and are implementing TMDL implementation Plans and those that are not. There are collective parties investing in efforts to meeting and exceeding TMDL targets. Based upon implementation of the TMDL these receiving waters should not be considered high risk water. Doing so would discourage watershed efforts that can effectively address the impairment.	Receiving water risk is designated as high risk for sites located within a watershed with a receiving water body that is either (1) 303d listed as impaired with sediment with a TMDL or (2) has the beneficial uses of SPAWN, COLD and MIGRATORY. This criteria is unrelated to the contents of a TMDLs implementation plan.
25	Fact Sheet, page 17, Section II.F.1.ii.b (TMDL Compliance) – This section should be revised to clarify that it applies to construction projects located up-gradient and within the same hydrographic subarea in which the impaired water body segment is located.	Comment Noted.
25	Fact Sheet, page 17, Section II.F.1.ii.b (TMDL Compliance) & Finding 57 – In cases where the project discharges to a MS4 system it may not be possible to identify the exact receiving water. In such cases, the permit should allow the discharger to document that the receiving water information is not available.	Even though the discharge goes through an MS4, there is still the potential for the discharge to reach the receiving water. It is the dischargers responsibility to know where their discharge ends up.
26	Order, Section VI D Dischargers located within the watershed of a CWA § 303(d) impaired water body, for which a TMDL has been approved by the USEPA, shall comply with the approved TMDL if it identifies "construction activity" or land disturbance as a source of the pollution. Can a project unambiguously comply with a TMDL without a specific waste load? Is the waste load therefore zero	A discharger must not exceed the waste load allocation specified for construction activities or land disturbance as identified in the TMDL. Waste load allocations are typically not zero for discharges from construction activities.

Commentor ID	TMDL Comment Summary	Comment Response
	because discharges must not cause or contribute to an exceedance of a water quality standard?	
68	The Board's approach to construction storm water discharges in TMDL watersheds appears to be workable but needs to be clarified. Our only concern involves the possible misinterpretation of the phrase "within the watershed." We believe that the Board's approach is suitable for all discharges within, but not outside, an impaired segment subject to a TMDL. To better reflect this scope of application, we request that the Board revise CGP Part VI.D to read as follows: Dischargers located within the watershed of a CWA §303(d) impaired water body, for which a TMDL has been approved by the USEPA, shall comply with the approved TMDL if it identifies "construction activity" or land disturbance as a source of the pollution.	Comment Noted
112	The fact sheet should note that compliance is required for all pollutants (not just sediment) which may be limited in a TMDL which addresses construction sites. In addition, the discussion in the fact sheet incorrectly suggests that compliance might be required only after a separate order were issued by a Regional Board. Recommend the permit require permittees to document consistency with applicable TMDLs. The permit should require that permittees first investigate whether or not a given construction project is subject to a TMDL; a summary of the findings of the investigation could be included in the SWPPP. There is an applicable TMDL, the SWPPP should document the control measures included to ensure consistency with applicable Was.	Appendix 4 has been expanded to include all sediment and non-sediment TMDLs that apply to construction storm water discharges.

TRAINING & CERTIFICATIONS

Commentor ID	Training & Certifications Comment Summary	Comment Response
20	Page 32.VII. B. e & f CPESC is now identified as EnviroCert International.	Comment Noted. Clarification has been added to permit.
21	What is not clear under the proposed text is the degree to which any Qualified SWPP Developer (QSD) , who may not be a licensed engineer, may engage in activities that may constitute a cross-over into the professional practice of civil engineering. Existing license laws specifically restrict the practice of civil engineering to only those qualified and licensed as such. The proposed regulations should reflect this in an unambiguous manner. The following language is proposed for your consideration: "All engineering work shall be	Comment Noted. A finding has been added to the draft permit stating: "The Professional Engineers Act (Bus. & Prof. Code section 6700, et seq.) requires that all engineering work must be performed by a California licensed engineer."

Commentor ID	Training & Certifications Comment Summary	Comment Response
	performed by a California licensed professional in compliance with the requirements of the Professional Engineers Act, Business and Professions Code sections 6700-6799."	
22	Section VII- The five-year professional experience requirement is redundant and may result in abuse. If the QSD or QSP has the required certifications, they should not be required to take a state- approved class to train and qualify QSDs or QSPs, then the State Board should use that training as one of the stand alone qualifiers to QSD or QSP. Recommend deleting Section VII, B.1.g; add clause to recognize a state-approved training course for qualifying QSDs or QSPs as meeting minimum certification requirements.	The five-year experience in developing SWPPPs has been deleted. The combination of having a qualified certification as well as attending the State Water Board sponsored training class is essential in ensuring that all QSDs and QSPs are properly certified. Prior experience with other CGP requirements is not necessarily a good measure of the skills and knowledge required to comply with the new requirements.
22	Can you have more than one QSP and QSD per company/NOI/Permit/site?	More than one QSP and QSD may be designated per company/NOI/Permit/site. Only one QSD is required for certification of the SWPPP. Inspection reports are certified by qualified inspectors with the proper training.
22	In regards to: “The discharger shall include, in the SWPPP, a list of names of all contractors, subcontractors, and individuals who will be directed by the Qualified SWPPP Practitioner.” The list should be specific to include the names and addresses and contact information of those responsible for storm water management only. The specific list should include those responsible for: 1) installation and maintenance of erosion and sediment controls, 2) installation and maintenance of temporary and permanent stabilization, 3) installation and maintenance of non storm water BMPs, 4) those responsible for non structural BMPs, i.e. housekeeping, spill response, storm water sampling, etc.	The SWPPP should be designed to address compliance with the CGP. Contact information for all contractors, subcontractors, and individuals directed by the QSP in compliance with the CGP should include those responsible for erosion and sediment controls, installation and maintenance for stabilization controls, and installation of BMPs as well as those implementing the controls at the site.
22	Request clarification on the training and documentation required for “qualified personnel" (other than the QSDs and QSPs) installing, maintaining and repairing BMPs (especially if the predominant form of training is on-the-job).	"Qualified personnel" are individuals trained by the QSP or trained by those authorized to conduct trainings by the QSP. Documentation of training content, signatures and intervals are to be kept in site records.
25	QSDs for Type 1 projects should be allowed to be “certified” solely through attending the State Water Board’s training program. This same rationale should be used to allow QSPs for Type 1 projects to be “certified” solely through attending the State Water Board’s training program.	QSD and QSP certification is unrelated to a project’s risk. A QSD for a company or agency should be able to produce SWPPPs for all projects regardless of risk as well as a QSP being able to implement SWPPPs at all project risks and types.
25	Permit page 7, Finding 43 – The QSD & QSP requirements should be removed from the permit unless the State Water Board CGP Training Team has been established, and has funding and the required training is available for persons to take when the permit is adopted. Alternately, training should not be required any sooner than 2 years after the training becomes available statewide.	Comment Noted. The CGP Training Team has been established.

Commentor ID	Training & Certifications Comment Summary	Comment Response
27	Complying with the QSP requirements will require hiring additional personnel or finding contractor laborers. This will be difficult, since persons trained as a QSP is a hard-to-find skill set.	Comment Noted. The intent for the QSD/QSP requirements are to ensure that the proper individuals develop and implement SWPPPs.
29, 62, 89	Recommends that provisions be added to the Draft CGP clarifying that QSDs and QSPs are in responsible charge of developing and implementing SWPPPs. The phrase "responsible charge of work" means the independent control and direction, by the use of initiative, skill, and independent judgment, for the investigation, evaluation, specification, design, and implementation of water pollution prevention at construction sites, including the direct supervision and responsibility for work of subordinates. The phrase does not refer to the concept of financial or pollution liability, which remains with the Discharger. A subordinate is any person who assists a QSD or QSP in their practice without assuming responsible charge of work. A subordinate need not be qualified as a QSD or QSP. This phrase should be added to the definitions section of the permit.	The discharger is ultimately responsible for the quality of the storm water discharge for its site. However, qualified personnel must be trained by a QSD or a QSP, or someone authorized to train such personnel.
29	The responsibilities of the QSD and Discharger must be clarified. For instance, the Draft CGP states the "QSD shall ensure SWPPPs … are developed, amended or revised..." This is the Discharger's responsibility; the QSD develops amends or revises the documents at the direction of the Discharger.	Permit language has been revised to clarify that the discharger is responsible for all permit compliance.
29	CASQA has reservations about the "qualification by experience" for QSDs and QSPs and suggests that if retained this qualification be augmented with a requirement to document the experience. Once such individuals successfully complete the QSD or QSP training course the need to provide such documentation can be reduced. CASQA briefly reviewed the National Institute for Certification in Engineering Technologies (NICET) qualifications program and found that NICET offers several levels of certification) (I-IV) with progressively increasing experience and skill requirements. CASQA recommends that the State Water Board examine the certification levels and identify those that indicate the appropriate experience and skill sets for QSD and QSP pre-requisites.	Comment Noted, 5 years experience option has been taken out of the CGP Order.
29	CASQA believes the language of the Draft CGP needs to be focused on qualifications rather than training to achieve its purpose because qualifications are the desired endpoint whereas training is simply one possible pathway for getting to the endpoint. The reference to the development of a training curriculum is not a Finding and therefore should be moved to the Fact Sheet. Finding F Training Qualifications 43. In order to improve compliance with and to maintain consistent enforcement implementation and maintenance of the SWPPP requirements this General Permit, all dischargers are required to	Comment Noted

Commentor ID	Training & Certifications Comment Summary	Comment Response
	appoint two positions - the Qualified SWPPP Developer (QSD) and the Qualified SWPPP Practitioner (QSP). To serve as a QSD or QSP, the individual shall achieve and maintain the credentials specified in this General Permit for their respective roles. who must obtain appropriate training. Together with the key stakeholders, the State and Regional Water Boards are leading the development of this curriculum through a collaborative organization called The Construction General Permit (CGP) Training Team. Section VII Recommended edit: VII. QUALIFICATIONS, CONTINUING EDUCATION, AND TRAINING A. General The discharger shall retain a Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP) to be in responsible charge of preparing and implementing the SWPPP, respectively. The discharger shall retain or utilize trained individuals for implementing water pollution control. The qualifications of the QSD and QSP shall be in accordance with this Section VII. The discharger shall provide documentation of QSD and QSP qualifications in the SWPPP, and update the documentation as necessary in the Annual Reports. B. Qualifications 1. QSD – An individual who has achieved and maintains one or more of the following credentials: California registered professional civil engineer; California registered professional geologist or engineering geologist; California registered landscape architect; professional hydrologist registered through the American Institute of Hydrology; certified professional in erosion and sediment control registered through EnviroCert International, Inc.; certified professional in storm water quality registered through EnviroCert International, Inc.; certified professional in erosion and sediment control (Level III or above) registered through the National Institute for Certification in Engineering Technologies; or 5-years documented experience developing SWPPPs. 2. QSP – An individual who is a QSD as defined in this Permit or who has achieved and maintains one or more of the following credentials and experience: certified erosion, sediment and storm water inspector registered through EnviroCert International, Inc.; certified inspector of sediment and erosion control registered through Certified Inspector of Sediment and Erosion Control, Inc.; certified professional in erosion and sediment control (Level II or above) registered through the National Institute for Certification in Engineering Technologies or 5-years documented experience implementing SWPPPs. C. Continuing Education – QSDs and QSPs shall comply with the continuing education requirements to maintain their license, registration, or certification used to qualify as a QSD or QSP. Where the license, registration, or certification used to qualify as a QSD or QSP does not include continuing education requirements, a minimum of 10 professional development hours of continuing education related to storm water quality control shall be obtained every two years. D. Training – Effective [two years after the date of	

Commentor ID	Training & Certifications Comment Summary	Comment Response
	adoption of this General Permit] QSD and QSPs shall have attended a State Water Board-sponsored or approved training course.	
31	Training Request that the National Storm Water Center be listed in the permit along with Certified Professional in Erosion and Sediment Control organization as nonprofit entities certified by the state to teach SWPPP courses. I think it is unfair to list one and not the other. However, we recognize that our staff is qualified to instruct under the proposed Order (SWPPP Certification Requirements) that defines the criteria including those having a minimum of five years of experience developing construction SWPPPs in California.	Permit language has been revised to eliminate the QSD criteria of 5 years experience developing SWPPPs. All available certifications related to this topic were evaluated by staff in preparing the draft requirements and we chose to only list the ones where there was significant emphasis on the principles of soil erosion, water quality, pollution control, and regulatory requirements. Additionally, we only chose certifications where there was a test or evaluation that demonstrated the certificate holder actually understood the requirements. The training currently offered by the National Storm Water Center (and many others) did not completely meet this criteria.
38	Draft General Permit, Pg 32, Section VII The requirement of Qualified SWPP Developer (QSD) and Qualified SWPPP Practitioner (QSP), the required training qualifications and certification are excessive. Construction practices will require multiple personnel to be responsible for the preparation and implementation of the SWPPP besides designated QSD and QSP. Input from the construction industry on the content and degree of training required for leading SWPPP development and implementation is encouraged.	Comment Noted. The CGP Training Team is developing the training criteria for QSDs and QSPs and this team consists of representatives from the State Water Board, Regional Water Board, academia, municipalities, the construction industry and various other trainers and stakeholders.
52	The Draft Order makes it clear that preparers of SWPPP' s and REAP's must be prepared by a Qualified SWPPP Developer and implemented by a Qualified SWPPP Practitioner. Are the public agency inspectors also required to have similar training?	The CGP does not require public agency inspectors to have similar training.
56	F- Training F -43: I. Clarify "discharger" in this statement vice the definition in the glossary (App.7). Relative to a QSD and QSP, on a military base, is the discharger considered the Base or the contractor? Would anyone providing oversight by the Base need to be a trained QSP/QSD?	“Discharger” is defined in this permit as the legally responsible person or entity subject to this General Permit.
34, 56, 60, 63, 107	B-1 (a-h): Qualified SWPPP Developer (pg 32/33): How does 5 years experience equate to a PE? You can be a QSD with 5 years experience, but cannot sign the SWPPP? Please also clarify what will be required during the 2 year period after the adoption of the CGP.	The requirement of 5 years or more experience of preparing SWPPPs has been eliminated from the CGP.
56	B4: Qualified SWPPP Practitioner (pg 33): Relative to military bases, would all the contract leads and quality assurance officers have to be QSPs, or just their supervisor? What do they do during the two year interim?	The discharger is ultimately responsible for the quality of the storm water discharge for its site. However, qualified personnel must be trained by a QSD or a QSP, or someone authorized to train such personnel.

Commentor ID	Training & Certifications Comment Summary	Comment Response
59	Concerned about the limitation of the QSD and QSP to certain professions or degrees, especially when it is not evident that the professions or degrees specified provide an adequate background in construction storm water pollution prevention plan development. The specification of these professions and degrees will also limit the pool of otherwise qualified and experienced SWPPP developers. The permit language should make it clear that implementation of SWPPPs on a construction site and development of SWPPP can be done by trained personnel working under the direction of a QSD or QSP provided that the QSD or QSP stamps or signs the documents. Similarly, sampling personnel following the monitoring program identified in the SWPPP should not need to be QSPs. Additionally, we recommend that the State consider accepting the Caltrans 24 Hour SWPPP training program certification for qualification as a QSD and QSP. We believe that this program addresses the appropriate SWPPP development processes and techniques, will be less burdensome for those needing to comply, and provide additional resources which are now established and readily available.	Individuals implementing the SWPPP and carrying out any sampling for the CGP do not have to be a QSP. They may be trained by the QSP in how to implement the SWPPP and properly sample in order to comply with the CGP.
64	Qualified Personnel (Developers and Practitioners) Appropriate training and qualifications should be standardized and consistent; however, prescribing specific certifications by specific organizations is inequitable for many organizations and individuals that are qualified to perform the work. This message was very clear during all phases of the public comment. Creating complexity and adding new layers of requirements will not necessarily lead to better performance when emphasizing the existing fundamentals is the best approach to improving performance across the industry.	All available certifications related to this topic were evaluated by staff in preparing the draft requirements and we chose to only list the ones where there was significant emphasis on the principles of soil erosion, water quality, pollution control, and regulatory requirements. Additionally, we only chose certifications where there was a test or evaluation that demonstrated the certificate holder actually understood the requirements. The training currently offered by the National Storm Water Center (and many others) did not completely meet this criteria.
65	Training: It is our firm belief that the person in the field and working the site is in the best position to make reactive and pro-active improvements to the site's storm water management program the quickest. The training requirements considered for the DCGP are still unpublished to the public, and Graniterock hopes that the Board factor in options for hands-on and field learning when these requirements are finally issued to the public. Further, we request a small modification in the definitions of QSD and QSP. DCGP currently notes those with 5 years or more experience of preparing the SWPPP are considered qualified, and Graniterock requests that this be expanded to include experience not just in writing the SWPPP but also in implementing the SWPPP and in managing pollution control and storm water programs.	The requirement of 5 years or more experience of preparing SWPPPs has been eliminated from the permit
89	Permit Section XVI.E.2, Page. 39 Will "individuals responsible for BMP	Individuals responsible for BMP installation, inspection,

Commentor ID	Training & Certifications Comment Summary	Comment Response
	installation, inspection, maintenance and repair" still be required to receive formal and informal SWPPP training? Please confirm that these individuals are not considered QSPs.	maintenance and repair would be trained by the QSP and are not considered to be QSPs. The QSP is responsible for the implementation of the SWPPP, which includes training on site personnel/workers.
94	Page 7, Item 43 requires two appointed positions - the Qualified SWPPP Developer and the Qualified SWPPP Practitioner who must obtain appropriate training defined on pages 32-33. The State Water Board should allow sufficient time for dischargers to implement these new training requirements.	The permit allows 2 years from the adoption date of this General Permit for dischargers to implement the new training requirements.
101	Qualifications and Training Requirements – SCVURPPP supports the inclusion of qualifications for individuals preparing and implementing construction SWPPPs. However, our Co-permittees are concerned about meeting these requirements within the prescribed timeframes and need more information on the specifics of the training program. Many of our Co-permittees have attended construction site management workshops provided by our Regional Water Board (SCVURPPP sponsors such a workshop every year), and it would be helpful if the training requirements could give credit for workshops that have been attended within the past two years. Also, there are still inconsistencies and confusing language in the draft permit regarding the role and responsibilities of the QSDs and QSPs. We recommend that Board staff consider the replacement language provided by CASQA in Attachment 1 of its comment letter.	Comment Noted. The information learned at previous workshops is still valuable in that they provide a foundation on understanding principles on how storm water pollution can relate to construction sites and how this can be prevented, but the proposed CGP has very permit specific information in it that requires new trainings. Dischargers have 2 years after the adoption date of this CGP to adhere to the training requirements set forth in the CGP.
106	Paragraph VII.B.1., requires that, effective two years after the adoption of the General Permit, a QSD must attend a State Water Board-sponsored or approved QSD training course. Registered professional civil engineers are already qualified to perform the engineering functions defined in Business and Professions Code Section 6731. Most all registered civil engineers have at least a Bachelor's degree and many have additional Master's and Doctorate levels of education, coupled with the experience requirements in the Professional Engineers Act, and they must pass statewide and national tests before they are registered as civil engineers. That registration scheme exists autonomously from the proposed regulations developed by the Board, but because this Order imposes additional qualifications on civil engineers in addition to those in the Professional Engineers Act, they are inconsistent with the purpose, intent and statutory provisions in the Professional Engineers Act.	Professional Civil Engineers are not trained on specific requirements in this Construction General Permit, therefore the class is required.
107	General definition This permit refers to qualified personnel other than QSD and QSPs in several areas of the permit. A definition of qualified personnel is needed. This includes tasks such as installing, maintaining and repairing BMPs. Please provide guidance on what the Board considers "qualified" in this instance.	Individuals implementing the SWPPP and carrying out any sampling for the CGP do not have to be a QSP. They may be trained by the QSP in how to implement the SWPPP and properly sample in order to comply with the CGPt.

Commentor ID	Training & Certifications Comment Summary	Comment Response
108	1. Page 32 VII.B.1 Qualified SWPPP Developer 2. Page 32 VII.B.4 Qualified SWPPP Practitioner We believe this section is in violation of California Anti Trust laws in that it restrains education providers to just a few organizations, and disallows other legitimate, credible, accepted, education providers and therefore stands to create a monopoly on education providers. We ask that the language in the current version (previous to the Draft) of the CA General permit remain; or simply we ask to be included as education providers for Inspectors and SWPPP preparers; or that the CA EPA adopt a written standard for education that serves to encourage competition in the educational arena. Currently Stormwater USA has 410 California Students in our Certified Compliance Inspector f Stormwater (CCISR) class and Certified Preparer of SWPPP (CPSWPPPR) class. We have over 2000 students nationally enrolled in our classes. 98% of our students would recommend our class to others. Stormwater USA, LLC asks to be included as an acceptable online education provider for SPWPPP preparers and storm water Inspectors by the state. Our program exceeds all written California and Federal requirements for education providers for storm water Compliance. In addition, our program would provide the following additional benefits to the citizens of California who will be required to participate in Storm Water Compliance Education as follows (see original comment for business model)	Comment Noted
111	The Draft Permit requires the Discharger to provide documentation of training in the annual report. Clarification is requested on what type of training (topics, activities) is acceptable and what training records are required for construction workers in the field, installing, maintaining, and repairing BMPs.	The CGP does not specify what type of training is acceptable. This is determined by the QSP who is in charge of implementing the SWPPP at the project site.
112	The permit indicates that the QSP would be responsible for full compliance with the permit, which might be interpreted to transfer liability for noncompliance from the permittee to the QSP. The permit may require that the permittee ensure that BMPs be implemented by persons with the qualifications of a QSP as set forth in the permit, but it should also clarify that the permittee remains fully responsible for compliance with the permit.	The discharger alone is responsible for complying with all the requirements of the permit.

ATTACHMENT A - LINEAR UNDERGROUND/OVERHEAD UTILITY PROJECTS (LUPs)

Commentor ID	LUP Comment Summary	Comment Response
17, 56, 58, 59	Linear projects should not be regulated under the Permit. Attachment A (the	It was the intent for the CGP to apply to all construction activities

Commentor ID	LUP Comment Summary	Comment Response
	portion of the Permit that sets forth linear project requirements) is so comprehensive that it is at this point a separate permit. To avoid confusion as to the requirements that will be imposed on linear projects, and provide the entities who will be impacted most the appropriate opportunity to comment on the requirements, the State Board should remove Attachment A from the Permit, and issue a separate draft linear projects permit. This is particularly important to special districts who often construct large linear projects. We request that the Permit expressly acknowledge that linear projects are not covered by the Permit and that the State Board revises the small linear permit to address linear projects larger than five (5) acres, or issue a new linear projects permit.	(small linear projects included). This would provide one permit for dischargers with traditional and small linear projects, and would also provide one permit for the Regional Water Boards to implement on all construction activities.
25	Attachment B, p.1 B. Who Must Submit The Permit delineates a number of circumstances for linear projects that do not require permit coverage as enumerated in Attachment A.2- Projects and Activities Not Defined as Construction Activity". To accommodate these circumstances the following statement should be added to the above statement: "LUP activities identified in these permit documents as "projects and activities not defined as construction activity" or "linear projects not covered" are not considered construction activities and are not subject to the "common plan of development or sale" condition. The Permit requires that the owner or operator of the LUP is responsible for obtaining permit coverage. Also, there are cases where the linear construction activities are covered under another permittee's construction storm water permit. Therefore, the above sentence should be revised to state: "The owner of the linear project is responsible for obtaining the permit unless its construction activities will be covered by another permitted project."	Attachment B does not apply to Linear Underground/Overhead Projects (LUPs)
25	Attachment A, p. 60 Table 8 Reporting Limits The analytical reporting limits imply that results should be reported below lab reporting limits and Method Detection Limits. This will create confusion and incorrectly reported results. In addition the precision and accuracy of results below the lab's MDLs is unknown. Generally, State Certified Laboratories do not report levels below the reporting limit unless specifically request. Labs should not report results below the analytical Method Detection Limits.	The intent of the headings in Table 8 is not to report below the minimum detection limits.
25	Section I.C, page 4 – "Activities Not Covered Under the General Permit" does not identify those linear project activities that are not covered (or are not considered "construction activity")	These projects/activities "not covered" for linears are included in the Fact sSeet (C.2) page 10 as well as Attachment A.2
25	Attachment A, Section A.3 states, "Sections shall be determined based on portions of a project conducted by one contractor." This is inconsistent with the language allowing LUPs to be split into logical permit sections. The draft Permit	Clarification language has been added to Attachment A, Section A.3

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	should allow linear project proponents to select the most appropriate project sections for their projects.	
25	Fact Sheet, Section II.J.2.a.i, page 31 – Clarify that projects can be determined to be Type 1 based on both flowcharts on page 1 and 2 of the attachment.	Risk determination clarification has been added to the fact sheet language.
25	Sediment Risk – The sediment risk evaluations should be streamlined to only be required when the project area is considered a medium or high receiving water risk. This approach ensures that special care is focused on those project areas that have the highest potential for affecting a sediment sensitive water body. Linear project areas that are low receiving water risks due to their distance from sediment sensitive water bodies should be assigned a low sediment risk based on their decreased potential for impacting that water body.	The sediment risk determination is strictly site characteristic specific, and is unrelated to a projects distance from a sediment sensitive watershed. A project segment or area having low receiving water risk, has the potential to be designated as LUP Type 2, if the sediment risk is found to be high.
25	Attachment A, Sections L.4.b.i and Table 4 (pages 46-47) and L.5.b.i and Table 6 (pages 54-55) [Sampling Requirements] – Commenter believes it is impossible for a LUP to comply with these sampling requirements. Recommend that sampling only be implemented in project areas that are active and that are chosen in advance based upon risk and safety considerations. Also, consistent with the revised requirements for traditional projects, the requirement to sample within the first hour of runoff should be eliminated. Revise to state: "LUP Type 2 (and 3) dischargers shall collect storm water grab samples from one representative sampling location within each area designated as Type 2 (or 3) that can be safely accessed during a rain event. Samples shall be taken during normal business hours. A minimum of three samples shall be taken on the sample day, unless the storm water discharge ceases before the end of the day. Sampling shall occur on the first day of discharge and two sample events per rainy season are required." (New discharge defined as a channelized discharge of storm water that goes beyond the LUP boundary after at least a 48 hour period of no discharge)	Sampling requirements have been revised to state that a "Minimum of 3 samples per day characterizing discharges associated with construction activity from the entire project disturbed area."
25	Attachment A.1, page 3 (Tributary to Sediment Sensitive Water Body) – Definition should be revised to make sure it is clear that a "Tributary to a Sediment Sensitive Water Body" means: A surface water is tributary when it meets all three of the following criteria: 1. The surface water body is located up-gradient of and hydrological connected to either of the following: - A CWA 303(d) listed water segment (i.e., for sedimentation/siltation, turbidity); or - A water body designated with beneficial uses of SPAWN, MIGRATORY, and COLD 2. The surface water body is located within the same hydrologic subarea as the CWA 303(d) listed water segment (i.e., for sedimentation/ siltation, turbidity) or the water body is designated with beneficial uses of SPAWN, MIGRATORY, and	"Tributary to Sediment Sensitive Receiving Water Body" has been eliminated from Attachment A.1, page three. Projects located within sediment sensitive watershed are considered to be tributary to the sediment sensitive water body.

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	COLD. 3. The surface water body is not one of the following: - An ephemeral or intermittent surface water (e.g., drainages, creeks, streams, etc.); or..	
25	Attachment A.1, page 3 (Sediment Sensitive Watershed) – The proposed definition is too broad as it includes all areas within the entire watershed that drain to the sediment sensitive water body. As written, this definition is inappropriate to apply to short-term linear construction projects that have relatively short-term potential project impacts and could be located 1,2,5,10, 25 or more miles up-gradient from the sediment sensitive water body. Recommend limiting the definition to the "hydrographic sub-area" in which the sediment sensitive water body is located.	Comment Noted. We believe that projects located 1, 2, 5, 10, 25 or more miles upgradient from a sediment sensitive waterbody yet within the same watershed will still contribute their discharges to the same receiving waters.
25	Attachment A.1, page 2 – It is essential that risk determinations for LUPs be based upon different areas within a permitted segment to have the ability to establish multiple risk Type designations. Recommend that the three questions at the top of the flowchart refer to the "project area or project section area"	Edits have been made to Attachment A.1, page 2
25	Security – Due to Homeland Security concerns and guidelines, the confidentiality of certain infrastructure information is essential to public utility services. It is important to limit public access to information regarding the details and locations of their facilities. Additionally, Federal Energy Regulatory Commission rules limit the disclosure of certain information regarding the schedules of utility projects. Since the State Water Board intends to automatically post PRDs on the Internet for public viewing, it is important that certain information not be included in utility project PRDs. This information includes, but may be limited to: -Transmission circuit numbers -Voltages -Substation names -Overall circuit maps that show how the new facilities fit into the overall grid GIS shape files -Schedules that indicate when associated circuits will be de-energized or energized	Permit, Finding, and Fact Sheet language has been added stating that any information provided to the Regional Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted.
25	LRPs, Approved Signatories, and Duly Authorized Representatives – Many companies that own and operate LUPs have large service territories and multiple divisions of responsibility. The Draft Permit should clarify that there can be multiple LRPs, Approved Signatories and/or Duly Authorized Representatives per company.	Per project, there can be multiple Approved Signatories but only one Legally Responsible Person (LRP).
25	Fact Sheet, page 12, Section II.D – This section should be revised to state that for termination of permit coverage the discharger should meet the permit's final stabilization criteria.	Clarification has been added to the section
25	Attachment A, p.2 B.2 Site Maps It is unclear what a "500 ft" map is. Is this 1" = 500 ft? Please clarify	Edited to state: 1"=1000'-1500'
25	Attachment A, p.2 A.3 LUP Permitting The permit states: "Sections shall be	Edits made

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	determined based on portions of a project conducted by one contractor." LUPs may be broken into sections for permitting purposes for a number of reasons, not just because portions of the project are constructed by different contractors. The rest of the paragraph appears to recognize this fact. Therefore, this sentence should be revised to state: "Sections may be determined based on portions of a project conducted by one contractor." Bottom line, linear project proponents should be permitted to select the most reasonable project sections independently.	
25	Bioassessment requirements should apply to Type 3 LUPs when: -The project area or project section area that is determined to be a Type 3 LUP meets Criteria 1 and 2 of Appendix 5 (using the definition of "Tributary to Sediment Sensitive Water Body" contained in Attachment A.1); and -There are more than 30 acres of soil disturbance in the project area or project section area designated as Type 3. Add criteria as a footnote to Attachment A, Table 8	Clarification language added
25	Attachment A, p.5 D.6 Non-Storm Water The permit only specifies four authorized non-storm water dischargers in the first reference above, but indicates other authorized non-storm water discharges may exist but does not identify them. The second reference above requires notification of the RWQCB whenever any non-authorized non-storm water discharge is anticipated. The lack of a complete list of authorized non-storm water dischargers will cause confusion for dischargers and this section should be revised to state the complete list (see Orders 99-08 and 2003-0007) of authorized non-storm water discharges. Also, Order Section III.C lists additional authorized non-storm water discharges that should be included in this section.	Additional authorized non-storm water discharges have been added to the section.
27	The Draft Construction Permit does not clearly provide for determination of Risk Type or Risk Level for Oil and Gas Facility construction sites, and the Draft Construction Permit fails to clearly specify the minimum BMPs, monitoring measures and other control measures that should apply to Oil and Gas Facility construction sites once a Risk Type or Level is determined. For construction activities related to Oil and Gas Facilities that are also LUPs, such as oil and gas pipelines, arguably the LUP risk assessment methodology in Attachment A.1. should be used to determine the oil and gas construction site risk type, and the Minimum BMPs and Monitoring Measures identified in Attachment A, Section I.1 (for Risk Type 1 LUPs), Section I.2 (for Risk Type 2 LUPs), and Section I.3 (for Risk Type 3 LUPs) should be implemented. Several CIPA members have experience in evaluating BMPs as they have done so for the SWPPP for their Oil and Gas Facilities and are willing to share this knowledge with SWRCB staff to	The risk methodology must work for many different types of construction activities. The comment does not provide substantial evidence for the need to develop special rules for oil and gas facilities.

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	establish that the minimum BMPs in those Sections of Attachment A are appropriate and reasonable for linear projects at Oil and Gas Facility sites. Other Oil and Gas Facility construction projects, consisting primarily of installation of, and repairs to pumping and drilling pads or existing facilities, should be exempt from permitting requirements due to de minimus water quality impacts.	
29, 40, 53	Urge that the permit be amended to clarify that the provisions of Attachment A are those that apply to LUPs and that the other provisions of the draft permit do not apply to them. However, in doing so, some of the general provisions contained in the main body of the Draft CGP need to be included in Attachment A, such as the ability to use the R-Factor waiver. We recommend that the language be clarified to indicate that the Draft CGP allows linear project to be broken into appropriate segments or areas; and that post-construction requirements do not apply to LUPs.	The Small Construction Rainfall Erosivity Waiver does apply to LUPs.. R-Factor waiver language has been added to Attachment A
43	Please revise the requirement for linear controls for slopes less than 5%. Certainly a 1, 2, or 3% slope does not need the linear controls as specified in the tables. This is excessive, unnecessary, and costly.	Comment Noted
45	Linears are unique. Run-on and NELs: Most linear projects, because they consist of a narrow area of construction over a long distance, have little or no control over the site run-on and typically do not change the existing slope of the terrain. The Draft Permit indicates that the discharger is not permitted to divert and discharge run-on not meeting the NEL. It is not reasonable to assign a linear project responsibility for the quality of all run-on to the site. We request that run-on, whether meeting NELs or not, may be diverted from areas disturbed by the project and discharged from the site. Appendix A references sampling of risk level 1 LUPs while the Permit only requires sampling of risk level 2 and 3 projects. Please remove all sampling requirements for risk level 1 projects, including LUPs.	Run-on/runoff sampling requirements have been eliminated from the permit.
45	Linears are unique. Receiving Water Monitoring: By the same token, a linear project could cross multiple watersheds and thus discharge to multiple receiving waters. As with the sampling requirement discussed above, compliance with this requirement would be impractical, very costly and yield no meaningful data.	Sampling of the receiving water is only required of Risk Level 3 and LUP Type 3 sites who exceed their NEL, once a site exceeds their numeric limit, this is a sign that there is a potential threat to water quality. The CGP also only requires sites with a direct discharge/connection to their receiving water to sample.
45	Linears are unique. Sampling in all drainage areas: A linear project could stretch over many miles and multiple drainage areas. As currently written, the Permit would require sampling at a copious number of points along the entire length of the project. Compliance would be infeasible, very costly and yield no meaningful data.	Comment Noted. LUPs may be broken into logical permit sections by the discharger. Sections broken based on LUP Type could decrease the amount of sampling for the complete project area since monitoring is only required for LUP Types 2 & 3

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56	Attachment A The requirement to electronically submit before, during and after photographs for one of every three storm events is excessive and unnecessary and should be eliminated unless an exceedance occurs.	Many linear utility projects occur in remote areas not easily reached by Regional Water Board staff. Photographs taken during visual inspections and submitted to the State Water Board are important in reporting site conditions.
59	"LUP Type 2 (and 3) dischargers shall collect storm water grab samples from sampling locations characterizing discharges associated with construction activity from the entire LUP disturbed area beginning the first hour of any new discharge and during the first and last hour of every day of normal operations for the duration of the discharge event. At a minimum, 3 samples shall be collected per day of discharge." 13 A new discharge is defined here as any type of discharge of storm water that goes beyond the property boundary after at least a 48 hour period of no discharge. These sections/tables/footnotes describe an impossible task for an LUP. First, there could literally be hundreds of sampling locations (e.g., "…any type of discharge of storm water that goes beyond the property boundary…). It is not clear if this footnote refers to both sheet flow and channelized flow or only channelized flow. Second, for all of these discharge locations, numerous qualified samplers would have to be on call for each rain event to sample each of these locations within the first hour of discharge and three times a day every single day until the discharge ends. Additionally, at least some of these sites may not be safely accessible on LUPs.	Sampling requirements have been revised to state that a "Minimum of 3 samples per day characterizing discharges associated with construction activity from the entire project disturbed area."
63	Page 52, Section i (Watershed Monitoring Option), I am opposed to the LUP Type 2 or type 3 dischargers being granted relief from the monitoring requirements in this Attachment just because they are part of a qualified regional watershed-based monitoring program.	Comment Noted. Members of regional watershed-based monitoring programs typically contribute a large amount of money to support these programs. We believe it would be a duplication of effort for a discharger to conduct monitoring when there is an option to join a regional watershed-based monitoring program.
75	LUP Type 3 Receiving Water Monitoring Requirements and Table 7 [section L.5.d.i.p.56] The draft CGP applies receiving water monitoring to Type 3 projects only. This assumes that the project runoff discharges to a receiving water body and does not simply dissipate by infiltration/percolation in undeveloped, desert-like environments. These types of areas which are naturally high in erosion and sedimentation, such as ephemeral desert like areas effect many of the LADWP construction projects. The permit does not adequately address these unique conditions and may unnecessarily burden or unduly tax the project without accomplishing a true water quality objective. LADWP believes that discharges to ephemeral areas should allow for the background factors to be taken into account to adjust the requirements.	Comment Noted

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75	LUP Type 3 Storm Water Effluent Monitoring Requirements and Table 6 [section L.5.b.i. p.55] The draft CGP states dischargers "shall collect storm water grab samples from sampling locations characterizing discharges associated with construction activity from the entire (emphasis added) LUP disturbed area beginning the first hour of any new discharge and during the first and last hour of every day of normal operations for the duration of the discharge event." There are numerous situations were the minimum of three samples a day would be impractical or infeasible. Recommendation: LADWP suggests that this requirement be deleted for projects lacking a receiving water body, and applies only to those construction segments that discharge directly to a receiving water body. In addition, LADWP asks that the State Board reconsider the minimum of three samples required daily. A sample can be collected when a discharge is noted and perhaps again, if needed, at the end of the day, assuming the discharge continues, otherwise a single sample may be all that can be collected.	Revisions made to LUP Type 2 & 3 sampling requirements eliminating the requirement for “grab samples beginning the first hour of any new discharge and during the first and last hour...”
75	LUP Type 2 Storm Water Effluent Monitoring Requirements [section L.4.b.i. and Table 4. p.47] The draft CGP Errata Sheet, deletes the requirement that "Risk Level 2 dischargers shall take grab samples beginning the first hour of any new discharge and during the first and last hour of every day of normal operations for the duration of the discharge event." This requirement is also contained in Attachment A (LUP Type 2 Storm Water Effluent Monitoring Requirements and Table 4, section L.4.b.i, p.47), which applies to LUP projects. If this was not an oversight, then LADWP asks that this requirement be deleted for LUP projects as well. In certain undeveloped areas, such as the desert, the entire project area consists of soils with sparse groundcover where the upstream discharge naturally carries sediment load. If the project is in an area that lacks a receiving water body, and where ephemeral flows naturally carry sediment, re-depositing the material downstream depending on rainfall intensity and duration, the background will be similar to that of the construction area.	Revisions made to LUP Type 2 & 3 sampling requirements eliminating the requirement for “grab samples beginning the first hour of any new discharge and during the first and last hour...”
75	LUP Type 1 Inspection Requirements [section L.3.a.iii. p.43] The draft CGP states that photographs of the site are submitted through the State Water Board's SMARTS website "once every three rain events". Conceivably, three rain events may occur in as short a span as one week, or perhaps over the course of several months. In order to prevent the reporting process from getting unduly confusing, LADWP suggests submitting the photographs along with the normal quarterly reports. This will keep the reporting frequency uniform with no loss of information, or impact.	Many linear utility projects occur in remote areas not easily reached by Regional Water Board staff. Photographs taken during visual inspections and submitted to the State Water Board are important in reporting site conditions
75	Attachment A On-site vs. Nearby Governmental Rain Gauges [section F.2.c,	This requirement has been revised to state that LUP Type 2 and

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	p.14 and section L.4.a.vii] The draft CGP requires that compliance storm events are verified by reporting both on-site and nearby governmental rain gauge readings. Some urban/suburban areas are well covered by governmental rain gauges. In these areas, LADWP believes the use of on-site rain gauges to verify the Compliance Storm Event is duplicative, and asks that the State Board reconsider the need for installing gauges on-site, or make their installation optional if a governmental gauge is located within a certain radial distance from the construction site	3 dischargers shall install a rain gauge on-site at an accessible and secure location if possible. When readings are unavailable, data from the closest rain gauge with publically available data may be used.
89	Attachment A Pg. 2. Sec. A 4: How will LUP dischargers obtain permit coverage for each Regional Board area prior to the commencement of construction?	LUP dischargers must file separate PRDs indicating the applicable Regional Board area the project section is located in
101	SCVURPPP is concerned that the requirements for LUPs, which will apply to municipal pipeline projects, are very similar to those of traditional construction projects. We request that the requirements for LUPs reflect the site-specific challenges and characteristics of these types of projects.	Comment Noted
103	In Sections II.B through Section XVI (pages 13 to 39), it is unclear what sections, if any, are applicable to LUPs. Some of the information in these sections (e.g., Sections C, D, E, F, G and H) is duplicative of the information in Attachment A, which is specifically for LUPs, whereas some of the information in these sections is applicable only to traditional projects (e.g., Sections VIII through XI, and XIII (pages 32 to 35). It is critical that the Order clarify what sections are applicable to LUPs. Therefore, in addition to stating that LUPs shall comply with Attachment A, A.1 and A.2, Section II.A.1 at page 13, needs to state that the balance of the Order is not applicable to LUPs except as indicated in Attachment A. This will ensure clarity on what parts of the Order apply to LUPs.	Section II.A.1 has been revised to clarify that all LUPs shall comply with Attachment A, A.1 & A.2 of this Order, and that the balance of this Order is not applicable to LUPs except as indicated in Attachment A
103	Section I.C at page 4, identifies “Activities Not Covered Under the General Permit”. However, this section does not identify those linear project activities that are not covered (or are not considered “construction activity”). These activities are later identified in Attachment A. Section I.G at page 7, describes the risk assessment process and the need for REAPs, however, the risk assessment Finding describes the LUP sediment and receiving water risk approach but omits the initial screening tool for Type 1 LUPs contained in the flowchart on Page 1 of Attachment A.1. Also, REAPS are not required on LUPs, but this is not stated in Finding 47 at page 8. Section I.L at page 11, describes post-construction requirements and infers that all construction sites must comply with these requirements; however LUPs are not subject to post-construction requirements. The Findings need to be revised to clarify what is applicable specifically to traditional projects, to LUPs, and to all projects. The Findings also need to	Permit language has been revised to clarify what is applicable to LUPs.

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	incorporate equivalent information for LUPs as is presented for traditional projects.	
103	LUPs Risk Determination Attachment A.1 The Fact Sheet in Section II.J.2.a.i at page 31, needs to clarify that projects can be determined to be Type 1 based on either flowchart. It is essential for LUPs to have the ability to establish multiple Types so that areas within the project that may have a Type 2 or 3 risk level determination do not result in the entire LUP being considered a Type 2 or 3 project. Therefore, it is imperative that the three questions at the top of the flowchart on Page 2 refer to the “project area or project section area.” This will make it clear that the Type(s) is based upon the characteristics of specific areas of the project.	Risk determination clarification has been added to the fact sheet language.
103, 105	Sediment Sensitive Watershed The first question asked on the second flowchart (Attachment A.1 at page 2) is: “Is 50% or more of the project section located within a Sediment Sensitive Watershed?” Project areas or project section areas need to be evaluated for whether a specific percentage of the entire project or project section is in the sediment sensitive watershed. This question needs to be revised to ask: “Is the project area or project section area located within a Sediment Sensitive Watershed?” Therefore, the definition of Sediment Sensitive Watershed needs to be revised to state: “Defined as the Hydrologic sub-area within which a sediment sensitive water body is located.” In Attachment A.1 at page 3, a Sediment Sensitive Watershed definition is too broad as it includes all areas within the entire watershed that drain to the sediment sensitive water body. As written, this definition is inappropriate to apply to short-term linear construction projects that have relatively short-term potential project impacts and could be located 1, 2, 5, 10, 25 or more miles up-gradient from the sediment sensitive water body. A more relevant definition for a LUP would be to limit the definition to the “hydrographic subarea” in which the sediment sensitive water body is located. As proposed the exact meaning of “Tributary to Sediment Sensitive Water Body” definition is unclear. The definition needs to be revised to make sure that it is clear that a “Tributary to Sediment Sensitive Water Body” means: “Tributary to Sediment Sensitive Receiving Water Body – A surface water is “tributary to a sediment sensitive water body” when it meets all three of the following criteria: 1. The surface water body is located up-gradient of and hydrologically connected to either of the following: · A CWA 303(d) listed water segment (i.e., for sedimentation/ siltation, turbidity); or · A water body designated with beneficial uses of SPAWN, MIGRATORY, and COLD; 2. The surface water body is located within the same hydrologic subarea as the CWA 303(d) listed water segment (i.e., for sedimentation/ siltation, turbidity) or the water body	-The first question asked on Attachment A.1 at page 2 has been revised to state: “Is the project area or project section area located within a Sediment Sensitive Watershed?”

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	designated with beneficial uses of SPAWN, MIGRATORY, and COLD, 3. The surface water body is not one of the following: · An ephemeral or intermittent surface water (e.g., drainages, creeks, streams, etc.); or · A storm drain inlet. In Attachment A.1 at page 3, a Sediment Sensitive Watershed definition is too broad as it includes all areas within the entire watershed that drain to the sediment sensitive water body. As written, this definition is inappropriate to apply to short-term linear construction projects that have relatively short-term potential project impacts and could be located 1, 2, 5, 10, 25 or more miles up-gradient from the sediment sensitive water body. A more relevant definition for a LUP would be to limit the definition to the "hydrographic subarea" in which the sediment sensitive water body is located.	
105	BMPs are sometimes impossible to install on a narrow linear construction site, particularly where the site goes through steep or rough topography or are accessible only by unpaved roads in remote areas. Wet weather sampling can be dangerous or impossible depending on weather and access conditions. Sampling all discharge points in the first hour of a project could require hundreds of sampling personnel on a single project and is often not feasible. Attachment A Page 1-2, itemA.3 This paragraph is too restrictive. Linear project initiators should be able to divide the sections into reasonable project sections independently. SCE recommends the last two sentences of Item A.3. Attachment A. starting with "Sections shall be determined based on…." be deleted.	Attachment A, Section A.3 has been revised to state "...LUPs may be broken into logical permit sections..."
105	SWPPP Requirements One of the most useful features of the Small Linear Underground/Overhead Permit was the inclusion of a standardized SWPPP template. The current CGP (Order No. 99-08-DWQ) includes a detailed list of elements to include in a SWPPP. However, the linear SWPPP template has not been included in the Draft CGP nor is there a template of required SWPPP contents. In addition, the specific requirements for a conventional SWPPP have been substantially reduced. With SWPPPs now being subject to public review, SCE recommends that the State Board provide a specific outline or template of the required SWPPP contents.	The CGP only requires that a SWPPP be developed by a QSD.
105	Grandfathering SCE recommends the Draft CGP also grant Risk Level I grandfathering to projects that are currently covered by the Small Linear Underground/Overhead Project Permit (SLUP).	Attachment A.2 states that ongoing LUPs that are covered under the Small LUP General Permit, State Water Board Order No. 2003-0007, shall be subject to LUP Type 1 requirements until 2 years after permit adoption.
105	Attachment A Page 4, item 2 LUP Termination of Coverage Requirements As currently written, this section states that the discharger cannot file the Notice of Termination (NOT) if a project was ever out of compliance with the Draft CGP at	The NOT requirements have been revised to state that "By submitting an NOT, the LRP is certifying that construction activities for an LUP are complete and that the project is in full

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	any time during construction. SCE recommends Attachment A Item 2 be rewritten to allow dischargers to file an NOT after an NEL violation occurs. Dischargers must have a way to file an NOT regardless of whether a NEL violation occurred, rather than face open-ended permit coverage.	compliance with requirements of this General Permit and that it is now compliant with soil stabilization requirements where appropriate."
105	Receiving Water Risk Attachment A.1 Linear projects have receiving water risk LOW, MEDIUM and HIGH, while traditional construction projects only have LOW and HIGH receiving water risk. SCE recommends removal of the MEDIUM receiving water risk designation for linear-type projects.	Linear projects are designated with three levels of receiving water risk as opposed to traditional construction projects due to their linear nature, and possibility of crossing Sediment Sensitive Watershed, and Riparian zones.

OTHER GENERAL COMMENTS

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2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16	Urge the State Water Resources Control Board to consider the comments and concerns identified in CBIA's comment package and to make the necessary changes to the Draft Permit in order to adopt a permit that places greater emphasis on enhanced and pro-active planning, and the implementation, inspection, and management of best management practices (BMPs) instead of a permit that will result in technically infeasible, unreliable, and unrealistic approaches in regulating construction storm water runoff that will create serious complications for and excessive costs of development projects.	Comment Noted
16	The Fact Sheet to the Draft Permit identifies 14 key changes; however, the permit is loaded with other changes too numerous to list with the potential to substantially and adversely impact the construction industry and subsequently all other industry that requires a physical plant. Berkeley Economic Consulting out lines many but not all of the onerous provisions of the proposed permit.	Comment Noted.
17	A more effective means of protecting water quality, and ensuring Permit compliance would be to hold the contractor directly liable for compliance at public agency owned sites. The Permit's enforcement provisions should therefore be revised to hold the contractors and construction managers, who are in charge of construction on public agency projects, responsible for Permit compliance.	Comment Noted. We disagree and have historically found that holding property owners responsible for permit compliance is the most effective way to reduce impacts to waters of the U.S.
20	Page 15, Table 1 Typo JTU should be NTU	No correction needed. The Jackson Turbidity Unit (JTU) is an

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		alternative unit to NTU (Nephelometric Turbidity Unit) used to measure turbidity. Region 3 reported their results in these units.
22	Finding 51 – Recommend editing finding to state the following: “a high risk of high pH discharge can occur during any portion of any phase only where hydrated lime, concrete, mortar, cement kiln dust, Portland cement treated base, fly ash, recycled concrete, or masonry work is located and/or performed and could result in significant alterations to background pH of any discharge.”	This clarification is included in the finding where alkaline construction materials that may result in high pH is described.
22	The proposed monitoring requirements (1) stand in contrast to prior State Water Board statements on the scope of appropriate monitoring of construction site storm water, (2) will not likely result in useful or even relevant data being generated, (3) contain numerous technical deficiencies, and (iv) in the case of receiving water monitoring, is likely to be infeasible to implement along with being overly burdensome.	Comment Noted
23	Compliance Determinations Not Simple and Transparent - The Draft Permit is not simple and transparent and therefore does not lend itself to efficient compliance determinations and enforcement	We disagree. The CGP better reflects the current pollution prevention practices being implemented at construction sites across the State and nation. As a result, compliance determination will be much easier and much more effective at driving noncompliant sites back towards compliance.
25	Fact Sheet, page 7, Section II.B.1 – “Common Plan” language should be revised to replicate EPA’s language as follows: “Construction activity that results in land surface disturbances of less that one acre if the construction activity is part of a larger common plan of development or sale of one or more acres of disturbed land surface.”	Language is now consistent with U.S. EPA.
25	Fact Sheet, page 11, Section II.C.3 (Rainfall Erosivity Waiver) – This section should clarify that this exemption is applicable to both traditional projects and linear projects.	Comment Noted. There is no exclusion language in this section, It can be assumed that it is applicable to traditional and linear projects.
25	Fact Sheet, page 11, Section II.D – This section should be revised to incorporate the language from Order 99-08 that states: “For proposed construction activity on easements or on nearby property by agreement or permission, the entity responsible for the construction activity shall file an NOI and filing fee and shall be responsible for development of the SWPPP, all of which must occur prior to commencement of construction activities.” (fact sheet page 3)	This CGP sets the requirement that a Legally Responsible Person (LRP) can only file permit registration documents consisting of the NOI. An LRP is defined as the" person who possesses the title of the land or the leasehold interest of a mineral estate upon which the construction activities will occur for the regulated site. For linear underground/overhead projects, it is in the person in charge of the utility company, municipality, or other public or private company or agency that owns or operates the LUP"
25	Fact Sheet, page 13, Section II.E (Discharge Prohibitions) – The permit should	The permit states the discharge prohibitions on page 6 (I.E) of

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	clarify that discharges of pollutants which contain a hazardous substance in excess of a reportable quantity that causes the exceedance of a water quality standard are prohibited, not the discharge of storm water.	the order. The first prohibition (number 38) states" This General Permit prohibits the discharge of pollutants other than storm water and authorized non-storm water discharges" Finding 39 also states that "This General Permit prohibits all discharges which contain a hazardous substance in excess of reportable quantities…." No further statements needed.
25	Fact Sheet, page 19, Section II – State of California Certified labs and methods should be required for any testing that is required for compliance with the general permit or that could lead to violations, fines or enforcement. Without this requirement, there is a high risk of generating data of unknown quality, either by the discharger or by others. Personnel conducting the analyses should have to obtain training and demonstrate their proficiency with the analytical method.	Personnel conducting analyses are required to be properly trained for any analyses conducted. Only laboratories certified for such analyses by the State Department of Health Services (SSC exception) can be used. We require that all sampling and laboratory procedures are SWAMP comparable (with their QAPrP).
25	Fact Sheet, page 22, Section II.I.1.c (SSC) – ASTM Method D3977-97 is not currently a recognized State of California certified test. The State of California currently recognizes Standard Methods 2540 F for “Settleable Solids”	These tests are analogous but not the same. Although ASTM D3977-97 is not a State of California Certified Test, the test method is preferable over SM 2540 F since it captures not only the settleable particles but the ones that stay suspended in the water column for long periods of time.
25	Permit page 4-6, Findings 23-35 – This section should be revised to clarify that the activities described in Findings 23, 24, 25, 28, 31, 32, 33, and 34 are not required to obtain construction storm water permits, whereas the activities in Findings 26, 27, 29, 30, and 35 are “subject to other applicable permits”	Comment Noted. The intent of Section C is any activity not specifically regulated by this General Permit, then specifics are given if needed for each scenario.
26	Order, Section.I.E.41, p.7 Discharges to ASBS prohibited; logistics of monitoring and sampling the discharge from the site is authorized by the permit, but when it reaches the ASBS, it is no longer in compliance. The only way to determine if entrained sediment reaches the ASBS would be to monitor at the ocean interface, which would be very dangerous and expensive.	Order, Section.I.E.41, p.7 states: "Pursuant to the Ocean Plan, discharges to ASBS are prohibited unless covered by an exception that the SWRCB has approved." We disagree that this language authorizes discharges to ASBS. The CGP also states that sampling in unsafe/dangerous/inaccessible conditions is not required to be in compliance.
26,45	Order Section IV, L 40 CRF Section I 22.4 1 (m) regulates bypasses. Bypasses were intended to prohibit the intentional diversion of a wastewater stream from a POTW. Waste stream under the CWA means something entirely different from waste under the Porter- Cologne Act. Bypass in this case would mean the intentional diversion of a regulated discharge from a treatment facility on site like a detention basin, sediment basin, or ATS system.	Comment Noted
27	The Draft Construction Permit appears to limit its coverage (for example, under Section I.B.21) to discharges of sediment in connection with construction activities, subject to requirements to minimize discharges of sediment by	The CGP covers all pollutants that could potentially discharge off of a construction site. The permit has language on how to control and sample for non-visible pollutants and other known pollutants

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	implementation of appropriate BMPs and compliance with other requirements of the Draft Construction Permit. The Draft Construction Permit should be clarified to similarly provide coverage for discharges that do, or have the substantial potential to come in contact with overburden, raw materials, intermediate products, finished products, byproducts or waste products, both during and after construction activities, so long as appropriate BMPs are implemented to minimize and control such pollutants as set forth in Note To Paragraph (A)(2)(ii), 40 C.F.R. section 122.26(A)(ii), CIPA is not aware of another available General NPDES permit that provides this coverage.	on the construction site. Many chemicals can bond to sediment particles, therefore it is very important that dischargers control sediment coming off of their site (as well as other pollutants)
28	The purpose of our comments is to address the permitting of shopping center or similar developments ("Joint Development Projects") where an original owner and developer sells individual parcels to retail or other developers but retains an ownership interest such as an easement or license for part or all of the development and agrees to perform certain site work for the development typically consisting of clearing, grading, building pad preparation, utility installation, roadway improvements, parking area construction and landscaping (the "Site work")	if acreage is sold/split up that was reported on the original NOI, a Change of Information (COI) form must be filed to reflect the decrease in acreage. If the new owner is going to be conducting construction work on that land that was split off from the original NOI, they must file their own permit. The ultimate responsibility for the site's storm water will fall on the person who filed the NOI.
28	Consequences Of Strict "Landowner" Permitting At Joint Development Projects: In a typical Joint Development Project, a developer owns a large piece of land and proposes to develop a shopping center with several anchor retail stores including members of CRA who already own or will purchase from the developer small portions of the overall shopping center. Two primary ownership scenarios commonly arise in Joint Development Projects, each presenting unique storm water permitting challenges under the Draft Permit: Under Scenario One, the developer owns the entire property, e.g.,100 acres, and obtains a permit for the entire property in order to begin construction of certain site work. In the midst of this construction work, a retail developer such as one of CRA's members purchases one parcel, e.g., 20 acres (the "Retail Parcel"), for future development of its store, but grants an easement or license back to the developer to complete the Site work. As the new "landowner" of the Retail Parcel, the Draft Permit will require that CRA's member file PRDs and become a permittee for the Site work performed by the developer on easements or by agreement on the Retail Parcel. Further, the developer will be required to file a change of information to carve the Retail Parcel out of its permit. Under Scenario Two, the developer owns a majority of the site, e.g., 80 acres, and a retail developer such as one of CRA's members owns one large parcel, e.g., 20 acres (the "Retail Parcel"). CRA's member will grant an easement or license to the developer, and will enter an agreement for the developer to construct Site work on both parcels. Even though	Comment Noted

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	the developer alone will be constructing the Site work, as the underlying "landowner" of the Retail Parcel, the Draft Permit will require that CRA's member file PRDs and become a permittee for the Site work performed by the developer on easements or by agreement on the Retail Parcel. Under both scenarios, it is common practice for CRA's members and any other individual parcel developers within the Joint Development Project to enter into separate development agreements with the shopping center developer for performance of the Site work. The parties agree to reimburse the developer for the Site work on some form of pro rata basis. The developer, in turn, always maintains an ownership interest in the entire center for purposes of performing the Site work, even though fee title of individual parcels may be held by other individual parcel developers.	
29	Fact sheet The Fact Sheet (pg. 43, Last Paragraph of Section L, Second Sentence) – should be edited as follows: " A potentially effective way to preserve drainage areas and maximize time of concentration is to implement landform grading, incorporate site design BMPs and implement distributed structural BMPs." Additionally, CASQA requests that references be cited that demonstrate this fact. Simply contouring the land to mimic existing conditions, while maximizing developable space is aesthetically pleasing, yet the direct correlation to the time of concentration as implied in this sentence is unclear.	References to specifics cases where this is demonstrated is better suited as references/guidance posted later on the SWRCB website. Maximizing time of concentration implies slowing runoff and allowing more time for infiltration. This prevents the peak flow of runoff from increasing. Language kept as is.
30	A Permit Exemption For Road Repairing/Repaving and Cemetery Construction Projects of Less Than 1 Acre Should Also Simplify the Permitting Process With No Adverse Environmental Consequences Under a literal interpretation of the Draft Permit, cemetery operators would be required to file a Permit Registration Document (PRD), develop a SWPPP and undertake additional electronic reporting obligations for every "project" at their various properties, including numerous small-scale projects that are significantly less than 1 acre in size. Thus, in light of the uniquely low risk to surface waters posed by cemeteries, operators should be exempt from the provision requiring projects encompassing less than 1 acre to be subject to the Draft Permit, even if arguably part of a "larger common plan of development."	Cemetery operations can have significant amounts of open land graded at one single time, they can also have smaller projects as described. Many projects less than 1 acre happening at the same time at different locations have the potential of acting as a larger continuous construction project. Cemeteries could apply for a NOI and outline areas of possible disturbance in a single SWPPP that is updated regularly. When projects are not being conducted on the site the acreage fee would be zero (NOI would have to be kept active annually). When projects commence, then the acreage would be changed to reflect the size of the combined projects disturbances (using a Change of Information form)
32	Permit Page 12, Finding 72: The General Permit recommends requiring two complete copies of the SWPPP at the site, one being available for water board staff to keep for review. We would prefer the General Permit require the discharger provide electronic MS Word or Acrobat Reader versions on CD or DVD for staff review.	Only one copy of the SWPPP is required to be onsite. An electronic copy of the SWPPP is submitted online to the Water Board. Two copies on site is not stated in the permit.

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37	II.C Revising Permit Coverage for Change of Acreage or New Ownership In II.C.3 the permit introduces the concept of a parcel receiving coverage or ending coverage. This is confusing and not entirely clear. The errata sheet modifications are not helpful.	Any parcel that is not through "final stabilization" must still be counted as part of the disturbed acreage of the project. Once a parcel is past the finalization stage, the discharger can subtract the acreage from the Notice of Intent acreage using the Change of Information Form. Once the entire project is complete and ready for Termination, then a Notice of Termination can be submitted.
49	General C.A.S.H. believes that it is vital for the SWRCB to recognize that building schools in California requires a complex and often lengthy approval and funding process which poses particular challenges for compliance with the CGP. Specifically, school district construction projects must be approved by the California Department of Education (CDE), the Division of the State Architect (DSA), the Office of Public School Construction (OPSC), and the Department of Toxic Substances Control and other state agencies to secure 50 percent state funding for the project, and in many instances, school districts must also secure project approval from local agencies. To complete a construction project, school districts must fund the other 50 percent of the project from local funds.	Comment Noted. We made an attempt to acknowledge the additional hardships subjected to existing dischargers by adding grandfathering language and delaying the effective date for the training requirements by 2 years. The Post-Construction requirements have also been revised to take effect three years from the adoption date of the permit, or later at the discretion of the Executive Officer of the Regional Water Board.
1, 18, 51, 55, 57, 61, 66, 69, 71, 72, 73, 74, 79, 80, 83, 84, 85, 86, 88, 90, 92, 95, 97, 100, 102, 104, 109, 110, 113, 114, 115	Schools were recognized as being unique back in 2003 when the small MS4 permit was revised, this has not changed. The educational community would like to partner with the SWRCB in the public education of storm water problems. However, the SWRCB must continue to recognize that educational agencies are "Non-Traditional" permitees and are not major polluters and must be treated differently.	Comment Noted.
1, 18, 51, 55, 57, 61, 66, 69, 71, 72, 73, 74, 79, 80, 83, 84, 85, 86, 88, 90, 92, 95, 97, 100, 102, 104, 109, 110, 113, 114, 115	Impacts of Recession School districts cannot afford to comply with the new requirements of the revised Draft Permit. We question whether the SWRCB and regional boards can staff up to comply with the processing requirements of the revised Draft Permit. We believe passage of this permit is setting up school and community college districts, the SWRCB, and regional boards to fail because all government agencies will have their resources reduced and cannot absorb the additional work by the revised Draft Permit requirements.	Comment Noted.
56	Routine military training activities and range maintenance should not be construed as construction activities that can be regulated under the General	Comment Noted. Some military training activities include construction causing land disturbances of 1 acre or larger.

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	Construction Permit. With this comment, DoD only requests that" Activities Not Covered Under the General Permit" clearly exclude military training activities and range maintenance on operational ranges. The DoD does not seek a permit exemption or exclusion for construction activities greater than one acre that would support military training on operational ranges (e.g., paved road construction).	These projects should be covered under the CGP.
56	Structure and Format: Many inconsistencies exist between the Order and its Attachments and the Permit is in dire need of streamlining. The Permit contains multiple sections, attachments and appendices with a confusing, often incorrect, system of numbering sections and pages. Bold emphasis is used inconsistently in the headings. The structure and format of the Fact Sheet and Permit Order differ, making comparison between the two extremely difficult. a. The Fact Sheet should mirror the structure of the Permit and should not introduce any requirements not found in the Permit Order. b. The Fact Sheet, Permit Order, Attachments and Appendices should be combined into a single .pdf document, with a hyperlinked table of contents, numbered straight through. Page numbering and section headings should not start over for each section. There should be either Attachments, or Appendices, not both. c. Items subject to change, such as maps or TMDL listings (Appendix 6) should not be incorporated into the permit. These should be hyperlinked from a separate location. d. Information on BMPs other than sediment basins (Appendix 2) should be included on the permit website to encourage, but not require, more innovative practices. e. An attachment containing relevant website addresses and contact information for the State and Regional Boards should be included as the final attachment/appendix.	We made an effort to mirror the structure of the Fact Sheet to the Permit. The Fact sheet should contain the background and support to the permit requirements. b. The final order will be posted as a single pdf document, along with separate permit sections. The separation of the permit sections makes is possible for a discharger to download and print permit requirements specific to their type of construction. The intent for the incorporation of both Attachments and Appendices was for the separation of specific permit requirements as attachments, and the inclusion of additional guidance as Appendices.
56	General Permit Section 1: Findings A -General Findings A-15: Following public notice in accordance with State and Federal laws and regulations, the State Water Board heard and considered all comments and testimony in a public hearing on mm/dd/yyyy. The State Water Board has prepared What criteria are used to determine whether a comment is or is not significant and will or will not be addressed by the Board?	During the Public Hearing, we heard all comments from the public. From all oral and written comments submitted, we follow relevant the federal regulations and any relevant case law to determine what comments are “significant” that warrant responses.
56	D-36: Military bases have sensitive information on their maps, etc. Possibly keep confidential maps as hard copies in the office with a notice on the public database as to where the info is.	Language has been added to the CGP stating that: “Any information provided to the Regional Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted.”

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56	E-Prohibitions E-38: I. Clarify what non-storm water discharges are considered necessary and allowed for completion of construction projects? 2. The description of non-storm water discharges as dumping, spills or leaks is inconsistent with the usual definition of non storm water discharges: water discharges that are not storm water. Authorized non-storm water discharges are defined in the Municipal General Permit and address only water discharges. Spills or leaks are hazardous waste and are addressed by waste management BMPs (vs. non-storm water BMPs) in the CASQA and CALTRANS BMP manuals.	Comment Noted
56	-IC: ii. Pg 23 The permit states that the LRP Responsible Person (LRP) shall not be "A consultant or contractor hired by the Property Owner." On military facilities, Public Private Venture (PPV) Housing Contractors hold a long term (50+ years) lease and are considered to be the landowner and permit holder under the current permit. The definition of LRP should he extended to include this agreement between DoD and the State Board.	The criteria for an Approved Signatory has been expanded to include any military officer who has been designated.
56	Attachments A through F should be incorporated into the main body of the Permit Order such that the explanatory details immediately follow the first mention of the requirement. All legal requirements should remain in the main body of the Permit Order, not given in a separate attachment.	All Attachments are enforceable components of the CGP.
58	Permit Page 20 (Discharge Limitations) EMWD recommends modifying Page 20, Paragraph E regarding soil contamination as follows: "When soil contamination is found or suspected and a responsible party is not identified, or the responsible party fails to promptly take the appropriate action. The discharger shall notify the appropriate local, State, and federal agency(ies) when contaminated soil is found at a construction site, and will notify the appropriate Regional Water Board."	Comment Noted. Testing of soils found or suspected of being contaminated is necessary for proper handling and disposal.
59	Included in the discussion of the routine maintenance exemption, is a reference to Capital Improvement Project Plans that is very unclear and seems out of place in the context of routine maintenance. Recommend the reference be clarified or deleted.	Reference was included in error and has been deleted.
63	Page 26, Section 4. Record Keeping. Dischargers should have to keep records for 5 years not 3. This is the minimum for municipalities.	Construction projects are relatively short term when compared to municipalities, having to keep records over 3 years is onerous. The U.S. EPA’s construction permit only requires that records be kept for 3 years, so this time frame was also chosen for consistency with EPA requirements.
64	Practical Approach: An effective general construction permit should place emphasis on pollution control standards and performance at the job and project	Comment Noted

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	level. This will be achieved by enhanced planning, improving standards for SWPPP implementation, site inspection, site maintenance and consistent standards for BMP management for runoff control, erosion control, sediment control and non-storm water management control. Requiring chemical treatment or the only alternative to be limiting project disturbance areas to 5 acres is not reasonable, practicable or rational.	
65	Tributary: Additionally, the DCGP does not explicitly define the limits of what would constitute a tributary. For example, if a project site is adjacent to a small creek that feeds into a small river that eventually feeds a large river that is listed as impaired for sediment, would that small creek be required to have bioassessments testing conducted? In our conversations with Board Staff, it appears that the intent is to have only direct tributaries sampled, and that sampling should occur in the water body on site. However this should be made explicit in the DCGP.	Comment Noted
65	Impact to mines and other facilities currently regulated by the Industrial Storm Water Permit Mining activities should not be subjected to the construction permit, as this will lead to confusion over which permit actually applies and takes precedence. In addition, mining activities are more suitable for coverage under the industrial general permit because the stationary nature of these operations allows for source and treatment controls that are different in nature and scope than those used by construction sites. Graniterock requests that the list of those excluded from the DCGP to be expanded to include any facility that operates under the general industrial storm water permit to be exempt from this permit structure.	Comment Noted
41, 46, 48, 81	The County already submits an annual fee to the SWRCB for Phase I MS4 Permits that authorize storm water runoff from municipal construction projects/activities, and the County is required to notify the Executive Officer of the Regional Board at the start of construction, not the SWRCB. County Recommendation: Modify language in Section II.B.4 to defer to requirements in Phase I MS4 Permits which authorize municipal construction projects/activities. The County agrees that PRDs for municipal projects disturbing one acre or more of soil should still be filed electronically through the California Integrated Water Quality System (CIWQS) but payment of annual fees for enrollment of each project represents a double payment by municipalities and should be eliminated.	Comment Noted. We made an attempt to acknowledge the additional hardships subjected to dischargers by adding grandfathering language and delaying the effective date for the training requirements by 2 years.
82	Public health and Safety considerations, especially with regard to mosquitoes and other potential pathogen vectoring organisms, should also be addressed separately in Appendix 5 (Bioassessment) as a "Vector Prevention" subsection,	Vector Prevention has no connection to bioassessment. The CGP does not give specific guidance on BMP design standards. The CGP refers to the CASQA BMP Handbook for Construction

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	not unlike the existing "Invasive Species Prevention" subsection of this Appendix.	for the design of sediment basins etc. This handbook mentions vector issues specific BMPs may have.
82	The District would be more than happy to help with any such language Metzger, M.E. 2004 "Managing Mosquitoes in Storm Water Treatment Devices " University of California Division of Agriculture and Natural Resources. ANR Publication 8125, 11p. (http://www.ocvcd.org/docs/managewater_metzger.pdf)	Comment Noted
89	Permit Section IV.I.1, page 23 The Errata Sheet states ... "a person legally authorized to sign" ..... "(the LRP's Approved Signatory)", please provide information regarding what is the required documentation for this authority. It is described for Mineral Estates but not for other parties.	The Approved Signatory has legal authority of behalf of the LRP through company documentation.
89	Permit Section VII.B.5, page 33 Need to add "approved signatory" after "duly authorized representative" in order to stay consistent with the language previously noted on page 23. The Errata Sheet tried to clarify this however the Errata Sheet needs to first LRP need to be removed and replaced with the original text "any duly authorized representative" and then balance of the revised sentence on the Errata Sheet should stay.	Revisions have been made to the language eliminating the “duly authorized representative.”
89	Attachment C, Section B.2.g, page 2 Please define hazardous and non hazardous spills.	Hazardous is defined as being a substance that if exposed to, can be of risk. A hazardous spill would be a spill of a material, liquid, substance etc. that has any type of hazardous property to human health, other life, or the environment. A non-hazardous spill would be one of a substance that is benign to human health, other life, or the environment and pose no risk.
93	I recommend that the draft permit consider ephemeral stream bed conditions as they occur in California. I have to ask why this condition has not been considered. The permit requirements need to allow for dry stream bed conditions because a large number of existing streams in California are ephemeral.	Comment Noted
96	The specific capabilities (or lack thereof) of the storm water database will significantly impact Regional Water Board staff’s ease of overseeing compliance and enforcing the new Permit. Therefore, we request the following functionalities be developed for the storm water database: o Flagging sites that have had a qualifying rain event (and therefore, should be reporting). o Flagging numeric effluent limitation exceedances. o Flagging when sites have a “period of high pH discharge” and therefore, are required to sample for pH. o Geographically sort sites by Risk Level. o Facilitating inspection “driving routes” for geographically clustered Permitted facilities.	Comment Noted

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105	The Draft Construction General Permit (Draft CGP or Draft Permit) is highly complex, both as a stand-alone document and in comparison with the current CGP (Order No. 99-08-DWQ). SCE recommends the State Board reduce the complexity of the permit. As recommended in the 2006 Blue Ribbon Panel report, a phased approach for introducing the new requirements would allow the industry to learn and respond with greater flexibility and less expense. Some methods of reducing complexity include removing the Numeric Effluent Limitations (N EL), receiving water monitoring, and post-construction requirements from the Draft CGP. The remaining permit requirements still represent a significant increase in complexity compared with the current Permit, but are achievable for dischargers during this permit term. Inclusion of NEL, receiving water monitoring and post-construction requirements make the Draft CGP too complex.	Comment Noted
105	Areas of Special Biological Significance (ASBS) This permit section should be clarified. Does this mean a project discharging into an ASBS needs additional exception and approval from the State Board? If so, what is this process to acquire the exception and approval, how long will it take to gain approval, and how involved is the application? What is the likelihood that projects can obtain the exception? SCE recommends that a detailed clarification on the Area of Special Biological Significance exception finding be provided.	A project discharging into an ASBS must file for an exception to the California Ocean Plan for discharges into ASBS. http://www.waterboards.ca.gov/water_issues/programs/beaches/
105	Online Rainfall Erosivity Calculator Draft Fact Sheet page 11 Item 3 “Dischargers can access the calculator from EPA’s website at: www.epa.ciov/npdes/stormwater/cpp.” The erosivity calculator is not at this web address as stated in the Draft Permit. Additional guidance should be provided on the new location of the calculator or users should be automatically redirected. This could be a useful tool and should be easy to find. In addition, the reference websites, especially the Web Soil Survey, are frequently unavailable or broken. SCE recommends the permit provide the correct link to the rainfall erosivity calculator. And work with the reference websites to stabilize the online tools.	Comment Noted. Link updated.
105	Checklists SCE recommends that the State Board develop an inspection checklist, a PRD submittal checklist, and a summary table of all site inspection requirements. Also develop a matrix of responsibilities for the Qualified SWPPP Developer, Qualified SWPPP Practitioner, and Legally Responsible Person).	Comment Noted. Staff is developing a FAQ document for questions on the CGP (includes checklists, matrices, tables etc)..
112	In our June 2008 comments, we recommended that section VIII.G.l be revised to replace the word "control" with "minimize the discharge of pollutants." The word "control" could refer to any level of pollution control, while the word "minimize" requires a maximum effort on the part of the discharger to control pollutants,	Comment Noted

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	more in line with the BAT/BCT requirements'\of the CWA. However, in the relevant sections of Attachments C, D and E of the 2009 proposed permit, this change was not made, and we reiterate our previous comment. Our June 2008 comments included a similar comment regarding section IV.A.2 of the 2008 permit in which we recommended the word "reduce" be replaced with "minimize"; this change was made in the 2009 proposed permit.	