



**DEPARTMENT OF DEFENSE**  
 REGIONAL ENVIRONMENTAL COORDINATOR, REGION 9  
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 September 08, 2011

Ms. Jeanine Townsend  
 Clerk of the Board  
 State Water Resources Control Board (SWRCB)  
 1001 I Street, 24<sup>th</sup> Street  
 Sacramento, CA 95814



Subject: Comment Letter - Phase II Small MS4 General Permit.

On behalf of Rear Admiral French, the Department of Defense (DOD) Regional Environmental Coordinator for EPA Region IX, and the Military Services in California, I respectfully submit these comments on the SWRCB's Phase II Small Municipal Separate Storm Sewer System (MS4) General Permit ("Permit").

We appreciate the opportunity to provide comments on the subject permit and look forward to working with the Board's staff to develop a permit that will be protective, reasonable, and based on a science-driven approach to managing storm water. At the 17 August 2011 Board workshop Chairman Hoppin expressed concerns about the pace of progress since the 2003 permit and requested dischargers identify approaches that will help improve water quality in the near term. We were disappointed, that as a major stakeholder, the Department of Defense was not included in the stakeholder collaborative process and believe our participation would have resulted in valuable input towards development of the draft permit. As currently drafted the proposed permit poses significant challenges for DoD installations, but we believe the permit can be revised to include reasonable and effective approaches and be responsive to Chair Hoppin. Our overarching comments provided below and specific comments provided in the enclosure include our recommendations for revising the permit.

**75.1** → Program Implementation Should be Phased Over Multiple Permit Terms

The proposed permit presents a significant increase in requirements over the existing permit that must be met in a single permit term. Renewal Traditional Small MS4 Permittees have had eight years in which to establish their baseline programs, and in the new permit will be allowed to implement the additional requirements incrementally. This contrasts with many newly designated Non-traditional Small MS4s, including most military installations, which will be required to implement the full scope of the requirements in the first term. While this may not have been intentional, this disparate treatment of military MS4s, vis-à-vis their similarly situated civilian MS4 counterparts, sets the stage for future federal/state legal conflicts. Indeed, in some cases, the proposed requirements for Non-traditional Small MS4s meet or even exceed

**75.2** → ~~be required to implement the full scope of the requirements in the~~ first term. While this may not have been intentional, this disparate treatment of military MS4s, vis-à-vis their similarly situated civilian MS4 counterparts, sets the stage for future federal/state legal conflicts. Indeed, in some cases, the proposed requirements for Non-traditional Small MS4s meet or even exceed

75.3 requirements for Phase I dischargers. Meeting the proposed permit requirements in a single permit term would be particularly burdensome for newly designated MS4s who would be required to implement new, complex and costly programs in a very short period. We recommend that the MS4 program described in the Permit be implemented in a phased approach that allows small MS4s during the first permit cycle to develop baseline programs that can be built upon in subsequent permit terms. Such a change would also recognize that the permit compliance requirements cannot be looked at in isolation and that MS4s with limited resources must fund the entire spectrum of environmental compliance and conservation.

DoD-Specific Concerns:

75.4 The proposed permit has categorized entire military installations as nontraditional small MS4s. This approach does not recognize the unique characteristics of administering a stormwater program aboard a military installation that can differ significantly from traditional urbanized area MS4s. Military installations may be spread out over hundreds of square miles resembling a wildlife refuge more than an urban population center. Some military installations may have less than 10% of their surface area drained by an MS4. We recommend that the MS4 permit requirements only apply within the limited scope of the developed cantonment areas at military installations. Cantonment areas are developed areas on military installations where the activities and population density resemble that of a traditional Small MS4, and where the installation operates and maintains a system of separate storm sewers that drain to CWA jurisdictional waters.

75.5 The proposed permit can also be read to require implementation of the entire suite of stormwater BMPs, retrofits and monitoring on military training ranges. Application of the myriad of requirements contained in the Permit in military training areas has the potential to significantly disrupt military training and may even lead to death and serious bodily injury. For example, unexploded ordinance could be encountered and inadvertently detonated during the construction of BMPs or flood control enhancements in active impact areas. For these reasons, we recommend that military training ranges remain outside the scope of this Permit. We request the Board explicitly exclude these areas from the permit requirements.

75.6 Table 1 of the proposed permit appropriately provides for reduced program requirements for New Traditional Small MS4 permittees with a population of 5,000 or less. Military installations (new Non-traditional) with populations of 5,000 or less should also have reduced program requirements in Table 1. Urban areas at smaller military installations are very similar to smaller Traditional MS4s with fewer potential sources of pollution that could contribute to water quality issues. Therefore, we request the permit be revised so that reduced program requirements for new Traditional MS4s with a population of 5,000 or less are applied consistently to military installations with a population of 5,000 or less. This change will also avoid legal disputes concerning disparate treatment into the future.

The proposed permit contains prescriptive engineering design requirements for water quality runoff standards which may at times conflict with existing stormwater performance standards for federal installations. The federal requirements contain a more stringent design standard and provides more flexibility in determining how to address post-construction runoff

75.8 ~~based on site conditions~~ → DoD recommends that military installations be authorized by the Permit to deviate from the permit's runoff standards where a preexisting and equivalent federal standard directs the use of a different performance standard for Low Impact Development (LID).

#### Reduce Administrative Requirements for DoD Installations:

75.9 → The proposed permit overemphasizes administrative requirements and will result in significant compliance costs to complete extensive reporting, tracking and inventory requirements. These requirements are not commensurate with a measurable environmental benefit and will result in less resources for the efforts that should be the focus of this order: reducing illicit discharges, reducing soil loss and erosion, and protecting water quality. For example, we counted 52 different program components that must be reported on during annual reporting, most of them every year, many of which are very detailed. The proposed permit will force MS4s to focus more resources on reporting, leaving less available for actual program implementation. The administrative requirements in the permit should be significantly reduced, and coinciding with our first recommendation, implemented based on priority over multiple permits terms. Section specific recommendations are provided in the enclosure that, if implemented, would reduce the current administrative burden on regulated entities without detracting from the ability of the SWRCB and Regional Boards to understand how an MS4 is performing in its implementation of the Permit.

#### Provide Flexibility:

75.10 → A much better balance should be made between the prescriptive draft permit and the current permit's flexibility. While we understand the rationale behind a more-prescriptive permit, the current draft of the Permit would not adequately address the diversity of permittees. The lack of flexibility to tailor programs and prioritize resources in a manner that best suits each unique permittee results in a less-effective permit. For example, military bases would be required to develop outreach and education on stormwater for school-age children, even at smaller military bases with no school-age children among the base population. The Economic Considerations section of the permit fact sheet cites USEPA clarification that the Maximum Extent Practicable (MEP) standard should be applied in a site-specific, flexible manner, taking into account cost considerations as well as water quality effects. The draft order's prescriptive approach is contrary to this clarification. Specific recommendations are provided in the enclosure that, if implemented, will allow more flexibility in program implementation without detracting from the intended benefits that the Permit seeks to achieve.

#### Reduce Redundancy:

75.11 → Redundancy in the proposed permit should be reduced through better coordination between agencies with overlapping regulatory requirements. For example, the proposed permit requires that a spill response plan be developed and submitted, but there are existing federal and state regulations that already require spill plans including Facility Response Plans; Spill Prevention, Contingency, and Countermeasures Plans; Hazardous Materials Business Plans; and Hazardous Waste Contingency Plans. Improved coordination with agencies like the Department

of Toxic Substances Control and the local Certified Unified Program Agencies (CUPA) could help identify these types of overlapping regulation and reduce redundant requirements.

We ask the SWRCB to recognize that federal installations are required to comply with the full suite of environmental regulations and serve as both the facility/permit owner and internal compliance oversight. As such, the proposed permit overlaps many other regulatory programs already in place including the overlapping requirements of this Permit and the State's General Construction and Industrial Storm Water Permits. This redundancy is a particular problem at military installations where most activities taking place within the MS4 are owned and operated by the military. In contrast, at municipalities, a high percentage of the activities within the MS4 jurisdiction are owned and operated by other entities. The duplicative inventorying, inspections and reporting on industrial and construction sites would be a particular burden upon military installation stormwater program managers, who are often already responsible for oversight of the industrial and construction NPDES programs, and who may have already inventoried those facilities and conducted an entirely different suite of staff training, inspections and reporting for those permits. Such duplication would have no environmental benefit, cause confusion, and reduce resources available for real program implementation. We request that the permit be revised to eliminate these duplicative requirements for Non-traditional MS4s which are already meeting redundant or highly similar requirements under other water quality permits.

We recommend exempting smaller military installations that already have the majority of their storm water runoff regulated under the General Industrial Storm Water Permit to reduce this redundancy. We also recommend that the permit include a provision that exempts facilities from requiring MS4 permit coverage where a high percentage (e.g. 90% or greater) of the discharges from the storm drain system are covered by an existing NPDES permit. Recommend that the permit include an application process to obtain the exemption. This type of change would reduce redundancy and lower compliance costs while still protecting water quality. Additional specific recommendations to reduce redundancy are provided in the enclosure.

#### Remove Retrofit Requirements:

Sections in the permit require MS4 permittees to retrofit existing facilities or structures. For example, the draft permit requires changes or additions to two flood management projects per year unless it can be demonstrated that it is infeasible to do so. This blanket requirement is much too prescriptive and does not appear to have a nexus to water quality, or even to a system of stormwater conveyances—a prerequisite for regulation under the MS4 program. Congress has directed federal facilities to comply with “requirements . . . respecting the control and abatement of water pollution.” 33 USC Sec 1323. Without a linkage to water pollution control, these retrofit requirements are likely outside of the Congressional waiver of sovereign immunity and not applicable to federal facilities. MS4s should have the flexibility to determine where and if retrofits are necessary to improve water quality without having to demonstrate infeasibility. There may be circumstances where retrofits are necessary to comply with Total Maximum Daily Loads (TMDLs) and other requirements, but to arbitrarily require retrofits that may be very costly, and which may provide little or no benefit for the attainment of water quality standards in

75.12

receiving waters, is inappropriate. Specific retrofit requirements should be removed from the permit to allow MS4s more flexibility in determining when, and if, retrofits should be completed.

In closing, DoD recognizes the importance of implementing effective programs to improve water quality, and we believe SWRCB staff had good intentions in proposing a comprehensive permit to prescriptively address all of the potential pollutant sources that could occur within a Non-traditional Small MS4's jurisdiction. However, taken as a whole, the requirements in the proposed permit likely cannot be implemented in the time and manner prescribed and are too costly and coordination intensive to implement during a single permit term. We believe significant improvement in water quality will require area-wide programs implemented over several years, and after thorough study to identify what the MEP standard truly requires in each unique watershed. This reality should be reflected in the Permit by prioritizing and implementing programs over multiple permit terms in accordance with the recommendations contained in this letter and its enclosure. New designees such as military installations will need the first permit term to develop and establish their MS4 programs before moving forward with many of the requirements proposed in the Permit.

The DoD requests that you consider the comments in this letter and in the enclosure in the upcoming Permit revision, and we request a meeting with SWRCB staff to review and discuss the issues raised herein. The points of contact for this letter are Mr. Brian Gordon at [brian.gordon@navy.mil](mailto:brian.gordon@navy.mil) or (619)532-2273 and Mr. Michael Huber at [michael.huber@navy.mil](mailto:michael.huber@navy.mil) or (619)532-2303.

Sincerely,



C. L. STATHOS

By direction

Encl: (1) Phase II Small MS4 General Permit Comment Matrix of Sep 8, 2011

## DoD Comments on Draft Phase II Small MS4 Permit

The table below provides additional DoD comments on the proposed permit. The top portion of the table provides overarching comments on items discussed in the cover letter. In some cases the overarching comments refer to more detailed comments further down in the table. Comments on other items not discussed in the cover letter are also included in the table.

No.	Page	Section	Element/Issue	Comment
1	General	Overarching Comment	Phased Program Implementation	<p>The proposed permit presents a significant increase in requirements over the existing permit that must be met in a single permit term. Traditional Small MS4s have had eight years in which to establish their baseline programs, and in the new permit term will have to implement the additional requirements incrementally, while many newly designated Non-traditional Small MS4s, including most military installations, will be required to implement the full scope of the requirements in the first term. The MS4 program should be implemented in a phased approach that allows newly designated small MS4s during the first permit cycle to develop and initiate programs that can be built upon in subsequent permit terms. We recommend the following requirements be revised/removed from this permit and considered during subsequent permit terms.</p> <ul style="list-style-type: none"> <li>• Prohibition on discharges from individual car washing (B.3, DoD comment #12 )</li> <li>• Specific Construction Outreach and Education Program for sites smaller than one acre. This outreach and education could be covered by the overall public outreach and education program during this permit term. (E.5.d., DoD comment #35)</li> <li>• Limit requirement for GIS for mapping to MS4s with population of 5,000 or greater. (E.7.a., DoD comment #38)</li> <li>• Limit Construction Plan Review and Approval to 1 acre and larger sites during this permit term. (E.8.b., DoD comment #51)</li> <li>• Erosion and Sediment plan (E.8.b., DoD comment #52)</li> <li>• Reduce inspection requirements for construction sites 1 acre or more that discharge to 303(d) listed waters (sediment/turbidity) or determined to be significant threat to monthly only. Reduce inspection requirements for 1 acre or more construction sites to quarterly. Limit requirements to inspect all phases of construction to sites that</li> </ul>

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				<p>discharge to 303(d) listed waters (sediment/turbidity) or are determined to be significant threat to water quality. (E.8.c., DoD comment #53)</p> <ul style="list-style-type: none"> <li>• QSD and QSP requirements for permittee staff (E.8.d., DoD comment #56)</li> <li>• Annual assessment of municipal owned and operated facilities (E.9.c., DoD comment #59)</li> <li>• Hotspot and non-Hot Spot inspections (E.9.e., DoD comment #60)</li> <li>• Limit incorporation of habitat enhancement features to new flood management facilities (E.9.i., DoD comment #67)</li> <li>• Specific trash reduction program (E.10., DoD comment #70)</li> <li>• Industrial/Commercial Facility Runoff Control Program (E.11., DoD comment #71, 72, 73)</li> <li>• Limit inventory and inspection requirements to facilities with high potential for water quality impacts. (E.11.d. DoD comment #74)</li> <li>• Watershed baseline characterization and Sediment Budget (E.12.b.1 &amp;2., DoD comment #78)</li> </ul>
2	General	Overarching Comment	DoD Specific Issue Permit Applicability/MS4 Boundary	<p>The proposed Permit has categorized <i>entire military installations</i> as nontraditional small MS4s. Permit requirements for entire military installations appear to be identical, or even more stringent, than those applied to Traditional Small MS4s in urbanized areas. This approach—in addition to being discriminatory, —fails to recognize the unique characteristics of administering a stormwater program aboard a federal installation. Military installations can be very different than traditional urbanized area MS4s. Military facilities may be spread out over hundreds of square miles—with much of the installation bearing greater resemblance to a wildlife refuge than an urban population center. Some military installations may have less than 10% of their surface area drained by an MS4. Yet the Permit can be read to require implementation of the entire suite of stormwater best management practices (BMPs) in areas that are undeveloped and where there is no evidence of significant water quality impacts associated with channelized stormwater runoff. Such an approach is not consistent with Section 402 of the Clean Water Act (CWA) (requiring a “discharge” to waters of the U.S. as a triggering event for stormwater regulation), <i>see</i> 33 U.S.C. § 1442 (p)(2), or the EPA regulations that implement Section 402. <i>See</i> 40 C.F.R. § 122.35(b) (discretionary designation of Small MS4 appropriate where impairment of standards or “significant water quality impacts” are likely to occur).</p>

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				<p>Clarification of Permit Scope: The SWRCB should clarify that the Permit only applies to Small MS4s in “urbanized areas” or “cantonment areas” on military installations. Cantonment areas are developed areas on military installations where the activities and population density resemble that of a traditional Small MS4, and where the installation operates and maintains a system of separate storm sewers that drain to CWA jurisdictional waters. <i>See</i> 40 C.F.R. § 122.26(b)(16) (iii) (explaining that the term Small MS4 on military installations means “systems similar to separate storm sewer systems in municipalities”). Our request is consistent with EPA’s implementing regulations since there must first be a “system” of stormwater conveyances before there can be a requirement to obtain coverage under an MS4 Permit. <i>See</i> 40 C.F.R. § 122.32(a). “Discrete areas” of military installations that are drained by individual storm sewers are not Small MS4s, <i>see</i> 40 C.F.R. § 122.26(b)(16)(iii), and they are not properly regulated under the Permit.</p> <p>Proposed Language Changes: The concerns expressed above can be addressed by modifying last two sentences of Finding 15 on p. 7 of the Permit to read as follows:</p> <p>Non-traditional Small MS4s discharge the same types of pollutants that are typically associated with urban runoff. Separate storm sewers in very discrete areas, such as individual buildings, <i>or military facilities and ranges not hydrologically connected to an urban stormwater conveyance system</i>, are not defined as Small MS4s.</p> <p>And by modifying the last sentence of Finding 30 on p. 10 to read as follows:</p> <p>The different categories of Traditional and Non-traditional Small MS4 Permittees must comply with certain provisions listed in Section E of this Order. The category-specific compliance provisions <i>for facilities that are connected to separate storm sewer systems</i> are identified in Table 1.</p> <p>In addition, the proposed permit can be read to require implementation of the entire suite of stormwater BMPs, retrofits and monitoring on military training ranges. Application of the myriad of requirements contained in the Permit in military training areas has the potential to significantly disrupt military training and may even lead to death and serious bodily injury. For example, unexploded ordinance could be encountered and inadvertently detonated during mandated construction of BMPs or flood control retrofits in active impact</p>



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				<p>areas. For these reasons, military training ranges need to remain outside the scope of this Permit.</p> <p>Proposed Language Changes: Because of the nature of activities involved with military training and the need to protect public safety, military training range activities tend to be conducted at significant distances from urbanized (or cantonment) areas, so in most cases the language change requested in paragraph above, if accepted, will address the concern expressed herein.</p> <p>However, in order to avoid the potentially severe consequences of applying the Permit's requirements on military training ranges, DoD recommends that the exclusion of military training ranges be clearly spelled out in the Permit. (DoD comment #10, 11)</p>
3	General	Overarching Comment	DoD Specific Issue Water Quality Runoff Standards	<p>Conflict between state and federal performance standards: The proposed permit contains prescriptive engineering design requirements for water quality runoff standards which may at times conflict with existing stormwater performance standards for federal installations. The federal requirements contain a more stringent design standard and provide more flexibility in determining how to address post-construction runoff based on site conditions. DoD requests that military installations be authorized by the Permit to deviate from the permit's runoff standards where a preexisting and equivalent federal standard directs the use of a different performance standard. (E.12., DoD comments #79)</p>
4	General	Overarching Comment	Reduce Administrative Requirements	<p>The reporting/tracking/inventory requirements are very extensive throughout the permit and will require a large amount of time and resources to implement which will take away from being able to utilize resources for actually reducing illicit discharges, reducing soil loss and erosion, and protecting water quality, etc which should be the focus/ purpose of the document. To allow a more effective use of resources the administrative requirements in the permit should be significantly reduced. We recommend removing the following administrative requirements during this permit term and consider including in the subsequent permit terms.</p> <ul style="list-style-type: none"> <li>• Annual summary of enforcement activities (E.4.c, DoD comment #23)</li> <li>• Annual fiscal analysis (E.4.d, DoD comment #24)</li> <li>• Annual report on public outreach and education (E.5., DoD comment #29)</li> </ul>

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				<ul style="list-style-type: none"> <li>• Annual submittal of updated storm drain maps (E.7.b., comment #39)</li> <li>• Annual submittal - reduce required information on illicit discharge and elimination source investigations (E.7.d., DoD comment #46)</li> <li>• Annual submittal of all spill response information (E.7.e., DoD comment #47)</li> <li>• Reduce scope of specific illicit discharge education and training program to personnel responsible for implementing the IDDE program. (E.7.f., DoD comment #48)</li> <li>• Annual submittal of permittee staff Illicit Discharge Education and Training information (E.7.f., DoD comment #48)</li> <li>• Annual submittal of inventory of all construction sites. Information for sites 1 acre or larger is already provided online in accordance with CGP. (E.8.a., DoD comment #49)</li> <li>• Annual report on construction site operator education (E.8.e., DoD comment #57)</li> <li>• Annual updates of inventory and maps of permittee owned and operated facilities (E.9.a., DoD comment #58)</li> <li>• Annual reporting on inspections performed permittee owned and operated facilities (E.9.e.iii, DoD comment #61)</li> <li>• Annual report requirement to provide maintenance logs (E.9.g., DoD comment #65)</li> <li>• Annual report requirement to include a log of inspections for permittee operation and maintenance activities (E.9.h. DoD comment #66)</li> <li>• Annual reports of pesticide, herbicide, and fertilizer application (E.9.j., DoD comment #68)</li> <li>• Annual reporting of all personnel training and assessment records for permittee operations (E.9.k. DoD comment #69)</li> <li>• Annual report on staff training for industrial and commercial facility inspections (E.11.f., DoD comment #75)</li> </ul>
5	General	Overarching Comment	Provide Flexibility	<p>A much better balance should be made between the prescriptive draft permit and the current permit's flexibility. While we understand the rationale behind a more-prescriptive permit, the current draft of the Permit would not adequately address the diversity of permittees. The lack of flexibility to tailor programs and prioritize resources in a manner that best suits each unique permittee results in a less-effective permit. We recommend the following requirements be revised/removed from this permit to provide more flexibility for MS4s to implement their programs.</p> <ul style="list-style-type: none"> <li>• Remove specific requirement to use Community-Based Social Marketing (CBSM)</li> </ul>

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				<p>strategies or equivalent in Public Outreach and Education Programs. (E.5, DoD comment #26, 33, 36)</p> <ul style="list-style-type: none"> <li>• Education for school age children (E.5.b., DoD comment #28)</li> <li>• Remove requirement for GIS to be developed for MS4s with less than 5,000 population (E.7.a., DoD comment #38)</li> <li>• Remove requirement that 20% of permittee's urbanized boundary will automatically be considered priority areas under IDDE program (E.7.b., DoD comment #40)</li> <li>• Remove automatic designation of 20 percent of catch basins as high priority (E.9.f. , DoD comment #62 )</li> <li>• Remove requirement to clean out all catch basins that are 1/3 full (E.9.g., DoD comment #63)</li> <li>• Remove specificity for measures implemented for integrated pest management program (E.9.j., DoD comment #68)</li> </ul>
6	General	Overarching Comment	Reduce Redundancy	<p>Federal installations are required to comply with the full suite of environmental regulations and serve as both the facility/permit owner and internal compliance oversight. As such, the proposed permit overlaps many other regulatory programs already in place including the overlapping requirements between the proposed permit and the State's General Construction and Industrial Storm Water Permits. We recommend the following requirements be revised/removed from this permit to reduce redundancy.</p> <ul style="list-style-type: none"> <li>• Eliminate requirement for spill response plan. (E.7.e., DoD comment #47)</li> <li>• Annual submittal of inventory of all construction sites. Information for sites 1 acre or larger is already provided in accordance with CGP. (E.8.a., DoD comment #49)</li> <li>• Erosion and sediment control plan. Projects 1 acre or larger are already required to implement BMPs to control erosion and sediment in accordance with CGP (E.8.b. DoD comment #52)</li> <li>• Industrial/Commercial Facility Runoff Control Program (E.11., DoD comment #71)</li> </ul>
7	General	Overarching Comment	DoD Specific Issue Legal Authority	<p>Military installations do not have municipal ordinances, and generally lack the legal authority to collect fees, levy fines or carry out enforcement actions in the same fashion as Traditional Small MS4s. Because of the fundamental differences between the way that a military installation and a traditional municipality operate, DoD installations will need to develop base orders, policy letters, contract specifications, memorandums of agreement, and obtain future program funding from Congress in order to implement this Permit. All of</p>

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				this will take time—providing justification for the phased implementation approach requested. (DoD comments #15, 16)	
75.15	8	General	Overarching Comment	Cost Analysis	When initiating population thresholds that trigger specific requirements, i.e. 25k population threshold, 5k population threshold, etc. was there cost analysis conducted to determine what population thresholds should be used? If not, this should be done to accurately determine if this permit is feasible for small MS4s to comply with the requirements.
75.16	9	General	Overarching Comment	Definition of terms	Items not defined throughout order (i.e. "few days", chronic violators, etc...), does the MS4 have the flexibility in defining those terms in their plan. Example, a MS4 could identify a "few days" as three days and define it in their plan to better show compliance or will these terms be clearly identified in the final draft to minimize incorrect assumptions?
75.17	10	7	Findings	DoD Specific Issue Finding 15	Modify last two sentences of Finding 15 to read as follows: Non-traditional Small MS4s discharge the same types of pollutants that are typically associated with urban runoff. Separate storm sewers in very discrete areas, such as individual buildings, or military facilities and ranges not hydrologically connected to an urban stormwater conveyance system, are not defined as Small MS4s.
75.18	11	10	Findings	DoD Specific Issue Finding 30	Modify the last sentence of Finding 30 on p. 10 to read as follows: The different categories of Traditional and Non-traditional Small MS4 Permittees must comply with certain provisions listed in Section E of this Order. The category-specific compliance provisions for facilities that are connected to separate storm sewer systems are identified in Table 1.
75.19	12	15	B.3	Individual car washing should not be prohibited	This section prohibits non-storm water discharges that are authorized under the existing order (No. 2003-005-DWQ). The draft order does not include individual residential car washing as an allowable non-storm water discharge. It is unrealistic to apply an immediate prohibition on residential car washing when it is not prohibited in the existing order and for new Small MS4s during their first permit cycle. In many cases there simply will not be a sufficient number of car washing facilities available to accommodate all individual car washing within an MS4 jurisdiction. Request rather than prohibit this discharge allow MS4 operators during this permit cycle to implement public education programs to reduce discharges from individual car washing. MS4 operators should also be allowed to determine, after the education programs are implemented, if car washing discharges are significant contributors of pollutants that need to be eliminated. During the next permit cycle MS4 operators and the state can revisit the need to apply a strict prohibition.
	13	16	B.4	Time frame to detect	Detecting and correcting leaks within 72 hours or prior to 1000 gallon release seems

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75.20			and correct leaks	infeasible if the leak occurs during a weekend or holiday when personnel may not be available to correct it, or if the problem is extensive and requires more time. Also, what if the leak cannot be corrected with the 72 hours due to problems determining the source of the leak, or obtaining parts/contractors, etc? Setting a time constraint on this requirement is inflexible and impracticable unless there is a provision allowing additional time under the circumstances described above. Request addition of language allowing discharger to exceed 72 hours if the leak occurs outside of normal business hours or if the detection and/or correction of the leak requires additional time.	
75.21	14	18	E.4	DoD Specific Issue Compliance Tiers for Traditional and Non- Traditional MS4s	New Traditional Small MS4 permittees with a population of 5,000 or less appropriately have reduced requirements in Table 1. Military installations (new Non-Traditional) with populations of 5,000 or less should also have reduced requirements in Table 1. Smaller military installations, similar to smaller Traditional MS4s, generally do not have significant industrial/commercial activity and therefore should have reduced program requirements. We request this section and Table 1 be revised so that the program requirements for smaller military installations are consistent with the requirements for smaller new Traditional MS4s.
75.22	15	19	E.4.a	DoD Specific Issue Ordinances, citations, fines	Installations cannot initiate ordinances that municipalities can and do not have the ability to issue citations and designate penalties to violators. Installations can initiate command policy letters that are issued by the commanders.
75.23	16	19	E.4.a	Timelines to establish legal authorities	The timeline (by May 15, 2013) to establish legal authorities to meet the requirements of the proposed order may not be feasible. At military installations, similar to municipal ordinances, establishing policies, additional contract language, and other authorities to implement this order requires extensive technical, legal, and management reviews that often require much more time than the proposed timeline. Request that the timeline be extended by one (1) year to May 15, 2014 to establish the required legal authorities. Provision should also be added that MS4 operators may be allowed additional time when approved by the Regional Water Quality Control Board.
75.24	17	19	E.4.a (ii) b	Prohibitions on charity car washes, mobile cleaning, and pressure washing operations.	This section prohibits charity car washes, mobile cleaning, and pressure washing operations. Because this will be the first permit cycle for new Small MS4s this immediate discharge prohibition is unreasonable. Request rather than prohibit these discharges during the first permit cycle, require MS4 operators implement public education programs to reduce these discharges. During the next permit cycle MS4 operators and the state can revisit the need to apply strict prohibitions to these discharges.

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75.25 →	18	20	E.4.a.(ii)(k)	DoD Specific Issue Civil and criminal sanctions	Non- Traditional MS4s such as military installations generally do not have the ability to impose civil and criminal sanctions. This section should include a statement, similar to section (j) that this requirement is only applicable to Traditional MS4s.
75.26 →	19	20	E.4.a (ii)(i)1	Discharge/spill clean-up timeframe	Requires clean-up of discharge within 48 hours. This may not be possible and although the Order does allow for a new timeframe to be determined (under item 5), adjusting the original timeframe to 72 hours could reduce administrative requirements and will still be protective of water quality. Request change from 48 to 72 hours for abatement and clean-up.
75.27 →	20	20	E.4.a (ii)l	Interagency agreements	In many cases interagency agreements could take longer than one year to establish and in some cases may not be possible. Request a provision be added to this section that allows dischargers additional time, with justification, to complete required agreements. The provision should also allow for circumstances where existing laws, regulations, and/or policies prohibit required interagency agreements.
75.28 →	21	21	E.4.b.(iii)	Legal Counsel signature	Requiring small MS4s to obtain legal counsel to sign an annual report is an undue imposition of burden on the permittee and is not typical practice. The signature of an authorized representative is sufficient certification of the legal authority. The requirement for legal counsel certification should be deleted.
75.29 →	22	22	E.4.c(ii)(c)	DoD Specific Issue Assessment of monetary fines	Military installations do not have the legal authority to assess monetary fines. Request a statement limiting the assessment of fines to Traditional MS4s (similar to E.4.a.(ii)(j)).
75.30 →	23	23	E.4.c(iii)	Enforcement Response Plan reporting	Rather than submit this report each year, the Enforcement Response Plan (ERP) should be maintained on-site and available for review. This will reduce the number of report submittals, already too many, but still require the permittee to maintain enforcement records. Regional Water Board staff could request the ERP during annual inspections or other reviews if necessary to verify compliance. There may also be liability issues with providing this type of information to the public for on-going enforcement cases. The online reporting of chronic violators would not be appropriate in some cases for military installations. Specifically, for a contractor performing work on a military installation that is surveyed by a government contracting officer representative. If the findings of the contractors performance evaluations result in contract actions this type of information may not be appropriate to release to the public.
75.31 →	24	24	24 E.4.d	Annual resources/fiscal	This required analysis is extremely detailed, will be very time consuming, and the benefit of such analysis is unclear. At many facilities staff and resources are applied to a wide range

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			Analysis	of environmental media areas and overlapping operations, and separating them out has the potential to be complex and unduly burdensome. In addition, it is inappropriate for Regional Water Boards to regulate MS4s based on the level of resources applied to program implementation. This assumes the state should dictate the appropriate level of resources to achieve compliance. We believe the state should focus on how well MS4 programs are implemented and not on how they are resourced. Request this requirement be deleted from the order.	
75.32 →	25	24	E.4.d.i	Regulating resources	It states that Permittees "Shall" secure the resources necessary to meet all requirement of this order. It is unclear why this statement is included in the order at all. MS4 operators are required to comply with the order and stating they need to secure the resources to do so is unnecessary and inappropriate. In addition, considering the economic constraints that many MS4s are facing, it may not be possible to ensure necessary resources are available. Rather MS4s will be limited to the funding/resources they have and are able to access in the future. These constraints should be considered and this requirement should be removed.
75.33 →	26	26	E.5.b.(d)(ii)	CBSM requirements	Requiring the use of CBSM requirements as a method to implement public education is overly prescriptive and is dictating the method of compliance rather than allowing MS4 operators to utilize other methods that could be less costly, but still effective. Many MS4 operators may already have existing programs in place that will be effective in reducing pollutant discharges. Request this requirement be eliminated to allow more flexibility in program implementation.
75.34 →	27	26 - 28	E.5.b(ii)(a) & E.5.b(iii)	Budget/financial reporting for public education	Budget/financial reporting in these sections is redundant to the requirements in Section E.4.d and is additional to Clean Water Act requirements. It is unclear what authority the state has to evaluate budget/financial information associated with program implementation. The state should regulate program implementation to comply with the order and not the level of resourcing.
75.35 →	28	27	E.5.b.(ii)(l)	Education for school age children	Education for school-age children should not be a minimum requirement. Insert language specifying that this requirement only applies when schools or residential neighborhoods are part of the designated MS4. In addition requiring California's education and environment initiative curriculum is too prescriptive. Request that the requirement be a general education component focused on school age children. We also request the state collaborate with state educators to establish required curriculum rather than have each MS4 and school district establish different program requirements. This would ensure a



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				more consistent message is provided statewide.	
75.36 →	29	28	E.5.b(ii)(a) & E.5.b(iii)	Public Education reporting requirements	The annual reporting requirements in this Section are extremely detailed considering this is the first permit cycle for many Small MS4s. The time and resources required to complete this reporting is likely to be significant and may limit the resources used to implementing the education program. Request a more general evaluation/report be required for the Public Education program. In addition, the "water efficient landscape ordinance" is already implemented through the water conservation programs, seems redundant and should be removed.
75.37 →	30	28	E.5.c	DoD Specific Issue Compliance Tiers for Traditional and Non-Traditional MS4s Industrial/Commercial Outreach and Education	In accordance with Table 1 new Traditional Small MS4 permittees with a population of 5,000 or less are appropriately not required to implement an Industrial/Commercial Outreach and Education Program. Military installations (new Non-Traditional) with populations of 5,000 or less, similar to smaller Traditional MS4s, generally do not have significant industrial/commercial activity and therefore should have reduced program requirements. We request this section be revised so that military installations with populations of 5,000 or less are not required to implement this program consistent with the requirements for smaller new Traditional MS4s.
75.38 →	31	28	E.5.c	Timeline infeasible	Timeline for this section is not feasible. Requirements to develop watershed based inventories as well as the other listed requirements cannot be completed within that timeline. In addition, obtaining the funding and resources for all of these program requirements will also take time (there should be a timeline for that). Request timeline for implementation be extended until May 15, 2014 to allow time to obtain funding, develop inventories, and complete other requirements.
75.39 →	32	29	E.5.c(ii)	Budget requirements for Outreach and Education	Similar to other sections of the proposed order this section requires MS4 operators to develop a budget for implementing this program requirement. Again it seems inappropriate for the state to regulate resourcing to achieve compliance. References to developing a budget are unnecessary and should be removed from the order.
75.40 →	33	29	E.5.c.c)(ii)	Industrial/Commercial outreach and education program	Requiring the use of CBSM requirements as a method to implement this program is overly prescriptive and is dictating the method of compliance rather than allowing MS4 operators to utilize other methods that could be less costly, but still effective. Many MS4 operators may already have existing programs in place that will be effective in reducing pollutant discharges. Request this requirement be eliminated to allow more flexibility in program implementation.
75.41 →	34	29	E.5.c.c)(i)	Measuring changes in	Please, give an example of how to "measurably change the behavior of the

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			behavior	industrial/commercial community."
75.42 →	35	30	E.5.d Construction outreach and education program	This would require significant resources to track and monitor as well as implement an education and outreach program specifically for construction sites smaller than 1 acre. The CGP requires coverage for projects one acre or larger and the new proposed MS4 permit requirement is initiating compliance requirements for smaller projects that are not required to comply with the CGP. This order already requires the implementation of several new programs for renewals and new Small MS4s. Request this program be eliminated during this permit term and as an alternative to this program include education and outreach in a more general manner in the Public Outreach and Education section (include in target audience). This would be a more efficient method of implementing this type of outreach/education and would reduce the number or annual reports required, which is already significant under this proposed order. This more specific program could be reconsidered for implementation in next permit term.
75.43 →	36	30	E.5.d Construction outreach and education program	Requiring the use of CBSM requirements as a method to implement this program is overly prescriptive and is dictating the method of compliance rather than allowing MS4 operators to utilize other methods that could be less costly, but still effective. Many MS4 operators may already have existing programs in place that will be effective in reducing pollutant discharges. Request this requirement be eliminated to allow more flexibility in program implementation.
75.44 →	37	33	E.6(ii)(b) Public Involvement and Participation	The citizen advisory group should be limited to affected parties within the service area. Including all affected parties within a "watershed" could require participation of a very large group that could be very cumbersome during meetings and could hamper development and implementation of programs. Request eliminating "or effected watershed".
75.45 →	38	34	E.7.a.i GIS requirement	The requirement to map the storm system using GIS seems extensive and unnecessary, especially for smaller MS4s. Some facilities may only have a relatively small number of facilities that can be managed without GIS using existing maps. Although we understand the need for a map showing the storm sewer system, we believe the specific requirement for GIS should be limited to MS4s with populations greater than 5,000.

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75.46 →	39	34	E.7.a.(iii)	Annual submittal of updated storm drain maps	The annual submittal of updated storm drain system maps for all MS4s is unnecessary. MS4s are required to maintain maps of their systems and if necessary Regional Board staffs could request a copy of the maps. Eliminating this requirement would reduce the administrative burden on MS4s. In addition, there are also security concerns for military installations providing maps of the storm drain systems that are available to the public.
75.47 →	40	34	E.7.b	Priority areas	This section arbitrarily identifies 20% of the urbanized boundary as priority areas. This is very prescriptive and may not represent actual conditions within the MS4 service area. Priority areas should be specifically defined in the order and then the MS4 operator can apply the definition to identify priority areas. The 20% criteria will only promote MS4s to select areas that add up to 20% rather than apply definition/criteria to determine what areas have a greater potential for illicit discharges.
75.48 →	41	35	E.7.c.(ii)1.a	Field screen and grid system	Using a grid system to identify IDDE field screening stations is very prescriptive and doesn't seem productive in locating illicit discharges or being able to effectively conduct monitoring. Some grid areas may be in areas that would not have a source for an illicit discharge (i.e. forested area, etc.). This program should be less prescriptive and more customizable as every MS4 area will vary.
75.49 →	42	36	E.7.c	Sampling requirements	In this section, is "analytical monitoring" referred to as official laboratory testing or can this include field testing using field kits? Permittees should have the ability/flexibility to use field kits to conduct initial testing. Based on the field testing results, they can determine if further more specific analytical (laboratory) testing should be conducted as laboratory testing can get expensive and can take time to get results back which will delay correction time.
75.50 →	43	36	E.7.c	Sampling requirements	What about chronic pollutants, such as animal feces/bacteria accumulation in particular water bodies? How does the permit account for this as there doesn't seem to be a mechanism for ending the sampling for an area that receives chronic positives that cannot be corrected?
75.51 →	44	36	E.7.d.ii	Illicit discharges	Define what is considered a discharge, i.e. how much trace discharge triggers response (a drop of something or a specific amount such as 1 gallon, etc.)?
75.52 →	45	36	E. 7.d(ii)	Illicit discharges	This requirement could be interpreted to mean that illicit discharges shall be identified within 48 hours. This requirement should be revised to state an investigation must be initiated within 48 hours to identify and locate the source of any illicit discharges.
75.53 →	46	37	E. 7.d(iii)	Illicit discharges	The reporting requirement for IDDE investigations could be reduced. Limit the report requirements to (f) and (g) for annual submittal. This information is sufficient to evaluate

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				that program implementation is acceptable.
75.54 →	47	37	E.7.e. (i) Spill Response Plan & spill reporting	There are already other regulatory requirements (Federal and state) that require development of spill response plans (i.e. FRP, SPCC, Hazardous Waste Contingency Plans, Hazardous Materials Business Plans, etc.). This is duplicative and unnecessary because spill response plans are already regulated by other Federal, state, and local agencies. In addition, to reduce the administrative burden, the requirement for annual submittal of spills and spill response activities should be removed. Require that this information be maintained at the facility, but not reported in the annual report.
75.55 →	48	38	E.7.f Illicit Discharge Education and Training	The permit states "permittee shall develop and implement a training program for all permittee staff who, as part of their normal job responsibilities, may be notified of, come into contact with, or otherwise observe an illicit discharge". This could get costly and time restricted as there may be many people who would need this training. This would be very difficult to implement on a military installation where almost all personnel could be considered staff. For military installations permittee staff should be limited to personnel responsible for implementing the IDDE program. All other personnel at a military installation can receive information on illicit discharges through a more general public and outreach education program. In addition, the requirement to submit annual records of staff training should be removed from the permit. Permittees are still required to maintain training records at the facility and this should be sufficient to verify compliance through on-site inspections or by requesting the information if necessary.
75.56 ↗	49	39	E.8.a Construction site inventory	The requirement to submit inventory of all construction activity 1 acre or greater is redundant and unnecessary since this information is already submitted through SMARTS in accordance the CGP. This seems repetitive and not cost effective. Request this requirement be removed from the permit.
75.57 →	50	40	E.8.b Construction plan review and approval procedures	Military installations do not issue grading or building permits.
75.58 →	51	40	E.8.b Construction plan review and approval procedures	Language should be added to this section to clarify that it applies to 1 acre or larger construction sites consistent with Section E.8.a. Requiring this for all construction sites would be impracticable and cost prohibitive. This could be revisited during subsequent permit terms to determine if it is necessary to expand program to smaller sites.
75.59 →	52	40	E.8.b. (ii)b Construction plan review and approval	The requirement for erosion and sediment control plan and to quantify soil loss based on BMP usage will be very expensive and very difficult as their performance data can change

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			procedures	drastically depending on factors such as rainfall amounts/volume, topography, soil types, etc. This requirement is in addition to the requirements of the CGP, which already has very stringent requirements for erosion and sediment control, and will be difficult to impose on the developers as it is not a part of the CGP requirement. This should be removed from the permit and reconsidered during the next permit term.	
75.60 →	53	42	E.8.c. Table A	Construction site inspection and enforcement	The construction site inspection frequencies are very resource intensive. This will require permittees to have multiple personnel designated to just doing site inspections. Site inspections are already required by the site QSP thru the construction general permit. Inspections may be warranted by the MS4 permittee but the requirement needs to be drastically reduced. Request changing the inspection frequency to monthly (only monthly) for construction sites 1 acre or more that discharge to 303(d) listed waters (sediment/turbidity) or determined to be significant threat to water quality. Inspection requirements, for construction sites 1 acre or more that do not meet the above criteria, should be reduced to quarterly. Requirements to inspect all phases of construction should be limited to sites that discharge to 303(d) listed waters (sediment/turbidity) or are determined to be significant threat to water quality. These inspection requirements could be reviewed during the next permit term to determine if the inspection frequency needs to be increased or reduced.
75.61 →	54	43	E.8.c	Construction site inspection and enforcement	The requirement to generate a written or electronic inspection report generated from a field inspection checklist is overly prescriptive and should be eliminated. Field inspection checklists suffice under the Construction General Permit. The permittee should have the flexibility to determine the appropriate documentation to meet this requirement.
75.62 →	55	43	E.8.c.(iii)	Construction Site Reporting	For construction projects aboard military installations, the installation serves as both the facility/permit owner and the NPDES (CGP/MS4) permittee. Typically all NPDES compliance oversight is performed by the same staff person(s). Military installations already submit annual reports via SMARTS for permitted construction sites under the CGP. This requirement is duplicative and should be eliminated for Non-traditional small MS4s which already conduct construction annual reporting.
75.63 →	56	44	E.8.d	Permit staff training	Permittee staffs are required to have personnel that are QSD and QSP state certified. This may not be economically feasible for some MS4s, especially non-traditionals. We recommend reducing the requirement that permittee staff are required at minimum to take the QSD/QSP certified training courses, but do not have to take the state certification as



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				some personnel may not meet the prerequisites to become certified (i.e. PE, CESSWI, etc.) or have the funding to get personnel certified and/or keep them certified. This requirement could be revisited in the next permit.	
75.64 →	57	44	E.8.e	Annual report on construction site operator education	Reporting this level of detail on construction site operator education is unnecessary and adds to the administrative burden. This requirement should be removed from the permit and reconsidered for during the next permit term.
75.65 →	58	47	E.9.a.iii & E.9.b.iii	Annual updates of inventory and maps	To reduce the administrative requirements recommend that this requirement be limited to the initial submittal. Annual updates should be removed from the permit. In addition, large military installations may have hundreds of "public parking lots." A parking lot inventory is excessive and should be eliminated. Additionally, several of the facilities in the inventory list are regulated under the Industrial General Permit Program, therefore this requirement is duplicative.
75.66 →	59	47	E.9.c.ii	Annual assessment of municipal owned and operated facilities	This section requires annual assessment of all municipal owned/operated facilities. At military installations most of the activities taking place within the MS4 are owned and operated by the military. In contrast, at municipalities a high percentage of the activities within the MS4 jurisdiction are owned and operated by other entities. This requirement would place a significant burden on military facilities to annually review and assess all facilities (essentially every activity). There is also redundancy for industrial facilities already covered under the GIP or an individual NPDES permit. To recognize the unique structure of the military we request that this requirement be reduced to once during the permit term. This can be revisited during the next permit term.
75.67 →	60	48	E.9.e	Hotspot and non-Hot Spot inspections	Inspection frequencies throughout the permit are extensive and will require multiple types of inspections to be conducted, from construction, IDDE, hot spots, industrial, etc. to be inspected daily, weekly, quarterly, annually, etc. depending on the situation this will be very resource intensive and may not be feasible. During this permit term request hotspot inspection frequencies be reduced to quarterly and non-hotspot inspections to once during the permit term for military installations. This also recognizes that military installations have a proportionally larger number of inspections to conduct because most activities on the base are owned or operated by the military.
75.68 →	61	49	E.9.e.(iii)	Annual reporting on inspections performed at permittee owned and	Item c. in this section requires a summary of spills and corrective actions. This is very detailed information and would be time consuming to include in the annual report for military installations that own/operate most if not all facilities at the installation. Request the specific item to submit information on all spills and corrective actions be removed.

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			operated facilities	
75.69 →	62	49	E.9.f.(ii) Storm drain system assessment and prioritization	This section arbitrarily identifies 20% of the catch basins as high priority regardless of the required assessment. This is too prescriptive, may not represent actual conditions within the MS4 service area, and could penalize MS4s that have good programs in place to reduce materials/debris accumulation in catch basins. It also will likely result in many MS4s identifying 20% of the catch basins as high priority regardless of assessments that could find a higher percentage. The 20% requirement should be removed from the order and the prioritization should rely on the required assessment.
75.70 →	63	50	E.9.g.ii.b Maintenance of storm drain system	Some catch basins that are 1/3 full may not be a problem, and some that are less than 1/3 full may be a problem depending on the size and structure of the catch basin. This needs to be evaluated on a permittee by permittee basis and should not be prescriptive.
75.71 →	64	50	E.9.g.ii.(d) Maintenance of storm drain system	Implementing this order will be difficult and resource intensive. Request reducing removal of trash and debris to twice a year for high priority areas. This should be adequate to decrease pollutant discharges and will help reduce resource requirements.
75.72 →	65	50	E.9.g.(iii)(c) Annual reporting of sewer system maintenance logs	This type of information is very detailed and will require significant time to include in an annual report submittal. To reduce administrative burden, request the requirement to submit documentation of maintenance logs be removed.
75.73 →	66	50	E.9.h.(iii) Annual report requirement to submit log of inspections for O&M operations	This type of information is very detailed and will require significant time to include in an annual report submittal. To reduce administrative burden request requirement to submit log of inspections be removed.
75.74 →	67	52	E.9.i Water quality and habitat enhancement features	The requirement to retrofit flood management projects is not a realistic expectation on top of all the other program requirements included in this order and should be reevaluated in the next permit term. Request requirements associated with retrofitting projects be removed from the order. Requirement to include water quality enhancement features in new projects should remain in the permit.
75.75 →	68	52	E.9.j. Pesticide, herbicide, and fertilizer application and management	In accordance with DoD Instruction 4150.07 ( <a href="http://www.dtic.mil/whs/directives/corres/pdf/415007p.pdf">http://www.dtic.mil/whs/directives/corres/pdf/415007p.pdf</a> ), DoD has already used integrated pest management (IPM) techniques to reduce pesticide usage by 55% of the 1993 baseline amount. While DoD continues to look for further reduction opportunities, such opportunities may not currently exist. Some flexibility should be inserted under (iii) allowing permittees to get credit for a pre-existing IPM program and, when applicable, to



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75.76 →	75	63	E.11.f.(iii)	Annual reporting on staff training	This type of information is very detailed and will require significant time to include in an annual report submittal. To reduce administrative burden request requirement to submit detail training information be removed.
75.77 →	76	64	E.12	Post construction storm water management program	Post construction requirements already exist in the CGP which is already one of the most stringent construction storm water permits in the country. Request the requirements in this section be limited to compliance with the CGP for all compliance tiers.
75.78 →	77	64	E.12.a	Permittee located in Phase I MS4 permit area	New Phase II MS4s will need this permit term to establish post construction storm water management programs. Recommend new permittees be required to meet post-construction requirements in the CGP.
75.79 →	78	65	E.12.b.1. and E.12.b.2	Watershed baseline characterization and Sediment Budgets	The required watershed baseline characterization will require significant resources (time and funding) to complete. Considering the already significant increased requirements included in this order, this requirement should be delayed until the beginning of the next permit cycle. Since the sediment budget will be based on the watershed baseline characterization this requirement should also be delayed until the next permit term for new permittees.
75.80 →	79	66	E.12.b.3	Water quality runoff standards	The CGP already includes stringent requirements for post construction runoff that are now just starting to be implemented. Considering the cumulative fiscal impacts of implementing the requirements in this new order, requirements associated with post construction controls should be limited to the requirements in the CGP for new permittees during this permit term. In any case pre-project runoff conditions should be considered when establishing requirements to retain runoff.
75.81 →	80	76	E.13	Receiving Water Monitoring	This proposed monitoring program was not anticipated under the Federal Phase II Rule and should be removed from the permit for new permittees that will need to establish new programs during the first permit term. After new permittees have had time to implement required programs then monitoring can be added to evaluate program effectiveness. Request the receiving water monitoring requirements be delayed until the next permit term, or at the very least significantly reduced until the next permit term.
75.82 →	81	86	E.14	Program effectiveness assessment	Define urban storm water BMP.
75.83 →	82	92	E.16	Annual Report	A deadline of September 15th for the MS4 Permit Annual Report will be difficult to achieve for military installations that also have to submit Annual Construction Reports by September 1st. Some installations may also contribute to the Phase I MS4 Permit Annual Report during the same timeframe. Request the Small MS4 annual reporting deadline be

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				moved to avoid overlapping with Industrial, Construction and Phase I MS4 Permit Annual Reporting deadlines, since these reports are typically submitted by the same individual at each installation.
75.84	83	4	Att I Signatory Requirements	Signatory Requirements should be revised to correspond with the language approved by the SWRCB in Order No. 2010-0014-DWQ. Specifically, a sentence should be added to the end of Paragraph 11 of Appendix I which reads: For the military: any military officer or Department of Defense civilian, acting in an equivalent capacity to a military officer, who has been designated.
75.85	84		Att N Annual Report Compliance Dates	Military installations according to Table 1 have to comply with all sections of the order, but program management and public outreach/education and public involvement compliance timelines on attachment N seem to be missing.
75.86	85	16	Fact Sheet IV.a Waiver options	This section of the Fact Sheet needs to be modified to include Non-Traditional MS4s, matching the corresponding permit section A.3.a which applies the waiver options to both Traditional and Non-traditional Small MS4s.
75.87	86	28	Fact Sheet XII Street sweeping	It should not be assumed that all MS4s are already implementing street sweeping for air quality or aesthetic reasons. Some Non-traditional Small MS4s will implement street sweeping as a result of this permit, and the costs should be attributed to MS4 permit compliance.
75.88	87	47	Fact Sheet XII "privatized" military bases	Clarify the meaning of "privatized" military bases. Military installations are typically on public land.

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88	Table 1	Table 1	DoD Specific Compliance Tiers	<p>Military installations with 5000 or less residents should not be treated more stringently than non-military Traditional MS4s with a population less than 5000 for purposes of compliance with the Permit. Table 1 to the Permit subjects military installations to every regulatory element of Section E of the Permit, while Traditional MS4s with less than 5,000 residents are exempt from several elements. Ironically, unlike many Traditional MS4s with a population of 5,000 or less, the stormwater discharges of most military cantonment areas are already regulated under California's robust industrial stormwater program. As SWRCB Staff are likely aware, singling out military installations for disparate treatment under a Permit potentially raises serious legal concerns. While military installations are ordinarily required to comply with state "requirements" for the control and abatement of water pollution, the waiver of sovereign immunity under the CWA does not apply where military installations are subjected to more stringent state regulation than other similarly situated members of the regulated community. See 33 U.S.C. § 1323(a). Elimination of such disparate treatment in the Permit and its appendices will prevent future legal conflicts.</p> <p>Proposed Language Changes: The concerns expressed above can be addressed by:</p> <p>Amending Table 1 to the Permit to impose only those regulatory requirements on military installations with less than 5,000 residents that the Permit imposes upon Traditional MS4s with less than 5,000 residents.</p>

75.89

