DEPARTMENT OF DEFENSE
REGIONAL ENVIRONMENTAL COORDINATOR, REGION 9
937 N. Harbor Drive, Box 81
San Diego, California 92132-0058

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April 28, 2011

Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Street
Sacramento, CA 95814

Subject: NPDES PERMIT NO. CAS000001: GENERAL PERMIT FOR STORMWATER DISCHARES ASSOCIATED WITH INDUSTRIAL ACTIVITIES

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 the attached comments on the SWRCB's NPDES Permit No. CAS000001: General Permit for Storm Water Discharges Associated with Industrial Activities.

I would like to begin by acknowledging the need for a science-driven, state-wide, consistent approach to managing storm water. The subject permit, as currently written, creates regulatory uncertainty, imposes excessive compliance requirements and infeasible numeric limits, largely unsupported by scientific data; and will impose a significant strain on dwindling Federal resources, without the least assurance of improving water quality.

Alternatively, the DoD recommends the type of iterative approach used by the Air Resources Board and local air districts, wherein they looked at area, wide-spread sources of air pollution. Similarly, landmark SB 346 legislation passed last year, recognized the overwhelming impact of aerial deposition from brake pad emissions on storm water and the need to control this to meet storm water objectives.

The DoD understands that this problem won't be solved over-night; however, success can only be achieved using scientific data showing the sources and life-cycle transport on a regional basis. Quite simply, an individual facility cannot do this alone. Although we agree that best management practices and monitoring are key to resolving impacts to storm water, this permit takes away resources that would go toward improving storm water quality. This tiered approach sets up dischargers for certain failure and wide-spread non-compliance, while at the same time incurring enormous costs. Based on the 2010-2011 monitoring season, the Navy has calculated a rough estimate for the California Naval Installations. New permit sampling alone would increase the current expenditure by a factor of approximately 12 times to $3.6 Million. This does not take into consideration the costs for increased inspections, additional staff, and numerous other new requirements.

The DoD requests that you seriously consider the following comments in the upcoming permit revision. The points of contact for this are Mr. Brian Gordon at brian.gordon@navy.mil or (619)532 -2273 and Mr. Michael Huber at michael.huber@navy.mil or (619)532-2303.

Sincerely,

C. L. STATHOS
By direction

Encl: (1) DoD Industrial Storm Water Permit Comments of April 28, 2011

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

April 28, 2011

Specific Comments: 1. In general the permit had some organizational problems. For instance, reference was made throughout the permit to the Corrective Action Levels and Triggers; however, they were never explained. Therefore, the reviewer had to search back and forth for the reference to understand what was being said. This should have been explained when first mentioned (i.e. Section E #43). 2. This permit appears to set up the discharger for failure. In comparison to the EPA Multi Sector Permit and the previous CA General Industrial Permit Order 97-03, the monitoring, sampling and reporting requirements are excessive and will place a huge burden on the resources (cost and staff) of the dischargers. This appears to have been done without regard for the current stressful economic conditions which are affecting all levels of government and industry;

Page	Section	Comment	Response
1	1. A. 3	Application of this permit appears to include "light manufacturing industrial facilities" by now requiring them to apply and pay annual fees for "conditional exclusion" from the permit via a No-Exposure Certification (NEC). This was not necessary in the previous permit. No guidelines have been set forth in this permit to determine what is or is not "light industry". Currently the Navy is in the process of negotiations on their Individual Permits to identify high-risk areas. This new requirement may cause confusion as a NEC is supposed to apply to an entire facility which could not be the case for the Navy. Significant cost may be incurred if each facility that is construed as light industry would need a NEC and annual fee to receive a conditional exclusion.	
3	1.B	Suggest the following ASBS comment be inserted into the Permit on Page 3 under Section B (Activities Covered Under the General Permit): Storm water discharges and authorized non storm water discharges to Areas of Special Biological Significance (ASBS) are permitted with State Water Board approved exceptions to the Ocean Plan prohibition against waste discharges to ASBS. The discharger shall adhere to all requirements in the Special Protections for Areas of Special Biological Significance, Governing Point Source Discharges of Storm Water and Nonpoint Source Waste	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		Discharges adopted by the State Water Board under (draft) Resolution No. 2011-XXXX.	
6/7	1.E.39	NALs and NELs: When citing the Blue Ribbon Panel of Experts on the Feasibility of NELs, it was noted that the Panel concluded that it would be possible to determine NELs for industrial SW discharges, but noted various reasons why such a determination would be problematic at that time. What has changed? What is the science used for justification for these NALs and NELs. How will air deposition be factored into the exceedances? The Fact Sheet lists some of the panel's recommendations. These were not addressed by the Board. The panel recommended "improved monitoring" however, increased monitoring in this permit does not necessarily constitute "improved monitoring". It appears that increased monitoring is the solution to all of their recommendations and totally disregards the fact that the panel urged the Board to consider the total economic impact which will be beyond reasonable. Why is this permit so much more stringent than the Multi Sector Permit?	.
7	1.E.40	Why are the benchmarks now called NALs. How do they differ?	
7	1.E.41	What scientific criteria did the Board use to determine that the NALs were "appropriate numeric thresholds"?	
7	1. E.44, 46, 47	Discussion relative to BMPs being the solution in lieu of NELs: Most facilities have, over time tried to implement minimum BMPs, as well as structural BMPs, with partial success (i.e. "appropriate corrective action"). Short of total capture and treatment of SW, this almost guarantees repeated exceedances which will require extensive and costly monitoring and sampling. Does the Board intend to defer the additional monitoring and sampling (NELs) while the discharger determines if the pollution is from atmospheric deposition or another unknown source? What does the Board	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		interpret as "appropriate corrective action"?	
8	1.G.50; H.53	The CA General Construction Permit requires a QSD and QSP as well, however, this is usually a responsibility filled by the building contractor. The industrial permit requirement is quite a different issue. Although a contractor may be sampling the site, as in the case of the Navy, the contractor does not provide oversight at the Bases. This is an added hardship on the staff and cost to the Base if the staff would have to have the QSD and QSP training. In addition, this would be an even bigger hardship for a small business owner who, in addition to hiring a QSD with a PE to prepare their SWPPP would most likely need to hire the QSD for oversight and for SWPPP revisions. Since it's the QSD's PE on the line, the QSD would probably not be amenable to signing a revision without actually providing the oversight. This is unreasonable and is not equivalent to a construction site QSD/QSP. Why is it necessary for the person who prepares a SWPPP for their business to be a QSD and/or a PE? The owner of the facility is the Legally Responsible Party (LRP). Submission by the LRP is a legally binding certification for the material submitted.	
9	1. I.55	Again, the Federal Regs don't require SW sampling or periodic visual monitoring to be included in SW permits with the exception of annual monitoring at facilities in Subchapter N. Three additional quarterly inspections in addition to the ACSCE guarantee that DoD Facility staff will not be able to conduct the inspections in-house. Due to the number of facilities, it would be difficult for the limited staff to accomplish this each quarter thus requiring a significant increase in cost for contractor assistance. For example, at Naval Base Coronado, there are 142 facilities requiring quarterly inspections and it is impossible for environmental staff to accomplish without contractor assistance.	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
9	1. K.58	Again the mention of triggers with no explanation of what they are, nor reference to their location. These triggers set up the discharger for failure. There is not adequate time to evaluate the source of the problem, nor adequate lead time to acquire funding for added BMPs. To provide adequate time the evaluation should be at least a yearly cycle. This would allow the discharger adequate time to check the source of the problem and apply the appropriate BMP's needed to correct the problem. However, if a year passes after taking action to remedy the problem and a qualifying storm event does not occur then the discharger should be considered compliant and any future non-compliance would default back to Level 1 Corrective Actions. As discussed above, there is a good chance the BMPs will not be successful and this becomes a no win, expensive cycle.	
10	1. M.60	These standards have not yet been developed in this permit. Those that do not have the funding or the ability to implement G-SIRT appear to have an unfair advantage and be bound to the excessive requirements of this permit.	
12 & 17	II. Q.3; VII. B.2	90 Days is not sufficient time to update the SWPPP by a QSD. Contracts must be put in place and for government agencies this could take much longer than 90 days. Updates should not be mandatory until the year following the approval of the revised General Industrial SW Permit. Therefore, if the permit revisions are approved in 2011, then the updates shouldn't be required until the 2012 annual reports are due. This allows time for dischargers to make the required changes and it also gives time to test their facilities for compliance under the new standards and to make any BMP adjustments prior to the being subject to the new NAL standards.	
12	II.S.1	Sentence 1 is not complete	
15	V.D	What is Corrective Action Level 3? Needs to be	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		explained earlier in the permit.	
16	VII.A.1	See G-50; H-53 In addition to the above, at a minimum, the Base would have to provide QSP training to their staff and/or would have to dedicate several persons as a QSP to provide continual oversight to ensure industrial facilities adhere to the permit at a time when there is no funding nor billets available. Again, there may be a conflict if the QSD is a contractor and the QSP is part of the Base staff at the time of revision. This would be a hardship especially on the small business owner, who, as discussed above, would probably need to hire a full time QSD/QSP (same person) for oversight and amendment of their SWPPP. To reiterate; why is it necessary for the person who prepares a SWPPP for their business to be a QSD and/or a Civil PE.? The government or business owner, as the LRP, must certify the SWPPP, etc. through the SMARTS website which is a legally binding certification in itself.	
16	VII.B.1	QSD qualifications should include a Certified Professional in Storm Water Quality™ (CPSWQ).	
18	VII.C.1.d	What is a Level 3? No previous explanation	
19	VII.D.1	Additional work, time, money. Why is this necessary? The SWPPP contains this information.	
21	VII.G.5.c	An example used for an unauthorized non-SW discharge is non-contact cooling water. There may be instances where there are no pollutant's generated by the cooling water, but would take significant funds to eliminate, divert or capture this water.	
22	VII. H.1	A. Minimum BMP's should be a recommendation, not a requirement. This permit leans towards making it required for all sites to follow the same minimum set of standards (NAL's NEL's, minimum BMP's, QSD's, QSP's etc.). Not only are the minimum BMPs dictated to the discharger in this permit, which has not been the case in the past,	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		the discharger has the additional burden to prove why they are not applicable. Rather than just to consider certain BMPs, the new alternatives have to be justified. Implementing a permit that requires a discharger to explain why certain BMP's are not applicable and establishing NAL's and NEL's along with increased monitoring does not appear to be a reasonable solution. This entire section has greatly increased requirements from the previous permit with a potential for significantly increasing costs with a minimum return. B. While the intentions of the Minimum BMP requirement are understood, the fact remains that not all sites are the same (different sizes, different site functions, different rainfall areas, different settings, etc.). The discharger is the one who understands the conditions of their site and it is the discharger who is responsible if any polluted storm water leaves their site. Therefore, the discharger should determine what BMPs would best fit the site.	
23	VII.H.1.a.i Good Housekeeping	Additional inspection requirements for weekly BMP inspections for facility staff. This could require additional staff with an increase of money, resources, and time, especially for facilities that cannot avoid outdoor exposure.	
24	VII.H.1.a.vii	For all intents and purposes, this requirement dictates structural BMPs which may require a significant investment of resources.	
25	VII.H.1.b.ii Preventative Maintenance	Previous preventative maintenance only included PM of structural SW controls. This has now been added to section H and additional requirements have been added in this section for PM of equipment. Although a facility may already have regular preventative maintenance, the permit dictates that the facility conduct weekly inspections and create a schedule and procedures for the maintenance of equipment. This is an additional	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		burden requiring time and resources by mandating this be done when the discharger may not have the staff for weekly inspections, schedules and oversight required, nor the funds to "promptly" repair the system.	
26	VII.H.1.c	Most facilities that need a spill response plan have one. This is an additional unnecessary requirement that should be incorporated into the SWPPP by reference.	
26	VII.H.1.g	The requirements enumerated in this section seems to allude to retrofitting of facilities which would be costly and not possible for facilities like the Department of Defense (DoD), which are, for the most part, built out. The section also seems out of place in an industrial SW permit and is basically already covered in the BMP sections which require BMPs, including structural BMPs, to remedy failure of the triggers to avoid NALs becoming NELs.	
26	VII.H.1.h	Adding 3 quarters of visual facility inspections in addition to the ACSCE requires a substantial amount of additional funding be requested in a climate where staff is limited and funding sources are scarce for the DoD due to our continuing involvement in the middle east. This also increases the size and cost of associated reports.	
26	VII.H.1.h	It is the discharger's responsibility to ensure that the SWPPP is being followed and all BMP's are in good condition. Making additional inspections a requirement appears to be made under the assumption that currently dischargers are not being responsible for following their own SWPPP. Additional monitoring should not be required unless a discharger has been non-compliant.	
26	VII.H.3	Increased BMP reporting requirements which requires the SWPPP to includes detailed BMP implementation narratives and frequency, time of day or conditions when the BMP is scheduled for implementation, to name a few, will significantly	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		increase the cost of SWPPP preparation due to increases in the cost of fieldwork, write-ups, and size of the reports. The BMP descriptions provided in the CA BMP Handbook contain all of the information needed. A narrative in the report is redundant when the report can simply refer to an appendix containing the CA BMP descriptions.	
27	VII.I	Requirement for a QSD or QSP to conduct and certify the ACSCE (ACFCE) places an additional requirement on the DoD's contractor which translates into higher costs for the DoD. This work is done primarily by field technicians. Also increased written requirements for reporting of corrective actions for the reporting year does not give any time for planning and funding if that is necessary.	
29	IX.C.1.a	A qualifying storm event is one that has produced a minimum of ¼ in of rainfall, but the permit does not designate over what period of time.	
29	IX.C.2	No footnote attached to the #2 after "scheduled facility operating hours".	
29	IX.C.4	Prior to any anticipated storm event, the discharger must now, in addition to observing stored or contained SW at the time of discharge, must now visually inspect any SW storage and containment areas. This would increase the workload for limited environmental staff at DoD's bases regulated by this permit.	
29/30	IX.C.1; X.E.1	The permit requires on-site rainfall measurement devices. In addition to the cost of purchasing the rainfall measurement devices for all of the DoD installations, there is also the cost of staff to monitor and maintain the devices. For example, there are 142 industrial sites at NAS North Island. The Navy feels that the weather station at NAS North Island should be sufficient to comply with this requirement.	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		For the installations in general, local weather station rainfall data should be sufficient for all sites as it is readily available, cost effective and a **consistent** method of determining if a storm event is a qualified storm event.	
30	IX.C.6	Additional visual monitoring requirements which, in addition to increased monitoring requirements in IX.C.4, would be difficult for a small DoD staff to accomplish.	
*30	X.A	This permit increases SW sampling from two storm events per season to potentially quarterly or 4 qualifying storm events per year. This represents a significant increase in costs over the current permit.	
30	X.A. & B. & C	The correction action levels are referred to without any prior explanation as to what these are. Appears out of sequence and difficult to read.	
*30	X.B & X.C	Level 2 and 3 Corrective Actions (CAs) increases monitoring to two storms per quarter and every storm event, respectively, if repeated exceedances occur for the same analytes in the second and third subsequent reporting years ,and imposes NELs (violations) on the third exceedance. This permit sets the discharger up for failure with certain increased monitoring. Given the time constraints of these CAs, the DoD funding cycle does not allow for additional BMP implementation which all but guarantees Level 2 and 3 CAs with increased requirements. This represents a significant and unreasonable increase in costs over the current permit due to its excessive and burdensome requirements. In addition, there is a good chance that even if the monies were secured for these BMPs, they may not be able to correct the problem if the source is not under the Base control (i.e. air deposition). The Board should not impose limits, NALs or NELs, until there is enough scientific data collected to warrant these stringent controls. The	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		Board should collect this data, at a minimum, over the 5 year period of this permit before imposing these limitations.	
30	X.E	Decreasing the requirement between storms from 3 to 2 days as well as defining an eligible storm as one producing a minimum of 1/4" of precipitation vice one producing a discharge will increase the monitoring burden and costs.	
31	X.F	This and the footnote assume that the storm is continuing into Monday after the ¼" has been reached. This needs to be clarified in the permit.	
31	X.G	Again, sampling from 4 to every storm event in a reporting year is excessive and costly. There will not be time to analyze or obtain funding for corrective actions.	
32	XI	Entering data into the SMARTS system will be time consuming and costly. Lab may not have the capability to send lab data in a format that will upload easily using database currently being developed by the Board.	
32	XI	30 days should be extended to 45 days in order to provide laboratories ample time to perform required analysis and draft a corresponding report, and for dischargers to review and upload to the SMARTS system. Also, the extension from 30 to 45 days would be warranted in the event there are multiple qualifying storm events. This would allow the discharger to send in multiple samples from a qualifying storm event to the lab, potentially saving time and money.	
35	XII.A	Section is redundant.	
35	XII.B	This permit allows a combination of samples from up to 4 substantially similar drainage areas as opposed to two in the previous permit. However, this may affect the individual San Diego base permits which now allow for "2 **or more**" substantially identical samples to be handled as defined above. As the Navy Bases have a high number of sampling locations, this could translate	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		into increased sampling and monitoring costs. Why does a QSD have to certify that the industrial activities within the drainage area are substantially similar? Navy environmental staff would be responsible for this action. This would again increase costs.	
35	XII .A .4 ; XII.B	The costs to hire samplers or establish sample stations to sample each drainage area would drastically increase above what costs are currently expended by dischargers covered under the existing permit who follow the "alternative monitoring" protocol.	
36	XIII	Title for this section should include the word "Industrial" facilities.	
36	XIII.B	Bases with landfills (SIC code 4953) could see a significant increase in sampling costs due to the increased requirement to sample from all drainage areas of the landfill not only on the first day of the qualifying storm event, but each additional day of the storm event. This appears worse than the construction SW permit. Why would sampling need to be done if sediment is not discharge from the site. Should this not be a qualification for this requirement?	
37	XIV	How do the requirements for landfills in this section affect the requirement for additional daily sampling in XIII.B for landfills?	
37	XV	For DoD Bases discharging to a water body with low hardness values, adjusting the NALs/NELs to account for hardness values may decrease the effluent limits to levels which can't be complied with. For some parameters, the limit is below the drinking water standards.	
38	XVI.A	It seems excessive to require 10 quarters without an exceedance for a particular constituent just to be eligible to request a sampling reduction. It appears that Level 3 dischargers have no way out. This also may be unreasonable for areas that don't get a qualifying storm event every quarter.	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		However, in that case, a quarter without a qualifying storm event should be considered a quarter that is in compliance.	
38	XVI.C	Why does the QSD have to certify the Sampling Frequency Reduction Request? The DoD and other discharger's environmental staff would be providing oversight of the permit and would be responsible for this action. Having to pay a QSD to do this is an additional unnecessary expense. Sampling reduction requests could be included as part of the annual report.	
38-43	XVII.B, C, D	Corrective Action (CA)Levels 1 through 3 impose significant additional requirements on the discharger. As the discharger progresses from 1 to 3, restrictions and requirements become additionally onerous, costly, and impossible to comply with.	
38-43	XVII.B, C, D	If the Level 1 Corrective Actions resolve the problem then the discharger should be considered in compliance. Any problems from that facility after successfully correcting the issue should be subject to Level 1 Corrective Actions.	
38-39	XVII.B	As a result of the first occurrence of non-compliance of the NALs (Level 1), there is a significant increase in requirements, above the current evaluation of the facility BMPs, to include a NAL Exceedance Report consisting of a certified (permit does not designate by whom), detailed facility evaluation describing BMP deficiencies, corrections and implementation measures, and a implementation schedule for additional BMP and SWPPP revisions not accomplished the time of submission of the report which is NLT the Annual Report Due date of July 15. A limited amount of time (3-4 months after submission) is given to implement the BMP measures and SWPPP revisions which do not take into account the DoD's acquisition process for funding in the event of structural or treatment BMPs. A significant cost	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		will be associated with the additional field inspections, reporting, and certification requirements and BMP/SWPPP implementation.	
38-39	XVII.B	Level 2 Corrective Actions-If a discharger is able to resolve the non-compliancy through Level 2 Corrective Actions then the discharger should be considered in compliance and any future issues should default to Level 1 Corrective Actions.	
38	XVII.B.2	There is no designation on a Level 1 CA as to who is required to certify the reports, however, other parts of the permit require a QSD to amend the SWPPP, etc. Why is there a requirement for certification by an individual outside of the government? The LRP is required to send the reports via SMARTS to the Board which is considered a legally binding certification already. No need for an outside certification should be required. Section XVII.A.1 and 2 in subsection 4 are incorrect references	
40	XVII.C	CA Level 2 imposes significant additional requirements above Level 1 with an additional sampling event (no 2 per qtr), as well as structural and treatment BMPs designed for a 10 yr-24 hr storm event. Implementation of these BMPs and revision of the SWPPP must be accomplished by Oct 1 of the next compliance year. Additionally all submitted reports must be certified by only a Civil Engineer. Again, this implementation schedule does not take into account the DoD's acquisition process for funding. Significant costs will also be associated with these requirements.	
41	XVII.C.8	Although the DoD questions why an Exceedance Report needs to be certified by a Civil Engineer at all, the DoD also questions the reasoning behind restriction of the certification to a C.E. This authority should be extended to other professional certifications such as a Professional Environmental Engineer, Professional Hydrologist, or especially by someone certified in Storm Water as a CPESC or	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

		CPSWQ.	April 28, 2011
41	XVII.D	CA Level 3 imposes additional resource burdens on the discharger by converting NALs to NELs which now are subject to a violation issued by the Board. In addition, costly sampling of EVERY qualifying storm event is required beginning in the following compliance year. The DoD questions the technical basis for the NAL and NEL requirements in this permit. This is a new, extremely restrictive permit which is 180 degrees from the previous permit. As the Navy has experienced, there is no guarantee that any of the costly sampling and BMP implementations will change exceedance results. The DoD feels that NALs and NELs should be eliminated from this permit while data, during the duration of the permit, is collected and analyzed. This would give a technical basis for the permit limits and also allow facilities to determine what, if any, of the impacts can be attributed to outside sources beyond their control.	
41	XVII.D	Does the requirement for "any subsequent reporting year" mean that if for some reason an NAL trigger is set in any year after initially becoming non-compliant then the discharger is subject to Level 3 Corrective Actions? There should be a time limit because as it reads, this could mean that a discharger who has a similar problem 10 years after correcting a problem would suddenly become subject to the strict Level 3 requirements. For example, if a discharger reaches Level 3, then they should be compliant for 4 quarters. After the 4 quarters of being compliant (even if there was only 1 qualifying storm event during this time) then the discharger should be considered compliant and default back to Level 1 for any subsequent events.	
42	XVII.D.8	"All submitted reports must be certified by a California registered professional civil engineer." Other qualified professionals should be included in personnel that can certify corrective action, such as	

DOD COMMENTS ON STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL FACILITIES

(STATE WATER RESOURCES CONTROL BOARD)

			April 28, 2011
		a professional environmental engineer, professional hydrologist, or CPSWQ.	
42	XVII.E	This section on NAL Corrective Action Triggers should have been addressed earlier in the permit. References to the Triggers caused the reviewer to search the permit to determine what was being discussed.	
42	XVII.E.1-11	The subsections of E are redundant to points covered in XVII.B, C, and D. Timeframes in these subsections are different than the preceding sections and more difficult to achieve (i.e. subsection 8). Also reference is made to III.2. This section cannot be located in the permit?	
48	XXII .B	"The No Discharge Certification shall be certified by a California registered professional civil engineer." Other qualified professionals should be included in personnel that can certify NDC, such as a professional environmental engineer, professional hydrologist, or CPSWQ.	
48	XXIII.B	Other qualified professionals should be included in personnel that can certify compliance with Green Storm Water Impact Reduction Technology (G-SIRT), such as a professional environmental engineer, professional hydrologist, or CPSWQ.	
48	XXIII	The requirements for this section on "Conditional Exclusion for Dischargers that Implement G-SIRT" are still being developed, yet this permit is out for review? This is unsatisfactory since the discharger would not have the chance to comment on future inclusions to this section if the permit had been adopted. This implies that the Board themselves did not expect this permit to be adopted.	