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DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION

March 31, 2010

United States Environmental Protection Agency
Office of Ecosystem Protection
Mail Code: OEP06-4
5 Post Office Square – Suite 100
Boston, Massachusetts, 02109-3912

Attn: Thelma Murphy (via e-mail at murphy.thelma@epa.gov)

REFERENCE: COMMENTS TO THE DRAFT SMALL MS4 STORMWATER PERMIT

Dear Ms. Murphy:

On behalf of the Town of Wellesley, thank you for the opportunity to provide comments on the draft Municipal Small Storm Sewer System (MS4) general permit for North Coastal Massachusetts. At the public hearing held March 18, 2010, testimony was provided regarding the Town's concerns with the draft permit. Herein, as you requested, are provided our recommendations for addressing our concerns regarding the draft permit.

- Section 2.2.1 requires the development of a Phosphorus Control Plan (PCP) for the Charles River Watershed. This plan requires a number of items including but not limited to, an incentive program, prioritization, non-structural controls, structural controls, phosphorus loadings and reductions, and defining of funding sources. It is our understanding that the EPA is developing a guidance document in regards to the PCP. Without the guidance document available it makes it very difficult to understand the full-scope of the PCP and therefore limits the ability to comment on the PCP at this time.

Recommendation: EPA should extend the comment period until at least 60 days after the proposed guidance document is released. Further, EPA should consider preparing the PCP for the Charles River Watershed communities to implement in lieu of each community spending limited funds for the development of individual PCP's. These funds could be spent on implementations as opposed to development of a plan. The PCP could be developed by a working group consisting of municipalities and watershed associations.

- Section 2.4.2 Public Education and Outreach defines increased educational program levels including, at a minimum, outreach to residents, the business/commercial community, developers and contractors, and an industrial program. This can be very costly and time-consuming for individual MS4's to create.

Recommendation: EPA should prepare brochures, mailers, door hangers and other materials for the outreach targets listed above. These could be posted on the EPA website, which would allow access by MS4 municipalities for the development of a public education and outreach program within each community. This will allow MS4 communities to use limited funds toward the development of these materials focusing on their distribution and education of the community.

- Section 2.4.2 also states that "The permittee shall identify methods that it will use to evaluate effectiveness of the educational messages and the overall education program. Any methods used to evaluate the effectiveness of the program shall be tied to the defined goals of the program and the overall objective of changes in behavior and knowledge."

Recommendation: How will the effectiveness of public education program be measured? It is extremely difficult to measure the effectiveness in a quantifiable manner. If removal of this requirement is not possible, guidance from EPA on this matter should be provided.

- Section 2.4.4.8 provides detailed requirements for the Illicit Discharge Detection and Elimination Program (IDDE) with additional requirements for the Charles River Watershed. The requirement for dry-weather monitoring at manholes is very time consuming and costly and it does not provide any information that cannot be collected from dry-weather outfall inspections. In the case that dry-weather flow is found in an outfall that is determined to be an illicit discharge it is the town's responsibility to find and eliminate the source. This may entail junction manhole investigations at that time. To perform these investigations in areas that do not have dry-weather flow at the outfalls will not provide any practical data for illicit discharge detection. Additionally, the requirement of partially damming inlets for a 48-hour period at manholes where no flow is observed is extremely costly and also terribly dangerous. To do this work will require special care in entering the structures as it is considered a confined entry. Additionally, if a storm event happens during this damming it will likely result in flooding and likely plugging of pipes with the damming materials in an inaccessible location. This may result in infrastructure damage, replacement costs, and flooding damage.

Recommendation: We ask that the EPA reconsider these requirements and strongly recommend that outfall inspections for dry-weather flow be the determining factor for further catchment investigations.

- Section 2.4.6.9 states that “The permittee shall estimate changes in the number of acres of impervious area (IA) and directly connected impervious area (DCIA) tributary to its MS4 from the initial base line provided by EPA or determined by the permittee.” This measure is very difficult to monitor as there are numerous activities outside the Public Right-of-Way that the MS4 does not have jurisdiction over, but may result in either an increase or decrease of impervious area. Examples of these are the installation of a driveway or basketball courts which increases impervious area but does not typically require a permit from the town to install. The connection of gutters to rain barrels, rain gardens, or an infiltrating BMP also do not require permits from the town but it results in a reduction of connected impervious area. Therefore, this information cannot be readily tracked.

Recommendation: Eliminate this requirement from the draft permit as it will be time consuming and provide only inaccurate information.

- Section 2.4.7.1.d.iii. requires as part of the annual catch basin cleaning program the tracking of the volume or mass removed from each catch basin that is tributary to impaired waters. The ability to track that mass or volume is at best inaccurate and would add to the time and paperwork needed to be tracked as part of the cleaning program, which in turn adds to the cost. The additional cost expended on tracking will immediately impact the available funds from the catch basin cleaning program and will likely reduce the number of cleanings performed.

Recommendation: This tracking requirement should be removed from the draft permit.

- Section 2.4.7.1.d.iv. requires sweeping of town-owned sidewalks a minimum of twice per year. Most communities do not have the equipment or manpower to provide this level of sidewalk cleaning.

Recommendation: At a minimum, this requirement can be changed to cleaning of sidewalks should be accomplished to the extent practicable. Consideration should also be given to removal of this requirement in its entirety.

- Section 2.4.7.1.d.v.i. requires a catch basin inventory program (CBIP) be developed if you are part of the Charles River Watershed. As stated in a previous comment the collection of additional data is very time-consuming and costly to collect. The time and cost devoted or allocated to this task will take away from funding and time spent on physically cleaning the catch basins. This may actually be a negative impact on current good housekeeping and pollution prevention within the MS4.

Recommendation: It is recommended that the monitoring requirement be eliminated.

- Section 3.2 requires dry-weather screening and analytical monitoring. It includes an extensive list of items to be monitored including ammonia, conductivity, E. Coli, pH, potassium, surfactants, temperature and turbidity.

Recommendation: Reduce the list of required sampling parameters to those that provide the most significant results such as bacteria. The suite of samples required by the draft permit is extensive and costly. Items such as pH provide very little relevant data that can be used for discovering or resolving a particular issue and the apparatus is very costly and time-consuming to operate and requires frequent calibration. A limited suite of samples will provide more relevant data at a lower cost allowing for more efficient tracking and removal of illicit discharges. Additionally, we recommend that the EPA allow MS4's to substitute end of pipe sampling with strategic in-stream sampling to more efficiently identify problem areas and further allow the focus to be on improvements to problem catchments as opposed to bulk sampling which competes with the funding for finding and removing illicit discharges.

- Section 3.3 has requirements for wet-weather sampling of all the MS4 outfalls. Wet-weather sampling results are extremely variable and are effected by other factors such as at what point in a storm a sample is taken and when the previous storm occurred. The numerous variables and inconsistent results amount to significant data that can not readily be correlated to any know sources or results. Duplicating wet-weather sample results from a particular outfall is nearly impossible. This sampling is extremely costly and there is essentially no practical benefit.

Recommendation: This requirement should be removed from the draft MS4 permit. The focus should remain on dry-weather and in-stream sampling.

General Comments:

- The most important ingredient to permit compliance is funding. Given the current financial climate in Massachusetts and throughout the entire country, there are many competing interests for funding within municipalities. These include police and fire services and education. When requirements were established for compliance with the Clean Water Act in the mid-1970's, they were accompanied by a 90% grant reimbursement program consisting of 75% of eligible project costs (federal share) and 15% of eligible project costs (state share). The MS4 NPDES permit program is equivalent in magnitude to that program and in order to be successful, similar funding opportunities are needed. EPA needs to find ways to provide these funding opportunities to assist municipalities to comply with the MS4 requirements.
- The stringent requirements of the draft MS4 General Permit were developed with little input and participation from municipalities. We appreciate the opportunity to provide our input and comments at this time. However, the horse is nearly out of

Ms. Thelma Murphy

March 31, 2010

Page 5

the barn. Those expected to comply with the permit requirements have had virtually no input into its development.

We recommend and ask EPA to establish a "working group" that will consider the requirements of the draft permit and the comments, recommendations and suggestions received by EPA as the result of the current comment process. The working group would consist of representatives of municipalities, watershed associations and other stakeholders. The group would provide EPA with recommendations for the MS4 permit that would be well within the range of compliance for most municipalities. This would create an open dialogue among the stakeholders and the regulators.

The Town of Wellesley is committed to improvement in the quality of its waterways, including the Charles River. We have addressed the requirements for the 2003 MS4 NPDES permit long before such permits existed. We urge the EPA to implement these recommendations and develop goals that are more realistically attainable within the financial constraints of the current economic climate.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen S. Fader", with a long horizontal flourish extending to the right.

Stephen S. Fader, P.E.
Town Engineer

Cc: M. Pakstis, Director
J. Curby, Asst. Director
H. Larsen, Executive Director
B. Millett, Sr. Civil Engineer
Senator, C. Creem
State Representative, A. Hanlon Peisch