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March 11, 2011

EPA Region 1
Attn: Kate Renahan
5 Post Office Square – Suite 100
Mail Code: ORA01-1
Boston, MA 02109-3912

RE: COMMENTS ON DRAFT IMS NPDES PERMIT

Dear Ms. Ranahan:

Comprehensive Environmental Inc (CEI) is an engineering firm with offices in New Hampshire, Massachusetts and Connecticut. We work in many areas of engineering and science and have done considerable work with the 2003 Phase II NPDES permit for communities in Massachusetts. Because of this, we have been following the draft permits including the New Hampshire permit, the North Coastal and Neponset permits and finally the IMS draft permit.

We are providing comments on the draft IMS permit because we have heard many concerns from our clients about the cost of implementation and feel that we have some valid suggestions that might reduce the costs while still providing the benefits that EPA seeks. Herewith are our suggestions, which we respectfully submit for EPA's consideration.

Overall

Understandably, the draft is written from a regulatory perspective. However, from the view point of an MS4 or a consultant, the regulatory perspective can result in a disconnected approach that is harder to implement than if the program were more streamlined. By streamlined, we mean combining parts of the program into similar categories and sequential facets in the order that they would be implemented, potentially saving much time and cost.

For example, most MS4's in Massachusetts regulated under this program will divide up the work in house by applicable department. The highway department or streets department will likely do most of the maintenance activities, so if all maintenance activities are combined it may make delegation easier for the responsible authority in each MS4. Similarly, monitoring may either be done by a consultant or in house forces such as the Conservation Commission or other environmentally oriented department. So combining all monitoring into one area of

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the permit may make delegation by the MS4 easier and more cost effective, reducing redundancy between the parts and streamlining the understanding of the permit's requirements.

Additional more specific comments are as follows:

1.7.4 NOI

In our first reading of the permits, we were confused whether the NOI requires information that needs to be generated or comprises more of a plan for obtaining that information during the permit term. Upon further reading an analysis, we realized it was more of a "Plan" than a major data collection effort. Because of this, elements of the NOI appear redundant with the creation of the stormwater management plan and may provide considerable confusion for MS4's and their consultants.

We suggest making the NOI due *after* the SWMP, since it is basically a summary of the larger document. The NOI could then be publicly noticed with more information found in the SWMP for those parties wishing to comment.

Budgeting

Most municipalities that we are familiar with on this MS4 list are budgeting for the next year in November, December and sometimes January, depending on when their town meeting is. Cities tend to have City Councils or Alderman or a Mayor, and can adopt and modify budgets in a shorter time frame. However for the majority of Massachusetts communities, the budget cycle requires decision-making in November or December of 2011, to establish a budget for the 2013 fiscal year, which begins July of 2012.

We predict that many communities will not be able to prepare the SWMP in house, particularly in light of the staff cuts that have occurred in recent times. Most municipalities engage consultants to assist with SWMP preparation because of lack of available staff time or limited staff expertise. This means that the implementation dates for the new permit requirements should allow sufficient time for municipalities to budget for the required consulting services, and to engage the expertise needed to prepare the SWMP. The schedule must not only allow for the normal municipal budgeting cycle noted above, but also for the time required to contract for consulting services. As many communities procure such services through a competitive proposal process, which can take up to six months or more, this time needs to be accounted in the permit schedule.

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To best allow for budgeting and appropriations within their budget, a publication date of say June 30, 2011 with an effective date no sooner than July 1, 2012 would allow municipalities time to gain the necessary resources either to do the SWMP in house or to hire a consultant. This schedule would allow for municipalities to take the following steps:

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- budget what they think they will need (which often involves getting costs from consultants) during late 2011,
- get budgets approved in early 2012, go out for a request for proposal if necessary and
- be ready to go by July of 2012.

After that, six months would be a reasonable time to allow for preparation of the SWMP followed by public noticing.

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1.9.1 -1.9.2 ESA/Historic

The endangered species assessment and historic properties should be a part of the SWMP or the mapping effort instead of a part of the NOI. The ESA protocol in particular is rather hard to follow. We would suggest a flow chart incorporating the initial assessment into the SWMP or into the mapping component itself. We do appreciate that EPA has gone to the effort to list the endangered species within each river basin and this should reduce the cost considerably. However, please keep in mind this will be highly unfamiliar territory for many MS4's and their consultants. If this were made a part of the mapping then it would be more streamlined and more logically placed on how the work would be done, i.e., as part of the assessment of catchments to decide sample locations and for prioritization.

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2.3.2 New Discharges

This section is confusing as written. We suggest that it instead be written from the standpoint of an MS4 and should only address MS4 discharges. New residential, commercial or industrial entities for the most part will get permission from the MS4 to discharge to their system. In most Massachusetts MS4's subject to this permit, this means that the development will go through either Subdivision Rules and Regulations (if residential) or Site Plan Review if commercial or industrial. The authority for both of these resides in Planning Boards who often have very little understanding of environmental issues. Ordinances and bylaws also reside with the Planning Board.



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CEI suggests that EPA provides specific design standards such as the one (1) inch rainfall event, or meet the MassDEP Stormwater Management Standards, whether or not the discharges are within areas regulated under the Wetlands Protection Act. Further, the MS4's should adopt regulations that apply these standards to new discharges or new MS4 connections from residential, commercial, and industrial facilities, whether these facilities are within WPA jurisdiction or not. However, we are unsure of what EPA's intent is in terms of TMDLs and listed waters and this section of the draft permit.

2.4.4.6 Mapping

The mapping section conflicts with 2.4.4.8 IDDE requirements to delineate the watershed into catchments. The timeline should be the same to reduce costs and should be three (3) years instead of two (2). In this way, MS4's could map the catchment areas, delineate their size and character in order to best prioritize dry weather and wet weather sampling. We believe this would make things considerably less costly and confusing for MS4's.

2.3.3 Anti-degradation

CEI suggests dropping the anti-degradation requirements in that they are confusing even to regulators and consultants let alone MS4's. We also do not believe that the anti-degradation requirements have been adequately aired or understood and can see that this component alone might derail the entire permit program at some near point in the future. Should there be some minimum design criteria instead?

2.4.6 Post Construction

Post construction requires more ordinances. CEI suggests combining all ordinance requirements throughout and providing templates that are more concise and understandable than the current range of "Models."

CEI has worked with a number of municipalities trying to get their ordinances in place and in fact developed our own model, but it continues to be a challenge to get planning boards to understand what needs to be done and to simplify the process so that it is not derailed by commercial entities who fear a loss of control. We believe that there are many MS4's in Massachusetts that have not yet implemented the regulatory and ordinance requirements due to the complexity of the program.



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3.3 Wet Weather Monitoring

CEI recommends dropping the wet weather monitoring requirement. The requirement is too broad and it will clearly be a very expensive portion of the work. Random grab samples of wet weather events on the scale required by the permit will be a huge expenditure of limited resources on data that has little scientific value for environmental improvement.

Alternatively, at the very least, we recommend combining the wet weather program with the dry weather monitoring (not physically, but in the assessment of what to monitor) and prioritized at the same time as the mapping and dry weather monitoring. Lastly, a few minor suggestions:

- Provide simplified guidance for disposal of catch basin cleanings and street sweepings. CEI continues to get questions about this and although we have provided our own fact sheets and have advised communities many of them do not have good locations for disposal or reuse of the street sweepings or maybe "sweeping under the rug."
- Eliminate the SSO portions as this is duplicative and they are regulated elsewhere under other programs. If the SSO requirements are left in then the time periods for compliance should be considerably longer.

If you have questions, please do not hesitate to contact me and we would be happy to clarify or expand on these thoughts. Thank you for the opportunity to comment.

Sincerely,

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Eileen Pannetier
President

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