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>

02/20/2009 02:28 PM

To Thelma Murphy/R1/USEPA/US@EPA

cc

bcc

Subject MS4 Comments

History:  This message has been forwarded.

Ms. Murphy

I wish to submit comments regarding the proposed new MS4 regulations. I attended the public meeting in Portsmouth on Jan. 28 as well as a Seacoast Stormwater Coalition meeting a few weeks before were the proposed changes were discussed.

I am submitting comments as an individual citizen, but I come at this from a well informed position. I work at the Great Bay National Estuarine Research Reserve where I run the Coastal Training Program. The CTP provides science-based training and resources to decision makers and a main focus the past 5 years has been runoff and associated water quality issues. I am also the Chair of the Portsmouth Conservation Commission where every meeting deals in part with runoff issues. I am also active in my community with a local non-profit working to restore a tidal wetland system and watershed. This watershed has almost 40% impervious cover and the single largest issue is runoff. So through my professional and personnel activities I deal with and have been working hard to help solve runoff water quality issues.

I understand the perspectives of the speakers (at the January meeting) when they expressed their concern about the cost the new proposed rules would inflict on the municipalities. I know this to be a real problem as I know how hard some municipalities have worked to reduce impacts of runoffs. But I also know first hand that many decision makers see water quality as a secondary issue of little concern and a great deal of work toward solving these issues is of the "lowest common denominator sort". Efforts are only what "is required" and no more. A lot of work is done to meet minimum standards with little of no consideration of the goal of cleaner water. The pressure from and responsibility to the taxpayer are the first two things that are considered when dealing with stormwater. Generally the third thing considered by municipalities is how to deal with stormwater so as not to in any way impact development because taxable development is king. These are real and important perspectives.

I believe we will not make real progress on improving our water quality by effectively dealing with stormwater until there are real incentives to do so. Municipalities are not requiring new developments or re-developments to implement LID practices, the old mantra of cost-cost-cost is heard so much as to be meaningless, and the cry of "not proven" is a just false. There are so many ways municipalities could require practices and technologies that would directly result in improved stormwater management and it is time to do so.

Every effort should be made to make the new regulations efficient as well as effective. Municipalities need to be able to share education programs as well as other resources that are developed using clear EPA guidelines that can be customized by each municipality to be relevant and meaningful to the audience. Public involvement and participation is very important and local watershed groups as well as citizen groups should be able to help municipalities meet these requirements. Illicit discharge detection and elimination should be improved with funding to help towns detect and correct problems, a measurable tracking success program, and stronger penalties for those who create these problems. Construction and Post Construction measures need stronger enforcement. And strong incentives need to be in place to help municipalities require LID practices and technologies on all new developments and re-developments. Municipal operations should be the model for all to follow and our citizens should play a role in these efforts. The proposed monitoring program needs to find ways to cut cost to municipalities while being efficient and effective, but let's make sure any money that is required to be spent here results in improvements in stormwater management. In my view the bottom line is we very much need new and stronger regulations but they must be effective with built in efficiencies.

Thank you for taking comments. I appreciate your efforts and look forward to the day when effective stormwater management that results in clean surface and coastal waters is the accepted norm and practice in all private, commercial, and municipal development and procedures.

Sincerely
Steve Miller
Portsmouth Citizen

Please Note New Email Address Below

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**Comments to the US Environmental Protection Agency
from the City of Portsmouth New Hampshire
January 28, 2009**

Thank you for the opportunity to provide comment with regard to the proposed changes, dated December 23, 2008, to the Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Small Municipal Separate Storm Sewer Systems (MS4s) in New Hampshire. The City of Portsmouth, New Hampshire with a population of approximately 21,000, consists of approximately 17 square miles and is located on the Piscataqua River. Portsmouth's City storm drain infrastructure consists of approximately 323,000 lineal feet of pipe, 4,700 catch basins or manhole structures and 450 outfalls. This proposed General Permit would be applicable to the City's Separated Storm Sewer system, and as such, the City is providing the following comments.

The City of Portsmouth agrees with the intent and goal of the Clean Water Act. Clean water, for all to thrive in the community, is important. However, the proposed regulations are excessively burdensome and some components will not help achieve clean water. Several general comments applicable to the overall permit conditions are provided at the beginning of this document, and subsequent comments more specific to the requirements are provided in the same sequential order as listed in the Permit.

General Comments:

1. The Permit, as drafted, would create a significant administrative burden for the City that would *detract* from its ability to provide direct benefits to water quality through such activities as increased street sweeping, increased catch basin cleaning, removal of illicit discharges, and/or conducting inspections of construction sites. The City has estimated that approximately 2,000 staff hours would be required to comply with the administrative components of the draft Permit such as tracking and annual reporting. The total estimated cost to comply with this Permit, an additional \$2,100,000 over the five year permit cycle, would constitute a 6-7% increase in the City's current Public Works budget. Due to the current national economic crisis, the Portsmouth

City Council has mandated a zero increase in the all City budgets, therefore other essential programs would need to be reduced or cut to accommodate these expenditures.

2. Many of the deadlines provided in the draft Permit do not allow sufficient time to allocate funding to complete the tasks required. The City's budget process requires months of planning, hearings, and work sessions before final approval by the City Council. The budget process for the City's next fiscal year, beginning July 1, 2009; is already underway with a final vote expected in late May or June. The City requests that no item in the permit be required to be completed during the first Permit Year except the preparation of the Stormwater Management Plan (SWMP).

Section-Specific Comments:

1.4 Non-Stormwater Discharges: This section states that the listed Non-Stormwater Discharges are assumed to be acceptable unless EPA, the State, or the permittee identify that they are significant sources of pollutants. This statement, which presumes that the listed non-stormwater discharges are acceptable unless proven otherwise, is consistent with the previous USEPA MS4 General Permit for NH, MA, and VT (2003 – 2008), and the related (MSGP 2000 and 2008) permits. However, Section 1.4 appears to be in direct conflict with Section 2.3.4.4 (page 18) of this Draft General Permit, which identifies that, "The permittee must evaluate the sources of non-stormwater discharges in Part 1.4 and determine whether these sources are significant contributors of pollutants to the municipal system... The permittee must document in the SWMP its determinations on each of the non-stormwater discharges listed in Part 1.4."

Section 1.8 Alternative Permits:

Please identify any petitions that have been received for New Hampshire, or which may be pending submittal to the USEPA.

Section 2.2.3 Discharge to Chloride Impaired Water in New Hampshire: The requirements of the permittees in this section are excessively burdensome and an inappropriate delegation of responsibility. The New Hampshire Department of Environmental Services (NHDES) is

scheduled to issue Total Maximum Daily Load reports (TMDLs) for chloride impaired water bodies in and around Portsmouth over the next 5 to 10 years. The requirements of this draft Permit appear to be designed to shift responsibility from the NHDES to the municipality to identify the source of the impairment. It is not appropriate for the USEPA to use this General Permit to mandate that the City acquire information about the source of the chloride impairment.

Within the City of Portsmouth, there are 130 privately owned parcels of land within the eight watersheds of the surface waters that are identified as chloride impaired. In addition, a number of the major roadways within the watersheds, including Interstate 95, are maintained by the State of New Hampshire. Requiring the City to obtain information about the quantity of chloride-based deicing chemicals applied during each storm event at each of the 130 parcels that contain private or public parking lots or roads is anticipated to cost the City \$5,600 annually.

The remainder of the Chloride Impaired Water program described in this draft Permit includes requirements for those non-municipal entities to conform to specific application rates, to calibrate application equipment, to cover their piles, and a requirement to educate those entities on best management practices for deicing materials. This is a significant enforcement burden. The City of Portsmouth believes the TMDL documents, not this General Permit, should specify the corrective actions necessary and this section should be removed.

Section 2.3.2 Public Education and Outreach: Current studies show that the majority of the public does not understand how stormwater can become polluted and how it can contribute to water quality issues. Most of the public still believes that catchbasins in their roads transport stormwater to a treatment facility prior to discharge. In addition, most people do not understand the concept of a watershed, or the concepts related to the water cycle (rainfall, runoff, infiltration, and evapotranspiration). A significant amount of awareness-raising must be done across the United States prior to an individual community education/outreach campaign in order to truly stimulate behavior changes in the general public. The City of Portsmouth, like many other municipalities, sees a large influx of visitors during the tourist season and thus education must extend well beyond the immediate locality to be truly effective.

The City supports the requirements to provide public education materials related to the four sectors identified in the General Permit, however it is beyond any individual municipality's means to conduct a truly meaningful effective campaign. A national education program, such as that promoted by Keep America Beautiful in the 1970's, could provide a consistent and transferable message that regulated MS4s could use in developing further promotional materials. At a minimum, the USEPA should provide a template or umbrella program for education of stormwater issues that each municipality could modify to be specific to the municipality's waters. Engaging a public relations firm to identify messages that can be effective is a lengthy and expensive process that should not be imposed upon smaller communities or single cities. It will likely take any party at least 6 months to identify a target audience and message, and develop an evaluation protocol. The USEPA is in a better position to create and evaluate the effectiveness of any public education messages. The City of Portsmouth has participated with the Seacoast Coalition on storm water educational initiatives in the past and is particularly sensitive to the need for a properly funded, broad sweeping public education program in lieu of inadequately-funded local initiatives.

Should the USEPA persist in delegating this important educational component to individual municipalities, these requirements should be targeted for Permit Years 2 and 3, not Permit Years 1 and 2. This would provide a greater opportunity for municipalities to work together to develop a more effective educational message.

2.3.4 Illicit Discharge Detection and Elimination Program:

2.3.4.2 a through d: Most municipalities or quasi-municipal sewer districts, including the City of Portsmouth, are required to report to the USEPA on Sanitary Sewer Overflows (SSOs) as part of their NPDES permits for their wastewater treatment plants. This requirement for additional reporting is redundant. The City of Portsmouth recommends it be removed from the General Permit Requirements.

Section 2.3.4.4: This section of the IDDE requirements references the listing of allowable Non-Stormwater Discharges from Section 1.4. The Section 1.4 language implies that these listed

Non-Stormwater Discharges are acceptable unless proven otherwise. The language in Section 2.3.4.4 implies the permittee must undertake a comprehensive analysis of each of the non-stormwater discharges listed in order to prove that they do not cause or contribute to water quality issues. The City of Portsmouth believes that the USEPA or the State should be responsible for such a study that would benefit all permittees. In addition, because this analysis is required to be contained in the SWMP, it would need to be completed within 120 days of the effective date of the permit. Insufficient time has been allotted if this permit requirement remains.

The City of Portsmouth recommends that the language in 2.3.4.4 be removed completely or revised to reflect that only when the listed non-stormwater discharges are observed during illicit discharge detection and elimination (IDDE) inspections would an evaluation be conducted to determine if the discharge is a significant contributor of pollutants. For example, identification of a dry weather discharge that is determined to be water line flushing would be evaluated to determine if it is a significant contributor of pollutants. This evaluation could consist of a visual assessment of the discharge for solids (suspended and dissolved) and visual assessment of the receiving water to ensure it was not causing excessive erosion.

2.3.4.6 Written IDDE Program: Item “a” appropriately references the legal authority for illicit discharges required by the MS4-2003 General Permit. Similar references should be added to the following IDDE sections because many municipalities have already completed these tasks as they were also required by the MS4-2003 General Permit:

- b. Illicit discharge potential assessment and prioritization of catchments within the MS4,
- c. Written protocol of responsibilities for eliminating illicit discharges,
- d. Written systematic procedure for locating illicit connections (this section should also be modified to acknowledge that if a municipality has already walked the shorelines of their waters to develop their map and confirm the illicit discharge potential as part of the MS4-2003 protocol, they need only continue to evaluate their high priority waters as part of this General Permit using the dry weather monitoring protocol),

- e. Procedures designed to prevent illicit discharges, and
- f. An indicator and tracking program.

In particular the City of Portsmouth worked with the Seacoast Coalitions Communities to develop a manual that identified procedures to fulfill these requirements under the MS4-2003 General Permit and used the procedures to document these items for its community.

2.3.4 Construction Site Stormwater Runoff Control:

Can the EPA provide a template for construction site inspections?

2.3.6 Stormwater Management in New Development and Redevelopment:

2.3.6.5 Requirements for as-built drawings within 90 days is not reasonable. Allow the permittee to provide at least one year for developers to submit as-built plans.

2.3.6.8 Directly Connected Impervious Area: The requirement to complete an inventory and prioritization of MS4-owned property and infrastructure that may have the potential to be retrofitted is a burdensome and inappropriate requirement. The City of Portsmouth owns 184 parcels of land totaling 1,140 acres. The City estimates a cost of at least \$54,000 to complete this task. Those funds could be better spent on already identified storm water treatment infrastructure needs and operational activities. Retrofits should be applied as corrective measures for areas that are already impaired from polluted stormwater runoff, or as opportunistic when a property is already planned for redevelopment. This requirement should be removed from the General Permit.

2.3.7.1.d Catchbasin Cleaning: The City of Portsmouth developed a catchbasin inspection, cleaning and repair schedule as part of a Stormwater Master Plan project. The program includes inspection of all catchbasins annually and cleaning any that have sediment within 6-inches of the lowest invert in the structure (estimated to be approximately 20 to 25% of the structures). To require cleaning of an additional 25% of structures, whether they need it or not, would cost the City an additional 1000 labor hours. The requirement for cleaning within a given time frame should be removed if annual inspections are required.

3.0 Outfall Monitoring Program:

Section 3.1.2 should be modified to acknowledge that the dry weather analytical monitoring is only required for flowing outfalls, and that if a permittee conducted dry weather screening during the 2003 – 2008 permit cycle and determined the illicit discharge potential was low or medium, further screening is not required. The City's cost to complete the dry weather screening as currently presented in the Draft General Permit would be approximately \$13,000 per year.


Section 3.3 Wet Weather Analytical Monitoring:

The utility of this data will be limited because it will likely be collected during a variety of non-comparable storm events. In addition, this is a burdensome requirement. Wet weather sampling will require crews of two people to minimize the dangers of conducting sampling near water bodies during storm conditions. In addition, the hold times required for the e-coli and enterococcus samples are 24-hours. In order to transport the sample to the lab and allow laboratories time to conduct the analyses within the required hold time, the City would need to limit sample collection to 10-20 samples per storm event. To achieve the sampling requirement of 25% of the City's outfalls each year, 5 to 10 storm events would need to be sampled. The City of Portsmouth estimates it will cost \$98,000 per year to conduct wet weather monitoring. We believe this requirement should be removed from the General Permit altogether. At most a range of storm sizes should be specified, and a set of representative outfalls should be sampled only when an event can be sampled during regular business hours.

Appendix E Notice of Intent:

The suggested form provided by the USEPA in Appendix E requires that information related to the 2003 SWMP be provided. Most MS4s submitted annual reports that already provided this requested information. In addition, the requirements for each minimum control measure state that the MS4 must continue those BMPs from the previous permit that are still appropriate. If a permittees prior annual report and future SWMP already contain this information, does it need to be provided again in a separate section?

Thank you for the opportunity to provide comments to this proposed permit for stormwater discharges from small municipal separate storm sewer systems.



David Allen, P.E.

Deputy Director, Public Works

City of Portsmouth

City of Portsmouth														
Estimated cost to comply with Draft MS4 Permit Dated December 2008														
Permit Section	Task Description	Comments	Permit Year 1 (2009)				Permit Year 2 (2010)				Permit Year 3 (2011)			
			Staff hours	Staff Rate	Outside Services	Total \$	Staff hours	Staff Billing	Outside Services	Total \$	Staff hours	Staff Billing	Outside Services	Total \$
1.7.2	Notice of Intent	with endangered species and historic places certification		\$ 40										
1.10.2	Stormwater Management Plan	Planning/Code (2 people), DPW (3 people)	140	\$ 40										
	General requirements	4 meetings 4 hours each plus 60 hours S. Psula												
1.4 / 2.3.4.4	Non-SW analysis	Outside consultant and staff	40	\$ 40	\$ 15,000									
2.2.1	Impaired Waters with TMDL	Additional Annual report req't												
2.2.2	Impaired Water without TMDL	Additional Annual report req't												
2.2.3	Chloride Impaired Waters													
	Reports to City of chloride use	DPW processing of info from 130 parcels, include in annual report												
	Develop and provide regulatory framework for requirements	Planning w/DPW assistance, legal review, planning meetings - ordinance specifying requirements										120	\$ 40	
	Education program	DPW initiated program providing notices to affected parties										60	\$ 40	\$ 300
	Inspections to check (10%)	Not required, but necessary												
2.3.2	Public Education & Outreach													
	Target Audience ID and Pre-survey		50	\$ 40	\$ 10,000									
	Prepare/Distribute materials		100	\$ 40	\$ 1,000									
	Distribute materials						30	\$ 40	\$ 1,000					
	Post-survey											50	\$ 40	\$ 5,000
	Include in annual report													

City of Portsmouth		Estimated cost to comply with Draft MS4 Permit Dated December 2008	Permit Year 1 (2009)			Permit Year 2 (2010)			Permit Year 3 (2011)			Permit Year 4 (2012)			Permit Year 5 (2013)			
Permit Section	Task Description	Comments	Staff hours	Staff Rate	Outside Services	Total \$	Staff hours	Staff Billing	Outside Services	Total \$	Staff hours	Staff Billing	Outside Services	Total \$	Staff hours	Staff Billing	Outside Services	Total \$
2.3.3.1	Public notices	DPW Initiated program	40	\$ 40	\$ 200	\$ 240	40	\$ 40	\$ 200	\$ 240	40	\$ 40	\$ 200	\$ 240	40	\$ 40	\$ 200	\$ 240
2.3.3.2	Annual participation																	
	Include in annual report																	
	Illicit Discharge Detection and Elimination																	
2.3.4.1	Prohibit IDs and SSOs	Already completed under prior General Permit																
2.3.4.2	Eliminate IDs w/in 30 days or 6 months	Assume elimination of 1 ID/year by DPW crew and 1 by outside contractor	40	\$ 40	\$ 12,000	\$ 13,600	40	\$ 40	\$ 12,000	\$ 13,600	40	\$ 40	\$ 12,000	\$ 13,600	40	\$ 40	\$ 12,000	\$ 13,600
	a. Include SSOs	SSOs already regulated thru WWTP NPDES permits.	40	\$ 40														
	b. SSO inventory w/in 60 days of permit																	
	c. establish elimination schedule		20	\$ 40														
	d. include in annual report																	
2.3.4.3	Continue prior IDDE program	From prior General Permit and Stormwater Master Plan pipe and outfall inspections Task 3 Table 2	1660	\$ 40	\$ 2,700	\$ 69,100	1660	\$ 40	\$ 2,700	\$ 69,100	1660	\$ 40	\$ 2,700	\$ 69,100	1660	\$ 40	\$ 2,700	\$ 69,100
2.3.4.4	Document in SWMP																	
2.3.4.5	determination whether Non-SW discharges are sig. contributors of pollutants	See cost in SWMP section above																
2.3.4.6	Complete map of storm drain system	From SW Master Plan Task 3 Table 2	400	\$ 40	\$ 3,000	\$ 19,000	400	\$ 40	\$ 3,000	\$ 19,000	400	\$ 40	\$ 3,000	\$ 19,000	400	\$ 40	\$ 3,000	\$ 19,000
	Prepare written IDDE program	Already completed under prior General Permit																
	a. legal authority																	
	b. illicit discharge potential of catchments																	
	c. written protocol of responsibilities																	
	d. procedure to remove illicit connections	Already completed under prior General Permit																
	e. develop procedures for prevention of IDs and SSOs																	
	f. define indicators for tracking IDs																	
2.3.5.1, and 2	g. annual training of employees	Assume 40 hour prep, 2 hour training, attendance by 40 employees	120	\$ 40	\$ 1,000	\$ 5,800	100	\$ 40		\$ 4,000	100	\$ 40		\$ 4,000	100	\$ 40		\$ 4,000
	Construction Site Runoff Control																	
2.3.5.3	Continue 2003 program	Already completed under prior General Permit																
	Must review during site plan review, conduct inspections, and track enforcement for annual report																	
	Already completed under prior General Permit																	

February 20, 2009

EPA – Region 1
Attn: Thelma Murphy
Office of Ecosystem Protection (CIP)
One Congress Street
Boston, Massachusetts 02114-2023

#09-02-EPC

Re: Draft New Hampshire Small MS4 General Permit Comments

Dear Ms. Murphy:

The City of Manchester is dedicated to protecting the environment and providing our residents with a clean, safe, and environmentally sound place to live. It is our responsibility to provide this environment in a fiscally responsible manner. The EPA, the NHDES, and the regulated communities are working together as a team to improve water quality in the State of New Hampshire. It is this team approach that we need to use to reach our common goal. Water quality is not just a municipal issue; but a regional issue and national issue as well.

The City of Manchester is the largest City in the State of New Hampshire and because of this we are placed in a leadership role. It is this leadership role that we take very seriously. The NHDES looks to us in this leadership role to assist with the other communities in the State. The City works with other communities in our region on stormwater, wastewater, and water quality issues. This regional approach has been a strength that all the members have gained from. Members of the City of Manchester staff are active in the professional community making presentations on environmental issues and being members of professional organizations.

I asked members of my staff to review the latest permit requirements and to attend and participate in the public hearing that was held on January 28, 2009 in Portsmouth, NH. We offer the following comments and suggestions on the permit requirements.

1.10 Stormwater Management Program (SWMP)

Under c. *“The permittee is encouraged to maintain an adequate funding source for the implementation of this program. Adequate funding means that a consistent source of revenue exists for the program.”*

The concern that we have along with the other communities that were represented at the public hearing is with the costs associated with this program. The City of Manchester estimates that compliance with this permit will cost at a minimum an additional \$850,000 per year above what is already being spent to comply with the current permit. This cost is 1/3 of the entire personnel cost for a staff of 44 employees at the wastewater treatment plant. In this economic environment with budget cuts and lost revenues the communities that are regulated under this permit including Manchester would have a difficult time ensuring these funds will be available and therefore

complying with this section based on the current permit requirements and associated costs. Currently stormwater is funded under the City's general fund and is therefore subject to budget cuts due to the budget constraints that we all are facing.

Under b., the 120 day time frame would be sufficient to modify existing BMPs, but is not enough time to review, plan and update measurable goals. Previous goals will first have to be reviewed to determine effectiveness. Updating goals should be given at least one year of time.

2.2.2 Discharge to an Impaired Water without an Approved TMDL

"The permittee shall: evaluate discharges to impaired waters."

What is considered an evaluation? The EPA needs to make this language more clear. In regards to impairments, water bodies in NH are considered impaired for mercury due to atmospheric deposition. This is caused by acid rain originating from the Midwest and is not caused by the communities MS4. This same rationale would also apply to aluminum in rivers where aluminum would be naturally occurring due to low pH waters dissolving this metal out from the bottom of streams. We should not be required to sample for these or similar parameters or develop and implement BMPs to address these pollutants. This requirement also has implications under sections 2.3.6 and 3.0.

2.2.3 Discharge to a Chloride Impaired Water in New Hampshire

"The permittee shall develop and implement a written plan to reduce chloride in discharges from the permittee's MS4 to those chloride impaired surface waters. The requirements in this plan shall apply to all parking lots, roads, and chloride-based deicing chemicals piles that drain directly or indirectly to all permittee's MS4."

Stevens Pond is one of the bodies of water that is impaired for chlorides and it receives direct discharges from Interstate 93 which is owned and maintained by the NH Department of Transportation (DOT). Section 7.0, Requirements for Transportation Agencies has no mention of chloride abatement. Can it be assumed that the EPA is expecting cities and town like Manchester to resolve the chloride issues created by the NH DOT? The NH DOT should be required to reduce the chloride loadings from Interstate 93 to Stevens Pond by placing language in section 7.0 similar to this language.

In the first bullet item under this section, Manchester would suggest that a reference to 2.3.2.1(c)ii and iv be included to solidify in the permittee's mind that the requirement is not for residential units or developers. Also, a definition of parking lot is needed. A number of parking spaces should be spelled out. Manchester believes 10 spaces should be the minimum considered. Otherwise, every small beauty parlor, sandwich shop, dry cleaner, etc with two to nine parking spaces would be covered under the regulation. This would make it very difficult and labor intensive to implement.

In this section of the permit the EPA is requiring the municipalities to regulate the application of deicing chemicals on private parking lots and to gather data on the application of these products per storm per account. There are many issues that are raised based on these requirements. The information that will be provided, if any, will be merely an estimate on the part of the property owner or the contractor that is applying the chemicals. Many small commercial accounts will hire the same private landscaping or plowing contractor to do their lots. One truck full of salt may be used to treat five or more businesses. There is also the likelihood that the salt is well mixed with sand (a mix of 80/20, 70/30, 60/40 it all depends on the weather, the loader operator, etc.).

Not all applications of deicing chemicals are associated with a storm event. Melting and refreezing can cause the contractor to apply deicing chemicals and this is not considered a storm event. There is a requirement to educate users of deicing materials on BMPs (storage, use, and housekeeping) for their uses and effects on the environment. The EPA needs to define what is considered education in regards to this requirement. The winter

maintenance contractors can change each year based on bid prices. This will affect training and the effectiveness of the training. Monitoring private contractors and private property would be very difficult.

The EPA is also requiring all public and private applicators to use application rates that are at least as stringent as those specified in the State of Minnesota guidance documents. The concern here is with liability. If the municipalities define application rates and somebody is injured by way of an unsafe surface, will the injured party or the private property owner issue a lawsuit to that municipality because they defined their application rate for the deicing chemicals?

The suggestion is that the EPA, the NHDES, and the NH DOT work together to develop a statewide program on the proper application of deicing chemicals. Workshops can be held to educate the applicators. A public service message can be run to educate the general public on the impact that deicing chemicals make on the environment and the need to reduce the use of these chemicals. The general public also needs to be educated on safe driving practices during storm events. The driving public expects roads free of snow and ice and they do not expect to slowdown. This year in NH there was some major traffic accidents associated with winter storm events.

2.3.2 Public Education and Outreach

Manchester supports the public education element of the permit. We need to attempt to educate the public to be more environmentally conscious. The permit states *"The ultimate goal of a public education program is to create a change in behavior and knowledge so that pollutants in stormwater are reduced."*

How does the EPA expect the municipality to measure a change in behavior and knowledge gained from the educational message? Follow-up surveys are ineffective. Many are not completed or returned including the online surveys. Some additional guidance is needed from the EPA on this requirement. The City of Manchester anticipates budgeting \$10,000 above what is already spent to comply with this requirement. The EPA and the NHDES should work together to develop public service messages and give guidance to the municipalities on messages for the different audiences.

2.3.4 Illicit Discharge Detection and Elimination (IDDE) Program & 3.0 Outfall Monitoring Program

The outfall inventory requirement has already been completed by most communities. In the City of Manchester our MS4 has been mapped including the location of the outfalls. This information is included in our GIS. Currently the outfalls are inspected on an annual basis and sampled as necessary during dry weather flow conditions. Any discharge that is actively flowing whether it is via a pipe outfall or a stream is sampled and tested for E-Coli. If the staff conducting the sampling suspects that this discharge could contain any other pollutants then they sample the outfall for these parameters. The sampling for E-Coli is a good indicator of an illicit discharge along with the visual inspection. If an elevated result is obtained, then the outfall is sampled up stream to try and locate the source of the contamination.

The requirements to test the outfalls for conductivity, turbidity, pH, chlorine, temperature, surfactants (as MBAS), potassium, ammonia, in addition to E-Coli, and the impairments of the water body as stated under 3.0 Outfall Monitoring Program for 25% of the outfalls per year for both dry weather and wet weather conditions is very costly and time consuming. The City of Manchester estimates that the sampling protocols under sections 2.3.4 and 3.0 will cost the City approximately \$15,000 above what is already being spent.

The individual parameters may indicate a potential problem, but the reality is that the source of the problem is an unregulated entity under the EPA program. Agriculture and private residences are exempt under stormwater regulations. However through fertilization, car washing activities and general practices associated with each will show the largest impact to ammonia, potassium, phosphorus, surfactants and pH. Conductivity will also increase because of the salts associated with these exempt stormwater sources. Until all entities are regulated, especially agriculture, it will be impossible to show improvements to water quality criteria on a consistent basis. Manchester and other communities believe that the current practice of checking for bacteria, along with the

sensory observations outlined in the "Outfall Inventory" section, complies with the IDDE and is sufficient until exemptions are lifted from the current stormwater program.

The water bodies are already being sampled for pollutants. The City of Manchester performs the dry weather screening as outlined above, the NHDES also performs dry weather screening, and the NHDES performs water quality testing of water bodies in the City of Manchester and in the State of NH. Urban ponds are sampled during the summer months by the urban ponds program, pond groups, and the City of Manchester Health Department. The City of Manchester has just completed a watershed restoration plan for Nutt Pond and we will be doing more extensive sampling on the outfalls for parameters that were identified in the plan. We are also going to be looking at other BMPs in the watershed to help with loadings to the pond. The City of Manchester is a CSO community and is required to sample the CSO outfalls on an annual basis per our NPDES wastewater discharge permit.

The City of Manchester along with other communities in conjunction with the U.S. Army Corps of Engineers and CDM has been participating in the Merrimack River Study Phases I & II. This is a watershed based approach to the river WQ issues. A report was generated on the findings from the first phase of the study. The second phase is underway. The City of Manchester is contributing \$22,000 per year to this study. Studies such as this in my opinion goes a lot further in addressing the WQ issues with the Merrimack River than us going out and collecting samples for any rainfall event of sufficient intensity to produce a discharge during any period of the event.

Manchester would suggest that EPA provide municipalities with more flexibility to develop their own sampling protocol to address water quality issues in their MS4 community. EPA can then review each individual plan to determine if it meets the intent of the stormwater program. The EPA Stormwater section may be better served if that branch considers CSO communities requirements at their outfalls under other EPA issued permits. Municipalities working with the NHDES, watershed / pond organizations, and other entities can perform good quality sampling and make informed decisions on addressing WQ issues. Funds then can be obtained to develop and implement BMPs to address these issues.

Section 2.3.4.5 states a separate storm sewer system map must be finished by two (2) years from the effective date of this permit. This is in conflict with section 1.10.3 bullet one that states mapping must be completed three (3) years from the effective date of the permit and even cites section 2.3.4.5.

2.3.6.8 Directly Connected Impervious Area

The requirement is to estimate the impervious area within one (1) year. Manchester has accomplished this via the completed GIS inventory mapping. Many communities are not as far along as Manchester. This requirement should dovetail with the three year mapping requirement. Another 60 days should be given to complete the delineation. The time frame should be changed to consider this.

2.3.7 Good House Keeping and Pollution Prevention for Permittee Owned Operations

"Within 6 months of the effective date of the permit, develop an inventory of all floor drains within all permittee-owned buildings. The inventory must be updated annually. Ensure that all floor drains discharge to appropriate locations."

This requirement is moving outside the intention of the stormwater permit. The permit is to address stormwater discharges. These drains are interior and will not be subject to rainfall events. These are typically covered under the industrial pretreatment regulations as outlined in 40 CFR Part 403. This requirement goes beyond what was required in the MSGP. The interior floor drains discharge to sanitary sewers and is subject to plumbing codes to ensure that they indeed discharge to the sanitary and not the storm sewer. I would suggest that this requirement be removed from this permit.

The requirements under Roadways and Storm Sewers requires the following; *"Catch basins shall be inspected annually. Catch basins shall be cleaned a minimum of once every other year."*

This requirement is the most expensive cost to all Phase II communities throughout New England. This would be very costly to the City of Manchester. The City has 14,000 catch basins in its system. The cost to clean half of the basins every year would cost the City approximately \$350,000 per year and the cost to inspect the other half of the catch basins would be approximately \$350,000 per year. There is also a requirement to inspect all stormwater structures annually. The City has 3,000 drainage manholes that would cost approximately \$150,000 per year to inspect them. Total compliance cost for just this part of the permit would exceed \$850,000 annually.

Currently, as documented in the past five year annual stormwater reports, Manchester cleans between 1,800 and 2,000 catch basins (about 15% of the City's basins). One thousand of these are hired out to a private contractor and between 800 to 1,000 are completed by the City. The catch basin contractor also works for other communities and the NH DOT. We are hard pressed to get them to fulfill their commitment of 1,000 catch basins cleaned annually.

The City has two vactor trucks. These are used to clean sewer and drain lines, clean siphons, clean sewer manholes as well as drain manholes along with use for emergency blockages and root cutting. Neither Manchester, nor other communities could fulfill this requirement as there is not nearly enough equipment to get this work completed. Manchester would have to buy a third and possibly a fourth vactor truck or, discontinue the sewer drain and siphon cleaning program. This is in direct conflict with the CMOM requirements of our NPDES. As you can see this places Manchester along with all other communities between a rock and a hard place and sets every permittee up for failure. It may be prudent to place the 20% criteria for cleaning in the permit to cover the five-year permit cycle. Manchester could struggle to go from 15% to 20% and probably accomplish this, but it would be improbable to go from 15% to 50%.

The above rationale would also apply to the inspection requirement. Rather than 100% every year, Manchester believes that an easing into the program of 20% a year is the upper end of the labor intensive limit without adding staff to the already anticipated \$875,000 annual increase the current proposal requires. The dry weather screening reflects this rationale, and as the catch basin cleaning and inspection is so much more labor and cost intensive, justifies completing this requirement over the five-year permit cycle.

The City of Manchester currently does the following for the stormwater program. The system is 60% combined. Most of the catch basins, drainage structures, and storm sewers discharge to the combined system and therefore to the Wastewater Treatment Facility. Currently the City cleans all the catch basins that surround the urban ponds twice per year to protect these water bodies from sediment loadings. The structural BMPs such as baffle tanks, forebays, and particle separators get inspected twice per year and they get cleaned at least once per year. Many do get cleaned twice per year. Our crews also clean some other catch basins. The City of Manchester contracts out catch basin cleaning above what they clean with their own crews. The contractor cleans approximately 1,000 basins per year based on the funds allocated.

Our past five annual reports have shown that this is adequate to address stormwater issues from the previous permit. We believe a continuation of this level of effort, with a modest incremental increase in expectations is warranted, but not to the level as proposed in the draft permit.

The municipalities that own or discharge to a Wastewater Treatment Facility are required to develop a Capacity, Management, Operation, and Maintenance (CMOM) program for their collection system under the NPDES permit requirements. I suggest that the EPA allows the communities to maintain their collection system including the storm sewer system under their CMOM requirements. They can develop their cleaning schedule based on their knowledge of their system, not have a general requirement for everyone. It is a way to integrate the maintenance of the storm and sanitary sewers together whether the system is combined in the case of Manchester or separate.

2.3.7.2 Stormwater Pollution Prevention Plan (SWPPP)

The EPA is requiring a SWPPP to be developed for maintenance garages, public works facilities, transfer facilities, and other waste handling facilities if they weren't already covered by the MSGP. Is it the intent of the

EPA to have the municipality use the same format as the MSGP and will the annual reporting requirements be subject to the same reporting requirements under the MSGP? The EPA needs to clarify these requirements.

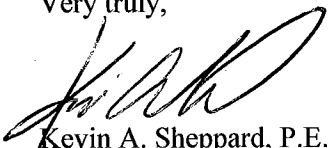
6.0 Requirements for State or Tribal MS4s Non-Traditionals & 7.0 Requirements for Transportation Agencies

Manchester has noted that the requirements for these entities are only a fraction of what is expected of cities and towns. These entities should be subject to the same level of compliance as local government. With the miles of road the NH DOT has to maintain, the hundreds of miles of waterways with outfall discharges, it would be monumental and prohibitively expensive for them to fulfill the requirements as outlined in sections 1.0 through 5.0. Please consider that the communities are no more fiscally sound than the State or Tribal entities.

Overall Comments

The EPA needs to clarify sections of the permit. Several requirements are vague and can be interpreted in different ways. Permit compliance will greatly depend on clarity of the regulations. The timelines should also be reviewed as several are too aggressive to meet in a cost effective manner. Lastly, there are requirements in the first year with dates that contradict each other. We look forward to meeting with you to discuss our concerns further. I anticipate that the permit requirements will not be finalized until such time all comments have been discussed, perhaps at our meeting or at additional public hearings.

Very truly,



Kevin A. Sheppard, P.E.
Public Works Director

Cc: Tim Clougherty
Frederick J. McNeill, P.E.
Robert Robinson
Rick Cantu
Jeff Andrews, NHDES



"Robinson, Robert"
<RRobinson@manchesternh.gov>

01/29/2009 07:48 AM

To Thelma Murphy/R1/USEPA/US@EPA

cc

bcc

Subject Public Hearing

Thelma,

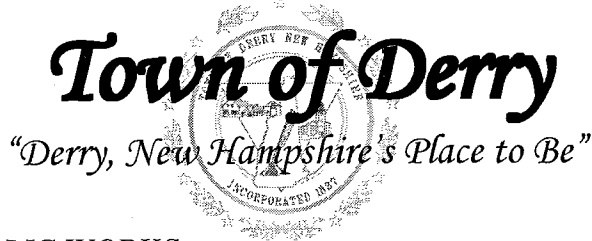
I want to thank you and your staff for conducting the public meeting and hearing to allow everybody to voice their concerns with the new permit. Everybody present wants to help protect the environment we just are concerned with some of the costs that is associated with this new permit and having some flexibility. In regards to the CBs we currently have 14,000 catch basins. In order to clean 7,000 basins per year it would cost approximately \$350,000 a year not to mention inspecting all the other basins and structures per year. That will be hard to get budgeted under these tough economic times. Please keep in mind that a lot of these are in our combined system and currently discharge to the WWTF and not to a body of water. All of our catch basins that are associated with our urban ponds get cleaned twice per year and we also have some BMPs that get inspected twice per year and they get cleaned at least once per year. Many do get cleaned twice per year. Our crews also clean some other catch basins. We also hire out a contractor to clean approximately 1000 to 1100 basins per year. One suggestion that I have is to have the communities incorporate their maintenance schedule into their CMOM program that they are developing if the discharge to a POTW.

In regards to monitoring we currently have a program to monitor our urban ponds that is very extensive and consists of sampling three times during the summer months. Our health department also does monitoring of the ponds and rivers during the summer months. I also do dry weather screening of the ponds and the rivers by kayak. The testing consists of E-Coli testing for any inlet that is running including streams. If we get a hit then we do retesting including up into the watershed to try and find the problem. If we find an outfall that we are concerned with during the dry weathering screening we test for other parameters to make sure that nothing else is present. We also just completed a watershed restoration plan for Nutt Pond and we will be doing more extensive sampling this summer on the outfalls for parameters that were identified in the plan. We are also going to be looking at other BMPs in the watershed to help with the loadings to the pond. We have done a lot of public education for this pond and we will do more. I would like to do more plans like this in the future. Overall I think we would all like more flexibility. I do think the public education part of the permit is pretty good and very important. We need to try and get people to be more environmentally conscious. That right there is the biggest challenge facing the nation. Except for a few areas around the country I feel that most are not. I think that EPA should like at doing some nationwide public service announcements with help from the State environmental protection departments. This is just a thought. Thank you for listening.

Rob

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FEB 24 2009
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DEPARTMENT OF PUBLIC WORKS,
Michael Fowler, P.E., Director
Thomas A. Carrier, Deputy Director

PW09-150

February 19, 2009

Thelma Murphy
US Environmental Protection Agency
1 Congress Street, Suite 1100 (CIP)
Boston, MA 02114-2023

RE: Comments - Draft Municipal Separate Storm Sewer System General Permit

Dear Ms. Murphy,

The Town of Derry is submitting the attached comments on the Draft Municipal Separate Storm Sewer System General Permit (MS4GP) for your consideration.

The Town of Derry is committed to maintaining and improving the environmental health of the town in the interest of the health, safety and welfare of its residents and its environment. Our commitment has been demonstrated through development of an environmental program that includes: ensuring compliance of our own operations; outreach to our residents and local businesses to increase public awareness, knowledge, and participation; participation in local educational and watershed organizations; and participation in or attendance at regulatory workgroups, training, and workshops in order to keep apprised of ever-changing regulatory environment.

To accomplish this, the Town worked toward a comprehensive and holistic approach which combines all of the environmental compliance programs under one department to address duplication of overlapping programs. We try to anticipate trends in state and federal environmental regulations, and evaluate those trends to make efficient, cost-effective, and logical modifications to our own programs. One example of our accomplishment has been in the development and adoption of our Stormwater Ordinance and Regulations which already includes some of the required aspects of EPA's Draft 2008 MS4GP.

We recognize and appreciate EPA's goal in improving the quality of stormwater so as to minimize its impact to receiving waters, specifically "Waters of the US". The Town of Derry does not limit itself to that definition, but instead includes all surface waters, wetlands, and groundwater within the town that is not typically included the EPA's definition.

The Town of Derry has some general concerns and comments with the draft MS4GP. These concerns are summarized below. More specific comments are included in an attachment to this letter.

1. The Draft MS4GP is excessively and unnecessarily prescriptive in its requirements and lacks flexibility that would allow permittees to meet the intent of the Clean Water Act by using information gathered under the first five-year permit. In its current form, the draft permit takes on a one-size-fits-all approach and ignores accomplishments, information gathered, and lessons learned that would allow them to modify their program and tailor it to their own jurisdiction. Examples would include the frequency of catch basin inspection/cleaning, street sweeping, or stormwater structure inspection/maintenance. Under the first permit, permittees gathered information to optimize their inspection/cleaning/maintenance program so as to conduct future activities in a practical, efficient, and cost-effective manner. In addition, permittees may have collected data during the first permit that would aid in assessing priority high-pollutant load areas in order to focus its efforts.
2. Complying with the requirements of the draft permit would require a significant increase in the level of resources. Some of these include the effort and costs associated with the outfall monitoring and analytical testing, and certain tasks at EPA-specified schedule (without allowing flexibility based on permittee's experience and knowledge such as catch basin inspections and cleaning, street sweeping). In the current economic climate, municipal budgets are being trimmed to levels that may require staff reductions and cuts to all programs. In addition, the timing of the public release of the draft permit was such that any additional funding needed to comply with the draft permit (if funds were even available) could not be budgeted for the next fiscal year. As a result, permittees are destined to fail due to lack of funding and resources alone.
3. The draft permit penalizes those permittees that may have gone above and beyond the minimum requirements of the first permit by ignoring these accomplishments and expediting schedules making first and second year tasks more intensive. For instance, there are some requirements under the draft permit that specify certain activities to be conducted by a certain date with additional activities to be conducted within a few months of completion the activities. Permittees that may have proactively conducted some of these activities under the 2003-MS4GP would now have an expedited schedule for implementing or completing the subsequent activities, increasing the level of resources required during a shorter time period. An unfortunate consequence of this would be that permittees would thus be inclined to do the absolute minimum under the new permit because it would be a disincentive to be proactive.
4. There is significant and excessive overlap of existing regulations that are already overseen and regulated by other agencies or under alternative state and federal programs. The draft permit requires permittees to further administer these programs over the regulated community by imposing requirements for permittees to become the state's and EPA's enforcement arm where permittees' enforcement ability is limited compared to the state or federal agencies ability.

The Town of Derry appreciates the opportunity to provide these comments. We look forward to working with USEPA to develop a flexible yet proactive stormwater management program that strives toward meeting the intent of the CWA.

If you have any questions, please contact Craig Durrett or me at (603) 432-6144

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael A. Fowler". The signature is fluid and cursive, with a large, stylized initial "M" and a long, sweeping underline.

Michael A. Fowler, P.E.
Director of Public Works

Cc/att: Craig Durrett, Derry Public Works

/csd

Comments

Draft Small Municipal Separate Storm Sewer System General Permit

#	Section	Comment	Suggestion
Contents of the SWMP			
1	1.10.2 2nd bullet	The SWMP must contain a "Listing of all receiving waters" ... "and number of outfalls that discharge to each water." Since the requirements of the permit apply only to "Permittee-owned" outfalls, should it be assumed that the listing is limited to the same, or does it require and inventory of all outfalls owned by private or commercial entities, located on private property, whether regulated or not under alternative state and/or federal programs.	The town recognizes the importance of outfalls, particularly in "high implementation of an IDDE for privately owned outfalls would properties to conduct detailed mapping.
2	1.10.2 2nd bullet	The draft MS4GP encourages permittees to "document in the SWMP all public drinking surface water and groundwater that may be impacted by the discharges." It is unclear what EPA constitutes as "impacted" whether solely negative impacts due to potential pollutant sources or also positive impacts where both EPA and NHDES advocate for infiltration for groundwater recharge.	This should be clarified to focus on whether it is positive impact or negative impact (high pollutant load v relative to the supply intake
2	1.10.2 2nd bullet	All public drinking water systems are already mapped by towns and the state(NHDES). It is also this permittees experience that the state prefers to keep some details of drinking water sources confidential as a precaution under the Homeland Security envelope. Having information publicly available through the SWMP regarding potential opportunities to negatively impact public supplies is not in the public's best interest.	Since all public drinking water systems are mapped by towns and the state, it might be more appropriate for this program under an evaluation of areas and their potential to be impacted. SWMP should only include areas where an evaluation was conducted by the regulatory authority of public drinking water programs.
Requirements to Meet Water Quality Standards			
3	2.1.1.c.	Define discharges that cause or contribute to an exceedance of applicable water quality standards. In it's current usage, the presence of any detectable concentration of a compound, even that which may be naturally occurring or ubiquitous in the environment, could be considered as falling under the definition and require extensive and unnecessary efforts and expense on the part of the permittee in an attempt to "eliminate the condition".	The definition should ensure that the part of the permittee to be evaluated should prove or disprove whether the discharge from a permittee-cause or contribute to an exceedance.

Comments
Draft Small Municipal Separate Storm Sewer System General Permit

#	Section	Comment	Suggestion
Discharges to Impaired Waters without a TMDL			
4	2.2.2	How does this apply to waters impaired due to naturally occurring parameters such as iron which is commonly high in stratified drift aquifers along streams, or low pH which is typically low in rainfall and thus causing elevated metals due to the change in ionic state?. A stream may be impaired for iron due to natural occurrence and not present in discharges from outfalls, whereby correcting the impairment may be infeasible.	
5	2.2.2	How does this apply when the cause of the impairment is from a natural source present in a discharge. For example, the source of an impairment due to either e. coli or cyanobacteria indirectly caused by phosphorus loading may be from indigenous or migratory wildlife (ducks or fur-bearing mammals).	
6	2.2.2	How does this apply when the source of the impairment is non-stormwater related, regulated extensively under other programs, or from anthropogenic sources? For example, one impairment may be identified as Non-Native Aquatic Plants. The efforts to eradicate non-native aquatic plants, address the source of this impairment, and conduct outreach in "state waters" are already spearheaded by several state agencies. Another well known state and region-wide impairment is that of mercury, the source of which is atmospheric deposition and being addressed through national initiatives. Is there an exclusion for this and other impairments identified as being out of the control of or infeasible for municipalities to address?	

Comments

Draft Small Municipal Separate Storm Sewer System General Permit

#	Section	Comment	Suggestion
7	<p>2.2.3</p> <p>Discharge to a Chloride Impaired Water in NH</p>	<p>This section requires that the Permittee develop and implement a written "Plan" to reduce chloride in discharges to chloride impaired surface waters whether directly or indirectly. The permit specifies that the plan must include certain "requirements" to apply to numerous non-permittee entities. It is unclear whether EPA intends this section to only apply to public and private entities that perform deicing operations on behalf of the town, or whether that includes everyone within the municipality, public and private, whether deicing public or private roads and parking lots. If it is the latter, is EPA requiring the development of a local regulatory mechanism (i.e., ordinance)? In the absence of one, how does a requirement in a permittee plan have jurisdiction over non-permittee entities?</p>	<p>For comments #7 through #10, the solution may best be addressed through a state or regional training, certification, and/or licensing program, particularly in light of the transient and regional nature of applicators and their inconsistent involvement in this type of business. The program could be similar to the state's pesticide applicators licensing program. EPA should work with state agencies (NHDES) to develop and implement a state salt/deicing licensing and training program.</p>
8	<p>2.2.3</p>	<p>The definition of "storm event" is too broad to include "any event that triggers the use of the deicing chemicals." As written, an overnight freezing of minor snowmelt during the prior day could "trigger" a private contractor, store owner, or any level employee of any private or commercial establishment located within an MS4 to place varying amounts as low as a few handfuls of deicing chemicals at the entrance to a establishment.</p>	<p>The triggering event could be more specific to include only those events which required commercial application (by a "licensed" or "Certified" applicator applying at specified threshold amount of deicer (i.e., per cubic yard or ton of sand/salt mixture).</p>

Comments

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#	Section	Comment	Suggestion
9	2.2.3	<p>It is neither reasonable nor practical to impose a requirement for permittees to mandate that every private entity report such information especially on such small occasions. While we recognize that published studies by the State of NH identify commercial establishments as the single highest contributor of chloride in certain MS4s, EPA should understand that plowing and deicing contractors used by commercial establishments are transient and regional. They therefore cross political and watershed boundaries in any single event, and may use deicing mixtures of varying sand to salt ratios depending on their supplier. In addition, private entities engaged in deicing operations for commercial and private clients conduct such activities on a seasonal basis to supplement their usual or primary business such as seasonal landscape and construction activities. These entities are not routinely in the process of keeping track of the specifics of their activities, nor have they undergone any specific training, therefore spreading rates (frequency and quantity) are constantly changing. We believe any data submitted to us would be minimal and without any validity, absent any State-mandated training and certification/licensing program.</p>	
10	2.2.3	<p>The "requirement(s)" in the plan for private applicators to follow specific guidance relative to application rates and conduct certain maintenance (calibration of spreaders) is virtually impossible to enforce on the local level.</p>	
New or Increased Discharges to Impaired Waters			
11	2.2.4.b	<p>It states that for "New discharges to impaired waters" the permittee must "Prevent all exposure to stormwater of the pollutants for which the waterbody is impaired". Preventing all exposure to chloride is virtually impossible as it is a necessary for public safety, it is placed only in areas where snow and ice (i.e., stormwater) will occur, and it is somewhat ubiquitous in the environment. It is also unreasonable to require this for naturally occurring pollutants or impairments out of any control of the permittee (pH, mercury). In addition, "preventing" nonpermittees (private or commercial entities) from contributing chloride is currently impossible to do.</p>	<p>Relative to chloride, it would more reasonable and logical to reword this section that the permittee shall minimize to maximum extent practical, the permittees contribution of the pollutant that could potentially contribute to the impairment. And shall minimize those of others through outreach and education efforts as dictated in other areas of the permit. For other impairments such as mercury or pH, an exclusion would be most appropriate.</p>

Comments

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#	Section	Comment	Suggestion
Public Education and Outreach			
12	2.3.2.2	<p>Effective programs must...demonstrate that the "defined goal" of the program has been achieved. EPA defines the goal is to "create change in behavior and knowledge so that pollutants are reduced". While knowledge can be demonstrated through outreach efforts, how does EPA propose proving a change in behavior? Does EPA have ways of proving that pollutants were reduced other than conducting extensive, regular, periodic analytical testing which is both resource and cost intensive. A review of BMP Outreach website does not provide much if any insight into this issue.</p>	
Illicit Discharge Detection and Elimination Program			
13	2.3.4	<p>This section requires implementation of the IDDE program that includes an evaluation of sources of non-stormwater to determine whether they are significant contributors of pollutants. These include many potential sources in "High Pollutant Load" areas that are already regulated under numerous other state and federal pollution prevention and spill response programs, rules, and regulations. These potential sources include but are not limited to car dealers, car washes, gas stations, industrial manufacturing areas, and colleges. The draft permit results in significant overlap of existing programs by assigning investigative and enforcement responsibility that are already the responsibility of higher level agencies. In addition, it would be virtually impossible and extremely burdensome to require a permittee to force an existing facility to change its practices or incur additional expense to prevent any pollutants from leaving its site when it has already been approved by higher level agencies.</p>	<p>The existing programs are already designed to prevent pollution to the maximum extent practical and respond to spills and pollution causing activities. A more feasible approach would be to provide exclusions for permittees relative to overlapping areas and to allow permittees to defer to state or federal regulations and agencies for appropriate follow-up. Specific areas should include different waste waters, and storage and handling of virgin products and other regulated hazardous and universal wastes. In it's current version, it can be interpreted that permittees would have incur excessive costs for enlisting the services for 24-hour on-call emergency response contractors.</p>

Comments

Draft Small Municipal Separate Storm Sewer System General Permit

#	Section	Comment	Suggestion
14	2.3.4	Given the broad definition of "Waters of the US" and the specific requirement to walk "all waters in the MS4", is the permittee required under the draft permit to investigate and sample all non-permittee owned outfalls located on private property?	
Good Housekeeping and Pollution Prevention for Permittee Owned Operations			
15	2.3.7.1.b. Buildings and Facilities	This subparagraph requires significant overlap of various regulations including SPCC, hazardous waste, plumbing codes, etc. It assumes that local building codes and that nationally accepted standards are inadequate and must be verified and reverified on a continual basis. In many municipalities, the school district and emergency services (fire department) are separate from the main municipal operations (Public Works) responsible for managing the stormwater program and are thus funded under different programs. It is understandable that "old" buildings and facilities may be in question,, a MS4 whose facilities are newer and were required to comply with current nationally accepted building codes should not be required to verify its own building inspections.	The permit should just reference that the Permittee conduct an evaluation of applicable pollution prevention programs to ensure full compliance with all applicable regulations and requirements that could result in exposure of pollutants to stormwater.
16	2.3.7.1.d. Roadways and Storm Systems	The draft permit is overly prescriptive and lacks any flexibility relative to catch basin inspections and cleanings, and street and sidewalk sweeping. Under the MS4-2003, efforts were made to inspect and clean all MS4 catch basins. The goal was to collect information to develop an efficient and logical cleaning schedule for all catch basins within the MS4. Some may require annual cleaning while others require cleaning on a much less frequent basis (every 3-4 years). It is not prudent to ignore the data collected by permittees under the MS4-2003 and requiring more frequent cleaning when not necessary. given that most catch basin cleaning contracts are on a per-catch basin basis, it would also lead to unnecessary expenditure of funds for contractors to have to inspect/clean catch basins that do not need to be.	The permit should allow flexibility to existing permittees to develop their own schedule based on their knowledge and experience within their own MS4. This will allow a more efficient and cost-effective program for each permittee.

Comments

Draft Small Municipal Separate Storm Sewer System General Permit

#	Section	Comment	Suggestion
17	2.3.7.1.d. Roadways and Storm Systems	Sidewalk sweeping is typically not a task performed by municipal permittees. This task would require dedication of additional resources and purchase of new equipment, and could be a year-round project.	
Outfall Monitoring Program			
18	3.0	It is unclear in this section whether the monitoring program must include all nonpermittee-owned outfalls located on private property or just permittee-owned outfalls as is specified for other requirements elsewhere in the draft permit.	
19	3.2 Dry Weather Screening and Analytical Monitoring	Requiring analytical testing of every flow is unnecessary and expensive, particularly since further investigation and sampling of the source of the flow overlaps and is thus required under the IDDE program. The draft permit does not allow flexibility for field screening techniques that could triage the investigation by allowing such field measurements for pH, temperature, conductivity, TSS, or DO.	This permittee understands that dry weather flow can be suspicious. However, it would more efficient and cost-effective to allow permittees to conduct a triage approach involving field measurements and/or tracking the source of the discharge before requiring analytical testing. A simple investigation may find a benign source (garden hose runoff with kids playing in a sprinkler) for which expensive analytical testing is really not required. Alternatively, if the source could be an illicit discharge, then a decision to conduct analytical testing could be made at that time.

Comments

Draft Small Municipal Separate Storm Sewer System General Permit

#	Section	Comment	Suggestion
20	3.3 Wet Weather Analytical Monitoring	<p>Conducting wet weather monitoring may provide some useful data in evaluating overall stormwater quality, however the results would be limited and provide only a completely random single snapshot in time, for which the presence of pollutants will not be known until well after a storm event. Tracking the pollutants to their source could be very extensive in both time (having to collect samples during several subsequent storm events) and costly (analytical samples from numerous manholes, catch basins, or other sources entering the MS4). The logistics of performing these tracking activities is unnecessarily intensive given that there is no guarantee that the pollutants will be detected each time, particularly if it was the result of an intermittent discharge. In addition, the presence of some pollutants (e.coli or phosphorus, low pH) may be the result of wildlife (e.coli or phosphorus), naturally occurring sources (low pH of rainfall).</p>	<p>The permit should allow flexibility to allow permittees to adopt a triage approach to investigating sources of pollutants in stormwater. Permittees should be allowed to use direct knowledge and professional judgement in determining the need</p>
4.1 Requirements for MS4s in New Hampshire			
21	4.1.2	<p>It is stated that NHDES may necessitate additional water quality certification requirements to protect water quality and to meet additional conditions in order to obtain or continue coverage under this permit. This is a very broad statement without any apparent listed conditions that would direct NHDES to implement the additional conditions in order to be covered under the federal permit. This raises concerns of duplication of regulation over permittees, particularly since NHDES declined to become a delegated authority for the MS4 program.</p>	<p>It would be useful for permittees to be informed within the bounds of the permit as to what authority NHDES has to determine permittees eligibility under the permit, and under what conditions or circumstances NHDES would necessitate additional requirements to meet eligibility.</p>

Comments

Draft Small Municipal Separate Storm Sewer System General Permit

#	Section	Comment	Suggestion
5.0 Program Evaluation			
22	5.1	<p>There is confusion in the evaluation and reporting requirements relative to definition of BMP in Appendix A and when "permission" is required from EPA to change or modify a BMP. By definition in Appendix A, it could include any structure or fixture, or a practice or operating procedure. Alternatively it could refer to a BMP as described in the NOI. This should be clarified. To what specific degree must permission from EPA be sought?</p>	
6.0/7.0 Requirements for State or Tribal MS4s Non-Traditionals and Requirements for Transportation Agencies			
23	6.1 and 7.1 Public Education	<p>There are statewide issues associated with all permittees that include significant overlap between municipal MS4s and the state and transportation MS4s, specifically impairments due to chloride and pending TMDLs. The most recent 303d report by NHDES indicates that there are many more impairments due to chloride throughout NH than the 4 watersheds identified along I-93 in southern NH which draft TMDLs are being prepared. It would be prudent that the regulatory agencies be involved in a state-wide public outreach effort instead of the permit's current approach to only require outreach and chloride reduction efforts in select MS4s.</p>	
24	6.2 and 7.2	<p>EPA states that the non-traditional MS4s (state, tribal, and transportation) may rely on EPA and State environmental agency for enforcement assistance. What enforcement support can municipal MS4s expect from these same agencies and are they willing to commit to providing this support when needed?</p>	