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## **DEEP Response to Comments on the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems**

The Department is reissuing the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4 permit) *with modifications*. This is a renewal of the MS4 permit that was first issued on January 9, 2004 as required by Section 402(p) of the federal Clean Water Act and EPA's stormwater regulations adopted thereunder (40 CFR 122.26, 40 CFR 122.30 through 122.37, 40 CFR 123.25 and 40 CFR 123.35). The 2004 permit covers municipal separate storm sewer systems and how a municipality manages its stormwater infrastructure. Each municipality in the program developed a Stormwater Management Plan (Plan) that addresses six areas of responsibility: public education and outreach, public participation, illicit discharge detection and elimination, construction stormwater management, post-construction stormwater management, and pollution prevention and good housekeeping. The reissuance of this permit builds on these elements and provides more detail and clarification on how to implement them as well as adding additional elements to help protect our environmental resources. The reissued permit will also include state and federal institutions in its coverage.

In July 2014, DEEP published notice of a draft MS4 General Permit and a public informational hearing held on August 6, 2014. A full public hearing was then held on December 17, 2014 and more comments were submitted. DEEP released revisions to the July draft on January 26, 2015 and began discussions with stakeholders in the permit, including the Connecticut Conference of Municipalities, the Council of Small Towns, the Town of Willington and the Connecticut Fund for the Environment. The Department and stakeholders met more than 15 times to discuss further modifications to the proposed permit. On September 10, 2015, DEEP made publicly available additional revisions to the draft MS4 GP and held another informational meeting to provide an update on the status of the permit following the stakeholder meetings and to collect a third round of comments.

This document is a compilation of the comments submitted during the three comment periods and DEEP's response to those comments. While some comments are quite specific, most of the comments listed are a summary of numerous comments on the same or similar topic. In some cases, the response to a comment answers a question posed by the commenter(s). In other cases, the response may identify a modification that was made to the proposed permit to address the issue in question. Over 100 comment letters were received with a total of over 300 comments.

1. Many asked about DOT compliance. They indicated DOT compliance is important to making water quality improvements. Taxpayers in municipalities pay for state roads. What about discharges to a DOT system? Are they authorized? Are towns responsible for areas of town under DOT control?

Response – DEEP is undertaking steps to cover CTDOT under a stormwater permit to be consistent with what EPA and other states are requiring. We plan to have a permit issued in 2016. Portions of a separate storm sewer system that are controlled by DOT will be DOT's responsibility, not the town's. CTDOT already has a stormwater plan modeled after the current MS4 permit. Their plan has been in place since 2004 and was recently updated to reflect the requirements of the most recent draft of the proposed permit. For more information on stormwater management by DOT please go to the following link. <http://www.ct.gov/dot/cwp/view.asp?a=3530&q=560976>. The permit also addresses interconnected MS4s including DOT. For complaints about culverts or drains associated directly with state roads please use the DOT web link <http://www.dotdata.ct.gov/contacts/contactus.aspx> or the following DOT contact

Charles Drda, PE  
Transportation Maintenance Administrator  
Connecticut Department of Transportation  
2800 Berlin Turnpike  
Newington, CT  
[charles.drda@ct.gov](mailto:charles.drda@ct.gov)  
with a cc to Kevin Carifa at [kevin.carifa@ct.gov](mailto:kevin.carifa@ct.gov)

2. State should fund the mandate because this is a big lift and it is not possible without additional operational funds, personnel and equipment. This program is logistically and financially too difficult as the equipment, manpower and planning needs are significant. Stormwater management plan is too costly. DEEP should hire more employees to review plans and assist towns. DEEP should also encourage cooperation among towns to spread the costs.

Response – The federal government requires that all small MS4 programs include the following components:

1. Public education and outreach
2. Public involvement
3. Illicit discharge detection and elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping for Municipal Operations

A common complaint with the current permit is that it lacked sufficient detail for implementation. Many revisions in the draft MS4 permit that were perceived as new requirements are actually more detailed descriptions of existing requirements. For instance, more specific information on the best management practices that should be considered in the stormwater management plan makes understanding how to comply with the permit easier for MS4s.

DEEP recognizes municipalities will have to plan for implementation of these federal requirements and it is the expectation of Congress and EPA that towns will comply. There are a number of resources available to assist with this lift. Those include technical support from UCONN's NEMO, CLEAR and CIRCA

programs. DEEP is also engaging OPM and the COGs. The Center for Watershed Protection (<http://www.cwp.org>), the University of New Hampshire Stormwater Center (<http://www.unh.edu/unhsc/>) and EPA (<http://water.epa.gov/polwaste/npdes/stormwater/Municipal-Separate-Storm-Sewer-System-MS4-Main-Page.cfm>) have web sites with a great deal of useful guidance. There are many other web resources to help with all aspects of the MS4 program. There are also possibilities for cooperation with other MS4 communities. The municipality is in the best position to assess municipal operations, evaluate community social indicators, and monitor local water quality. MS4s across the country have managed the financial requirements of the MS4 program through reallocation of existing resources, partnering with local organizations and through the development of stormwater utilities and coalitions.

3. More time is needed to submit a registration and meet all of the requirements. The timetables are too short for implementation. Since municipalities begin their budget process in December for a fiscal year that starts in July, DEEP should hold off issuance until July 2016.

Response – New timeframes were included in the latest draft of the permit. DEEP and the stakeholders have examined the timeframes throughout the draft and they have been adjusted accordingly. See the draft for detail. There will be approximately 18 months for registration and preparation of a Stormwater Management Plan. This “effective date” will be set for July 1, 2017.

4. Employee Training should be self-determined by the town government. We are best able to determine what training is needed for our staff.

Response – It is the expectation that the municipality will ensure that every employee involved knows what is required to comply with their stormwater management plan drafted in response to the permit. Different towns may have different ideas and interpretations of the permit requirements and about what training is important. There needs to be a common minimum standard upon which to base the town’s Plan and training program. Each town will still have the ability to customize their program to fit their needs beyond the basic requirements. A refresher training on the new requirements of the proposed MS4 permit may be the best way to reinvigorate even the most seasoned staff who may need a new perspective.

5. Public Education and Outreach program and costs should be handled by state. DEEP should conduct regular workshops on permit compliance.

Response – It is a fundamental obligation of the municipality to provide public education and outreach. It is one of the minimum federal regulatory requirements and a basic mission of the program. EPA does provide guidance on their website concerning public education and outreach, <http://water.epa.gov/polwaste/npdes/swbmp/Public-Education-and-Outreach-on-Stormwater-Impacts.cfm>. This outreach needs to be tailored to the specific needs of each community in order to comply with this minimum obligation. To the extent towns embrace this methodology it will enhance the overall compliance. Using the resources available (see response to 2, above) will make this easier at the local level. DEEP is continuing to explore and develop outreach opportunities to assist MS4s in all elements of the proposed permit. Please see [http://clear.uconn.edu/tools/lid\\_reg/index.htm](http://clear.uconn.edu/tools/lid_reg/index.htm).

6. Illicit Discharge Detection and Elimination costs are extensive and far reaching. The Illicit Discharge Detection and Elimination program is too prescriptive and the cost for mapping and GIS will be untenable.

Response – Illicit Discharge Detection and Elimination (IDDE) is required by the EPA Phase 2 rule. It is one of the six minimum measure set forth in federal regulations for the MS4 program. Available resources (see response to 2, above) can assist MS4s with developing and implementing various elements of their IDDE program. The EPA has indicated municipal stormwater management is an iterative process - develop, implement, evaluate, repeat. A common complaint with the current permit is that IDDE does not give enough detail on how to comply. DEEP provided a detailed IDDE protocol in Appendix B of the general permit. Several commenters asked why this protocol didn't more closely follow that of EPA. In response, DEEP modified Appendix B to reflect the most recent EPA draft for the Massachusetts MS4 general permit. While GIS is expected to be a helpful planning tool in the long term, the use of GIS is not required by the proposed permit.

7. Construction site and post-construction stormwater measures are costly and towns cannot be expected to notify all developers of state permitting requirements. Why does the Town have to inform developers of DEEP requirements?

Response – Construction and post-construction are two of the six minimum control measures of the federal program. There are also obligations consistent with the Sedimentation and Erosion Control Act (CGS 22a-325) that will have a direct impact on the municipality's ability to comply with this permit. One of the issues we have had all along is that local regulations are not consistent with State requirements. This is an effort to make the local permitting process compatible with the state permitting process. Information about the DEEP construction general permit and consistency with local land use regulations will ultimately help to avoid the unnecessary costs to developers and towns for the redesign of projects and will save developers and towns money in the long run.

8. Pet Waste Management and Water Fowl Management unenforceable.

Response – Essentially, the general permit is asking for identification of areas of concern and installation of signage. This is more about education and outreach consistent with the one of the six minimum measure set forth in the federal MS4 regulations. How pet waste and water fowl will be managed will vary based upon the unique conditions of each community. It is not readily apparent to most citizens that this is a problem that leads to greater contamination of waterbodies and therefore educational signage is helpful.

9. Deicing Material Management has to be dictated by safety needs.

Response – While public safety is paramount it has been demonstrated that deicing can meet both public safety and water quality needs and should not be considered mutually exclusive. Depending on the deicing agents used such materials can be a significant source of pollution if they are not properly applied. DEEP modified the language to clarify this distinction and state that it is "where practicable" rather than dictating the purchase of new equipment.

10. Snow Removal requirements may not have the value added to warrant the cost.

Response – We have long held statewide management practices for snow removal since snow removal and disposal practices can be a water quality problem if not properly managed. Under normal conditions of snowmelt, the majority of contaminants that remain on or next to the paved surface may be captured in stormwater catch basins. These contaminants can then be swept from streets and bridges or vacuumed from catch basins. However, when accumulated snow is collected and dumped into or too

close to surface waters, this mixture of snow, sand and debris may smother aquatic life in the bottom of streams and rivers and degrade the aesthetics of the surface water with silt plumes and litter. Large quantities of snow (and the sand and debris collected with it) may also cause blockage of storm drainage systems, resulting in increased chance for localized flooding. Provisions of this general permit and the DEEP snow disposal policy provide guidance for proper disposal while still allowing flexibility for extreme conditions. Please see the snow disposal policy at the following link:  
<http://www.ct.gov/deep/snowdisposal>.

11. Street sweeping and catch basin cleaning costs and logistics were an issue for most of the commenters. This level of prescriptive detail was considered unworkable in most communities. Pollution Prevention and good housekeeping have a cost. There is a lack of permitting flexibility with respect to sweeping/cleaning. Housekeeping will increase fossil fuel consumption.

Response – DEEP has significantly revised the sweeping and catch basin cleaning sections. We removed the sweeping schedule table as it may be too prescriptive for small towns. We expect towns to evaluate and determine their sweeping and cleaning schedules with a focus on three areas – 1) urbanized areas, 2) high impervious cover areas and 3) areas that discharge to impaired waters. Please refer to the revised permit. There are a number of factors that municipalities should take into account when determining the timing and frequency of sweeping streets and cleaning catch basins beyond the minimum permit requirement. Factors to consider for evaluation may consist of categorizing roads based on traffic volumes, number of accidents (which can contribute to spills), location of active construction sites, number of catch basins, proximity to watercourses and wetlands, litter frequency (which can lead to clogged catch basins) and overhead vegetation, e.g. tree canopies (which may contribute to clogged catch basins in the fall). These considerations provide plenty of flexibility to the municipality in determining appropriate cleaning/sweeping frequencies. Please also see the following link:  
[http://www.ct.gov/deep/lib/deep/waste\\_management\\_and\\_disposal/solid\\_waste/street\\_sweepings.pdf](http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/solid_waste/street_sweepings.pdf)

12. Leaf Collection is costly and hazardous in some cases. This also contradicts composting goals and is counterintuitive in a green community.

Response – DEEP does not intend to mandate a leaf collection program. We have revised this language to clarify the intent of this requirement and to allow more flexibility in developing and implementing a leaf management program. This language has been clarified so that, to the extent the leaves are collected, they are collected in a way that does not discharge pollutants. It also provides for a program that reduces or eliminates the deposition of leaves in streets and other paved surfaces where they become a significant source of nutrient and bacteria pollution in runoff. This language does not prohibit composting and in fact DEEP along with UCONN's Connecticut Cooperative Extension Service encourages composting.

13. Monitoring costs are not warranted and will not yield useful information.

Response – The monitoring program was significantly revised and streamlined. Changes include: Elimination of in stream sampling during dry and wet weather; substitution of outfall sampling with outfall screening limited to indicator parameters of impaired waters and focusing this screening on outfalls discharging to impaired waters (the list of impaired waters is available by town on the DEEP website); and by the end of the permit term targeted sampling of six priority outfalls for a limited list of

parameters. The current permit requires sampling six outfalls annually for a suite of parameters. The modifications to the sampling program make the sampling program more workable for the permittees and provide better focus on information relevant to water quality concerns.

14. Where is analysis of data and baseline justification? What percent improvement is expected?

Response – DEEP has collected water quality data from every single municipality in the state. This data has been used to identify impaired waters, which consequently provides the justification for much of the MS4 program. These impaired waters are now posted on DEEP's website. The MS4 permit will be an integral part of addressing these impairments by focusing elements of the permit on improving impaired waters. Percent of expected improvement will be dictated by TMDLs that would otherwise apply in individual permits. The logic is that the general permit pollution prevention and education programs are more economical for communities than monitoring and end of pipe treatment included in a TMDL.

15. New York State contamination dwarfs our contribution to LIS. What are we doing with NYS to make improvements?

Response – This permit is addressing water quality impacts from Connecticut sources and it is a federal requirement across the country for all MS4s. New York State also regulates municipalities under its MS4 program. If you want to learn more about the State of New York's Department of Environmental Conservation's approach to stormwater management go to <http://www.dec.ny.gov/chemical/8468.html> for more information.

16. The permit doesn't go far enough in reducing pollutants. It should target nitrogen and phosphorous point sources. Nitrogen and Phosphorous are the problem and therefore there should be more restrictions on fertilizer application and a tax on commercial fertilizers.

Response – DEEP has already targeted regulated point sources and now we are required to target nonpoint sources. Nonpoint sources are significant contributors of nitrogen and phosphorous pollution levels. While there are many other sources of nitrogen and phosphorus than just fertilizers, there are many provisions in this permit that address these nutrients.

17. DEEP should do first flush water sampling and not require this of the municipality. Doesn't DEEP already know worst storm sites?

Response – The sampling requirements have been revised – please see response to Comment 13 above. DEEP does not record the worst sites for stormwater runoff nor does it have the resources to conduct sampling in each of the 121 towns in this permit. It is further impractical since stormwater runoff is weather dependent and varies from site to site and storm to storm. It depends on the conditions of the particular storm. But the initial flush is the worst water quality. This is consistent across the country. Regardless, this permit is not just about the first flush of stormwater. It also must take into account illicit discharges and construction activities in each community.

18. Tier Two is not mandated and should not be in this permit. Tier Two Minimum Control Measures are onerous.

Response – At this time, DEEP is focusing on the Tier One towns and Tier Two has been removed from the general permit.

19. The MS4 permit should be developed using a cooperative process

Response – DEEP began the public process in July of 2014, and has held three public meetings to educate the public on the proposed permit. DEEP staff have been meeting with representatives from Connecticut Fund for the Environment (CFE), The Connecticut Conference of Municipalities (CCM), and the Connecticut Council of Small Towns (COST) and the Town of Willington to resolve the issues in the general permit and the group has reached a consensus in developing the final MS4 permit. DEEP could not agree more that in a situation where we are trying to reduce nonpoint pollution a cooperative process is important. Additionally, once the permit is in effect DEEP will continue to support MS4s in implementation of the permit.

20. Ordinance cost is prohibitive and assistance is needed such as a model and training. Municipalities may not have the authority to establish the ordinances in the permit.

Response – Federal minimum measures in the Phase 2 rule require municipalities to develop and enforce local authorities (or other measures) in the implementation of this program. State statute allows municipalities to establish ordinances. It is no different than the other land use ordinances already established by towns. The UCONN NEMO site offers some existing examples from several Connecticut communities. There are also many organizations outside CT, such as the Center for Watershed Protection ([www.cwp.org](http://www.cwp.org)), that have a wealth of resources available on-line.

21. Towns are not complying with the current permit so why are you adding more requirements.

Response – This is an obligation under the federal Clean Water Act and the federal MS4 regulations. DEEP will be following up with audits of municipal programs as mandated by EPA and will be conducting audits concurrently with EPA. DEEP has been, and will be taking, informal and formal enforcement, as appropriate, for noncompliance with the permit. Additionally, revisions to the draft MS4 permit were made to enhance municipalities' abilities to comply with existing requirements.

22. Can one registration cover all 17 facilities for DOD? The registration contains elements that duplicate those of the Plan. This is unnecessary.

Response – To the extent that the MS4s are connected they could be considered a single site and be covered under one registration. However, if they are not connected they would be considered separate sites and would need separate registrations. Stormwater management plans for these sites need to be specific to the site. Part of the purpose of the registration is to provide an outline of the materials that will be included in the Plan. This is not duplication but, rather, an outline of the contents for the Plan.

23. Stormwater Management Plan should be a fillable generic template, using computer software, and phased in over time.

Response – There are guidance documents available from several sources available on-line on how to develop a Stormwater Management Plan. For example, EPA does provide some guidance on plans at: <http://water.epa.gov/polwaste/npdes/stormwater/Integrated-Municipal-Stormwater-and-Wastewater-Plans.cfm>. There are available software programs designed for MS4 program management. CCM has, in the past, taken the lead in obtaining software for the MS4 program management for Connecticut municipalities. A generic template for a Stormwater Management Plan is not practical since each permittee's program will be different. However, DEEP staff are currently working on an Annual Report

template to be made available to all permittees. Compliance with the six minimum control measures is not expected upon the date of coverage. Timelines for achieving compliance are already phased in as part of the permit. As stated in the response to Comment 3, these timelines have also been extended from the original draft.

24. Give the option of a list or a map of locations of storm system structures.

Response – MS4 employees responsible for compliance with the general permit need to know exactly where all the parts of the relevant systems are located and a list may not provide that level of detail. This is why an investment in GIS mapping upfront, while not required, may be cost effective in the long-term.

25. Mapping of storm sewers has value and should be submitted to CT Department of Public Health. Additionally, MS4s should collaborate with public water systems. Storm water discharges within 100 feet of public water related tributaries need to meet CT DPH requirements.

Response – There are multiple venues where this information may be useful. This mapping is part of the stormwater management plan and will be public information with a few exceptions for confidential information as allowed by state statute. Departments will coordinate going forward to share information about systems especially where contamination of public water systems has been indicated. Also, language in the MS4 permit was revised to require that a copy of the registration and plan for MS4s be sent to the public water company upon request.

26. Sodium should be added to monitoring. There should be more control of sodium chloride and magnesium chloride.

Response – Sodium chloride and magnesium chloride remain as the primary ingredients in deicing agents. Chlorides adversely affect aquatic life by changing the salinity of the streams. Individual sampling of pollutants such as sodium and chloride has been removed from this iteration of the proposed permit. Proper MS4 control of deicing agents should reduce exposure of chlorides while still maintaining road safety. However, DEEP will continue to conduct ambient water quality monitoring in streams and rivers to determine if the use of chlorides is becoming a greater water quality problem.

27. For requirements for new or increased discharges to impaired waters some commenters suggested adding requirements and others requested that we delete some requirements. The water quality standards also have no definition for high quality waters.

Response – Impaired waters are a critical concern for the agency and must be addressed. However, DEEP has significantly modified this section to address stakeholder concerns. See the proposed permit. The high quality waters provisions will allow compliance as DEEP develops criteria and a list. A definition of High Quality Waters has been added to the permit.

28. Qualified Professional Engineer. As one Town indicated - Professional engineers operate under a code of ethics regarding their work, and requiring towns to pay a third party to oversee their work and sign a certification regarding same will prove costly. We find it difficult to imagine that a third party uninvolved in day to day operation of a municipality would want to sign the certification required under this section.



Response – DEEP removed the requirement for a third party engineering review. However, the plan must still be certified by a P.E. To facilitate municipalities in complying with this certification requirement, DEEP has added Town Engineer to the definition of qualified professional engineer so that the certification can be signed by the Town Engineer or any other person who provides engineering services to the permittee on an ongoing basis. See Comment/Response 42 for additional information on the P.E. certification.

29. No statutory authority for towns to pay ½ fees.

Response – According to Connecticut General Statute 22a-6(b) no municipality shall be required to pay more than fifty per cent of any fee established by the commissioner pursuant to said subsection.

30. Clarify that for a DOD facility, the only “public” are those living or stationed there.

Response – The intention of public involvement and participation is to get community members to apply lessons and best management practices at home and work. So public notice intended for circulation in the DOD community and on DOD website would most likely target those living or stationed at the DOD facility and grounds. This has been clarified in the permit.

31. Delete public comment period

Response – Federal courts have determined that the registration and stormwater management plan must be available for public comment.

32. Exempt DOD installations from the requirement to establish authority to assess fines, penalties and recoup costs.

Response – Language has been modified to be flexible enough to allow for other tools to be utilized in place of fines such as a policy.

33. Cost estimates are needed for each town so that budgets can be projected. The costs are huge and a storm water utility is just another tax.

Response – Projecting the cost per community is something that must be tailored by the community leaders who will determine the depth and breadth of the program and the pace of implementation. Towns will need a plan to address the funding. There are about 1500 stormwater utilities in place around the country and CT is one of only 9 states that have yet to implement one. A stormwater utility is just that – a utility similar to a water or sewer utility. One doesn’t refer to a water tax or a sewer tax. These are user fees that support the maintenance, improvement and growth of infrastructure. However, as an alternative to establishing a utility, Massachusetts, New York and New Hampshire have a collaborative model (stormwater coalition) that should be considered. Additionally, there may be internal resources that can be brought forth in terms of in-house expertise and collaboration among town offices of Engineering, Planning and Facilities Management that will make up the majority of the leadership team for implementing or continuing to implement best management practices. For example, the town engineering department may provide much of the outreach and education at the point of issuing building permits. Town Managers’ Offices may coordinate volunteer groups such as Boy Scouts, Girl Scouts and adult civic groups that often can be counted on to conduct annual cleanups, storm drain stenciling and other measures that count toward municipal efforts. Town Information Management offices might maintain the webpages for the municipality that provide information about

pollution prevention and requirements for permitting. Planning offices might conduct charrettes and do stormwater related outreach that is at the very genesis of community planning and development. Facilities managers will be more likely to be successful in their quest to find and eliminate illicit discharges with support from multiple town offices.

34. A public informational meeting is requested.

Response – DEEP held a public informational meeting in August 2014, a public hearing in December 2014, and an additional public informational meeting in September 2015.

35. Why require a letter of approval of State Historic office. This will create delays.

Response – We are not requiring a letter from the state historic office. The registration requires a permittee to review their Plan for consistency with the National Historic Preservation Act and any potential impacts to state historic places. No letter of approval is required.

36. Why is city of Stamford listed on the additional notification section? “For discharges authorized by this general permit to another Regulated Small MS4 or to the City of Stamford, a copy of the registration and all attachments thereto shall also be submitted to the owner and operator of that system.”

Response – This is because Stamford is not listed in Appendix A as a Small MS4 Municipality but is the only medium MS4 in CT and, pursuant to the EPA Phase 1 program, requires an individual permit<sup>1</sup>. So if a surrounding town discharges into Stamford’s systems then such town needs to notify Stamford as the regulated entity.

37. Reduced mowing will increase ticks.

Response – Reduced mowing doesn’t mean no mowing. Reduced mowing may mean setting the mower height at 3 inches instead of 2 inches. This is still acceptable for public use and reduced mowing frequency does not increase the risk of ticks.

38. Towns will need procedures for dumpsters and floor drain inspection

Response – These are important considerations and by having local requirements or standard operating procedures this may serve as pollution prevention by keeping discharges associated with containments from reaching waterways. The MS4 may be able to borrow some measures from the industrial stormwater permit to aid in developing its stormwater management plan.

39. What if public votes against charter revisions needed to amend ordinances?

Response – The EPA Phase 2 Rule requires enforcement of certain elements of the permit through “ordinance or other regulatory mechanism”. The general permit uses terms such as “enforceable legal authority by statute, ordinance, rules and regulations, permit, easement, contract, order or any other

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<sup>1</sup> With a population of between 100,000 and 250,000 discharging to its storm sewer system, the City of Stamford qualifies as a Medium Municipal Separate Storm Sewer System (MS4) under Phase 1 of EPA’s stormwater regulations and the federal Clean Water Act. This permit covers the entire storm sewer system for the City and includes all drainage areas that contribute to the storm sewer system. It also requires the implementation of measures by the permittee for certain private activities that may have an impact on the quality of stormwater conveyed through the City’s drainage system.

means” and “ordinance, bylaw, regulation, standard condition of approval or other appropriate legal authority”. A permittee need not pass an ordinance if they can enforce a provision by some other “regulatory mechanism” or “other appropriate legal authority”. DEEP will work with municipalities to help address these issues and other resources are available through EPA, NEMO, Center for Watershed Protection and other organizations that have developed model language for the various legal authorities in the MS4 general permit.

40. Violates home rule provisions of state statutes.

Response – This permit is drafted to meet federal requirements to improve water quality. If there were no urbanized areas, no impervious surfaces and no water quality impairments the general permit would not be necessary. It serves the mission of this agency to protect water quality as we are the stewards, along with the public, of this incredible natural resource. This is a federal requirement and consistent with Connecticut water pollution control statutes and is not an infringement on home rule.

41. MEP should be a measurable standard.

Response – With respect to Maximum Extent Practicable (MEP), according to the EPA Phase 2 Rule, small MS4 operators must reduce pollutants in stormwater to the MEP to protect water quality. The regulations specify that compliance with the MEP requirement can be attained by developing a Stormwater Management Plan (SWMP) that addresses the federally-required six minimum control measures. EPA states that MEP is an evolving standard meant to change over time. It is a qualitative standard that includes items such as providing adequate staffing and resources. To the extent that an activity can be undertaken to protect water quality it is incumbent upon this agency to encourage best practices to prevent pollution and further degradation of our natural resources.

42. PE certification adds an unnecessary expense and should not be required since most elements of the permit do not require engineering knowledge. If it is required, the PE should be licensed in CT.

Response – The Stormwater Management Plan contains provisions that require an engineer to review and approve the Plan. In addition, there are many elements that require an understanding of stormwater management and engineering issues that go well beyond the knowledge of a layperson. There must be a standard level of expertise to ensure that Plans are prepared in full compliance with the permit. Certification by a PE is the most logical and easiest means of ensuring this expertise. Section 4(c)(2)(J) makes it clear that the PE must be licensed in CT.

43. Coal tar sealants should be banned in the permit.

Response – While this type of ban may be a valid pollution prevention measure, it is outside the scope of this general permit to impose this prohibition.

44. Requiring imposition of construction measures on sites over ½ acre is inconsistent with the construction general permit.

Response – The reference in Section 6(a)(4) has been changed to one acre to be consistent with the construction stormwater general permit.

45. The term “MS4” is occasionally used interchangeably with the term “permittee”. This doesn’t match the definition in the permit.

Response – Any inconsistencies have been corrected.

46. Sampling in the permit is insufficient to determine whether appropriate waste load allocations and load allocations are being met. There should also be effluent limits.

Response – The permit provides requirements for permittees to meet Waste Load Allocations (WLAs) and Load Allocations (LAs) where they are dictated by the Commissioner. Meeting the six minimum measures to the MEP is the standard to which permittees are held rather than a numeric limit. Numeric limits are not required by the EPA Phase 2 Rule.

47. There isn’t adequate provision for public review and comment on the registration, Stormwater Management Plan or Annual Reports.

Response – The permit provides for a 60 day review of the registration and Plan and a 45 day review of the Annual Reports. We believe this is adequate notice.

48. A no-exposure certification provision similar to the industrial general permit should be included in the permit.

Response – The EPA Phase 2 rule does not allow for a no-exposure provision in the MS4 permit.

49. Annual Report requirements are onerous and should be reduced.

Response – It is important that DEEP has complete information on what permittees are accomplishing each year and the status of their compliance. We have reduced the reporting requirements as much as possible while still providing the information we need consistent with meeting federal requirements. DEEP staff are also preparing a template for annual reports to assist permittees.

50. There should be a provision to require anyone installing stormwater infiltration measures in areas served by septic systems to coordinate with state or local health officials to ensure that the infiltration system won’t interfere with a septic system. In general, state or local health officials should be consulted in dealing with septic system issues. The permit should also include a state-wide comprehensive decentralized sewage system management program to address possible pollution issues from septic systems.

Response – Language has been inserted in Section 6(a)(5)(B) to address the installation of infiltration systems. Language has also been inserted in Appendix B to recommend consultation with health officials in identifying possible illicit discharges associated with septic systems. It is beyond the scope and jurisdiction of this general permit to implement a state-wide comprehensive decentralized sewage system management program.

51. DEEP should provide more detailed requirements for public education and outreach, more frequent public involvement and require a watershed approach to MS4 permitting.

Response – DEEP believes the general permit provides a good balance of detail while allowing flexibility for towns to address public education, outreach and involvement. While watershed coordination of permittees may be appropriate and encouraged, it is not a requirement of the Phase 2 Rule.

52. DEEP should include a retrofit program in the MS4 permit to reduce Directly Connected Impervious Area (DCIA).

Response – Section 6(a)(6)(B) now includes a retrofit program.

53. The Urbanized Area maps are incorrect. Permittees should be able to propose alternate UA boundaries. The <1,000 waiver should be available if a town's UA population drops below 1,000. EPA's <10,000 waiver should also be available to towns.

Response – The UA boundaries are dictated by the U.S. Census Bureau. DEEP has no authority to change them. The Phase 2 Rule is clear that once an MS4 has a population over 1,000 in the UA they can no longer qualify for the waiver even if their population later drops below 1,000. The EPA <10,000 waiver requires a determination that a town with a population of less than 10,000 does not contribute to an exceedance of a waste load allocation and will not cause a future exceedance of water quality standards. There is no town in the program that meets these criteria. All have at least some impaired waters that result, at least in part, from MS4 discharges and it is highly likely that future discharges, if not subject to the permit, will cause exceedances of water quality standards.

54. The latest draft of the permit requires the permittee to first consider LID and runoff reduction measures before other stormwater management measures in its land use practices. This allows less flexibility for municipalities in land use decisions and conflicts with the construction general permit.

Response – This provision merely says that developers seeking municipal approvals consider LID and runoff reduction measures prior to other measures. It doesn't say they can't consider or employ other measures which achieve the same water quality objectives. It also doesn't require them to exhaust any possible LID or runoff reduction measures before they implement others. This does not conflict with the construction general permit.

55. Modifications to the catch basin cleaning, sweeping and monitoring programs have made them too lenient. The retrofit program is not ambitious enough.

Response – These sections were modified to create a program that best utilizes the limited resources of the permittees in accomplishing the goal of improving water quality. DEEP believes the retrofit goal of disconnecting 1% of DCIA per year is realistic and achievable.

56. Mapping of DCIA and implementation of the retrofit program are too ambitious and are not achievable.

Response – With impervious cover mapping being developed by DEEP, DEEP believes the DCIA mapping is achievable. The retrofit program specifies a "goal" of 2% disconnection by the end of the permit term. Taking into consideration that this includes credit for private development projects that implement LID controls and allows a 5 year "look back" period for projects already constructed, DEEP believes this goal is reasonable and achievable.

57. The permit should require that, within public water supply watersheds, the permittee must provide their Plan to the local water company. The permittees should also coordinate with their local water company before they implement any infiltration measures.

Response – Section 4(g) of the general permit states that permittees must submit their Plan to the local water company “upon request”. We believe this provides the necessary protection of drinking water supply watersheds. Appendix C also discusses this, and other issues, as well as coordinating with the local water company.