



To: CT Department of Energy & Environmental Protection
From: Betsy Gara, Executive Director, COST
Date: February 23, 2024
Re: General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4 General Permit)

Thank you for the opportunity to provide comments on the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4 General Permit).

Many of Connecticut's small towns are struggling to comply with the MS4 General Permit to address stormwater issues, citing significant costs associated with meeting the permit requirements. During DEEP's Listening Session, several participants indicated that towns are struggling with:

- 1) Implementing retrofit projects to reduce Directly Connected Impervious Areas (DCIA) - areas directly connected to the MS4 which discharge straight into surface waters.
- 2) Incorporating Illicit Discharge Detection and Elimination (IDDE) permit requirements in local ordinances.
- 3) Some permit requirements, such as requiring public education and outreach programs and comprehensive reports on an annual basis, impose costly burdens on small towns and are not a beneficial use of resources.

To reduce regulatory burdens and assist municipalities in complying with the MS4 General Permit, the Connecticut Council of Small Towns (COST) *recommends the following*:

1. Tiered Compliance Approach

COST supports a tiered compliance approach to reduce administrative burdens on the state's small towns and facilitate compliance with the MS4 General Permit.

Under the MS4 General Permit, municipalities are required to develop and implement Public Education & Outreach programs. However, requiring small towns to conduct public education and outreach campaigns on an annual basis is costly and of little benefit. DEEP should adopt a tiered compliance approach to ensure that small towns do not have to conduct education and outreach programs on an annual basis.

DEEP should consider other permit requirements, such as reporting requirements, and determine whether a tiered approach would assist in reducing burdens on small towns. For example, the permit requires municipalities to submit detailed annual reports to DEEP. DEEP should allow smaller towns, which do not have significant changes on an annual basis, to submit the report less frequently.



In addition, recognizing that conducting education and outreach programs on a town-by-town basis is inefficient, other states have developed statewide campaigns to help communities meet the requirements of the MS4 General Permit. For example, Massachusetts launched its award winning “Think Blue” campaign which has expanded the reach of stormwater public education and outreach to include video, statewide social media and print materials that municipalities can tailor to their community. DEEP should consider how it can distribute public education and outreach materials rather than burden towns with this requirement.

2. Disconnection of Directly Connected Impervious Area (DCIA)

Under the MS4 General Permit, municipalities must strive to disconnect 1% of DCIA per year through new developments, which may be private or municipal, or through retrofit projects on existing properties. Given the limited development opportunities in small, rural areas, and the cost of retrofit projects, this requirement is imposing a tremendous burden on towns. DEEP should exempt small towns from this requirement as part of a tiered compliance approach.

3. Reduce Paperwork Burdens

Compliance with the MS4 General Permit involves numerous paperwork requirements which are overwhelming municipal public works and engineering departments. Municipalities are required to document a wide range of activities and develop and maintain other documentation to demonstrate compliance with the MS4 General Permit. As a result, municipalities are spending a frustrating amount of time and resources in documenting compliance rather than performing the actual work necessary to achieve water quality improvements and positive environmental outcomes. COST recommends DEEP consider establishing a Compliance Certification Process, which would reduce the documentation required to be submitted to DEEP and, instead, allow permittees to submit a Compliance Certification, which certifies compliance with the terms and conditions contained in the MS4 General Permit.

4. Ensure the Availability of Training Assistance

DEEP had contracted with NEMO (Nonpoint Education for Municipal Officials) within the UConn Center for Land Use Education and Research (CLEAR) to provide training/outreach sessions to assist permittees in complying with the requirements. This training proved very helpful in assisting municipalities in complying with the permit. Unfortunately, DEEP has not renewed its contract with NEMO, raising concerns that training will not be readily available to assist municipalities in meeting the MS4 General Permit requirements. DEEP should ensure that training remains available to assist municipalities, either through NEMO, DEEP staff, or other qualified entity.



5. Provide Municipalities with More Flexible Compliance Timeframes

Many municipalities do not have the staff or resources to meet the compliance deadlines included in the MS4 General Permit. Moreover, many provisions in the MS4 General Permit do not lend themselves to implementation over a five-year permit term, at least in a way that is affordable for the regulated communities and that results in meaningful improvements to water quality. DEEP should extend the compliance deadlines for several specific provisions, such as development and implementation of a catchment delineation, over a ten-year period. This will provide municipalities with greater flexibility in complying with the permit requirements while keeping them on track toward compliance. It is our understanding that extending compliance deadlines is permissible under the requirements of the federal Clean Water Act.

6. Reduce Regulatory Burdens associated with MS4 General Permit Compliance

Municipalities are committed to complying with the MS4 General Permit to address stormwater management issues. However, many small towns are overwhelmed by the requirements. DEEP should consider ways of addressing the following concerns:

1. **Illicit Discharge Detection and Elimination** - Municipalities are facing significant difficulties in complying with the General Permit's Illicit Discharge and Detection Elimination (IDDE) requirements, particularly the screening protocol. Under the MS4 General Permit, municipalities must screen nearly every outfall in the municipality in dry weather and sometimes wet weather. Although municipalities can use field equipment for the required screening parameters, some require the use of a lab (E. coli), and for others, like nitrogen and phosphorus, it's more efficient to run these to a lab, which can cost \$125 - \$150 per outfall. In addition, towns must dedicate staff to go outfall to outfall, which means pulling them off other assignments. Rather than require outfall screening across the board, this requirement should be narrowed to require screening when there is evidence of an illicit discharge. In addition, if outfall screening is only required to be done in the summer, this would reduce lab costs since summer is drier resulting in less groundwater flow.
2. **Outfall Screening Categorization & Prioritization** - The MS4 General Permit requires municipalities to categorize and prioritize outfall screening as part of its IDDE program. However, prioritization is impractical because the field person must hop all over town to screen different outfalls rather than proceeding in a more efficient manner by prioritizing outfall screening based on watershed.
3. **Long-term Maintenance of Stormwater Structures.** The post-construction stormwater BMPs include a requirement for long-term maintenance plans for stormwater basins and treatment structures. Most towns require a maintenance and operations plan for new basins and treatment structures. However, many towns aren't sure how to address older facilities where there is no maintenance and operation plan and question whether



they have the legal authority to enforce this provision which wasn't included in the approved site plan.

7. Create a Statewide Municipal Stormwater Coalition

Statewide Municipal Stormwater Coalitions have been used in other states to provide a mechanism for municipalities, regional councils of government, and watershed and environmental organizations to collaborate and share information regarding best practices, technical products, field procedures, public education tools, documentation software, training opportunities and cost-effective compliance tools. This will help reduce redundancy and make operations more efficient for communities subject to the permit requirements.

Thank you for the opportunity to submit comments.