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February 27, 2015

Attention: Docket ID No. FRL-9917-31-Region-1; Document No. 2014-23262

Newton Tedder

U.S. Environmental Protection Agency Region 1

1200 Pennsylvania Avenue, N.W.

Mail Code: OEP06-4

Boston, MA 02109-3912

Via Electronic Mail: Tedder.Newton@epa.gov

Re: Comments on 2014 Draft Massachusetts MS4 Permit

Docket ID No. FRL-9917-31-Region-1; Document No. 2014-23262

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) Draft 2014 Massachusetts General MS4 Permit (permit). NACWA represents the interests of nearly 300 publicly owned wastewater and stormwater utilities nationwide, including eight public agency members in Massachusetts.

NACWA supports the comments on the permit submitted by the Central Massachusetts Regional Stormwater Coalition (CMRSWC). CMRSWC's concerns are representative of those communities that will be most affected by the permit, should it be finalized, and thus should be seriously considered. NACWA especially agrees with CMRSWC's comments regarding the following three issues in the permit:

- **Affordability:** When complying with increased regulatory requirements as outlined in the draft permit, updated affordability guidelines are necessary to help regulated communities achieve compliance without experiencing economic hardship. NACWA has long advocated for changes to EPA's 1997 affordability guidance, and CMRSWC's comments on this point are particularly relevant from a municipal stormwater perspective.
- **Administrative Burden:** The permit, as drafted, would create a significant administrative burden for municipalities that often are unable to access funding for more personnel and technical expertise to implement sophisticated monitoring and reporting requirements. CMRSWC's comments about the need to reduce requirements for "written"

documentation in recognition of the transition many municipalities are making to electronic documentation is especially relevant. Overly burdensome administrative requirements detract from the ability of municipal stormwater agencies to implement the core functions of their programs which protect water quality.

- **Maximum Extent Practicable (MEP) Standard and Water Quality Based Effluent Limitations:** MEP is the statutory standard that governs the level to which municipalities are responsible for limiting and reducing pollution in stormwater. It is a unique standard designed specifically for municipal stormwater discharges and includes consideration of the limits of technology and cost/benefit analyses. Courts have routinely held that it does not include strict compliance with water quality standards. Any attempt in a federal permit to supersede MEP in favor of water quality based effluent limitations is both illegal and contrary to congressional intent, and would set a troubling precedent if included in the general permit. NACWA fully supports CMRSWC's comments on this issue.

NACWA believes that elements of the draft permit, including the issues specifically identified above, have the potential to set precedent for stormwater permits around the country. Accordingly, NACWA strongly encourages EPA to address the concerns raised by the regulated community over these issues in the final permit.

Again, NACWA appreciates the opportunity to provide input on the draft permit. Please contact me at bmannon@nacwa.org or 202/533-1839 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Mannion', with a long horizontal line extending to the right.

Brenna Mannion

Director, Regulatory Affairs and Outreach