



## CONCORD PUBLIC WORKS

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March 10, 2011

United States Environmental Protection Agency – Region 1  
Ms. Kate Renahan  
Office of the Regional Administrator  
5 Post Office Square – Suite 100  
Mail Code: ORA01-1  
Boston, Massachusetts, 02109-3912

Subject: Comments on the Draft Massachusetts Interstate,  
Merrimack, and South Coastal Small MS4 General Permit

Dear Ms. Renahan:

This letter is intended to provide the Town of Concord's comments for consideration when developing the final Massachusetts Interstate, Merrimack, and South Coastal Small MS4 General Permit. The Town recognizes the importance of stormwater management to the environmental health of Massachusetts waterways.

While the Town has concerns over multiple sections within the Permit, we have focused our comments on items that we believe could be easily modified to assist communities in complying with the Permit's new conditions. The following is an outline of sections which the Town offers comments. Within each comment the Town provides recommendations for improvements to that section:

### **Section 1.2.1:**

The Town is unclear if Regional School Districts, Water Districts, Light Plants etc. are considered separate MS4s from the municipality from which they are located in. We would recommend clarification to the definition. We would also recommend the EPA/DEP provide outreach to these entities, similar to what was provided to the municipalities, to inform them of these new requirements. It is also unclear if they have been given appropriate notification or opportunity to provide comment to the Permit. EPA/DEP should also notify the municipalities what institutions within Town boundaries are required to file for separate converge under the permit to ensure no duplication of efforts.

### **Section 2.2:**

The Town believes that the TMDL section related to the Shawsheen River Watershed is overly broad, specifically within sections 2.2.1F and Appendix G where the waste load allocation for the entire watershed needs to meet the 200 cfu/mgl geometric mean. It is inferred that this river loading requirement is being applied to wetland areas where there is a significantly lower dilution of potential pollutants. Citing two sources:

- *The Illicit Discharge Detection and Elimination: A Guidance Manual - Pitt 2004, provided by EPA to municipalities in 2005, page 142* - specifically discusses in stream monitoring of bacteria and states "An important caveat when interpreting stream monitoring data is that a violation of bacteria standards during dry weather flow does not always mean that an illicit discharge or sewer overflow is present ..... ideally stream monitoring station should be strategically located". Pitt goes on to note "..... stream monitoring data needs to be interpreted in the context of other information such as upstream land use, past complaints, age of infrastructure and ORI (outfall reconnaissance inventory).
- "Evaluation of Stormwater Management Benefits to the Lower Charles River," prepared by Metcalf & Eddy for the EPA - 2000 cfu/100 mL is described as "the extreme of dry weather and wet weather stormwater quality that could occur if aggressive illicit connection removal is implemented, and all possible BMPs are applied to their fullest extent."

It appears that this blanket threshold contradicts Pitt's and Metcalf and Eddy's recommendations and previous information provided by EPA. The Town would suggest individual municipalities evaluate their own thresholds based on the up-gradient land use and baseline assessments and provide EPA with results and follow up actions within the annual reports. Then EPA and DEP can provide written feedback on the Town's analysis.

**Section 2.4.4.8 c:**

As a community which began an effort to analyze the Town's storm sewer capacity and watershed divides, we do not believe the timeframe provided in Section 2.4.4.8c is reasonable to delineate each outfall catchments within year 1. It would be difficult to complete this task by the end of the Permit cycle for all outfalls.

The Town completed a priority area analysis within the previous 2003 MS4 Permit, and provided additional investigation for all upstream structures. It is not clear whether the Town's previous efforts satisfy these new Permit conditions. Requiring a watershed mapping and a reprioritization of the MS4 in addition to our previous efforts seems unreasonable. The Town would recommend clarifying this section to provide further MS4 system investigation for all structures upstream of a priority outfalls only, if not already completed within the previous 2003 MS4 Permit.

In addition, the Town would request that this Permit section be rewritten to build on the extensive efforts the MS4 communities have undertaken within the previous Permit. Areas designated as low priority should only be reinvestigated when new evidence, complaints, or routine maintenance triggers further investigation.

**Section 2.4.6.9 a-c:**

The Town takes exception to the requirement for communities to begin a tracking program for impervious area (IA) and Direct Connected Impervious Area (DCIA). With the other requirements within section 2.4.6, communities will be requiring structural BMP installation for new impervious areas being created, so this requirement appears redundant and unnecessary provided communities properly develop the other Permit requirements. The Town would recommend this section be revised.

**Section 3.0:**

The Town believes the approach outlined within the Outfall Monitoring Program is inconsistent with EPA's prior requirements and guidance provided to the Town of Concord in 2009. The Town was required to complete monitoring, sampling and testing for outfalls which discharge to waters listed as

impaired for pathogens. Waters which are not listed were omitted from the testing program. We consider this to be a reasonable approach and would suggest a similar language be incorporated into the final Permit.

Additionally, we would recommend the removal of all the wet weather testing requirements unless being performed on a priority outfall. Data collection at the same outfall during the same rain event can yield varying results. It is unclear how a community should effectively evaluate data that is so variable.

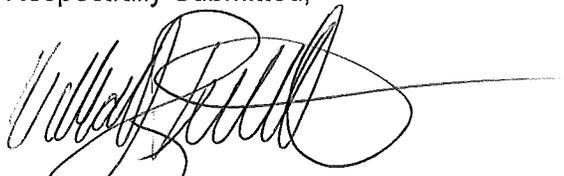
Furthermore, as outlined within the Comment for *section 2.4.4.8.*, the Town suggests that Section 3.0 also be rewritten to build on the extensive efforts the MS4 communities have undertaken within the previous Permit timeframe. Areas which have been evaluated and are related a low priority areas should only be reinvestigated when new evidence, complaints, or routine system maintenance triggers further investigation.

**General Comments:**

The Town would also suggest a more collaborative effort with the annual Permit compliance review. More specifically, the Town would request formal responses to the annual reports being provided to the EPA and DEP where both agencies can provide direct feedback on the municipality's program and provide improvement suggestions. A second suggestion to accomplish the same would be to facilitate annual program meetings with each community and EPA and DEP staff. While this will no doubt require additional staff time at both State and Federal agencies, we believe this additional effort will be much less burdensome than the new Permit's addition compliance requirements to municipalities. This dialogue will also allow the Federal and State agencies to gain a better understanding of the financial, administrative and environmental impacts resulting from the requirements developed within this Permit.

We appreciate the opportunity to submit comments on the Draft Massachusetts Interstate, Merrimack, and South Coastal Small MS4 General Permit. If you have any questions on this letter or require any clarification, please do not hesitate to contact me with any questions. I can be reached at (978) 318-3210 or at [wrenault@concordma.gov](mailto:wrenault@concordma.gov).

Respectfully Submitted,



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Town Engineer

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