



TOWN OF HUDSON
DEPARTMENT OF PUBLIC WORKS
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January 19, 2011

Ms. Thelma Murphy / Ms. Kate Renahan,
Office of the Regional Administrator,
U.S. Environmental Protection Agency (EPA) - Region 1
5 Post Office Square – Suite 100 – Mail Code: ORA01-1,
Boston, Massachusetts, 02109-3912

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

Dear Ms. Murphy and/or Ms. Renahan,

The Town of Hudson currently operates its storm sewer system under the NPDES Phase II Municipal Separate Storm Sewer System (MS4) General Permit. As a Phase II MS4 community, we have a population of 18,620 residents (as of January 1, 2011) and a land area of 11.66 square miles containing mixed land use. The Town's infrastructure includes approximately 102 miles of roadways, 2,530 catch basins and 1,410 Storm drainage manholes.

The Town of Hudson works very closely with the Massachusetts Department of Environmental Protection (Mass DEP) and the United States Environmental Protection Agency (US EPA) managers to implement the existing stormwater regulations.

In the last 7 years, the Town of Hudson met all the NPDES Phase II Municipal Separate Storm Sewer System (MS4) General Permit aspects and control measures.

We have reviewed the proposed draft permit for the Massachusetts watersheds and have the following major comments on the Draft Massachusetts Interstate, Merrimack and South Coastal Small MS4 General Permit:

- 1) The cost of implementation will be a significant burden to the Town. The Town has many high priority needs competing for limited available funding. The new requirements contained in the Draft General Permit amount to unfunded federal and state mandates with the burden of implementation falling upon local communities. Where the annual cost of compliance has been estimated in the several hundred thousand dollar range, the entire issue of funding these mandates is one that requires significantly more work before they are placed as burdens on local cities and towns by regulatory authorities who then walk away from any responsibility for financial participation in the obligations they have imposed.

Other than wholesale property tax increases resulting from Proposition 2 ½ overrides, the only other funding mechanisms that have been discussed involve the development of municipal stormwater utilities – a new tax of that would be based on payments calculated on the square-footage of impermeable surfaces for each property owner in town. Leaving aside the legality and complexity of such an approach, the political viability of a vehicle of that type in today’s economic climate strains one’s credulity.

- 2) The timeframe for the implementation and developing of the new permit is extremely aggressive. We anticipate that meeting the EPA permit goals outlined in the draft permit will take more than the scheduled 5 years to implement. This is because we will need to both understand and prioritize the drainage problems, if any, within Town, and find a way to pay for the work.
- 3) The Town strongly believes that regulatory changes of this type should be promulgated, implemented, and enforced at the state or federal level, not the local level. There are many reasons why this makes more sense than requiring municipalities to promulgate their own regulations.
 - a) Watersheds contain more than one municipality, and conversely one municipality may be contained within two or more watersheds. Therefore a regulation promulgated by one community may be contradictory to those promulgated by another community.
 - b) Local ordinances do not have the strength of state or federal laws and regulations, and enforcement capabilities are far less at the local level. For example, the number of citizen appeals to enforcement procedures for violations of the Wetlands Protection Act through local Conservation Commissions far outweighs similar appeals through DEP.
- 4) Where the source of impairment is known to be upstream, the downstream municipality should not be required to analyze for pollutants even though they may be present in the water. This would be an inappropriate burden for any municipality.

Thank you for your consideration of our concerns, and please feel free to contact me if you have any questions or require any additional information.

Yours truly,

Max Kamel

Assistant Director
Department of Public Works

Cc: Paul Blazar, Executive Assistant
Anthony Marques, DPW Director
Sam Wong, Board of Health Agent
Debbie Craig, Conservation Department