



# Merrimack River Watershed Council, Inc.

*The Voice of the Merrimack*

February 8, 2011

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

Re: Draft General Permit for Stormwater Discharges from Small MS4s in the Interstate,  
Merrimack and South Coastal Watersheds of Massachusetts – (NPDES Permits  
MAR041000, MAR042000, and MAR04000I)

Dear Ms. Renahan,

The Merrimack River Watershed Council, Inc. (MRWC) appreciates the opportunity to comment on the Draft General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) in Massachusetts Interstate, Merrimack and South Coastal Watersheds (“Draft Permit”). MRWC is a nonprofit 501(c)(3) charitable conservation organization founded in 1976 with the purpose of protecting the Merrimack River and promoting the sustainable use of its watershed. Today, its mission is to ensure the sustainable ecological integrity and balanced, managed use of the Merrimack River and its watershed through science, advocacy, partnering and recreation.

MRWC strongly supports the efforts of the U.S. EPA Region 1 Regional Administrator to develop and reissue a general NPDES permit that takes greater efforts to ensure that pollution discharges from small MS4s are reduced to the maximum extent practicable and protect water quality by establishing more specific requirements and timelines. Stormwater runoff poses a great threat to our nation’s waterways because it is one of the most significant sources of water pollution in the nation. In Massachusetts, stormwater contributes 60 percent of the pollutants responsible for the degradation of the Commonwealth’s water quality. It is imperative that the EPA promulgate and enforce a strong general permit regulating stormwater discharges from small MS4s, especially those discharging to polluted rivers such as the Merrimack, which is impaired for pathogens, nutrients and priority organics.

Among those provisions in the draft General Permit that MRWC strongly supports are:

- The stronger Illicit Discharge Detection and Elimination Program and the inclusion of Outfall Monitoring in the Draft Permit. It is critical to the health of the Merrimack River and its tributaries that pipes illegally connected to town, state or federal storm



sewers designed only for rainwater be disconnected in order to prevent contaminating stormwater with untreated human waste and toxic pollutants.

- The more frequent and definitive requirement to educate residents, employees and businesses about the damage stormwater runoff does to local waterways and clearly communicate what they can do to help protect and restore water supplies, rivers, lakes, ponds and wetlands affected by storm water pollution.

Of particular importance to MRWC is section 2.3.1.1, which addresses increased discharges to impaired waters without a TMDL. Because the Merrimack River is classified as such, MRWC supports the inclusion that an MS4 intending to increase its stormwater discharge into impaired waters without a TMDL must perform additional or enhance its Best Management Practices, or secure offsets that ensure the net result is a decrease in the pollution load. These standards included in the Draft Permit allow for greater protection of impaired waters that do not yet have an assigned TMDL.

While MRWC supports the Draft Permit overall, including many of the changes and clarifications added to the current Draft Permit based on comments received on the North Coastal draft permit, there are some aspects that can be improved upon. First, there should be greater emphasis and priority placed on reducing and eliminating stormwater discharges that pose the greatest threat to public health and safety. Specifically, section 2.4.4.8.c.ii of the Draft Permit should be changed to require, not simply suggest, that permittees prioritize catchments draining to public and private drinking water sources, beaches and shellfish beds in their illicit discharge catchment evaluation. If the MS4 operator finds that its stormwater discharges have the potential to contaminate drinking water, the MS4 operator should take immediate action to eliminate the discharges from these outfall(s). In the Merrimack River, the uppermost 20 miles of river in Massachusetts is a drinking water source for over 300,000 residents, and the mouth of the river is home to shellfish beds.

Second, the provisions relative to new development and redevelopment projects in the Interstate, Merrimack and South Coastal Draft Permit have been weakened in comparison to those presented in the North Coastal Draft Permit and need to be restored in the current Draft Permit. The North Coastal Draft Permit requires new development and redevelopment projects of one or more acres to meet MassDEP Stormwater Standards numbers 3 through 6 for new development and number 7 for re-development. In the Interstate, Merrimack and South Coastal Draft Permit, however, only projects that result in two or more acres of impervious surface are required to comply with the state Stormwater Standards. The one acre minimum threshold should be restored in the Draft Permit.



Third, the Draft Permit should require MS4 operators discharging stormwater to waters impaired with phosphorus, nitrogen or pathogens but without an approved TMDL to implement the same education programs, outlined in section 2.4.2.1.c of the Draft Permit, that are required for MS4 operators discharging to waters with approved TMDLs.

Fourth, the Draft Permit must require compliance with not only those TMDLs that are approved as of the effective date of the permit, but also those that are approved during the permit term. Without this requirement, it could take as much as 15 or more years for a TMDL enacted just after this Draft Permit goes into effect to be implemented. For example, using the phosphorus TMDL area requirements in section 2.2.1.d.i of the Draft Permit, if a TMDL is approved shortly after this permit takes effect, it will be a minimum of 5 years, and more likely 8 years using the current permit lag as a baseline, before the MS4 stormwater permit is renewed. Then, assuming the same requirements in the renewed permit as in the current Draft Permit, permittees are allowed up to 7 years from the effective date of the permit to actually implement pollution control plans. A 15 years lag before implementing stormwater controls to polluted waterways already years overdue for remediation is much too long. This is of particular concern in the Merrimack River, which is impaired for pathogens, nutrients and priority organics yet does not yet have any approved TMDLs.

Finally, the Draft Permit should include more suggestions to promote opportunities for municipalities to collaborate with one another or work together with community watershed groups and local citizens. An example of this would be to encourage sharing of MassDEP approved monitoring data and sampling protocols conducted by community watershed groups with local MS4 operators.

In conclusion, MRWC would like to thank the office of the U.S. EPA Region 1 Regional Administrator for the considerable time and effort its staff has devoted to the development of a more ecologically protective and effective permitting requirements for stormwater discharges from small MS4s in Massachusetts and New Hampshire.

Thank you very much for your time and consideration of these comments.

Very sincerely,

Catherine Arning  
Executive Director

Tracie Sales  
Water Resources Manager

Merrimack River Watershed Council, Inc.