

Town of Middleborough
Massachusetts

BOARD OF SELECTMEN

March 7, 2011

United States Environmental Protection Agency
New England Region 1
5 Post Office Square Suite 100
Boston, MA 02100
Attn: Thelma Murphy

Re: Comments on Draft Stormwater Permit-NPDES Permit

Dear Regional Administrator Spaulding,

The Middleborough Board of Selectmen hereby submits the following comments on the Draft South Coastal Watershed Small Municipal Separate Storm Sewer System (MS4) General Permits.

Strict stormwater standards are placing a financial burden on cities and towns at a time when local budgets are already stretched to the limit. The MS4 program is certainly one of the most burdensome unfunded mandates imposed by the federal government on localities. The EPA's estimate is that MS4 communities can expect to spend up to \$60 per capita each year to implement stormwater programs in their communities. In Middleborough that cost would be over \$1 million. The federal government must provide funding opportunities to assist local governments as they struggle to implement the requirements associated with this program. The new draft of the South Coastal Watersheds Small Municipal Separate Storm Sewer System (MS4) General Permit would require communities to institute more advanced stormwater testing, monitoring and management programs, yet is completely silent on the additional costs to communities.

The proposed permit is clearly written in a one-size-fits-all format and provides little or no flexibility. It does not reflect the diversity among the MS4 communities. Each of these communities has taken various steps to successfully comply with the original five-year permit. The steps implemented during the original permit period differ from community to community and with varying intensities. The proposed MS4 permit takes none of this into account and leaves no flexibility in its level of compliance.

One of the provisions in the 2003 general permit was the ability for cities and town to tailor the BMPs to achieve the maximum benefit utilizing available financial resources and manpower. In this draft permit, there is considerably less flexibility. For instance, the requirements to sweep all streets and sidewalks twice a year would force communities to more than double their street-sweeping budgets. Urban communities may sweep many times a year, while suburban communities with swales, no sidewalks and no box storm drains may not sweep at all. Few communities currently have the financial resources or equipment to sweep their sidewalks even once a year.

The requirement to maintain catch basins at no more than 50 percent full means that communities will end up significantly reducing the existing storage capacity in every catch basin. Limited staff will be required to document the amount in each catch basin when their time could be better spent cleaning catch basins, thus the paperwork and documentation requirements will likely decrease the catch basin cleaning frequency. Again, the new regulatory approach would result in a higher cost to perform this function.

The requirement to perform dry weather and wet weather sampling of all outfalls is especially burdensome. Timing the grab samples during wet weather will be difficult, costly and nearly impossible to schedule to obtain proper samples that are representative of the first flush of runoff. The EPA must streamline the requirements by allowing communities to prioritize catchment samplings or substitute end-of-pipe sampling with strategic in-stream sampling, which is more effective and efficient. The cost to monitor and sample all outfalls is extraordinary and would place a severe financial burden on our cities and towns.

Another concern is the aggressive schedule that the EPA proposes for implementation of the program. Giving permittees only 90 days to file their Notice of Intent after their permit is finalized, and dictating that within 120 days from the NOI the formal Stormwater Management Program must be complete, is unrealistic. Communities would be forced to hire expensive environmental consultants for assistance to complete numerous elements of the program because of lack of staff and technical expertise from years of both state and federal cutbacks in grant funding and local aid. Hiring these consultants would require compliance with statutory procurement requirements and can be extremely time consuming. The initial five-year permit requirements were accomplished in-house. This is no longer possible, and communities will now be forced to cut other services or raise taxes to pay for these new requirements.

These are just a few examples of the significant problems with the proposed MS4 permits. As noted above, the requirements under the proposed permit are well beyond the normal operating budgets of our cities and towns. In short, we express our deep and serious concerns regarding these costly new permit requirements and can testify that these requirements would certainly divert scarce resources away from core essential services

necessary for the protection of public health and safety and the education of our schoolchildren. The costs of the operational, structural and staffing changes necessary to monitor and meet the requirements of the permit would have a severe financial impact on communities across the Commonwealth.

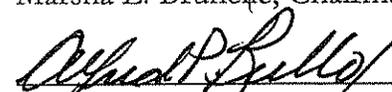
For these reasons, we ask you to defer action on the submission of NOIs until municipalities have had an opportunity to engage the regulatory agencies in an open dialogue regarding permit requirements. We urge the EPA to amend your approach to incorporate goals that are more realistically attainable and within the financial constraints of the current economic climate, or to wait until adequate federal funding is available to ensure that these requirements do not translate into a harmful unfunded mandate on cities, towns and taxpayers.

Sincerely,

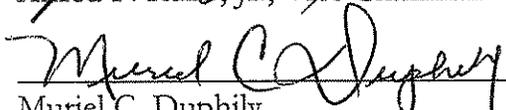
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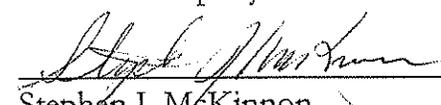
Marsha L. Brunelle, Chairman



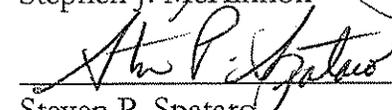
Alfred P. Rullo, Jr., Vice Chairman



Muriel C. Duphily



Stephen J. McKinnon



Steven P. Spataro

c: Senator John Kerry
Senator Scott Brown
Congressman Barney Frank
Andrew Bagas, DPW Director
Conservation Commission