

January 5, 2011

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

**RE: Town of Westborough, MA Comments on the Draft General Permit for Stormwater Discharges from Small MS4 in Massachusetts Interstate, Merrimack and South Coastal Watersheds**

Dear Ms. Renahan

The Town of Westborough appreciates the opportunity to review and comment on the Draft Massachusetts Interstate, Merrimack, and South Coastal Small MS4 General Permit made available in November, 2010.

The Town of Westborough expected the performance standards to be raised for the second permit; however the level of detail required is substantially higher than anticipated. The funds required to meet the permit and to continue the maintenance required greatly exceed what the Town can acquire. There should be more flexibility when it comes to the town's ability to see where there are water quality problems, and to fix them accordingly. The assumption that one size fits all for this permit is unreasonable.

The following numbered comments provide specific examples of areas within the draft permit which we see as problems. In most cases we have provided a specific recommendation with the numbered comment. We ask that you review these comments and recommendations for consideration when issuing the final 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.
- 2) The Town believes that regulatory changes should be promulgated 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 are not easily enforceable and do not have the strength of state or federal laws.
  - 3) Section 1.9 Reviews for the presence of and impacts to endangered species, specific habitats and historical properties are cumbersome for each community to coordinate individually, both for the communities and for the review agencies. The permitting authorities should coordinate the reviews by these agencies with the comment periods and with particular future milestones, and all comments should be funneled through the permitting agencies to the applicants via formal comments.
  - 4) Section 1.10 of the Draft General Permit requires that the written Stormwater Management Program (SWMP) must be completed within 120 days following the Town's receipt of authorization from EPA to discharge under the Permit. The Town anticipates that there will be a significant effort and inter-departmental coordination and planning that will be required to develop a comprehensive SWMP that will be require more than 120 days and requests additional time.
    - a) In Section 1.10 c, the permittee is "encouraged to maintain an adequate funding source for the implementation of this program." Adequate funding means that a consistent source of revenue exists for the program. With only 120 days from the permit's effective date to develop the Stormwater Management Plan and commit to particular measures for implementation, there is not adequate time for funding to be secured. Furthermore, a "consistent source of revenue" implies a funding mechanism such as a stormwater utility assessing user fees. This type of program could require years to develop and implement, normally requiring multiple levels of review and approval from town boards and committees, town counsel, town meetings or general elections, and sometimes the state legislature. At a time when communities are not flush with money, and when most communities do not have enterprise funds for addressing stormwater infrastructure needs, the financial obligations of the proposed regulations are insurmountable.
  - 5) Section 2.4.2 For the required public education and outreach materials, having each community create their own language and graphics for brochures, websites, signs, etc., is an inefficient use of resources. Enough of the information on non-structural controls implementable by the public is generic and can be provided in a series of templates to communities. A few versions of this information could be developed depending on the size and demographics of each community or depending on the watershed. Templates could include areas where communities can input information specific to their locations. Proving these templates would greatly reduce duplicate efforts and costs.

- 6) Section 2.4.4.6 Requires a map of the MS4 system to be done in 2 years but this map is also listed as being required in the SWMP, which is required in the first 120 days. This needs clarification. It is also unrealistic to create a map with this level of detail completed in the first 120 days. It is much more reasonable to require this map be completed by the end of the permit term.
- 7) Section 2.4.6.9 The requirements to measure and monitor changes in impervious area is an interesting academic exercise, however provides little benefit to the municipality. The rate of land development in Westborough may be significantly slower compared to other communities as the Town is nearing full-build-out conditions. This results in significantly lower rates of changes in impervious area (IA) and directly connected impervious area (DCIA). This exercise will be burdensome and will take staff away from more valuable functions. If change in impervious surface over time is a metric of interest to Federal and State regulators then perhaps every 10 years the regulators can utilize advances in satellite imagery or other statewide GIS data to track this information. Municipalities should not be charged with gathering data that does not provide them with useful information.
- 8) Section 2.4.6.9 (c) Evaluating all infrastructure for a potential BMP retrofit is a waste of time and money. The funds would be better used for improving the stormwater system where it is needed the most.
- 9) Section 2.4.7 outlines the requirements for good housekeeping and pollution prevention from municipal facilities. Some of our issues are:
  - a) Investigating municipal buildings to identify all floor drains may be a challenging task, especially in a 6-month timeframe, for facilities such as school buildings.
  - b) The requirement to clean all catch basins when they are 50 percent full is difficult to quantify and difficult to execute. Town departments responsible for catch basin cleaning strive to maximize efficiency in light of local budgets and staff shortages. For the roadways, greatest efficiency is realized when catch basins are cleaned following a geographic pattern, i.e., all basins in a given area are cleaned one after the other before moving on to a new area. Cleaning catch basins when they become 50 percent full is contrary to efficient use of manpower and cannot be implemented in a practical way.
  - c) The requirement to maintain a record and report on the volume of material removed from catch basins and from street sweeping is also a nice academic exercise, but is a difficult task and will cause the process to be even less efficient. This may cause less catch basins to be cleaned in the amount of time allotted for this task, and that is counterproductive to the overall goals of the permit. If the agencies are as interested as they seem to be to collect information for environmental studies then they should be present to obtain the measurements.
- 10) Section 2.4.7.1 requires that within one (1) year from the effective date of the permit, written operations and maintenance procedures for municipal activities be developed. The Town anticipates that significant effort in planning and coordination with various Town departments is needed and requests that full Permit Term (5 years) be granted for this effort.
- 11) Section 2.4.7.2 requires quarterly inspection of facilities under a Stormwater Pollution Prevention Plan (SWPPP). This practice is inefficient and wasteful. The Town recommends an annual inspection of facilities. Also, the Draft permit requires

that SWPPPs be developed and implemented for maintenance garages, public works facilities, transfer stations, and other waste handling facilities. The Town recommends that a comprehensive SWPPP that covers all of the facilities be required rather than developing individual SWPPPs for each of the facilities. Developing and implementing individual SWPPPs will result in significant cost burden to the Town. The term “waste handling facilities” needs clarification.

- 12) Section 3.2.1 and Section 3.3.2 require monitoring of 25% of all outfalls each year in both wet and dry weather conditions. This requirement will result in significant costs and will not produce data that could be used to significantly improve the water quality. This should be lowered to a more achievable level, such as 10% per year, starting with known problem areas. Because of the unpredictability of stormwater quality, wet weather monitoring is of little value. Such monitoring should be kept to a minimum. Only dry weather running outfalls should be tested. Our town does not have combined sewer and does not feel that it is warranted to spend time and money on this expensive task including: establishing a plan, testing, analysis, documentation and reporting.
- 13) Section 5.1 The process to change the BMPs in the SWMP is too difficult. It should be left to the town’s discretion to determine if the BMPs identified are working for the Town or not. Additionally, it would be beneficial to the Towns to be provided with a form for the Program Evaluation.

Many of the individual requirements, on their own, would be achievable. However, requiring so many varied tasks of each community during a five-year permit cycle is unrealistic and is setting communities up for failure to comply. If communities are presented with a permit they can meet, they are more likely to successfully invest the necessary funds and labor into implementation. For this permit cycle, the program should be pared down to a list, approximately one half of what is identified to make them achievable goals that build on the efforts that communities have already expended for compliance with the 2003 permit.

Sincerely,

Christina Papadopoulos, E.I.T.  
Junior Civil Engineer

Carl J. Balduf, P.E., P.L.S  
Town Engineer

CC: J. Malloy, Town Manager  
J. Walden, DPW Manager