



Charles River Watershed Association

June 30, 2010

Mark Voorhees
US EPA Region 1
5 Post Office Square, Suite 100
Mail Code 06-4
Boston, MA 02109-3912

RE: Docket ID No. EPA-R01-OW-2010-0292: Draft General Permit for Residually Designated Discharges in Milford, Bellingham, and Franklin, Massachusetts

Dear Mr. Voorhees,

Charles River Watershed Association (CRWA) has worked over the past ten years to understand phosphorus pollution in the Charles River watershed, and to identify technical and policy solutions that are practical and feasible. We are fully aware that water quality in the Charles River violates water quality standards throughout the river, and that it is necessary to identify solutions and bring the river and its tributaries into compliance.

CRWA submits the following comments on the Draft General Permit for Residually Designated Discharges in Milford, Bellingham, and Franklin, Massachusetts (Draft RDA Permit). Our comments here reflect comments we have made previously on the Draft General Permit for stormwater discharges from small municipal separate storm sewer systems in Massachusetts north coastal watersheds (Draft MS4 Permit), as we believe the RDA Permit and the MS4 Permit must work together in order to achieve the goals of the Clean Water Act with a systematic and manageable regulatory program.

In general, CRWA supports the Draft RDA Permit, and applauds EPA Region 1 for developing such a detailed and comprehensive permit. The permit provides significant detail about the requirements for compliance and how to achieve those requirements. The Permit and Appendices provide extensive guidance on the necessary requirements including the creation of a Stormwater Management Plan, Baseline Performance Standards, Illicit Discharge Detection and Elimination (IDDE) programs, and the Phosphorus Reduction Plan (PRP). The detail and guidance provided in the Draft RDA Permit demonstrate EPA's commitment to supporting successful programs and creating a level playing field for all regulated entities.



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Water Quality Conditions and Science Support Need for New Regulation

Ongoing water quality data collection, fisheries assessments, watershed simulation modeling, and simple observation all support the conclusion that water quality conditions continue to deteriorate and eutrophic conditions to expand in duration and extent across the watershed. Significant reductions in sewer cross connections and Combined Sewer Overflows (CSOs) have made important contributions to improving water quality, especially in reducing pathogen pollution. However, stormwater pollution remains a major cause of water quality violations, especially for nutrient-sensitive parameters such as dissolved oxygen, excess algal growth, eutrophication, non-native aquatic plants and phosphorus.

Without significant reductions in stormwater pollution to the Charles River and its tributaries, water quality conditions in the river will continue to degrade, and water quality standards will not be met. Detailed analyses conducted during the Total Maximum Daily Load for Nutrients in the Lower Charles River Basin (Lower Basin TMDL, approved 2007) and the Upper Charles River Watershed Total Maximum Daily Load (Upper Charles TMDL, draft awaiting final approval) clearly demonstrate that the only way to achieve water quality standards and reduce phosphorus loads to sustainable levels is to control phosphorus from stormwater, from wastewater treatment plants, and, over time, to reduce phosphorus fluxes from sediments by reducing cumulative loads. None of these alone will be sufficient to achieve water quality standards.

Both TMDLs, as well as recent stormwater demonstration projects within the Charles and across the New England region, demonstrate that achieving the necessary stormwater pollution reductions is feasible. The Draft RDA Permit lays out a clear strategy and techniques for achieving reduction goals and complying with the permit. It also encourages integration with the Draft MS4 Permit, which could provide opportunities to develop programs that achieve the needed reductions in stormwater pollution in a more cost-effective way.

CRWA believes that it is appropriate for owners of large properties with significant impervious cover to be regulated because these properties contribute such a significant stormwater load. If stormwater controls are not implemented on these large properties, it will be extremely difficult if not impossible to achieve the required stormwater pollution load reductions elsewhere.

Specific comments on the Draft RDA Permit

CRWA supports EPA's plan to require construction of any necessary BMPs within five years of a permittee receiving authorization to discharge. This timeline is consistent with the duration of the permit, represents a feasible timetable for property owners to plan for, design, fund and construct any necessary BMPs, and will make improvements in receiving water quality in a meaningful period of time possible. If the timeline is extended, as some have suggested at public meetings and the formal hearing, water quality conditions will continue to degrade with no meaningful improvement being made in an acceptable time period.



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CRWA supports EPA's plan to start the new permit program with a pilot project in the three towns of Milford, Bellingham and Franklin, but we urge EPA to roll the permit out across the entire watershed and to reduce the acreage threshold for Designated Dischargers (DDs) to one acre. Starting in the headwater towns makes sense because river clean-ups work best when done top to bottom; because the pollution and eutrophication problems first appear in those towns; and because EPA and the towns can create a successful program in an area of this size. However, the same stormwater controls are needed in the entire Charles, and all 35 cities and towns need private properties to be part of the clean-up. Similarly, in many areas of the watershed, achieving the total reductions in phosphorus that are called for in the Upper and Lower Charles TMDLs will require stormwater controls on properties with less than two acres of impervious cover. A one acre threshold will ensure that stormwater regulations are applied in a way that is fair and effective.

CRWA does not support the proposed exemption from this permit program of properties with large impervious surfaces if they are associated solely with sporting and recreational camps, recreational vehicle parks and campsites, or manufactured housing communities unless it can be demonstrated that no runoff from impervious surfaces at such facilities is discharged into a wetland or water resource either directly, or through a connection to a public or private drainage system.

CRWA suggests that EPA provide clear explanation for the selection of the phosphorus reduction credits given for Enhanced Non-Structural BMPs (Appendix D, Part II.A). Given that a permittee may be able to achieve significant reductions from these Enhanced Non-Structural BMPs, it is critical that EPA's reduction credits be based on credible research or studies.

CRWA supports the option of compliance through a "one inch certification" program. However, we believe more specific design detail should be provided to ensure that, if storage of the one inch storm is provided for later recharge or reuse, the storage facility shall be emptied and made available for storage of subsequent storms within 48 hours. Any water that is not recharged or reused from the storage facility within 48 hours must be managed on site. Additionally, the requirement at Appendix D, Part II.C(1) should be clarified to refer specifically to the 2008 Massachusetts Stormwater Handbook, Volume 3, Documenting Compliance with Stormwater Standards, Standard 3, Stormwater Recharge, or to any subsequent amendments.

CRWA urges EPA to consider expanding the definition of a Storm Water Professional (as required at Part 1, Section IV.B(3)). We suggest that there may be a larger group of professionals capable of developing plans and construction specifications that will comply with this permit. By limiting the definition to a Massachusetts Registered Professional Engineer or a Massachusetts Registered Landscape Architect, cost and complexity of BMPs may be unnecessarily high. It is likely that simplified BMP retrofit "templates," easy to use computer tools, and/or training and certification programs can be developed that will allow a wide number of professionals to design successful BMP retrofits. This would support the expansion of "green jobs" as well as reducing the costs of compliance.



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CRWA supports the provision allowing property owners to comply with this new permit by participating in a Certified Municipal Phosphorus Program (CMPP). This will allow integrated and cost effective stormwater management and regional reductions in phosphorus pollution. However, significantly more guidance and support is needed for the successful creation of CMPPs to ensure that they are technically sound, adequately financed, and will achieve the requirements of the Charles River Nutrient TMDLs and Massachusetts water quality standards. Because the adoption of a CMPP by a town is strictly voluntary, CRWA urges EPA to play an active role, including bringing in outside expertise, to help towns evaluate this possibility.

CRWA strongly urges EPA to identify additional internal resources in the Region 1 office to support the roll out of this new permit, as well as to integrate this permit program with the Municipal Separate Storm Sewer System (MS4) permit program. We also encourage EPA to work with the US Congress to identify a source of funds that can be used to assist municipalities directly in the implementation of CMPPs, and in the construction of stormwater controls.

If EPA elects to provide an additional comment period for the Draft RDA permit, CRWA may provide additional comments.

In closing, CRWA believes the use of EPA's Residual Designation Authority to extend stormwater regulations and permit requirements to large private properties that are contributing significant stormwater pollution to the Charles River is entirely appropriate, is justified by the science and the law, and has been well and carefully crafted in this Draft RDA Permit. We encourage EPA to respond to comments and issue a final permit swiftly in order to begin to make improvements in the Charles River.

Sincerely,

Kate Bowditch
Director of Projects