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MS4 Permit Technical Assistance and Outreach - Kristi Rea (OES) HOT

BACKGROUND:
Stormwater is the leading cause of water quality problems in Massachusetts due to contaminated runoff including heavy metals, fecal coliform, nutrients, hydrocarbons, and total suspended solids (TSS). Stormwater discharges cause or contribute to at least 55% of all the impairments in assessed waters in Massachusetts. The 2016 Massachusetts Small MS4 General Permit becomes effective July 1, 2017 and replaces the 2003 small MS4 general permit for MS4 operators in Massachusetts with the goal of reducing pollutants in discharges to the maximum extent practicable through improved management practices, outreach, control techniques, and system, design and engineering methods. Due to changes in the 2010 Census data, areas for permit coverage expanded since the 2003 permit, resulting in new communities and other entities (e.g., universities) needing to obtain authorization to discharge. OES's Office of Assistance & Pollution Prevention is working closely with OEP's Stormwater & Construction Permits Section and the Massachusetts Department of Environmental Protection to design and deliver a series of tools, trainings, workshops, and technical assistance to support the 260 covered communities and other entities to comply with requirements and work together to improve water quality in rivers, lakes and ponds in Massachusetts.

STATUS OF WORK:
A&P2 is working with OEP, the Office of Public Affairs and Mass DEP to create and deliver several new tools, trainings, workshops, and technical assistance to support Notice of Intent (NOI), Illicit Discharge Detection and Elimination (IDDE), and GPS mapping over the next 6 months to support communities.

SENSITIVE ISSUES:
Considerable stakeholder interest and desire for technical assistance. Communities need support to understand responsibilities, requirements, tools and best practices to advance efficient and cost-effective compliance.

PARTNERS:
Massachusetts Department of Environmental Protection

Date	Milestone	Status
05/31/2017	A&P2 will host a webinar open to all interested municipalities on "Introduction to GPS for Stormwater Outfall Mapping" at 2:00 - 3:30 PM EDT. This webinar will cover some suggested procedures for creating the storm sewer system map as required by the EPA 2003 Small MS4 permit. It will include an overview of GPS and low-cost methods for mapping storm	Completed

	sewer system outfalls.	
06/22/2017	A&P2 is hosting a Completing a "Notice of Intent (an NOI) for Approval to Discharge" under the 2016 Massachusetts Small MS4 General Permit webinar (1pm - 2:30 pm) for interested municipalities.	Planned
07/31/2017	MA Stormwater News, 2nd Issue. MA Stormwater News is a collaborative effort of MassDEP and EPA R1 (OES, OEP, ORA).	Planned
09/29/2017	GPS Mapping Equipment Loan & Assistance. A&P2 will loan GPS equipment and provide assistance to digitally map outfalls to the 20 priority MA communities starting in June 2017 that reported not completing mapping requirements under 2003 permit.	Planned

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Municipal Separate Storm Sewer System (MS4) Permitting - David Webster (OEP) HOT

BACKGROUND: Stormwater is the leading cause of water quality problems in Massachusetts and New Hampshire with waters impaired due to contaminated runoff. Tackling this problem is critical to cleaning up rivers, lakes, and ponds, and delivering clean water. There are five existing or planned MS4 permits in Massachusetts and New Hampshire: Boston, Worcester, Massachusetts Department of Transportation, and two general permits that cover remaining communities in Massachusetts and New Hampshire that require stormwater permits.

STATUS OF WORK: A final MA MS4 General Permit was issued in April 2016. A final NH Small MS4 General Permit was issued in January 2017. EPA is working on draft permits for MassDOT and Boston and a final or re-draft for Worcester. The MA MS4 GP has been challenged by the Center for Regulatory Reasonableness and four other parties. The case has been consolidated in the DC Circuit Court of Appeals. Three petitions for review of the NH Small MS4 general permit have been filed so far by the Conservation Law Foundation (in the First Circuit Court of Appeals),CRR (in the D.C. Circuit; on March 24, 2017, CLF moved to intervene in the CRR's D.C. Circuit petition); and the National Association of Home Builders/New Hampshire Home Builders Association in the D.C. Circuit (filed on May 25, 2017). Parties have until June 1, 2017 to file an appeal. EPA has moved to transfer CLF's petition in the First Circuit to the D.C. and consolidate it with CRR's petition. CLF has objected to the transfer and argues that all petitions filed on the NH small MS4 GP must be heard in the First Circuit. On March 29, 2017, EPA filed a motion in the D.C. Circuit to hold the matter in abeyance for 90 days, that is, until June 29, 2017. A 90-day stay of proceedings would allow time for any additional petitions for review of the EPA action at issue in this case to be filed before any further

proceedings take place. On March 30, 2017, the court granted this motion. The deadline for dispositive motions and the certified index to the administrative record is July 16, 2017.

On March 30, 2017, the D.C. Circuit established a briefing schedule for the MA MS4 appeal. However, on April 19, 2017, CRR filed a motion to hold the briefing schedule in abeyance for 90 days. On April 21, 2017, the DC Court granted the motion. The briefing scheduled ordered on March 30, 2017 which had petitioner's briefs due May 8, 2017, EPA brief due July 24, 2017 and final briefs due September 28, 2017 has been suspended. Parties must file any motions to the court by July 20, 2017 regarding governing of future proceedings. OGC, ORC, and DOJ continue to discuss at which point to offer to explore ADR through DC Circuit's mediation program.

SENSITIVE ISSUES: There is often keen municipal, state, non-government organization (NGO), and congressional interest in MA and NH municipal permits. In a March 9, 2017, letter to Administrator Pruitt, NH Governor Sununu raised concerns about the cost to municipalities of complying with the small MS4 permit and invited the Administrator to come to NH to meet with local and state leaders who would be impacted by the permit. In a January 25, 2017, letter to Administrator Pruitt, CRR raised concerns about the permit's cost to municipalities in both NH and MA as well as the science supporting the permits and requested the new administration review these MS4 permits.

In MA and NH, currently EPA Region 1 has the sole responsibility of issuing, justifying, and defending limits in a litigious atmosphere that is charged with public, financial, and environmental interests. Issues include whether the permit is adequately protective, affordable, and/or defensible under the law. The Region is currently considering whether to seek an assessment of the viability of alternative dispute resolution (ADR) to assist in the resolution of these two cases.

PARTNERS: MA, NH

Date	Milestone	Status
	Ex. 5 - Deliberative Process	Planned
07/17/2017	Submission of certified index of the record for the NH small MS4 General Permit to court	Planned
07/20/2017	Deadline for parties in the MA MS4 appeal to file motions for governing	Planned
	Ex. 5 - Deliberative Process	Planned
09/29/2017	[+] MS4 Permit Technical Assistance and Outreach :: GPS Mapping Equipment Loan & Assistance. A&P2 will loan GPS equipment and provide assistance to digitally map outfalls to the 20 priority MA communities starting in June 2017 that reported not completing mapping requirements under 2003 permit.	Planned

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