NPDES Permit Delegation for Massachusetts- Is it the Right Time or The Right Move ???

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NEWEA Spring Meeting
June 6, 2017
PLEASE NOTE:

I AM REPORTING FACTS AND WHAT I HAVE HEARD!!!
THANKS FOR THE INFO & OPINIONS !!

- MassDEP
- USEPA
- OARS
- Massachusetts Water Works Association
- Connecticut River Conservancy
- Massachusetts Rivers Alliance
- City of Worcester
- Massachusetts Coalition for Water Resources Stewardship
- Massachusetts Municipal Association
- Press releases and other information outlets
NPDES: WHAT IS IT ???

- NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
- A SURFACE WATER DISCHARGE PERMITTING PROGRAM
- A PROGRAM IN MASSACHUSETTS WITH APPROXIMATELY 3,000 PERMIT HOLDERS !!!
- 121 MAJOR/107 MINOR INDIVIDUAL DISCHARGES
- 250 MUNICIPALITIES UNDER MS4 and MUCH MORE !!
- AUTHORIZATION, DELEGATION, PRIMACY
NPDES: HOW WAS IT AUTHORIZED???

- Federal Water Pollution Control Act, 33 U.S.C section 1251 et seq., as amended (1972)
- Aka Clean Water Act & Public Law 92-500 (Sections 318, 402, 405)
- Nixon vetoed October 17, 1972, Senate & House overrode veto- became law October 18, 1972
- 40 CFR 122: EPA ADMINISTRATED PERMIT PROGRAMS
- 40 CFR 123: STATE PROGRAM REQUIREMENTS
Wastewater Discharge Permit “History”

- Refuse Act 1899
- 1948 FWPCA
- Nixon EO 1970
- 1972 CWA
- MA Board Health 1886
- Div. Sanitary Eng. 1945
- DWPC 1966 !!!
  - > DEQE 1974,
  - > DEP 1989
Only 4 states not delegated
- MA, NH, NM, ID
- Not DC either !!!
Idaho currently seeking delegation
New Hampshire filed recent bill
- to study possibility
Maine most recent in New England

NPDES PROGRAMS NATIONALLY
ELEMENTS OF NPDES PROGRAM

- Process Applications
- Issue discharge permits
- Compliance & Enforcement
- Data Management/Administration
- Legal support: appeals
- EPA Oversight & Audits
- Maintain Funding
NPDES PERMITS: BIG UNIVERSE

- * Municipal WWTP
- * Industrial
- * Stormwater: * MS4, * Construction
- * Multi-Sector Industrial
- * Site Dewatering
- * Small POTWS   * Potable Water Treatment
- * Noncontact cooling water   * Hydroelectric
- * Remediation
- * Vessels (yes there is one !!)
1973 “Short-Term Agreement
1980’s Initial Review
   - Not much memory of this attempt
1996-1997 Cadmus Report
   - Positive with needed next steps
2013 Report to Legislature
   - Decided not to proceed
2016 Governor Baker’s Bill “sent for study”
RECENT DELEGATION LEGISLATIVE ACTIONS

- **Governor Baker’s Bill No. 2777**
  - March 8, 2017 filed
  - Seeks authority & $4.7 M

- **Governor Baker’s Bill No. 4672**
  - April 29, 2016 filed
  - Reviewed by Committee October 3, 2016
  - “Sent for study”: January 3, 2017

- **Governor Baker’s FY H.1 Budget**
  - $1.4 M “seed” for improved monitoring
  - Not in House or Senate- amendment possible

- **Representative Rogers Bill No. 2139**
  - Improve water quality programs- do “gap” analysis
NPDES Decision Process - ALL NEEDED

- Bill submitted by Governor
- Bill reviewed by Committee E, NR&A
- House & Senate vote
- Legislation gives authority to proceed
- Regulations and Statues
- Develop application (1-3 years)
- Negotiate with USEPA
- Get to Work !!!
MassDEP’s NPDES PROGRAM PROPOSAL

- 27 current staff
- $4.7 M per year
- 40 new staff
- $3.2 M per year
- $1.5 M for contractors
- More water quality staff
- Phase in program
MassDEP’s “BENEFITS” OF DELEGATION

- Successful with other federal programs
- Key part of Integrated Water Management state-wide
- Increase monitoring and science
- Works closer with permittees
- Program staff will increase
- Provide technical assistance
- Make use of contractor support
- Timely permit issuance and enforcement

source: MassDEP
Title 40 CFR 123:

- 1. Letter from Governor
- 2. Complete Program Description
- 3. Attorney General’s Statement
- 4. MOA w/ Regional Administrator
- 5. Applicable State Statues & Regulations
OPINIONS: A GOOD ROAD TO TAKE !!

- Integrated Water Permitting needed
- MassDEP knows municipal situation better
- Timely permit issuance
- Operate other federal programs successfully
- Intention of Clean Water Act
CURRENT ROAD NEEDS REPAIR !!

- Permit **backlog** is problem
- Why one of **only 4 states** without
- Should not just be about a permit program but a **total** improved **water quality program**
- **Communication** with EPA is terrible
- **Single agency** for contact and negotiations is much better
OPINIONS: BEWARE OF THE SHARK !!

- Need cost/benefit analysis
- Fix current staffing problems
- Budget proposal risky !!!
- No special EPA $$$ for program
- Why have proposed costs changed ??
- Beware “Regulatory Capture”
EPA runs fabulous program
What is environmental benefit ??
Program will become very political
Impact of Trump administration
Health care will dwarf environment
Improve water programs without delegation
Beware of the unknown

.....and other hurdles !!
WHICH PATH WILL NPDES DELEGATION IN MASSACHUSETTS TAKE ???
DELEGATION: YES OR NO ????
Thanks for listening and voting !!!
Questions, Ideas, Comments??!!!