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Senate of Pennsylvania

SENATOR
JUDY WARD
30TH DISTRICT

November 21, 2019

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The Honorable Patrick McDonnell, Secretary
PA Department of Environmental Protection (DEP)
16th Floor, Rachel Carson State Office Building
400 Market Street, P.O. Box 2063
Harrisburg, PA 17105-2063

Re: Municipal Separate Storm Sewer Systems (MS4) Recommendations

Dear Secretary McDonnell:

On September 11, 2019, the Senate Environmental Resources and Energy Committee held a hearing in Greencastle addressing Municipal Separate Storm Sewer Systems (MS4) requirements. My request to hold this hearing in the 30th District resulted from numerous concerns expressed to my office by local governments, businesses and residents of my district about the enormous costs of implementing these MS4 requirements. I have heard repeatedly from my constituents about the negative impacts of this unfunded mandate.

The hearing included testimony from a cross section of individuals and organizations, including DEP, local elected officials, businesses, and residents from across the district. Included in the testimony was a broad list of suggestions and recommendations, both legislative and administrative, for alleviating this burden on our communities.

It is my understanding after meeting with the U.S. Environmental Protection Agency (EPA) officials that they are offering flexibility to Pennsylvania and other states in its implementation of the 2025 deadlines, including an indefinite extension.

Since EPA is offering this flexibility to states in implementation, is Pennsylvania taking advantage of this and if not why?

The EPA has offered free training to the states regarding implementation, best practices, etc. Has Pennsylvania utilized these opportunities? The EPA guidelines allow municipalities to perform their stormwater work in other municipalities, a move which would significantly reduce the expense for small municipalities with a lot of impervious surface. Has DEP informed municipalities that they have this option?

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The EPA grants waivers to properties which already have stormwater programs, such as farms or residential developments with retention basins. Has DEP informed municipalities of these options?

I would appreciate your thoughtful review and consideration of these suggestions from the hearing and look forward to your answers to my questions. I welcome the opportunity to discuss the MS4 issue with you at your convenience. Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Judy Ward". The signature is written in a cursive style with a large, looped "J" and a long horizontal stroke at the end of the word "Ward".

Judy Ward

Enclosure

cc: Senator Gene Yaw
Representative Paul Schemel

Municipal Separate Storm Sewer Systems (MS4)

Administrative Recommendations

(based upon testimony from the 9/11/19 Senate Environmental Resources & Energy Committee)

- Offer free monthly or quarterly webinars that would educate municipalities on MS4 regulations. There is a lack of specific guidance and instructions to municipalities from the DEP on MS4 solutions.
- Revise the guidance documents on the DEP website, including the appropriate sections of the 2022 Model Stormwater Management Ordinance, to indicate and explain the exemption
- Provide more guidance on acceptable design for stream projects where the expert panel report cannot be followed.
- Facilitate standards and detailed exemplar solutions (templates) for residential, industrial, and agricultural remedies that ideally have some productive use and value (in each context) beyond storm water management and pollutant reduction.
- Base requirements upon what a municipality generates within its corporate boundaries as determined by actual pollutant data of storm water outflows that feed tributaries to the Chesapeake Bay. Limit cleanup project efforts by a municipality to what can be performed within the municipal corporate limits. Base requirements upon sustaining clean-up pollutant reduction projects using continued storm water outfall sampling as evidence of same.
- Give some meaningful consideration to the rates of assessment imposed to factors that help control storm water runoff, such as amount of open space area on a property or conservation measures taken by property owner to control storm water runoff.
- Compile samples taken from sources such as water plants, wastewater plants, municipalities, conservation districts, private conservancy groups, schools etc. and making them available on one GIS platform that would be available to all PA municipalities at no cost.
- Reassess the site selection process and allow municipalities to select projects based on actual test results that show that a stream is impaired so the results can be measured and make a real difference to meet PA's goals in the field, not just on paper.
- Streamline the process to complete a project by reducing paperwork, providing a quick turn-around for project reviews, and simplifying the permit requirements. Consider a priority permit review procedure for stream projects that are being conducted as part of an approved MS4 pollution reduction plan. Simplify forms and permits so that municipal officials can complete them to eliminate extra engineering expenses.
- Separate the Chesapeake Bay Pollutant Reduction Plan (PRP) and the MS4 Program because they are completely different.

- Place a hold on implementing PRPs until the actual water quality of streams is determined.
- Eliminate the prevailing wage requirement for PRP-related projects.
- Use the fees collected from communities to create an agricultural/land-owners trading program (similar to nutrient trading credits and ag preservation funding) where municipalities would provide best management practice funds to directly support land-owners.
- Create a policy for determining the effect that a solar panel has with regard to storm water and make it less contentious for local governments to assist residents and businesses to move forward with these projects.
- Issue a letter to the PA Aggregates and Concrete Association (PACA) that clarifies the relationship between MS4 permits and facilities in the industry (aggregates, crushed stone and sand/gravel, ready mixed concrete and cement):
 - Facilities which manage, control, treat and discharge their own storm water and that either (i) have implemented a non-discharge alternative (e.g., under a DEP-approved GP 104 Permit), or (ii) discharge directly to a stream rather than an MS4 system under a DEP-approved NPDES individual or general permit, can and should be exempted from storm water fees.
 - Facilities which manage, control, treat, discharge their storm water under a DEP-approved individual or general NPDES permit, where the storm water then flows into an MS4 system can and should be accorded substantial credits (100%) against storm water fees in acknowledgement of the BMPs implemented under such NPDES permits.
 - Where facilities located within a PRP planning area manage, control, treat and discharge their storm water under DEP-approved NPDES permits and are accorded exemptions from storm water fees or credits against storm water fees, the MS4 system permittee may still take credits against PRP loading reduction requirements based upon the BMPs implemented by such facilities.