



**TESTIMONY BY  
THE PENNSYLVANIA STATE ASSOCIATION OF  
TOWNSHIP SUPERVISORS**

**BEFORE THE**

**HOUSE ENVIRONMENTAL RESOURCES  
AND ENERGY COMMITTEE**

**ON**

**MS4 COMPLIANCE IN PENNSYLVANIA**

**PRESENTED BY**

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HARRISBURG, PA**

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Good morning, Chairman Metcalfe, Chairman Vitali, and members of the House Environmental Resources and Energy Committee. My name is Ben Webber and I am the Township Engineer for Lancaster Township, Lancaster County and am testifying on behalf of the Pennsylvania State Association of Township Supervisors (PSATS). Thank you for allowing me the opportunity to present remarks on behalf of our association.

PSATS represents Pennsylvania's 1,454 townships of the second class and is committed to preserving and strengthening township government and securing greater visibility and involvement for townships in the state and federal political arenas. Townships of the second class cover 95% of Pennsylvania's land mass and represent more residents — 5.7 million Pennsylvanians — than any other type of political subdivision in the commonwealth.

Under U.S. Environmental Protection Agency regulations, Municipal Separate Storm Sewer System (*MS4*) permittees are responsible for reducing the quantity and improving the quality of stormwater discharge. Currently, these regulations are under the enforcement of the Pennsylvania DEP. For municipalities subject to these provisions, it is the most expensive unfunded mandate that we have ever faced and will cost billions statewide.

Lancaster County has been determined to be the largest single County contributor of pollutants to the Chesapeake Bay. In the heart of Lancaster County, Lancaster Township is fortunate to be a growing community of more than 18,000 residents, but we also work diligently every day to keep up with aging infrastructure and legacy land uses.

We were fortunate just a few years ago to be the recipient of a \$200K grant from DEP for installation of a substantial BMP. The grant alone wasn't sufficient to pay for the entire project, but it did jump-start an extraordinary collaboration with the apartment complex owner, the City of Lancaster, the School District of Lancaster, the Lancaster County Conservation District, and our own Public Works Department. All banding together to fix something gone wrong, improve it, re-establish a pedestrian walkway to the adjacent elementary school, and eliminate a significant source of sediment to the Conestoga River. This project alone reduced sediment loading enough to meet our 10% reduction goal.

Earlier this year, our township was subject to an EPA audit of our MS4 program. The audit came out of the blue with a contact from the EPA consultant out of Colorado. They scheduled a three-day online conference with me and other Township officials, in addition to a one-day field inspection. We were required to supply required records by a given date, which we were able to do. We also offered a self-evaluation of what we've accomplished and what we haven't yet been able to do. The field inspection included a tour of an NPDES BMP facility to show that it was being appropriately inspected and maintained and several regulated outfalls where we are required to do screening. The day ended with a tour of our Public Works campus.

The EPA inspectors made several suggestions and offered opinions about where we were not in compliance with the permit requirements. We agreed with some suggestions and pointed out an understanding of our permit requirements that in some cases may be different from MS4 requirements in other states. Last month, EPA issued a report and allowed us the opportunity to provide supplemental information by a certain date in June. Due to our summer workload, we asked for an extension, which was granted, and we now have until the end of July to respond.

Since the audit, the township has moved forward with making improvements to our plan and implementation. We are on track for completing the plan components and making improvements to our Storm Water Management Plan, as committed to EPA for completion by the end of this calendar year

PSATS and many of its member Townships would like to see additional guidance from DEP on how to demonstrate compliance with the minimum control measures (MCMs). DEP has taken steps in this direction, including for MCMs 1 and 2, but more guidance of a technical nature is needed. This could include an inspection protocol to help townships demonstrate compliance, including that the BMPs that we have implemented are working as intended. Pre-audit training would also be helpful.

Funding continues to be a challenge for this mandate. PSATS appreciates that the state has provided townships of the second class with the option to levy dedicated fees to pay for stormwater facilities and their maintenance through a stormwater authority or directly by the township. In addition, the American Rescue Funds received by all municipalities are being leveraged by many MS4 communities to help complete required projects. While not recurring, they can certainly help with a township's requirements during the current permit cycle.

HB 2153 would direct \$300 million from the American Rescue Plan Act to assist communities with MS4 compliance. PSATS supports any financial assistance that the state or federal government provides to offset the costs of this expensive unfunded mandate. In the case of HB 2153, state direction of federal funds to help with this mandate is particularly appropriate and PSATS urges the state to use these funds in such a manner as to provide the best long-term investment for the commonwealth. Investment in projects and facilities that would provide cleaner water to Pennsylvanians would seem to be an appropriate use of these funds.

HB 2331 would authorize municipalities to supply test results to DEP to improve MS4 models. While we all appreciate this option, we also realize that variability in the background and water table levels could provide results that could show more, rather than less pollution. As drafted, the bill appears to impact only counties with very few MS4s, which could limit its impact.

We understand that there are many concerns with the models and models are dependent on data. There needs to be sufficient stream monitoring with comprehensive, cohesive, and consistent testing to provide data for the model. Then the models can be checked for accuracy and adjusted as needed.

In the most recent permits, MS4 communities in the Chesapeake Bay watershed were required to develop and implement a pollution reduction plan to reduce sediment discharge by 10 percent over the next five years. DEP's draft Watershed Implementation Plan indicates that MS4 municipalities in the Chesapeake Bay watershed will spend \$74 million annually to meet their current permit requirements, which is projected to amount to less than 1 percent of the needed reduction in the state's nitrogen goal and less than 2 percent toward the state's phosphorus goal. All of us hope that these expenditures and efforts can be focused on more cost-effective means of achieving these reductions. Short term history is showing us that huge amounts of public

resources are being spent for miniscule improvements and even those can be washed away in the next flood!

PSATS continues to support a flexible menu of cost-effective options to maximize the reduction in pollutants and sediment in the state's waterways that doesn't bankrupt communities or shut down economic growth. This menu should allow municipalities to work together creatively to share the burden of compliance. Regulators should consider partnering with non-point sources, like nutrient credit trading with farmers who might implement no-till farming or other techniques that could reduce pollutants beyond what is required of their conservation plans. If developed as an option with the input and support of the regulated and farming communities, this could provide a greater pollutant reduction at a fraction of the cost. Such options could provide an equitable and more proportional allocation of the responsibility for reducing discharges between point and nonpoint sources with the funding needed to implement these reductions.

The Association also suggests that the timeframe for completion of this unfunded mandate should be extended and that the pollution reduction targets be lowered. DEP should amend its regulations to streamline stormwater permitting for local governments by considering existing conditions of a project and cost and exempt local governments from stormwater permits fees.

Thank you for the opportunity to appear before you today and I will now attempt to answer any questions that you may have.