



## REGION 1

BOSTON, MA 02109

*Dated via electronic signature*

**By Certified Mail - Return Receipt Required and Email**

### **ORDER FOR COMPLIANCE**

Keith R. Hickey  
Town Administrator  
Kingston Town House  
26 Evergreen Street  
Kingston, MA 02364

Re: Order for Compliance under Section 309 of the Clean Water Act,  
In the Matter of the Town of Kingston, Massachusetts (MAR041041)  
Docket No. CWA-AO-R01-FY25-43

Dear Mr. Hickey:

The 2016 National Pollutant Discharge Elimination System (“NPDES”) General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems in Massachusetts (as modified) (“2016 MS4 Permit” or “Permit”) requires communities to develop or modify, as appropriate, a post-construction stormwater management ordinance, by-law, or other regulatory mechanism that contains provisions that are at least as stringent as the requirements set out in Part 2.3.6.a.ii of the Permit within three (3) years of its effective date (i.e., by July 1, 2021).<sup>1</sup> The goal of the Permit’s post-construction stormwater management program is to reduce the discharge of pollutants found in stormwater through the retention or treatment of stormwater after construction on new or redeveloped sites. A post-construction stormwater management regulatory mechanism is a foundational element of such program.

The Permit requires annual reporting to EPA, including information on the development and implementation of an adequate post-construction stormwater management regulatory mechanism. Information submitted by the Town of Kingston (Town) in their Year 5 and Year 6 Annual Reports indicate that the Town has not met the Permit’s requirements. The Town’s Year 5 and Year 6 Annual Reports mark its post-construction ordinance as “N/A.” In correspondence with EPA, the Town stated, in pertinent part, that it had a “...plan in place to have the regulations approved prior to the June 30th (2025) deadline, as requested.” EPA has determined that the Town’s existing regulations do not meet

---

<sup>1</sup> The Massachusetts Stormwater Handbook and Stormwater Standards (<https://www.mass.gov/guides/massachusetts-stormwater-handbook-and-stormwater-standards>) do not meet the requirements of the 2016 MS4 Permit as set out at Part 2.3.6.a.ii, including, but not limited to, Parts 2.3.6.a.ii.3 and 2.3.6.a.ii.4.

the post-construction stormwater management requirements set out in Part 2.3.6.a.ii of the Permit, including, but not limited to, Parts 2.3.6.a.ii.3 and 2.3.6.a.ii.4. Under Section 309(a)(3) of the Clean Water Act (“Act”), the Administrator of the U.S. Environmental Protection Agency (“EPA”) has the authority to issue orders requiring persons to comply with Sections 301 and 308 of the Act and any permit condition or limitation implementing any NPDES permit. This authority has been delegated to the Director of the Enforcement and Compliance Assurance Division (“Director”) in EPA Region 1. Pursuant to Section 309(a)(5)(A) of the Act, 33 U.S.C. § 1319(a)(5)(A), the Order below sets forth a schedule for compliance that I have determined to be reasonable.

The Town is hereby ordered, pursuant to Section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3), as follows:

- By **June 30, 2025**, the Town shall enact a post-construction stormwater management ordinance, by-law, or other regulatory mechanism that contains provisions that are at least as stringent as the requirements set out in Part 2.3.6.a.ii of the Permit.
- Within 7 days of the effective date of the Town’s post-construction stormwater management ordinance, by-law, or other regulatory mechanism, notify Tom Calautti, EPA Region 1, at [Calautti.Thomas@epa.gov](mailto:Calautti.Thomas@epa.gov), that such ordinance, by-law, or regulatory authority has become effective and provide a copy of such regulatory mechanism to Mr. Calautti at the email address provided above.

This Order does not constitute a waiver or a modification of the terms and conditions of the Permit, which remain in full force and effect. Also, this Order only addresses the specific violations described above. Please review your obligations under the Permit and address any additional outstanding obligations as soon as possible.

EPA reserves the right to seek any remedies available under Section 309 of the Act, 33 U.S.C. § 1319 for any violation cited in this Order. The Town may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. This Order shall become effective upon receipt by the Town.

As the Town undertakes efforts to comply with this Order, it may find the model post-construction stormwater management ordinances available at <https://www.epa.gov/npdes-permits/stormwater-tools-new-england#pcsm> to be helpful. We are also available to answer any questions that you have related to these matters.

If you have any questions regarding your obligations under this Order or the Permit, please contact Thomas Calautti, EPA Region 1 at 617-918-1685 or at [calautti.thomas@epa.gov](mailto:calautti.thomas@epa.gov). Please refer legal questions to Joshua Secunda, Senior Enforcement Counsel, EPA Region 1, at 617-918-1736 or at [secunda.josh@epa.gov](mailto:secunda.josh@epa.gov).

Sincerely,

**JAMES CHOW** Digitally signed by JAMES CHOW  
Date: 2025.03.24 08:33:21 -04'00'

James Chow, Director  
Enforcement and Compliance Assurance Division

cc: (via email)

Lynn Menton, Assistant Director of Public Works

Newton Tedder, ECAD, EPA Region 1

Kevin Pechulis, Senior Enforcement Counsel, EPA Region 1

Joshua Secunda, Senior Enforcement Counsel, EPA Region 1

David Boyer, MassDEP

David Burns, MassDEP