



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9944-92-Region 1]**

**AVAILABILITY OF FINAL NPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS IN MASSACHUSETTS**

**AGENCY:** ENVIRONMENTAL PROTECTION AGENCY (EPA)

**ACTION:** NOTICE OF AVAILABILITY OF FINAL NPDES GENERAL PERMIT

**SUMMARY:** The Director of the Office of Ecosystem Protection, EPA – Region 1, is providing a notice of availability of the final National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from small Municipal Separate Storm Sewer systems (MS4s) to certain waters of the Commonwealth of Massachusetts. The final Massachusetts small MS4 general permit establishes Notice of Intent (NOI) requirements, prohibitions, and management practices for stormwater discharges from small MS4s in Massachusetts. The final Massachusetts small MS4 general permit reflects modifications to the draft small MS4 general permit released for comment on September 30, 2014 and replaces the 2003 small MS4 general permit for MS4 operators within the Commonwealth of Massachusetts.

**DATES:** The Massachusetts small MS4 general permit shall be effective on July 1, 2017 and will expire at midnight on June 30, 2022. In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review at 1:00 p.m. eastern standard time on **[INSERT DATE 2 WEEKS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under section 509(b) of the Clean Water Act, judicial review of this general permit can be requested by filing a petition for review in the United

States Court of Appeals within 120 days after the permit is considered issued. Under section 509(b)(2) of the Clean Water Act, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings.

**FOR FURTHER INFORMATION CONTACT:** Newton Tedder, Stormwater and Construction Permits Section OEP 06-4, Environmental Protection Agency, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912; 617-918-1038; tedder.newton@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**General Information:**

EPA is reissuing three final NPDES permits for discharges of stormwater from small MS4s to certain waters within the Commonwealth of Massachusetts. The three general permits are:

MAR041000 – Traditional cities and towns

MAR042000 – Non-traditional state, federal, county, and other publicly owned MS4s

MAR043000 – Non-traditional transportation MS4s

While these are technically distinct permits, for convenience they have been grouped into a single document and this document refers to the “permit” in the singular. The final general permit, appendices and attachments, as well as response to comments on the draft permit and supplemental fact sheet information are available at

[http://www.epa.gov/region1/npdes/stormwater/MS4\\_MA.html](http://www.epa.gov/region1/npdes/stormwater/MS4_MA.html).

The conditions in the general permit are established pursuant to Clean Water Act (CWA) section 402(p)(3)(iii) to ensure that pollutant discharges from small MS4s are reduced to the Maximum Extent Practicable (MEP), protect water quality, and satisfy the appropriate requirements of the CWA. Further information on the requirements of the permit related to MEP and water quality may be found in EPA's Response to Comments document on the above website.

EPA issued a final general permit to address stormwater discharges from small MS4s in Massachusetts and New Hampshire on May 1, 2003. The 2003 general permit required small MS4 operators to develop and implement a Stormwater Management Program (SWMP) designed to control pollutants to the maximum extent practicable and protect water quality. This final general permit for Massachusetts MS4s builds on the requirements of the 2003 general permit. During 2010, EPA drafted two separate Small MS4 general permits to replace the 2003 Small MS4 permit for eligible operators located in Massachusetts; one for operators located in the North Coastal watershed and the other for those located in the Interstate, Merrimack and South Coastal watersheds. Based on comments and information gathered while developing responses, EPA modified the initial draft general permits and issued a draft permit covering all eligible operators in Massachusetts pursuant to 40 CFR 124.6. EPA took public comments on this draft permit from September 30, 2014 to February 27, 2015. EPA received over 150 unique written letters and oral comments on the draft permit. Concurrent with the release of the final permit and supplemental materials EPA will make available a Response to Comments received on the draft permit. The Response to Comments will be available on

the EPA website listed above. Changes to the permit resulting from public comments include, but are not limited to: reduction of certain reporting requirements and metrics, reorganization of certain requirements for clarity, and extension of deadlines for certain required tasks and reports within the permit.

**Obtaining Authorization:**

In order for a small MS4 operator to obtain authorization to discharge, it must submit a complete and accurate NOI containing the information in Appendix E of the general permit. The NOI must be submitted on or before September 29, 2017 (90 days from the effective date of the final permit). A small MS4 operator must meet the eligibility requirements of the general permit found in Part 1.2 and Part 1.9 prior to submission of its NOI. A small MS4 operator will be authorized to discharge under the permit upon receipt of written notice from EPA following a public notice of the submitted NOI. EPA will authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or an individual permit. NOIs may be submitted electronically to EPA at [stormwater.reports@epa.gov](mailto:stormwater.reports@epa.gov) or sent via regular or overnight mail to: United States Environmental Protection Agency, Stormwater and Construction Permits Section OEP 06-1, 5 Post Office Square - Suite 100, Boston, Massachusetts 02109-3912. A copy of the NOI shall also be sent to MassDEP at the following address: Massachusetts Department of Environmental Protection, One Winter Street – 5<sup>th</sup> Floor, Boston, Massachusetts 02108 ATTN: Frederick Civian, Stormwater Coordinator.

**Other Legal Requirements:**

In accordance with the Endangered Species Act (ESA), EPA has updated the provisions and necessary actions and documentation related to potential impacts to

endangered species from discharges and related actions under the Massachusetts small MS4 general permit. EPA has obtained concurrence from the appropriate federal services (U.S. Fish and Wildlife Service and National Marine Fisheries Service) regarding the requirements of this general permit.

In accordance with the National Historic Preservation Act, EPA has established provisions and documentation requirements for operators seeking coverage under the Massachusetts small MS4 general permit to ensure that discharges or actions taken under this permit will not adversely affect historic properties and places.

**AUTHORITY:** This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: April 4, 2016.

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H. Curtis Spalding  
Regional Administrator, Region 1  
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