NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR STORM WATER DISCHARGES
FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

Authorization to discharge under the National Pollutant Discharge Elimination System

In accordance with the provisions of the Clean Water Act, as amended, (33 U.S.C. §1251 et. seq. (the Act) operators of small municipal separate storm sewer systems, located in the area specified in Part I.A.1, Commonwealth of Massachusetts, are authorized to discharge in accordance with the conditions and requirements set forth herein.

Only operators of storm water discharges from small municipal separate storm sewer systems in the general permit area who submit a Notice of Intent and a storm water management program in accordance with Part I.E. of this permit and obtain written authorization from EPA are authorized under this general permit.

This permit becomes effective on May 1, 2003.

This permit and authorization to discharge expire at midnight five years from the effective date.

Signed this 18 day of April 2003

_____

Linda M. Murphy, Director
Office of Ecosystem Protection
United States Environmental Protection Agency
One Congress Street - Suite 1100
Boston, Massachusetts 02114

_____

Glenn Haas, Director
Division of Watershed Management
Bureau of Resource Protection
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

PART I

A. Area of Coverage: Small municipal separate storm sewer systems (MS4s) located within

1. Commonwealth of Massachusetts;
2. State of New Hampshire;
3. Indian Country lands within the States of Connecticut, Massachusetts, and Rhode Island; and
4. Federal Facilities within the State of Vermont.

B. Eligibility criteria:

1. This permit authorizes the discharge of storm water from small MS4s defined at 40 CFR §122.26(b)(16). This includes small MS4s designated under 40 CFR §122.32(a)(1) and 40 CFR §122.32(a)(2). The permittee is authorized to discharge under this permit if:

(a). The permittee is the operator of a small MS4 within the permit areas described in Part I.A;
(b). The permittee is not a large or medium MS4 defined in 40 CFR §§122.26(b)(4) or (7);
(c). The municipality is located fully or partially in an urbanized area as determined by the latest Decennial Census by the Bureau of Census; and
(d). The permittee submits a Notice of Intent in accordance with Part I.E. of this permit and obtains written authorization from EPA.

Small municipal separate storm sewer system means all separate storm sewers that are:

(a) owned or operated by the United States, a State, city town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity and Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.
(b) not defined as large or medium municipal separate storm sewer systems pursuant to 40 CFR §122.26(b)(4) and (b)(7) or designated under 40 CFR §122.26(a)(1)(v).
(c) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

2. The following storm water discharges are not authorized by this permit:
(a) Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are:
i. In compliance with a separate NPDES permit, or
ii. Determined by EPA not to be a substantial contributor of pollutants to waters of the U.S.
(b) Storm water discharges associated with industrial activity as defined in 40 CFR§122.26(b)(14)(i)-(ix) and (xi).
(c) Storm water discharges associated with construction activity as defined in 40 CFR§122.26(b)(14)(x) or 40 CFR §122.26(b)(15).
(d) Storm water discharges currently covered under another permit, including discharges covered under other regionally issued general permits.
(e) Discharges or discharge related activities that may adversely affect any species that are listed as endangered or threatened under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.

i. Coverage under this permit is available only if the storm water discharges, allowable non-storm

water discharges, and discharge related activities do not adversely affect any species that are listed as endangered or threatened ("listed") under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA ("critical habitat"). Submission of a signed NOI will be deemed to constitute certification of eligibility.

ii. "Discharge related activities" include: activities which cause, contribute to, or result in storm water point source pollutant discharges; and measures to control storm water discharges, including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent storm water pollution.
iii. In order to demonstrate eligibility, the permittee must use the guidance in Addendum A and the most recent Endangered and Threatened Species County-Species List available from EPA. Eligibility must be determined prior to submission of the NOI. The most current list is available at: http://www.epa.gov/npdes/. The permittee must meet one or more of the criteria described below for the entire term of the permit. The information used to determine eligibility must be maintained as part of the Storm Water Management Program.
- Criterion A: No endangered or threatened species or critical habitat are in proximity to the MS4 or the points where authorized discharges reach the receiving waters; or
- Criterion B: In the course of a separate federal action involving the MS4, formal or informal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) under Section 7 of the ESA has been concluded and that consultation:
-Addressed the effects of the MS4 storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat; and
- The consultation resulted in either a no jeopardy opinion or a written concurrence by FWS and/or NMFS on a finding that the storm water discharges, allowable non-storm water discharges, and discharge related activities are not likely to adversely affect listed species or critical habitat; or
- Criterion C: The activities are authorized under Section 10 of the ESA and that authorization addresses the effects of the storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat; or
- Criterion D: Using the best scientific and commercial data available, the effects of the storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat have been evaluated. Based on those evaluations, a determination is made by the permittee and affirmed after review by EPA that the storm water discharges, allowable non-storm water discharges, and discharge related activities will not affect any federally threatened or endangered species or designated critical habitat.
- Criterion E: The storm water discharges, allowable non-storm water discharges, and discharge related activities were already addressed in another operator's certification of eligibility which includes the MS4 activities. If certification is under this criteria, the permittee agrees to comply with any measures or controls upon which the other operator's certification was based.

iv. The permitting authority may require any permittee or applicant to provide documentation of the determination of eligibility for this permit where the EPA or the FWS and/or NMFS determines that there is a potential impact on listed species or critical habitat.

v. A discharge is not authorized if the discharge or discharge related activities cause a prohibited "take" of endangered or threatened species (as defined under Section 3 of the ESA and 50 CFR 17.3), unless such actions are authorized by FWS or NMFS under sections 7 or 10 of the ESA.

vi. Discharges are not authorized where the discharge or discharge related activity are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.

vii. Operators who conduct informal consultation to meet the eligibility requirements of Criterion

B are automatically designated as non-Federal representatives under this permit. See 50 CFR §402.08. Operators who choose to conduct informal consultation as a non-Federal representative must notify EPA and the appropriate service office in writing of that decision.

(f) Discharges whose direct or indirect impacts may adversely affect any Essential Fish Habitat.

(g) Discharges, or implementation of a storm water management program, which adversely effects properties listed or eligible to be listed on the National Register of Historic Places. The permittee must determine eligibility prior to submission of the Notice of Intent. The permittee should follow the guidance detailed in Addendum B. Discharges may be eligible for coverage under this permit if the permittee is in compliance with requirements of the National Historic Preservation Act and has coordinated any necessary activities to avoid or minimize impacts. These requirements must be coordinated with the State Historic Preservation Officer. Information used to determine eligibility must be maintained as part of the Storm Water Management Program.

(h) Discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR 125 subpart M.

(i) Discharges prohibited under 40 CFR 122.4. This includes discharges not in compliance with the state's antidegradation policy.

(j) Discharges mixed with non-storm water except those discharges which are in compliance with another NPDES permit or are an allowable non-storm water discharge as discussed in Part I.F.

(k) Discharges that would cause or contribute to instream exceedance of water quality standards. The storm water management program must include a description of the BMPs that will be used to ensure that this will not occur. EPA, MA DEP , or NH DES may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined to cause an instream exceedance of water quality standards.

(l) Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been established or approved by the EPA unless the discharge is consistent with the TMDL. This eligibility condition applies at the time of submission of the NOI. If conditions change after submission of the NOI, coverage may continue provided the applicable requirements of Part 1.C. are met. In order to remain eligible for this permit, any limitations, conditions and requirements applicable to discharges authorized by this permit, must be incorporated into the storm water management program. This may include monitoring and reporting. Discharges not eligible for this permit, must apply for an individual or alternative NPDES general permit.

C. Discharges to Water Quality Impaired Waters

1. The permittee must determine whether storm water discharges from any part of the MS4 contribute, either directly or indirectly, to a 303(d) listed water body.

2. The storm water management program must include a section describing how the program will control the discharge of the pollutants of concern and ensure that the discharges will not cause an instream exceedance of the water quality standards. This discussion must specifically identify control measures and BMPs that will collectively control the discharge of the pollutant(s) of concern. Pollutant(s) of concern refer to the pollutant identified as causing the impairment.

D. Total Maximum Daily Load Allocations

If a TMDL has been approved for any water body into which the MS4 discharges, the permittee must:

1. Determine whether the approved TMDL is for a pollutant likely to be found in storm water discharges from the MS4.

2. Determine whether the TMDL includes a pollutant waste load allocation (WLA), BMP recommendations or other performance requirements for storm water discharges. This storm water WLA may be expressed in the TMDL as a gross allotment for the impaired water body. Or, provided no specific WLA for the MS4 exists, determine if a Performance Agreement or Memorandum of Understanding has been established between the MS4, EPA , and MA DEP or NH DES which modifies the BMPs or performance standards of the TMDL. Such Memoranda are posted on the TMDL websites. The Massachusetts site is: http://www.state.ma.us/dep/brp/wm/tmdl.htm The New Hampshire site is: http://www.des.state.nh.us/wmb/TMDL

3. If the MS4 is required to implement storm water waste load allocation provisions of the TMDL, the permittee must assess whether the WLA is being met through implementation of existing storm water control measures or if additional control measures are necessary. The permittee's assessment of whether the WLA is being met is expected to focus on the adequacy of the permittee's storm water controls (implementation and maintenance), not on the response of the receiving water.

4. Highlight in the storm water management program and annual reports all control measures currently being implemented or planned to be implemented to control pollutants of concern identified in approved TMDLs. Also include a schedule of implementation for all planned controls. Document the assessment which demonstrates that the WLA will be met including any calculations, maintenance log books, or other appropriate controls.

E. Obtaining Coverage

1. Small MS4s seeking coverage under this permit, must submit a Notice of Intent which contains the following information:

(a). Name of person responsible for overall coordination of the storm water management program, mailing address and phone number
(b). Name of municipality and state. For municipalities seeking coverage under Part V. of this permit, only identify the name of the agency, the city or town, and the state in which it is located.
(c). Identify the legal status of the operator of the MS4 as either, Federal, State, Tribal, county, or other Public Entity. If the municipality is a city or town, indicate if there are other MS4s within its boundaries such as state highways, universities, prisons.
(d). Identify the names of all known waters that receive a discharge from the MS4. If known, indicate the number of outfalls to each water.
(e). Using the guidance in Addendum A, describe how the eligibility criteria for listed species and critical habitat have been met.
(f). Using the guidance in Addendum B describe how the requirements to protect historic properties have been met.
(g). Identify best management practices for each minimum control measure described in Part II B (1-6); Part III B(1-6); Part IV. B(1-6) or Part V.B(1-6)., depending upon the type of MS4.
(h). Identify measurable goals for each best management practice described in paragraph (g) above including implementation time frames and contact person..
(i). The NOI must be signed by an appropriate official (see Part VI. G. of this permit). The NOI must contain the following certification:
I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations.

Print the name of the appropriate official, followed by signature, and date.

Municipalities in Massachusetts must use the form designated by the Massachusetts Department of Environmental Protection (MA DEP). The form is available at http://www.state.ma.us/dep/brp/stormwtr/strmfms.htm or by contacting MA DEP at 508/792-7470. The permit code for the form is BRP WM 08 A EPA does not require the use of this form, but will accept information submitted on this form. All signatures must be originals.

Municipalities in New Hampshire should use the form developed by the New Hampshire Department of Environmental Services. The form is available at: http://www.des.state.nh.us/StormWater/. EPA does not require the use of this form, but will accept information submitted on this form. All signatures must be originals.

2. The Notice of Intent must be submitted by March 10, 2003, if designated under 40 CFR 122.32(a)(1)- those MS4s located fully or partially in an urbanized area; or within 180 days of notice, if designated under 40 CFR 122.32(a)(2), unless granted a longer period of time by EPA;

3. Submission of Notice of Intent

(a) All permittees must submit the Notice of Intent to EPA-Region I at the following address:
United States Environmental Protection Agency
Municipal Assistance Unit (CMU)
One Congress Street – Suite 1100
Boston, Massachusetts 02114-2023

(b) MS4s located in Massachusetts, subject to Part II, Part IV, or Part V, except Indian lands, must also submit a copy of the NOI to the MA DEP at the following address:
Massachusetts Department of Environmental Protection
Division of Watershed Management
627 Main Street
Worcester, Massachusetts 01608

The appropriate fee must accompany the submission to MA DEP. The application fee is $60.00. A fee exemption applies to any Massachusetts city, town or state agency. The fee does apply to Massachusetts state authorities.

(c) MS4s located in New Hampshire subject to Part III, Part IV or Part V, must also submit a copy of the NOI to the New Hampshire Department of Environmental Services (NH DES) at the following address:
New Hampshire Department Environmental Services
Water Division
Wastewater Engineering Bureau
P.O. Box 95
Concord, New Hampshire 03302-0095

New Hampshire may also adopt this permit as a state permit pursuant to RSA 485-A:13,I.(a).

4. Effective date of coverage. The authorization to discharge begins on the date of receipt of EPA's written authorization. The initial written receipt will detail the completeness of the submission. The permittee may be contacted by either EPA or MA DEP/NHDES at a later date requesting additional or updated information concerning the storm water management program. The initial response will not provide detailed comments on the submission.

5. A municipality is not prohibited from submitting a Notice of Intent after the dates provided in paragraph E.2. However, if a late NOI is submitted, authorization is only for discharges that occur after permit coverage is granted. The permitting authority reserves the right to take appropriate enforcement actions for any unpermitted discharges.

F. Allowable Non-Storm Water Discharges

The following non-storm water discharges are authorized provided it has been determined by the permittee that they are not significant contributors of pollutants to the MS4. If these discharges are identified as significant contributors to the MS4, they must be addressed in the Illicit Discharge Detection and Elimination minimum control measure described in Parts II, III, IV and V.

1. water line flushing,
2. landscape irrigation,
3. diverted stream flows,
4. rising ground waters,
5. uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)),
6. uncontaminated pumped ground water,
7. discharge from potable water sources,
8. foundation drains,
9. air conditioning condensation,
10. irrigation water, springs,
11. water from crawl space pumps,
12. footing drains,
13. lawn watering,
14. individual resident car washing,
15. flows from riparian habitats and wetlands,
16. dechlorinated swimming pool discharges,
17. street wash water, and
18. Residential building wash waters, without detergents.

Discharges or flows from fire fighting activities occur during emergency situations. The permittee is not expected to evaluate fire fighting discharges with regard to pollutant contributions. Therefore, these discharges are authorized as allowable non-storm water discharges, unless identified, by EPA, as significant sources of pollutants to Waters of the U.S..

PART III
NEW HAMPSHIRE SMALL MS4
STORM WATER MANAGEMENT PROGRAM
(This part also applies to Indian Lands in MA, CT, and RI .)

A. Storm Water Management Program

The permittee must develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; protect water quality, and satisfy the water quality requirements of the Clean Water Act and state water quality standards

1. The permittee must develop a storm water management program implementing the minimum measures described in Paragraph III.B.

2. All elements of the storm water management program must be implemented by the expiration date of this permit.

3. Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully implement the measure. When another entity fully implements a minimum control measure for the permittee, the following applies:

(a.) the other entity, in fact, implements the control measure;
(b.) the particular control measure, or component of that measure is at least as stringent as the corresponding permit requirement.
(c.) The other entity agrees to implement the control measure on the permittee behalf. A legally binding written acceptance of this obligation is expected. This obligation must be maintained as part of the storm water management program. If the other entity agrees to report on the minimum measure, the permittee must supply the other entity with the reporting requirements contained in this permit under Part III.E.
(d) The permittee remains responsible for permit compliance and implementation of the minimum measure if the other entity fails to do it.

4. For each minimum measure, the permittee must:

(a.) identify the person(s) or department responsible for the measure;
(b.) identify Best Management Practices (BMPs) for the measure;
(c.) identify measurable goals for each BMP. Identify time lines and milestones for implementation.

5. EPA's BMP menu found at:
http://www.epa.gov/npdes/menuofbmps/menu.htm and EPA's guidance on measurable goals, found at: http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm, may be used in the development of the storm water management program.

B. Minimum Control Measures

1. Public education and outreach. The permittee must implement a public education program to distribute educational material to the community. The public education program must provide information concerning the impact of storm water discharges on water bodies. It must address steps and/or activities that the public can take to reduce the pollutants in storm water runoff.

The following should be included in education and outreach efforts:

(a.) information regarding industrial, commercial, and residential activities including illegal dumping into storm drains.
(b.) coordinate activities with local groups (i.e. watershed associations, or schools)

(c.) materials for outreach/education may include, but are not limited to, pamphlets; fact sheets; brochures; public service announcements; storm drain stenciling and newspaper advertisements.
(d.) topics may include, but are not limited to, litter disposal, pet waste, household hazardous waste disposal, proper use of fertilizer and pesticides. (This list is intended to provide examples of education topics, the permittee is encouraged to use a variety of methods for public education.)

2. Public Involvement and participation. All public involvement activities in the State of New Hampshire must comply with state public notice requirements, RSA-91A. Activities must also comply with local and Tribal requirements, as appropriate.

(a.) The permittee must provide opportunity for the public to participate in the development, implementation and review of the storm water management program.
(b) Activities may also include volunteer stream monitoring or formation of a storm water management committee. (These are examples of public involvement activities, the permittee is encouraged to use a wide range of activities to maximize public involvement.)

3. Illicit discharge detection and elimination. The permittee must develop, implement and enforce a program to detect and eliminate illicit discharges. An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of storm water. Exceptions are discharges pursuant to a NPDES permit (other that the NPDES permit for discharges from the municipal sewer system), allowable non storm water discharges described at Part I.F. and discharges resulting from fire fighting activities.

(a.) If not already existing, the permittee must develop a storm sewer system map. At a minimum, the map must show the location of all outfalls and the names of all waters that receive discharges from those outfalls. Additional elements may be included on the map, such as, location of catch basins, location of manholes, and location of pipes within the system. Initial mapping should be based on all existing information available to the permittee including city records and drainage maps. Field surveys may be necessary to verify existing records and locate all outfalls.

(b.) To the extent allowable under state, Tribal or local law, the permittee must effectively prohibit, through an ordinance or other regulatory mechanism, non-storm water discharges into the system and implement appropriate enforcement procedures and actions. If a regulatory mechanism does not exist, development and adoption of such a mechanism must be included as part of the storm water management program.

(c.) The permittee must develop and implement a plan to detect and address non storm water discharges, including illegal dumping, into the system.

The illicit discharge plan must contain the following elements:
i. Procedures to identify priority areas. This includes areas suspected of having illicit discharges, for example: older areas of the city, areas of high public complaints and areas of high recreational value or high environmental value such as beaches and drinking water sources.
ii. Procedures for locating illicit discharges (i.e. visual screening of outfalls for dry weather discharges, dye or smoke testing)
iii. Procedures for locating the source of the discharge and procedures for the removal of the source.
iv. Procedures for documenting actions and evaluating impact on the storm sewer system subsequent to the removal.

(d.) The permittee must inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper waste disposal.

(e.) The non-storm water discharges listed in Part I.F. must be addressed if they are identified as being significant contributors of pollutants to the MS4.

4. Construction site storm water runoff control. The permittee must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee must include disturbances less than one acre if part of a larger common plan.

The permittee does not need to apply its construction program provisions to projects that receive a waiver from EPA under the provisions of 40 CFR§122.26(b)(15)(i).

At a minimum, the program must include:

(a.) To the extent allowable under state, Tribal or local law, an ordinance or other regulatory mechanism to require sediment and erosion control at construction sites. If such an ordinance does not exist, development and adoption of an ordinance must be part of the program.

(b.) Sanctions to ensure compliance with the program. To the extent allowable under state, Tribal or local laws, sanctions may include both monetary or non-monetary penalties.

(c.) Requirements for construction site operators to implement a sediment and erosion control program which includes BMPs that are appropriate for the conditions at the construction site.

(d.) Requirements for the control of wastes, including but not limited to, discarded building materials, concrete truck wash out, chemicals, litter, and sanitary wastes.

(e.) Procedures for site plan review including procedures which incorporate consideration of potential water quality impacts. The site plan review should include procedures for preconstruction review.

(f.) Procedures for receipt and consideration of information submitted by the public.

(g.) Procedures for inspections and enforcement of control measures at construction sites.

5. Post construction storm water management in new development and redevelopment.

The permittee must develop, implement and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than one acre and discharge into the municipal system.

The program must include projects less than one acre if the project is part of a larger common plan of development.

The post construction program must include:

(a.) To the extent allowable under state, Tribal or local law, an ordinance or other regulatory mechanism to address post construction runoff from new development and redevelopment. If such an ordinance does not exist, development and adoption of an ordinance must be part of the program.

(b.) Procedures to ensure adequate long term operation and maintenance of best management practices.

(c.) Procedure to ensure that any controls that are in place will prevent or minimize impacts to

water quality.

6. Pollution prevention and good house keeping in municipal operations.
The permittee must

(a.) Develop and implement a program with a goal of preventing and/or reducing pollutant runoff from municipal operations. The program must include an employee training component.

(b.) Include, at a minimum, maintenance activities for the following : parks and open space (area such as public golf courses and athletic fields); fleet maintenance, building maintenance; new construction and land disturbance; roadway drainage system maintenance and storm water system maintenance.

(c.) Develop schedules for municipal maintenance activities described in paragraph (b) above.

(d) Develop inspection procedures and schedules for long term structural controls.

7. Cooperation between interconnected municipal separate storm sewer systems is encouraged. The permittee should identify interconnections within the system. The permittee should attempt to work cooperatively with an interconnected municipality in instances of discharges impacting a system.

8. MS4s which discharge to coastal waters with public swimming beaches should consider these waters a priority in implementation of the storm water management program.

9. The permittee must evaluate physical conditions, site design, and best management practices to promote groundwater recharge an infiltration where feasible in the implementation of the control measures described above. During the implementation of the storm water management program, the permittee must address recharge and infiltration for the minimum control measures, as well as any reasons for electing not to implement recharge and infiltration. Loss of annual recharge to ground water should be minimized through the use of infiltration measures to the maximum extent practicable.

C. Public Drinking Water Supply Requirements

1. MS4s which discharge to public drinking water sources and their protected areas (Class A and B surface waters used for drinking water and wellhead protection areas) should consider these waters a priority in implementation of the storm water management program.

2. Discharges to public drinking water supply sources and their protection areas (wellhead protection areas, Class A and B waters) should provide pretreatment and spill control capabilities to the extent feasible.

3. Direct discharges to Class A waters and the sanitary radius to supply wells (defined in EnV-Ws 378.06, EnV-Ws 372.13) should be avoided to the extent feasible.

D. Program Evaluation

1. The permittee must annually evaluate the compliance of the storm water management program with the conditions of this permit.

2. The permittee must evaluate the appropriateness of the selected Best Management Practices in efforts towards achieving the defined Measurable Goals. The SWMP may be changed in accordance with the following provisions:

(a). Changes adding (but not subtracting or replacing) components, controls or requirements to the SWMP may be made at any time upon written notification to EPA.

(b.) Changes replacing an ineffective or infeasible BMP specifically identified in the SWMP with an alternative BMP may be requested at any time. Unless denied, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If the request is denied, EPA will send a written explanation of the denial.

(c.) Modification requests, must include the following information:

i. an analysis of why the BMP is ineffective or infeasible (including cost prohibitive)

ii. expectations on the effectiveness of the replacement BMP, and

iii. an analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.

iv. Change requests or notifications must be in writing and signed in accordance with the signatory requirements of Part VI.

3. EPA or NHDES may require changes to the SWMP as needed to:

(a.) Address impacts on receiving water quality caused or contributed to by discharges from the MS4;

(b.) To include more stringent requirements necessary to comply with new Federal statutory or regulatory requirement; or

(c.) To include such other conditions deemed necessary to comply with the goals and requirements of the CWA.

(d.) Any changes requested by EPA or NHDESwill be in writing and will set forth the schedule for the permittee to develop the changes and offer the opportunity to propose alternative program changes to meet the objective of the requested modification.

E. Record Keeping

1. All records required by this permit must be kept for a period of at least five years. Records include information used in the development of the storm water management program, any monitoring, copies of reports, and all data used in the development of the notice of intent.

2. Records need to be submitted only when specifically requested by the permitting authority.

3. The permittee must make the records relating to this permit available to the public, including the storm water management program. The public may view the records during normal business hours. The permittee may charge a reasonable fee for copying requests.

F. Reporting

1. The permittee must submit an annual report. The initial report is due one year from the effective date of this permit and annually thereafter. The reports should contain information regarding activities of the previous calendar year. Reports must be submitted to EPA at the following address:

United States Environmental Protection Agency
Water Technical Unit
P.O. Box 8127
Boston, MA 02114

Municipalities located in the State of New Hampshire, must also submit reports to the New Hampshire Department of Environmental Services at the following address:

New Hampshire Department of Environmental Services
Water Division
Wastewater Engineering Bureau
P.O. Box 95
Concord, New Hampshire 03302-0095

2. The following information must be contained in the annual report:

(a) A self assessment review of compliance with the permit conditions.

(b) An assessment of the appropriateness of the selected BMPs.

(c) An assessment of the progress towards achieving the measurable goals.

(d) A summary of results of any information that has been collected and analyzed. This includes any type of data.

(e) A discussion of activities for the next reporting cycle.

(f) A discussion of any changes in identified BMPs or measurable goals.

(g) Reference any reliance on another entity for achieving any measurable goal.

PART VI - STANDARD PERMIT CONDITIONS

H. Duty to Comply

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance or modification or for denial of a permit application.

2. Penalties for Violations of Permit Conditions

The Director will adjust the civil and administrative penalties listed below in accordance with Civil Monetary Penalty Inflation Adjustment Rule (Federal Register: December 31, 1996, Volume 61, Number 252, pages 69359-69366, as corrected, March 20, 1997, Volume 62, Number 54, pages 13514-13517) as mandated by the Debt Collection Improvement Act of 1996 for inflation on a periodic basis. This rule allows EPA's penalties to keep pace with inflation. The Agency is required to review its penalties at least once every four years thereafter and to adjust them as necessary for inflation according to a specialized formula. The civil and administrative penalties listed below were adjusted for inflation starting in 1996

(a) Criminal

i. Negligent Violations. The CWA provides that any person who negligently violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation or by imprisonment for not more than 1 year or both.

ii. Knowing Violations. The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than $ 5,000 not more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

iii. Knowing Endangerment. The CWA provides that any person who knowingly violates permit conditions implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000 or by imprisonment for not more than 15 years, or both.

iv. False statement. The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine or not more than $10,000 or by imprisonment for not more that two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both.

b. Civil penalties- The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 306, 307, 318 or 405 of the Act is subject to a civil penalty not to exceed $ 27,500 per day for each violation.

c. Administrative Penalties

The CWA provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

i. Class I penalty. Not to exceed $11,000 per violation nor shall the maximum amount exceed $ 27,500.

ii. Class II penalty. Not to exceed $11,000 per day for each day during which the violation continues nor shall the maximum amount exceed $137,500.

B. Continuation of the Expired General Permit

If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and in effect as to any particular permittee as long as the permittee submits a new Notice of Intent two (2) months prior to the expiration of this permit. However, once this permit expires, EPA cannot provide written notification of coverage under this general permit to any permittee who submits a Notice of Intent to EPA after the permit's expiration date. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of :

(1) Reissuance of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
(2) The permittee's submittal of a Notice of Termination; or
(3) Issuance of an individual permit for the permittee's discharges; or
(4) A formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

C. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate

The permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

F. Duty to Provide Information

The permittee must furnish to the Director or an authorized representative of the Director any information which is requested to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

G. Signatory Requirement

i. All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22)

ii. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation or both.

H. Oil and Hazardous Substance Liability

Nothing in this permit shall be constructed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

I. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

J. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to the circumstances, and the remainder of this permit shall not be affected thereby.

K. Requiring an Individual Permit or an Alternative General Permit

i. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires the permittee to apply for an individual NPDES permit, the Director will notify the permittee in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications must be submitted to the Regional Office. The Director may grant additional time to submit the application upon request of the applicant. If the permittee fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the permittee is automatically terminated at the end of the day specified by the Director for application submittal.

ii. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee must submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the following address: Office of Ecosystem Protection, United States Environmental Protection Agency, One Congress Street- Suite 1100, Boston, Massachusetts 02114. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.

iii. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

L. State/Tribal Environmental Laws

i. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by section 510 of the Act.

ii. No condition of this permit releases the permittee from any responsibility or requirements under other environmental statutes or regulations.

M. Proper Operation and Maintenance

The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls

and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

N. Inspection and Entry

The permittee must allow the Director or an authorized representative of EPA or the State/Tribe, upon the presentation of credentials and other documents as may be required by law, to:

i Enter the permittee premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

ii Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

iii Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

PART VII - DEFINITIONS

Best Management Practices (BMPs) - means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

Commencement of Construction means the initial disturbance of soils associated with clearing, grading or excavating activities or other construction activities.

Control Measure as used in this permit, refers to any BMP or other method, used to prevent or reduce the discharge of pollutants to waters of the United States.
CWA means the Clean Water Act, or the Federal Water Pollution Control Act, 33 U.S.C 1251 *et seq.*

Director means the Regional Administrator of the Environmental Protection Agency or an authorized representative.

Discharge when used without qualification means the "discharge of a pollutant."

Discharge of Storm Water Associated with Construction Activity as used in this permit, refers to a discharge of pollutants in storm water runoff from areas where soil disturbing activities (e.g. clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g. fill piles, borrow areas, concrete truck washout, fueling) or other industrial storm water directly related to the construction process are located. (See 40 CFR 122.26(b)(14)(x) and 40 CFR 122.26(b)(15) for the two regulatory definition of storm water associated with construction sites).

Discharge of Storm Water Associated with Industrial Activity is defined at 40 CFR 122.26(b)(14).

EPA means the United States Environmental Protection Agency

Facility or Activity means any NPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

General Permit means an NPDES permit issued under §122.28 authorizing a category of discharges under the CWA within a geographical area.

Indian Country, as defined in 18 U.S.C. 1151, means : (a) All lands within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Indian communities with the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

Industrial Activity as used in this permit refers to the eleven categories of industrial activities included in the definition of discharges of storm water associated with industrial activity.

Industrial Storm Water as used in this permit refers to storm water runoff associated with the definition of discharges of storm water associated with industrial activity.

Large municipal separate storm sewer system means all municipal separate storm sewer systems that are either: (i) Located in an incorporated place with a population of 250,000 or mor as determined by the 1990 Decennial Census by the Bureau of the Census; or (ii.) Located in counties listed in Appendix H of 40 CFR 122, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or (iii.) Owned or operated by a municipality other than those described in paragraph (b)(4)(i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from

municipal separate storm sewers described under paragraph (b)(4)(i) or (ii) of this section.(Complete definition found at 40 CFR 122.26(b)(4) and incorporated here by reference).

MADEP means Massachusetts Department of Environmental Protection.

Municipality means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA.

Medium Municipal Separate Storm Sewer System means all municipal separate storm sewers that are either: (i) Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census (Appendix G of this part); or (ii.) Located in the counties listed in Appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or (iii.) Owned or operated by a municipality other than those described in paragraph (b)(4)(i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(7)(i) or (ii) of this section.(Complete definition found at 40 CFR 122.26(b)(7) and incorporated here by reference).

Municipal Separate Storm Sewer System means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains); (i.) Owned or operated by a State, city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district, or drainage district, or similar entity or an Indian tribe or an authorized tribal organization or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designated or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the CWA. The term includes an "approved program."

NHDES means New Hampshire Department of Environmental Services.

Owner or operator means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

Point Source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete, fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant is defined at 40 CFR 122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

Runoff Coefficient means the fraction of total rainfall that will appear at the conveyance as runoff.

State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or an Indian Tribe meeting the requirements of 40 CFR 123.31.

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Associated with Industrial Activity refers to storm water, that if allowed to discharge, would constitute a "discharge of storm water associated with industrial activity" as defined at 40 CFR 122.26(b)(14) and incorporated here by reference.

Waters of the United States means:

1. All waters which are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
2. All interstate waters, including interstate wetlands;
3. All other waters such as interstate lakes, rivers, streams, (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes or natural ponds the use, designation or destruction of which would affect or could affect interstate or foreign commerce including any such waters;
    a. Which are or could be used by interstate or foreign travelers for recreational or other purposes.
    b. From which fish or shell fish are or could be taken and sold in interstate or foreign or;
    c. Which are used or could be used for industrial purposes by industries in interstate commerce.
4. All impoundments of waters otherwise defined as waters of the United States under this definition;
5. Tributaries of waters identified in paragraphs (1) through (4) of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal areas in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by other federal agency for the purposes of the Clean Water Act jurisdiction remains with EPA.

Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

PART VIII - REOPENER

If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause, or contribute to a violation of a water quality standard, the permittee may be required to obtain an individual permit or an alternative general permit in accordance with Part VI.K of this permit, or the permit may be modified to include different limitations and/or requirements.

Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

PART IX - 401 WATER QUALITY CERTIFICATION REQUIREMENTS

Massachusetts:

The Massachusetts Department of Environmental Protection in accordance with the provisions of MGL Ch. 21, s. 26-53, 314 CMR 4.00, 314. CMR 3.00, 314 CMR 9.00 and Section 401 of the Federal Clean Water Act (Public Law 92-500 as amended) issues this Section 401 Water Quality Certification for the *General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems* in Massachusetts. The Department has determined that compliance with the conditions of this permit will result in compliance with applicable water quality standards, as required by the Massachusetts Surface Water Quality Standards regulations (314 CMR 4.00) and with 314 CMR 9.04 and that the permittee will be in compliance with Sections 301, 302, 303, 306 and 307 of the Federal Clean Water Act. The Department issues this Water Quality Certification subject to the following conditions, which are to be added to the final permit as state water quality certification requirements. The conditions outlined below will be presented in the following order:

A. state statutes and regulations relating to water quality and surface water discharges;
B. adherence to the Massachusetts Storm Water Management Policy, March 1997;
C. other state laws, regulations, and policies
D. environmental priority resource areas designated for protection;
E. other Department Directives, and
F. permit compliance

A. State Water Quality Statutes, Regulations and Policies:

1. The permittee shall comply with the Massachusetts Clean Waters Act (Ch. 21 s. 26-53).

2. The permittee shall comply with the conditions in 314 CMR 4.00- Surface Water Quality Standards.

3. The permittee shall comply with the conditions in 314 CMR 3.00- Surface Water Discharge Permit Program.

4. The permittee shall comply with the Wetlands Protection Act, Ch. 131 s. 40 and its regulations, 310 CMR 10.00 and any Order of Conditions issued by a Conservation Commission or Superseding Order of Conditions issued by the Massachusetts Department of Environmental Protection.

B. Department of Environmental Protection Storm Water Management Policy:

1. The permittee shall comply with the Massachusetts Storm Water Management Policy, March 1997 and applicable Storm Water Performance Standards, as prescribed by state regulations promulgated under the authority of the Massachusetts Clean Waters Act, MGL c. 21, ss 23-56 and the Wetlands Protection Act, MGL c. 131 s. 40.

C. Other State Environmental Laws, Regulations, Policies:

1. The permittee shall comply with the Massachusetts Endangered Species Act (MESA)(MGL c. 131A and regulations at 321 CMR 10.00) and any actions undertaken to comply with this storm water permit, shall not result in non-compliance with the MESA.

2. The permittee shall not conduct activities under this permit that will interfere with implementation of mosquito control work conducted in accordance with Chapter 252 including, s. 5A thereunder and DEP Guideline Number BRP G01-02, West Nile Virus Application of Pesticides to Wetland Resource Areas and Buffer Zones, and Public Water Systems.

D. ***Resource Areas Required for priority consideration in Storm Water Management Program***

1. The permittee shall identify discharges to the following resource areas as a priority and indicate in their storm water management program how storm water controls will be implemented. Identified priority areas include:

a. public water supplies

b. public swimming beaches
c. Outstanding Resource Waters (as designated in 314 CMR 4.00)
d. shell fishing areas (open versus closed areas)
e. rivers, ponds, lakes and coastal waters which are on the Department's 303d list of impaired waters
f. cold water fishery river segments as identified in 314 CMR 4.00

E. Other Department Directives:

1. The Department may require the permittee to perform water quality monitoring during the permit term if monitoring is necessary for the protection of public health or the environment as designated under the authority at 314 CMR 3.00.

2. The Department may require one or more permittees covered under this general permit to provide measurable verification of the effectiveness of BMPs and other control measures in the permittee's management program, including water quality monitoring.

3. The Department has determined that compliance with this permit does not protect the permittee from enforcement actions deemed necessary by the Department under its associated regulations to address an imminent threat to the public health, or a significant adverse environmental impact which results in a violation of the Massachusetts Clean Waters Act. Ch. 21 ss 26-53.

4. The Department reserves the right to modify this 401 Water Quality Certification if any changes, modifications or deletions are made to the general permit. In addition, the Department reserves the right to add and/or alter the terms and conditions of its Section 401 Water Quality Certification to carry out its responsibilities during the term of this permit with respect to water quality.

F. Permit Compliance:

1. Should any violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or the conditions of this certification occur, the Department will direct the permittee to correct the violation(s). The Department has the right to take any action as authorized by the General Laws of the Commonwealth to address the violation of this permit or the MA Clean Waters Act and the regulations promulgated thereunder. Substantial civil and criminal penalties are authorized under MGL Ch. 21, Section 42 for discharging into Massachusetts's waters in violation of an order or permit issued by this Department. This certification does not relieve the permittee of the duty to comply with other applicable Massachusetts statues and regulations.

New Hampshire
No additional conditions added.

Addendum A
Endangered Species Guidance

A. Background

In order to meet its obligations under the Clean Water Act and the Endangered Species Act (ESA), and to promote the goals of those Acts, the Environmental Protection Agency (EPA) is seeking to ensure the activities regulated by this small MS4 general permit do not adversely affect endangered and threatened species and critical habitat. Small MS4 operators applying for permit coverage must assess the impacts of their storm water discharges, allowable non-storm water discharges, and discharge-related activities on Federally listed endangered and threatened species ("listed species") and designated critical habitat ("critical habitat"), to ensure that those goals are met. Prior to obtaining general permit coverage, applicants must meet the ESA eligibility provisions of this permit. EPA strongly recommends that applicants follow the guidance in this addendum at the earliest possible stage to ensure that measures to protect listed species and critical habitat are incorporated early in the storm water management program development.

Applicants also have an independent ESA obligation to ensure that their activities do not result in any prohibited "takes" of listed species[1]. Many of the measures required in this general permit and in these instructions to protect species may also assist in ensuring that the applicants activities do not result in a prohibited take of species in violation of section 9 of the ESA. If the MS4 operator has plans or activities in areas where endangered and threatened species are located, they may wish to ensure that they are protected from potential takings liability under ESA section 9 by obtaining an ESA section 10 permit or by requesting formal consultation under ESA section 7. Applicants that are unsure whether to pursue a section 10 permit or a section 7 consultation for takings protection, should confer with the appropriate U.S. Fish and Wildlife Service (FWS)[2] office or the National Marine Fisheries Service (NMFS).

The FWS and NMFS have identified two species of concern, the short nosed sturgeon and the dwarf wedge mussel. These species are found in the Merrimack River and the Connecticut River. Specifically, the sturgeon is in the Connecticut River (main stem) down stream of Turners Falls, Massachusetts. It is in the Merrimack River (main stem) below the Lawrence Dam.

The dwarf wedge mussel is located in the following areas:

1. The Connecticut River, North from Nothumberland, NH south to Dalton, NH
2. Historic location in North Thetford, NH
3. Connecticut River, south and Black River: 16 -18 miles along the CT river form North Hartland, NH to Aschutney, VT as well as 1 mile along the Black River, from the river mouth to Springfield, VT
4. Ashuelt River form below Surry Mt. Dam, 6 -7 miles south to Keane, NH
5. South Branch of Ashuelot River, 0.5 miles in East Swanzey, NH
6. Mill River; approximately 5 miles in Whatley, MA and Hatfield, MA as well as 1-2 miles along Mill River Diversion in Northampton, MA
7. Farmington River, Muddy Brook, Philo Brook and Podunk River; Philo Brook and Muddy Brook in Suffield, CT; Farmington River in North Bloomfield, CT and the Podunk River in South Windsor, CT

---

[1] Section 9 of the ESA prohibits any person from "taking" a listed species (e.g., harassing or harming it) unless: (1) the taking is authorized through a "incidental take statement" as part of completion of formal consultation according to ESA section 7; (2) where an incidental take permit is obtained under ESA section 10 (which requires the development of a habitat conservation plan); or (3) where otherwise authorized or exempted under the ESA. This prohibition applies to all entities including private individuals, businesses, and governments.

[2] Discharges to marine waters may require consultation with the National Marine Fisheries Service instead.

Any small MS4 which discharges to these rivers must consult with the Services. EPA may designate the applicants as non-Federal representatives for the small MS4 general permit for the purpose of carrying out informal consultation with NMFS and FWS. By terms of this MS4 permit, EPA has automatically designated operators as non-Federal representatives for the purpose of conducting informal consultations. (See 50 CFR §402.08 and §402.13 and Part I.B.2.(e) of the permit) Permit coverage is only available if the applicant contacts the Services to determine that discharges are not likely to adversely affect listed species or critical habitat and informal consultation with the Services has been concluded and results in a written concurrence by the Services that the discharge is not likely to adversely affect an endangered or threatened species.

B. The ESA Eligibility Process

Before submitting a notice of intent (NOI) for coverage by this permit, applicants must determine whether they meet the ESA eligibility criteria by following the steps in Section "D" of this Addendum. Applicants that cannot meet any of the eligibility criteria, must apply for an individual permit.

C. The ESA Eligibility Criteria

The ESA eligibility requirements of this permit, may be satisfied by documenting that one or more of the following criteria has been met. Upon notification, EPA may direct an applicant to pursue eligibility under Criterion B.

Criterion A: No endangered or threatened species or critical habitat are in proximity to the MS4 or the points where authorized discharges reach the receiving waters.

Criterion B: In the course of a separate federal action involving the MS4, formal or informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under Section 7 of the ESA has been concluded and that consultation
- Addressed the effects of the MS4 storm water discharges, allowable non-storm water discharges and discharge related activities on listed species and critical habitat; and
The consultation resulted in either a no jeopardy opinion or a written concurrence by FWS and/or NMFS on a finding that the storm water discharges, allowable non-storm water discharges, and discharge related activities are not likely to adversely affect listed species or critical habitat.

Criterion C: The activities are authorized under Section 10 of the ESA and that authorization addresses the effects of the storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat. (Eligibility under this criterion is not likely. This criterion involves an MS4s activities being authorized through the issuance of a permit under section 10 of the ESA and that authorization addresses the effect of the MS4's storm water discharges and discharge related activities on listed species and designated critical habitat. MS4s must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR §17.22(b)(1) for FWS and §222.22 for NMFS). Application instructions for section 10 permits can be obtained by assessing the appropriate websites (www.fws.gov and www.nmfs.noaa.gov) or by contacting the appropriate regional office.)

Criterion D: Using the best scientific and commercial data available, the effects of the storm water discharges, allowable non-storm water discharges, and discharge related activities on listed species and critical habitat have been evaluated. Based on those evaluations, a determination is made by the permittee and affirmed after review by EPA that the storm water discharges, allowable non-storm water discharges, and discharge related activity will not affect any federally threatened or endangered species or designated critical habitat.

Criterion E: The storm water discharges, allowable non-storm water discharges, and discharge related

activities where already addressed in another operator's certification of eligibility which includes the MS4 activities.

D. The Steps To Determine if the ESA Eligibility Criteria Can Be Met

To determine eligibility, you must assess (or have previously assessed) the potential effects of your known storm water discharges, allowable non-storm water discharges and discharge-related activities on listed species and critical habitat, PRIOR to completing and submitting a Notice of Intent (NOI). You must follow the steps outlined below and document the results of your eligibility determination.

Step1. Determine if You Can Meet Eligibility Criterion "A"

Criterion A. You can certify eligibility, according to Criterion A, for coverage by this permit if you can answer "No" to all of the following questions:

- Are there any Endangered Species in your county? Are there any Critical Habitats in your county?

- Are there any Endangered Species or Critical Habitat in proximity to your MS4 or discharge locations?

Use the guidance below to answer these questions, and to: "*Check for Listed Endangered Species in Your County,*" "*Check for Critical Habitat in Your County,*" and "*Check for Proximity to Your MS4 or MS4 Discharge Locations.*"

If you answered "No" to the questions above, you have met ESA eligibility Criterion A. Skip to Step 4.

If you answered "Yes" to either of the questions above, Go to Step 2.

Check for Listed Endangered Species in Your County.

Look at the latest county species list to see if any listed species are found in your county. If you are located close to the border of a county or your MS4 is located in one county and your discharge points are located in another, you must look under both counties. Since species are listed and de-listed periodically, you will need the most current list at the time you are conducting your endangered species assessment.

Check for Critical Habitat in Your County.

Some (but not all) listed species have designated critical habitat. Exact locations of such habitat is provided in the endangered species regulations at 50 CFR part 17 and part 226. To determine if MS4 or discharge locations are within designated critical habitat, you should either:

- Review those regulations (50 CFR Parts 17 and 226) that specific critical habitat. These regulations can be found in many larger libraries or via the Government Printing Office website, www.access.gpo.gov ; or

- Contact the nearest Fish and Wildlife Service (FWS) office or National Marine Fisheries Service (NMFS) office. A list of FWS and NMFS offices for the areas of permit coverage is found in sections "F" and "G", respectively, of this Addendum; or

- Contact the Natural Heritage Program for your state. Heritage programs gather, manage, and distribute detailed information about the biological diversity found within their jurisdictions. They frequently have the most current information on listed species and critical habitat. Contact information for the Heritage program is provided in section "H" of this Addendum.

Check for Proximity to Your MS4 or MS4 Discharge Locations.

You must determine whether listed species or critical habitat are in proximity to your MS4 storm water discharges or allowable non-storm water discharges. Listed species and critical habitat are in proximity when they are:

- Located in the path or immediate area through which or over which point source storm water or allowable non-storm water flows to the point of discharge into the receiving water. This may also include areas where storm water from your MS4 enters groundwater that has a direct hydrological connection to a receiving water (e.g., groundwater infiltrates at your MS4 and re-emerges to enter a surface waterbody within a short period of time.)

- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.

- Located in the area of an MS4 where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/surveyed for listed species will vary with the size of the MS4, the nature and quantity of the storm water discharges, and the type of receiving waters. You should use the method(s) which allow you to determine, to the best of your knowledge, whether listed species are in proximity to your particular MS4. These methods may include:

- Conducting visual inspections. This method may be particularly suitable for MS4s that are smaller in size or MS4s located in non-natural settings such as highly urbanized areas where there is little or no natural habitat. For other MS4s, a visual survey may not be sufficient to determine whether listed species are in proximity.

- Contacting the nearest State Wildlife Agency or U.S. FWS offices. Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies.

- Contacting local/regional conservation groups such as natural heritage programs (see section H below). These groups inventory species and their locations and maintain lists of sightings and habitats.

- Conducting a formal biological survey. MS4s with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether listed species are located in proximity and whether there are likely adverse effects.

Step 2. Determine If You Can Meet Eligibility Criteria "B", "C", or "E"

Criterion B. You can certify eligibility, according to Criterion B, for coverage by this permit if you can answer "Yes" to all of the following questions:

- Has consultation, under ESA Section 7, already been completed for discharges from your MS4[3]?

- Did the previously completed ESA Section 7 consultation consider all currently listed species and critical habitat and address your storm water, allowable non-storm water, and discharge-related activities?

---

[3] A formal or informal ESA Section 7 consultation on this or another federal action (e.g., New source review under NEPA, application for a dredge and fill permit under CWA Sec. 404, application for an individual NPDES permit, etc.) addressed the effects of your MS4 discharges and discharge-related activities on listed species and critical habitat. (See 50 CFR 402.13).

- Did the ESA Section 7 consultation result in either a "no jeopardy" opinion by the Service (for formal consultations) or a concurrence by the Service that your activities would be "unlikely to adversely affect" listed species or critical habitat?

- Do you agree to implement all measures upon which the consultation was conditioned?

If you answered "Yes" to all four questions above, you have met ESA eligibility Criteria B. Skip to Step 4.

If you answered "No" to any of the four questions above, check to see if you can meet Criteria C or E, or Go to Step 3.

Criterion C. You can certify eligibility, according to Criterion C, for coverage by this permit if you can answer "Yes" to all of the following questions:

- Has an ESA Section 10 permit already been issued for discharges from your MS4[4]?

- Does your ESA Section 10 Permit consider all currently listed species and critical habitat, and address your storm water, allowable non-storm water, and discharge related activities, for discharges from your MS4?

If you answered "Yes" to the two questions above, you have met ESA eligibility Criterion

C. Skip to Step 4.

If you answered "No" to either of the two questions above, check to see if you can meet Criterion E, or Go to Step 3.

Criterion E. You can certify eligibility, according to Criterion E, for coverage by this permit if you can answer "Yes" to all of the following questions:

- Did another MS4 operator previously certify ESA eligibility for your MS4 area[5]?

- Did the other operator's certification of eligibility consider all currently listed species and critical habitat and address your storm water, allowable non-storm water, and discharge related activities?

- Do you agree to implement all measures upon which the other operator's certification was based?

Before you rely on another operator's certification, you should carefully review that certification along with any supporting information. You also need to confirm that no additional species have been listed or critical habitat designated in the area of your MS4 since the other operator's endangered species assessment was done. If you do not believe that the other operator's certification provides adequate coverage for your MS4, you should provide your own independent endangered species assessment and certification.

---

[4] You have a permit under section 10 of the ESA and that authorization addresses the effects of your storm water discharges and discharge-related activities on listed species and critical habitat. You must follow FWS procedures when applying for an ESA section 10 permit (see 50 CFR 17.22(b)(1)).

[5] In order to meet the permit eligibility requirements by relying on another operator's certification of eligibility, the other operator's certification must apply to the location of your MS4 and must address the effects from your storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat.

If you answered "Yes" to all three questions above, you have met ESA eligibility Criteria

E. Skip to Step 4.

If you answered "No" to any of the three questions above, Go to Step 3.

Step 3. Determine If You Can Meet Eligibility Criterion "D"

Criterion D. You can certify eligibility, according to Criterion D, for coverage by this permit if you can answer "Yes" to all of the following questions:

- Have you determined that your MS4's storm water discharges, allowable non-storm water discharges, and discharge-related activities are "not likely to adversely affect" listed species or critical habitat, and/or have you reached agreement with the U.S. FWS or NMFS on measures to avoid, eliminate, or minimize adverse affects?

- Do you agree to implement all measures upon which the determination was conditioned?

Use the guidance below to understand adverse effect determinations, and to answer these questions.

If you answered "Yes" to the both questions above, you have met ESA eligibility Criterion D. Go to Step 4.

If you answered "No" to either of the questions above you are not eligible for coverage by this permit. You must submit an individual application for your discharges to EPA. (See 40 CFR 122.33(b)(2))

If you are unable to certify eligibility under Criterion A, B, C, or E, you must assess whether your storm water discharges, allowable non-storm water discharges, and discharge-related activities are likely to adversely affect listed species or critical habitat. "Storm water discharge-related activities" include: activities which cause, contribute to, or result in point source storm water pollutant discharges; and measures to control storm water discharges and allowable non-storm water discharges including the siting, construction, operation of best management practices (BMPs) to control, reduce or prevent water pollution. Please be aware that no protection from incidental takings liability is provided under this criterion.

The scope of effects to consider will vary with each MS4. If you are having difficulty in determining whether your MS4 is likely to cause adverse effects to a listed species or critical habitat, you should contact the appropriate office of the FWS, NMFS, or Natural Heritage Program for assistance. In order to complete the determination of effects it may be necessary to follow the consultation procedures in section 7 of the ESA. (See Criterion B information above, and section 7 consultation web link in section F below).

Upon completion of your assessment, document the results of your effects determination. If adverse effects are not likely, you are eligible under criterion "D" - proceed to Step 4 of this Addendum. Your determination may be based on measures that you implement to avoid, eliminate, or minimize adverse affects.

If the determination is "May Adversely Affect." You must contact the FWS and/or NMFS to discuss your findings and measures you could implement to avoid, eliminate, or minimize adverse affects. If you and the Service(s) reach agreement on measures to avoid adverse effects, you are eligible under criteria "D". Any terms and/or conditions to protect listed species and critical habitat that you relied on in order to complete an adverse effects determination, must be incorporated into your Storm Water Management Program (required by the permit) and implemented in order to maintain permit eligibility.

If endangered species issues cannot be resolved. If you cannot reach agreement with the Services on measures to avoid, eliminate, or reduce adverse effects, and the likely adverse effects cannot be otherwise addressed through meeting the other criteria , then you are not eligible for coverage under this general permit. You must seek coverage under an individual permit.

Effects from storm water discharges, allowable non-storm water discharges, and discharge-related activities which could pose an adverse effect include:

- *Hydrological.* Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.

- *Habitat.* Excavation, site development, grading, and other surface disturbance activities, including the installation or placement of storm water ponds or BMPs, may adversely affect listed species or their habitat. Storm water associated with MS4 operation may drain or inundate listed species habitat.

- *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

Step 4. Submit Notice of Intent and Document Results of the Eligibility Determination.

Once the ESA eligibility requirements have been met, and you have determined NHPA eligibility (see Addendum B), you may submit the Notice of Intent (NOI). Signature and submittal of the NOI constitutes your certification, under penalty of law, of your eligibility for permit coverage.

You must include documentation of ESA eligibility in the storm water management program required for the MS4. Documentation required for the various ESA eligibility criteria are as follows:

Criterion A: A copy of the most current county species list pages for the county(ies) where your MS4 and discharges are located. You must also include a statement on how you determined that no listed species or critical habitat are in proximity to your MS4 or MS4 discharge locations.

Criterion B: A copy of the Service's biological opinion or concurrence on a finding of "unlikely to adversely effect" regarding the ESA Section 7 consultation.

Criterion C: A copy of the Service's letter transmitting the ESA Section 10 authorization.

Criterion D: Documentation on how you determined adverse effects on listed species and critical habitat were unlikely.

Criterion E: A copy of the documents originally used by the other operator of your MS4 (or area including your MS4) to satisfy the documentation requirement of Criteria A, B, C or D.

E. Duty To Implement Terms and Conditions Upon Which Eligibility Was Determined

You must comply with any terms and conditions imposed under the ESA eligibility requirements to ensure that your storm water discharges, allowable non-storm water discharges, and discharge-related activities do not pose adverse effects or jeopardy to listed species and/or critical habitat. You must incorporate such terms and conditions into your MS4's Storm Water Management Program as required by the permit. If the ESA eligibility requirements of Part I.E cannot be met, then you may not receive coverage under this permit, and must apply for an individual permit.

F. U.S. Fish and Wildlife Service Offices

National Websites For Endangered Species Information.
Endangered Species Home page: http://endangered.fws.gov/
ESA Section 7 Consultations: http://endangered.fws.gov/consultations/index.html

U.S. FWS Region 5
Division Chief, Endangered Species
U.S. Fish and Wildlife Service
ARD Ecological Services
300 Westgate Center Drive
Hadley, MA 01035-9589

Regional, State, Field and Project Offices
Project Leader, USFWS
Rhode Island Field Office
Shoreline Plaza, Rt 1A
P.O. Box 307
Charlestown, RI 02813

Project Leader, USFWS
Maine Field Office
1033 South Main Street
Old Town, ME 04468

Project Leader, USFWS
New England Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-4986

Project Leader, USFWS
Vermont Field Office
11 Lincoln Street
Winston Prouty Federal Building
Essex Junction, VT 05452

G. National Marine Fisheries Services

Website: http://www.nmfs.gov

Regional Office
Protected Resource Program
National Marine Fisheries Service
Northeast Region
One Blackburn Drive
Gloucester, MA 01930

Field Offices
Milford Field Office
National Marine Fisheries Service
212 Rogers Avenue
Milford, CT 06460

Protected Species Branch
NMFS
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543

H. Natural Heritage Network

The Natural Heritage Network comprises 75 independent heritage program organizations located in all 50 states, 10 Canadian provinces, and 12 countries and territories located throughout Latin America and the Caribbean. These programs gather, manage, and distribute detailed information about the biological diversity found within their jurisdictions. Developers, businesses, and public agencies use natural heritage information to comply with environmental laws and to improve the environmental sensitivity of economic development projects. Local governments use the information to aid in land use planning.

The Natural Heritage Network is overseen by NatureServe, the Network's parent organization, and is accessable on-line at: http://www.natureserve.org/nhp/us_programs.htm, which provides website and other access to a large number of specific biodiversity centers.

Connecticut Natural Diversity Database
Natural Resources Center
Department of Environmental Protection

79 Elm Street, Store Level
Hartford, CT 06106

Maine Natural Areas Program
Department of Conservation
93 State House Station
Augusta, ME 04333
http://www.state.me.us/doc/mnap/home.htm

Massachusetts Natural Heritage & Endangered Species Program
Division of Fisheries and Wildlife
Route 135
Westborough, MA 01581
508/792-7270

New Hampshire Natural Heritage Inventory
Department of Resources & Economic Development
172 Pembroke Street, P.O. Box 30370
Concord, NH 03302
603/271-3623

Rhode Island Natural Heritage Program
Department of Environmental Management
Division of Planning & Development
83 Park Street
Providence, RI 02903
401/277-2776

Vermont Non-game & Natural Heritage Program
Vermont Fish & Wildlife Department
103 South Main Street, 10 South
Waterbury, VT 05671-0501
802/241-3700

Addendum B
Historic Properties Guidance

Applicants must determine whether their MS4's storm water discharges, allowable non-storm water discharges, or construction of best management practices (BMPs) to control such discharges, has potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

For existing dischargers who do not need to construct BMPs for permit coverage, a simple visual inspection may be sufficient to determine whether historic properties are affected. However, for MS4s which are new storm water dischargers and for existing MS4s which are planning to construct BMPs for permit eligibility, applicants should conduct further inquiry to determine whether historic properties may be affected by the storm water discharge or BMPs to control the discharge. In such instances, applicants should first determine whether there are any historic properties or places listed on the National Register or if any are eligible for listing on the register (e.g., they are "eligible for listing").

EPA suggests that applicants first access the "National Register of Historic Places" information listed on the National Park Service's web page: http://www.cr.nps.gov/nr. The addresses for State Historic Preservation Officers are listed in Part II of this addendum. Applicants may also contact city, county or other local historical societies for assistance, especially when determining if a place or property is eligible for listing on the register.

The following three scenarios describe how applicants can meet the permit eligibility criteria for protection

of historic properties under this permit:

(1) If historic properties are not identified in the path of an MS4's storm water and allowable non-storm water discharges or where construction activities are planned to install BMPs to control such discharges (e.g., diversion channels or retention ponds), then the applicant has met the NHPA eligibility criteria of this permit.

(2) If historic properties are identified but it is determined that they will not be affected by the discharges or construction of BMPs to control the discharge, the applicant has met the NHPA eligibility criteria of this permit.

(3) If historic properties are identified in the path of an MS4's storm water and/or allowable non-storm water discharges or where construction activities are planned to install BMPs to control such discharges, and it is determined that there is the potential to adversely affect the property, the applicant can still meet the NHPA eligibility criteria under of this permit, if he/she obtains and complies with a written agreement with the appropriate State or Tribal Historic Preservation Officer which outlines measures the applicant will follow to mitigate or prevent those adverse effects. The contents of such a written agreement must be included in the MS4's Storm Water Management Program.
In situations where an agreement cannot be reached between an applicant and the State Historic Preservation Officer, applicants should contact the Advisory Council on Historic Preservation listed in Part III of this Addendum for assistance.

The term "adverse effects" includes but is not limited to damage, deterioration, alteration or destruction of the historic property or place. EPA encourages applicants to contact the appropriate State or Tribal Historic Preservation Officer as soon as possible in the event of a potential adverse effect to a historic property. Applicants are reminded that they must comply with applicable State, Tribal and local laws concerning the protection of historic properties and places.

A. Internet Information on the National Register of Historic Places

The National Register of Historic Places is the Nation's official list of cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources. Properties listed in the Register include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture. The National Register is administered by the National Park Service, which is part of the U.S. Department of the Interior.

An electronic listing of the ``National Register of Historic Places," as maintained by the National Park Service, can be accessed on the Internet at: http://www.cr.nps.gov/nr

B. State Historic Preservation Officers (SHPO)

Connecticut Historical Commission
59 South Prospect Street
Hartford, CT 06106
860/566-3005

Maine Historic Preservation Commission
55 Capital Street, Station 65
Augusta, ME 04333
207/287-2132

Massachusetts Historical Commission
220 Morrissey Boulevard

Boston, MA 02125
617/727-8470
TTD: 1-800-392-6090

New Hampshire Division of Historic Resources
P.O. Box 2043
Concord, NH 03302-2043
603/271-6435
TDD: 1-800-735-2964
Rhode Island Historic Preservation & Heritage Commission
Old State House
150 Benefit Street
Providence, RI 02903
401/222-2678

Vermont Division for Historic Preservation
National Life Building, Drawer 20
Montpelier, VT 05620-0501
802/828-3211

C. Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation (ACHP) is an independent Federal agency that promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national historic preservation policy.

The goal of the National Historic Preservation Act (NHPA), which established ACHP in 1966, is to have Federal agencies act as responsible stewards of our Nation's resources when their actions affect historic properties. ACHP is the only entity with the legal responsibility to encourage Federal agencies to factor historic preservation into Federal project requirements.

As directed by NHPA, ACHP serves as the primary Federal policy advisor to the President and Congress; recommends administrative and legislative improvements for protecting our Nation's heritage; advocates full consideration of historic values in Federal decision making; and reviews Federal programs and policies to promote effectiveness, coordination, and consistency with national preservation policies.

Main Office

Advisory Council on Historic Preservation
Old Post Office Building
1100 Pennsylvania Avenue, NW, Suite 809
Washington, DC 20004
Phone: (202) 606-8503
Fax: (202) 606-8647/8672
E-mail: achp@achp.gov
Internet: http://www.achp.gov/