



Stormwater Management

Notice of Intent (NOI) Frequently Asked Questions

U.S. EPA | STORMWATER TOOLS & RESOURCES

UPDATED

September 25, 2018

We are waiting for a response from U.S. Fish and Wildlife (USFW) for our ESA eligibility determination. What should we do if we do not hear from USFW by October 1st?

If you submitted a project review request to USFW and do not hear back from USFW by October 1, 2018 you should submit your NOI to EPA and leave the ESA eligibility determination blank. Please provide any correspondence with USFW in the notes section of the NOI or as an attachment to your NOI at the time of submittal. When you receive correspondence from USFW forward the documentation to Stormwater.reports@epa.gov and indicate in your email which criterion you are certifying under (A, B, or C).

If you have not contacted USFW yet but need to certify eligibility on the NOI under criterion B, please download the programmatic review document produced by USFW for your state found here: <https://www.epa.gov/npdes-permits/small-ms4-noi-resources-list-ma-nh>. Attach that letter to your NOI and certify under criterion B on the NOI.

Could you clarify “Beginning Year of BMP Implementation” on the NOI form for Massachusetts? As an example, the “MCM 4 – Site Plan Review” BMP and measurable goal states: “Complete within 1 year of the effective date of permit.” Is this the beginning year of implementation 2018, or would it be after the Site Plan Review is developed in 2019?

The beginning year of implementation is the permit year in which you plan to begin implementing that BMP, not the date when a particular report or task is due. For instance, if the BMP is site plan review procedures, you must have the plan for the site plan review complete by year 1 (2018), but the beginning year of implementation would be year 2 (2019).

If a non-traditional MS4 is in a Phase 1 community like Boston or Worcester, must the MS4 obtain permit coverage?

Yes, a non-traditional MS4 located within a Phase 1 community in Massachusetts or New Hampshire must obtain permit coverage for Stormwater discharges. To be covered under the new MS4 permit an NOI must be submitted by October 1, 2018.

Appendix B, Section B.11 seems to allow our Board of Selectmen to authorize our Director of Public Works to sign reports including SWPPPs, inspection reports, annual reports, monitoring reports, reports on training and other information required by the permit. Is that correct?

Yes, your municipality can designate an authorized representative to sign the submittals mentioned. However, this does not include certification of the NOI. The NOI must be signed by a ranking town official (i.e. the mayor, or the city council).

Are regulated areas for the Massachusetts and New Hampshire MS4 permits determined using urbanized area designated by the 2000 census or by the 2010 census or a combination of the two?

Regulated areas for the 2016 Massachusetts and 2017 New Hampshire MS4 general permits are determined using a combination of the 2000 census designated urbanized areas and the 2010 census designated urbanized areas.

Is there any extension to the October 1 deadline to submit an NOI?

There is no mechanism to grant an extension of the deadline. If you were covered under the 2003 permit and you submit an NOI after October 1, 2018, your MS4 will be discharging without a permit until you are granted authorization under the new general permit.

My town enacted an illicit discharge ordinance 10 or 20 years ago. Can I state that an ordinance is in place even if the ordinance is revised during the permit term?

Yes. Please indicate that you have enacted your illicit discharge ordinance and the date of adoption, even if you are considering revisiting the permit term.

Is the assessment unit number the same as the waterbody ID?

Yes, it is.

If you determine that an NOI is deficient in some way, is there a penalty for the deficient NOI?

No, as long as the NOI submitted is, to the best of your knowledge and belief, true, accurate, and complete, there is no penalty for a deficient NOI. If an NOI is deficient we will notify the applicant and request more information or that the corrected NOI be submitted. However, we do require submittal of a complete and accurate NOI to continue the authorization process. EPA and MassDEP/NHDES reserve the right to take enforcement actions for unpermitted discharges.

Some parts of the PDF form do not wrap text. Can we add additional information in the Notes section?

It's true that some parts of the NOI form do not allow text to wrap. However, EPA and MassDEP will be able to read everything written in those boxes if you submit electronically. You may also add extra information in the Notes section.

What is the best way to check if a state-owned property (i.e. a college, prison, or park) is designated as a non-traditional MS4 requiring permit coverage? Are the Massachusetts and New Hampshire non-traditional MS4s on the website up-to-date?

If your MS4 is a state or federally owned or operated facility located in an urbanized area, as designated by the U.S. Census, that discharges stormwater to a water of the U.S. or an adjacent MS4, it is a non-traditional MS4 that requires MS4 permit coverage for Stormwater discharges. To determine if your facility is located in a regulated area and may require permit coverage, check the regulated area maps for Massachusetts: <https://www.epa.gov/npdes-permits/regulated-ms4-massachusetts-communities> or New Hampshire: <https://www.epa.gov/npdes-permits/regulated-ms4-new-hampshire-communities>. The on-traditional MS4 list on the Massachusetts MS4 website lists only those MS4s that have currently self-identified as needing permit coverage for their stormwater discharges to date. Therefore, it is not a comprehensive list. If you are still unsure after checking the appropriate map, please contact Newton Tedder at Tedder.Newton@epa.gov.

Can the signature be scanned in and attached to my NOI submittal?

If you plan on submitting your NOI with a scanned signature you must also mail the original signature page to EPA at the address on the NOI with a cover sheet indicating applicant MS4 name.

In Part II, “summary of receiving waters”, can we submit the information in an Excel attachment rather than typing into the PDF?

Yes, submitting the information in an Excel attachment is acceptable as long as the attachment contains all the information requested in Part II.

Are NOIs publicly noticed and available for public review and comment?

MS4s seeking coverage under the Massachusetts general permit will have their NOIs posted on the following website for 30 days: <https://www.epa.gov/npdes-permits/regulated-ms4-massachusetts-communities>. Public comments should be sent to Newton Tedder at Tedder.Newton@epa.gov

In New Hampshire, only applicants submitting NOIs that include alternative TMDL plans will be posted for a 30-day public review and comment period. These NOIs will be publicly available here: <https://www.epa.gov/npdes-permits/regulated-ms4-new-hampshire-communities>. Public comments should be sent to Suzanne Warner at warner.suzanne@epa.gov

September 14, 2018

If my MS4 was covered under the 2003 permit, and I fail to submit an NOI seeking coverage under the 2016 or 2017 permit, what consequences might occur?

If your MS4 was covered under the 2003 permit and you fail to submit an NOI or complete an individual permit application by October 1, 2018, your MS4 will be discharging stormwater without a permit after October 1, 2018. Submission of the NOI or individual permit application by October 1, 2018 allows your 2003 permit to remain in effect until authorization to discharge under the general permit is granted or an individual permit is issued.

Are we required to identify all receiving waterbodies in Part II, or just those that are impaired?

You are required to list all receiving waterbodies in Part II, including those that are not impaired. Specifically, you are required to list all waterbodies that receive flow from known outfalls located within your regulated area, in addition to all relevant impairment information for those waterbodies.

Do we need to list interconnections on page 2 of the NOI?

You are not required to list interconnections. However, you can do so if you have already mapped them.

Who should we contact at Fish and Wildlife?

If after going through Appendix C of the NOI you believe that you may have to contact U.S. Fish and Wildlife, please contact Newt Tedder or Suzanne Warner first for assistance. If it is determined that contact with U.S. Fish and Wildlife is necessary, you can use a form letter available on the EPA website: <https://www.epa.gov/npdes-permits/small-ms4-noi-resources-list-ma-nh>. The form letter includes U.S. Fish and Wildlife staff contact information.

How do I access the NOI instructional video?

The NOI video is available on YouTube at the link below:

<https://www.youtube.com/watch?v=mhqpEATwjMc&feature=youtu.be>

Are we required to submit an outfall map with the NOI? If so, how do we do this?

If your MS4 was covered under the 2003 permit, you are required to submit an outfall map with your NOI. There are several options for doing so:

- An online link to the outfall map can be added to the NOI
- A PDF of the map can be added as an attachment if you email your NOI to EPA
- A paper copy of the map can be submitted separately or with the NOI if you choose to submit your NOI by mail

Your NOI should indicate which option you are using to submit the map to EPA.

The pdf application is a little glitchy. For example, sometimes text disappears or is difficult to read.

The form works best when it is downloaded and opened in Adobe Reader (right click on the NOI template link and “save as” a PDF document, then open in Adobe Reader). Please do not fill out the form in your web browser, as you will not be able to save your information that way.

Is the Stormwater Management Program (SWMP) a physical document?

Yes, it is a physical document (hard copy or electronic). A SWMP template can be downloaded from the EPA Tools websites: <https://www.epa.gov/npdes-permits/stormwater-tools-new-england>.

Can EPA review and comment on a draft of our NOI before we submit it?

No, we do not have the resources to review and comment on drafts. If you have specific questions, please contact Newt Tedder or Suzanne Warner.

How should I identify impairments to waterbodies on my NOI if the 303(d) Impaired Waters List identifies an impairment due to foams, flocs., scum, or oil slicks?

First, look at each specific impairment on the 303(d) list. If the cause of the impairment is any hydrocarbon or oil/grease, identify it as such on the NOI. However, if the cause is not identified, type the impairment into the “other pollutant(s)” box.

In Part 3 of the NOI, is it sufficient to state that our municipality intends to follow all applicable permit requirements for “Water Quality Limited” waters or should we add more information?

Yes, you can simply indicate that your municipality intends to follow all applicable permit requirements for Water Quality Limited waters; you do not need to add any more information. Review section 2.2.2.2 of the permit to determine the extent to which Appendix H applies to your municipality, in addition to reviewing the impairments table set out in the NOI itself.

Once we file a completed NOI, when will we receive our permit?

In Massachusetts, NOIs must be placed on public notice to allow for public comment for a minimum of 30 days. During this time, the public may comment on the information contained in the submitted NOI. EPA will post filed NOIs on our website to allow the public to do so. If EPA receives comments that should be addressed, EPA will work with the MS4 to respond to them. If no public comments are received at the close of the public comment period, EPA will send your municipality an “authorization to discharge” letter. This letter will state the effective date of authorization and include your permit number.

New Hampshire NOIs will not be placed on public notice unless an MS4 proposes an alternative plan to meet TMDL requirements. If so, EPA will follow the public notice process detailed above, and EPA's authorization letter will acknowledge acceptance of the alternative TMDL plan as well as provide authorization to discharge.

Is it correct that we only need to list outfalls that discharge to a “Waters of the U.S.” located within our MS4 area?

Yes! That is correct.

Must large private entities within a municipality (for example, the Eastern States Exposition – otherwise known as The Big E), submit their own NOIs?

Private entities are not required to obtain permit coverage for stormwater discharges unless specifically directed by EPA to do so.

Can you confirm that a fecal coliform impairment should be indicated in the “Other pollutant(s)” section in Part II, and not included in an E. coli or Enterococcus check box?

That is correct.

Are TMDL and WQL impairments direct discharge based, or watershed based?

Some TMDLs and some impairments are watershed based, and some are direct discharge based. Parts 2.2.2.1 and 2.2.2.2 of the permit will help you to identify which impairments and TMDLs are watershed based and which are applicable to direct discharges to a waterbody.

The Massachusetts permit refers to the 2014 List of Impaired Waters. However, the 2016 List of Impaired Waters 303(d) list has now been released. Which list should we use?

Use the 2014 list. The 2016 List of Impaired Waters has not yet been approved by EPA.

What do municipalities do if the 303(d) list has only been partially approved by EPA? For example, the 2016 list covering New Hampshire's Great Bay area is only partially approved.

Use the most recently EPA-approved list for the specific waterbodies in your area. For segments of Great Bay, approved listings may go back to 2012. Use the most recently approved list that includes your waterbodies. If you have a specific question, please contact Suzanne Warner.

An outfall is located outside of my MS4 boundaries but discharges to an impaired water. Must we list it in Part II? Does the outfall need to be surveyed, inspected, etc.?

Your permit applies to discharges from your regulated MS4 area. If the outfall does not receive flow from your regulated area, or is not located within your regulated area, you are not required to include it in your stormwater management program or list it on your NOI.

What is the webpage address for the tools listed here?

The Stormwater Tools in New England website can be found at: <https://www.epa.gov/npdes-permits/stormwater-tools-new-england>. A link to this page is also available on EPA's Massachusetts and New Hampshire Small MS4 webpages.

How do I submit a waiver if I want to opt out of the Small MS4 General Permit?

If you believe that you are eligible for a waiver, contact Newt Tedder or Suzanne Warner for further instructions.

The Region has stated that "...you will consult with U.S. Fish and Wildlife as needed during the permit term on any future BMPs." Can you clarify what is meant by "future BMPs"?

A future BMP is any structural best management practice that will be constructed during the permit term to meet permit requirements. During the permit term, you may plan and install structural BMPs that were not accounted for in your initial ESA consultation (if you had one) during the NOI submittal process. If, at that time, you determine that BMP construction warrants consultation with U.S. Fish and Wildlife, you must first consult with them before proceeding. If you install structural BMPs as a part of a larger project that needs construction general permit (CGP) coverage, the CGP has its own ESA requirements.

August 13, 2018

What does filing a NOI mean?

The notice of intent (NOI) serves as an applicant's notice to EPA and the applicable state agency (MassDEP or NHDES) that it intends its stormwater discharges to be authorized under the terms and conditions of the 2016 Massachusetts or 2017 New Hampshire MS4 general permit. By signing and submitting the NOI, the applicant is certifying that it meets the permit's eligibility criteria, and intends to follow the terms and conditions of the relevant permit.

Who must file a NOI?

The new permit covers all three MS4 categories: "Traditional MS4s" operated by municipalities; "Non-traditional" MS4s, which are publicly owned facilities (federal, state, or other public systems); and certain departments of transportation located within urbanized areas. If your system was covered under the 2003 permit, or is newly designated as located within an urbanized area by the 2010 Census and your municipality has not received a waiver, your system is a regulated MS4 and you must obtain permit coverage for your stormwater discharges. To obtain permit coverage under the new MS4 general permit, you must submit an NOI to EPA and MassDEP.

I'm not sure that that our system falls within the definition of an MS4. How can I check?

If in doubt, access the list of regulated MS4 areas:

Massachusetts Communities: <https://www.epa.gov/npdes-permits/regulated-ms4-massachusetts-communities>

New Hampshire Communities: <https://www.epa.gov/npdes-permits/regulated-ms4-new-hampshire-communities>

We're a 2003 MS4. In Part I, the NOI asks for our 2003 permit number, which we cannot locate. How can we obtain it?

You can find 2003 MS4 permit numbers and other information on the 2003 Small MS4 General Permit Archives for Massachusetts and New Hampshire website: <https://www.epa.gov/npdes-permits/2003-small-ms4-general-permit-archives-massachusetts-new-hampshire>.

The 2003 permit required MS4s to enact 3 bylaws and/or ordinances. Our municipality, which has been operating a MS4 under the 2003 permit, hasn't adopted all bylaws yet. Do we have to include that information on the NOI?

Yes. If you were covered under the 2003 permit you must provide this information in your NOI. Check the box in Part I that asks if you are covered under the 2003 permit. Then, fill in the estimated date by which they will be enacted. New permittees are not required to provide this information.

How detailed does my NOI need to be?

The NOI conveys information on how the MS4 intends to comply with permit conditions by listing proposed Best Management Practices (BMPs), measurable goals associated with each BMP, and responsible parties. Such responses project future actions. Responses should be as detailed as possible and based on the best information available at the time of submission. The Stormwater Management Program (SWMP) – which must be completed by the end of Year 1 – will identify additional specific details of each BMP that your municipality intends to implement to meet permit requirements.

We're working to complete the Endangered Species Act (ESA) eligibility requirements set out in Appendix C. We've found that our municipality may include endangered species that require consultation with US Fish and Wildlife. The species in question may include the dwarf wedge mussel, northeastern bulrush, piping plover, northern red-bellied cooter, bog turtle, roseate tern, puritan tiger beetle, and/or the northeastern beach tiger beetle). How should we proceed?

You may be eligible under Criterion B of the NOI's Eligibility Determination Section. First, complete the US Fish and Wildlife IPaC process. Then, submit a letter to US Fish and Wildlife identifying the species present and whether you believe that potential impacts to those species are likely. You can use the model letter created by US Fish and Wildlife for this purpose available on our NOI resources webpage at <https://www.epa.gov/npdes-permits/small-ms4-noi-resources-list-ma-nh>. Based on this information, US Fish and Wildlife may determine that your actions may affect, but are not likely to adversely affect, the species present. If so, you can certify compliance with the ESA under Criterion B. Remember to attach all correspondence with US Fish and Wildlife to your NOI.

While completing the ESA process in Appendix C, I found that my municipality only contains the Northern Long Eared Bat. What should I do?

You can certify compliance with the Endangered Species Act under Criterion C in the Eligibility Determination Section of the NOI. You do not need to contact US Fish and Wildlife. If you agree that your discharges will have no effect on the Northern Long Eared Bat, add a statement to Part IV of the NOI indicating that your planned actions under the permit will have no effect on the Northern Long Eared Bat and that you will consult with US Fish and Wildlife as needed during the permit term on any future BMPs.

Our municipality conducted a National Historic Property Act eligibility determination for coverage under the 2003 permit. Must we now repeat this process?

If you are not proposing MS4 work, such as construction, that will affect historic properties, you can certify compliance with the Historic Preservation Act requirements under Criterion A in the Eligibility Determination section.

MS4s covered under the 2003 permit are required to submit a map of all outfalls and receiving waters with their NOIs. If this map is incomplete, how should we note this fact on our NOI?

Part I asks whether your municipality was covered under the 2003 permit. If so, check the appropriate box and indicate whether the map is available online or being submitted as a hard or electronic copy with your NOI. If your map is incomplete, enter, on a percentage basis, the estimated degree to which the map is complete, and its estimated date of completion.

A state highway owned by the state's DOT runs through my town. My town's MS4 discharges to the DOT's MS4 and DOT owns the outfall that discharges to a water of the U.S. Is our town required to map the DOT outfall, or is this DOT's responsibility?

If any part of your town's MS4 connects to the DOT's MS4, it's the town's responsibility to map all interconnections. Mapping of the DOT's outfalls is the responsibility of the DOT, under its individual permit.

How can I identify the impaired waters in my permit coverage area as required on page 2 of the NOI?

Consult your state list:

- "Massachusetts 2014 Integrated List of Waters":
https://www.mass.gov/files/documents/2016/08/sa/14list2_0.pdf. The list identifies impaired water bodies as well as the pollutants causing the impairment. MS4s can also use MassGIS to access this information <http://maps.massgis.state.ma.us/images/dep/omv/il2014viewer.htm>.
- New Hampshire List of Impaired Waters
<https://www.des.nh.gov/organization/divisions/water/wmb/swqa/index.htm>

Does the NOI require applicants to set out the precise actions it is or will be taking to comply with TMDL requirements in the section titled “Actions for Meeting Total Maximum Daily Load (TMDL) Requirements”?

No. The NOI only requires a statement that your municipality intends to follow all applicable permit requirements and identify any additional parties responsible for carrying them out. The permit’s TMDL requirements are set out in Appendix F:

Massachusetts: <https://www3.epa.gov/region1/npdes/stormwater/ma/2016fpd/appendix-f-2016-ma-sm4-gp.pdf>.

New Hampshire: <https://www3.epa.gov/region1/npdes/stormwater/nh/Appendix-F-Small-MS4-NH.pdf>.

I’m the stormwater coordinator for our municipality. Can I sign the NOI certification clause in Part V of the NOI?

No. The individual signing the certification clause must be the applicant’s principal executive officer or a ranking elected official (e.g., mayor, city manager) per federal regulations.

Can we file a NOI online?

Yes, and EPA prefers that you do so. Download the fillable NOI PDF template using Adobe Reader. Then, complete it, and file it with EPA using the email address (stormwater.reports@epa.gov) provided in the NOI itself. If you file electronically, EPA will provide a copy to MassDEP for you. Alternately, you are free to print out a hard copy, complete it by hand and mail copies to EPA and MassDEP using the addresses set out in the NOI and Appendix E. New Hampshire MS4s do not need to send a copy of the NOI to NHDES.

The printable NOI form is also available in Appendix E.

This FAQ document will be regularly updated. Please send your questions to Samantha Couture at couture.samantha@epa.gov.