

United States Environmental Protection Agency (EPA)  
National Pollutant Discharge Elimination System (NPDES)

GENERAL PERMIT FOR DESIGNATED DISCHARGES IN THE CHARLES RIVER  
WATERSHED WITHIN THE MUNICIPALITIES OF MILFORD, BELLINGHAM  
AND FRANKLIN, MASSACHUSETTS

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. 1251 et seq.), any owner and/or operator, as defined herein, of a designated discharge site (“DD Site” or “Site”) from which there is a storm water discharge either directly to the Charles River or its tributaries or indirectly to the Charles River or its tributaries through an MS4 (“MS4”) or other private or public conveyance systems that

- Meets the definition of Designated Discharge (“Designated Discharge” or “DD”, hereinafter);
- Is eligible for coverage in accordance with Appendix E (Special Eligibility Determination Relating to National Historic Preservation);
- Submits a complete and accurate (“NOI”) in accordance with the schedule and requirements identified in Appendix A; and
- Receives written authorization from EPA

is authorized to discharge in accordance with the conditions and the requirements set forth herein.

The following appendices are also incorporated into and a part of this permit:

- Appendix A – Requirements for Notice of Intent
- Appendix B – Definition of Permit Terms
- Appendix C – Individual and Alternative Permits
- Appendix D – Phosphorus Reduction Requirement
- Appendix E – Eligibility Procedures Relating to Historic Properties Preservation
- Appendix F – Illicit Discharge Detection and Elimination Program
- Appendix G – Standard Permit Conditions

This permit becomes effective on [insert date].

If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect for discharges that were authorized prior to expiration. If a Designated Discharge Site was granted permit authorization prior to the expiration date of this permit, it will automatically remain authorized by this permit until the earliest of:

- Authorization for coverage under a reissued general permit following timely and appropriate submittal of a complete and accurate NOI requesting authorization to discharge under the reissued permit; or
- Issuance or denial of an individual permit for the discharge; or
- Authorization or denial under an alternative general permit.

Signed this      day of

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Stephen S. Perkins, Director  
Office of Ecosystem Protection  
United States Environmental Protection Agency  
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### I. DISCHARGES AUTHORIZED BY THIS STORM WATER GENERAL PERMIT

(A) This permit authorizes designated discharges (“Designated Discharges” or “DD”), as defined herein, existing as of the effective date of this permit or coming into existence at any later time, provided that all requirements of the permit are satisfied. Where a permittee controls or has the right to control all of the activities at a DD Site that are necessary to assure compliance with this permit, the permittee shall assure compliance with all the terms and conditions of this permit. Where a co-permittee controls or has the right to control some but not all of the activities necessary to assure compliance with this permit, the co-permittee shall assure compliance with all terms and conditions of this permit applicable to the activities that it controls or has the right to control. Where more than one co-permittee controls or has the right to control an activity that is necessary to assure compliance with this permit, that co-permittee shall assure compliance with the terms and conditions relating to that activity. The permit may be enforced against any or all permittees and co-permittees for violations of their obligations under the permit.

For purposes of this draft permit, a designated discharge is defined as follows:

A Designated Discharge is two or more acres of impervious surfaces located: (1) in the Charles River watershed; (2) in whole or in part in the municipalities of Milford, Bellingham or Franklin Massachusetts; and (3) on a single lot or two or more contiguous lots aggregated as follows: when measuring the impervious surfaces to determine if they meet the two acre threshold, the following impervious surfaces shall not be included:

Any impervious surfaces associated solely with any of the following land uses:

- a. Sporting and recreational camps;
- b. Recreational vehicle parks and campsites;

- c. Manufactured housing communities;
- d. Detached single-family homes located on individual lots; and
- e. Stand-alone multi-family houses with four or fewer units; and
- f. Any property owned by a local, state, or federal government unit where the property discharges wholly into an MS4 system operated by that local, state, or federal government unit that has a valid NPDES permit.

For the purpose of defining “designated discharge,” a stand-alone multi-family house with four or fewer units does not include any multi-family house that is part of a condominium, cooperative, apartment complex, townhouse, or other residential or mixed-use development with more than four dwelling units, or any multi-family houses that share private access roads, driveways or parking areas with contiguous lots containing additional dwelling units where the total number of units served by the shared access road, driveway or parking area is more than four.

When measuring impervious surfaces to determine if they meet the two acre threshold for a designated discharge, the impervious surfaces on contiguous lots shall be included provided that:

- (1) The contiguous lots are owned by the same person; or
- (2) The footprint of the same building, structure, low impact development techniques, or structural storm water best management practice spans the contiguous lots owned by different persons.

EPA may require that impervious surfaces on contiguous lots that do not meet the requirements above be included for purposes of determining whether they meet the two acre threshold for a designated discharge if it finds that ownership of the contiguous lots asserted to be in separate ownership was arranged to circumvent the requirements of the permit, including evidence that on or after the publication date of the draft permit two or more owners of the contiguous lots have acted in concert to acquire or dispose of contiguous lots to avoid the requirements of the permit.

For purposes of this fact sheet and permit, the Charles River watershed includes all areas that discharge directly to the Charles River or its tributaries or indirectly to the Charles River or its tributaries through an MS4 or other private or public conveyance systems, including structural storm water best management practices (“BMPs”).

## **II. DISCHARGES NOT AUTHORIZED BY THIS PERMIT**

This permit does not authorize the following discharges:

- (A) Storm water discharges mixed with non-storm water unless such non-storm water discharges are in compliance with a separate NPDES permit;

- (B) A new or increased storm water discharge from a DD Site to a surface water designated as an Outstanding Resource Water or a Special Resource Water pursuant to 314 CMR 4.00 or a tributary to an Outstanding or Special Resource Water;
- (C) Discharges of wastewater as defined in 314 CMR 3.02 to waters of the U.S.;
- (D) Storm water discharges that cause or contribute to violations of the Massachusetts Surface Water Quality Standards;
- (E) Storm water discharges associated solely with industrial activity as defined in 40 CFR § 122.26 (b) (14) (i)-(ix) and (xi). The following are not considered discharges associated solely with industrial activities: discharges from areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above-described areas;
- (F) Storm water discharges associated with construction activity as defined in 40 CFR § 122.26(b) (14) (x) or (b) (15);
- (G) Discharges currently covered under another NPDES permit, including discharges covered under other regionally issued general permits;
- (H) Discharges that adversely affect or whose storm water management program pursuant to this permit adversely affects properties listed or eligible to be listed on the National Register of Historic Places. The permittee shall follow the procedures detailed in Appendix E to make a determination regarding eligibility. The permittee shall certify compliance with this provision on the submitted NOI and in the Storm water Management Plan required by Section III of the permit;
- (I) Storm water discharges or discharge related activities that are likely to 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;
- (J) Storm water discharges whose direct or indirect impacts do not prevent or minimize adverse effects on any Essential Fish Habitat;
- (K) Discharges prohibited pursuant to 40 CFR § 122.4; and
- (L) Discharges to the subsurface subject to state Underground Injection Control (UIC) regulations. Although the permit includes provisions related to infiltration and groundwater recharge, structural controls that dispose of stormwater into the ground may be subject to UIC regulation requirements. The permittee should consult Massachusetts regulations governing the infiltration of storm water. Such infiltration is not authorized by this permit.

### **III. BASELINE PERFORMANCE STANDARDS**

Within thirty days of receipt of authorization to discharge and continuing thereafter, the permittee shall implement a storm water management program that includes each of the measures set forth in subsections (A) through (L) below.

Within the same timeframe, the permittee shall also develop a document referred to as the Storm water Management Plan (“SMP”) that shall document detailed standard operating procedures, assignments of tasks to members of the Storm water Management Team, and schedules for implementing each of the actions required by sections A through L. Within the same timeframe, the permittee shall certify, consistent with Section IX of the permit, that it has developed and commenced implementation of a complete SMP. The SMP shall be kept at the DD Site and made available to EPA upon request. If there is no building on the Site, the SMP shall be kept at the principal office of the person submitting an NOI. Where more than one person submits an NOI for a Site, the SMP shall be kept at the principal office of each person submitting an NOI. Each Annual Certification of Compliance shall indicate all locations where the SMP is maintained.

(A) Storm Water Management Team. The permittee shall establish a Storm water Management Team that shall implement the SMP on a day-to-day basis. The permittee shall also provide for annual training for all members of the Storm water Management Team to assure that they are familiar with the day-to-day activities at the DD Site, all aspects of the storm water management program, and the terms and conditions of the permit.

The permittee shall identify in its SMP the members of the Storm water Management Team, including the person responsible for the overall implementation of storm water management at the DD Site.

(B) Sweeping Program. The permittee shall sweep all paved surfaces at the DD Site to remove sand, litter, and other pollutants. At a minimum, the permittee shall provide for sweeping at least twice a year, once after leaf fall during the months of November or December and once after snow melt during the month of April or May. The permittee shall document the date(s) of each sweeping that has occurred in a logbook in accordance with Section III(J). The permittee shall also provide for the proper disposal of street sweepings in accordance with the Massachusetts Department of Environmental Protection (DEP) Bureau of Waste Prevention’s Policy for the Reuse and Disposal of Street Sweepings (Policy # BWP-94-092).

(C) Management of Snow and Deicing Chemicals.

The permittee shall minimize the risk that snow removal and deicing activities will contribute pollutants to the storm water and snow-melt discharged from the DD Site or interfere with the proper operation of the storm water management system. Snow removal and deicing activities include, without limitation, the loading and unloading of deicing chemicals, the storage of snow removed from paved surfaces, and the application

and storage of deicing chemicals. At a minimum, the permittee shall designate areas for snow disposal in accordance with the DEP Bureau of Resource Protection's Snow Disposal Guidance (Guideline No. BRPG01-01) and shall properly store deicing materials in accordance with the DEP Bureau of Resource Protection's Guidelines on Deicing Chemical Storage (Guideline No. DWSG97-1).

(D) Management of Waste and Hazardous Materials. The permittee shall manage hazardous and solid waste, and hazardous materials to minimize the risk that storm water discharges or snowmelt from the DD Site will be contaminated or interfere with the proper operation of the storm water management system. At a minimum, the permittee shall assure weekly inspections of the DD Site for waste, trash and debris and the proper disposal of any waste, trash and debris discovered as a result of these inspections. The permittee shall document the date and time of each weekly inspection and any waste disposal activity in a logbook in accordance with Section III(J). The permittee shall also implement measures to prevent storm water from coming into contact with pet waste, waste from water fowl, and septage.

(E) Stabilization of Exposed Soil Areas. The permittee shall minimize the risk that any exposed soil areas (either on impervious or pervious areas of the DD Site) will contribute pollutants to storm water discharges from the DD Site. The permittee shall implement an erosion control program to identify and repair erosion adjacent to parking lots, access roads, and driveways. At a minimum, the permittee shall monthly examine the shoulders, embankments, ditches, and soils adjacent to the parking lots, access roads, and driveways for signs of erosion and shall make any repairs necessary to maintain their stability and prevent sediment loss. The permittee shall document the date of each inspection and any associated repair activity in a logbook in accordance with Section III(J).

(F) Proper Management of Landscaped Areas.

(1) The permittee shall minimize the risk that any landscaped pervious surfaces will contribute pollutants to storm water discharges from the DD Site. At a minimum, this shall include assuring the proper storage, use, and disposal of fertilizers, pesticides, and herbicides; the proper management of vegetative waste, grass clippings, and leaf litter; and, where appropriate, the planting of native vegetation. The permittee shall also reduce or eliminate the use of fertilizers containing phosphorus on turf, unless applied for the purpose of establishing turf via seed or sod during the first growing season or unless a tissue, soil or other test has been performed within the past three years by the Massachusetts Agricultural Experiment Station of the University of Massachusetts or another laboratory experienced in such testing, and that testing indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth.

(2) The permittee shall execute a grass cuttings and leaf litter collection program designed to remove grass cuttings, leaf litter, and other organic waste materials from impervious surfaces. At a minimum, the permittee shall remove from impervious surfaces all grass clippings and materials containing organic matter (e.g., mulch, soils, and compost) following all landscaping activities. Also, the permittee shall remove from

impervious surfaces on a weekly basis any leaf litter following leaf fall and shall dispose of all wastes generated from landscaping activities and removed from impervious surfaces in a manner that avoids the discharge of nutrients from the DD Site or adjacent areas. The permittee shall avoid dispersing organic waste materials onto adjacent impervious surfaces by leaf blowers or other means.

(G) Pollution Prevention and Source Control Measures for Portions of the DD Site Devoted to Non-residential Uses. The permittee shall execute the following source control and pollution prevention measures on those portions of the DD Site that are devoted to non-residential uses:

(1) Measures to assure that all raw materials, intermediate products, by-products, final products, accessories, and equipment stored outside are covered or moved inside or maintained in a manner that avoids or minimizes the risk that these materials or their residue will contaminate a storm water discharge;

(2) Measures for:

a. ensuring that no water from the washing of any raw materials, intermediate products, by-products, final products, waste materials, accessories, equipment, storage areas, outside sales/garden areas, loading docks, or parking areas will discharge to a storm water management system, MS4, or a water of the United States; and

b. ensuring that no water from the washing of vehicles or buildings with detergents will discharge to a storm water management system, MS4, or a water of the United States. This measure shall also apply to all areas of the DD Site devoted to residential uses.

(3) Measures to assure that any portion of the DD Site that is the location of a landfill is operated and maintained in accordance with 310 CMR 19.000; and

(4) Measures to properly manage any raw materials, intermediate products, waste materials, accessories or equipment that could discharge either directly or indirectly to waters of the United States through a storm water management system or an MS4. These measures shall be detailed in a document referred to as a Spill Plan that shall be kept on the DD Site. If there is no building at the DD Site, the Spill Plan shall be kept at the principal office of the person filing an NOI. If more than one person submits an NOI for a Site, the Spill Plan shall be maintained at the principal office of each person submitting an NOI. Each Annual Certification of Compliance shall indicate all locations where the Spill Plan is maintained.

The Spill Plan shall include, at a minimum: measures to avoid spills of any raw materials, intermediate products, waste materials, and spills from accessories or equipment in areas exposed to rain, snowmelt, or runoff; measures to keep such spills from reaching areas exposed to rainfall or snowmelt; and response measures to prevent a spill from entering waters of the U.S. either directly or indirectly through structural storm water BMPs or an MS4. The Spill Plan shall provide for the storage of any hazardous materials, oil, and/or



industrial wastewater in accordance with all applicable state and federal laws and regulations. The Spill Plan shall also include procedures for notifying DEP of any oil or hazardous material release and for notifying the federal National Response Center at 800-424-8802 of any oil or chemical release, as required by federal law.

(H) Measures to document the existence and condition of storm sewer system components, open channels, drainage systems, and structural BMPs located at the DD Site. If there are any storm sewer systems, open channels, drainage systems, or structural BMPs at the DD Site, the permittee shall develop and include in its SMP:

- (1) An inventory of all storm sewer system components, open channels, drainage systems, and structural BMPs located at the DD Site;
- (2) A site plan showing the location of all storm sewer system components, open channels, drainage systems, and structural BMPs. The site plan shall also show any discharge from the storm sewer system components, open channels, drainage systems, and structural BMPs either directly or indirectly to a surface water or an MS4;
- (3) An assessment of the condition of all storm sewer system components, open channels, drainage systems and structural BMPs located at the DD Site; and
- (4) An operation and maintenance plan for all existing storm sewer system components, open channels, drainage systems and structural BMPs containing the elements described in Section IV (C) of the permit.

(I) Integration of Storm water Controls Required by Other NPDES Permits. The permittee shall integrate into its SMP and shall conduct any storm water management measures required by any NPDES permit for the Site. Authorization to discharge under the permit does not affect any obligations under other NPDES permits.

(J) Logbook. The permittee shall maintain a logbook that documents all actions taken to implement the storm water management program. The logbook shall detail the date of each action, the person performing the action, and the nature of the action. The permittee shall maintain a copy of all logbooks for the past five years at the DD Site and shall make it available to EPA upon request. If there is no building at the DD Site, the logbook shall be kept at the principal office of the person submitting an NOI. In instances where more than one person submits an NOI for a Site, the logbook shall be kept at the principal office of each person who submits an NOI. Each Annual Certification of Compliance shall indicate all locations where the logbook is maintained.

(K) Illicit Discharge Detection and Elimination Program (IDDE). The permittee shall document the date(s) of each inspection and any associated repair activity in a logbook in accordance with Section III.J. The permittee shall execute, as part of the Baseline Performance Standards, an IDDE program consistent with the requirements of Appendix F.

(L) Documentation of Compliance with National Historic Preservation Act. The permittee shall document that its permit-related activities are consistent with the National Historic Preservation Act and shall maintain the documents required by Appendix E as part of its SMP.

#### **IV. PHOSPHORUS REDUCTION REQUIREMENT**

(A) The permittee shall achieve a reduction in the phosphorus load in storm water discharging directly or indirectly to the Charles River that is equal to 65% of its DD Site load as calculated in accordance with Attachments 1, 2 and 3 of Appendix D. The requirement to achieve the 65% phosphorus load reduction is referred to as the permittee's Phosphorus Reduction Requirement. The permittee shall satisfy its Phosphorus Reduction Requirement through one or any combination of the following: implementing enhanced on-site non-structural BMPs; implementing on-site structural BMPs; and participating in a Certified Municipal Phosphorus Program ("CMPP") in the municipality in which the DD Site is located or, if the municipality in which the Site is located does not have a CMPP, through participation in a CMPP in a municipality that discharges to the Charles River at a location upstream of the DD Site.

(B) The permittee shall comply with Appendix D in meeting its Phosphorus Reduction Requirement and shall implement the following major steps.

(1) Preliminary Phosphorus Reduction Plan:

a. On or before the second anniversary of receipt of authorization to discharge under this permit, the permittee: shall develop a Preliminary Phosphorus Reduction Plan consistent with Appendix D; shall submit the Plan to the municipality in which the DD Site is located, and if the municipality in which the DD Site is located does not have nor has plans to develop a CMPP, to any other municipality that discharges to the Charles River at a location upstream of the DD Site in whose CMPP the permittee has an interest in participating; and shall certify to EPA, consistent with Section IX of the permit, that it has developed a Preliminary Phosphorus Reduction Plan consistent with Appendix D and that it has submitted it to the appropriate municipalities.

b. One Inch Storm Water Control: In lieu of developing a Site Suitability Analysis pursuant to 1(a) above, the permittee may choose to satisfy the requirements of the One Inch Storm Water Control provision in Section II(C) of Appendix D. Any permittee making this choice shall, on or before the second anniversary of receipt of authorization to discharge under this permit, satisfy all requirements of the One Inch Storm Water Control provision in Appendix D and submit to EPA a certification, consistent with Section IX of the permit, that it has satisfied the requirements of the One Inch Storm Water Control provision.

(2) On or before the third anniversary of receipt of authorization to discharge under this permit, the permittee: shall develop a Final Phosphorus Reduction Plan consistent with Appendix D; shall submit the Plan to the municipality in which the DD Site is located,

and, if the municipality in which the DD Site is located does not have, nor has an intention to develop, a CMPP, to any other municipality that discharges to the Charles River at a location upstream of the DD Site in whose CMPP the permittee has an interest in participating; and shall certify to EPA, consistent with Section IX of the permit, that it has developed a Final Phosphorus Reduction Plan consistent with Appendix D and that it has submitted it to the appropriate municipalities.

(3) On or before the fourth anniversary of receipt of authorization to discharge under this permit, any permittee that relies upon structural BMPs to satisfy some or all of its Phosphorus Reduction Requirement under this permit, shall, through a Storm Water Professional, develop all design plans and construction specifications for each structural BMP identified in the Final Phosphorus Reduction Plan.

(4) On or before the fourth anniversary of receipt of authorization to discharge under this permit, any permittee that relies upon structural BMPs to satisfy some or all of its Phosphorus Reduction Requirement under this permit shall obtain all local, state and federal permits needed to implement the Final Phosphorus Reduction Plan and to construct on-site structural BMPs according to the design plans and construction specifications developed pursuant to Appendix D and other requirements of the permit.

(5) On or before the fifth anniversary of receiving authorization to discharge under this permit, any permittee that relies upon structural BMPs to satisfy some or all of its Phosphorus Reduction Requirement under this permit, shall construct and operate the BMPs in accordance with the applicable provisions of DEP's Storm Water Management Standards and all other applicable DEP policies and guidelines including, without limitation, the requirements applicable to the design and construction of LID techniques and storm water BMPs intended to manage storm water runoff from land uses with higher potential pollutant loads, the requirements applicable to the design and construction of storm water BMPs with discharges near or to critical areas, and the requirements applicable to the design and construction of storm water BMPs located in areas with an infiltration rate greater than 2.4 inches per hour.

(6) On or before the fifth anniversary of the date of authorization to discharge under this permit, any permittee that relies on participation in a CMPP to satisfy some or all of its Phosphorus Reduction Requirement under this permit shall commence its participation in a CMPP consistent with the requirements of Section III.B of Appendix D. The permittee shall continue its participation in the CMPP until it has satisfied its Phosphorus Reduction Requirement under this permit.

(7) Notwithstanding any provision to the contrary, the permittee of any DD Site created after the effective date of the permit shall meet all requirements of Section III, the requirements of Section IV of the permit (without respect to the timeframes contained therein), and the requirements of Appendix D no later than by the commencement of any storm water discharge; and shall meet all other requirements of the permit thereafter as if the Site were in existence on the effective date of the permit.

(C) Operation and Maintenance of all Structural and Non-structural BMPs

(1) The permittee shall assure that all structural and non-structural BMPs (including equipment such as street sweepers) constructed, used, or implemented to satisfy the conditions of this permit, including the baseline performance standards of Section III, are operated and maintained as follows:

- a. They shall be operated and maintained in accordance with the applicable provisions of DEP's Storm Water Management Standards and all other applicable DEP policies and guidelines; and any other guidance identified to the permittee by EPA;
- b. They shall be operated and maintained to assure that they function as designed. At a minimum, this shall include regular inspections, periodic removal and disposal of accumulated sediment, and any other routine, preventative maintenance measures;
- c. They shall be operated and maintained to achieve their maximum phosphorus control capacities; and
- d. They shall meet any other operation and maintenance requirements that may arise pursuant to Section V of Appendix G of the permit.

(2) The permittee shall maintain an Operation and Maintenance Plan that includes all operation and maintenance procedures required by this permit. The plan shall be kept at the DD Site and made available to EPA upon request. If there is no building on the Site, the plan shall be kept at the principal office of the person submitting an NOI. Where more than one person submits an NOI for a Site, the plan shall be kept at the principal office of each person submitting an NOI. This plan shall be amended whenever procedures are added or changed under the permit. Each Annual Certification of Compliance shall indicate all locations where the plan is maintained.

The Operation and Maintenance requirements of the permit shall apply to all BMPs identified during the Site Suitability Analysis, constructed or implemented as part of the Final Phosphorus Reduction Plan, or as otherwise required by Section V of Appendix G of the permit. Where a permittee relies upon participation in a CMPP to satisfy some or all of its Phosphorus Reduction Requirement under this permit, it shall assure that the CMPP satisfies the operation and maintenance requirements for all BMPs constructed or operated by a CMPP consistent with EPA's approval of the CMPP.

## **V. ANNUAL CERTIFICATION OF COMPLIANCE**

(A) Time and Procedures for Submission of Annual Certification of Compliance. Each year, by February 15, the permittee shall submit an Annual Certification of Compliance to EPA. The certification shall cover the calendar year that precedes the submission of the certification. For a DD Site owned by more than one person, any one or more of the permittees shall submit the Annual Certification of Compliance on behalf of all the

permittees. The Annual Certification of Compliance shall be consistent with Section V(B) below and be signed and attested to in accordance with Section IX herein.

(B) Information required to be Included in Annual Certification of Compliance. The Annual Certification of Compliance shall:

(1) Certify that the storm water originating at the DD Site is being managed in accordance with the permit, the SMP, and the Final Phosphorus Reduction Plan, once complete;

(2) Certify that it has satisfied all requirements of this permit to which it is subject, specifically identifying those requirements;

(3) Identify any noncompliance with the permit, the SMP or the Final Phosphorus Reduction Plan that occurred within the reporting period;

(4) If noncompliance with the permit, the SMP, or the Final Phosphorus Reduction Plan is reported, state what steps the permittee has taken or will take to return to compliance promptly and the date by which compliance has been or will be achieved;

(5) Include a status report on any land disturbance or construction activity that has taken place during the reporting period;

(6) Certify:

a. That all requirements of Section IV of the permit have been satisfied, including that BMPs on the DD Site have been operated and maintained in accordance with the requirements of the Operation and Maintenance Plan required by Section IV(C) of the permit;

b. That permittee has assured that any CMPP in which it is participating has operated and maintained all BMPs implemented by the program consistent with the operation and maintenance requirements of Section IV(C) of the permit, any operation and maintenance plan submitted to EPA by the CMPP, and any operation and maintenance required by EPA in its approval of the CMPP;

(7) Certify that all requirements related to corrective actions for violations of water quality standards as required by Section XI of the permit have been satisfied; and

(8) Certify that any CMPP in which the permittee is participating has satisfied all requirements of EPA's approval of it and of any NPDES permit to which it is subject.

(C) Later Created Sites: For DD Sites that come into existence after the effective date of this permit, the information identified in Section V(B) 1-2 above shall be submitted to EPA at or prior to commencement of the discharge. For later-created Sites, the

information identified in IV(B) 3-8 above shall be submitted with the first Annual Certification of Compliance.

#### **VI. TRANSFER OF AUTHORIZATION UNDER THE DD PERMIT**

(A) Authorization to discharge under the DD Permit may be automatically transferred if:

(1) The current permittee notifies EPA in writing of the proposed transfer at least 30 days in advance of the proposed transfer date; and

(2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them.

(B) The transfer shall be effective on the date set forth in the written agreement described above in Section VI (A) (2) unless EPA notifies the existing permittee and the proposed new permittee in writing that EPA intends to modify or revoke and reissue the authorization to discharge under the permit. A modification under this provision may also be a minor modification under 40 CFR §122.63.

#### **VII. MODIFICATION, REVOCATION AND REISSUANCE AND TERMINATION OF PERMITS; AND MODIFICATION OF SMP AND FINAL PHOSPHORUS REDUCTION PLAN**

(A) This permit may be modified, revoked and reissued, or terminated consistent with 40 CFR Part 122, Subpart D. Additionally, a permittee may request to be excluded from coverage under this general permit by applying for an individual permit. In such a case, a permittee shall submit an individual permit application in accordance with 40 CFR §122.28 (b)(3)(iii), with reasons supporting the request, to EPA. The request may be granted by issuance of an individual permit or authorizing coverage under an alternative general permit if the reasons stated by the permittee are adequate to support the request.

(B) Consistent with EPA's authority under the CWA and NPDES regulations, including, without limitation, those relating to permit modification and the taking of enforcement actions, EPA may require the permittee to add, modify, repair, replace, or change BMPs or other storm water controls as needed to:

a. address impacts to receiving water quality caused or contributed to by discharges from the DD Site;

b. satisfy conditions of this permit;

c. include more stringent requirements necessary to comply with new state or federal legal requirements; or

d. include such other conditions deemed necessary to comply with the goals and requirements of the CWA.

(C) A permittee may modify that portion of the SMP relating to compliance with the baseline performance standards as follows:

(1) The permittee shall submit to EPA a certification consistent with Section IX that the SMP as modified meets all the requirements of Part III of the permit; and

(2) The SMP as most recently modified shall be kept at the DD Site and made available to EPA upon request. If there is no building at the DD Site, the modified SMP shall be kept at the principal office of the person submitting an NOI. In instances where more than one person submits an NOI for a Site, the SMP, as modified, shall be kept at the principal office of each person who submits an NOI. Each Annual Certification of Compliance shall indicate all locations where the SMP, as modified, is maintained.

(D) A permittee may modify the Final Phosphorus Reduction Plan as follows:

(1) The permittee shall submit a written request to EPA describing the proposed changes; the reasons for those changes; and proposed text that will be deleted or added to the Final Phosphorus Reduction Plan;

(2) The written request shall contain a certification consistent with Section IX of the permit that the Final Phosphorus Reduction Plan as modified meets all of the requirements of the permit, including Part IV and Appendix D of the permit and including all schedule requirements;

(3) If the permittee has not received a denial to its modification request within sixty days, the permittee may modify the Plan and shall notify EPA that it has modified the Phosphorus Reduction Plan in its next Annual Certification of Compliance;

(4) The Final Phosphorus Reduction Plan as most recently modified shall be kept at the DD Site and made available to EPA upon request. If there is no building at the DD Site, the Final Phosphorus Reduction Plan, as amended, shall be kept at the principal office of the person submitting an NOI. In instances where more than one person submits an NOI for a Site, the Final Phosphorus Plan, as amended, shall be kept at the principal office of each person who submits an NOI. Each Annual Certification of Compliance shall indicate all locations where the Final Phosphorus Reduction Plan, as amended, is maintained.

## **VIII. SUBMISSIONS**

All submissions shall be made to EPA at the following address:

United States Environmental Protection Agency  
5 Post Office Square – Suite 100

Mail Code – OEP06-4  
Boston, Massachusetts 02109-3912  
ATTN: Mark Voorhees

**IX. SIGNATURE, CERTIFICATION AND ATTESTATION**

(A) Wherever the permit calls for a certification of an action or submission, the permittee shall submit a document that meets the following requirements:

- (1) The document shall recite the specific requirements of the permit to which the certification relates;
- (2) For each specific requirement, the permittee shall certify that it has met the requirements and include a short statement of the factual basis for that conclusion;
- (3) With respect to all information relied upon in the certification, the permittee shall identify the information and indicate where it can be found;
- (4) The certification shall be prepared, signed and attested to by a Storm Water Professional;
- (5) The certification shall be supported by a report that provides a justification for the finding that the permit's requirements have been satisfied, along with all relevant supporting documents, illustrations, calculations and analyses. The report should not be submitted to EPA with the certification but shall be maintained by the permittee at a location identified in the certification. The report shall be available to EPA upon request;
- (6) The certification shall be accompanied by a statement identifying the certifying Storm Water Professional, along with a copy of the relevant professional credentials and a brief statement of the Storm Water Professional's experience in storm water management; and
- (7) The certification shall include documentation that the Storm Water Professional is an authorized representative of the permittee.

(B) Except as otherwise provided in Section IX (A) of the permit, all submissions required by the permit shall be signed as follows:

- (1) For a corporation: By a responsible corporate officer. For the purpose of this permit, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of an operating facility, provided: the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can



assure that the necessary systems are established or actions taken to gather complete and accurate information for permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this permit, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

(C) All submissions required by this permit shall be signed by a person described in IX (B) above or by a duly authorized representative of that person.

A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in Section IX (B) above;

(2) The authorization specifies an individual having responsibility for the overall operation of the permitted facility or specifies a Storm Water Professional; and

(3) The authorization is provided to EPA.

(D) All submissions required by the permit shall be accompanied by the following attestation:

“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. I further certify that this document has been signed as required by EPA. Based on my diligent inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, 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 fines and imprisonment for knowing violations.”

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 non-compliance 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 by both.

## **X. GENERAL CONDITIONS**

The Permittee shall comply with all requirements of Appendix G relating to standard permit conditions.

## **XI. WATER QUALITY BASED EFFLUENT LIMITATIONS**

(A). Applicable State Water Quality Standards.

(1) Discharges from the DD Site shall not cause or contribute to an exceedance of applicable water quality standards (including numeric and narrative water quality criteria) for the receiving waters.

(2) Certain segments of the Charles River may be impaired for pollutants other than phosphorus or bacteria. The permittee shall address in its SMP, Final Phosphorus Reduction Plan and each Annual Certifications of Compliance how the discharge of pollutants from the DD Site will be controlled such that it does not cause or contribute to any impairment. The permittee shall:

a. Assess the potential for discharges from the DD Site to the Charles River to contribute the pollutant(s) of concern;

b. Identify structural or non-structural BMPs in addition to those already required by Parts III and IV of the permit to assure that discharges do not cause or contribute to the impairment; and

c. Implement the identified additional BMPs and include a description of the appropriateness of each BMP in each Annual Certification of Compliance.

(3) If at any time the permittee becomes aware or EPA determines that a designated discharge causes or contributes to an exceedance of applicable water quality standards, the permittee shall, within 60 days of becoming aware of the situation, eliminate the conditions causing or contributing to the exceedance of water quality standards or take other corrective actions to assure that the discharge does not cause or contribute to an exceedance. Within the same time frame, the permittee shall document the measures used to correct the condition and shall submit a certified copy of that document to EPA consistent with Section IX of the permit in its next Annual Certification of Compliance. The permittee shall comply with any additional requirements or schedules established by EPA including any requirement to submit additional information concerning the potential cause of the exceedance. EPA reserves the right to notify the permittee that an alternative or individual permit is necessary in accordance with Appendix C and to take any enforcement action allowed under the CWA.

(4) On May 22, 2007, EPA approved a pathogen TMDL for the Charles River. The permittee shall comply with all provisions of this permit to achieve consistency with the assumptions and requirements of the wasteload allocation of the pathogen TMDL. If the

permittee becomes aware that its discharge is not consistent with the assumptions and requirements of the wasteload allocation of the pathogen TMDL, the permittee shall, consistent with the other provisions of this permit:

- a. Evaluate the discharge;
- b. Identify additional or modified BMPs to assure that discharges are consistent with the assumptions and requirements of the wasteload allocation;
- c. Implement such BMPs; and
- d. Report on the status of each and explain how the discharge of pathogens will be controlled such that it is consistent with the assumptions and requirements of the wasteload allocation in its next Annual certification of compliance.

EPA may notify the permittee of the need to comply with additional requirements that are consistent with the assumptions and requirements of the wasteload allocation of the TMDL. If EPA determines more stringent requirements are necessary to support achievement of the WLA, EPA will impose such requirements through a modification to this permit or by their inclusion into this permit upon reissuance. Alternatively, EPA may notify the permittee that an alternative or individual permit is necessary in accordance with Appendix C.

(5) On October 15, 2007, EPA approved a TMDL for phosphorus for the Lower Charles River (“the TMDL”). The permittee shall comply with all provisions of this permit to achieve consistency with the assumptions and requirements of the wasteload allocation of the phosphorus TMDL. If the permittee becomes aware that its discharge is not consistent with the assumptions and requirements of the wasteload allocation of the phosphorus TMDL, the permittee shall, consistent with the other provisions of this permit:

- a. Evaluate the discharge;
- b. Identify additional or modified BMPs to assure that discharges are consistent with the assumptions and requirements of the wasteload allocation;
- c. Implement such BMPs; and
- d. Report on the status of each and explain how the discharge of phosphorus will be controlled such that it is consistent with the assumptions and requirements of the wasteload allocation in its next Annual Certification of Compliance.

EPA may notify the permittee of the need to comply with additional requirements that are consistent with the assumptions and requirements of the wasteload allocation of the TMDL. If EPA determines more stringent requirements are necessary to support achievement of the WLA, EPA will impose such requirements through a modification to

this permit or by their inclusion into this permit upon reissuance. Alternatively, EPA may notify the permittee that an alternative or individual permit is necessary in accordance with Appendix C.

(B) Increased Discharges of Pollutants for which the Charles River is Impaired

(1) For the purposes of this permit, an increased discharge is an increase in the volume of storm water discharged from a DD Site that commences after the effective date of this permit and that results from the creation of impervious surfaces.

(2) Increased discharges are not eligible for coverage under this permit unless the permittee:

a. Identifies and estimates a load for each pollutant from the increased discharge that contributes to an impairment;

b. With respect to bacteria and phosphorus, implements additional or enhanced BMPs or secures offsets that result in a net pollutant decrease from its existing discharge and increased discharge combined for the relevant pollutant(s). Offsets may be secured through participation in a CMPP or otherwise, to the extent consistent with law and EPA policy, and shall result in a greater than one for one decrease in pollutant loading to the waterbody. In calculating whether an adequate net decrease has occurred, permittee may not take into account reductions from the DD Site it is achieving to satisfy the independent reductions required by the TMDL wasteload allocation.

c. With respect to pollutants other than phosphorus and bacteria for which the Charles River is impaired, implements enhanced or additional BMPs or secures offsets that result in a net pollutant decrease from its existing and increased discharges combined for pollutants that are contributing to impairment. Offsets may be secured through participation in a CMPP or otherwise, to the extent consistent with law and EPA policy, and shall result in a greater than one for one decrease in pollutant loading to the waterbody.

d. Enforces implementation of any offset and retains supporting documentation;

e. Identifies in its Annual Certification of Compliance those enhanced or additional BMPs that the permittee has implemented or offsets that the permittee has secured to satisfy XI(B) above.

(C) New Discharger

(1) Definition of New Discharger

A “new discharger” is any building, structure, facility or installation meeting the definition of Designated Discharge (a) from which there is or may be a “discharge of pollutants” (b) that did not commence the “discharge of pollutants” at a particular “site”

prior to the effective date of the permit; (c) that is not a “new source;” and (d) that never received a finally effective NPDES permit for discharges at that “site.” For relevant definitions of the terms used, consult 40 CFR §122.2

For purposes of the definition of “new discharger”, as used in this permit, “Site” means the land area where the designated discharge is located as of the effective date of this permit and the same or contiguous land if any new impervious surface is created there after the effective date of this permit. The term “new discharger” is relevant under this permit with respect to a Site coming within the definition of DD Site because of the expansion of existing impervious surfaces or the creation of new impervious surfaces.

(2) New Discharger of Storm water containing pollutants other than Phosphorus and Bacteria

New dischargers of pollutants for which the Charles River is impaired other than phosphorus and bacteria are not eligible for coverage under this permit unless the proposed discharger:

- a. To the extent consistent with law and EPA policy, establishes and enforces the implementation of an offset for the discharge of any pollutant contributing to the water quality standards violation. Offsets may be secured through participation in a CMPP or otherwise, and shall result in a greater than one for one decrease in loading of that pollutant to the Charles River; or
- b. Prevents all exposure to storm water of the pollutant(s) for which the Charles River is impaired; or
- c. Documents that the pollutant(s) for which the Charles River is impaired is not present in the discharge; or
- d. Provides data to support a showing that the discharge is not expected to cause or contribute to an exceedance of a water quality standard by providing data and other technical information to EPA sufficient to demonstrate that discharges of pollutants other than phosphorus and bacteria will meet in-stream water quality criteria at the point of discharge.

New dischargers are eligible only if the proposed discharger receives an affirmative determination from EPA prior to the commencement of the discharge that the new discharger meets the requirements of this paragraph and retains any relevant documentation with the SMP.

(3) New Discharger of Storm Water containing Phosphorus and/or Bacteria

A new discharger of phosphorus and/or bacteria is not eligible for coverage under this permit unless the proposed discharger submits to EPA documentation before commencement of any new discharge under this permits that:

- a. There are sufficient remaining pollutant load allocations in the pathogen and/or phosphorus TMDLs; and
- b. The existing discharges of those pollutants to the waterbody are subject to compliance schedules designed to bring the waterbody into attainment with water quality standards; and
- c. Retains such documentation in the SMP; or
- d. To the extent consistent with law and EPA policy, establishes and enforces the implementation of an offset for the discharge of phosphorus and/or bacteria. Offsets may be secured through participation in a CMPP or otherwise. The offset shall result in a greater than one for one decrease in pollutant loading to the waterbody.
- e. No discharge above is authorized until permittee receives an affirmative determination from EPA that the new discharger meets the requirements of this paragraph. The permittee shall retain any relevant documentation with the SMP.

(D) Anti-degradation

For the purposes of assuring compliance with anti-degradation requirements for new or increased discharges to high quality waters, the permittee shall notify EPA and DEP a minimum of sixty days prior to commencement of a new or increased discharge with a description of the discharge and documentation demonstrating that the discharge will satisfy the anti-degradation provisions of the state water quality standards. The permittee shall take into account in its anti-degradation analysis that Massachusetts evaluates whether a water is a “high quality” water on a pollutant-by pollutant basis. Thus, for anti-degradation purposes, a water may be a high quality water for some pollutants and not a high quality water for others.

(1) For any new or increased discharge, the permittee shall demonstrate that the level of water quality necessary to protect existing uses shall be maintained and protected.

(2) For discharges to tier II waters as defined by 314 CMR 4.04, the permittee shall demonstrate to the satisfaction of EPA and DEP that the discharge will cause no significant lowering of water quality by documenting one or more of the following:

- a. The discharge is not significant because it is de minimis as defined by state policy;
- b. The discharge is not significant because it is temporary in nature and that upon completion of the discharge period the existing water uses and water quality will be equal to or better than that which existed prior to the commencement of the discharge;

c. The discharge does not cause a significant lowering of water quality because the effluent will be of a quality equal to or better than the existing water quality of the receiving water; or

d. Storm water controls are designed such that there is no discharge of storm water from the volume associated with a one inch storm event. The volume of storm water to be controlled is determined by multiplying the amount of developed (impervious) area by one inch.

(3) EPA and DEP reserve the right to consider a discharge meeting the requirements above to be significant for reasons additional to or different from those relied upon by the permittee including where the cumulative effect of the discharge and previously or contemporaneously approved discharges produce a significant lowering of water quality.

(4) If the permittee cannot demonstrate and document that its new or increased discharge to a tier II water is insignificant according to the above criteria, it may attempt to obtain a variance from DEP pursuant to 314 CMR 4.04(4).

(5) A new or increased discharge to high quality water is not authorized under this permit unless the permittee has satisfied all public notice requirements of federal and state law and until the permittee receives a written determination from EPA and DEP that the discharge satisfies the requirements of the Massachusetts anti-degradation requirements.

(6) New or increased discharges to outstanding resource waters and special resource waters are not authorized under this permit. Permittees shall seek an individual permit for any such new or increased discharge.