

**RESPONSE TO PUBLIC COMMENTS ON THE DRAFT MODIFICATION OF
NPDES PERMIT MA0100030
Town of Marion Wastewater Treatment Plant
Marion, MA**

On September 29, 2006, Region 1 of the U.S. Environmental Protection Agency (EPA or Region) issued a National Pollutant Discharge Elimination System (NPDES) permit to the Town of Marion, Massachusetts (Permittee) under the Clean Water Act. The permit authorized discharges of treated wastewater effluent from the Permittee's wastewater treatment facility to an unnamed freshwater tributary of Aucoot Cove. The Massachusetts Department of Environmental Protection (MassDEP) concurrently issued an identical state permit under the Massachusetts Clean Waters Act.

On November 2, 2006, the Permittee filed a petition for review of the permit with EPA's Environmental Appeals Board (EAB). The petition for review contested various permit conditions. Federal regulations governing NPDES permit appeals authorize the Region to withdraw and re-propose any portion of a contested permit prior to the Board rendering a decision to grant or deny review. Proposed modifications initiated under these procedures are subject to the same public notice and comment requirements applicable to draft NPDES permits. Public comment, as well as any further appeal to the EAB, is limited to the specific subject matter of the permit modification (*i.e.*, the conditions being withdrawn and/or revised).

In order to address concerns raised in the Permittee's petition for review, the Region and MassDEP released for public notice and comment a draft modification to the Permit. The public comment period ran from March 29, 2007 to April 27, 2007. Comments were submitted by The Coalition for Buzzards Bay (Coalition).

After reviewing the comments on the draft permit modification, EPA has made a decision to issue the final permit modification without change. The comments have been paraphrased herein along with the agencies' responses (the full comment letter is a part of the administrative record). A copy of the final permit modification may be obtained by writing or calling Suproakash Sarker, EPA NPDES Permits Program (CMP), 1 Congress Street, Suite 1100, Boston, MA 02114-2023; telephone: (617) 918-1693. The final modification will also be posted on the EPA Region 1 website at <http://www.epa.gov/region1/npdes/mass.html>.

Comments Submitted by Coalition for Buzzards Bay, dated April 26, 2007

The comments submitted by the Coalition were concerned with degradation of Inner Aucoot Cove due to nitrogen pollution. Specifically, the Coalition believes that the "modified permit currently under review fails to prevent the further degradation of Aucoot Cove", and asks that:

1. The permit should "...require the WWTP to meet a nitrogen effluent limit comparable to industry standards (The Wareham WWTP Permit No. MA0101893 achieves an average monthly total nitrogen limit of 4 mg/l.)"

2. EPA condition the permit to require the Town of Marion to enter into a contract with the University of Massachusetts- Dartmouth, School of Marine Science and Technology (SMAST) within 6 months of the approval of the finalized NPDES permit to insure that a threshold limit for Aucoot Cove is determined in a timely manner.

Response

When a permit is modified, only the conditions subject to modification are reopened. The permit modification did not propose any changes to the permit relative to total nitrogen limits or studies of Aucoot Cove. Rather, the permit modification pertained solely to: (i) the elimination of the receiving water monitoring program required in Part E of the permit (biological monitoring of the freshwater tributary of Aucoot Cove, which will be conducted by MassDEP rather than the Town), and elimination of a reference to this program in Part G of the permit; (ii) changes to the monitoring frequency for fecal coliform bacteria; (iii) establishment of a compliance schedule of six months to install equipment necessary to take flow proportioned composite samples; and (iv) the correction of a typographical error. Because the Coalition's comments fall clearly outside the scope of the current permit modification proceedings, they will not be formally addressed in this response to comments.¹

Nevertheless, EPA and MassDEP appreciate the Coalition's ongoing participation in the overall permit development process. The agencies have discussed water quality issues with the Coalition for Buzzards Bay relative to Aucoot Cove and have agreed to exchange information including treatment plant effluent data and the results of ambient monitoring performed by the Coalition. If any new water quality information indicates the need for new or more stringent effluent limitations or conditions, the permit may be reopened to include such conditions.

The treatment performance of the facility since the initiation of nitrogen removal has been very good. From January 2006 to March 2007, the total nitrogen (TKN & NO₃-N) in the treatment facility effluent has ranged from 2.4 mg/l to 7.0 mg/l with the average for that time period being 5.1 mg/l.

The MassDEP will be meeting with the Town of Marion this spring (2007) to discuss their participating in a "local match" to provide funding for the completion of the estuary study of Aucoot Cove which is part of the Massachusetts Embayment Project being undertaken by MassDEP, UMASS-Dartmouth and the local communities. The likely timeframe for completing the studies and providing a report on the conditions of Aucoot Cove is 2009 at the earliest.

¹ These issues were also not challenged by any party though the filing of a petition for review with the EAB within the original appeals period for the underlying permit. Comments on the nitrogen limit were received and responded to in the original Response to Comments issued in conjunction with the final permit. The comment requesting that EPA impose a monitoring study requirement for Aucoot Cove on the Permittee does not appear to have been raised in the original comment period.