

## Part I: General Conditions

### General Information

Name of Municipality or Organization:  State:

EPA NPDES Permit Number (if applicable):

### Primary MS4 Program Manager Contact Information

Name:  Title:

Street Address Line 1:

Street Address Line 2:

City:  State:  Zip Code:

Email:  Phone Number:

Fax Number:

### Other Information

Stormwater Management Program (SWMP) Location

### Eligibility Determination

Endangered Species Act (ESA) Determination Complete?  Eligibility Criteria (check all that apply): ☐ A ☒ B ☐ C

National Historic Preservation Act (NHPA) Determination Complete?  Eligibility Criteria (check all that apply): ☒ A ☐ B ☐ C

☒ Check the box if your municipality or organization was covered under the 2003 MS4 General Permit

### MS4 Infrastructure (if covered under the 2003 permit)

Estimated Percent of Outfall Map Complete?  If 100% of 2003 requirements not met, enter an estimated date of completion (MM/DD/YY):

Web address where MS4 map is published:

*If outfall map is unavailable on the internet an electronic or paper copy of the outfall map must be included with NOI submission (see section V for submission options)*

### Regulatory Authorities (if covered under the 2003 permit)

<b>Illicit Discharge Detection and Elimination (IDDE) Authority Adopted?</b> (Part II, III, IV or V, Subpart B.3.(b.) of 2003 permit)	<input type="text" value="Yes"/>	Effective Date or Estimated Date of Adoption (MM/DD/YY):	<input type="text" value="11/20/95"/>
<b>Construction/Erosion and Sediment Control (ESC) Authority Adopted?</b> (Part II, III, IV or V, Subpart B.4.(a.) of 2003 permit)	<input type="text" value="No"/>	Effective Date or Estimated Date of Adoption (MM/DD/YY):	<input type="text" value="06/30/19"/>
<b>Post- Construction Stormwater Management Adopted?</b> (Part II, III, IV or V, Subpart B.5.(a.) of 2003 permit)	<input type="text" value="No"/>	Effective Date or Estimated Date of Adoption (MM/DD/YY):	<input type="text" value="06/30/19"/>

# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part II: Summary of Receiving Waters

Please list the waterbody segments to which your MS4 discharges. For each waterbody segment, please report the number of outfalls discharging into it and, if applicable, any impairments.

Massachusetts list of impaired waters: [Massachusetts 2014 List of Impaired Waters- http://www.mass.gov/eea/docs/dep/water/resources/07v5/14list2.pdf](http://www.mass.gov/eea/docs/dep/water/resources/07v5/14list2.pdf)

Check off relevant pollutants for discharges to impaired waterbodies (see above 303(d) lists) without an approved TMDL in accordance with part 2.2.2.a of the permit. List any other pollutants in the last column, if applicable.

[illegible]

Waterbody segment that receives flow from the MS4	Number of outfalls into receiving water segment	Chloride	Chlorophyll-a	Dissolved Oxygen/ DO Saturation	Nitrogen	Oil & Grease/ PAH	Phosphorus	Solids/ TSS/ Turbidity	E. coli	Enterococcus	Other pollutant(s) causing impairments
Interconnection with Peabody at Ladd Hill Road	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Interconnection with Lynnfield at Cedar Brook	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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## Notice of Intent (NOI) for coverage under Small MS4 General Permit

### Part III: Stormwater Management Program Summary

Identify the Best Management Practices (BMPs) that will be employed to address each of the six Minimum Control Measures (MCMs). For municipalities/organizations whose MS4 discharges into a receiving water with an approved Total Maximum Daily Load (TMDL) and an applicable waste load allocation (WLA), identify any additional BMPs employed to specifically support the achievement of the WLA in the TMDL section at the end of part III.

For each MCM, list each existing or proposed BMP by category and provide a brief description, responsible parties/departments, measurable goals, and the year the BMP will be employed (public education and outreach BMPs also requires a target audience). **Use the drop-down menus in each table or enter your own text to override the drop down menu.**

#### MCM 1: Public Education and Outreach

<b>BMP Media/Category</b> (enter your own text to override the drop down menu)	<b>BMP Description</b>	<b>Targeted Audience</b>	<b>Responsible Department/Parties</b> (enter your own text to override the drop down menu)	<b>Measurable Goal</b>	<b>Beginning Year of BMP Implementation</b>
Web Page	Provide information about stormwater and receiving waters to educate residents about stormwater management.	Residents	Water and Sewer Commission	Modify Massachusetts ThinkBlue's educational materials as needed to suit the City's needs and post on website. Track interaction with the site.	FY2019
Web Page	Make stormwater educational materials available on the Commission's website addressing lawn/grounds maintenance and optimization of use of salt and de-icing materials.	Businesses, Institutions and Commercial Facilities	Water and Sewer Commission, DPW	Modify Massachusetts ThinkBlue's educational materials as needed to suit the City's needs and post on website. Track interaction with the site.	FY2020

Press Releases	Create a press release to be distributed via the Commission's website or social media platform addressing prospective developers and contractors providing general information on stormwater management and summarize the city's erosion and sediment control ordinance	Developers (construction)	Water and Sewer Commission	Modify Massachusetts ThinkBlue's template press release to industrial facilities to fit the City's needs and post on website. Monitor website for interaction with press release.	FY2020
Press Releases	Create a press release to be distributed via the commission's website or social media platform for proper hazardous and non-hazardous waste maintenance and containment procedures.	Industrial Facilities	Water and Sewer Commission	Modify Massachusetts ThinkBlue's template press release to industrial facilities to fit the City's needs. Monitor website for interaction with press release.	FY2021
Social Media Post	Post to the Commission's Facebook Profile to inform residents of direct ways that they can have a positive impact on stormwater runoff quality and pollutant reduction.	Residents	Water and Sewer Commission	Modify Massachusetts' ThinkBlue social media post template to fit the City's needs and post. Track the amount of interaction with the post.	FY2021
Web Page	Update the City's web site to explain the importance of and encourage the disconnection of impervious surfaces on site.	Businesses, Institutions and Commercial Facilities	City of Lynn	Track the interaction with the website.	FY2022




## Notice of Intent (NOI) for coverage under Small MS4 General Permit

### Part III: Stormwater Management Program Summary (continued)

#### MCM 2: Public Involvement and Participation

<b>BMP Categorization</b>	<b>Brief BMP Description</b> (enter your own text to override the drop down menu)	<b>Responsible Department/Parties</b> (enter your own text to override the drop down menu)	<b>Additional Description/ Measurable Goal</b>	<b>Beginning Year of BMP Imple- mentat- ion</b>
Public Review	Provide for Public Review of SWMP and Annual Reports	Water and Sewer Commission	Allow for annual review of the City's Stormwater Management Program by the public by making the SWMP and MS4 Annual Reports available at the Lynn Water & Sewer Commission and/or on the Commission's website.	FY2019
Public Participation	Hotline - reporting problems/violations	Emergency Dispatch	Continue to provide a dispatch line for residents to report any violations or complaints and track all residents who participate.	FY2019
Public Participation	Cleanups - Shoreline/Waterbody	Water and Sewer Commission, Non-Profits	Hold and facilitate clean ups of King's Beach for volunteers to participate.	FY2019
Public Participation	Cleanups - Reservoirs	Water and Sewer Commission	Continue to participate in Earth Day Cleanups and keep track of the amount of material removed.	FY2019
Public Participation	Household haz. waste/used oil collection	DPW	Continue to hold a hazardous waste collection day annually and track the amount of material collected.	FY2019
Public Participation	Yard Waste Drop-Off	DPW	Continue to provide an opportunity for residents to drop off yard waste on Saturdays between April and December.	FY2019



[illegible]

## Notice of Intent (NOI) for coverage under Small MS4 General Permit

### Part III: Stormwater Management Program Summary (continued)

#### MCM 3: Illicit Discharge Detection and Elimination (IDDE)

<b>BMP Categorization</b> <small>(enter your own text to override the drop down menu)</small>	<b>BMP Description</b>	<b>Responsible Department/Parties</b> <small>(enter your own text to override the drop down menu)</small>	<b>Measurable Goal</b> <small>(all text can be overwritten)</small>	<b>Beginning Year of BMP Implementation</b>
SSO inventory	Develop inventory of where SSOs have discharged in the last 5 years.	Water and Sewer Commission	Complete within 1 year of the permit effective date and continue to update SSO inventory annually.	FY2019
Storm sewer system map	Update drainage map in accordance with permit conditions and update annually during IDDE program investigations.	Water and Sewer Commission	Update map within 2 years of permit effective date and complete full system map within 10 years of permit effective date. Report on progress annually.	FY2020
Written IDDE program	Continue to implement existing EPA approved IDDE Plan that was finalized in November 2016.	Water and Sewer Commission	Complete to implement EPA approved IDDE Plan, and update as needed.	FY2019
Implement IDDE program	Continue to implement catchment investigations according to program and permit conditions.	Water and Sewer Commission	Complete within 10 years of the permit effective date.	FY2020
Employee training	Make sure all staff have a current working knowledge of the Commission's IDDE Program.	Water and Sewer Commission	Keep staff informed regarding IDDE Program.	FY2019
Conduct dry weather screening	Continue ongoing outfall screening and sampling. Modify program as needed to meet permit requirements.	Water and Sewer Commission	Complete within 3 years of permit effective date. Track the number of outfalls that are screened and sampled annually.	FY2021

[illegible]

## Notice of Intent (NOI) for coverage under Small MS4 General Permit

### Part III: Stormwater Management Program Summary (continued)

#### MCM 4: Construction Site Stormwater Runoff Control

<b>BMP Categorization</b> (enter your own text to override the drop down menu or entered text)	<b>BMP Description</b>	<b>Responsible Department/Parties</b> (enter your own text to override the drop down menu)	<b>Measurable Goal</b> (all text can be overwritten)	<b>Beginning Year of BMP Implementation</b>
Site inspection and enforcement of Erosion and Sediment Control (ESC) measures	Develop written procedures for site inspections and enforcement.	Planning /Inspectional Services Department	Complete within 1 year of the effective date of permit. Report on the number of site inspections and enforcement actions annually.	FY2019
Site plan review	Develop written procedures for site plan review and begin implementation.	Planning /Inspectional Services Department	Complete within 1 year of the effective date of permit. Report on the number of site plan reviews conducted, inspections conducted, and enforcement actions taken annually.	FY2019
Erosion and Sediment Control	Continue to require construction operators to submit and implement a sediment and erosion control program as included in the City's existing bylaws, and enhance program as needed to meet permit requirements.	Planning /Inspectional Services Department	Continue to enforce existing sediment and erosion control requirements, and update regulations as needed within one year of the permit effective date.	FY2019

[illegible]

## Notice of Intent (NOI) for coverage under Small MS4 General Permit

### Part III: Stormwater Management Program Summary *(continued)*

#### MCM 5: Post-Construction Stormwater Management in New Development and Redevelopment

BMP Categorization (enter your own text to override the drop down menu or entered text)	BMP Description	Responsible Department/Parties (enter your own text to override the drop down menu)	Measurable Goal (all text can be overwritten)	Beginning Year of BMP Implementation
As-built plans for on-site stormwater control	Update existing bylaws to require submission of as-built drawings and ensure long term operation and maintenance of BMPs to meet permit conditions.	Planning /Inspectional Services Department	Require submission of as-built plans for completed projects no later than two years after completion of construction. Update regulations as needed within two years of permit effective date.	FY2020
Target properties to reduce impervious areas	Identify at least 5 permittee-owned properties that could be modified or retrofitted with BMPs to reduce impervious areas and update annually.	Water and Sewer Commission, DPW	Complete 4 years after effective date of permit and report annually on retrofitted properties	FY2022
Allow green infrastructure Practices	Develop a report assessing existing local regulations to determine the feasibility of making green infrastructure practices allowable when appropriate site conditions exist.	Planning/DPW	Complete 4 years after effective date of permit and implement recommendations of report, where feasible.	FY2022

[illegible]

[illegible]



## Notice of Intent (NOI) for coverage under Small MS4 General Permit

### Part III: Stormwater Management Program Summary *(continued)*

#### MCM 6: Municipal Good Housekeeping and Pollution Prevention

<b>BMP Categorization</b> (enter your own text to override the drop down menu or entered text)	<b>BMP Description</b>	<b>Responsible Department/Parties</b> (enter your own text to override the drop down menu)	<b>Measurable Goal</b> (all text can be overwritten)	<b>Beginning Year of BMP Implementation</b>
O&M procedures	Create written O&M procedures including all requirements contained in 2.3.7.a.ii for parks and open spaces, buildings and facilities, and vehicles and equipment	DPW, Parks Commission, Water and Sewer Commission	Complete and implement 2 years after effective date of permit	FY2020
Inventory all permittee-owned parks and open spaces, buildings and facilities, and vehicles and equipment	Create inventory	DPW, Parks Commission, Water and Sewer Commission	Complete 2 years after effective date of permit and update annually.	FY2020
Infrastructure O&M	Establish and implement program for repair and rehabilitation of MS4 infrastructure	Water and Sewer Commission, DPW	Complete 2 years after effective date of permit	FY2020
Stormwater Pollution Prevention Plan (SWPPP) Development, Inspections, and Training	Develop SWPPPs for waste handling facilities including the Lynn DPW on Commercial Street. The City already has in place a SWPPP for their Wastewater Treatment Facility.	DPW	Complete and implement within 2 years of permit effective date, and provide inspections quarterly and training annually thereafter. Track number of employees trained annually.	FY2020

[illegible]


# Notice of Intent (NOI) for coverage under Small MS4 General Permit

### Part III: Stormwater Management Program Summary (continued)

### Actions for Meeting Total Maximum Daily Load (TMDL) Requirements

Use the drop-down menus to select the applicable TMDL, action description to meet the TMDL requirements, and the responsible department/parties. If no options are applicable, or more than one, **enter your own text to override drop-down menus.**

[illegible]

# Notice of Intent (NOI) for coverage under Small MS4 General Permit

## Part III: Stormwater Management Program Summary (continued)

## Actions for Meeting Requirements Related to Water Quality Limited Waters

Use the drop-down menus to select the pollutant causing the water quality limitation and enter the waterbody ID(s) experiencing excursions above water quality standards for that pollutant. Choose the action description from the dropdown menu and indicate the responsible party. If no options are applicable, or more than one, **enter your own text to override drop-down menus.**

[illegible]

**Part IV: Notes and additional information**

Use the space below to indicate the part(s) of 2.2.1 and 2.2.2 that you have identified as not applicable to your MS4 because you do not discharge to the impaired water body or a tributary to an impaired water body due to nitrogen or phosphorus. Provide all supporting documentation below or attach additional documents if necessary. Also, provide any additional information about your MS4 program below.

Through initial consultation with the US Fish & Wildlife, it was determined that threatened species within Lynn include the northern long-eared bat and the red knot; and endangered species include the roseate tern. The Commission further consulted with US Fish & Wildlife per Appendix C as part of the endangered species determination, and received follow-up correspondence confirming the determination of Criterion B. This letter dated September 24, 2018 has been appended to this Notice of Intent. US Fish & Wildlife concurs that actions currently proposed within this Notice of Intent are not likely to adversely impact the species listed. As structural Best Management Practices are constructed in the future, the Commission will re-initiate consultation with US Fish & Wildlife prior to construction activities.

The City has existing provisions in their Wetlands Protection Bylaw, their Zone Ordinance, and their Rules and Regulations Governing the Subdivision of Land requiring construction site runoff control and post-construction stormwater management. The Water & Sewer Commission also has a manual requiring and detailing long term operation and maintenance for structural stormwater control measures maintained by private entities. The provisions within the City's existing regulatory documents will be further clarified, and restructured as needed, to meet the full intent of the 2003 and the 2016 MS4 Permit during Permit Year 1.

## Notice of Intent (NOI) for coverage under Small MS4 General Permit

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### Part V: 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.

Name:

Daniel F. O'Neill

Title:

Executive Director

Signature:



Date:

10-1-18

*[To be signed according to Appendix B, Subparagraph B.11, Standard Conditions]*

Note: When prompted during signing, save the document under a new file name

### NOI Submission

Please submit the form electronically via email using the "Submit by Email" button below or send in a CD with your completed NOI. You may also print and submit via mail using the address below if you choose not to submit electronically. The outfall map required in Part I of the NOI (if applicable) can be submitted electronically as an email attachment OR as a paper copy.

**Permittees that choose to submit their NOI electronically by email or by mailing a CD with the completed NOI form to EPA, will be able to download a partially filled Year 1 Annual Report at a later date from EPA.**

Submit by Email

Submit by email using this button. Or, send an email with attachments to: [stormwater.reports@epa.gov](mailto:stormwater.reports@epa.gov)

Save

Save NOI for your records

#### EPA Submittal Address:

United States Environmental Protection Agency  
5 Post Office Square - Suite 100  
Mail Code - OEP06-1  
Boston, Massachusetts 02109-3912  
ATTN: Newton Tedder

#### State Submittal Address:

Massachusetts Department of Environmental Protection  
One Winter Street - 5th Floor  
Boston, MA 02108  
ATTN: Fred Civian



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
New England Ecological Services Field Office  
70 Commercial Street, Suite 300  
Concord, NH 03301-5094  
Phone: (603) 223-2541 Fax: (603) 223-0104  
<http://www.fws.gov/newengland>



In Reply Refer To:

September 05, 2018

Consultation Code: 05E1NE00-2018-SLI-2974

Event Code: 05E1NE00-2018-E-07019

Project Name: Lynn Water and Sewer Commission NOI ESA Determination

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

### To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.



A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
-

## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**New England Ecological Services Field Office**  
70 Commercial Street, Suite 300  
Concord, NH 03301-5094  
(603) 223-2541

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## Project Summary

Consultation Code: 05E1NE00-2018-SLI-2974

Event Code: 05E1NE00-2018-E-07019

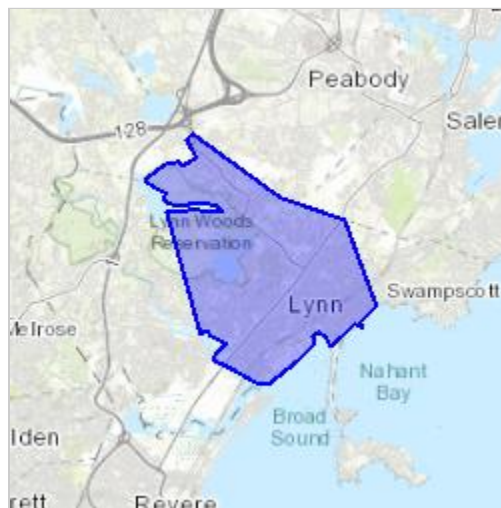
Project Name: Lynn Water and Sewer Commission NOI ESA Determination

Project Type: Guidance

Project Description: Determination of the ESA criterion on the town's NOI for the 2016 EPA MS4 Permit

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/42.47987374165685N70.96250415463817W>



Counties: Essex, MA

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## Endangered Species Act Species

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

## Birds

NAME	STATUS
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a>	Threatened
Roseate Tern <i>Sterna dougallii dougallii</i> Population: northeast U.S. nesting pop. No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/2083">https://ecos.fws.gov/ecp/species/2083</a>	Endangered

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

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# United States Department of the Interior

## FISH AND WILDLIFE SERVICE



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Concord, NH 03301-5087  
<http://www.fws.gov/newengland>

September 24, 2018

To whom it may concern:

The U.S. Fish and Wildlife Service (USFWS) reviewed the stormwater discharge activities associated with the 2016 National Pollutant Discharge and Elimination System (NPDES) Massachusetts (MA) Small Municipal Separate Storm Sewer System (MS4) general permit (MA MS4 General Permit) issued by the Environmental Protection Agency (EPA). We determined those activities may affect, but are not likely to adversely affect, certain species listed under the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) when specific conditions are met. When these conditions are met, we do not need to review individual projects. These comments are provided in accordance with section 7 of the ESA and complement existing 2016 MA MS4 General Permit Appendix C Guidance. We understand the applicant is acting as a non-Federal representative of the EPA for the purpose of consultation under section 7. **This letter provides additional guidance for meeting Criterion B and should be submitted as part of your application package to the EPA.**

If the USFWS Information for Planning and Consultation website (<https://ecos.fws.gov/ipac/>) indicates your MA MS4 General Permit project action area may contain one or more of the following federally listed endangered species: roseate tern (*Sterna dougallii*), northern red-bellied cooter (*Pseudemys rubriventris*), dwarf wedgemussel (*Alasmidonta heterodon*), rusty patched bumble bee (*Bombus affinis*), northeastern bulrush (*Scirpus ancistrochaetus*), or American chaffseed (*Schwalbea americana*); threatened species: piping plover (*Charadrius melodus*), bog turtle (*Glyptemys muhlenbergii*), Puritan tiger beetle (*Cicindela puritana*), northeastern beach tiger beetle (*Cicindela dorsalis*), or red knot (*Calidris canutus rufa*); or their federally designated critical habitat; and the specific conditions listed below are met, you may submit this letter to complete the **MA MS4 General Permit Appendix C: Step 4** in place of a concurrence letter for informal consultation as documentation of ESA eligibility for **USFWS Criterion B**.

In addition, this letter also satisfies the requirement in the **MA MS4 General Permit Appendix C: Step 2 (3)** to contact the USFWS and obtain a concurrence letter, if you have not yet done so. If your project action area includes one or more of the above-listed species *and* one or more of the

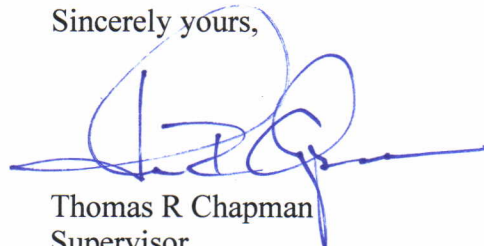
species listed under **Criterion C**,<sup>1</sup> you may still use this letter to certify under **Criterion B**. All existing guidance regarding requirements for certifying eligibility according to the USFWS Criterion A, B, or C for coverage by the 2016 MS4 Permit (see MA MS4 General Permit Appendix C – Endangered Species Guidance) remains unchanged.

We have determined that proposed stormwater discharge activities covered under the 2016 MS4 Permit *may affect, but are not likely to adversely affect*, the above-listed species and the species' critical habitat when the following are true:

1. all stormwater discharges are pre-existing or previously permitted by EPA;
2. any planned operations and maintenance work covered by this permit will only affect previously disturbed areas where stormwater controls are already installed. In these situations the chance of encountering any of the subject species is discountable;
3. the project implements EPA MS4 Best Management Practices (BMPs) and meets Clean Water Act and Massachusetts Water Quality Standards. Although permitted discharges may reach the environment used by these species, BMPs reduce pollutants to the extent that discharges are not known to have measurable impacts on these species or their habitat;
4. no new construction or structural BMPs are proposed under this permit at this time; and
5. you agree that if, during the course of the permit term, you plan to install a structural BMP not identified in the Notice of Intent (NOI), you will re-initiate consultation with the USFWS as necessary (see **MA MS4 General Permit Appendix C: Step 2 (5)**).

If the above criteria are met, further consultation with the USFWS under section 7 of the ESA is not required at this time; however, if the proposed action changes in any way such that it may affect a listed species in a manner not previously analyzed or if new information reveals the presence of additional listed species that may be affected by the project, the applicant or the EPA should contact us immediately and suspend activities that may affect those species until the appropriate level of consultation is completed with our office. Thank you for your cooperation, and please contact David Simmons of this office at (603) 227-6425 if you have questions or need further assistance.

Sincerely yours,



Thomas R Chapman  
Supervisor  
New England Field Office

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<sup>1</sup> Criterion C includes guidance for project action areas that may contain species for which EPA has already made a determination. These species include the northern long-eared bat (*Myotis septentrionalis*), sandplain gerardia (*Agalinis acuta*), small whorled pogonia (*Isotria medeoloides*), and/or American burying beetle (*Nicrophorus americanus*) (MA MS4 General Permit Appendix C: Step 3 – Determine if You Can Meet Eligibility USFWS Criterion C).



