



Buzzards Bay  
Project

# Phase II Storm Water Program: Basic Elements for Municipal Plans Which are Due March 10, 2003

Buzzards Bay Project Fact Sheet  
update 1/23/03

## Background

The 1987 amendments to the Clean Water Act required the US EPA to establish the National Pollutant Discharge Elimination System (“NPDES”) permitting program. The NPDES program initially targeted the permitting and cleanup of municipal, industrial, and similar “outfalls” into surface waters and wetlands. Storm water discharges from municipalities (collectively referred to as municipal separate storm sewer systems or “MS4s” in the regulations) began to be addressed under Storm Water Phase I of the program in 1990. Phase I targeted “urbanized areas” with populations more than 100,000. In December 1999, the EPA published Phase II of the NPDES program titled “Storm Water Phase II Final Rule.” Phase II expands the program by automatically requiring NPDES storm water permits for US Census defined “urbanized areas.” Municipalities with urbanized areas must now file for stormwater NPDES permits by March 10, 2003.

Formerly, the US Census urbanized areas were defined as population areas of 50,000 or more, and an average density of 1000 people per square mile. In June 2002, the US Census released new urbanized area boundaries using a slightly different definition and criteria than in the 1990 Census. **This new definition has greatly expanded the extent of “urbanized areas” in Massachusetts and all Buzzards Bay watershed municipalities must apply for a MS4 NPDES permit.**

These urbanized areas may cross municipal boundaries, and it is possible for a small portion of a “small town” to be defined as an urbanized area, if it happens to be adjacent to a city or other urban area. In addition to the US Census defined urbanized areas, the US EPA may include any municipalities with a population over 10,000, and a density of more than 1000 people per square mile if they meet certain as yet undefined criteria. In Massachusetts, the US EPA is the NPDES permit issuing authority.

An ancillary effect of the Phase II program is that any area where EPA has issued a Phase II stormwater permit **will no longer be eligible for Section 319 Non-Point Source grant funds**. Because so much of eastern Massachusetts is now defined as “urbanized areas”, these areas would no longer be eligible for these 319 grant funds for projects in the Phase II boundary areas. However, out of concern for this rule, the US Congress passed legislation in the Fall of 2002 to temporarily exclude this provision.

## What towns are affected and what is required?

All areas identified in the 1990 US census as urbanized areas, together with the new urbanized areas from the Census 2000 maps are required to have a Phase II permit. The NPDES permit application, called a Phase II Notice of Intent or “NOI,” must include a five-year program that defines what actions the town will make to meet the Phase II program requirements. Whatever actions towns include in this five year program must be implemented by March 10, 2008. After submitting the permit application, towns must submit annual reports stating what progress has been made on their storm water management program.

## Analysis

In a broad way, the NPDES program is requiring a point source pollution discharge permit for what is often considered non-point source pollution. The principal focus of these regulations is pollution prevention and elimination of “illicit” discharges. Illicit discharges are illegal or improper connections to the stormwater system. This Phase II Program does not automatically require the cleanup of storm water discharges causing shellfish bed or swimming beach closures, unless they are being caused by illicit connections. Thus, implementation of the program may only prevent water quality from worsening, and will not necessarily result in improved water quality.

Discharges from farms, or discharges to uplands (e.g., infiltration basins) are not covered by these regulations. Municipalities are not responsible for private roads, commercial development, or state roads under the permit guidelines, unless those areas discharge to the municipal stormwater system or to municipal roads.

Few actions are **required** by the EPA to be included in a Municipal Phase II Storm Water Management Program. Thus, the level of effort incorporated by municipalities in their stormwater management programs will likely vary widely, particularly because whatever is proposed in the program must be implemented in 5 years. If only a portion of a municipality is identified as an urban area, technically their program need only address that portion of their community. On the back of this fact sheet are the minimum elements of a municipal stormwater management plan necessary to meet the regulatory criteria in the program.

## **Sample Phase II Storm Water Management Program for the Town of Compliance, Massachusetts**

March 10, 2003

*(Core elements of a storm water management program for the mythical Town of Compliance, MA, a small town adjoining a city urban area, to meet requirements for an EPA Phase II Storm Water NPDES permit application.)*

### **Jurisdictional area covered under the permit**

A 978-acre area in the Town of Compliance, Massachusetts is included in the US census City of Fall River urbanized area and is therefore required to automatically submit an application for a Phase II NPDES Storm Water permit. This portion of the town, comprising 8% of the total land area of Compliance, consists of an undivided State Highway Rt. 6 with a business district, 48 municipal roads, and 23 private roads. The storm water discharges from private roads and state roads are not included in the municipal stormwater program and not covered under our permit because none discharge to the municipal stormwater system. The Town Administrator will be the municipal representative coordinating this program.

### **Elements of Town of Compliance Storm Water Management Program**

Town of Compliance Storm Water Management Program will help achieve these goals: 1) reduce the discharge of pollutants to the "maximum extent practicable" (MEP); 2) protect water quality; and 3) satisfy the appropriate water quality requirements of the Clean Water Act. Our five-year program will address all six minimum storm water control measures as summarized below:

#### **1) Public Education and Outreach**

The town will issue a press release announcing its participation in the program. The town will also mail a flyer each year inserted with the annual census form (or tax bills) to inform residents about the impacts polluted storm water runoff discharges can have on water quality, what actions the town is taking to manage these discharges, and what actions residents can take to protect water quality. The Town will ask the Compliance Bay Watershed Alliance to prepare an article in their newsletter.

#### **2) Public Participation/Involvement**

The town will hold annual public meetings on progress in the program, and to solicit public input on how the existing program can be better implemented. The Board of Selectmen will also establish and appoint a 12-member Storm Water Management Committee to develop recommendations on improving the Town's Stormwater Management Program for the town's stormwater permit renewal in 2008 (Year 5). The Selectmen will invite concerned citizens to participate on the panel and appoint from this pool of applicants. The town will encourage citizens to participate in program implementation and development of the 2008 application. These actions will be publicized by press releases and promoted on cable TV during broadcasts of Selectmen's meetings when these issues are addressed.

#### **3) Illicit Discharge Detection and Elimination**

In 2004 (Year 1), as part of the outreach program, the town will encourage citizens to report any illegal tie-ins or toxic waste dumping they observe. In 2005, the Compliance Planning and Public Works Department will prepare a map of the 48 municipal roads in the designated urbanized area showing the stormwater drainage system and catch basins. Twenty of these roads have no stormwater pipe network. The Compliance Board of Health will identify all stormwater discharge pipes from the twenty-eight remaining roads to wetlands and surface waters that service these eight roads. The health agent will sample each discharge pipe once during the summer sometime between 2004 and 2007 to identify if any high fecal counts are present that may be indicative of illicit sewer connections. If high counts are found, upstream sampling in catch basins, and smoke testing will be done, to identify potential house tie-ins. The Board of Health will issue enforcement permits to owners of illegal connections. A flyer will be prepared informing the community about hazards associated with illegal discharges and improper disposal of waste into storm drains.

#### **4) Construction Site Runoff Control and 5) Post-Construction Runoff Control**

All new construction and redevelopment in Massachusetts that falls within the jurisdiction of the Massachusetts Wetlands Protection Act must meet state performance standards for discharge of stormwater to wetlands and surface waters. These performance standards are enforced by the Compliance Conservation Commission and the Massachusetts Department of Environmental Protection. These regulations already meet the Phase II Stormwater Management Program criteria. However, the Conservation Commission will review whether lower Phase II limits on disturbed areas will require revisions to the town bylaw. The Compliance Planning Board will review whether erosion and sediment control and post construction runoff controls are adequate in their subdivision regulations and Site Plan Review regulations to address any project of 1 acre or greater. The Planning Board will also seek passage of an Erosion Control Bylaw at town meeting to address projects not already covered by the state and local wetland regulations and subdivision regulations, such as Approval Not Required projects not in the buffer zone. Both boards will ensure that stormwater BMP completion and maintenance reports are submitted to the Town as needed.

#### **6) Pollution Prevention/Good Housekeeping**

In 2006 (Year 3), the Town of Compliance will implement a program with the goal of preventing or reducing pollutant runoff from municipal operations. Department of Public Works staff and staff from other departments will be required to attend seminars and lectures as directed by their elected or appointed boards to learn pollution prevention measures and techniques (e.g., regular street sweeping, reduction in the use of pesticides or street salt, or frequent catch-basin cleaning, etc.). Department heads will be asked to review activities at town properties such as Municipal Yards to determine if opportunities exist to minimize pollutant runoff from those activities, and a checklist will be created to help identify problem areas.

*For more info visit [www.buzzardsbay.org](http://www.buzzardsbay.org)*