

Neponset Stormwater Partnership

EPA 2016 MS4 Permit Model NOI for NSP Communities

Updated as of 8/8/2018

INSTRUCTIONS

Background

To assist its members, the Neponset Stormwater Partnership (“the NSP”) has prepared a Model Notice of Intent (NOI) that communities can use to streamline their MS4 NOI preparation process. In the summer of 2018, the NSP model NOI was updated to reflect revisions to the NOI form undertaken by EPA.

This model NOI is intended to address the specific circumstances applicable to NSP member communities which currently include Canton, Dedham, Foxborough, Medfield, Milton, Norwood, Quincy, Sharon, Stoughton, and Westwood. The model may or may not be appropriate for the circumstances that apply to other communities.

Pre-submission Review for an NOI Prepared In-house or by a Consultant

Many NSP communities are engaging consultants to help prepare their NOI. Consultants should feel free to make use of any desired content from the NSP model NOI. NSP staff are also happy to perform a pre-submission review of any NSP participating community’s NOI if desired.

The “Purpose” of Your NOI

The primary “purpose” of the NOI is for the permittee to request coverage under the permit, and to help the permittee demonstrate to EPA that they have a basic understanding of the major tasks that they need to undertake. Generally speaking, the NOI is not intended to be a detailed plan for everything a permittee will be doing over the course of the permit. Those details will be provided later in the Stormwater Management Program or “SWMP” document.

Impact of NOI on Grant Eligibility

Federal grants cannot pay for activities required by the MS4 permit, nor can required MS4 activities be counted as a match toward a federal grant. If you list activities in your NOI that are NOT explicitly required by the permit, or indicate that you expect to complete required activities before they are explicitly due, they become “MS4 Activities” and are excluded from grant or match eligibility.

To maximize grant eligibility, the NSP model NOI avoids proposing specific activities that are not explicitly required, and suggests the latest possible due dates for each required permit task.

While we recommend this “bare-bones” approach for filling out the NOI, we definitely DO NOT recommend it for implementing your stormwater program. Please refer to the NSP MS4 Planning Spreadsheet and the NSP model SWMP for more detailed information to help guide your internal MS4 planning and implementation process.

Assigning Responsibility for NOI Tasks to the NSP

In several sections of the model NOI, we have listed the NSP as the responsible department for a task. If you would like to list the NSP as responsible party for a task, please only do so if you plan to make the annual financial contribution necessary for the NSP to implement the task on your behalf.

NOI Resources and Training

Preparing the NOI is surprisingly straightforward. EPA has posted a number of resources on its [MS4 page](#) and its [MS4 Tools page](#) to assist permittees with preparing their NOI, including a [helpful video tutorial](#).

Deadline and How to Prepare and Submit Your NOI

The NOI is due 90 days after the permit effective date, which will be September 28, 2018. We recommend that you submit your NOI to EPA electronically via email with several attachments as described further below. You can begin with the NSP NOI Template PDF and make further revisions as needed, or you can download a fresh copy of the form from the EPA website if you prefer. After submitting, you will receive written notice from EPA confirming that you are covered by the permit.

NSP Model NOI Section by Section Instructions

NOI Part I: General Information

This should be self-explanatory. If you need to look up your 2003 EPA permit number you can find it on your past annual reports.

NOI Part I: Eligibility Determination, Endangered Species Act

All NSP communities should check the box for “Category C” and provide a statement indicating that only Category C species are present and you do not expect your MS4 implementation activities to impact them (model language has been inserted in Part IV of the template).

Category C is reserved for communities where the only species present are one or more of four species that are fairly widespread in MA, AND there is no expected impact to the species from implementation of the MS4 program. One of these species, the northern long eared bat, is found throughout all the NSP communities. There are no other federally endangered species listed in the [USFWS system](#) as of May 2018 for any NSP communities.

Category A is for communities where no species at all are present, and Category B is for communities where species other than the specified four Category C species are present.

In 2017 NSP staff spoke with Maria Tur at the USFWS. She indicated that they are primarily concerned about situations where the MS4 permit would require construction in endangered species habitat (i.e. cutting down trees), or where a river or stream has endangered aquatic species (i.e. fish or clams). Since there are no aquatic species listed in our area, and since the MS4 permit does not specifically require building anything during the current permit term (i.e. not required until year 6) there should be no conflicts. Maria Tur was quite helpful and if anyone has further questions she may a good contact (603-227-6419, Maria_Tur@fws.gov).

NOI Part I: Eligibility Determination, National Historic Preservation Act

“Category A” applies to all NSP communities. This is because all NSP communities were already required to complete the historic certification when they applied for coverage under the 2003 MS4 permit.

If selecting “A,” it is also a good idea to mentally confirm that you are not planning to do something in an effort to comply with a *specific* requirement of the MS4 permit that would damage a property listed on the National Register of Historic Properties (i.e. digging up a *federally* listed historic property).

Categories B and C only apply to communities that are getting a MS4 permit for the first time.

NOI Part I: MS4 Infrastructure and Regulatory Authorities

This section should be self-explanatory. We believe all NSP communities have already satisfied the minimum requirements for mapping and bylaws from the 2003 permit. Note that from the training video, it appears that you only need to enter the effective dates for your 2003 bylaws if they are not already in effect.

NOI Part II: Summary of Receiving Waters

This section requires a list of the MassDEP stream segments into which you discharge, a summary of the pollutants for which they are impaired, and information on how many outfalls you have in each stream segment.

EPA is requesting that this information be provided on the basis of the MassDEP **2014** Integrated List of Waters, even though MassDEP has since published an updated 2016 list. The differences between the two lists for NSP communities are minimal.

Rather than filling in the PDF form, which would be rather tedious, we recommend that you attach a spreadsheet of your stream segments in a separate file (an approach which has been endorsed by EPA in personal communication).

The NSP staff have cross-referenced outfalls with MassDEP stream segments, and prepared reports for all our communities. These are posted in excel format on the NSP website and are titled “NOI Part II: Summary of Receiving Waters TOWN NAME.pdf”.

This list lacks information for communities whose outfalls were not available in GIS form when we conducted this analysis. However, please let us know if you would like us to do this analysis for you now. We strongly encourage all NSP towns to add and maintain an attribute for MassDEP stream segment (AU_ID) in the data table for your outfalls in your GIS.

Also note that there are many streams and waterbodies that do not have a MassDEP segment ID. We have assigned outfalls in these “uncharted” territories to the next named segment downstream.

Please review the report we have provided for your town carefully; it is only as good as the GIS data on your outfalls that you have provided us. The total number of outfalls on the report can provide a quick check of accuracy. However note that where your data indicates that some pipes were not publicly owned we have omitted them from the analysis.

If you have recently made significant updates to your outfall GIS, it is fairly easy for us to re-run your reports using the new data.

NOI Part III: MCM 1: Public Education and Outreach

We have populated this portion of the form with suggested information, and indicated that the NSP is willing to serve as the responsible party if desired. If you prefer to list a member of the municipal staff as the responsible party, that does not preclude you from working with the NSP to do the actual work.

As discussed above, the suggested entries in this form are intentionally vague, represent the bare minimum of effort, and propose the latest possible implementation dates in an effort to maximize eligibility for grants

However, we strongly encourage you to plan and budget for implementation of a much more meaningful outreach and education program than the minimum that must be described in the NOI.

NOI Part III: MCM 2: Public Involvement and Participation

Again we are recommending a minimalist approach to filling in the NOI with regards to public participation, in order to maximize grant eligibility, but urge a much more robust approach when it comes time for your implementation.

NOI Part III: MCM 3: Illicit Discharge Detection and Elimination (IDDE)

Filling in the form from this point on is a much less creative process than the education and public participation sections of the form. It simply aims to document the required elements of the IDDE program.

While the information that has been pre-filled by EPA does not provide an especially clear or comprehensive explanation of your IDDE requirements, we nonetheless suggest that you simply leave the EPA pre-filled information as-is and fill in responsible parties.

We have filled in dates, based on the latest possible dates when the work could commence. If you have any problem catchments you must begin investigating these within two years (FY'20) and this is what we have listed on the form. If you do NOT have any problem catchments, you don't technically have to start/finish until permit year seven (FY'25).

We strongly urge you to actually start this work well before the dates we have indicated in the NOI template. Also, there is very little risk that using earlier dates in this section of the form would interfere with grant eligibility.

For your own internal planning and budgeting purposes, we recommend that you rely on the NSP 5-year permit summary planning sheet which has a more detailed description of what is required for IDDE and when and which is available on the NSP website.

NOI Part III: MCM 4: Construction Site Stormwater Runoff Control

This section of the form is also fairly easy to fill in. Simply add responsible parties, and decide if you want to indicate dates earlier than those we have filled in which are the latest possible dates allowable.

NOI Part III: MCM 5: Post-Construction Stormwater Management in New Development and Redevelopment

This is adequately pre-filled by EPA. We have added latest possible dates. Several of the tasks in this section can be delegated to NSP if desired as indicated on the model form. Fill in remaining responsible parties as needed.

NOI Part III: MCM 6: Municipal Good Housekeeping and Pollution Prevention

The values pre-filled by EPA in this section are not in our opinion a clear description of what you have to do and when for this section of the permit. Thus we again recommend that you refer to our NSP 5-year permit summary planning sheet as a more useful internal planning and budgeting document.

That said, we recommend you use the EPA pre-filled values as is, filling in your own responsible party information. We have again filled in dates based on the latest allowable schedule.

Note that there is a lack of clarity regarding the deadlines for some of the required actions in this section. We are in the process of confirming the deadlines with EPA and will update the model form and instructions as soon as we have done so. In the meantime, we have provided “conservative” suggested deadlines to ensure that you will not be late.

NOI Part III: Actions for Meeting Total Maximum Daily Load (TMDL) Requirements

In this section of the form, you need to choose applicable TMDL’s from the dropdown, and enter a reference to the appropriate appendix. Because of the way the EPA pdf file is set up, we cannot pre-fill this portion of the form.

However, we have compiled the necessary information for each town in a spreadsheet titled “NOI Part III Actions for Meeting TMDL Requirements.xlsx.” Look up your town in the spreadsheet and fill in the appropriate values on the form. The spreadsheet is available at the NSP website or on request.

NOI Part III: Actions for Meeting Requirements Related to Water Quality Limited Waters

This section of the form requires you to identify whether waterbodies to which you discharge are “water quality limited” or “impaired” by any of a list of key stormwater pollutants. EPA has provided a dropdown list of the key pollutants on the PDF form. You can ignore pollutants not on the specified list.

If you have waterbodies impaired for one of these key pollutants, you will need to identify the affected waterbodies, and the additional measures you will implement in these areas. You do not need to provide a detailed action plan. You merely need to indicate which section of Appendix H applies.

Most of these pollutants only need to be addressed if you discharge directly to a waterbody listed by MassDEP as impaired. However, for waters limited by nutrients (nitrogen and phosphorous) EPA is requiring communities to take extra steps to address these pollutants, if there is a waterway anywhere downstream of your discharge that is impaired, not just where you discharge to an impaired water. This approach applies only to nitrogen and phosphorous, and not to any of the other pollutants covered in this part.

As with the previous section, we have provided a spreadsheet with the appropriate reference information for each town. You can transfer this information to the pdf form, or use the information to create a standalone attachment.

The information can be found in a spreadsheet titled “NOI Part III WQ Limited Waters All Towns.xlsx” which is available at the NSP website or on request.

Note that technically this report only needs to include those impaired waters where there is not a TMDL. However, there is no particular drawback of including all the waters, and it saves the trouble of verifying that each individual waterway you might exclude is covered by a TMDL.

Part IV: Notes and Additional Information

Use this space to provide additional information as needed. We have added several general notes that are applicable to everyone using the NSP model form. Review the notes and make sure they agree with the way you have filled in the form.

Signing and Submitting Your Completed Form

The completed NOI must be signed by either your “principal executive officer or ranking elected official” or in other words by your town administrator, mayor or select board chair. The form may be signed digitally using the functionality of the PDF form rather than being physically signed.

Don’t forget to SAVE your completed form for your records on your own computer.

There are several ways to submit the form. We recommend you submit it electronically by email, so that EPA will A) automatically forward it to MassDEP for you and B) send you back a partially pre-populated annual report form for future use.

However, **we recommend that you do NOT submit it by clicking the button on the PDF form**, but rather send it as a standalone email with the completed NOI PDF and all other attachments included in a single message. Send it to: stormwater.reports@epa.gov.

Questions

If you have any questions about the NSP Model NOI or the NOI in general, or to ask that the NSP provide a free pre-submission review of an NOI prepared by your staff or consultant, please contact Ian Cooke at 781-575-0354 x 305 or cooke@neponset.org.