

Residual Designation Authority (RDA) Permitting in the Charles, Mystic And Neponset River Watersheds

PUBLIC MEETING:

JANUARY 7, 2025; 7-8:30PM

Presenters and Team Members

PRESENTERS

Damien Houlihan, Section Chief,
Water Permits Branch

Laura Schifman, Permit Writer,
Water Permits Branch

TEAM MEMBERS

Anne Leiby, Senior Advisor, Water Permits Branch

Michele Duspiva, Permit Writer, Water Permits
Branch



Ground Rules and Expectations for Tonight

Keep your microphone muted when not speaking.

Respect time limits for questions. Note: EPA will provide written responses to comments received in the comment period and distribute those responses to all commenters later in this permitting process.

Keep questions and chats respectful and appropriate for a public audience, as they will become part of EPA's official record.

Follow the facilitators' guidance and instructions on how to participate.

Hold questions until the end of the presentation. Feel free to add questions to the chat during the presentation.



Topics for Today

1. Introduction: What Will Be Discussing Today?
2. How to Provide Public Comment (close 1/29/25)
3. Background for the RDA CII Permit:
 - What is an RDA Permit?
 - Why is this RDA permit necessary now?
 - CLF/CRWA petitions and EPA determination
 - Environmental conditions
4. Overview of CII Permit Conditions
5. Specific Issues on which EPA Seeks Feedback
6. Questions

Slides are posted at <https://www.epa.gov/npdes-permits/notice-preliminary-designation-certain-stormwater-discharges-commonwealth> for viewing and download.



Draft Permit and Preliminary Determination Available for Review



All documents may be downloaded and printed from EPA's website: Adobe Acrobat Reader is required

<https://www.epa.gov/npdes-permits/notice-preliminary-designation-certain-stormwater-discharges-commonwealth>



Print copies are also available at: Please call to schedule an appointment

EPA Records Center
5 Post Office Square, Boston
(617) 918-1546



Questions
During the
Public
Comment
Period:

Laura Schifman
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Public Hearings

January 22 & 23, 2025
at 7:00 PM EST

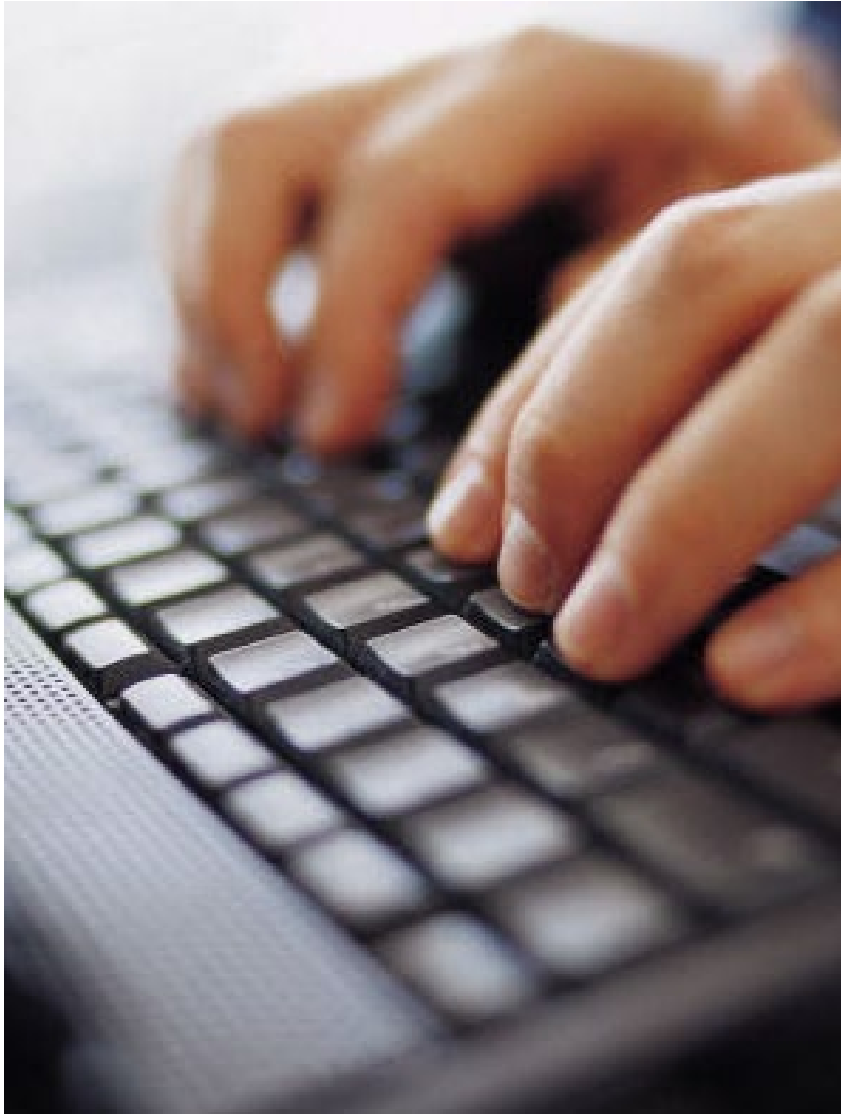
Virtual Public Hearings will be held on
January 22 and 23, 2025 at 7:00 PM EST.

Any person may submit oral comments at the meetings.
EPA requests that all oral comments are also submitted in writing.

Persons wishing to speak are encouraged to
register in advance, using the link provided
on EPA's website or below.

<https://www.epa.gov/npdes-permits/notice-preliminary-designation-certain-stormwater-discharges-commonwealth>





How to Submit Comments

EPA is seeking feedback and comments on the draft permit and determination during the public comment period from **October 31, 2024 – January 29, 2025**.

Oral comments can be provided at the Public Hearing on January 22 or 23, 2025.

To participate, please register at <https://www.epa.gov/npdes-permits/notice-preliminary-designation-certain-stormwater-discharges-commonwealth>.

Written comments can be sent by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/search?filter=EPA-R01-OW-2024-0492> (preferred).

- *Email:* R1.RDA@epa.gov, with “Comments on the Preliminary Designation and/or Draft CII GP” in the subject line.

- *Mail:* U.S. EPA Region 1, Water Division, Attn: Laura Schifman, 5 Post Office Square, Suite 100, Mail Code 06-4, Boston, MA 02109-3912.

If comments are submitted as hard copy, also email a copy to R1.RDA@epa.gov



What are we discussing today?

Private landowners that are subject to this proposed RDA permit belong into these kinds of categories:

This new RDA permitting program distributes stormwater management responsibilities among municipalities and private landowners.



Commercial



Industrial



Institutional



What is a NPDES permit?

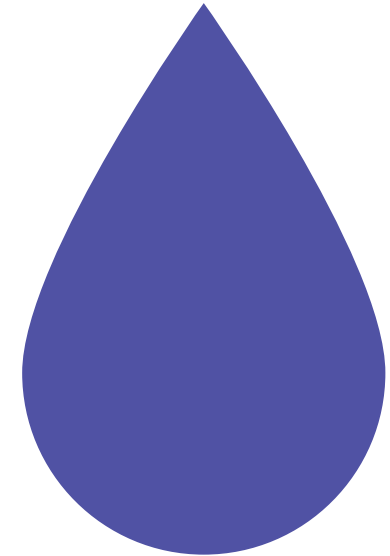
NPDES = National Pollution Discharge Elimination System

The Clean Water Act prohibits anybody from discharging pollutants through a point source (e.g., a pipe) into a water of the United States unless they have an NPDES permit.

The permit will contain limits on what can be discharged, how to monitor and report on requirements and other provisions to ensure that the discharge does not hurt water quality or people's health.

In essence, the permit translates general requirements of the Clean Water Act into specific provisions tailored to the operations of each person discharging pollutants.

<https://www.epa.gov/npdes/npdes-permit-basics>



NPDES General Permit and Determination Process

Draft Permit and Preliminary Determination

- EPA issued a Draft Permit and Preliminary Determination on October 31, 2024.



Public Comment Period

- EPA will accept public comments on the draft permit and preliminary determination until January 29, 2025.



Public Meeting and Hearings

- Meeting:
 - January 7, 2025
- Hearings:
 - January 22 & 23, 2025



Response to Comments:

- EPA will prepare a written response to comments and issue final permits.



Appeals

- Parties may appeal the final NPDES General Permit and the final RDA determination in federal court if they provided comments during the public comment period.



Effective Dates

- Final General Permit and Final RDA determination will each specify effective dates.
- Permit goes into effect for 5 years
- Permittees seek coverage under permit.



Why now?

EPA was petitioned to use its Residual Designation Authority to clean up the waters around Boston.



May 9, 2019

Deborah Szaro
Acting Regional Administrator
EPA New England Region
1 Congress Street, Suite 1100
Boston, MA 02114-2023

RE: Petition for a Determination that Multi-Family Residential Property Dischargers Contribute to Water Quality Standards Violations in the Charles River Watershed, Massachusetts, and that NPDES Permitting of Such Properties is Required.

Dear Acting Regional Administrator Szaro,

As the Regional Administrator of the Conservation Law Foundation ("CLF") we hereby petition you for a determination regarding stormwater that are not currently subject to direct discharge under the Clean Water Act.

August 24, 2020

Dennis Deziel
Acting Regional Administrator
EPA New England Region
1 Congress Street, Suite 1100 Boston, MA 02114-2023

RE: Petition for a Determination that Multi-Family Residential Property Dischargers Contribute to Water Quality Standards Violations in the Mystic River Watershed, Massachusetts, and that NPDES Permitting of Such Properties is Required.

Dear Regional Administrator Deziel,

As the Regional Administrator of the Conservation Law Foundation ("CLF") we hereby petition you for a determination regarding stormwater that are not currently subject to direct discharge under the Clean Water Act.

August 24, 2020

Dennis Deziel
Acting Regional Administrator
EPA New England Region
1 Congress Street, Suite 1100 Boston, MA 02114-2023

RE: Petition for a Determination that Certain Commercial, Industrial, Institutional, and Multi-Family Residential Property Dischargers Contribute to Water Quality Standards Violations in the Neponset River Watershed, Massachusetts, and that NPDES Permitting of Such Properties is Required.

Dear Regional Administrator Deziel,

As the Regional Administrator of the EPA New England Region ("EPA Region 1"), the Conservation Law Foundation ("CLF") hereby petitions you for a determination pursuant to 40 C.F.R. § 122.26(f)(2) that discharges of stormwater that are not currently subject to direct discharge under the Clean Water Act.

- EPA received petitions to designate CII and Multi-Family sites for stormwater permitting in the Charles, Mystic, and Neponset River Watersheds.
- Many other efforts are underway to improve the water quality in the Boston area – residual designation addresses the remaining sources of pollution.
- EPA’s RDA authority is found in Clean Water Act § 402(p)(2)(E)



EPA's 2022 Preliminary Determination

Under Clean Water Act § 402(p)(2)(E), EPA Region 1 issued a Preliminary Determination, which identifies the kinds of properties that would be covered under a new RDA permitting system.

EPA proposed designating for NPDES stormwater permitting:

- Commercial, Institutional and Industrial sites
- with one acre or more of impervious cover
- in the Charles, Mystic and Neponset River Watersheds.

September 14, 2022

Clean Water Act Residual Designation Determination for Certain Stormwater Discharges in the Charles, Mystic, and Neponset River Watersheds, in Massachusetts

The U.S. Environmental Protection Agency (EPA) Region 1 is exercising its discretionary Clean Water Act (CWA) residual designation authority (RDA) under CWA § 402(p)(2)(E) and implementing regulations to designate for National Pollutant Discharge Elimination System (NPDES) permitting certain stormwater discharges from commercial, industrial, and institutional properties¹ with one acre or more of impervious surface² in the Charles, Neponset, and Mystic River watersheds in Massachusetts (See Attachment 1 for full list of communities). The dischargers or categories of dischargers that this designation identifies do not have to apply for individual permit coverage as EPA plans to issue one or more general permits for these discharges, under which operators may seek coverage within defined deadlines in the general permit(s).³ Moreover, "The question whether the initial designation was proper will remain open for consideration during the public comment period under § 124.11 [for NPDES permits] and in any subsequent hearing." 40 C.F.R. § 124.52(c).

Full Preliminary Determination available at:

<https://www.epa.gov/npdes-permits/residual-designation-charles-river-watershed-mystic-river-watershed-and-neponset#EPAsRDADetermination>

EPA is seeking comment on both, the 2022 Preliminary Determination and the Draft General Permit, until January 29, 2025.



Much work has happened over the years to prevent pollution from entering our waters...

1970s to now
Removal of
illegal
discharges and
sewer overflows

2000s to now
90% Phosphorus
pollution reduction
at Wastewater
Treatment Plants

2002
Neponset River
Pathogen TMDL

2007 and 2011
Charles River
Phosphorus and
Pathogen
TMDLs

2016
Municipalities
implement
stormwater
management
programs

2020
Mystic River
Alternative
Restoration Plan
for Phosphorus

...but much work is left.

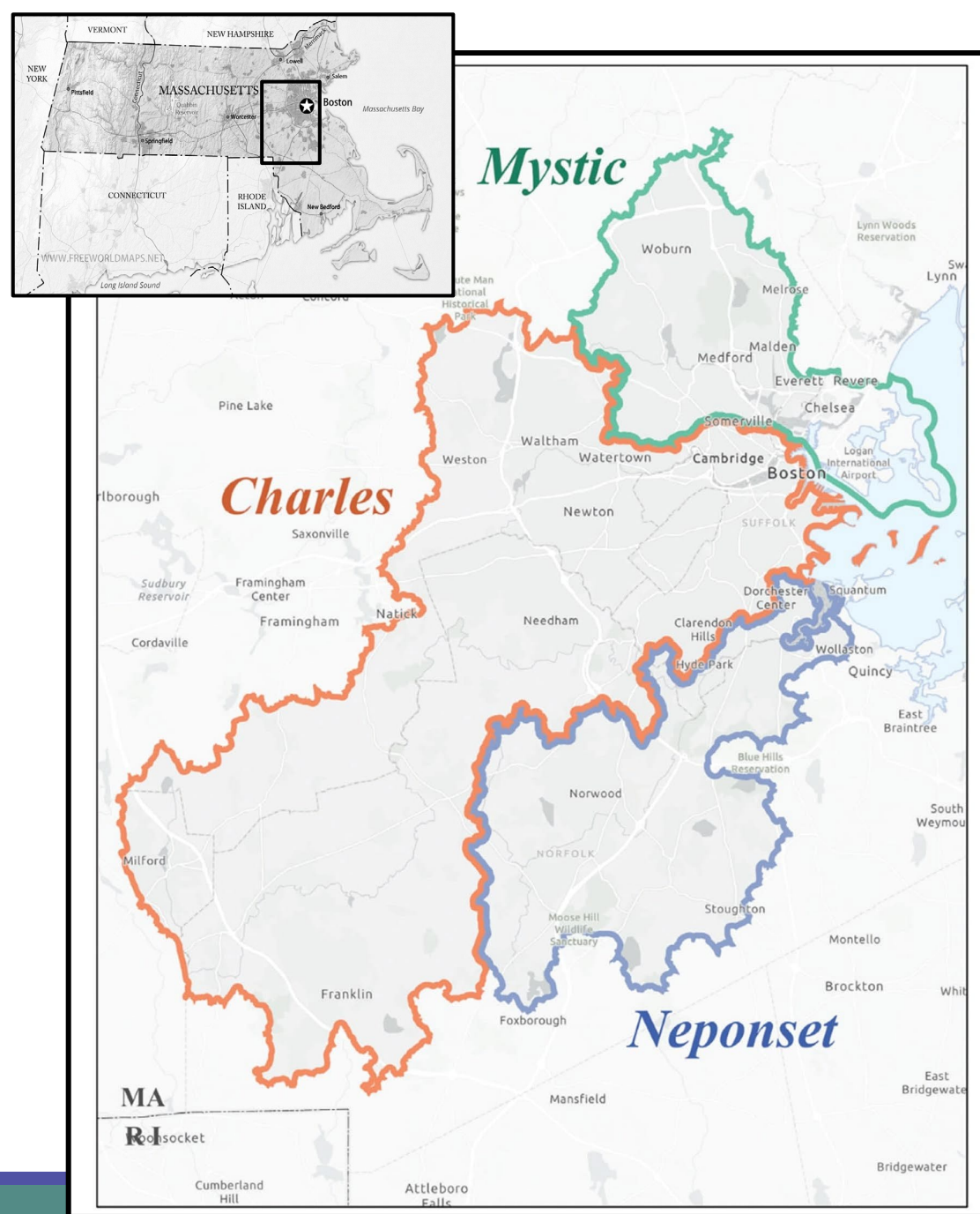
All three watersheds are cited to have “impairments” or are violating water quality, year after year.



Overview of Draft CII NPDES Permit

EPA is proposing

- a Draft RDA General Permit
- for Commercial, Institutional and Industrial sites
- with one acre or more of impervious cover
- to reduce phosphorus and other pollutants
- in stormwater that flows from their site
- into the Charles, Mystic and Neponset River Watersheds



What areas of a site contribute pollution?



Greatest stormwater load comes from impervious areas

- For example: driveways, roofs, parking areas, walkways, patios

Site specific pollutant load is calculated in average annual pounds per acre from all impervious areas using EPA Region 1 modeled pollutant loads.

Permittee is responsible for pollution reduction from their site.

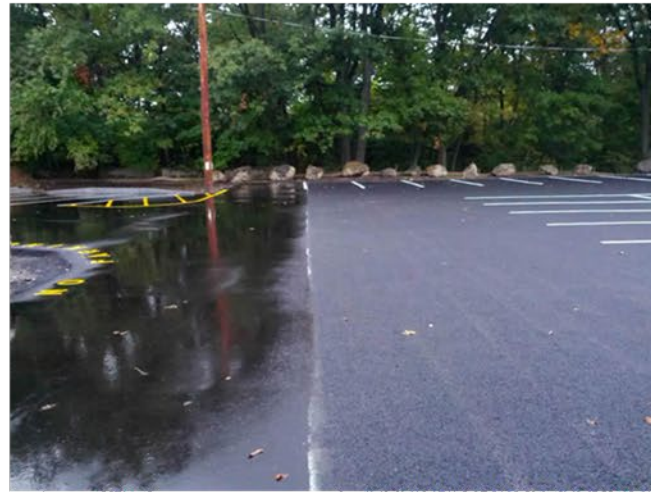
Charles River Watershed	Mystic River Watershed	Neponset River Watershed
65%	62%	60%





Street sweeping collects pollutants from road and parking lot surfaces.

City of Palo Alto, CA



Pervious pavement, right, allows water to seep into the ground.



Parking lot infiltration allows stormwater to infiltrate into the ground.

How may permittees address stormwater pollution on their sites?

Other options for stormwater management

STRUCTURAL CONTROLS

Infiltration Practices

- Infiltration trenches
- Infiltration basins/ Rain gardens
- Biofiltration/ Tree filters
- Gravel Wetlands
- Enhanced Biofiltration with internal storage
- Sand Filters
- Porous Pavements

Disconnection

- Impervious Cover Disconnection with and without storage

Storage/Detention

- Dry Ponds Water Quality Swale with Detention
- Enhanced Biofiltration with internal storage
- Wet Ponds

Stormwater Reuse

Manufactured Treatment Devices *

NON-STRUCTURAL CONTROLS

Street and parking lot sweeping

Catch basin cleaning

Leaf litter collection program



Permit Requirements: Water Quality Based and Technology Based Requirements

Mapping:

Site's Storm Sewer System Map

Crediting:

Existing stormwater management controls

Due Year 1

Planning:

- 1) Stormwater Pollution
- 2) Operations & Maintenance
- 3) Onsite Chemical Application

Due Year 2

Training:

Stormwater Topics applicable to the permittee and the site

Annually, begin Year 1

Pollution Reduction:

Meet 50% of the site-specific pollution load reduction

Year 1-7

Pollution Reduction:

Meet 100% of the site-specific pollution load reduction requirement

Year 1-11



Cost Considerations

The CII permit includes two types of requirements, one of which requires EPA to consider implementation cost.

WATER QUALITY REQUIREMENTS

Example: Rain Garden or Street Sweeping

- Cost is not a factor EPA can consider under the Clean Water Act in deriving water quality-based permit conditions.
- Similarly, cost is not a factor EPA considers under CWA Section 402(p) when EPA makes a determination under its Residual Designation Authority.

TECHNOLOGY REQUIREMENTS

Example: Training and Fertilizer Management

- The Clean Water Act includes costs and benefits as factors to consider when EPA derives technology-based permit requirements.
 - See Fact Sheet Section 2.2 for Legal Authority
 - See Fact Sheet Section 5.2 for Technology-Based Permit Requirements



Technical Assistance

How to determine impervious acreage on site

- [Appendix E](#) of the Draft Permit and Interactive Web Map:
<https://www.epa.gov/npdes-permits/residual-designation-charles-river-watershed-mystic-river-watershed-and-neponset#ParcelLevelInteractiveMap>

NOI submission

- EPA will provide technical assistance for NOI submission closer to Permit Effective date

EPA's website on this Residual Designation Action

- <https://www.epa.gov/npdes-permits/residual-designation-charles-river-watershed-mystic-river-watershed-and-neponset>

Residual Designation in the Charles River Watershed, Mystic River Watershed and Neponset River Watersheds

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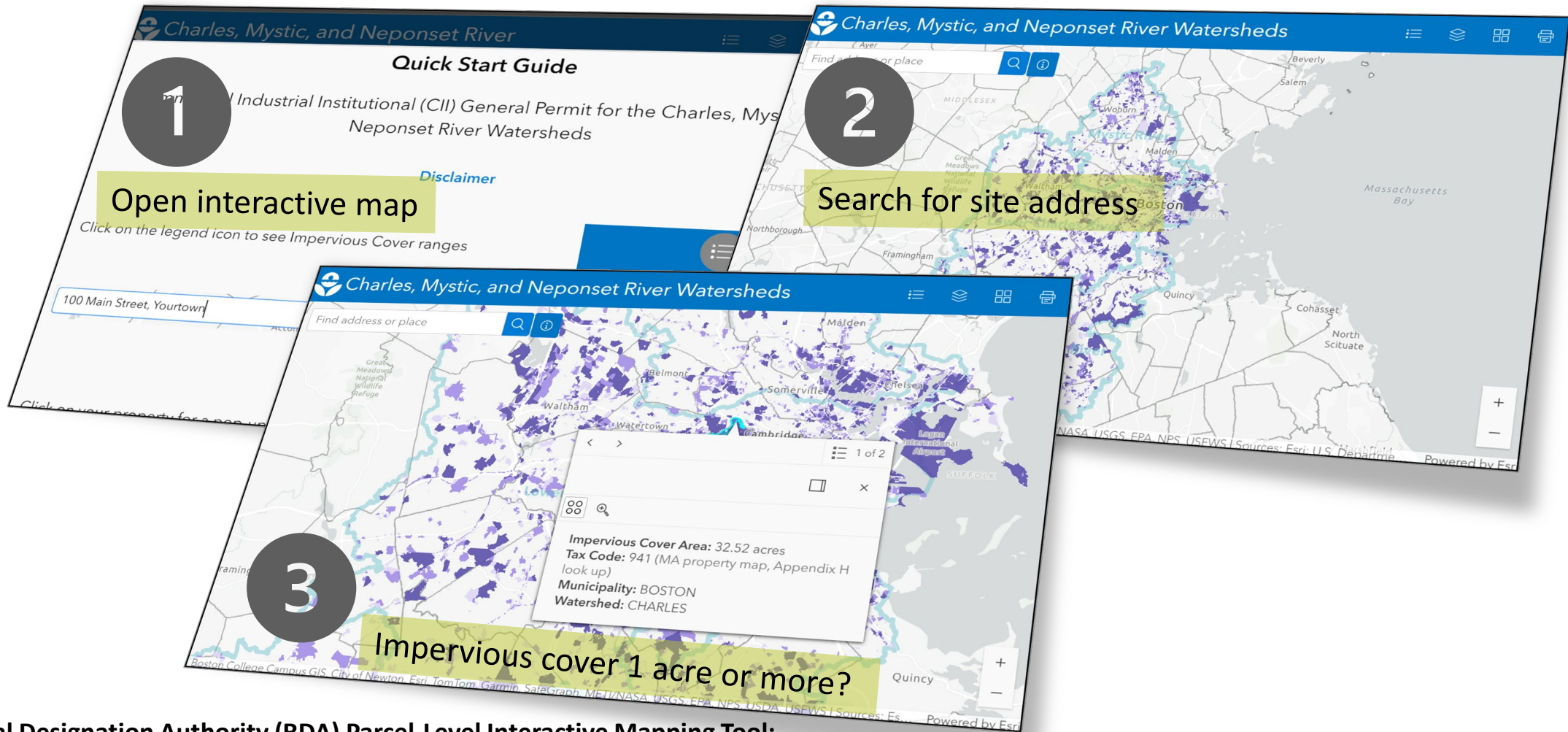
- [Petitions to Designate Certain Properties in the Charles River Watershed, Mystic River Watershed and Neponset River Watershed](#)
- [EPA's RDA Determination for the Charles River, Mystic River and Neponset River Watersheds](#)
- [Notice of Preliminary Designation of Certain Stormwater Discharges in the Commonwealth of Massachusetts and Notice of Availability of Draft Permit Under the National Pollutant Discharge Elimination System of the Clean Water Act](#)
- [Resources](#)
 - [What is RDA? Video Series](#)
 - [Parcel-Level Interactive Map](#)
 - [Information Fact Sheets and Translations](#)
 - [Municipal-Specific Fact Sheets](#)
 - [Parcel-Level Watershed Analyses Reports](#)
 - [Frequently Asked Questions](#)
 - [Stakeholder Outreach for the Charles River, Mystic River and Neponset River Watersheds](#)
 - [Record of General Monthly Updates during Permit Development](#)
- [More Information](#)

Preliminary Designation and Draft Permit

[Learn When and How to Comment on the Preliminary Designation and Draft Permit.](#)



How do I determine impervious cover on my site?



Residual Designation Authority (RDA) Parcel-Level Interactive Mapping Tool:

<https://www.epa.gov/npdes-permits/residual-designation-charles-river-watershed-mystic-river-watershed-and-neponset#ParcelLevelInteractiveMap>



Draft permit timeframes for action

Effective Date: The effective date is when the permit is effective and permittees can apply for coverage. Conditions begin to apply to permittees once they have sought coverage and been given authorization to discharge under the permit.

Notice of Intent: The Notice of Intent is a document that is similar to an application that all permittees must submit to EPA.

CII Site size	Notice of Intent due date
5 acres or more impervious cover	Within 6 months of permit effective date
2 acres or more impervious cover	Within 12 months of permit effective date
1 acre or more impervious cover	Within 24 months of permit effective date

Permittees will receive confirmation of permit coverage from EPA (“authorization”), initiating the compliance schedule for permit requirements.



Specific issues on which EPA seeks feedback.

Comments welcome on
all aspects of the permit.

1. *Multifamily housing/tax codes (Fact Sheet §1.5)*: EPA is seeking comment on whether to include Multi-Family Residential Properties in the final designation and in the final CII GP.
2. *Compliance schedule (Fact Sheet §5.1.1)*: EPA is seeking comment on whether the proposed compliance schedule is appropriate.
3. *Multiple non-contiguous properties (Fact Sheet §1.4)*: EPA is seeking comment on how the permitting process should work for owners with multiple non-contiguous properties that are subject to the CII GP.
4. *Owner-operator (Fact Sheet §1.4)*: EPA is seeking comment on whether EPA should regulate the operator with control over a site instead of the owner, including sites where multiple operators may be tenants of a site (*e.g.*, a shopping plaza with one owner and multiple tenants).
5. *Contiguous properties (Fact Sheet §1.4)*: EPA is seeking comment on its regulation of contiguous sites, which reflect EPA's interest in consolidating, to the greatest extent possible, responsibility for permit compliance.
6. *Historic Properties (Fact Sheet §9.3)*: EPA is seeking comment on the CII GP's potential impact on historic properties.



Draft permit and related information

To review all permit documents:

<https://www.epa.gov/npdes-permits/notice-preliminary-designation-certain-stormwater-discharges-commonwealth>

To review other related information related to the program:

<https://www.epa.gov/npdes-permits/residual-designation-charles-river-watershed-mystic-river-watershed-and-neponset>

To contact EPA about clarifying questions on the proposed permit:

R1.RDA@epa.gov





Questions

R1.RDA@epa.gov

