Bond Case Briefs

Municipal Finance Law Since 1971

EPA Region 1 Doubles Down on Unprecedented Effort to Require Stormwater Permits for an Expansive Range of Formerly Unregulated Properties: Beveridge & Diamond

Update: On January 31, under the new Trump administration, the U.S. Environmental Protection Agency (EPA) reopened the comment period for the 2024 Preliminary Designation and draft General Permit for CII properties. Written public comments, which were originally due January 29, 2025, are now due March 17, 2025, and may be submitted online.

Key Takeaways

- **What Is Happening?** On October 31, 2024, the U.S. Environmental Protection Agency (EPA) Region 1 provided notice of two proposed actions pursuant to its "residual designation authority" (RDA) under the Clean Water Act (CWA) that would broadly regulate stormwater discharges from thousands of previously unregulated properties across Massachusetts. First, EPA re-issued a Preliminary Designation, which was initially published in 2022, of stormwater discharges from certain private commercial, industrial, and institutional (CII) properties for regulation under the National Pollutant Discharge Elimination System (NPDES) permitting program. Second, EPA published a draft General Permit for these CII properties. As Beveridge & Diamond reported in 2022, and remains true today, this is the first time EPA (or any authorized state) has attempted to exercise RDA on such a broad geographic scale and for such a wide variety of sources. On January 31, 2025, EPA reopened the comment period. Written public comments, which were originally due January 29, 2025, are now due March 17, 2025, and may be submitted online.
- **Who Is Affected?** In the near term, the Preliminary Designation and draft General Permit will impact most CII properties with one acre or more of impervious surfaces—such as golf courses and private schools—located in Massachusetts' Charles, Neponset, and Mystic River watersheds. Dischargers will not need to apply for an individual permit under the NPDES Program. Once EPA issues a final General Permit, dischargers must secure coverage by submitting a Notice of Intent (NOI) and receiving authorization to discharge by a certain date. *See* Draft General Permit § 1.10 (NOI timeframes). If finalized and allowed to stand, these actions could, in the longer term, provide a roadmap for other EPA regions and states to use RDA to sweep into the NPDES program a wide variety of formerly unregulated sources on a broad, categorical scale.

Continue reading.

Beveridge & Diamond PC – Erika H. Spanton, Richard S. Davis, Andrew C. Silton, Julia F. Li and Abby E Barnicle

March 12 2025

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com