

THE NRG REPORT

Employee Highlights

The following Norfolk Ram Group, LLC (Norfolk) professionals have obtained their Title 5 Inspector certifications:

Katy M. Shwert
Martha K. Sullivan
David B. Tanguay

Norfolk's Associate, **Jonathan D. Kitchen** has earned his Licensed Site Professional (LSP) license.

Norfolk's Senior Associate **Michael F. Clark, P.E.** has earned his Certified Soil and Erosion Control Professional Certification. Mr. Clark will also be presenting at the 2005 NSRWA Low Impact Development Workshop on Friday, September 23rd at Kingston Town Hall. The title of Mr. Clark's presentation is "*The New Stormwater BMP: Cohasset Case Study.*"

Norfolk's Project Engineer **John B. McAllister** has earned his Massachusetts Title 5 Certified Soil Evaluator License.

Norfolk's Environmental Scientist **David B. Tanguay** has earned his Class 3 Industrial Wastewater Plant Operator's License.

Norfolk's Project Manager **Paul K. Mickiewicz** has earned his Certified Hazardous Materials Manager (CHMM).

Welcome Norfolk new employees

Kevin M. Lavigne - Geologist
Andy J. Eckhardt - Env. Scientist
Purvi P. Patel - Env. Engineer

PERTINENT CHANGES TO THE MASSACHUSETTS STATE WETLANDS PROTECTION ACT AND REGULATIONS

Changes to the Massachusetts State Wetlands Protection Act, which can be broken down into four general categories, became effective on March 1, 2005. Broadly stated, the four categories include: *the addition of the Simplified Review Process; new regulations describing how activities proposed within the buffer zone can affect wetland resource areas; updates to the Compliance and Enforcement section of the regulations; and other miscellaneous changes.* Each of these new regulations may be purchased from the State House Bookstore, or viewed online at the Department of Environmental Protection Agency's (DEP) website. More details on the above-mentioned changes are provided below.



Example of a raingarden designed by Norfolk

Simplified Review Process:

Added by the DEP as an optional process, and in an attempt to make available to applicants a self-certification process pertinent to work being proposed within the outer fifty feet of the buffer zone, this added benefit proves attractive to the applicant, in that it offers a more efficient procedure for working within the buffer zone, without first having to file a Notice of Intent (NOI), or having to pay the required fees (which have traditionally been associated with this kind of work). By limiting activity to the outer fifty feet of the buffer zone, the resource area and the initial fifty feet of the buffer zone are automatically protected. Combine this aspect, with the fact that the only issue, which may be appealed to the DEP under this new Simplified Review Process, is whether or not the wetland area has been correctly delineated, and Commissions throughout the State are finding this change extremely appealing.

Located at 310 CMR 10.05 (4) (b) 3, the Simplified Review Process does have a number of criteria, which must be met by the applicant, in order to qualify for the process:

- *The wetlands boundary must be confirmed through the Abbreviated Notice of Resource Delineation process (ANRAD).*
- *No activity is proposed within the first fifty feet of the buffer zone.*
- *The area does not border on an Outstanding Resource Water.*
- *The area is not within a rare or endangered habitat.*
- *The DEP Stormwater policy has been met.*
- *Erosion and sediment controls are adequately addressed.*
- *The area is not a coastal resource area.*
- *Impervious surfaces do not exceed 40%, within the outer fifty feet.*
- *Slopes do not exceed 15% within the buffer zone.*

The Commission must agree in full that all of the eligibility requirements have been met by the applicant. If this does not occur, then the applicant may be denied, and the Commission may recommend that the applicant submit either a NOI or a request for Determination of Applicability. Prior to applying under the Simplified Review Process, applicants should check with their local Conservation Commission, in order to confirm that the Town's by-law has also adopted this modification to the Act.

Buffer Zone Protection

The DEP has also added new language to the regulations, which currently describe how activities that are located within the buffer zones, can, and will affect, wetlands resource areas. Located in 310 CMR 10.53, these updated regulations were enacted, in order to provide guidance on how proposed activities located within the buffer zones should be regulated, as well as to identify what types of conditions may be appropriate in these areas. Overall, the hope is that this change will be a benchmark for establishing consistency in regulating buffer zone activity.



Compliance and Enforcement Changes



New and updated language to the Compliance and Enforcement regulations has been included in the Massachusetts Wetlands Protection Act and Regulations, and can be found in 310 CMR 10.08. These regulations have been strengthened, in that they now authorize both the Commissions and the DEP the right to access private property, within constitutional limits, for both the review of on-going permitted work, as well as for determining the presence of a

valid permit. Under this new language, the State makes clear that leaving fill in place in a wetland location is a continuing violation, and enforcement orders can be issued when false or misleading information has been provided to the Commission.

Miscellaneous Changes

The following is a list of other regulatory changes that were included within the updates to the Massachusetts Wetlands Protection Act and Regulations:

- *Anyone filing a NOI must have written permission from the landowner, providing that the applicant is not the landowner.*
- *Requiring abutter notification is now part of the regulations.*
- *Bordering Vegetated Wetlands performance standards have now been updated, in order to provide a sequence for avoiding, minimizing and mitigating the proposed activity.*
- *The DEP's Stormwater Policy is now required as part of obtaining an Order of Conditions.*
- *Using an ANRAD for the confirmation of a boundary line has now been clarified at 310 CMR 10.05 (4).*
- *The determination of where the mouth of a river begins has now been finalized, and is available on maps prepared by the DEP, and located on-line at www.mass.gov/dep/brp/ww/maps. You can also locate where Riverfront Areas begin in coastal settings on these maps.*
- *Appeal language has been made more stringent, requiring prior public participation for some appellants.*
- *Administrative changes to the rules for adjudicatory hearings were finalized in January of 2005, and more recently in the Wetlands Protection Act at 310 CMR 10.05 (7).*
- *A request for variance now requires the DEP to hold a public hearing, as well as to publish a notice in the Environmental Monitor.*

If you would like to know more about the changes to the Massachusetts Wetlands Protection Act and Regulations, please contact Norfolk Ram Group, LLC's Michael F. Clark, P.E. at (508) 747-7900, extension 193, or via email at mclark@norfolkram.com. Norfolk can also be accessed on the internet at www.norfolkram.com

Norfolk Ram Group is a full service environmental and civil engineering consulting firm specializing in environmental compliance, permitting, assessment, design/build remediation, and civil engineering.

The NRG Report is published by Norfolk Ram Group, LLC.
One Roberts Road
Plymouth, Massachusetts 02360

(508) 747-7900 phone
(508) 747-3658 fax

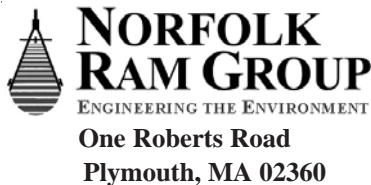
Visit our website at:

www.norfolkram.com

Editorial Review Board:
Mark Bartlett, P.E., President
Peter Garrett, Vice President
Joseph Salvetti, LSP, Sr. Associate

© 2005 Norfolk Ram Group

All rights reserved.



**Standard Pre-Sort
U.S. Postage Paid
Carver, MA**