



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
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Secretary

Martin Suuberg
Commissioner

June 7, 2021

Lynne Jennings, Water Permit Branch Chief
US EPA Region 1
5 Post Office Square, Suite 100 (OEP06-1)
Boston, MA 02109-3912

Re: Massachusetts Clean Water Act Section 401 Certification for the Small Wastewater Treatment Facility
General Permit

Dear Ms. Jennings:

Enclosed please find as Attachment 1 the Commonwealth of Massachusetts' Clean Water Act (CWA) section 401 certification (State Certification) for the proposed 2021 National Pollutant Discharge Elimination System (NPDES) permit for the Small Wastewater Treatment Facility General Permit (MAG580000). MassDEP proposed a draft State Certification for public notice and comment on April 14, 2021. A copy of the published newspaper notice is enclosed as Attachment 2. The public comment period posted for the draft State Certification closed on May 25, 2021. MassDEP did not receive any public comments during the public comment period. Enclosed please also find as Attachment 3 the Notice of Appeal Rights for the State Certification.

Please note that the following changes were made to State Certification between issuance of the draft and the final:

- The permit is hereinafter referred to as the *Small Wastewater Treatment Facility General Permit* (emphasis added) in order to be consistent with the name of the NPDES General Permit; and
- The testing frequency for per- and polyfluoroalkyl substances (PFAS) for influent, effluent and sludge has been modified consistent with discussions among EPA, the State of New Hampshire and MassDEP as a result of comments received on the draft NPDES permit as follows:
 - PFAS testing has been eliminated for very small marine permittees with design flow under 0.1 MGD. This affects two Massachusetts facilities: Shore Cliff Maintenance Trust and United States Coast Guard Light Station Boston;
 - PFAS testing frequency has been reduced from quarterly to twice yearly in the third and fourth calendar quarters for all other permittees; and
 - PFAS testing of sludge for lagoon facilities has been reduced to a one time characterization.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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Please contact Ms. Susannah King, MassDEP's NPDES Section Chief, at (617) 556-1147 or susannah.king@mass.gov if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Lealdon Langley". The signature is fluid and cursive, with a prominent loop at the end.

Lealdon Langley, Director
Division of Watershed Management
Department of Environmental Protection
Commonwealth of Massachusetts

ecc: Deborah Szaro, Acting Regional Administrator, Region 1
Claire Golden, MassDEP
Michael Cobb, EPA Region 1
Ellen Weitzler, EPA Region 1
Bob Boeri, Massachusetts CZM
Small WWTF GP Permittees

Enclosures:
Attachment 1 – State Certification
Attachment 2 – Public Notice
Attachment 3 – Notice of Appeal Rights

FINAL

Clean Water Act Section 401 Certification
For the Proposed 2021 Federal NPDES General Permit
For the Small Wastewater Treatment Facilities
MA Permit No. MAG580000

The Massachusetts Department of Environmental Protection (MassDEP), having examined and reviewed the United States Environmental Protection Agency (EPA) – Region 1’s draft 2021 Federal NPDES General Permit (MA Permit No. MAG580000) for Small Wastewater Treatment Facilities issued April 8, 2021, and considered the public comments received on MassDEP’s proposed Clean Water Section 401 Certification for the draft 2021 Federal NPDES General Permit for Wastewater Treatment Facilities, and in consideration of the relevant water quality considerations, hereby certifies:

1. that the following conditions, together with the terms and conditions contained in the proposed 2021 Federal NPDES General Permit for Small Wastewater Treatment Facilities, are necessary to assure compliance with the applicable provisions of the Federal Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law, including, without limitation, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53 and the Massachusetts Water Quality Standards published at 314 CMR 4.00:
 - a. Pursuant to 314 CMR 3.11 (2)(a)6., and in accordance with MassDEP’s obligation under 314 CMR 4.05(5)(e) to maintain surface waters free from pollutants in concentrations or combinations that are toxic to humans, aquatic life, or wildlife, beginning the first full third (July through September) or fourth (October through December) calendar quarter after the permittee has been notified by EPA of a multi-lab validated method for wastewater, or the first full third or fourth quarter two (2) years after the effective date of the 2021 Federal NPDES permit, whichever is earlier, the permittee shall conduct monitoring of the influent, effluent, and sludge for PFAS compounds as detailed in the tables below. If EPA’s multi-lab validated method is not available by twenty (20) months after the effective date of the 2021 Federal NPDES General Permit, the permittee shall contact MassDEP (massdep.npdes@mass.gov) for guidance on an appropriate analytical method. Influent, effluent, and sludge samples shall be sampled twice yearly in the third and fourth quarters, with the exception of facilities that dispose of sludge in onsite lagoons. Facilities that dispose of sludge in onsite lagoons shall conduct a one time characterization of the PFAS content in the sludge during the first full third quarter following notification from EPA that a multi-lab validated method is available. Notwithstanding any other provision of the 2021 Federal NPDES Permit to the contrary, monitoring results shall be reported to MassDEP electronically, at massdep.npdes@mass.gov, or as otherwise specified, within 30 days after they are received. If the permittee is any of the following facilities, which are located upstream of the drinking water intake of one or more communities, the permittee shall commence this monitoring beginning in the first full third or fourth quarter following 180 days after the effective date of the 2021 Federal NPDES General Permit and shall contact MassDEP (massdep.npdes@mass.gov) 90 days prior to starting monitoring for guidance on the appropriate analytical method: Battle Road Farm; Wayland WWMD; MCI Concord; and Middlesex School. The following small wastewater treatment facility permittees with design flow less than 0.1 MGD that discharge to marine waters are exempt from all PFAS monitoring

requirements: Shore Cliff Maintenance Trust and United States Coast Guard Light Station Boston.

Influent and Effluent

Parameter	Units	Measurement Frequency	Sample Type
Perfluorohexanesulfonic acid (PFHxS)	ng/L	Twice Annually ¹	24-hour Composite
Perfluoroheptanoic acid (PFHpA)	ng/L	Twice Annually	24-hour Composite
Perfluorononanoic acid (PFNA)	ng/L	Twice Annually	24-hour Composite
Perfluorooctanesulfonic acid (PFOS)	ng/L	Twice Annually	24-hour Composite
Perfluorooctanoic acid (PFOA)	ng/L	Twice Annually	24-hour Composite
Perfluorodecanoic acid (PFDA)	ng/L	Twice Annually	24-hour Composite

Sludge

Parameter	Units	Measurement Frequency	Sample Type
Perfluorohexanesulfonic acid (PFHxS)	ng/g	Twice Annually	Grab
Perfluoroheptanoic acid (PFHpA)	ng/g	Twice Annually	Grab
Perfluorononanoic acid (PFNA)	ng/g	Twice Annually	Grab
Perfluorooctanesulfonic acid (PFOS)	ng/g	Twice Annually	Grab
Perfluorooctanoic acid (PFOA)	ng/g	Twice Annually	Grab
Perfluorodecanoic acid (PFDA)	ng/g	Twice Annually	Grab

- b. The requirements of this paragraph apply solely to municipal and regional wastewater treatment facilities and not to privately owned sanitary wastewater treatment facilities. Pursuant to 314 CMR 3.11 (2)(a)6., and in accordance with MassDEP’s obligation under 314 CMR 4.05(5)(e) to maintain surface waters free from pollutants in concentrations or combinations that are toxic to humans, aquatic life, or wildlife, Beginning six (6) months after permittee has been notified by EPA of a multi-lab validated method for wastewater, or two (2) years after the effective date of the 2021 Federal NPDES General Permit, whichever is earlier, the permittee shall commence annual monitoring of all Significant Industrial Users^{2,3} discharging into the POTW. Monitoring shall be in accordance with the table below. If EPA’s multi-lab validated method is not available by twenty (20) months after the effective date of the 2021 Federal NPDES General Permit, the permittee shall contact MassDEP (massdep.npdes@mass.gov) for guidance on an appropriate analytical method. Notwithstanding any other provision of the 2021 Federal NPDES General Permit to the contrary, monitoring results shall be reported to MassDEP electronically at

¹ Twice annually is defined as once during the third calendar quarter (July through September) and once during the fourth calendar quarter (October through December).

² Significant Industrial User (SIU) is defined at 40 CFR part 403: All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subpart N; **and** any other industrial user that: discharges an average of 25,000 GPD or more of process wastewater to the POTW, contributes a process wastestream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW, or designated as such by the POTW on the basis that the industrial users has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standards or requirement.

³ This requirement applies to all Significant Industrial Users and not just those within the sectors identified by EPA in the NPDES permit.

massdep.npdes@mass.gov within 30 days after they are received. If the permittee is the following facility, the permittee shall commence this monitoring beginning one (1) year after the effective date of the 2021 Federal NPDES General Permit and shall contact MassDEP (massdep.npdes@mass.gov) 90 days prior to starting monitoring for guidance on the appropriate analytical method: Wayland WWMDC.

Parameter	Units	Measurement Frequency	Sample Type
Perfluorohexanesulfonic acid (PFHxS)	ng/L	Annual	24-hour Composite
Perfluoroheptanoic acid (PFHpA)	ng/L	Annual	24-hour Composite
Perfluorononanoic acid (PFNA)	ng/L	Annual	24-hour Composite
Perfluorooctanesulfonic acid (PFOS)	ng/L	Annual	24-hour Composite
Perfluorooctanoic acid (PFOA)	ng/L	Annual	24-hour Composite
Perfluorodecanoic acid (PFDA)	ng/L	Annual	24-hour Composite

2. that there is a reasonable assurance that the activity will be conducted in a manner which will not violate applicable state water quality standards.

To meet the requirements of Massachusetts laws, each of the conditions cited in the draft permit and this certification shall not be made less stringent unless new data or other information is presented and MassDEP determines modification of this certification is appropriate in consideration of the relevant water quality considerations.

If any condition in the draft 2021 Federal NPDES General Permit for Small Wastewater Treatment Facilities is changed during EPA's review in any manner inconsistent with this certification, the Department reserves the right to modify this certification in consideration of the relevant water quality considerations. In addition, the Department reserves the right to modify this certification if there is a change in Massachusetts law or regulation upon which this certification is based, or if a court of competent jurisdiction or MassDEP Office of Appeals and Dispute Resolution stays, vacates or remands this certification, as provided by 40 C.F.R. § 124.55.

Signed this 7th day of June, 2021



Lealdon Langley, Director
Massachusetts Department of Environmental Protection
Bureau of Water Resources
Division of Watershed Management

PUBLIC NOTICE

Notice is hereby given that the Massachusetts Department of Environmental Protection (MassDEP), under authority granted by the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 – 53, is proposing to: (1) issue a federal Clean Water Act (CWA) section 401 certification for the U.S. Environmental Protection Agency's (EPA) proposed 2021 Draft NPDES General Permit (Federal Permit) (MA Permit No. MA580000) to any facility authorized by EPA under the 2021 Draft NPDES Federal Permit for their facility's pollutant discharge(s) to the receiving water(s) as identified in its Permit Authorization; and (2) issue the 2021 Draft Massachusetts Permit to Discharge Pollutants to Surface Waters (State Permit) for the same discharge pursuant to the Massachusetts Clean Waters Act. The proposed section 401 certification, proposed State Permit, and proposed Federal Permit are all available at <https://www.mass.gov/service-details/massdep-public-hearings-comment-opportunities>. Alternatively a copy of the documents can be obtained by contacting Claire Golden, MassDEP Surface Water Discharge Program, at 978-694-3244 or claire.golden@mass.gov. Written comments on both the proposed section 401 certification and the proposed State Permit will be accepted until 5:00 p.m. on May 13, 2021. During the state of emergency, MassDEP strongly encourages written comments to be submitted by email to massdep.npdes@mass.gov; subject line: WWTF General Permit. If not possible, please send by mail to Claire Golden, MassDEP, Surface Water Permitting Program, 205 B Lowell Street, Wilmington, MA 01887.

Following the close of the comment period, MassDEP will issue a final CWA section 401 certification and final State Permit and forward copies to the applicant and each person who has submitted written comments or requested notice.

For special accommodations, please call the MassDEP Diversity Office at 617-292-5751. TTY# MassRelay Service 1-800-439-2370. This information is available in alternate format upon request.

By Order of the Department

Martin Suuberg, Commissioner

**NOTICE OF APPEAL RIGHTS for
STATE SURFACE WATER DISCHARGE PERMIT**

Within 30 days of the issuance of MassDEP's decision to grant or deny a Surface Water Discharge Permit pursuant to M.G.L. c. 21, § 43, and 314 CMR 3.00, any person aggrieved may request an adjudicatory hearing.

How should the request for an adjudicatory hearing be made?

A request for an adjudicatory hearing for the state Surface Water Discharge Permit must be made during the 30-day period following issuance of the state permit, in accordance with 314 CMR 2.08 and 310 CMR 1.01. 310 CMR 1.01(6)(b) establishes the required form and content of the request. Failure to meet the requirements of 310 CMR 1.01 may result in dismissal of the request or the requirement to file a more definite statement.

A person filing a request for an adjudicatory hearing must complete and mail a MassDEP Fee Transmittal Form and send it with a valid check to the Commonwealth Master Lockbox, as instructed below, if a fee is required by 310 CMR 4.06. The MassDEP Fee Transmittal Form can be downloaded from:

<http://www.mass.gov/eea/agencies/massdep/service/approvals/transmittal-form-for-payment.html>.

The written notice requesting an adjudicatory hearing shall be delivered to MassDEP's Case Administrator together with (i) a photocopy of the decision being appealed, (ii) a photocopy of the completed MassDEP Fee Transmittal Form, if required, and (iii) a photocopy of the check used to pay any adjudicatory hearing filing fee due for the appeal under 310 CMR 4.06. The notice of claim must be made in writing and sent by email to Caseadmin.OADR@state.ma.us.

Please do *not* send the original of the completed MassDEP Fee Transmittal Form and check to the Case Administrator. Instead, please follow the instructions below for delivery of the original of the completed Fee Transmittal Form and check to the Commonwealth Master Lockbox.

A \$100 adjudicatory hearing filing fee must be paid, unless (i) a simplified hearing is requested for a reduced fee of \$25, (ii) the person requesting an adjudicatory hearing is a town, a municipal agency, a county or a municipal housing authority, in which case there is no fee, or (iii) the person requesting the hearing is seeking to have MassDEP waive the adjudicatory hearing filing fee because paying the fee will create an undue financial hardship.

A person who believes that payment of the fee would be an undue financial hardship shall file with the request for adjudicatory hearing a request for waiver of the fee together with an affidavit setting forth the facts the appellant believes constitute the undue financial hardship. For more information on the adjudicatory hearing filing fee and the grounds on which the Department may waive the fee, please see 310 CMR 4.06.

If a fee is required, the completed MassDEP Fee Transmittal Form and a valid check made payable to the Commonwealth of Massachusetts for the amount of the fee due must be mailed to:

Mass. Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 4062
Boston, Massachusetts 02211

Failure to pay the adjudicatory hearing filing fee, if required, may be grounds for dismissal of the appeal.

In accordance with 314 CMR 2.08(5), any person, other than the permit applicant or permittee, who files a request for an adjudicatory hearing with the Department pursuant to 314 CMR 2.08(2) on an individual permit or general permit coverage, also shall simultaneously send a copy of the request by certified mail, return receipt requested, to the applicant or permittee. Any person who files a request for an adjudicatory hearing with the Department pursuant to 314 CMR 2.08(2) on a general permit also shall simultaneously send a copy of the request by certified mail, return receipt requested, to each permittee covered by the general permit.