



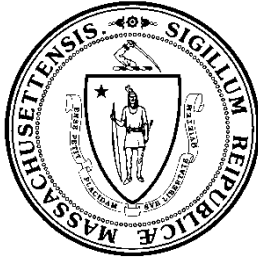
# Annual Report on Timely Action, Fees and Program Improvements

## Fiscal Year 2016



# **Annual Report on Timely Action, Fees and Program Improvements**

**Fiscal Year 2016**



## **Commonwealth of Massachusetts**

*Charles D. Baker*  
Governor

*Karyn E. Polito*  
Lieutenant Governor

## **Executive Office of Energy and Environmental Affairs**

*Matthew A. Beaton*  
Secretary

## **Department of Environmental Protection**

*Martin Suuberg*  
Commissioner

## **Introduction**

The Massachusetts Department of Environmental Protection (MassDEP), an agency within the Executive Office of Energy and Environmental Affairs (EEA), is responsible for the protection of human health, safety and the environment for the Commonwealth's citizens by ensuring that they have clean air and water; the safe management and disposal of solid and hazardous wastes; the cleanup of hazardous waste sites and spills; and, the preservation of wetlands and coastal resources.

MassDEP's permitting and annual compliance fee program was established in 1990 with the passage of M.G.L. c.21A Section 18 and 310 CMR 4.00, the Department's Timely Action Schedule and Fee Provisions. In return for the payment of fees to support its environmental programs, MassDEP sets specific schedules for permit review supported by a money back guarantee if MassDEP fails to perform. The purpose of this statute and these regulations is to provide for the orderly and efficient administration of the regulatory programs administered by the Department.

The Legislature directed MassDEP to report annually on its permitting and compliance performance and to provide a summary of the significant improvements the Department has made in these areas. This report is provided in response to that requirement.

*Please visit our website at [www.mass.gov/DEP](http://www.mass.gov/DEP) for more information about these accomplishments and MassDEP's environmental programs.*

## I. Budget Overview

MassDEP's overarching budget priority is to effectively implement its core mission to protect public health and the environment. Every fiscal year, the Department must determine the best allocation of available resources among its many programs in order to satisfy this core mission. At the same time, MassDEP operates in a fast-paced world dominated by rapidly, ever improving information and technologies. This environment demands constant innovation in program structures, processes and equipment as well as continuous education and training for our staff and the public. When implementing its annual budget, the Department strives to meet the goals of its core programs, as well as support innovative improvements to those programs, and their delivery to the citizens of Massachusetts. Environmental permitting is a critical activity of the agency, and the permitting fee revenue generated for the general fund is dependent on the staff time invested in permit review. The ultimate goal is always implementation of cutting edge programs and processes, coupled with efficient service delivery, to

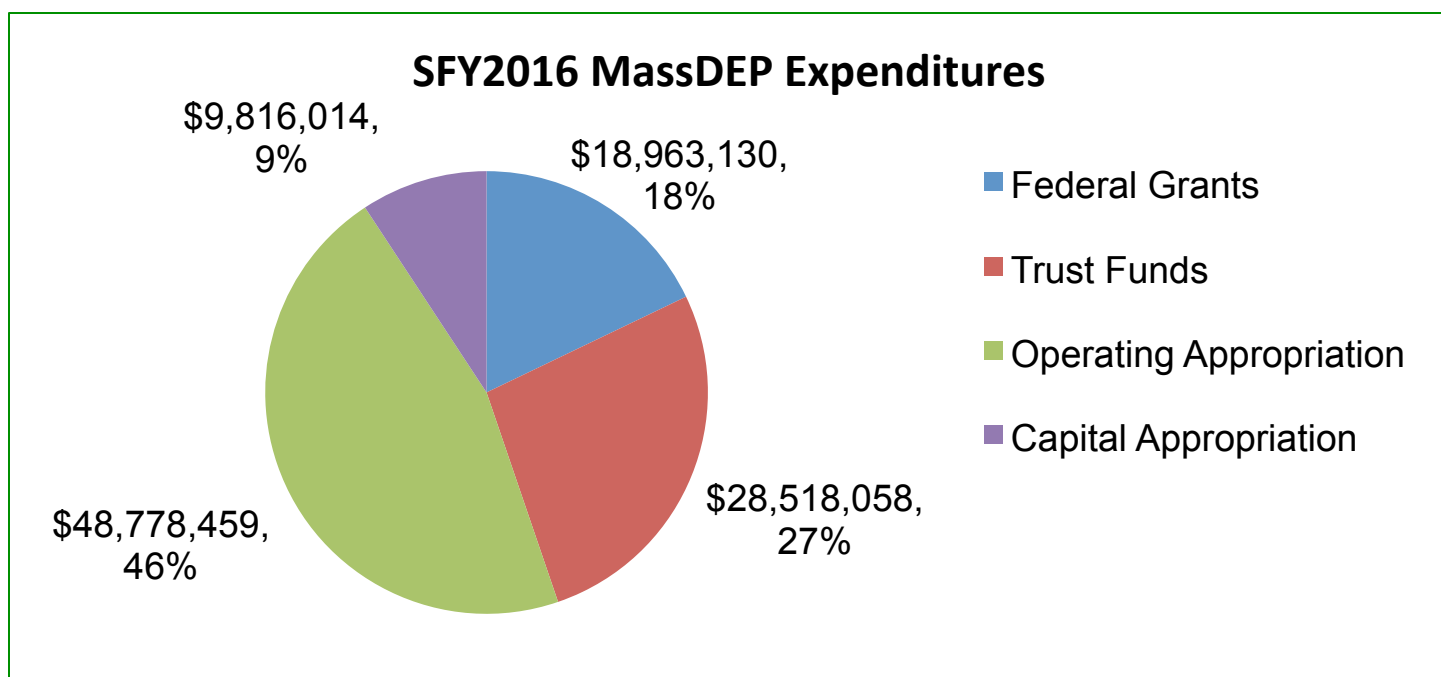
maximize environmental and public health benefits for the citizens of the Commonwealth.

MassDEP's SFY16 expenditures totaled \$106 million of which \$48.8 million came from the Department's annual budget appropriation. The agency also spent \$9.8 million from capital funds, \$28.5 million from trust funds, and \$18.9 million from federal grants. The total expenditures are illustrated in the chart below.

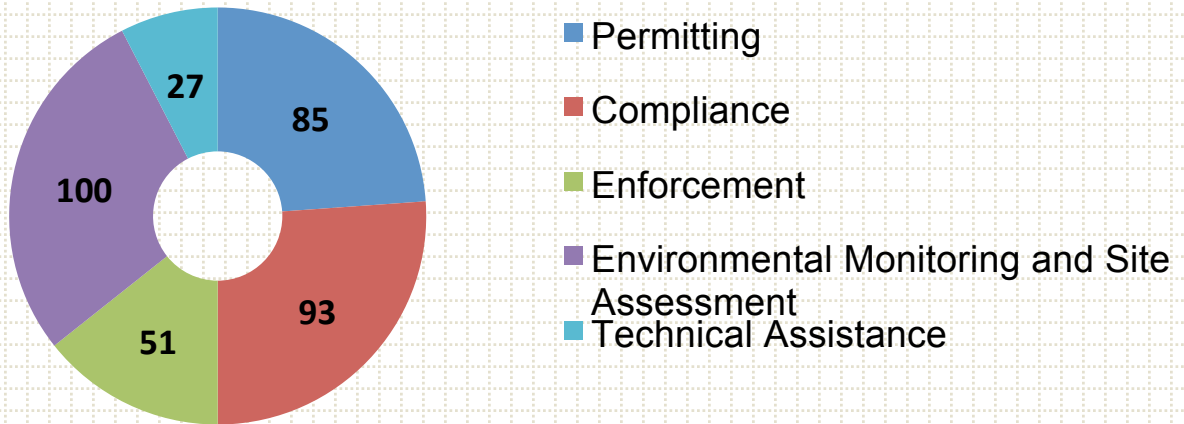
In SFY 2016 MassDEP generated a total of \$32.4M in revenue through the collection of permit fees and assessments. This revenue was directed to the Commonwealth's General Fund for legislative appropriation. Additional details on the MassDEP fee revenue can be found in section VI of this report.

## II. Permitting, Compliance and Enforcement Activities

In SFY16, staff recorded time spent on permitting activities was equivalent to 85 full time employees, and time spent on compliance activities was



## SFY16 Full Time Equivalent (FTE) Investments in Permitting, Compliance & Enforcement



equivalent to 93 full time employees. The approximate cost to the department of all recorded permitting and compliance activity was \$14.2 million. Additional time recorded for enforcement work was equivalent to another 51 full time employees, or an additional \$4.1 million. A total of \$18.3 million in staff time, equivalent to a total of 229 FTE's, was used in SFY16 for all permitting, compliance and enforcement activities. In addition, the agency provided 100s FTEs in staff time devoted to environmental monitoring and assessment, and another 27 FTEs providing technical assistance. These activities directly support and enhance the permitting, compliance and enforcement activities of the agency. The total time investment in all of these categories was equivalent to 356 FTEs, or 54% of all MassDEP staff time, at a cost of \$28.5 million.<sup>1</sup>

### Timely Action and Appeal Resolution

MassDEP has continued to meet the demand for review and resolution of administrative appeals of its permitting and enforcement decisions. The goal

of the Office of Appeals and Dispute Resolution ("OADR") is to fairly consider challenges to the agency's permitting and enforcement decisions and issue timely final decisions supported by the facts and the law. Since 2007, OADR has been responsible for resolving all appeals of wetlands permits.<sup>2</sup> As of September 30, 2016, OADR has resolved 77% of all wetlands appeals filed since October 31, 2007 within six months of their filing and 85% within seven months of their filing. Since 2009, OADR has been responsible for resolving non-wetlands permit appeals and enforcement appeals.<sup>3</sup> As of September 30, 2016, OADR has resolved 73% of these appeals filed since January 1, 2009 within nine months of their filing and 84% within 12 months of their filing.

In Fiscal Year 2016 a total of 64 appeals were filed, and 65 appeals were closed with final decisions. The appeals of wetlands decisions constituted 31 of the 64 cases filed, or 48% of the 2016 cases. All of these cases were resolved within

<sup>1</sup> Other coded time categories not reflected in this chart include program and policy development, grant and loan management, revenue administration, research and general administration.

<sup>2</sup> Prior to that year, the Division of Administrative Law Appeals handled some of the agency's wetlands appeals.

<sup>3</sup> Prior to that year, the Division of Administrative Law Appeals handled some of the agency's administrative appeals.

7 months of initiating the appeal and 78% of the wetlands cases were resolved in 6 months or less. Of the 33 non-wetlands cases filed in Fiscal Year 2016, including permit appeals from other programs and enforcement appeals, 64% (or 21 cases) were closed within 9 months of the filing of the appeal. 97% of the cases filed (or 32 of the 33 cases filed) were closed within one year. During SFY16, significant amounts of time were spent on a number of complex cases, including the Wynn Casino Chapter 91 permit appeal, the Brockton Power air permit appeal and the Berkshire Community College wetlands permit appeal.

### **III. Key Accomplishments in State Fiscal Year 2016**

**Lead and Copper in Drinking Water – Helping Schools.** In April 2016, Governor Baker and Treasurer Goldberg announced MassDEP’s groundbreaking “Assistance Program for Lead in School Drinking Water.” It is a \$2 million program to provide technical assistance to public school districts to sample their drinking water fountains and water taps. The program resulted in a response from 169 school districts, comprising 930 schools. Sampling is currently underway and results have shown how important this testing program really is. Dozens of school buildings tested thus far have had one or more exceedance of the lead action level and several school buildings have had one or more exceedance of the copper action level. School officials in those communities have taken immediate action to shutoff or remove problem fixtures and to provide timely and transparent information to their students, families, staff and community. This kind of action is making an immediate positive impact on public health in those school communities. MassDEP will continue to lead

the way in providing support for testing for lead and copper in drinking water at public schools with an additional \$750,000 of funding made available from the Clean Water Trust for testing in FY17. More details about this program are on our website at <http://www.mass.gov/eea/agencies/massdep/water/drinking/testing-assistance-for-lead-in-school-drinking-water.html>.

**Building a New Environmental Information Technology & Public Access System.** The Environmental Information and Public Access System (EIPAS), a secretariat-wide technology modernization project to upgrade the information management and technology capacity of the EOEEA agencies, has been in construction mode this fiscal year. With the assistance of a consultant hired to begin putting the new system in place, MassDEP has used background documentation and preparation to direct the consultants in building a system that will meet the business needs of the agency. EIPAS is a multi-year program consisting of discrete projects that will enable MassDEP to: reduce regulated entity burden; increase transparency to the regulated community and the public; and increase staff efficiency. The first components of EIPAS consist of online authorizations, such as permits, certifications, licenses and notification, and an updated technology architecture roadmap. The first MassDEP authorizations being implemented include: all air quality permits; permitting cross-connection surveyors; certifying TURA Planners; notifications of on-site recycling of hazardous waste; qualifying third-party inspectors; and notifications of sanitary sewer overflows. Citizen access to viewing and submitting public comments relating to certain permits, as well as citizen access to the status of online permits will also be implemented.

## **Regulatory Review: Revising to Create a Clearer**

**Code.** In March 2015, Governor Baker signed Executive Order #562, requiring all agencies to conduct a comprehensive review of their regulations. Since then, MassDEP has reviewed 111 sets of regulations and has been implementing a work plan to retain, amend or rescind each set. A total of 41 sets of regulations (or 37%) were ultimately recommended for some sort of change through amendment or rescission. Of those changes 22 have been finalized. Amendments to 19 sections or chapters are still in progress. 70 sets of regulations (63%) were approved to be retained. The completed changes adjusted the acceptable level of molybdenum for land application of biosolids to allow in-state use that is protective of human health, established design flow volumes of wastewater flow from elderly housing, updated the Environmental Results Program to acknowledge current business models for sectors like photoprocessors, and deleted regulations for operating obsolete grant programs.

## **Urban Compliance Initiatives: Making a**

**Difference.** All four MassDEP regional offices undertook or continued supporting “Urban Compliance Initiatives” in SFY 2016 to bring focused attention on improving the quality of life in an urban area of a city or town identified as an Environmental Justice area. Each of the selected areas – Worcester’s District 4, the City of Taunton, Ward 7 in the City of Chicopee and South Framingham – have unique challenges, and by directly engaging with local concerns MassDEP has been able to provide responsive support for issues of greatest concern. The effort has deepened the agency’s ongoing dialogue with municipal officials, community leaders, environmental advocates and citizens, reflecting direction and input from the local community. These efforts and their results

include: more than 200 targeted inspections; compliance outreach and assistance to sectors such as auto body repair businesses; preventive steps to stop illegal dumping; Brownfields site identification to support future re-development; inspections of abandoned properties to identify and minimize risks from on-site and underground storage of legacy chemicals, oil or hazardous materials; and partnerships with local colleges and universities to provide free compliance training and identify promising brownfields properties for redevelopment.

- MassDEP’s **Central** region canvassed District 4 in Worcester and identified manufacturing locations, autobody /auto repair shops, and brownfield properties of concern to the City which could be sites for potential redevelopment. Partnering with Clark University and the City of Worcester, MassDEP is providing compliance assistance, and informing business owners of free trainings offered by the Massachusetts Office of Technology Assistance.
- In the **Northeast** region, MassDEP continued to support the clean-up of several large waste sites including the remediation of Mary Dennison Park, and held a compliance assistance day where staff visited about 90 businesses to promote compliance with air and hazardous waste management requirements.
- The **Southeast** regional office brought together the City of Taunton, the Division of Capital Asset Management & Maintenance and the Department of Mental Health to address excessive flow entering the sewer collection system from Taunton State Hospital, resulting in an agreement to survey the system, and fund



rehabilitation work. The Regional Strike Force Unit also joined the City to combat illegal dumping by deploying hidden video surveillance cameras to catch illegal dumping violators, prosecute them, and publicize the effort to deter future violations.

- MassDEP's **Western** regional office cataloged and conducted site visits, photographed, reviewed MassDEP records and databases of 56 properties identified by MassDEP and the City of Chicopee as potential brownfield sites in order to prioritize them and target them for redevelopment, and worked to complete initial inspections of 27 unregistered facilities identified by the City as parcels of concern.



*100 Oak Street Site- Evidence of Trespassing  
Contaminated Soil with Imminent Hazard levels*



*Common Dumping Site, Taunton*



*Church Fuels Site- Drums, ASTs*

## Improving Engagement with Municipalities and Other Stakeholders

### New Offices Provide Direct Ombudsman Assistance and Governmental Affairs Support.

The Office of Permit and Regulatory Ombudsman & Special Projects has directly assisted Municipalities and other citizens. Since the beginning of 2016, the Office of the Ombudsman and Special Projects has served as a central point of contact for inquiries from industry and regulated community members. Issues that were raised and resolved through the work of this office are now summarized and posted on the new “Ask the Ombudsman” page of the agency’s website which can be found here:

<http://www.mass.gov/eea/agencies/massdep/service/approvals/permitting-assistance-and-management-office.html>. Contact the Ombudsman at (617) 292-5915 or [kathleen.kerigan@massmail.state.ma.us](mailto:kathleen.kerigan@massmail.state.ma.us).

**The Office of Municipal Partnerships and Government Affairs** continues to be the contact point for questions from legislators and municipal officials. The Office is available to participate and respond to legislative inquiries, coordinate technical support and contributions for seminars, and outreach meetings for environmental business, industry groups, and other Massachusetts stakeholders. Contact the Office Director, Anthony Veilleux, at (617) 292-5946 or [Anthony.Veilleux@state.ma.us](mailto:Anthony.Veilleux@state.ma.us).

### Funding for Municipal Environmental Work.

a. **\$240 million of support for Local Water Infrastructure.** The Massachusetts Clean Water Trust (jointly overseen and managed by The Executive Office for Administration and Finance, the Office of the State Treasurer and

MassDEP) provides low interest loans for water infrastructure projects to cities and towns. The loans are made through the State Revolving Loan Fund (SRF) for both drinking water and sewer or clean water projects. As our critical water systems age, the need for financing plant upgrades, storage, distribution and treatment improvements, sewer construction, combined sewer and stormwater overflow minimization and elimination is pressing. This year the SRF programs provided a total of \$240 million for municipal water infrastructure projects in Massachusetts. The new commitments made in SFY16 from the Clean Water Trust will advance 36 clean water projects, including projects for the Community Septic Management Program, totaling \$191 million. The Trust also provided new loan commitments for 14 drinking water projects totaling \$49 million.

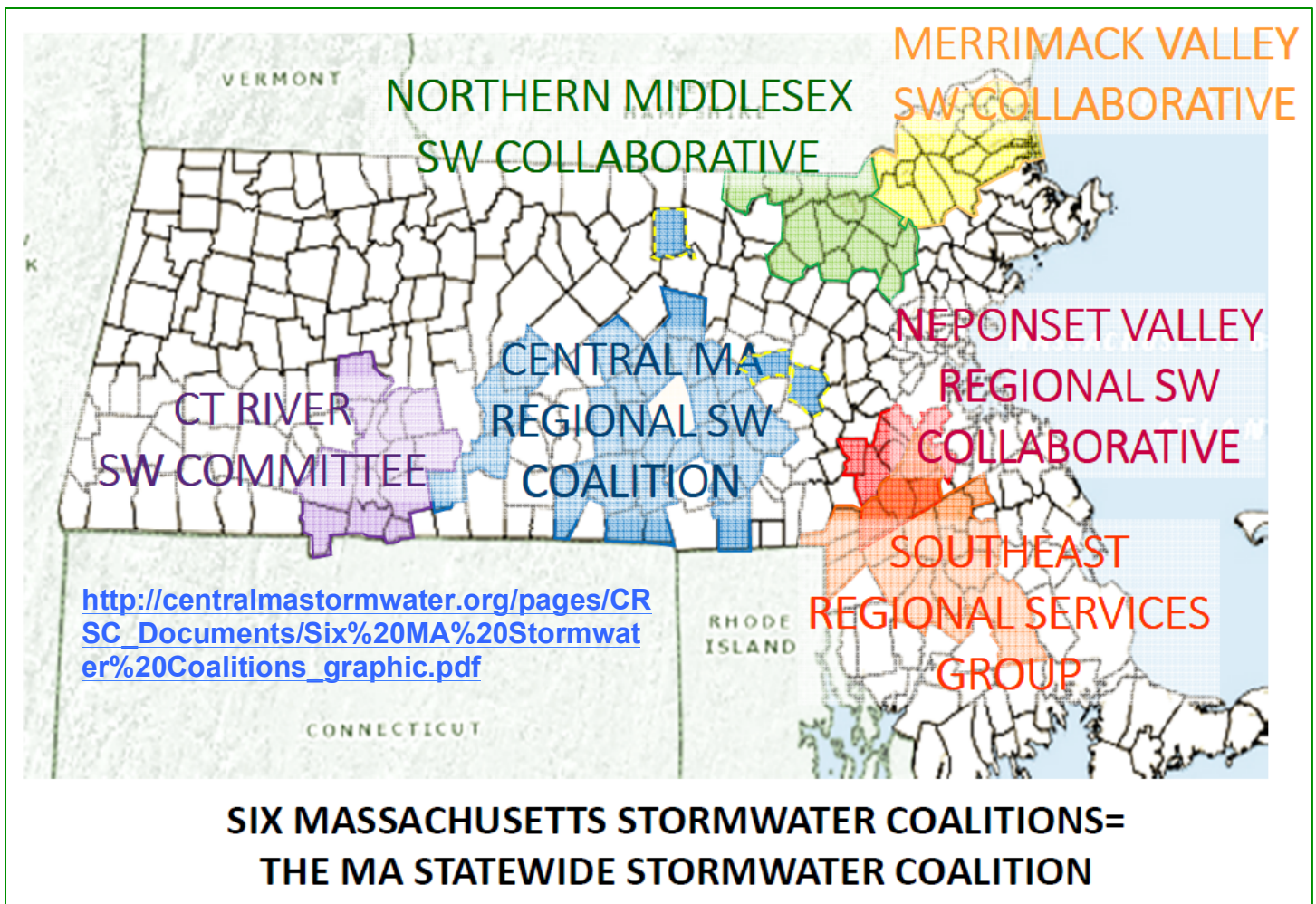
The annual reports can be found here:

[www.mass.gov/eea/agencies/massdep/water/grants/clean-water-state-revolving-fund.html](http://www.mass.gov/eea/agencies/massdep/water/grants/clean-water-state-revolving-fund.html)

[www.mass.gov/eea/agencies/massdep/water/grants/drinking-water-state-revolving-fund.html](http://www.mass.gov/eea/agencies/massdep/water/grants/drinking-water-state-revolving-fund.html)

b. **More than \$800,000 provided for Water Management Act Grant Program.** More than \$806,000 in grants were provided through the Water Management Act (WMA) Grant Program in SFY16, to maintain healthy rivers and streams and improve degraded water resources over time. The grants were awarded to 12 communities for water conservation, source and demand management, and water withdrawal, watershed planning and mitigation projects. The grant program is helping to guide water management in the commonwealth to achieve





the long-term water needs of communities and protect aquatic ecosystems.

c. **Helping Municipalities Meet the Challenge of Stormwater Management**

Stormwater runoff is the leading cause of water pollution in the United States. Stormwater runoff is created from rainstorms and snowmelt, where the water flows over impervious surfaces, often into Municipal Separate Storm Sewer Systems (MS4s), that collect and direct stormwater into nearby water bodies, often without treatment. EPA's municipal stormwater program is designed to improve water quality by reducing pollution carried by stormwater runoff, and includes a permit requirement for MS4s. An updated MS4 permit was issued by EPA and cosigned by MassDEP on April 4<sup>th</sup>, 2016 and will become effective on July 1, 2017. It

includes more detailed requirements for meeting 6 minimum control measures and will require Towns to spend significantly more to meet those requirements. The 2016 MS4 Permit also includes additional requirements to reduce pollution to surface waters that are considered impaired.

Cities and towns have recognized this challenge and started to work together to find ways to meet stormwater requirements more efficiently and with less money, beginning with the creation of the Central Massachusetts Regional Stormwater Coalition in 2012. Its mission: to help its 13 town members better manage stormwater. Since then that group has grown to 30 member communities. Other coalitions have since been established bringing together municipalities, environmental advocates and

regional planning agencies. MassDEP will continue to support implementation of the permit through its Stormwater Coordinator, and by developing and sharing best practices and outreach materials that many Towns can use. Working with the six Stormwater Coalitions and individual towns, MassDEP is providing statewide support that we believe will generate and spread stormwater management improvements to all the MS4 communities in Massachusetts.

- d. **Supporting Municipal Recycling - Over \$5 Million Provided.** MassDEP awarded 166 communities over \$1.6 million through the ***Recycling Dividends Program***. The Recycling Dividends Program provides payments to qualifying municipalities that have implemented specific programs and policies that maximize waste reduction, reuse and recycling. In addition, MassDEP awarded \$3.57 million in grants to 78 municipalities, 1 regional group and 1 non-profit under the ***Sustainable Materials Recovery Program (SMRP)***. These funds can be used for recycling and composting equipment; mattress recycling; Pay-As-You-Throw programs; waste reduction enforcement; school recycling; and organics capacity development projects.

- e. **Emergency Planning and Preparedness.**

**Biological and Radiological Events.**

MassDEP, working with our sister agencies, has been very active in emergency planning and preparedness activities. These include Massachusetts multi-agency coordination plans for ethanol large volume releases, crude oil high volume releases, High Pathogenic Avian Influenza, Ebola/other highly contagious

diseases, Preventative Radiological and Nuclear Detection, special events, and general major storm plans. MassDEP is committed to supporting and participating in all aspects of the emergency cycle of prevention, planning, preparedness, response and recovery.

**Providing Spill Response Equipment.** As part of our continuing commitment to partner with local municipalities, MassDEP has provided ten (10) fully equipped surface water spill emergency response trailers to inland communities (Marlborough, Milford, Fitchburg, Sturbridge, Lowell, Brockton, Easthampton, Orange, Springfield, and Westfield). This equipment is invaluable to local emergency responders who are generally first to arrive on the scene of a release of oil or hazardous materials to water bodies. These trailers provide critical equipment (containment and absorbent booms, safety equipment, anchors, buoys, etc.) to protect critical infrastructure, such as drinking water intakes, and environmentally sensitive areas. MassDEP has committed to provide training as well as restocking supplies and equipment deployed in a response. The inland deployment mirrors a very successful coastal program where MassDEP has been able to provide over 70 spill trailers, that have been used to respond to over 40 coastal incidents.

**Snow Management Planning.** MassDEP's Snow Disposal Guidance was issued to assist municipal management of collected snow. The Guidance offers information on evaluating and choosing locations for snow disposal. Finding a place to dispose of collected snow poses a challenge to municipalities and businesses as they clear roads, parking lots, bridges, and sidewalks. Public safety is of the utmost

importance. However, care must be taken to ensure that collected snow, which may be contaminated with oil, road salt, sand, litter, and other automotive pollutants, is disposed of in a manner that will minimize contamination, especially to sensitive resource areas. To avoid snow disposal at sites near sensitive wetlands resources or public water supplies, MassDEP encourages the use of its snow disposal mapping tool, which can be found here:

<https://maps.env.state.ma.us/dep/arcgis/js/templates/PSF/>.

## IV. Ongoing Programmatic Work

**Advancing Waste Management with Massachusetts Businesses.** MassDEP awarded \$1.4 million in grant funding to 10 Massachusetts companies focused on advancing the recycling of targeted waste streams. Awards ranged from \$100,000-\$200,000 and are supporting efforts by these companies to de-package food products, container glass processing, plastics recycling and mattress diversion.

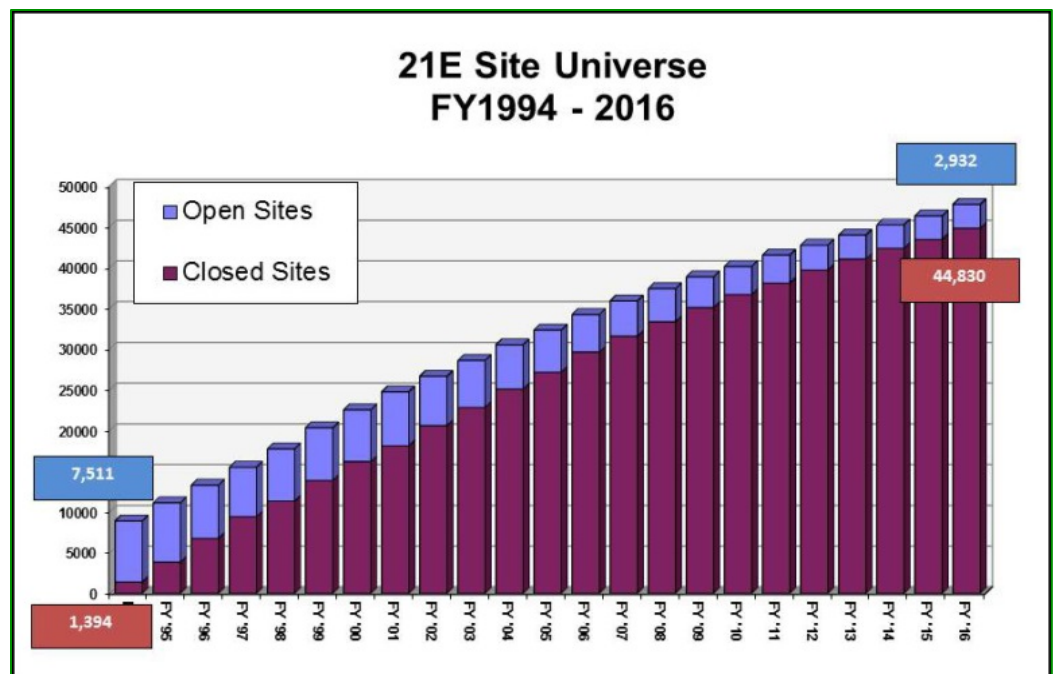
RecyclingWorks in Massachusetts is a MassDEP recycling assistance program designed to help businesses and institutions maximize recycling, reuse, and composting opportunities. In FY2016 RecyclingWorks:

- Directly accounted for > 10,000 additional tons of annual diversion from landfills
- Directly assisted > 1,300 businesses
- Hosted nearly 70,000 web site visits

- Answered > 1,000 hotline calls for first time
- Provided information and materials at 49 speaking engagements reaching > 2,000 attendees
- Provided direct Technical Assistance to > 200 businesses

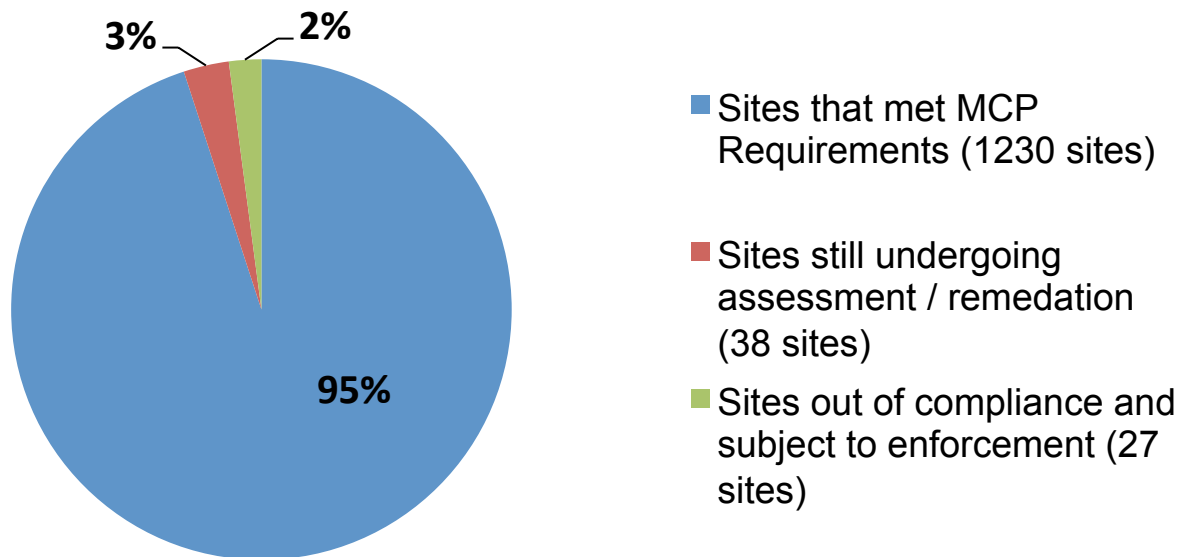
**Cleaning Up Oil and Hazardous Waste Spills and Releases.** MassDEP's Bureau of Waste Site Cleanup continues to oversee the timely cleanup of releases of oil and hazardous materials, including sudden releases, such as from overturned tanker trucks, and historic releases from past waste management practices.

- Initiated site assessment and cleanup activities for 1,261 newly reported releases
- Approved 326 Immediate Response Actions to address sudden releases and Imminent Hazards
- Accepted 1,162 site closures, including 930 Permanent Solutions allowing unrestricted future use of the property, 175 Permanent Solutions with Conditions, and 57 Temporary Solutions, bringing the total number of sites assessed and cleaned up to 44,830



## Current Status of 1,295 FY2010 Notifications

(Following the 6 year regulatory window for assessment/cleanup)

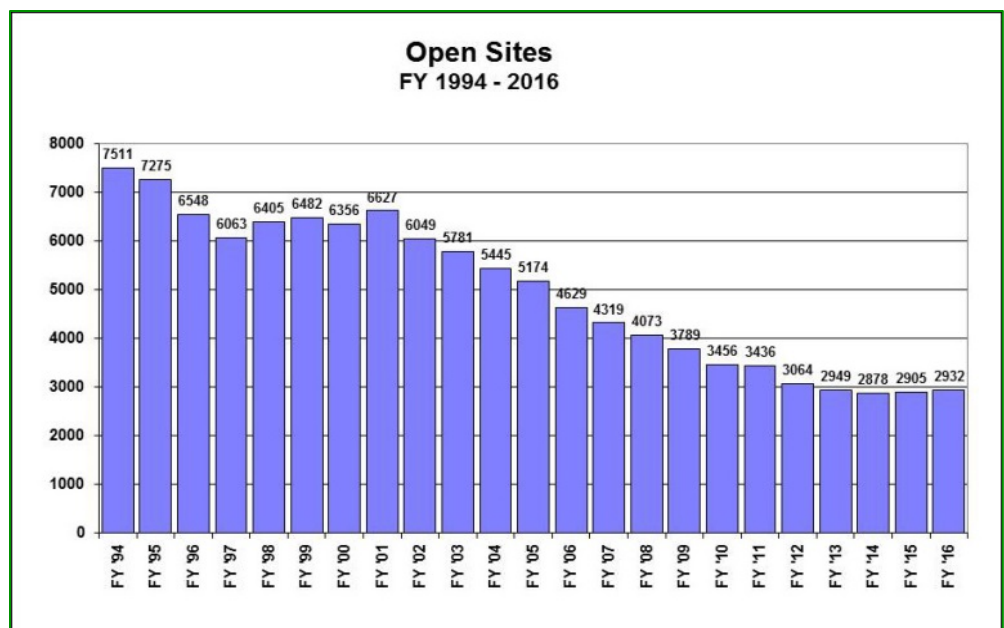


- Conducted 1,977 audits and 1,559 inspections to evaluate the quality and effectiveness of the cleanup conducted by Licensed Site Professionals (LSPs)
- Proposed one new site to the federal National Priorities List (“Superfund”)

timeframe. The remaining 2% of the notifications made in FY2010 have failed to comply with the cleanup requirements and are subject to MassDEP enforcement.

The total number of open sites has been steadily declining since the privatized program was established. This last year (FY2016) the total number of open sites grew slightly by 27 sites, while the number of closed sites increased to 44,830.

The Massachusetts site cleanup regulations allow up to 6 years to complete the site assessment, cleanup and closure process (although extensions may be appropriate for more complex sites). One measure of the success of the semi-privatized cleanup program is the percentage of sites that complete this process – and achieve a regulatory endpoint for cleanup - within the 6-year window. Looking back at the 1,295 release notifications received six years ago in FY2010, 95% of the sites achieved this regulatory requirement, with 3% of the sites continuing to conduct response actions on an extended





## **Supporting the Cape Cod Regional Water Quality (Section 208) Plan**

MassDEP continued to prioritize working with Cape Cod communities to address water quality issues on Cape Cod. In June 2015, Governor Baker certified and submitted to U.S. EPA the Cape “208” water quality plan, developed by the Cape Cod Commission (CCC), to address the longstanding problem of excessive amounts of nitrogen pollution, primarily from septic systems, discharged into the water bodies and estuaries on Cape Cod. The 208 Plan will facilitate development of the most effective and affordable solutions to the problem, tailored to local needs. One of the first tasks called for in the 208 Plan was for Cape communities to develop “watershed reports” for all the watersheds on the Cape. These reports will serve as a starting point for discussions regarding effective and cost-efficient solutions, particularly in watersheds shared by more than one town. In March 2016, Secretary Beaton awarded a \$950,000 grant to Barnstable County to provide the planning tools, technical assistance and monitoring needed to create effective plans. This work will continue into the next fiscal year. In September 2016, the CCC provided completed reports for all the watersheds on the Cape. MassDEP will continue to work with the Cape communities and CCC to develop and implement final plans to restore the Cape’s water quality.

## V. Looking Ahead: Agency Priorities for Fiscal Year 2017

### Greenhouse Gas Emission Reductions and Climate Action

#### A. Implementing Groundbreaking Climate Legislation

MassDEP, along with the Massachusetts Executive Office of Energy & Environmental Affairs (EEA) and the Department of Energy Resources (DOER), will continue to implement the Massachusetts Global Warming Solutions and the Green Communities Acts. Our activities include:

- Implementing a mandatory greenhouse gas (GHG) reporting program;
- Moving towards the 2020 GHG reduction target of 25% below 1990 emission levels; and
- Participating in the statewide stakeholder Advisory Committee and contributing to reach the 2020 reduction goal of 25%.

The GHG Reduction Dashboard summary is on the MassDEP website here:  
<http://www.mass.gov/eea/air-water-climate-change/climate-change/massachusetts-global-warming-solutions-act/>

#### B. Participating in the Regional Greenhouse Gas Initiative (RGGI)

Massachusetts is one of the nine New England and Mid-Atlantic States participating in RGGI, a market-based “Cap and Trade” program addressing carbon dioxide (CO<sub>2</sub>) emissions from power plants.

Under RGGI, CO<sub>2</sub> emission allowances are sold at auction. Regulated power plants must acquire one allowance for each ton of CO<sub>2</sub> they emit. Allowance auction proceeds are returned to the states, and Massachusetts receives about 16% of the regional total. The proceeds are invested in energy efficiency and other activities that reduce emissions of CO<sub>2</sub>. Since the start of the initiative, Massachusetts has received auction proceeds of \$427.3 million. In the year ahead the Program Review process will unfold to consider a new regional emission cap, and result in new implementation rules to be adopted by each member state.

For more information on RGGI visit:  
<http://rggi.org/>

#### C. Building an Integrated Climate Change Strategy

MassDEP will be implementing Governor Baker’s Executive Order #569: Establishing Integrated Climate Change Strategy for the Commonwealth in FY 2017. Our mandate, affirming the direction of the Supreme Judicial Court in *Kain v. MassDEP*, is to promulgate regulations with annual declining sector caps, or maximum Greenhouse Gas limits. Stakeholder meetings have begun, which will be soon followed by public hearings on proposed draft regulations. Sectors the agency will address in establishing annual declining sector caps include the transportation sector, natural gas pipeline leaks, and opportunities by state government through the leading by example program at state properties.

MassDEP will also participate in the

interagency work to create a state Climate Adaptation Plan and support vulnerability assessment at the state and local municipal levels. The Executive Order charged the Secretariats of Energy and Environmental Affairs and Public Safety with preparing a state Climate Adaptation Plan, and directs the development of templates to identify and implement adaptation measures and guide state agencies and municipalities to increase resiliency and adaptation work. The Order also calls for the identification of how natural resources can enhance adaptation build resilience and mitigate climate change, and creates the position of Climate Change Coordinator to lead the work to develop the Climate Adaptation Plan.

### **Pursuing Federal Delegation to Administer the National Pollutant Discharge Elimination System (“NPDES”) Program in Massachusetts.**

In FY16, Governor Baker and MassDEP initiated the important step of engaging the legislature in pursuing NPDES delegation, and continuing a conversation with the regulated sector on MassDEP’s assuming implementation of this program from EPA. The Department convened a NPDES advisory group in SFY16 to gather input from a variety of stakeholders with interest in wastewater and water quality issues. Staff identified potential needs for statutory and regulatory changes, staffing, funding, and other program needs. In late April 2016, the Governor filed a bill to enable the Commonwealth to apply for delegation from EPA, and in late June the legislature referred the bill to study. Throughout the year, staff provided updates to EPA Region 1 as part of regular bi-monthly meetings. MassDEP will continue to explore NPDES delegation during FY17. MassDEP has

long been a leader among the states in establishing environmental standards and implementing highly successful environmental protection programs. Adding the NPDES program to MassDEP responsibilities will allow the Commonwealth to have yet another highly successful environmental program. Administration of the NPDES Program by MassDEP would allow for a more open and transparent process and a more holistic approach to improving water quality, rely on sound science in the permitting process, and provide better permitting services for municipalities and industries across the Commonwealth. With the support of the Baker administration and close coordination with EPA, MassDEP hopes to continue this public discussion, and move toward successfully assuming responsibility for this program. With the support of another Governor’s legislative proposal in FY17, MassDEP is ready to continue the public discussion in 2017, and prepare internally to submit a request for authorization to EPA.

**Continuing to Transform Environmental Information Technology.** The transformation of the environmental information management at the agency through the Environmental Information and Public Access System (EIPAS) will grow next year, with additional permit applications and on line fee transactions becoming available on-line. Moving to a more transparent issuance process for permits, as well as providing more information to the public on facilities regulated by the agency, is a top priority. Effective use of this electronic system will make the application process easier, transform the review process internally, and allow for public involvement through electronic comment portals.

## VI. By the Numbers:

### MassDEP Permitting, Compliance and Enforcement in FY 2016\*

#### *PIMS Timely Action Permit Application Fees and Activity\*\**

|                                  | FY 2015        | FY 2016        |
|----------------------------------|----------------|----------------|
| Applications received            | 2,111          | 2,044          |
| Total revenue                    | \$1.35 million | \$1.30 million |
| Final determinations issued      | 2,174          | 1,866          |
| Refunds for missed timelines     | 3              | 2              |
| Dollar value of timeline refunds | \$910          | \$5,185        |

\* Permitting, compliance, and enforcement counts and dollar amounts for prior fiscal years may vary from figures previously reported due to post-report data reconciliation.

\*\* PIMS Timely Action Permit Application volumes are only for those permit categories tracked in MassDEP's Permit Information Management System (PIMS) and does not include certain categories such as Asbestos/demolition notifications which are tracked separately.

#### *PIMS Timely Action Permit Application Final Determinations\*\*\**

|                         | Applications Completed | Approved | Denied | Withdrawn |
|-------------------------|------------------------|----------|--------|-----------|
| Air Quality             | 127                    | 91       | 0      | 36        |
| Waste Site Cleanup      | 1                      | 1        | 0      | 0         |
| Hazardous Waste         | 158                    | 155      | 0      | 3         |
| Industrial Waste Water  | 0                      | 0        | 0      | 0         |
| Lab Certifications      | 21                     | 18       | 0      | 3         |
| Solid Waste             | 211                    | 205      | 0      | 6         |
| Watershed Management    | 383                    | 378      | 0      | 5         |
| Water Pollution Control | 160                    | 152      | 1      | 7         |
| Water Supply            | 523                    | 508      | 1      | 14        |
| Wetlands & Waterways    | 282                    | 268      | 0      | 14        |
| Total – All Programs    | 1,866                  | 1,776    | 2      | 88        |

\*\*\*Final determinations include only applications that were approved, denied or withdrawn during the fiscal year and may not reconcile with the total number of applications received because some reviews begin in one fiscal year and conclude in the next.

#### *Timely Action Fees Collected Under 310 CMR 4.00*

|  | FY 2015               | FY 2016               |
|--|-----------------------|-----------------------|
| Annual Compliance Fees                     | \$10.5 million        | \$ 10.5 million       |
| Chapter 21E Annual Compliance Fees         | \$3.8 million         | \$3.6 million         |
| All Permit Application Fees                | \$2.5 million         | \$ 2.7 million        |
| Wetlands Notices of Intent                 | \$1.4 million         | \$1.6 million         |
| <b>Total Timely Action Fees Collected:</b> | <b>\$18.2 million</b> | <b>\$18.4 million</b> |



## Special Projects Permitting and Oversight Fund

For certain permit applications that need specialized attention or action due to project size, complexity, or technical difficulty, or where proposed projects serve significant public interests and offer opportunities to restore, protect, conserve, or enhance natural resources, an alternative timeline and fee structure may be required. Pursuant to Section 40 of Chapter 149 of the Acts of 2004, revenue derived from these projects is deposited into the Special Projects Permitting and Oversight Fund. During Fiscal Year 2016, the following active projects met these criteria:

| Project Name  | Total FY16<br>Costs<br>Incurred | Total<br>Project<br>Costs<br>Incurred | Receipts to<br>Date 9-1-16 | Permit<br>Code | FY 16<br>Permit<br>Volume |
|---|---------------------------------|---------------------------------------|----------------------------|----------------|---------------------------|
| <b>TOTAL</b>  | <b>\$65,905</b>                 | <b>\$203,202</b>                      | <b>\$283,001</b>           |                | <b>2</b>                  |
| Bondi's Island Landfill in West<br>Springfield/Agawam | \$6,224.03                      | \$37,142                              | \$40,600.00                |                |                           |
| St. Gobain Facilities Upgrade                         | \$3,593.39                      | \$71,210                              | \$94,316.38                |                |                           |
| Gloucester Gas Light Remediation                      | \$1,876.12                      | \$15,695                              | \$13,818.99                |                |                           |
| Murphy's Waste Oil HW Lic                             | \$6,581.75                      | \$25,692                              | \$28,200.00                |                |                           |
| SafetyKleen Marlboro HW Lic Renewal                   | \$11,216.38                     | \$17,051                              | \$17,051.00                | HW09           | 1                         |
| Wynn Ma LLC Waterways                                 | \$17,466.70                     | \$17,467                              | \$17,466.70                | WW16           | 1                         |
| SafetyKleen West Brookfield HW Lic Renew              | \$9,122.07                      | \$9,122                               | \$23,500.00                |                |                           |
| Southbridge Recycling & Disposal Park Inc             | \$3,345.68                      | \$3,346                               | \$31,760.00                |                |                           |
| Safety Kleen Systems Inc Salisbury                    | \$2,494.25                      | \$2,494                               | \$13,288.00                |                |                           |
| WTE Recycling   | \$1,289.57                      | \$1,290                               | \$1,500.00                 |                |                           |
| Excel Recycling                                       | \$2,694.63                      | <b>\$2,695</b>                        | \$1,500.00                 |                |                           |

## Compliance and Enforcement Activity

|                             | FY 2015        | FY 2016       |
|-----------------------------|----------------|---------------|
| Compliance Inspections      | 5808           | 5801          |
| Lower Level Enforcement     | 2546           | 2481          |
| Higher Level Enforcement    | 603            | 555           |
| MassDEP Penalties Assessed  | \$2.8 million  | \$1.8 million |
| MassDEP Penalties Collected | \$1.93 million | \$1.1 million |