Annual Report on Timely Action, Fees and Program Improvements

State Fiscal Year 2023

February 2024

Commonwealth of Massachusetts

Maura Healey, Governor

Kim Driscoll, Lieutenant Governor

Executive Office of Energy and Environmental Affairs

Rebecca Tepper, Secretary

Department of Environmental Protection

Bonnie Heiple, Commissioner

The Massachusetts Department of Environmental Protection (MassDEP), an agency within the Executive Office of Energy and Environmental Affairs (EEA), is charged with protecting and enhancing the Commonwealth's natural resources - air, water, and land - to provide for the health, safety, and welfare of all people, and a clean and safe environment for future generations. In carrying out this mission, MassDEP commits to address and advance environmental justice and equity for all people of the Commonwealth; provide meaningful, inclusive opportunities for people to participate in agency decisions that affect their lives; and ensure a diverse workforce that reflects the communities we serve.

MassDEP's permitting and annual compliance fee program was established in 1990 with the passage of M.G.L. c.21A Section 18 (the Fees Statute) and the promulgation of 310 CMR 4.00, the Department's Timely Action Schedule and Fee Provisions (the Fees Regulations). 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 meet those schedules. The purpose of the Fees Statute and Regulations is to provide for the orderly and efficient administration of MassDEP's permitting and compliance programs.

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 for more information about these accomplishments and MassDEP's environmental programs.

I. INTRODUCTION

State Fiscal Year 2023 (SFY23) was a year of both transition and continuity. MassDEP's work addressing per-and polyfluoroalkyl substances (PFAS), addressing climate impacts, and promoting equity and environmental justice continued, while a new administration took office mid-way through the fiscal year. MassDEP continued to address staff retirements, managed increased federal funding, and successfully moved its Boston Headquarters and Northeast Regional offices. Highlights of the agency's accomplishments are described below.

MassDEP's timely action permit application fees totaled nearly $19.1 million for those permit categories tracked in MassDEP's Permit Information Management System (PIMS) and in MassDEP's Accela systems. MassDEP collected $10.8 million in Annual Compliance Fees, $4.1 million in Chapter 21E Annual Compliance Fees, $2.6 million in total Permit Application Fees, and $1.6 million in Wetlands Notices of Intent Fees, totaling more than $19 million overall.

Environmental enforcement activities included 4,955 Compliance Inspections, 2,085 Lower-Level Enforcement actions and 440 Higher Level Enforcement actions. Penalties assessed this year totaled $1.4 million. The agency collected $1.3 million in penalty payments.

More details of the fee revenues and compliance and enforcement activities are included in section III of this report.

II. HIGHLIGHTS OF MASSDEP ACCOMPLISHMENTS: SFY23

Leadership Transition, Office Moves, Hybrid Work

The agency said farewell to Commissioner Martin Suuberg in January 2023 and welcomed Commissioner Bonnie Heiple in March 2023. With the support of EEA and Secretary Rebecca Tepper, the transition to MassDEP's new leadership team was smooth. Physical changes were also a highlight of SFY23. In December 2022 the Boston Headquarters office completed its move to new office space at 100 Cambridge Street. The new space accommodates approximately half of MassDEP's Boston staff on any one day using a flexible reservation system for in-person working space. All agency staff continue to use hybrid working arrangements. Depending on the requirements of specific roles and duties, staff are working between one and five days a week in the office or performing field work. The Northeast Regional office also moved from Wilmington to 150 Presidential Way in Woburn in December 2022. Both moves were successful, and the associated records review, digitization and document archiving work prompted by the office moves will benefit the agency and the public transparency of its work going forward.

Equity and Environmental Justice

MassDEP continued to prioritize environmental justice (EJ) and equity and renewed its ongoing commitment to a diverse and inclusive staff and workplace culture within the agency. The MassDEP Office of Environmental Justice works to ensure that all agency staff provide meaningful opportunities to EJ populations for involvement with agency processes and decision-making. The EEA Office of Human Resources and Diversity, Equity and Inclusion supports the agency in hiring excellent staff that reflect the diversity of the people of the Commonwealth that we serve. Internally, hiring, recruitment, and promotional efforts intentionally guide decision-making towards meeting our diversity goals. Externally, the agency is committed to ensuring opportunities for engagement and an equitable distribution of environmental benefits and burdens.

Some of the accomplishments in SFY23 in this area are listed below:

MassDEP's Mission

MassDEP's mission is to protect and enhance the Commonwealth's natural resources - air, water, and land - to provide for the health, safety, and welfare of all people, and a clean and safe environment for future generations.

In carrying out this mission MassDEP commits to address and advance environmental justice and equity for all people of the Commonwealth; provide meaningful, inclusive opportunities for people to participate in agency decisions that affect their lives; and ensure a diverse workforce that reflects the communities we serve.

- Implemented Public Involvement and Community Engagement Guidance (revised December 2022) for conducting expanded outreach for activities and actions that affect EJ populations. That Guidance provides a roadmap for agency staff conducting public involvement activities, including information on accessing resources available for language translation and interpretation.
- Participated in trainings offered by the EJ Office in collaboration with MassDEP's GIS Director and support from the Office of General Counsel.
- Revised the MassDEP EJ Strategy that will be part of the Secretariat's EJ Strategy after a public comment period. The Strategy includes metrics for measuring progress and additional strategies for effective outreach and community engagement.
- Implemented the agency's enforcement guidance on calculating penalties when violations affect an EJ population. The guidance provides for upward penalty adjustments based on the public interest factor in calculating administrative penalty amounts when violations occurred within or otherwise affect an EJ population.
- Hired two staff for MassDEP's EJ Office: an outreach coordinator and language access coordinator. The Office maintains an internal EJ Resources intranet page for agency staff

with resources for identifying EJ populations, providing language access tools, and contacts for community engagement and public involvement resources. The Office also manages language access requests for translation and interpretation.

- Offered paid internship positions that enable a more economically diverse range of applicants to contribute to the work of the agency and gain experience working for an environmental regulatory agency.
- Attended job fairs and other recruitment events. The agency has also established a LinkedIn profile to stay in touch with interested potential employees.
- Senior managers continued to meet regularly to discuss EJ and equity and diversity issues. The internal Advisory Committee on Equity and Diversity (ACED) also met regularly. With 13 members from a variety of positions offices across the agency, ACED provides recommendations to the Commissioner and senior staff to improve our internal and external processes and structures and identify future areas where we should focus our attention.

Climate Initiatives

The Healey-Driscoll Administration has made addressing climate change an overarching priority. Addressing climate challenges in every part of government will require new approaches and increased coordination by MassDEP. Throughout the fiscal year EEA has advanced work to mitigate greenhouse gas emissions and develop local resiliency measures to adapt to more frequent severe weather events and prevent damage to the natural and built environment. MassDEP is committed to act in response to the urgency of this transformative environmental and public health challenge. Some of the agency's recent climate related work is described in this on-line Guide https://www.mass.gov/guides/massdeps-climate-work#:~:text=MassDEP%20is%20working%20to%20mitigate,goals%20for%20the%20entire%20state, and is also highlighted below.

The Clean Energy and Climate Plans

The Clean Energy and Climate Plan (CECP) for 2025 and 2030 was released on June 30, 2022, and the CECP for 2050 followed in December 2022. A key initiative in the CECP for 2025 and 2030 calls for MassDEP to implement a Clean Heat Standard (CHS) to reduce heating sector greenhouse gas emissions with a goal of implementing the program as early as 2024. MassDEP participated on EEA's Clean Heat Commission to inform the design of a CHS and other measures to reduce emissions from the heating sector. The Clean Heat Commission published its report in November 2022. The agency has convened a stakeholder process to solicit input on a program for the heating sector and anticipates proposing draft regulations in the near future including requirements for fuels reporting.

MassDEP worked to implement other actions required by the CECP for 2025 and 2030, including amending the Clean Energy Standard and expanding air quality monitoring in environmental justice areas. The agency added a monitoring station in Chinatown to the network of 24 monitoring stations in key locations across the Commonwealth. MassDEP has also made local "purple" air sensors available to municipalities through a grant program.

The CECP for 2025 and 2030 is available online at https://www.mass.gov/doc/clean-energy-and-climate-plan-for-2025-and-2030/download.

The CECP for 2050 is available online at https://www.mass.gov/doc/2050-clean-energy-and-climate-plan/download.

The Clean Heat Commission's Final Report is available online at https://www.mass.gov/doc/massachusetts-commission-on-clean-heat-final-report-november-30-2022/download.

Legislative Direction and Cumulative Impact Analysis for Air Permitting

On March 26, 2021, Governor Baker signed *An Act creating a next generation roadmap for Massachusetts climate policy* (Chapter 8 of the Acts of 2021) into law. The law established new goals for emissions reductions: reducing GHG emissions by 50% by 2030, 75% by 2040 and, ultimately, achieving net-zero status by 2050. In addition, the Act significantly increased protection for EJ populations across Massachusetts, authorized the Administration to implement a new, voluntary energy efficient building code for municipalities, and authorized the Commonwealth to procure an additional 2,400 Megawatts (MW) of clean, reliable offshore wind energy by 2027.

The Act directed MassDEP to evaluate and seek public comment on incorporating cumulative impact analyses—*i.e.*, studying the total effect of past, present, and future actions on the environment and human health—into permitting. It further directed MassDEP to propose regulations to include cumulative impact analyses for defined categories of air quality permits identified through the evaluation and public comment process. The agency conducted an extensive stakeholder process to guide this work and to inform draft regulations which were proposed at the end of 2022. The agency plans to promulgate final rules in the near future.

Additional Work to Reduce Greenhouse Gas Emissions and Increase Resiliency

- Support for Electric Vehicles. MassDEP administers a state grant program to increase deployment of electric vehicles called the Massachusetts Electric Vehicle Incentive Program (MassEVIP). This program has been funded through the Volkswagen emissions settlement and other sources. MassDEP allocated the maximum allowable amount (15%) of the Volkswagen funds to light-duty electric vehicle charging equipment.
- Motor Vehicle Emission Standards. As required by Massachusetts statute, MassDEP adopted California's latest car emission standards (known as Advanced Clean Cars II) – initially on

an emergency basis in December 2022 and then as a final regulation in March 2023. These standards will further reduce harmful air pollution and greenhouse gas emissions and are designed to promote a transition to 100% light-duty zero emission vehicles by 2035.

- GHG Emission Standards. MassDEP and its partners continued to implement the Global Warming Solutions Act, as amended in 2021. The air regulations that create annual declining caps for greenhouse gas emissions from specific sectors (known as "3(d) regulations" in reference to the section of the Global Warming Solutions Act which required their creation) will continue to be implemented to achieve emissions reductions, as will other regulations that address refrigerant leaks, vehicle emission standards, and the electricity sector. MassDEP also implements the Clean Energy Standard under section 3(c) of GWSA.
- Hazard Mitigation and Climate Adaptation Plan. MassDEP continued to support initiatives directed by EEA and Executive Office of Public Safety, including revision and update of the 2018 State Climate Hazard Mitigation and Climate Adaptation Plan (SHMCAP). Revision of the 2018 plan including updates of MassDEP Action Items was accomplished in SFY23.
- Municipal Vulnerability Program Grants. MassDEP supported the Municipal Vulnerability Program's (MVP) grant program administered by EEA and participated in the application review process for municipal climate resiliency projects.
- No Net Loss of Carbon. As a commitment under the *Massachusetts Clean Energy and Climate Plan for 2025 and 2030* (2022), EEA and MassDEP initiated the No Net Loss of Carbon in Wetlands Project to evaluate the carbon sequestration function of wetlands and develop strategies to achieve the goal of No Net Loss of Carbon in Wetlands in Massachusetts. The effort began in SFY23 and by spring 2024 MassDEP will recommend policy and regulatory strategies for improved protection of wetlands and mitigation for wetland carbon impacts, create wetland carbon mapping for Massachusetts, and develop a concept-level carbon accounting methodology and tool.
- Gap Energy Grants. MassDEP will continue to oversee its 2023 Gap Energy Grants to the wastewater and drinking water infrastructure sector, as well as nonprofit organizations and small businesses providing affordable multifamily housing and food distribution or production facilities. The grants help "fill the financial gap" to enable energy efficiency and clean energy generation projects to move forward into construction. $8.1 million was awarded to 62 facilities in 2023; oversight of those awards will continue through completion of all project construction in 2025.
- Guidance for Resilient Wetlands Restoration. In August 2022 MassDEP convened an Interagency Coastal Wetlands Climate Resilience Work Group. During SFY23, the Work Group evaluated salt marsh restoration approaches such as runnels, ditch remediation, and marsh islands to clarify permitting processes under the Wetlands Protection Act and related permit requirements (e.g., 401, Chapter 91). Towards this goal, the Work Group developed draft guidance and is working on potential regulatory revisions. The Work Group also evaluated Wetlands Restrictions, Shoreline Protection Projects, Sediment Augmentation methods (i.e., Thin-Layer-Placement and Passive Sediment Augmentation), and restoration of retired or abandoned cranberry bogs with the goal of clarifying existing permitting

requirements and looking ahead to potential regulatory revisions, guidance, or other useful tools to help streamline permitting process while maintaining needed protections.

- Statewide Hydraulic Model project. Many of the more than 25,000 roadway crossing structures (small bridges and culverts) that convey rivers and streams under roads in Massachusetts are undersized. This results in substantial impacts to fish and wildlife movement and habitat. Undersized structures also lack the capacity to withstand floods, especially given the increasing intensity and frequency of flooding. As an action item in the State Hazard Mitigation and Climate Adaptation Plan, MassDEP is developing a Statewide Hydraulic Model that will assist municipalities and other owners of crossing structures by facilitating permitting and design of stream crossings that are resilient for flood flows and that better meet wetlands stream crossing standards for aquatic organism passage. The first section of the Statewide Hydraulic Model for western regions is expected to be completed in SFY24.

Emerging Contaminants: PFAS

Per– and polyfluoroalkyl substances, or PFAS, are chemicals that have been used in a wide variety of consumer products over many years and, because of their chemical structure, do not readily break down in the environment. Increasing concerns about the effects of PFAS on public health and the environment continue to spur action at the federal and state levels and research aimed at better understanding the effects of these substances. Addressing PFAS in Massachusetts continues to be a major focus of MassDEP.

MassDEP monitored new research, actions by US EPA in implementing its PFAS Strategic Roadmap, as well as legislation and other developments in other states. Our understanding of PFAS' effects on human health and the environment continue to advance rapidly into areas beyond drinking water. MassDEP has worked to evaluate and take steps to develop multimedia responses for PFAS in wastewater, biosolids and landfill leachate. Sites identified as contaminated with PFAS under the Chapter 21E program are also being managed to remediate soil and groundwater contamination. MassDEP continues to follow the developing science, including investigation and monitoring techniques, and proposed standards at the federal level. MassDEP will continue to design programmatic strategies for Massachusetts to protect human health and the environment such as those identified below.

Drinking Water Protection and PFAS

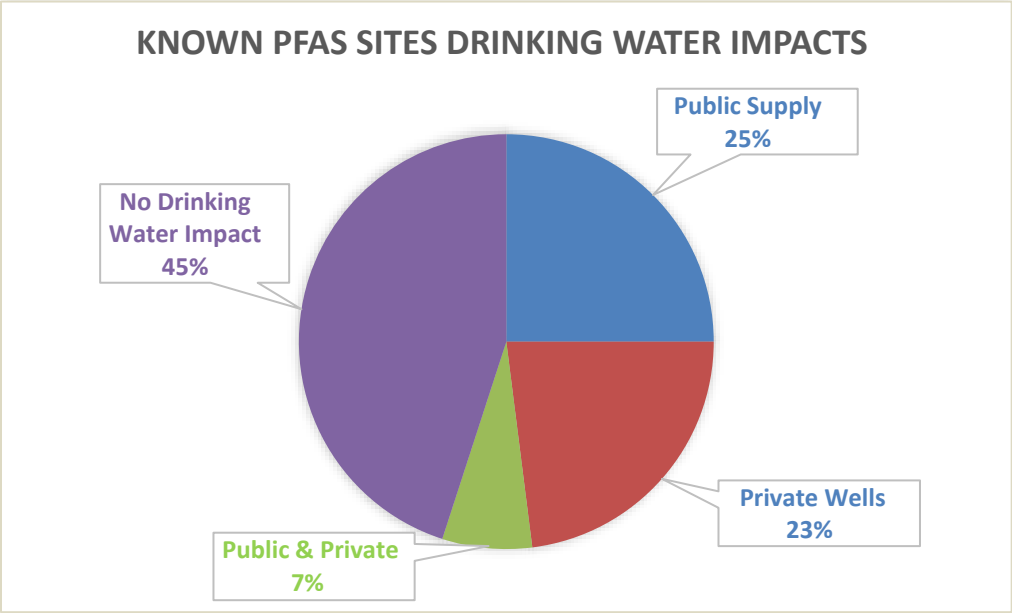
- The MassDEP Office of Research and Standards commenced its 3-year review of 2020 Massachusetts drinking water regulations related to PFAS to consider new scientific data and technological advances.
- MassDEP continued to implement the Massachusetts Maximum Contaminant Level (MCL) for six PFAS compounds at PWSs by reviewing sample results and providing guidance.
- MassDEP provided free lab analysis of drinking water samples to 1,171 Public Water Systems (PWSs) to test for PFAS in drinking water. The free sampling program ended June

30, 2022. All 1,466 PWSs that were required to sample by October 1, 2022 have now sampled.
    - PWS PFAS testing results are available to the public on the web in the EEA data portal.
-
    - MassDEP's Drinking Water Program worked with the 171 PWSs with PFAS testing results that exceeded the MCL. MassDEP staff issue enforcement documents, review long term corrective action plans and issue permits for construction of treatment plants, new water mains and removal of wells from service to address PFAS contamination.
    - Over the past four years, 43 new or modified treatment facilities have been constructed to remove PFAS from drinking water. More information about PFAS in Massachusetts drinking water can be found in the story map on the MassDEP webpage, available at https://www.mass.gov/info-details/per-and-polyfluoroalkyl-substances-pfas#pfas-detected-in-drinking-water-supplies-in-massachusetts
- The Drinking Water Program began working with PWSs to plan for the proposed U.S. EPA Federal drinking water standards for PFAS that are expected to be finalized at the end of 2023.
- In coordination with EEA IT, the agency developed online forms for submitting analytical results for PFAS in drinking water from certified laboratories, and developed information technology systems to enable rules-based analysis of the data, and data visualization through the EEA public data portal.
- MassDEP provided $8.5 million in grants to PWS for the design and planning of treatment systems to protect drinking water against PFAS; and in 2023, administered a grant program for the construction of treatment systems for small Public Water Suppliers.
- The agency submitted a workplan to the U.S. EPA for a $38 million grant through the Bipartisan Infrastructure Law to address emerging contaminants in drinking water. The workplan was approved and the grant was awarded August 30, 2023. EPA expects to distribute the funds at the end of the calendar year.
- MassDEP provided free PFAS testing of 1,688 private drinking water wells that are representative of conditions in municipalities that are not served by public systems. The free sampling program ended June 30, 2022.

PFAS Site Identification, Assessment and Remediation

- MassDEP's Bureau of Waste Site Cleanup focused on the identification, assessment, and remediation of sites with PFAS contamination under the Massachusetts Contingency Plan (MCP). Its work included identifying—through review of assessment results and expanded investigations—likely sources of PFAS impacting drinking water resources and directing responsible parties to undertake response actions to further assess and remediate these sites.

- The Bureau of Waste Site Cleanup's responsibilities included the review and approval of actions to address sudden releases of PFAS (e.g., following the use of AFFF for fire suppression) and assessment and remedial plans to address PFAS at state and federal sites. More than 140 PFAS sites have been identified by the program to date.



- In cases in which responsible parties had yet to be identified or were unwilling or unable to conduct necessary actions, the Bureau of Waste Site Cleanup engaged contractors to mitigate Imminent Hazard levels of PFAS in private wells by installing treatment systems and providing bottled water in the interim.

Support for PFAS Treatment through the State Revolving Loan Fund

- The MassDEP State Revolving Loan Fund Program (SRF) and the Clean Water Trust continued to assist Public Water Suppliers with PFAS contamination. The SRF offered zero percent interest loans for construction projects to address PFAS contamination, including the construction of treatment facilities and new water mains. More than $234 million in loans and loan commitments have been issued. More information is available at https://www.mass.gov/info-details/zero-interest-pfas-mitigation-loans.

PFAS in Wastewater and Biosolids

- MassDEP has required PFAS sampling and analysis of wastewater and biosolids through permit modifications. MassDEP developed Quality Assurance/Quality Control data validation methodology; Data reported in accordance with MassDEP surface water

discharge permits and residuals approvals are required to be uploaded to an online data portal that is available to the public at https://eeaonline.eea.state.ma.us/portal#!/search/npdes.

- MassDEP is continuing its source reduction efforts to reduce industrial PFAS sources through its partnership with the Office of Technical Assistance and Technology (OTA), a non-regulatory agency within EEA. OTA provides free, confidential, onsite technical assistance to Massachusetts manufacturers, businesses, and institutions.

Sampling Surface Waters for PFAS

- In collaboration with the United States Geological Survey (USGS), MassDEP initiated a second study of PFAS concentrations in rivers at nine locations. Sampling was conducted upstream and downstream of wastewater treatment plants, as well as samples of influent, effluent and biosolids at these facilities. MassDEP also initiated a third study collaborating with USGS of PFAS concentrations in sewer collection systems at 6 locations. This work will occur in SFY24 and SFY25.

Solid Waste – Sampling for PFAS at Landfills

- MassDEP's Bureau of Air and Waste continued to respond to issues related to PFAS contamination from landfills. As MassDEP identifies or becomes aware of drinking water contamination, the Bureau of Air and Waste works collaboratively with the Bureau of Water Resources to identify potential sources of contamination, including landfills that may be in proximity to a drinking water source. If a landfill is determined to be a possible source of PFAS, monitoring well testing is conducted. If the source of PFAS is confirmed, remediation activities are pursued. The Bureau of Air and Waste anticipates that additional landfills will be identified for investigation as potential contributors of PFAS contamination as more public and private residential well water testing is conducted.

Collection and Destruction of Firefighting Foam Containing PFAS

- Through its Take Back Program, MassDEP collected unused firefighting foam for safe disposal. In SFY2023, with the additional $250,000 in funding from the legislature, the program continued accepting legacy and modern foam containing low levels of PFAS compounds. Through June 30, 2023, over 330,000 pounds (over 39,500 gallons) of foam was collected from 148 fire departments and facilities across the Commonwealth. MassDEP intends to continue the pollution prevention Take Back Program in SFY2024.

Laboratory PFAS Support, Research, and Risk Communication

- MassDEP's Laboratory Certification Program continued to offer certification of laboratories to test drinking water for PFAS and to support public water suppliers.
- MassDEP's Wall Experiment Station, Division of Environmental Laboratory Sciences (WES-DELS) and the Office of Research and Standards (ORS) worked to expand analytical capacity for PFAS in multiple media through analytical equipment upgrades, increasing staff capabilities and operationalizing additional PFAS methods.

- MassDEP WES-DELS and ORS reviewed PFAS analytical methods and their associated QA/QC elements and consulted with private and public laboratories on analyzing samples within complex matrices including biosolids and other residuals and wastewater in support of Departmental efforts to gather improved data on PFAS levels in these materials.
- ORS, the Drinking Water Program and MassDEP's Regional Offices have provided extensive risk communication assistance to municipalities, Boards of Health, public water systems and the public regarding PFAS detections and exceedances of the Massachusetts drinking water standards. Assistance has included web-based information, assessment and communication of risks posed by PFAS detections in private water supplies and smaller public supplies, participation in public meetings and hearings and assistance in preparing public notices.

More information on MassDEP's PFAS work can be found here: https://www.mass.gov/info-details/per-and-polyfluoroalkyl-substances-pfas.

Advancing Recommendations of the Interagency PFAS Task Force

A legislatively established Interagency PFAS Task Force released its Final Report in April 2022 after nine public hearings and testimony from a variety of stakeholders and experts. The Final Report included several recommendations related to MassDEP programs, including increased funding for PFAS detection and remediation, funding for treatment of PFAS in drinking water, expanding the scope of regulatory control to additional substances, and encouraging private well testing and remediation. Since the Report's release a variety of bills have been filed related to PFAS, and MassDEP continued to monitor legislative developments that would implement the recommendations from the Task Force. The report and more information on the Task Force can be found here: https://www.malegislature.gov/Commissions/Detail/556/Documents.

Recycling and Solid Waste

In SFY23, MassDEP continued to implement the 2030 Solid Waste Master Plan – Working Together Toward Zero Waste. The 2030 Solid Waste Master Plan and regulations set new, aggressive state-level waste reduction goals that align with our carbon emission reduction programs, invest in innovation, and enhance ongoing engagement with communities across the Commonwealth. Key disposal and recycling goals include:

- Reduce disposal statewide by 30 percent by 2030 (from 5.7 million tons in 2018 to 4 million tons), and
- Achieve a 90 percent reduction in disposal by 2050 (from 5.7 million tons to 570,000 tons).

The Plan, accompanied by regulatory changes, also expands landfill disposal waste bans for certain materials, setting a lower threshold for landfill disposal of organic materials and establishing new bans on disposal of mattresses and textiles. The Plan also includes initiatives to strengthen engagement with and support of environmental justice communities, including:

- increasing engagement with environmental justice populations in all phases of MassDEP's regulatory process;
- improving recycling grant evaluation criteria to recognize environmental justice community issues;
- promoting small-scale composting assistance to enable composting at community gardens in environmental justice areas;
- and promoting and encouraging the use of electric and hybrid trash and recycling collection vehicles in environmental justice communities.

The 2030 Solid Waste Master Plan announced increased recycling business development grants and a new recycling research and development grant program to drive innovation in recycling and waste reduction. This program will be developed in consultation with a new Recycling Market Development Council that will promote the use of recycled materials by state agencies. The Plan addresses materials banned from disposal and strategies to improve compliance with those requirements.

Finally, the Plan addresses increasingly constrained disposal capacity in the state and region, as well as tight capacity at materials recovery facilities, and supports waste reduction strategies including anaerobic digestion and composting. MassDEP will continue to focus on helping municipalities confront a recycling market that has changed significantly in recent years, through a variety of technical and financial assistance programs. Supporting these programs, as well as expanding recycling capacity and reducing contamination of materials to be recycled is intended to drive innovation in these areas to move the Commonwealth toward a zero-waste future. The Department is engaged in ongoing conversations with recycling processors, haulers, and municipalities regarding the challenges faced in collecting, processing, and marketing recyclable materials, and to provide direct support. MassDEP awarded $4.5 million in grants, technical assistance and education services to municipalities to advance recycling and $2 million in technical assistance and grants to advance business recycling and support/expand the recycling industry in Massachusetts.

Additional information on the Plan is on the MassDEP website here:
https://www.mass.gov/guides/solid-waste-master-plan

Addressing Nitrogen Pollution and Improving Water Quality

MassDEP worked throughout the fiscal year to promulgate revisions to the "Title 5" Regulations at 310 CMR 15.000 to designate Natural Resource Areas (coastal embayments) that are impaired by nitrogen pollution as Nitrogen Sensitive Areas (NSAs). MassDEP also proposed a complementary set of new regulations establishing a Watershed Permitting Program at 314 CMR 21.00. The revisions in both programs, effective in July of 2023, represent an innovative step forward to control nitrogen pollution and improve water quality. Municipalities and other governmental

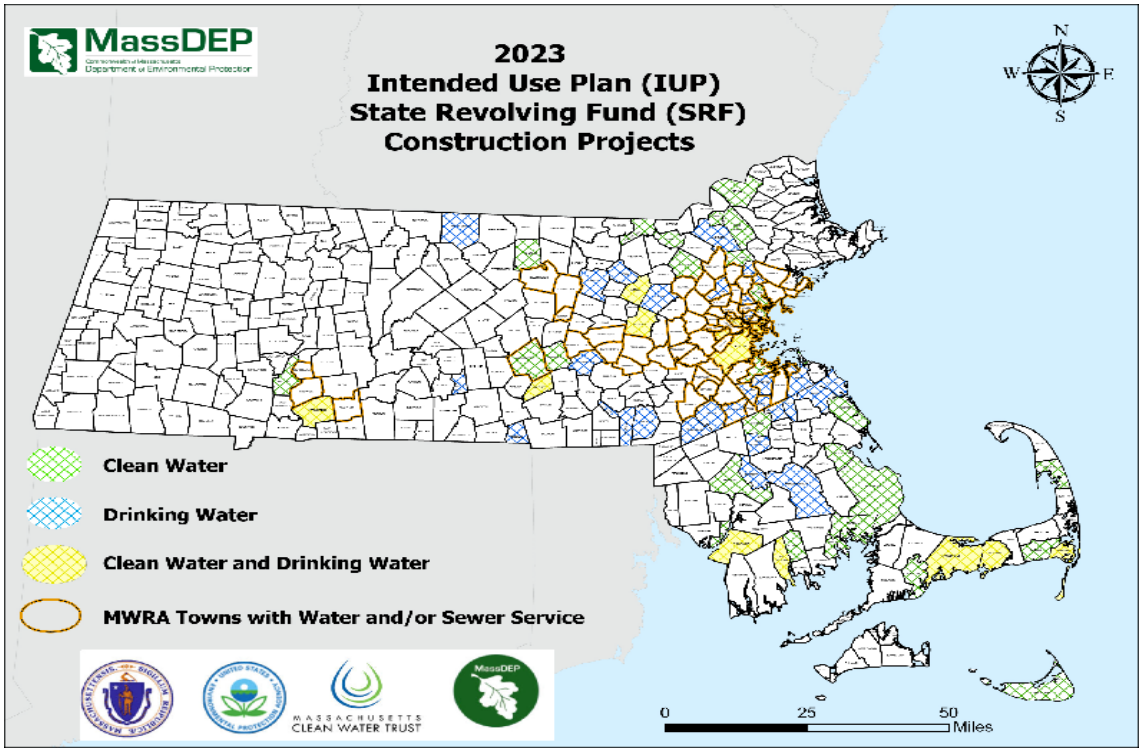
entities in newly designated NSAs can apply for watershed permits to reduce nitrogen pollution in their watersheds using conventional and non-conventional technologies. If government entities do not seek and obtain watershed permits under the new watershed permitting program regulations, Title 5 septic system owners in the associated watersheds will be required to upgrade their systems using best available nitrogen reducing technologies under the proposed Title 5 revisions. The regulations respond to longstanding issues of water quality impairments.

Initiating planning and identifying funding for locating and designating nitrogen sensitive areas in the south coast areas (south shore) is a priority moving forward.

Bipartisan Infrastructure Law Investment in Massachusetts

Approximately $935 million dollars will be available to invest in our communities from the federal government through the Bipartisan Infrastructure Law (BIL) over a period of five years starting in 2022 and continuing through 2026.

The funding will primarily be directed through the State Revolving Loan Fund (SRF) Program and will supplement the annual EPA capitalization grants that fund the SRF programs. The 2023 SRF Intended Use Plans reflect this additional funding and are available online here: 2023 Final SRF Intended Use Plans | Mass.gov. Massachusetts offered over $1.33 billion to finance 111 water infrastructure projects across the Commonwealth in calendar year 2023. The map below shows the SRF 2023 Intended Use Plan distribution of SRF funding ($903 million for Clean Water SRF projects and $431 million for Drinking Water SRF projects).



The SRF project solicitation opens in July of each year. Information on how to apply can be found in MassDEP's website at https://www.mass.gov/state-revolving-fund-srf-loan-program.

Long Island Sound Grant. In September 2022, MassDEP was awarded a $10.5M grant from the U.S. EPA for Long Island Sound Watershed Nutrient Reduction, available from Bipartisan Infrastructure Law (BIL) funds. The objective of this project is to support nitrogen reduction to Massachusetts waterbodies that are in the Long Island Sound watershed through nitrogen reduction upgrades to wastewater treatment facilities in Massachusetts municipalities with environmental justice populations. These funds were payable over 3 years. In SFY23 MassDEP distributed $8.47 million to support nitrogen reduction projects at two wastewater treatment plants. In SFY23 MassDEP also began a workplan to expend the final $2 million from the initial award. Also, in SFY23 MassDEP developed a proposal to request remaining BIL funds to support additional nitrogen reduction work at Massachusetts wastewater treatment plants that discharge to the Long Island Sound Watershed. Future funding will be determined by the Long Island Sound Study (LISS) Management Committee.

Remediating Lead in School Drinking Water

The MassDEP Expanded Assistance Program provides technical assistance to public and private schools and childcare facilities to establish a lead in drinking water monitoring program. In SFY23 MassDEP received supplemental EPA funding of $97,500 to support education and outreach for this

program. MassDEP's technical assistance helps schools and facilities develop a site-specific sampling plan, provides lab analysis of samples taken at taps and water fountains used for drinking and cooking, assists with the identification of fixtures with lead concentrations over the laboratory analytical testing limit of 1 part per billion (ppb), and recommends possible remedial actions. The Program operates in conjunction with the University of Massachusetts-Amherst's Department of Civil and Environmental Engineering and with the support of partners, including the state's Department of Public Health, Department of Elementary and Secondary Education, Department of Early Education and Care, and the Massachusetts Water Resources Authority.

After facilities receive their sampling results, they are encouraged to take remedial actions at any location with levels of lead above the lab testing limit and to communicate the results and short-term action plans to parents and staff. Facilities communicate this information through emails, automated informational calls, letters, website postings, printed postings, newspaper articles, and meetings. Actions taken to address lead levels include removing and replacing fixtures, using signage to indicate fixtures that are not intended to be used for drinking water, and implementing water line flushing programs.

In SFY23, the Expanded Assistance Program:

- Tested 1,609 outlets in 43 schools and 1,162 outlets in 128 childcare facilities;
- Tested 13 private schools through funding from the Clean Water Trust to support testing of private schools;
- Worked with 6 public water systems to test 31 schools and childcare facilities through a pilot program to increase participation and assist systems in meeting upcoming federal requirements on lead testing;
- Sent filtered water pitchers to 147 participating childcare facilities; and
- Expanded our agency's outreach efforts, including:
    - Increasing social media posts,
    - Sending physical postcard mailers,
    - coordinating with partner organizations,
- Conducted Spanish language meetings with small groups of childcare providers.

Complementing the Expanded Assistance Program, the Clean Water Trust operates its School Water Improvement Grant (SWIG) program. SWIG covers the cost of water bottle filling stations to address detections of lead in drinking water at eligible schools and childcare facilities using $5 million allocated by the Trust and nearly $3 million awarded through a U.S. EPA grant. In SFY23, SWIG provided grants totaling $312,000 for the purchase of 104 bottle filling stations in 13 school districts.

More information on the Expanded Assistance Program is available here: https://www.mass.gov/assistance-program-for-lead-in-school-drinking-water.

More information on the SWIG program is available here: https://www.mass.gov/school-water-improvement-grants.

Developing a Modern Information Technology System

MassDEP continued its work with EEA to transform its current information technology system by building a new enterprise-wide framework for information management. The Energy and Environmental Information and Public Access System (EIPAS) is a multi-year integrated, shared service platform intended to modernize existing systems and to add new functionality based on MassDEP's evolving data needs. The modernized applications enable DEP to better serve the public and improve transparency through shared data and online tools. We continue to build upon initial successes, such as the citizen data portal and the new secretariat-wide and agency-wide paperless online permitting platform.

Legislative Initiatives

MassDEP has been developing regulatory programs to implement legislation that directed the agency to:

- Establish new or expanded regulatory programs for overseeing the use of chemicals used as flame retardants; and
- Promulgate regulations to require public notification of sewer and stormwater overflows from wastewater systems.

Flame Retardant Prohibitions. Draft regulations prohibiting the sale, manufacture and distribution of products containing certain flame retardant chemicals were released for public comment in 2022 and final regulations are expected to be promulgated in the near future. Previously, the agency provided educational materials and compliance assistance to manufacturers and retailers of the named compounds subject to the flame retardant law.

Public Notification of Discharges of Untreated or Partially Treated Wastewater. In January 2021, Chapter 322 of the Acts of 2020, An Act promoting awareness of sewage in public wasters, was signed into law. This law ensures that the public knows when untreated sewage flows into Massachusetts waters, including combined sewer overflows (CSOs). In January 2022, MassDEP promulgated regulations to implement the provisions of the Act, titled Notification Requirements to Promote Public Awareness of Sewage Pollution (314 CMR 16.00). These sewage notification regulations became effective in July 2022 and require wastewater utilities and systems to notify the public of untreated or partially treated sewage discharges and overflows. The sewage notification regulations were designed to promote awareness and protect public health and require multiple types of public notification for reportable events, including public advisory notifications via email or text, signage at public access points potentially affected by CSOs, updates to the discharger's website, and reporting into a centralized MassDEP sewage notification database. Reports submitted to MassDEP's database are shared on a public website; this includes notification information and data of overflow events: https://eeaonline.eea.state.ma.us/portal/dep/cso-data-portal/. The statute includes a requirement for MassDEP to issue a report providing a summary of all outfall discharge activity reported for the previous calendar year. The first report for calendar year 2022 is here: https://www.mass.gov/doc/2022-sewage-notification-annual-report/download.

To assist wastewater systems' compliance with this new law, MassDEP has a robust webpage of information on the program with extensive training materials available to permittees and Boards of Health located here: https://www.mass.gov/guides/sanitary-sewer-systems-combined-sewer-overflows. MassDEP has distributed $600,000 through a grant program to assist 10 permittees with funding for implementation required by the statute and regulations and an additional $563,289 in funding is available in FY2024.

III. By the Numbers: MassDEP Permitting, Compliance and Enforcement in SFY23*

Table A. Timely Action Permit Application Fees and Activity**

Parameter	SFY21	SFY22	SFY23
Applications received	2348	2307	2871
Final determinations issued***	1859	2164	2655
Refunds for missed timelines	0	0	0
Dollar value of timeline refunds	$0	$0	$0

Table B. Timely Action Permit Application Final Determinations**

MassDEP Program	Final Determinations Issued***	Approved	Denied	Withdrawn
Air Quality	**60**	**50**	**0**	**10**
Waste Site Cleanup	**0**	**0**	**0**	**0**
Hazardous Waste	**147**	**141**	**0**	**6**
Lab Certifications	**265**	**261**	**0**	**4**
Solid Waste	**317**	**293**	**0**	**24**
Watershed Management	**605**	**587**	**0**	**18**

Water Pollution Control	**107**	**92**	**0**	**15**
Water Supply	**657**	**600**	**20**	**37**
Wetlands & Waterways	**497**	**437**	**0**	**60**
Total – All Programs	**2655**	**2461**	**20**	**174**

Table C. Timely Action Fees Collected Under 310 CMR 4.00

Fee Type	SFY21	SFY22	SFY23
Annual Compliance Fees	$10.2 million	$10.7 million	$10.8 million
Chapter 21E Annual Compliance Fees	$4.1 million	$3.7 million	$4.1 million
All Permit Application Fees	$2.3 million	$2.5 million	$2.6 million
Wetlands Notices of Intent	$1.7 million	$1.6 million	$1.6 million
Total Timely Action Fees Collected	**$18.3 million**	**$18.5 million**	**$19.1 million**

Table D. 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 2023, the following active projects met these criteria:

Project Name	Special Project Number	Total SFY23 Costs Incurred	Total Project Costs Incurred	Receipts to Date 9/1/2023	Permit Code(s)
MBTA/South Coast Rail	TF103	$3,532	$49,136	$105,369	WW10, WW08
Safety Kleen West Brookfield	TF108	$15,540	$22,144	$22,144	HW08
HRP 776 Summer St LLC	TF109	$19,880	$19,880	$19,880	WW15
Park City Wind****	TF110	$12,857	$12,857	$6,286	WW26
GE Pittsfield HW Lic Renewal	TF112	$8,944	$8,944	$8,944	HW08
TOTAL	**NA**	**$60,752**	**$112,961**	**$162,623**	**NA**

Table E. Compliance and Enforcement Activity

Activity	SFY21	SFY22	SFY23
Compliance Inspections	4304	4383	4955
Lower Level Enforcement	1663	1698	2085
Higher Level Enforcement****	509	558	440
MassDEP Penalties Assessed	$1.8 million	$2.4 million	$1.4 million
MassDEP Penalties Collected	$1.2 million	$1.5 million	$1.3 million

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

** Values include only those permit categories tracked in MassDEP's Accela on-line permitting application submittal system and in MassDEP's Permit Information Management System (PIMS), and do not include certain categories such as Asbestos/demolition notifications, etc., which are tracked separately.

*** 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.

**** Park City Wind Special Project is on hold as of September 2023.

***** Higher Level Enforcement does not include Referrals and Settlements.