

**MASSACHUSETTS GENERAL PERMIT AUTHORIZING DEWATERING AND REMEDIATION SITES TO
DISCHARGE POLLUTANTS TO SURFACE WATERS**

In compliance with the provisions of the Massachusetts Clean Waters Act, as amended (M.G.L. Chap. 21, §§ 26 - 53) and the implementing regulations at 314 CMR 3.00 and 4.00, any site authorized by the United States Environmental Protection Agency (EPA), Region 1, under the 2022 NPDES Dewatering and Remediation General Permit No. MAG910000, is authorized to discharge from the site to the receiving water identified in its Permit Authorization from EPA in accordance with the following effluent limitations, monitoring requirements and additional conditions:

1. This permit shall become effective on August 31, 2022.
2. This permit shall expire five years after the effective date.
3. This permit supersedes the permit issued on March 9, 2017.
4. This permit incorporates by reference Part 1, Applicability and Coverage; Part 2, Discharge Limitations; Part 3, Monitoring, Recordkeeping, and Reporting Requirements; Part 4, Administrative Requirements; and Part 5, Standard Conditions; as set forth in the 2022 draft NPDES Permit No. MAG910000, issued by the United States Environmental Protection Agency (EPA), Region 1, on April 26, 2022 (the 2022 Draft NPDES Permit) and available at <https://www.epa.gov/npdes-permits/massachusetts-mpdes-permits#dgp>; provided, however:
 - a. that the notification required by Part 3.3.2 shall also be provided to MassDEP;
 - b. that the reporting required by Part 3.3.2.c shall be in accordance with 314 CMR 3.19(20)(e) (24 hour reporting);
 - c. that a copy of the requests, reports, and information required by Part 3.3.3. to be submitted to EPA shall also be submitted to MassDEP electronically to massdep.npdes@mass.gov with the subject header "DRGP" and the site name;
 - d. that, if there is a conflict between the definitions in 314 CMR 3.02 and/or 314 CMR 4.00 and the definitions in Part 5 Standard Conditions, the definitions in 314 CMR 3.02 and/or 314 CMR 4.00 shall control, as applicable;
 - e. that the notifications required by 4.a. and 4.c. above shall be provided as follows:

Cathy Coniaris, Surface Water Discharge Program
Division of Watershed Management
Department of Environmental Protection
1 Winter Street – 5th Floor
Boston, MA 02108
5. This permit incorporates by reference the Standard Permit Conditions set forth in 314 CMR 3.19.
6. This permit includes the following additional conditions:
 - a. Pursuant to 314 CMR 3.11(2)(a), and in accordance with MassDEP's obligation to protect Outstanding Resource Waters under 314 CMR 4.04(3), applicants seeking coverage under the 2022 DRGP to discharge to Outstanding Resource Waters as identified in 314 CMR 4.06, shall submit to MassDEP for review a copy of the EPA NOI. Pursuant to 314 CMR 4.04(5), MassDEP may request additional information for the purpose of conducting an antidegradation review. For purposes of this review, the permittee shall submit these documents to MassDEP at the same time they are submitted to EPA. Instructions on how to submit the EPA NOI to MassDEP can be found here: <https://www.mass.gov/how-to/wm-15-npdes-general-permit-notice-of-intent>. The applicant shall not begin discharging to an

Outstanding Resource Water until MassDEP has issued an antidegradation determination and authorization and EPA has issued an authorization under the DRGP.

- b. 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, applicants that propose to discharge under the 2022 DRGP to certain waters as described below, shall follow the provisions below.
- Applicants for sites and/or discharges with known or suspected per- and polyfluoroalkyl substances (PFAS) contamination shall test one sample of influent as part of the application process, as outlined in the table below. For public water supplies proposing to discharge finished drinking water only, results of the most recent finished water sampling for PFAS can be provided in lieu of testing a new sample. If PFAS is detected, MassDEP will determine additional conditions to be included in the DRGP authorization, which shall include testing of the influent and treated effluent, and may include installation of appropriate treatment for the removal of PFAS.
 - Applicants for sites that propose to discharge to Public Water Supplies (314 CMR 4.06(1)(d)1). shall also test one sample of the proposed dewatering discharge water for PFAS, as outlined in the table below. Results shall be reported to MassDEP as part of the DRGP WM15 application. If any PFAS compounds are detected, the applicant shall install appropriate treatment for the removal of PFAS and test the influent and treated effluent when the discharge commences. MassDEP may include additional conditions in the antidegradation authorization.
 - All PFAS data shall be submitted to massdep.npdes@mass.gov with the subject header "DRGP" and the site name.

PFAS Testing Parameters ¹	Units	Sample Type
Perfluorohexanesulfonic acid (PFHxS)	ng/L	Grab
Perfluoroheptanoic acid (PFHpA)	ng/L	Grab
Perfluorononanoic acid (PFNA)	ng/L	Grab
Perfluorooctanesulfonic acid (PFOS)	ng/L	Grab
Perfluorooctanoic acid (PFOA)	ng/L	Grab
Perfluorodecanoic acid (PFDA)	ng/L	Grab

¹ PFAS testing shall follow established EPA methods 537, 537.1, or 533 for drinking water until the multi-laboratory validation of EPA Method 1633 is complete.

Signed this 2nd day of August, 2022

A handwritten signature in black ink, appearing to read "Lealdon Langley". The signature is fluid and cursive, with a large initial "L" and a stylized "L" for the last name.

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

RESPONSE TO COMMENTS**MA Permit No. MAG910000
Massachusetts Dewatering and Remediation General Permit**

The Massachusetts Department of Environmental Protection (MassDEP) is issuing the Dewatering and Remediation Surface Water Discharge (SWD) General Permit. The permit is being issued under the Massachusetts Clean Waters Act, as amended (M.G.L. Chap. 21, §§ 26 - 53) and the implementing regulations at 314 CMR 3.00 and 4.00.

In accordance with the provisions of 314 CMR 2.09, MassDEP is obligated to prepare a response to comments received on the draft SWD Permit No. MAG910000 (the "Draft Permit"). The Response to Comments explains and supports MassDEP's determinations that form the basis of the final permit (the "Final Permit"). From April 26, 2022 through May 26, 2022, MassDEP solicited public comments on the Draft SWD General Permit and Draft Water Quality Certification ("WQC") for the reissuance of the SWD and NPDES general permits that will provide coverage for discharges that are a result of four types of dewatering and remediation activities: 1) Site remediation; 2) Site dewatering; 3) Infrastructure dewatering/remediation; and 4) Material dewatering for four types of wastewaters: 1) Groundwater; 2) Stormwater; 3) Potable water; and 4) Surface water.

During the public comment period for the draft SWD General Permit, MassDEP received comments from:

1. Jennifer Pederson, Massachusetts Water Works Association, May 26, 2022
2. Stephanie Regan, Massachusetts Department of Transportation, May 26, 2022

MassDEP has benefited from the comments that were received and additional information submitted during the public comment period however the information and arguments presented did not raise any substantial new questions concerning the General Permit that warranted MassDEP to exercise its discretion to reopen the public comment period. MassDEP does, however, make certain clarifications in this response to comments. Any improvements and changes are explained in this document and reflected in the Final General Permit. Below, MassDEP provides a summary of the changes made in the Final General Permit. The analyses underlying these changes are contained in the responses to individual comments that follow.

A copy of the Final General Permit and this Response to Comments document will be posted on the MassDEP website.

A copy of the Final General Permit may be also obtained by writing or calling Cathy Coniaris, MassDEP, Surface Water Discharge Permitting Program, Bureau of Water Resources, 1 Winter Street – 5th Floor, Boston 02108; telephone: 617-835-6693; email: catherine.coniaris@mass.gov.

Summary of Changes to the Final General Permit

1. The following language has been added to the SWD DRGP: “For public water supplies proposing to discharge finished drinking water only, results of the most recent finished water sampling for PFAS can be provided in lieu of testing a new sample.”
2. The footnote regarding PFAS methods listed in the final SWD DRGP has been revised as follows: “PFAS testing shall follow established EPA methods 537, 537.1, or 533 for drinking water until the multi-laboratory validation of EPA Method 1633 is complete.”

Responses to Comments

Comments are reproduced below as received; they have not been edited, corrected or otherwise modified.

1. Comments from Jennifer Pederson, Massachusetts Water Works Association, May 26, 2022

On behalf of Massachusetts Water Works Association (MWWA), a nonprofit organization with over 1,400 members of the drinking water profession across the Commonwealth, please accept the following comments on MassDEP’s 2022 Draft Massachusetts Permit to Discharge Pollutants to Surface Waters (MA Permit No. MAG910000). MWWA is requesting that MassDEP provide an exemption to Public Water Systems from the per- and polyfluoroalkyl substances (PFAS) monitoring and treatment requirements for Potable Water discharges regulated under this permit as stipulated in section 6(b)(i).

Public Water Systems are already subject to PFAS finished water sampling for compliance with MassDEP’s drinking water Maximum Contaminant Level; therefore, MassDEP should already have the data necessary to assess PFAS levels in any potable water discharge. At \$300+ per sample (double that figure when the field blank needs to be run) sampling for this permit seems an unnecessary expense for Public Water Systems to have to incur if PFAS levels are already known by the drinking water sampling.

We would also suggest that Method 533 should also be an accepted method in the footnote “PFAS testing shall follow established EPA methods 537 or 537.1 for drinking water until EPA Method 3512 for non-potable water becomes available.”

MassDEP Response

MassDEP agrees that additional PFAS sampling is duplicative for potable water discharges seeking coverage under the SWD DRGP if the public water system is already testing for PFAS in

its finished water. Therefore, MassDEP has added the following sentence to the both the final SWD DRGP and Water Quality Certification for the EPA DRGP: "For public water supplies proposing to discharge finished drinking water only, results of the most recent finished water sampling for PFAS can be provided in lieu of testing a new sample."

MassDEP concurs with MWWA that Method 533 should be included in the list of accepted PFAS methods. MassDEP has also included language that EPA method 1633 can be used when it is complete. Thus the footnote in the final SWD DRGP and Water Quality Certification for the EPA DRGP has been changed from: "PFAS testing shall follow established EPA methods 537 or 537.1 for drinking water until EPA Method 3512 for non-potable water becomes available." to: "PFAS testing shall follow established EPA methods 537, 537.1, or 533 for drinking water until the multi-laboratory validation of EPA Method 1633 is complete."

2. Comments from Stephanie Regan, Massachusetts Department of Transportation, May 26, 2022

Massachusetts Department of Transportation (MassDOT) is writing to request an extension on the comment period deadline for the Dewatering and Remedial General Permit. As part of the review process, MassDOT coordinates with several departments and offices to determine how a draft permit may affect their work flows and projects from various standpoints, including cost, logistics and safety. The draft comments are under review and MassDOT intends to submit them within 30 days of today's deadline. MassDOT kindly requests an extended deadline of June 26th, 2022 to submit comments on the draft Dewatering and Remedial General Permit, including MassDEP's proposed additions to the draft permit.

MassDEP Response

EPA responded to MassDOT's request for a one month extension to the public comment period in a letter dated June 2, 2022 (attached). In this letter, EPA explained several reasons why this extension was not warranted. MassDEP concurred with EPA's determination and would like to emphasize that with the expiration of both the EPA Remediation General Permit and Dewatering General Permit, any additional delays in DRGP issuance would further delay many projects in Massachusetts.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

June 2, 2022

Via Email – Read Receipt Requested

Stephanie Regan
Manager of Environmental Compliance for Construction
MassDOT Highway Division

Dear Ms. Regan:

We are responding to your request for EPA Region 1 to extend the public comment period for the draft National Pollutant Discharge Elimination System Permit (“NPDES”) Dewatering and Remediation General Permit, issued by the Region to cover eligible discharges in Connecticut, Massachusetts, New Hampshire, Rhode Island, and Vermont. In light of the Massachusetts Department of Transportation intent to review and comment, you have requested that the Region extend the public comment period permits until June 26, 2022 “to determine how a draft permit may affect their work flows and projects from various standpoints, including cost, logistics and safety.”¹

As you may already be aware, the regulations at 40 CFR §122.28 establish that general permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of 40 CFR Part 124, which in turn specifies at least 30 days for public comment. The Region believes that 30 days was sufficient time to formulate meaningful comments on the Draft General Permit. In administering the NPDES program in Massachusetts for the last several decades, the Region has found that 30 days is typically adequate for the public to comment on permits, even when far more complex than the one at issue. The Region in no way discounts any logistical hurdles that might be encountered under your circumstances—the Region’s permitting staff has itself confronted its share of inconveniences in intra and inter-Agency reviews—but we observe that during the 30 day comment period, the Massachusetts Department of Environmental Protection (MassDEP) and members of the public were substantively engaging with permitting staff in the ordinary course. So too have the engineering and other environmental professionals who typically opine on these Region 1 permits. EPA has not received any other request for extension from any person or entity in New England, indicating a lack of significant interest from those members of the public most immediately impacted by this permitting action. The Massachusetts Department of Environmental Protection is expected to certify the General Permit. While not determinative, it was material to our consideration of your request that you have not identified any specific impediments to formulating and submitting timely written comments.

¹ The request submitted by the Massachusetts Department of Transportation was submitted electronically on May 26, 2022, the closing date of the public comment period.

Regarding MassDOT's concerns, the process by which an applicant such as the MassDOT submits a Notice of Intent for coverage under this General Permit has not changed, except to be a simplified, all-electronic, and automatic process, excepting requests for waiver or requests for hold. EPA engaged in a significant problem-solving effort in the early stages of developing this proposed permit to identify changes to the prior permit that would reduce the burden of application, implementation, and termination for the regulated entities, EPA, and the applicable States. The only substantial change to the limitations in these general permits identified as having a potential to impact project costs is the addition of new turbidity limits, which are based on updates to EPA's Construction General Permit (CGP) for stormwater and uncontaminated dewatering discharges from construction sites one acre or more in size. Excepting costs incurred under other regulatory program requirements (e.g., hazardous waste site cleanup), the majority of sites covered under this General Permit are dewatering sites similar to, but smaller in size than the sites covered under EPA's CGP. As analyzed in EPA's cost analysis for the proposed CGP, titled "Incremental Cost Impact Analysis for the Proposed 2022 Construction General Permit (CGP)," EPA determined the incremental cost impact on entities that will be covered under the 2022 CGP to be \$704 to \$714 per permitted project per year. Because the proposed DRGP has incorporated substantially similar changes to EPA's CGP (relative to EPA's 2017 RGP), the incremental cost increase is expected to be similar.

The Region for several other reasons does not believe that an extension of permit proceedings is warranted here. Your request links your public comment extension request to your desire to complete relatively extensive internal review of comments. Under the NPDES permitting program, however, EPA's regulatory efforts must be imbued with a spirit of expedition rather than delay, as permits under the Clean Water Act are to be revisited at regular intervals not to exceed five years. The delay associated with the requesters' proposal is not consistent with this statutory imperative, which advances the goal of restoring the Nation's waters. Further, the Region's periodic reevaluation of expired permits often results in new draft permits that comply with new or updated applicable laws, as is the case here. The Region does not wish to forestall, after due consideration of any comments received, a final decision on these updates. As one example, the Draft General Permit if finalized, will comply with the NPDES e-Reporting Rule (40 CFR Part 127), and establish consistency among application and monitoring requirements for all dewatering and remediation activity discharges in the five States where EPA remains the permitting authority, either wholly or in part.

Further, the permitting action here has regional impacts, including, but not limited to the fact that both the Region's Dewatering General Permit (DGP) and Remediation General Permit (RGP) are currently expired. These two general permits are the only general NPDES permit coverage available to remediation sites, and dewatering sites that include construction dewatering conducted on sites less than one acre in size. With no alternative general permit coverage available, any further delay of issuing this permit will cause immediate and significant financial impacts to projects that far exceed the incremental costs any individual projects *may* face on a hypothetical basis. EPA has historically issued approximately 175 general permit authorizations per year under these general permits. For comparison, EPA issued one permit authorization under the expired RGP (MAG911023) that explicitly identified MassDOT as the operator.

For all the reasons above, Region 1 believes that a public comment extension under 40 C.F.R. Part 124 is not warranted. EPA notes that as a State Agency, MassDOT may wish to discuss

concerns with MassDEP during the final review process, which is expected to conclude in approximately 30 days. Further, assuming such submittal is timely, EPA *may* consider comments submitted after the close of the public comment period, should MassDOT still wish to submit them to EPA.

If you should have any questions or concerns relating to this determination, please contact Shauna Little at little.shauna@epa.gov or (617) 918-1989.

Sincerely,

Ken Moraff, Director
Water Division
EPA Region 1