

FINAL

Section 401 Water Quality Certification
For the Proposed 2022 NPDES Permit
For the New England Aquarium in Boston
Permit No. MA0003123

The Massachusetts Department of Environmental Protection (MassDEP), having examined New England Aquarium's National Pollutant Discharge Elimination System (NPDES) permit application for the New England Aquarium, reviewed the United States Environmental Protection Agency (EPA) – Region 1's draft 2022 NPDES permit for the New England Aquarium (Permit No. MA0003123), issued July 12, 2022, ("2022 NPDES permit"), and having considered the public comments received on MassDEP's draft Section 401 Water Quality Certification for the draft NPDES Permit for the New England Aquarium, and in consideration of the relevant water quality considerations, hereby certifies:

1. that subject to the following conditions, together with the terms and conditions contained in the 2022 NPDES permit for the New England Aquarium, the proposed discharges will comply with the applicable provisions of the Federal Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law, including, without limitation, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53, and the Massachusetts Surface Water Quality Standards published at 314 CMR 4.00:
 - a. Pursuant to M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00 and 4.00, including 314 CMR 3.11 (2)(a)6., and in order to ensure the maintenance of surface waters free from pollutants in concentrations or combinations that are toxic to humans, aquatic life, or wildlife, in accordance with 314 CMR 4.05(5)(e), MassDEP has determined that it is necessary that within six (6) months of the effective date of the 2022 NPDES permit, the permittee submit to MassDEP an evaluation of whether the facility uses or stores any products containing any per- and polyfluoroalkyl substances (PFAS) and whether use or storage of those products can be reduced or eliminated. The analysis shall be submitted electronically to massdep.npdes@mass.gov.
 - b. Pursuant to M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00 and 4.00, including 314 CMR 3.11 (2)(a)6., and in order to ensure the maintenance of surface waters free from pollutants in concentrations or combinations that are toxic to humans, aquatic life, or wildlife, in accordance with 314 CMR 4.05(5)(e), MassDEP has determined that it is necessary that within six (6) months after the permittee has been notified by MassDEP of an EPA multi-lab validated method for wastewater, or two (2) years after the effective date of the 2022 NPDES permit, whichever is earlier, the permittee conduct monitoring of the effluent for PFAS compounds as detailed in the table below. Sampling of the intake water is optional and shall be conducted concurrently with sampling of the effluent. If any of the six (6) PFAS compounds are detected in the effluent, the permittee can decide to analyze the intake water sample for all six (6) PFAS compounds. If EPA's multi-lab validated method is not available by twenty (20) months after the effective date of the 2022 NPDES permit, the permittee shall contact MassDEP (massdep.npdes@mass.gov) for guidance on an appropriate analytical method. Notwithstanding any other provision of the 2022

NPDES permit to the contrary, monitoring results shall be reported to MassDEP electronically at massdep.npdes@mass.gov, or as otherwise specified, within 30 days after they are received. Those results do not need to be reported to EPA through NetDMR, unless EPA establishes a requirement through a future permitting action.

Effluent (Outfall 001)

Parameter	Units	Measurement Frequency	Sample Type
Perfluorohexanesulfonic acid (PFHxS)	ng/L	2/year ¹	24-hour Composite
Perfluoroheptanoic acid (PFHpA)	ng/L	2/year	24-hour Composite
Perfluorononanoic acid (PFNA)	ng/L	2/year	24-hour Composite
Perfluorooctanesulfonic acid (PFOS)	ng/L	2/year	24-hour Composite
Perfluorooctanoic acid (PFOA)	ng/L	2/year	24-hour Composite
Perfluorodecanoic acid (PFDA)	ng/L	2/year	24-hour Composite

- c. Pursuant to M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00 and 4.00, including 314 CMR 3.11 (2)(a)6., and order to ensure the maintenance of surface waters free from pollutants in concentrations or combinations that are toxic to humans, aquatic life, or wildlife, in accordance with 314 CMR 4.05(5)(e), MassDEP has determined that it is necessary that after completing two (2) years of monitoring, if four (4) consecutive samples are reported as non-detect for all six (6) PFAS compounds, then the permittee may submit a request to MassDEP to discontinue PFAS monitoring. After completing two (2) year of monitoring, if the permittee had analyzed the intake water samples and sufficiently demonstrates that the detected PFAS compounds in the effluent are from the intake water from the Boston Inner Harbor and not from the wastewater generated from the animal holding operations, the permittee may submit a request to MassDEP to modify the effluent and intake water monitoring requirements. MassDEP will make a determination based on the review and evaluation of the monitoring data. Any such requests shall be made in writing and sent to massdep.npdes@mass.gov. The permittee shall continue such monitoring pending written approval from MassDEP to discontinue it.

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

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

If any condition in the draft 2022 NPDES permit for the New England Aquarium in Boston is changed during EPA's review in any manner inconsistent with this certification, the Department reserves the right

¹Twice yearly samples shall be taken in the third (July to September) and fourth (October to December) calendar quarters and shall be taken 3 months apart (e.g., an example sampling schedule could be July and October).

to modify this certification to ensure that the discharge(s) will comply with all applicable federal and state laws and regulations. In addition, the Department reserves the right to modify this certification if there is a change in the Massachusetts laws or regulations upon which this certification is based, or if a court of competent jurisdiction or the MassDEP Office of Appeals and Dispute Resolution stays, vacates or remands this certification, as provided by 40 C.F.R. § 124.55.

Signed this 9th day of September, 2022

A handwritten signature in black ink, appearing to read 'Lealdon Langley', written over a horizontal line.

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