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Summary of Final Revisions to the Massachusetts Surface Water Quality Standards (314 CMR 4.00) and Responses to Comments

A. Overview

The purpose of 314 CMR 4.00: Massachusetts Surface Water Quality Standards (MA SWQS) is to restore, enhance and protect the chemical, physical, and biological integrity of surface waters in Massachusetts. The Massachusetts Department of Environmental Protection (MassDEP) adopted the MA SWQS under the authority of the state Clean Waters Act, M.G.L. c. 21, §§ 26-53, which directs MassDEP to take all action necessary to secure for the Commonwealth the benefits of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq*. (the Clean Water Act or CWA), and to adopt standards of minimum water quality applicable to waters of the Commonwealth.

The MA SWQS is comprised of a narrative section, figures, and tables. In January 2026, MassDEP issued public notice and requested public comment on the proposed amendments to the MA SWQS. At the close of the public comment period on February 9, 2026, 24 emails containing comments or with comment letters attached had been submitted to MassDEP, and two people delivered oral comments during the two virtual public hearings. A detailed Response to Comment table is provided in Section C at the end of this document.

The final MA SWQS amendments include revisions contained in the draft proposed MA SWQS and those made after public comments regarding the proposed revisions. MassDEP made three revisions in response to public comment: 1) a technical correction to the criteria for the segments formerly assigned the Aquatic Life qualifier, which are now incorporated into the Site-specific Criteria Table 28 (see section B.3 below), 2) further edits to clarify the narrative nutrient criteria (see B.4), and 3) insertion of the Cold Water qualifier for Shad Factory Pond, Table 17 (see B.5). The information below describes all revisions included in the final amended MA SWQS.

B. Summary of Final MA SWQS Amendments and Explanation of Revisions Made in Response to Public Comment

1. Updates to Secondary Contact Recreation (SCR) Bacteria Criteria

In 2006, MassDEP adopted SCR criteria in the MA SWQS protective of limited-contact recreational activities. USEPA deferred approving or disapproving (i.e., took “deferred action” on) these criteria; therefore, although in effect for actions under state law, these

criteria have not been in effect for federal CWA purposes.

USEPA published a 2022 white paper and 2024 user guide that recommended SCR criteria proportional to primary contact recreation criteria and developed using a linear equation based on water ingestion rates. Based on the USEPA framework, states select ingestion rates for recreational activities that align with their SCR uses.

MassDEP reviewed ingestion rates for various activities with reference to the MA SWQS SCR definition, which includes boating, fishing, and shellfishing uses. The amendments update SCR water quality criteria by incorporating the ingestion rate represented by "Kayaking – All Activities". The SCR criteria account for average water exposure during kayaking, including incidental ingestion from occasional capsizing. For the update, the *Escherichia coli* (*E. coli)* geometric mean criterion decreased from ≤ 630 to ≤ 244 colony-forming units (cfu)/100 milliliter (mL), and the statistical threshold value decreased from ≤ 1,260 to ≤ 794 cfu/100 mL (no more than ten percent of samples shall exceed this criterion). For enterococci, the geometric mean criterion decreased from ≤ 175 to ≤ 68 cfu/100 mL, and the statistical threshold value decreased from ≤ 350 to ≤252 cfu/100 mL. These new criteria are in effect under state law as of the promulgation of the final regulation but are not in effect for federal CWA purposes unless and until approved by USEPA after promulgation.

2. Removal of Class C and Class SC Surface Water Designations

The designated uses and use goals in the MA SWQS are organized by the surface water classification system outlined at 314 CMR 4.05: *Classes and Criteria*. Classes A, B, SA, and SB support more sensitive uses and require higher water quality than Class C (freshwater) or Class SC (coastal and marine water). No surface waters are currently designated as Classes C or SC in the MA SWQS. Furthermore, the MA SWQS antidegradation provisions at 314 CMR 4.04 mandate that existing water quality and designated uses be maintained; therefore, no future Class C or Class SC designations are anticipated. The amendments therefore remove Class C and Class SC designations from the MA SWQS.

3. Revisions to Qualifiers and Site-Specific Criteria Listings

Qualifiers are assigned to certain surface waters or surface water segments listed in the classification tables at 314 CMR 4.06(1)(d): *Figure A; Figures and Tables 1 through 27* to indicate special considerations or uses applicable to surface waters, such as a Public Water Supply (PWS).

A qualifier previously in the MA SWQS was “Aquatic Life.” This qualifier denoted “those waters where Class C dissolved oxygen and temperature criteria” applied. This designation was made only where natural background conditions prevented the attainment of a ‘higher use’ designation. A waterbody assigned the Aquatic Life qualifier had specific

oxygen and temperature criteria due to natural conditions, not human activity, that were listed within the *Class C Inland Waters* section at 314 CMR 4.05(3)(c). The amendments to 314 CMR 4.00 include removal of the Class C designation, which necessitated revision to the Aquatic Life qualifier.

Four surface water segments in the classification tables at 314 CMR 4.06(6)(b): *Figure A; Figures and Tables 1 through 27*, had been assigned the Aquatic Life qualifier, as indicated in Table 1 below.

Table 1: The four surface water segments in the previous classification tables at 314 CMR 4.06(6)(b): Figure A; Figures and Tables 1 through 27 that were assigned the Aquatic Life qualifier.

Table and Basin	Surface Water Name	Surface Water or Segment Boundary	Mile Point	Class	Qualifiers
Table 5: Charles River Basin	Charles River	From Dilla Street, Milford to Milford POTW discharge	75.8 -72.7	B	Aquatic Life
Table 16: Millers River Basin	Otter River	Source to Gardner POTW discharge	12.2 - 9.7	B	Aquatic Life
Table 24: SuAsCo River Basin	Sudbury River	From outlet of Saxonville Pond to confluence with Hop Brook, Wayland	16.2 -10.6	B	Aquatic Life High Quality Water
		From confluence with Hop Brook, Wayland to confluence with the Assabet River forming the headwaters of the Concord River	10.6 -0.0	B	Aquatic Life

Because the Aquatic Life qualifier had assigned unique criteria to specific surface waters, the more appropriate location to list these waters is at 314 CMR 4.06(6)(c): *Table 28: Site-specific Criteria*, instead of Tables 1-27. MassDEP therefore removed the Aquatic Life qualifier from the MA SWQS and moved the four segments with their site-specific criteria to Table 28. The first segment of the Sudbury River with the High Quality Water qualifier ("From outlet of Saxonville Pond to confluence with Hop Brook, Wayland") is retained in Table 24. Please note that the two segments for the Sudbury River were combined into one segment in Table 28, since both segments have the same site-specific criteria. The

site-specific criteria assigned to the four segments is shown in Table 2.

Table 2: The site-specific criteria in Table 28 for the four surface water segments that had been assigned the Aquatic Life qualifier.

Pollutant	Site-specific Criteria
Dissolved Oxygen	≥5.0 mg/L at least 16 hours of any 24-hour period and ≥ 3.0 mg/L at any time.
Temperature	≤85°F (29.4°C) and ≤5°F (2.8°C) rise due to a discharge.[1]

The amendments also include the addition of a new qualifier, "Public Water Supply – Abandoned", as defined at 314 CMR 4.06(1)(d)2, which applies to public water supplies and their tributaries that were formally abandoned under MassDEP's Drinking Water Program. Waterbodies listed in the classification tables with this new qualifier have the same requirements under the MA SWQS as waterbodies with the PWS qualifier, but waterbodies with the "Public Water Supply – Abandoned" qualifier are no longer regulated under 310 CMR 22.00 (the Massachusetts Drinking Water Regulation).

- **In response to an EPA comment, MassDEP corrected the site-specific criteria for the segments formerly assigned the aquatic life qualifier, now incorporated into 314 CMR 4.06(6)(c): *Table 28: Site-specific Criteria*, to reflect the mathematical translation of "shall not exceed" and "shall not be less than", respectively (i.e., the "<" [less than] and ">" [greater than] symbols were changed to "≤" [less than or equal to] and "≥" [greater than or equal to])**.

4. Clarification of Narrative Nutrient Criteria

MassDEP's additional updates include clarifying the narrative nutrient criteria at 314 CMR 4.05(5)(c) to more clearly distinguish the criteria in the MA SWQS from targets developed and identified in nutrient TMDLs. Nutrient criteria in the MA SWQS continue to be the fundamental basis of these TMDLs.

- **In response to comments made by the Massachusetts Water Resources Authority (MWRA), MassDEP made the following final revisions to 314 CMR 4.05(5)(c): *Nutrients*, to better achieve the goal of clarity:**

  "Unless naturally occurring, all surface waters shall be free from nutrients in concentrations that would cause or contribute to impairment of existing or designated uses and shall not exceed ~~the site-specific~~ criteria ~~developed in a TMDL or as otherwise~~

[1] Temperature standards for Class B waters at 314 CMR 4.05(3)(b)2.b. – d. also apply.

established by the Department pursuant to 314 CMR 4.00, including but not limited to those established in 314 CMR 4.06(6)(c): *Table 28: Site-Specific Criteria*. ..."

See the Response to Comments table for further detail regarding this revision.

5. **Table Updates, including Revisions to Coastal and Marine Copper Criteria Adjustment Procedures**

In the MA SWQS classification Tables 1-27 at 314 CMR 4.06(6)(b), the amendments update seven waterbodies with the new "Public Water Supply - Abandoned" qualifier. In addition, updated or new boundary descriptions were completed for many surface waters to provide greater clarity. These and other updates and corrections to the tables are listed by table number below.

In Table 1, MassDEP moved the High Quality Water qualifier from the second Mumford River segment to the first segment to correct a typographical error. The boundary descriptions for multiple waterbodies were updated with town names.

In Table 2, MassDEP added more detailed or entire boundary descriptions for the Malden River and Belle Isle Inlet. The boundary descriptions for multiple waterbodies were updated with town names. MassDEP updated footnote information to refer to the current Combined Sewer Overflow (CSO) variances.

In Table 3, MassDEP added more detailed or entire boundary descriptions for the Pocasset River, Mattapoisett Harbor, Nasketucket Bay, Outer New Bedford Harbor, Clarks Cove, Apponagansett Bay, and Westport River, West Branch. The boundary descriptions for multiple waterbodies were updated with town names.

In Table 4, MassDEP added a more detailed boundary description for Barnstable Harbor.

In Table 5, MassDEP updated footnote information to refer to the current CSO variances. The boundary descriptions for multiple waterbodies were updated with town names.

In Tables 6 – 8, MassDEP added town names in the boundary descriptions for multiple waterbodies.

In Table 11, MassDEP corrected the classification of the Lower Sackett Reservoir from Class B to Class A Outstanding Resource Water (ORW) to restore the surface water to the previously attained higher water quality classification. This was a technical change made in response to a USEPA comment.

In Table 15, MassDEP added a more detailed boundary description for Plum Island River.

In Table 16, MassDEP added town names in the boundary descriptions for multiple waterbodies.

In Table 17, MassDEP added detailed or entire boundary descriptions for Mount Hope Bay and the Cole and Lee rivers.

- **In response to an EPA comment, MassDEP corrected an error and inserted the Cold Water qualifier that was mistakenly not added to the qualifier column of Shad Factory Pond at 314 CMR 4.06(6)(b): *Table 17* in the public comment version of the proposed draft MA SWQS.**

In Table 18, MassDEP corrected the classification of the Ashby Reservoir from Class B to Class A ORW to restore the surface water to the previously attained higher water quality classification. This was a technical change made in response to a USEPA comment.

In Table 19, MassDEP added more detailed or entire boundary descriptions for Essex Bay, Annisquam River, Marblehead Harbor, and Nahant Bay.

In Table 20, MassDEP added a more detailed boundary description for Plum Island Sound. The boundary descriptions for multiple waterbodies were updated with town names and as applicable, the National Inventory of Dams identification number.

In Table 23, MassDEP added more detailed or entire boundary descriptions for Cohasset Harbor, Little Harbor, and Scituate Harbor. The boundary descriptions for multiple waterbodies were updated with town names.

In Table 24, MassDEP added town names in the boundary descriptions for multiple waterbodies.

In Table 29a, Appendix E, MassDEP clarified that the streamlined Water Effects Ratio (WER) procedure is only applicable to copper in coastal and marine waters and to surface waters impacted by continuous point source discharges. MassDEP reviewed the following USEPA documents to identify appropriate test species that can be used in the procedure: (1) *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*[1] and (2) *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms*[2]. The amendments to Appendix E include test species, appropriate USEPA references,

and a statement that MassDEP may, at its discretion, approve the use of other test organisms consistent with USEPA guidance documents. These Appendix E revisions clarify the procedures, make them consistent with USEPA guidance, and respond to USEPA comments.

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[1] USEPA. 2002a. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms. Fifth Edition. October 2002. EPA-821-R-02-012.

[2] USEPA. 2002b. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Third Edition. October 2002. EPA-821-R-02-014.

C. Response to Comments Table (see additional pages)

No.	Regulatory Provision(s)	Commenter	Comment	Response
1	314 CMR 4.06(6)(b) and (c): *Tables 1-27* and *Table 28* 314 CMR 4.06(1)(d)9	Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We support the removal of the Aquatic Life Qualifier under the current revisions, accompanying the removal of the Class C and SC. The water bodies that previously had the Aquatic Life Qualifier have been moved to Table 28: Site-specific Criteria with the corresponding temperature and dissolved oxygen concentrations. We are pleased to see the SWQS be further streamlined and optimized with the removal of the Aquatic Life Qualifier.	MassDEP appreciates the support for revisions to the MA SWQS (314 CMR 4.00).
2	314 CMR 4.05(3) and (4)	Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	(3) Inland Water Classes We support the removal of section (c) Class C waters from the Inland Water Classes. We are pleased to see that there are no waters remaining in Massachusetts that fall under this classification. With the anti-degradation provisions of the Standards we are comfortable with the elimination of this now-unnecessary class from regulation. (4) Coastal and Marine Classes We support the removal of section (c) Class C waters from the Coastal and Marine Classes. We are pleased to see that there are no waters remaining in Massachusetts that fall under this classification. With the anti-degradation provisions of the Standards we are comfortable with the elimination of this now-unnecessary class from regulation	MassDEP appreciates the support for revisions to the MA SWQS (314 CMR 4.00).
3	314 CMR 4.05(3) and (4)	Charles River Watershed Association (CRWA)	CRWA applauds MassDEP's proposal to remove Class C and Class SC water designations from the MA SWQS. This change is tangible evidence of progress and regulatory proof that dirty water is being permanently eliminated across the Commonwealth.	MassDEP appreciates the support for revisions to the MA SWQS (314 CMR 4.00).

No.	Regulatory Provision(s)	Commenter	Comment	Response
4	314 CMR 4.00	Association to Preserve Cape Cod, Blackstone River Coalition, Blackstone River Watershed Association, Cape Cod Chapter of Trout Unlimited, Charles River Conservancy, Connecticut River Conservancy, Hoosic River Watershed Association, Ipswich River Watershed Association, Massachusetts Council of Trout Unlimited, Massachusetts Rivers Alliance, Mystic River Watershed Association, North and South Rivers Watershed Association, Save The Bay, Taunton River Watershed Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We are appreciative of the extensive time and energy invested by the Massachusetts Department of Environmental Protection (MassDEP) Watershed Protection Program (WPP) staff in making revisions to the Standards. These Standards are an essential component of the Clean Water Act framework and it is critical that the Standards establish the appropriate and adequately protective criteria necessary to safeguard the designated uses of waterbodies in Massachusetts. The benefits of better water quality are in everyone's interest. We would primarily like to acknowledge that the proposed changes improve the Standards, and support MassDEP in making these recommendations. The suggested changes increase protections for recreation, eliminate classifications that happily no longer apply to state waters, and revise or qualify other classifications and criteria to make regulations clearer.	MassDEP appreciates the support for revisions to the MA SWQS (314 CMR 4.00).
5	314 CMR 4.05(5)(c)	Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We support the language clarification that MassDEP is making in this section, as it makes the regulations less confusing and more accessible to readers. However, we encourage MassDEP to adopt or develop numeric nutrient criteria for Total Nitrogen and Total Phosphorus for lakes/reservoirs, rivers/streams, and estuaries. We strongly urge MassDEP to adopt the EPA's Ambient Water Quality Criteria to Address Nutrient Pollution in Lakes and Reservoirs in this SWQS review round, for application to all lakes and reservoirs that do not already have site-specific criteria. We also urge MassDEP to develop numeric nutrient criteria for rivers/streams and estuaries for the next SWQS triennial review.	MassDEP acknowledges the comment regarding the proposed clarification to 314 CMR 4.05(5)(c). Please see the response to Comment 6 below regarding MassDEP's final determination regarding the appropriate clarification. Requests for adoption of statewide numeric nutrient criteria are outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
6	314 CMR 4.05(5)(c)	Massachusetts Water Resources Authority (MWRA)	MWRA requests clarification of "target threshold concentrations" in Section 4.05(5)(c) of the amended SWQS. The term is not defined in Section 4.02 and is only used once in the amended SWQS, where it is inserted into Section 4.05(5)(c). Item 4 in MassDEP's Summary of Draft Amended Regulations indicates that target threshold concentrations were developed for "specific" nutrient Total Maximum Daily Load ("TMDL") documents, however, the amended Section 4.05(5)(c) implies that every nutrient TMDL includes target threshold concentrations: 4.05(5)(c): Nutrients. Unless naturally occurring, all surface waters shall be free from	After review of comments and further deliberation, MassDEP determined that changes were warranted to the proposed revision to the TMDL reference in the nutrient criteria section at 314 CMR 4.05(5)(c). As stated in MassDEP's Summary of Draft Amended Regulations, the purpose of this proposed revision was to "clarify 314 CMR 4.05(5)(c) by replacing references to

No.	Regulatory Provision(s)	Commenter	Comment	Response
			nutrients in concentrations that would cause or contribute to impairment of existing or designated uses and shall not exceed the site-specific target threshold concentrations developed in a TMDL... The nutrient of concern in freshwater surface waters is phosphorus. The term "target threshold concentrations," however, is not included in several published TMDL documents for various waterbodies including the Final Phosphorus TMDL Report for the Lower Charles River Basin and the Mystic River Watershed Alternative TMDL Development for Phosphorus Management - Final Report. Instead, both reports use chlorophyll a as a surrogate water quality target for phosphorus and phosphorus is managed via wasteload and load allocations. MWRA is not aware of any NPDES permits that incorporate chlorophyll a as an effluent limited parameter, nor is chlorophyll a considered a nutrient. As MWRA moves forward with an Updated Combined Sewer Overflow ("CSO") Control Plan, as required by the 2024 Charles River Basin and Alewife/Upper Mystic River Final CSO Variances, it is important for MWRA to understand how these targets will be implemented. Of particular concern are the requirements that would need to be met as combined sewers are separated, and additional stormwater is discharged into the Lower Charles River Basin and the Mystic River Watersheds. In summary, if MassDEP intends that target threshold concentrations should come from specific nutrient TMDLs, MWRA requests that MassDEP make that clear in Section 4.05(5)(c) or via a definition in Section 4.02.	total maximum daily load (TMDL) 'criteria' with 'target threshold concentrations' to distinguish statewide or site-specific criteria established in the MA SWQS from threshold concentrations developed for specific TMDLs." MassDEP agrees with the concern expressed in Comment 6 that the proposed revision did not adequately clarify 314 CMR 4.05(5)(c). To better achieve the goal of clarity, final revisions to 314 CMR 4.05(5)(c) are as follows: "Unless naturally occurring, all surface waters shall be free from nutrients in concentrations that would cause or contribute to impairment of existing or designated uses and shall not exceed ~~the site-specific~~ criteria ~~developed in a TMDL or as otherwise~~ established by the Department pursuant to 314 CMR 4.00 including, but not limited to, those established in 314 CMR 4.06(6)(c): Table 28: Site-specific Criteria." Additional information is provided below for further context. As defined in 314 CMR 4.02, a TMDL is "[t]he sum of a receiving water's individual waste load allocations and load allocations and natural background, which, together with a margin of safety that takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality, represents the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards in all seasons." As stated in 314 CMR 4.01, a surface water quality standard in the MA SWQS includes the designated uses of the waterbody and the numeric or narrative water quality criteria

No.	Regulatory Provision(s)	Commenter	Comment	Response
				MassDEP determines is necessary to meet those uses. For the purpose of measuring whether an applicable water quality standard is attained, a TMDL identifies a numeric water quality target. If the criterion in the applicable water quality standard is numeric, then use of that criterion as the numeric water quality target is straightforward. If the criterion in the applicable water quality standard is narrative (such as the narrative nutrient criteria set forth at 314 CMR 4.05(5)(c)), then the TMDL describes the rationale and the process used to develop the numeric water quality target used as a surrogate for the narrative criterion. The water quality target parameter may be different from the TMDL pollutant of concern. For example, as Comment 6 notes, the Lower Charles Nutrient TMDL developed a chlorophyll-a water quality target. To determine the required pollution reductions to meet water quality standards, a water quality model of the Lower Charles River was developed to simulate the cause and effect relationship between pollutant loadings (principally phosphorus) and algal growth as measured by chlorophyll-a. Even if the numeric water quality target is for the TMDL pollutant of concern and is used as a surrogate for a narrative criterion, the parameter value is a TMDL target, not a new water quality criterion. The revision to 314 CMR 4.05(5)(c) more appropriately distinguishes the criteria in the MA SWQS from nutrient TMDL water quality targets based on those criteria. Consideration of TMDL load and wasteload allocations in development of effluent limitations is addressed in 314 CMR 3.00: Surface Water Discharge Permit Program, which provides that the Department's authority includes establishing in a discharge permit "conditions to ensure compliance with any TMDL established by the Department for receiving waters." 314 CMR

No.	Regulatory Provision(s)	Commenter	Comment	Response
				3.11(2)(a)2. Please also note the following existing language concerning TMDLs under Application of Standards at 314 CMR 4.03(1)(c): "TMDLs. The Department may develop and enforce compliance with TMDLs and TMDL implementation plans for waters or segments impaired by a pollutant or pollutants.
7	314 CMR 4.05(5)(c) 314 CMR 4.06(1)(d)7 and (6)(b)	Association to Preserve Cape Cod, Blackstone River Coalition, Blackstone River Watershed Association, Cape Cod Chapter of Trout Unlimited, Charles River Conservancy, Connecticut River Conservancy, Greater Boston Chapter of Trout Unlimited, Hoosic River Watershed Association, Ipswich River Watershed Association, Massachusetts Rivers Alliance, Muddy Water Initiative, North and South Rivers Watershed Association, Save The Bay, Taunton River Watershed Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	To properly protect water quality in Massachusetts, we urge MassDEP to include the EPA-approved nutrient criteria in this round of updates to the SWQS, and to add additional Coldwater Fisheries Resources to the SWQS-designated list based on the list provided by the Division of Fisheries and Wildlife.	These proposals are outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews. For additional information regarding the MA SWQS Cold Water designation, please see the response below to Comments 11-15.
8	314 CMR 4.06(1)(d)7 and (6)(b) 314 CMR 4.02	Association to Preserve Cape Cod, Blackstone River Coalition, Blackstone River Watershed Association, Cape Cod Chapter of Trout Unlimited, Charles River Conservancy, Greater Boston Chapter of Trout Unlimited, Hoosic River Watershed Association, Ipswich River Watershed Association, Mystic River Watershed Association, North and South Rivers Watershed Association, Save The Bay, Taunton River Watershed Alliance	We recommend that MassDEP include language or further data in the SWQS to better align the Standards with other regulations. The Standards do not include data such as TMDL target threshold concentrations along with their site-specific criteria or flows used for determining severe hydrologic conditions, and the current definition of Coldwater Fisheries Resources does not match the Wetlands Protection Act. To ensure regulatory consistency and avoid confusion, MassDEP should make updates to the SWQS accordingly.	This proposal is generally outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews. Regarding TMDL target threshold concentrations, please note the response to Comment 6 above regarding MassDEP's final clarification to 314 CMR 4.05(5)(c).

No.	Regulatory Provision(s)	Commenter	Comment	Response
9	314 CMR 4.05(1), (3) and (4) 314 CMR 4.06(1)(d)	Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	To incorporate water quantity considerations into the Surface Water Quality Standards, we strongly recommend this language be added to the Classes and Uses section: 1. Classes and Uses. The surface waters of the Commonwealth shall be segmented and each segment assigned to one of the Classes listed in 314 CMR 4.05(3) and (4). Each class is identified by the most sensitive, and therefore governing, water uses to be achieved and protected. Surface waters may be suitable for other beneficial uses, but shall be regulated by the Department to protect and enhance the existing and designated uses. *Unless the flows are caused by naturally occurring conditions, surface water quantity shall be maintained at levels adequate to protect existing and designated uses*. In accordance with 314 CMR 4.03(4), the Department may designate a partial use subcategory for these Classes. A partial use designation may be appropriate where waters are impacted by combined sewer overflows or stormwater discharges. Partial use is described in 314 CMR 4.06(1)(d)11. The inclusion of this language makes it clear that water quality is dependent on water quantity, and as such water quantity must be protected under the Standards.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
10	314 CMR 4.06(1)(d) 314 CMR 4.02	Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We recommend the Surface Water Quality Standards' definition of Cold Water Fishery be updated to align with the Wetlands Protection Act and include the definition of Coldwater Fishery from the Division of Fisheries and Wildlife's (MassWildlife) regulations. The current Surface Water Quality Standards definition of coldwater fisheries is less comprehensive than the Wetlands Protection Act and does not currently explicitly reference the MassWildlife definition. The SWQS are referenced in the Wetlands Protection Act, under "Critical Areas" and under "Cold Water Fisheries" in the Definitions section; they also reference the MassWildlife regulations in section 314 CMR 4.06(1)(d)8. The three sets of regulations should be in harmony to better ensure compliance with all regulations. The specific language recommended for addition to the SWQS is in italics as follows: Cold Water Fishery. Waters in which the mean of the maximum daily temperature over a seven day period generally does not exceed 68°F (20°C) and, when other ecological factors are favorable (such as habitat), are capable of supporting a year-round population of cold water stenothermal aquatic life such as trout (Salmonidae). *Waters designated as cold water fishery resources by the Division of Fisheries and Wildlife (321 CMR 5.00) are cold water fisheries. Waters where there is evidence based on a fish survey that a cold water fish population and habitat exist are also cold water fisheries. Cold water fish include but are not limited to the definition of Coldwater Fish in 321 CMR 5.02.*	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
11	314 CMR 4.02	Charles River Watershed Association (CRWA)	The Proposed Amendments should harmonize the definition of "Cold Water Fishery" with related definitions in the regulations applicable to wetlands protection (310 CMR 10.04) and coldwater fisheries resources (321 CMR 5.00). When separate, but closely related, regulatory frameworks have inconsistent definitions, the result is confusion, uncertainty, and inefficiency. CRWA supports the comments and proposed language submitted by the Massachusetts Rivers Alliance. In addition, we recommend that the definition of "Cold Water Fishery" specifically reference the regulations issued pursuant to the Wetlands Protection Act, including the definitions of "Critical Areas" and "Cold Water Fisheries." This change would make clear that designation as a Cold Water Fishery has regulatory implications beyond the Standards in 310 CMR 4.03.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
12	314 CMR 4.06(1)(d)8 and (6)(b) 314 CMR 4.02	Charles River Watershed Association (CRWA)	Mass Wildlife has identified approximately 300 streams that met the criteria for Cold Water Designation, but not all are included in the water quality standards. CRWA supports MassDEP's decision to include 153 Cold Water Designations in the 2021 SWQS review, in an effort to better align with the Massachusetts Division of Fisheries and Wildlife's ("DFW") Coldwater Fisheries Resources ("CFR"). However, it is concerning that nearly half of the proposed CFRs will not be recognized by MassDEP with a Cold Water Designation. Accordingly, CRWA requests that MassDEP make reference to the full list of proposed CFRs as presented by the DFW. In particular, CRWA requests the other eight CFRs identified in the Charles Basin by MassWildlife (Stony Brook, Cherry Brook, Seaverns Brook, Noanet Brook, Trout Brook, Dix Brook, Miscoe Brook, and Unnamed Tributary (UNT) to Rosemary Brook) also be listed with a Coldwater qualifier. If these are not added to the table, MassDEP should provide an explanation of why each water body was not added and how MassDEP plans to protect these as existing uses.	These proposals relating to Cold Water designations are outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider these in future triennial reviews. MassDEP notes that a long-term goal is to designate, as appropriate, Coldwater Fisheries Resources (CFRs) as Cold Waters at 314 CMR 4.06(6)(b), Tables 1 to 27, if these waterbodies meet applicable MA SWQS requirements. However, even in the absence of a Cold Water designation in the MA SWQS, all CFRs are protected as existing uses pursuant to 314 CMR 4.06(1)(d)7. In addition, MassDEP published the following guidance document in 2024: Data Requirements and Procedures to Support the Designation of Freshwater Streams and Rivers as Cold Waters in the Massachusetts Surface Water Quality Standards. This guidance is helpful to entities wishing to collect data suitable to support Cold Water designations in the MA SWQS.
13	314 CMR 4.06(1)(d)8 and (6)(b) 314 CMR 4.02	Jones River Watershed Association	As of February 2021 the Jones River and several of its tributaries have been listed as Coldwater Fisheries Resources by the Mass Division of Fish and Wildlife. Our cool groundwater fed river has proven itself repeatedly to be habitat for native brook trout. That is not currently being reflected in the Surface Water Quality Standards. I am primarily writing to inquire as to whether the Jones River has not met the temperature threshold set forth in the definitions - as the other criteria for cold water designation, that being the presence of coldwater stenothermal species has been repeatedly verified by the state. Should the Jones River temperature threshold also meet coldwater criteria, I believe this document should be amended to reflect its cold water status.	

No.	Regulatory Provision(s)	Commenter	Comment	Response
14	314 CMR 4.06(1)(d)8 and (6)(b) 314 CMR 4.02	Neponset River Watershed Association (NepRWA)	Several streams within the Neponset River Watershed that support cold-water fish have been recognized by the Department of Fish and Wildlife (DFW) as cold-water fishery resources (CFR) but not as cold-water streams. The SWQS have reiterated that all CFRs will have their existing use maintained through protection of cold-water fish population and their habitat. It is unclear how MassDEP determines whether elevated temperatures (above 20 °C) or low dissolved oxygen (below 6 mg/L) are evidence that a stream does not fit the physical/chemical criteria for cold-water streams or are evidence that a cold-water stream has been impaired. We would like to better understand MassDEP's determination process between the two designations. Additionally, CFR designated waterbodies should be listed as cold water qualifiers in the associated appendix tables, for local regulators to manage them appropriately. If DEP's position is that CFRs will be maintained for existing use, these qualifiers should be listed for ease of implementation. Additionally, we ask that MassDEP include clearer information on CFR status for applicable listings, as provided by the DFW, to improve accuracy of assessments. Although we are aware that MassDEP has different criteria related to the temperature and dissolved oxygen levels of these streams, failure to meet these criteria should be assumed to be due to anthropogenic influence, rather than naturally occurring processes. Please further clarify if the lack of historic evidence for a waterway determines whether it is designated as a cold-water fishery resource or cold-water stream. If MassDEP could provide more clarity on the designation differences between these two, stakeholders such as NepRWA would be able to comment more precisely on listing decisions. We urge MassDEP to revisit their decision to not list identified CFRs as cold-water streams. This is critically important as CFRs within the Neponset River watershed face elevated temperatures due to urbanization and climate change. It is important to prioritize protections for these streams and the wildlife that inhabit them as both these issues worsen. We believe that since CFRs can support cold-water fish populations, it is likely that in the stream's recent history, it would have previously met cold-water stream standards. We believe that there are more cold-water streams than are currently designated as so due to this disconnect. We believe that CFRs should be considered cold-water streams unless there is evidence to suggest otherwise. This designation is essential to ensure that proper measures are being taken by MassDEP and EPA to consider impairments of waterways and for local governments to implement preventative measures. It is concerning that nearly half of the proposed CFRs will not be recognized by MassDEP with a cold-water stream designation. We ask MassDEP to appropriately incorporate all the DFW identified CFRs onto the list of cold-water streams.	

No.	Regulatory Provision(s)	Commenter	Comment	Response
15	314 CMR 4.06(1)(d)8 and (6)(b) 314 CMR 4.02	Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We noticed in this current iteration of the SWQS review, there were no Coldwater Fisheries Resources designated under 321 CMR 5.00 that had the Cold Water Qualifier added. In the 2021 SWQS review, there were 153 CFRs that were designated as cold water streams in the SWQS. However, this only accounted for approximately half of the CFRs proposed by MassWildlife. We encourage MassDEP to consult the list of CFRs from MassWildlife and include any CFRs that also meet the SWQS qualifier for Cold Water in this round of SWQS review.	
16	314 CMR 4.06(1)(d)8 and (6)(b) 314 CMR 4.02	Cape Cod Chapter of Trout Unlimited	Further, we believe the list of coldwater streams on Cape Cod and in Southeastern Massachusetts need to be updated. Every stream that contains a population of wild, self-sustaining sea run brook trout should be given the highest water quality rating allowed. These streams, all fed by groundwater in the single source aquifers feeding both regions, only have their coldwater profiles because of ground fed springs. That fact has not been taken into adequate consideration in your ratings. We would like to see an immediate upgrade to the highest level possible under water quality ratings for: the Quashnet River; The Childs River; Mashpee River; Coonamessett River; Red Brook in Wareham; Angeline Brook in Westport. There are other streams in Southeast Massachusetts needing such upgrades. Consultation with Mass Division of Fisheries should be able to provide you with the names of these streams.	
17	314 CMR 4.05 314 CMR 4.06(6)(d): *Table 29*	Charles River Watershed Association (CRWA)	CRWA encourages MassDEP to adopt criteria for cyanobacteria (concentration, aesthetics, and toxin levels) or to provide a detailed explanation of why it declined to adopt these standards. Cyanobacteria criteria should apply to all classes of surface waters (314 CMR 4.05) and should be developed for Aquatic Life and Human Health criteria (Tables 29a, 29b). The Massachusetts Department of Public Health ("MassDPH") has published guidelines for cyanobacteria. These guidelines are currently used for decision making regarding declarations of harmful cyanobacterial bloom advisories in Massachusetts. EPA recently published guidance for cyanobacteria in recreational waters. Given this existing and readily available information, cyanobacteria criteria should be incorporated into the MA SWQS. In practice, the MassDPH guidance is being used by local communities to close public beaches or issue advisories for recreational waters. MassDEP should incorporate these standards into the MA SWQS, codifying an already widely accepted standard, or it should explain why it has declined to do so.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
18	314 CMR 4.05 314 CMR 4.06(6)(d): *Table 29*	Massachusetts Rivers Alliance, Connecticut River Conservancy (CRC), similar comments were made orally by a representative of the MA Rivers Alliance	Massachusetts has been seeing more frequent cyanobacterial blooms across the state in the past few years, made worse by the multi-year drought we have been experiencing. With drought becoming more frequent in Massachusetts with climate change, and the human health risks of cyanobacterial blooms well-documented, water quality criteria for cyanobacteria are necessary to properly protect public health. ...We would like to see MassDEP adopt EPA's water quality criteria for cyanobacteria and include that criteria in 314 CMR 4.06(6)(d) Table 29: Generally-Applicable Criteria. The EPA has already developed water quality criteria for cyanobacteria and cyanotoxin monitoring in recreational waters, and has produced draft human health minimum, the criteria for cyanobacteria should be adopted in this current review of the Standards.	These proposals are outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider these in future triennial reviews.
19	314 CMR 4.02	Save the Alewife Brook	Define the "Highest Attainable Condition" in 314 CMR 4.02 Federal regulations require that a state water quality variance achieve the Highest Attainable Condition (40 CFR 131.14(b)(1)(ii)). MassDEP has stated that although the Variances are subject to review and approval by the U.S. Environmental Protection Agency, they are final for the purposes of Massachusetts state law, including the Massachusetts Surface Water Quality Standards. However, "[t]he content of the standards is certainly at least somewhat discretionary with the EPA" (Scott v. City of Hammond, Ind., 741 F.2d 992, 996). A definition of the Highest Attainable Condition in 314 CMR 4.02 would clarify, for permittees and the public alike, what discharge limitation MassDEP is requiring in a variance, and—most importantly—what limitation MassDEP can enforce. The powers and jurisdiction of an administrative agency, such as MassDEP, are limited to those delegated to it by statute and developed through duly promulgated regulations. 314 CMR 4.02 should make the extent of MassDEP's authority pursuant to state water quality standards absolutely clear. The addition of a definition for the Highest Attainable Condition is consistent with other definitions already included in 314 CMR 4.02 (e.g., BAT, BPJ, BMP) that clarify MassDEP's authority to condition discharge permits.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
20	314 CMR 4.03(3)	Charles River Watershed Association (CRWA)	Currently, when applying water quality standards, MassDEP is required to determine "the most severe hydrologic condition at which water quality criteria must be applied." For rivers and streams, this calculation is based on "the lowest mean flow for seven consecutive days to be expected once in ten years." CRWA urges MassDEP to use all available data when assessing hydrologic conditions under 314 CMR 4.03(c). A 10-year reference period may be inadequate to accurately assess severe hydrologic conditions, particularly at a time when climate patterns are changing and weather patterns are increasingly variable and unpredictable. This approach is similar to how the National Weather Service calculates "climate normals" using the most recent 30 years of hydrologic data. MassDEP should, however, continue to provide an exception for water bodies that have been severely depleted by water withdrawals and which require other modeling techniques, surrogate flow data, or other historical data to estimate flows.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
21	314 CMR 4.03(3)	Connecticut River Conservancy (CRC)	Section 314 CMR 4.03(3) describes the hydrologic conditions at and above which aquatic life criteria must be applied. CRC recommends that DEP document the period of record that will be used for these flow determinations. CRC recommends that DEP use the most recent 30 years of hydrologic record, similar to what the National Weather Service does in calculating climate normals https://www.ncdc.noaa.gov/news/defining-climate-normals-new-ways. The existing caveat should remain in place for water bodies that have been severely depleted by water withdrawals and require other modeling techniques, surrogate flow data, or other historical data to estimate flows.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
22	314 CMR 4.03(3) 314 CMR 4.05	Massachusetts Rivers Alliance, similar comments were made orally by a representative of MA Rivers Alliance	(3) Hydrologic Conditions In this section, we would like to see MassDEP use the entire period, or at least the most recent 30 years, of hydrologic record to determine severe hydrologic conditions for a particular water body; similar to how the National Weather Service calculates "climate normals." At minimum, if the period of record for a water body is less than 30 years, the entire period should be used. The language in the regulations should be updated accordingly: (a) For rivers and streams, the lowest flow condition at and above which aquatic life criteria must be applied is the lowest mean flow for seven consecutive days to be expected once in thirty years, or however far back the period of record is for the waterbody. When records are not sufficient to determine this condition, the flow may be estimated using methods approved by the Department. (b) In waters where flows are regulated by dams or similar structures, the lowest flow condition at which aquatic life criteria must be applied is the flow equaled or exceeded 99% of the time on a yearly basis, or another equivalent flow agreed upon by the Department and the federal, state or private entity controlling the flow. The minimum flow established in such an agreement will become the critical low flow for those waters covered by the agreement. When the Department regulates activities to which the Standards apply, including issuing a 401 Water Quality Certification of an activity subject	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
			to licensing by the Federal Energy Regulatory Commission, flows shall be maintained or restored to protect existing and designated uses. The existing caveat should remain in place for water bodies that have been severely depleted by water withdrawals and require other modeling techniques, surrogate flow data, or other historical data to estimate flows. The use of as much data as available for determining severe hydrologic conditions will ensure that the determinations are as accurate as possible. We also recommend including the flows used for severe hydrologic condition determinations in the tables of waterbodies, which would further bring water quantity considerations into the SWQS.	
23	314 CMR 4.03	Connecticut River Conservancy (CRC), Massachusetts Rivers Alliance, similar comments were made orally by a representative of MA Rivers Alliance	To incorporate water quantity considerations into the Surface Water Quality Standards, we strongly recommend this language be added to the Application of Standards section: (1) Applicability (a) These rules shall apply to all surface waters. (b) These rules shall apply to any person who causes point or nonpoint source discharge(s) of pollutants to surface waters, or who undertakes hydrologic modifications, such as dam construction or water withdrawals. The addition of this language not only clarifies and reinforces the Standards, but also includes parties who are negatively influencing water levels across the state. Such parties are also having a detrimental effect on water quality through their overdrawing of water supplies, similar to parties who cause point or nonpoint source discharges, and should similarly be held accountable in the SWQS.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
24	314 CMR 4.05 314 CMR 4.06(6) (d): *Table 29*	Connecticut River Conservancy (CRC), Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We encourage MassDEP to adopt or develop numeric nutrient criteria for Total Nitrogen and Total Phosphorus for lakes/reservoirs, rivers/streams, and estuaries. Once again Massachusetts is behind our New England neighbors on developing numeric nutrient requirements—both Rhode Island and Vermont have phosphorus criteria for lakes/reservoirs, and Maine and Vermont have full and partial phosphorus criteria for rivers/streams respectively. Many of the waterbodies in Massachusetts are impaired for nitrogen, phosphorus, or both and having statewide numeric nutrient criteria would make restoring water quality in nutrient-impaired water bodies much simpler, instead of applying site-specific criteria to each water body. The EPA has already produced numeric nutrient criteria for lakes/reservoirs, and it would not take much effort for MassDEP to adopt that criteria. We strongly urge MassDEP to adopt the EPA's Ambient Water Quality Criteria to Address Nutrient Pollution in Lakes and Reservoirs in this SWQS review round, and develop numeric nutrient criteria for rivers/streams and estuaries for the next triennial review in 2029.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
25	314 CMR 4.04(3) 314 CMR 4.06(1)(d)	Charles River Watershed Association (CRWA), Connecticut River Conservancy (CRC), Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	The Standards state that "An application to nominate a waterbody as an Outstanding Resource Water must be submitted in accordance with the applicable Department application procedures and requirements." However, nowhere in the document is it made clear what procedures and requirements an individual must follow to nominate a waterbody, nor can a document outlining these requirements be found on the MassDEP website. MassDEP should and must clarify this process, so that the public may be able to ensure proper protections for their waterbodies.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
26	Triennial review/public participation	Charles River Watershed Association (CRWA), Connecticut River Conservancy (CRC), Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	Lastly, we recommend that the Watershed Planning Program begin public outreach for future SWQS reviews much earlier in the process. This request does not pertain directly to the regulations and changes suggested therein, but we feel that it would help reduce the stress and load of the SWQS review process. There are many organizations across the state invested in surface water quality and actively collecting water quality data for use by the WPP. We recommend that the WPP contact these groups and other stakeholders ahead of the draft permit release, to consider any significant changes that they may request to the Standards based on their observations. Additionally, there was no indication by DEP that the SWQS review process would be scheduled for the beginning of 2026. The triennial review should have occurred in 2024 and, after passing the deadline, the state should have provided periodic updates for a potential release date for the public to prepare for a robust review. We would recommend a longer comment period of 60 days for the Standards should a delayed release occur again.	MassDEP appreciates these comments and will consider potential approaches for future triennial reviews.
27	Triennial review/public participation	Connecticut River Conservancy (CRC)	CRC recommends that MassDEP launch a water quality standards advisory panel. MassDEP should create opportunities for regular engagement with stakeholders, and such a panel would be useful and could provide meaningful input as the monitoring, standards, and assessment programs are improved. It could also help facilitate more frequent updates to the water quality standards.	MassDEP appreciates these comments and will consider potential approaches for future planning efforts.
28	314 CMR 4.05 314 CMR 4.06(6)(d): *Table 29*	Charles River Watershed Association (CRWA)	CRWA also requests that MassDEP adopt criteria for Per- and Polyfluoroalkyl substances ("PFAS"). A comprehensive approach is urgently needed to manage the threat posed by PFAS to public health and the environment. As known carcinogens, mutagens, and endocrine disruptors in humans, there is reason to believe that chemicals in the PFAS family may have similar effects on aquatic wildlife as well. MassDEP should make a commitment to incorporate these criteria in the MA SWQS by 2026 at the latest.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
29	314 CMR 4.02 314 CMR 4.06(6)(d): *Table 29*	Connecticut River Conservancy (CRC), Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We strongly recommend that criteria for Per- and polyfluoroalkyl substances (PFAS) and cyanobacteria be adopted in the current triennial review of the SWQS. Massachusetts currently has no water quality standards for either of these pollutants, yet they both fall under the definition of Toxic Pollutants in 314 CMR 4.02: "Any pollutant or combination of pollutants, including disease causing agents, that are capable of producing an adverse effect in an organism or its offspring, including food chain effects, according to information available to the Department. The effect may be the result of direct or indirect exposure and may injure structure, function or cause death to the organism." Massachusetts has been seeing more frequent cyanobacterial blooms across the state in the past few years, made worse by the multi-year drought we have been experiencing. With drought becoming more frequent in Massachusetts with climate change, and the human health risks of cyanobacterial blooms well-documented, water quality criteria for cyanobacteria are necessary to properly protect public health. PFAS are pervasive, bioaccumulative compounds that have permeated our environment and pose a significant risk to environmental and human health. Therefore, a timely and comprehensive approach is needed to manage the threat posed by PFAS, which includes the development of water quality criteria for such substances.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
30	314 CMR 4.06(6)(d): *Table 29*	Connecticut River Conservancy (CRC), Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	PFAS criteria should be developed in alignment with the EPA criteria for the next review in 2019. …criteria would be placed in 314 CMR 4.06(6)(d) Table 29: Generally Applicable Criteria along with other pollutants.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
31	314 CMR 4.02 314 CMR 4.04(4) 314 CMR 4.06(1)(d)3 314 CMR 4.06(6)(b): *Tables 1-27*	Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	In Figures and Tables 1-27 for the water quality designations and qualifiers of waterbodies in the Commonwealth of Massachusetts, we recommend that MassDEP exercises its discretion to designate special resource waters (SRWs) in Massachusetts. At this time, no waters in the Commonwealth have been assigned that qualifier. The definition of Special Resource Waters under 314 CMR 4.02 is "Waters of exceptional significance, such as waters in national or State parks and wildlife refuges, so designated by the Department pursuant to 314 CMR 4.06(1)(d)4. and (6)(b)." Several waters in Massachusetts would appear to meet the standards of the SRW designation. For example, federally designated Wild and Scenic portions of rivers, of which we have four currently in Massachusetts, could be recognized as SRWs. As 314 CMR 4.06(1)(d)4. states, Special Resource Waters "are assigned at the discretion of the Department, as appropriate." We encourage MassDEP to utilize their discretion and assign the SRW Qualifier to those waters which are deserving of the designation.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
32	314 CMR 4.02 314 CMR 4.04(4) 314 CMR 4.06(1)(d)3 314 CMR 4.06(6)(b): *Tables 1-27*	Charles River Watershed Association (CRWA)	Similarly, the current regulations allow MassDEP to designate "[w]aters of exceptional significance, such as waters in national or State parks and wildlife refuges," as Special Resource Waters. To date, no such waters have been designated. We encourage MassDEP to use the regulatory tools already at its disposal to recognize the Commonwealth's best waters, including our four nationally recognized Wild and Scenic Rivers or bodies of water within established wildlife refuges, so that they can benefit from additional protections and serve as a model for others.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
33	314 CMR 4.02 314 CMR 4.04(4) 314 CMR 4.06(1)(d)3 314 CMR 4.06(6)(b): *Tables 1-27*	Connecticut River Conservancy (CRC)	In the definition section, 314 CMR 4.02, it says Special Resource Waters (SRW) are waters "of exceptional significance, such as waters in national or State parks and wildlife refuges, …" According to 314 CMR 4.06(1)d(3), Special Resource Waters are assigned "at the discretion of the Department, as appropriate." Section 4.04(4) lays out the protections of an SRW. Based on an electronic search for "SRW" and "Special Resource" in the 314 CMR 4.06 Tables 1-27, it appears that no waters in the Commonwealth have been assigned that designation. It is not clear why DEP has held on to the term for so long without ever designating a water body as a Special Resource Water. If there is a nomination process for SRW, it is not evident in the regulations. It's time for DEP to 1) articulate a nomination process for members of the public to be able to suggest SRWs and Outstanding Resource Waters, and 2) exercise its discretion and designate some special resource waters. CRC has two suggestions for water bodies in our watershed to become SRWs: 1)The Wild & Scenic portions of the Westfield River and tributaries. 2)The entire MA portion of the CT River, for the following reasons: a. it's a state park (CT River Greenway State Park), b. the entire watershed is the USFWS Silvio Conte National Wildlife Refuge, c. it's an American Heritage River, and d. it's the nation's only Blueway.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP will consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
34	314 CMR 4.06(6)(c): *Table 28*	Charles River Watershed Association, Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We propose that MassDEP adds target threshold concentrations for the waterbodies with final TMDLs to Table 28: Site-specific Criteria. The table currently does not contain this information, which makes it harder to determine all of the different water quality requirements for a water body. For example, most of the general public is not well versed in the water quality field. If a person from that group was researching water quality criteria for a water body with a TMDL, they would not know that there was another set of criteria that additionally applied to that waterbody. To make data more accessible to the public, we recommend adding another column to the table that contains TMDL target threshold concentrations, if applicable.	This proposal is generally outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews. Regarding TMDL target threshold concentrations, please note the response to Comment 6 above regarding MassDEP's final clarification to 314 CMR 4.05(5)(c).
35	314 CMR 4.06(6)(c): *Table 28*	Charles River Watershed Association	CRWA requests that site-specific criteria be added for Charles River Basin for Total Phosphorous and /or Chlorophyll-a based on the Charles River watershed Nutrient Total Maximum Daily Loads ("TMDL") to ensure the TMDLs are implemented as intended. CRWA further requests MassDEP update Copper site-specific criteria for the Charles River Basin based on the EPA's Biotic Ligand Model ("BLM"). Specifically, we request that MassDEP calculate how the BLM method compares to the current site-specific criteria based on the hardness-dependent equations and make those calculations and input data available for public review. CRWA supports the inclusion of site specific criteria for other water bodies where TMDLs have been completed, notably nutrient criteria on Cape Cod, and we request that site specific criteria be applied to all water bodies subject to final TMDLs and that this be a standard MassDEP practice.	This proposal is generally outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews. Regarding TMDL target threshold concentrations, please note the response to Comment 6 above regarding MassDEP's final clarification to 314 CMR 4.05(5)(c).
36	314 CMR 4.06(6)(d): *Table 29a*	Charles River Watershed Association (CRWA)	Aluminum CRWA requests that any aluminum data collected by MassDEP in the Charles River Basin to evaluate the new standards be made available to the public. MassDEP's website shows that the most recent aluminum data available is from 2015. In order to comment meaningfully on this standard, MassDEP should have validated and made the 2024 data available by the time of this review. CRWA is concerned that the change from 87 ug/L to 390 ug/L for the Chronic Criteria and the change from 750 ug/L to 970 ug/L jeopardizes the health of aquatic life. However, without the ability to see the underlying data and calculations that lead to this change, we cannot fully assess this change and request that the existing standard stay in place until the underlying data is made public. CRWA supports the inclusion of criteria that are more protective of threatened and endangered species. Ammonia CRWA recommends that MassDEP develop minimum standard criteria for ammonia in the absence of adequate pH and temperature data, especially where receiving basins are known to be impaired for nitrogen, or for rivers that discharge to marine water with high nitrogen loading. We support higher projections for waters with sensitive species.	This comment regarding aluminum references changes made in MassDEP's 2021 revision to the MA SWQS (314 CMR 4.00). Comments and responses regarding those changes were presented in MassDEP's 2021 Response to Comments. No changes to aluminum criteria were proposed in the current 2026 revisions. Therefore, these comments are outside the scope of the current revisions to the MA SWQS. The proposal regarding ammonia is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
37	314 CMR 4.04 314 CMR 4.05	Association to Preserve Cape Cod, Blackstone River Coalition, Blackstone River Watershed Association, Cape Cod Chapter of Trout Unlimited, Massachusetts Council of Trout Unlimited, Charles River Conservancy, Charles River Watershed Association, Connecticut River Conservancy, Greater Boston Chapter of Trout Unlimited, Hoosic River Watershed Association, Ipswich River Watershed Association, Massachusetts Rivers Alliance, Muddy Water Initiative, Mystic River Watershed Association, Neponset River Watershed Association, North and South Rivers Watershed Association, Save The Bay, Taunton River Watershed Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	Explicitly including water quantity in the SWQS will ensure that water levels across the state will be maintained for proper water quality and public health. Many other states, including our neighbors Rhode Island, Connecticut, and New Hampshire, have language in their state water quality standards that mandate sufficient water quantity to maintain water quality. Massachusetts should have the same language, and we urge MassDEP to include language to that effect in the SWQS.	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.
38	314 CMR 4.06(6)(b): *Tables 1-27* 314 CMR 4.06(1)(d)	Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We support the changes made by MassDEP to remove the Public Water Supply (PWS) Qualifier from seven abandoned PWSs and create a new Qualifier, Public Water Supply-Abandoned. This new qualifier denotes that these waterbodies are no longer being used as PWS and do not fall under the purview of 310 CMR 22.00: Drinking Water, but still have the same water quality standards and restrictions under the SWQS as PWS that are still in use. We are pleased with this new Qualifier as it does not allow for backsliding of water quality under the Antidegradation provisions of the Standards, but aligns the SWQS with other regulations that govern PWS.	MassDEP appreciates the support for revisions to the MA SWQS.

No.	Regulatory Provision(s)	Commenter	Comment	Response
39	314 CMR 4.06(1)(d) 314 CMR 4.06(6)(b): *Tables 1-27*	Massachusetts Water Works Association (MWWA)	MWWA seeks clarification regarding MassDEP's proposed adoption of a new "Public Water Supply – Abandoned" qualifier in the MA SWQS classification Tables 1–27 at 314 CMR 4.06(6)(b) for seven waterbodies. MWWA understands that the U.S. Environmental Protection Agency previously disapproved MassDEP's removal or reclassification of the Public Water Supply (PWS) designation for certain waterbodies based on Clean Water Act requirements, including antidegradation and the protection of existing uses. Given EPA's prior determinations, MWWA questions how the proposed "PWS – Abandoned" qualifier complies with federal water quality standards requirements, and specifically why MassDEP is not conducting a Use Attainability Analysis (UAA), as required under 40 CFR § 131.10(g), to support any change that would remove or downgrade.	MassDEP acknowledges the comment regarding the "Public Water Supply – Abandoned" qualifier. The intent of this qualifier is to retain MA SWQS protections associated with the public water supply use while clarifying that these waters are not active public water supplies under the MA Drinking Water Regulations (310 CMR 22.00). The "Public Water Supply – Abandoned" qualifier does not remove the PWS use; waterbodies with either the "Public Water Supply" qualifier or the "Public Water Supply – Abandoned" qualifier have the same protections in the MA SWQS.
40	314 CMR 4.05(5)(f)	Connecticut River Conservancy, Massachusetts Rivers Alliance, similar comments were made orally by a representative of the MA Rivers Alliance	We strongly support the new bacteria water quality criteria proposed for secondary contact recreation (SCR) in Inland Waters and Coastal and Marine Waters. We are pleased to see that MassDEP made changes to the SCR based on data from the EPA that suggested more stringent regulations. We feel that these changes to the regulations will better protect public health and improve awareness of water quality impairments due to bacteria in waterbodies across the state.	MassDEP appreciates the support for revisions to the MA SWQS.
41	314 CMR 4.05(5)(f)	Save the Alewife Brook	MassDEP reviewed ingestion rates for various activities covered by the Massachusetts water quality standards and proposes updating water quality criteria to use the ingestion rate for kayaking (all activities). In general, the new bacteria criteria proposed for secondary contact recreation improves and strengthens the Massachusetts water quality standards. I support the inclusion of the revised secondary contact recreation criteria in the water quality standards. That said, the proposed criteria may be insufficiently protective of individuals with longer-term exposure to highly concentrated discharges, or more frequent exposure to state waters. This includes people living or recreating near CSO outfalls, waterway maintenance workers, and unhoused individuals living in proximity to a waterbody. These are people whose contact is more frequent than typical recreational use like kayaking, and that contact is often with much higher bacteria concentrations than is typically found. For example, the MWRA water quality model for Alewife Brook uses values of 2,500,000 cfu/ml E. coli and 1,000,000 cfu/ml Enterococcus to simulate CSO discharges and calibrates the accuracy of these values with post-discharge sampling. Secondary contact recreation is the most common use assigned to Massachusetts' waters. Many people rely on the secondary contact recreation criteria for protection. For these individuals, a review of EPA's epidemiological data and more conservative criteria may be appropriate. The Department should address this concern in its Response to Comments.	MassDEP appreciates this comment and the concern raised regarding individuals who may experience more frequent exposure, longer-term exposure, or exposure to highly contaminated waters, including waters affected by combined sewer overflows. MassDEP does not agree that the statewide secondary contact recreation criteria should be revised to address all site-specific or atypical exposure scenarios. All surface waters must meet the more conservative primary contact recreation criteria that protect activities such as swimming year-round, unless a seasonal exception is applied (see 314 CMR 4.05(5)(f)4). Primary contact criteria protect those with more frequent contact with water than typical kayaking exposures. The secondary contact criteria would apply in instances when and where the primary contact criteria do not apply (i.e., when the seasonal exception is in effect, such as during the winter season).

No.	Regulatory Provision(s)	Commenter	Comment	Response
42	314 CMR 4.05(5)(f)	Charles River Watershed Association (CRWA)	CRWA strongly supports the stricter secondary contact recreation ("SCR") standards for bacteria in the Proposed Amendments. MassDEP can further improve the proposed SCR standards by allowing sampling to occur over a longer period of time than the proposed 90-day interval, coupled with a required minimum number of samples. More frequent sampling is preferable, but it is not always practical, particularly for less accessible and less frequented bodies of water. However, a longer sampling interval must be combined with a minimum number of samples to prevent statistical aberrations in the resulting data. A geometric mean ("GM") or statistical threshold value ("STV") based on only one sample can produce a completely different result than a GM or STV based on multiple samples over the same period. By not requiring a minimum number of samples, the proposed GM or STV could essentially result in an increase of the single sample standard (a result that MassDEP has previously purported to eliminate). The U.S. Environmental Protection Agency's ("EPA") 2012 Recreational Water Quality Criteria identifies this concern and encourages additional sampling as a solution. CRWA urges MassDEP to adopt a similar approach that is both more flexible and more rigorous by permitting sampling to occur over a longer interval, while requiring a minimum number of samples during that period of time.	MassDEP appreciates this comment and agrees that the revised criteria are more scientifically defensible and align with EPA's current recommended recreational criteria framework. MassDEP acknowledges that the number of samples evaluated may affect characterization of water quality conditions and resulting use attainment decisions. MassDEP does not agree, however, that reverting to the prior six-month interval and minimum sample requirement in the MA SWQS would be more protective. Under the amended regulation, all 90-day intervals during the calendar year, not only a single 90-day period, must meet criteria magnitudes for both the geometric mean and statistical threshold value. In addition, during the development of MassDEP's primary contact criteria, EPA indicated that a duration longer than 90 days would not be protective. The secondary contact criteria are calculated as proportional to the primary contact criteria and therefore must have the same duration. For additional information, see the MassDEP guidance on the implementation of the primary contact bacteria criteria and the Massachusetts Consolidated Assessment and Listing Methodology Guidance Manual (see Table 6).
43	314 CMR 4.05(5)(f)	Neponset River Watershed Association (NepRWA)	The current standards [CMR 4.05(3)(a)4] that exist for bacteria data collection use a geometric mean (GM) and a statistical threshold value (STV). This method of analyzing data is not well-suited for watershed associations and water quality organizations, such as NepRWA, that perform monthly monitoring of waterways. These methods are more well-suited for more frequent sampling of beaches or public water sources. The STV does not work well for monthly sampling because it ends up being a less rigorous version of the single sample maximum (SSM). Since the STV is based on 10% of samples, and NepRWA only collects 6 samples per year, if any individual sample exceeds the bacteria standard, it effectively acts as an SSM. Since this is the case, we urge MassDEP to create a more rigorous additional standard to cover organizations that have a smaller sample size. In addition to the existing GM and STV criteria, we request MassDEP to adopt a SSM value as	MassDEP appreciates this comment and agrees that the amended regulation improves clarity by including secondary contact recreation bacteria criteria in the table with primary contact recreation. MassDEP also agrees that the revised criteria are more scientifically defensible than the prior secondary contact criteria. MassDEP does not agree, however, that an additional single sample maximum should be added to the MA SWQS at 314 CMR 4.05(5)(f) for

No.	Regulatory Provision(s)	Commenter	Comment	Response
			that is both functionally better for the type and frequency of monthly water quality sampling and allows the influence of precipitation to be more accurately quantified. We recognize that the GM's utility for impairment listing better accounts for outliers and variability in the data from a mathematical and scientific standpoint. But, for watershed associations, water quality organizations, and public advocacy groups in the field, these standards are not conducive to good science communication of data results. The existing standards are not easily accessible and understandable to the public due to the added layer of complexity in calculating geometric means. To improve the public's understanding of the data, it would be beneficial to have an SSM recommended by MassDEP. Every year, the 3 Boston Harbor Rivers' watershed associations (the Charles, Mystic, and Neponset Rivers) jointly host a Report Card event to share our E. coli data results of the waterways. For this event we still rely on the standards presented in the MassDEP's 2018 Consolidated Assessment and Listing Methodology (CALM). We still use the old standards which refer to an SSM for primary and secondary contact. If the standards are updated, then we will more accurately be able to display our data in accordance with MassDEP standards. Furthermore, we appreciate that the proposal includes secondary-contact standards for bacteria concentrations. In the previous 2021 SWQS, there was only one set of standards set for bacteria targeted towards primary-contact recreation and no standards explicitly mentioned for secondary-contact recreation. Now the E. coli standards are logically split up within the SWQS to mention both primary and secondary recreational capacities. Because of the previous ambiguity in standards, we have used the outdated MassDEP 2018 CALM standards. We are also in favor of the stricter bacteria contact thresholds that decrease both the GM criterion and the STV. We appreciate that the change is based on recommendations from the Environmental Protection Agency (EPA) is scientifically backed and based on water ingestion rates from epidemiological data. Stricter bacteria standards will allow MassDEP to more critically assess the bacteria concentrations and wastewater contamination of waterways. This will make it more likely for water bodies that are facing sewer and pathogen pollution to achieve the necessary impaired water status and develop a total maximum daily load (TMDL).	secondary contact recreation. The amended criteria are based on EPA's current approach, which relies on both a geometric mean and a statistical threshold value as criteria magnitudes. For additional information, see the MassDEP guidance on the implementation of the primary contact bacteria criteria and the Massachusetts Consolidated Assessment and Listing Methodology Guidance Manual (see Table 6).
44	314 CMR 4.04(1) 314 CMR 4.05 314 CMR 4.05(5)(f)	Connecticut River Conservancy (CRC)	The use of extended sampling intervals are concerning in terms of answering the practical question that the public, municipalities, and watershed organizations are asking: whether the water is safe for swimming and boating at a given time. An assessment method that obscures short-term contamination events undermines the public health purpose of adopting updated criteria in the first place. ... CRC strongly disagrees with DEP's decision to use separate sampling intervals depending	MassDEP revisions to the MA SWQS do not include any changes to the primary contact recreation criteria. The secondary contact recreation criteria were calculated to align with MassDEP's primary contact criteria and are equivalently protective of human health. MassDEP adopted these criteria to apply to all

No.	Regulatory Provision(s)	Commenter	Comment	Response
			on what kind of water body it is. To do so is inconsistent with the Clean Water Act (CWA) and is also contrary to what EPA recommended in its 2012 document. CRC is particularly concerned that adopting a ninety-day interval for certain waters places Massachusetts out of alignment with EPA's recommended implementation of the 2012 criteria. EPA has been clear that duration is a core component of the water quality standard itself, and that longer averaging periods can mask episodic pollution events that pose acute public health risks. For water bodies, the existing use that is being protected is primary contact recreation. Existing uses must be "maintained and protected" by a state's anti-degradation policy. 40 C.F.R. § 131.12(a)(l); 314 Code Mass. Regs. § 4.04(1) ("In all cases existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."). This use is protected regardless of whether the water body is considered a "bathing beach" by the Massachusetts Department of Public Health (DPH) or not. A longer assessment interval that allows momentary but significant exceedances to be averaged out is inconsistent with the obligation to maintain and protect this existing use, particularly where those exceedances may coincide with periods of active recreational use. Moreover, EPA in its 2012 document, section 3.6.2, recommended that states use a duration of 30 days for the GM and STV. The document is quoted below. "EPA now specifically recommends a duration period over which the GM of samples should be calculated and over which the STV should be compared against a recommended limit on the frequency of excursions. EPA is recommending that states use a duration for the GM and STV of 30 days. The duration and frequency of excursion should be explicitly included in the state's WQS as it is a component of the WQS. EPA understands that a longer duration would typically allow for more samples to be collected and that including more samples in calculation of the GM and STV improves the accuracy of the characterization of water quality. However, because the designated use protected by this criterion is primary contact recreation, EPA believes that a shorter duration (i.e., 30 days), used in a static or rolling manner, coupled with limited excursions above the STV, allows for the detection of transient fluctuations in water quality in a timely manner. In the development of their monitoring program, EPA recommends that states consider the number of samples evaluated in order to minimize the possibility of incorrect use attainment decisions (see section 3.6.4)."	Class A, B, SA, and SB waters without a seasonal exception (whereas seasonal exceptions are allowed in applications of primary contact criteria). MassDEP's 90-day evaluation interval for primary contact criteria was approved by EPA in 2022 as protective for surface waters not impacted by wastewater or combined sewer overflows (CSOs). Retaining the 90-day evaluation period for most waters ensures inclusion of more samples for each water quality evaluation and the use of the 30-day period at public beaches and wastewater/CSO segments encourages higher sampling frequency where risk of exposure is greater. MassDEP does not specify required weather conditions for data collection as the criteria apply during all weather conditions. Please see the Massachusetts Consolidated Assessment and Listing Methodology Guidance Manual (MassDEP 2025) for information on how the bacteria criteria will be used for listing purposes. The MA SWQS, at 314 CMR 4.02: *Definitions*, do not include definitions for "Bathing Season" and "Bathing Water". These terms are defined within the Minimum Criteria Section at 4.05(5)(f)(3)(b) by reference to the relevant Department of Public Health regulation. MassDEP notes that its website includes a technical guidance document on the implementation of the primary contact bacteria criteria. The method of applying the 30- and 90-day evaluation periods would be the same for both primary and secondary contact criteria.

No.	Regulatory Provision(s)	Commenter	Comment	Response
			CRC recommendation: CRC recommends that MassDEP use the same interval for all water bodies; specifically, we recommend that DEP use a 30-day interval for all surface waters, deleting the mention of a 90-day interval. We are not clear how DEP will evaluate whether a water body meets or does not meet the water quality standards, since there will be some results indicating that the standards are met during some, but not all, rolling 30-day intervals [the same would also be true for 90-intervals]. CRC also recommends that the definitions of "bathing season" and "bathing water" that are proposed to be newly added to the regulations, be deleted. These are definitions relevant to the DPH regulation 105 CMR 445, not the Surface Water Quality Standards. While it is fine and appropriate to refer to the DPH regulations, that should be the extent of it. In the eyes of the Surface Water Quality Standards, all waters should be protected as bathing waters, even if they don't have the same sampling requirements as bathing waters regulated under 105 CMR 445. We have struggled with this separation between bathing waters and other surface waters in the existing regulations. The Connecticut River has several sandy beaches, some of them on land owned by the MA Department of Conservation and Recreation (DCR), that are used extensively for swimming all summer. We have a member, Kari Kastango, who is swimming the entire length of the Connecticut River in segments over several seasons to highlight the need for clean water – see the video online at https://www.youtube.com/watch?v=Hzli0w1KZBU. Our major and minor tributaries have many informal swimming holes, and these also should be protected for primary contact recreation. DEP has indicated in its Massachusetts Consolidated Assessment and Listing Methodology 2018 Guidance Manual (2018 CALM) on page 59 that, other than at beaches run by the Department of Conservation and Recreation (DCR), it isn't able to use bacteria data from inland beaches in its assessments anyway. We do not feel there is any justification for separating out water bodies that are managed as a swimming beach from any other surface water body. **Organization of the regulations with regard to bacteria limits** Having the bacteria limit text in each class of water refer to a later section in the regulations is cumbersome, but possibly necessary now that there is a summary table. However, we'd recommend that 314 CMR 4.05 (5) be re-arranged so that the bacteria standards come before the lengthy toxic pollutants subsection. This would make it easier to find the bacteria language, since waters are more commonly tested for bacteria than toxic pollutants. Improving clarity and accessibility of the bacteria standards is essential given the growing role of community-based monitoring programs and public interest in understanding recreational water quality conditions.	

No.	Regulatory Provision(s)	Commenter	Comment	Response
			Use of wet weather results vs. dry weather results in bacteria assessment: Neither 314 CMR 4.0 nor the 2018 CALM describe whether MassDEP considers bacteria results from both wet weather and dry weather in its assessment of whether a water body attains the primary contact recreation use. The only hint is that in Appendix G of the CALM, it states that analysts look at the weather conditions in the previous 5 days before a sample was collected. There is no stated definition of wet weather or dry weather, and there is no concrete statement how the weather conditions are then factored into the analysis. Anecdotal discussions have left us with the impression that DEP sometimes does not use wet weather data, and that bacteria results that exceed the single maximum limit in the current standards are not necessarily used for listing a waterbody as impaired. CRC recommends that DEP make this more explicit and transparent to the public how the bacteria criteria will be used for listing, and how wet vs. dry data are used in bacteria analysis. We strongly recommend that results from both weather types are used.	
45	314 CMR 4.06(6)(b): *Table 2*, Footnotes 1-3	Save the Alewife Brook	314 CMR 4.06 Table 2 Footnote 1 updates information about the CSO qualifier for an approximately 5-mile-long segment of the Mystic River. It notes that discharges from outfall SOM007A are jointly permitted to the MWRA and the City of Somerville, and that the discharges are subject to the Final Determination to Adopt a Water Quality Standards Variance for Combined Sewer Overflow Discharges to Alewife Brook/Upper Mystic River Basin, effective August 31, 2024. Footnotes 2 and 3 refer to the citation in Footnote 1 for authority. Footnote 2 updates information for the CSO qualifier for Alewife Brook. It correctly notes that: “Discharges from multiple CSOs permitted through to the Massachusetts Water Resources Authority, the City of Somerville, and the City of Cambridge within this segment are subject to the Variance described in Footnote 1.” Footnote 3 reads: Discharges from Massachusetts Water Resources Authority's CSO MWR003 within this segment are subject to the variance described in footnote 1 above. The purpose of Footnote 3 is to update the information about the CSO qualifier applied to the Little River. If the purpose of a footnote is to add clarity or legal precision to a text, Footnote 3 does the opposite. It opens a can of worms. The Little River is not listed as a receiving water in the Variance. The Variance references the NPDES permits for each CSO discharge it authorizes. The MWRA’s permit [MA0103284] describes the receiving water for outfall MWR003 as Alewife Brook.	MassDEP notes that the Table 2 revisions simply update the footnote citation to the more recent variance effective through 8-31-2029 and do not result in any substantive regulatory change or alter the underlying effect of the existing variance. The segment boundary description in the MA SWQS sets forth that the Little River was formerly known as Alewife Brook and does not conflict with the MWRA variance. MassDEP recognizes the importance of clearly identifying the receiving water associated with CSO discharges but acknowledges that segment descriptions in the MA SWQS may differ from Assessment Units (AUs) in the Integrated Report. These differences arise because segments in the MA SWQS reflect designated uses, classifications, and qualifiers for surface waters; the Integrated Report may further divide those segments into AUs for assessment purposes. For greater clarity, MassDEP will continue to address potential inconsistencies between segment boundaries.

No.	Regulatory Provision(s)	Commenter	Comment	Response
			Federal regulations require that a variance specify "the water body/waterbody segment(s) to which the WQS variance applies" (40 CFR 131.14(b)(1)(i)). By failing to correctly identify the Little River as the receiving water for CSO outfall MWR003 in the 2024 Variance, the CSO qualifier for the Little River in 314 CMR 4.06 Table 2 has no citation to a valid regulatory authority. The CSO qualifier has regulatory effect The addition of the CSO qualifier to a waterbody in the Tables in 314 CMR 4.06 opens a range of regulatory options including the issuance of a variance, a partial use designation, or reclassification. The addition of the CSO qualifier is a significant act, and the Department should ensure that the qualifier is accurately applied. Correcting the entry for the Little River in 314 CMR 4.06, Table 2 is appropriate. To the extent that changes to 314 CMR 4.0 made during the Triennial Review can cure defects in the Variance, there are several more that should be examined.	
46	314 CMR 4.06(6)(b): *Table 2*	Save the Alewife Brook	The entry for the Little River in Table 2, reads: The portion of the Little River, formerly included as part of Alewife Brook, beginning 2,800 feet (approximately 0.5 miles) upstream of the confluence with Alewife Brook, Cambridge, to the confluence with Alewife Brook, Cambridge. This text is identical to the text of the previous version of the water quality standards. The Little River is also described in another Department document with regulatory significance, the Final Massachusetts Integrated List of Waters for the Clean Water Act 2022 Reporting Cycle, Appendix 6, MassDEP, 2023 (the "303(d) list"). The 303(d) list divides Little River into 2 segments, MA71-21 and MA71-22. Segment MA71-21 runs .08 miles [4224 feet] from the outlet of Little Pond to CSO outfall MWR003, a location identified as "150 feet from mouth at the confluence of the Alewife Brook." No CSO qualifier is attached to segment MA71-21. The description for Segment MA71-22 reads: From MWRA CSO outfall (MWR003, approximately 150 feet upstream of mouth), Cambridge to mouth at confluence with Alewife Brook, Cambridge (formerly part of 2016 segment: Alewife Brook MA71-04). The correct distance from CSO outfall MWR003 to the mouth of the Alewife Brook is the one described in the 303(d) list. That is 03 miles [158.4 feet]. The CSO qualifier is attached to segment MA71-22 (Exhibit 1). 2800 feet is not 150 feet There are no CSOs upstream of outfall MWR003. The application of the CSO qualifier to any portion	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews. MassDEP recognizes the importance of clearly identifying the receiving water associated with CSO discharges but acknowledges that segment descriptions in the MA SWQS may differ from Assessment Units (AUs) in the Integrated Report. These differences arise because segments in the MA SWQS reflect designated uses, classifications, and qualifiers for surface waters; the Integrated Report may further divide those segments into AUs for assessment purposes. For greater clarity, MassDEP will continue to review this CSO segment and potentially address inconsistencies between segment boundaries.

No.	Regulatory Provision(s)	Commenter	Comment	Response
			of the Little River above MWR003 is inappropriate, and inconsistent with the description the Department uses for other Clean Water Act purposes. The description of Little River in Table 2 should be revised to read "beginning approximately .03 miles [158.4 feet] upstream of the confluence…".	
47	314 CMR 4.06(6)(b): *Table 5*	Charles River Watershed Association (CRWA)	CRWA requests that MassDEP remove the CSO qualifier for the Lower Charles River Basin. CSOs are permitted in this section of the river based on a water quality variance that must be renewed on a regular cycle (and that currently is still pending approval by EPA). It is not clear that the standards will be updated on the same cycle, therefore the standards presuppose the permanence of CSOs in this section of the river, which is not factually or legally accurate.	MassDEP notes that the Table 5 revisions simply update the footnote citations to the more recent variance effective through 8-31-2029 and do not result in any substantive regulatory change or alter the underlying effect of the existing variance. MassDEP does not agree that the MA SWQS "presuppose the permanence of CSOs" in the Lower Charles River Basin. As stated in 314 CMR 4.05(d)(1), the CSO qualifier in the MA SWQS denotes those waters identified as impacted by the discharge of combined sewer overflows; however, a long-term control plan has not been approved or fully implemented for the CSO discharges. In 314 CMR 4.06(d), there are separate entries for use of CSO as a qualifier and designation of a water body as Partial Use, B(CSO) or SB(CSO). The CSO qualifier remains an important indicator to the public about the status of surface water quality. MassDEP is committed to reviewing the status of these segments and the necessity of the qualifier during future triennial reviews.
48	314 CMR 4.06(6)(b): *Table 23*	Jones River Watershed Association	As a final note, and this may be a clerical error, but in Table 23 the Jones River is divided into sections based on historic dams that have since been removed. In the table the Wapping Road dam is correctly noted as a former dam but the Elm Street dam, which was removed in 2019, is not denoted as "former".	This proposal is outside the scope of the current revisions to the MA SWQS (314 CMR 4.00); however, MassDEP may consider this in future triennial reviews.

No.	Regulatory Provision(s)	Commenter	Comment	Response
49	314 CMR 4.06(6)(c): *Table 28*	EPA	Class C-Related Temperature Site-specific Criteria (SSC): A mathematical translation of "shall not exceed 85 deg-F…" would be "<= 85 deg-F" rather than just "<". Same for "nor shall… exceed 5 deg-F".	MassDEP corrected the Class-C-related site-specific criteria.
50	314 CMR 4.06(6)(b): *Table 17*	EPA	The Shad Factory Pond entry in Table 17 (Entire pond to outlet in Rehoboth) did not have the "Cold Water" qualifier added (see page 92 of the "Proposed SWQS Amendment (redline)" pdf posted on MassDEP's Watershed Planning Program: Surface Water Quality Standards Review and Development Activities webpage).	MassDEP acknowledges the error and in the Qualifier column for Shad Factory Pond added "Cold Water".