



REGION 1

BOSTON, MA 02109

Dated by electronic signature

VIA ELECTRONIC FILING AND EMAIL

Tommie Madison, Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3332
Washington, DC 20004

Tim Clougherty,
Public Works Director
City of Manchester
Department of Public Works
475 Valley Street Manchester,
New Hampshire 03103

**RE: City of Manchester, NPDES Permit No. NH0100447
NPDES Appeal No. 25-05
Notice of Uncontested and Severable Permit Conditions**

Dear Mr. Madison and Mr. Clougherty,

In accordance with 40 C.F.R. §§ 124.16 and 124.60, and in connection with the above-referenced NPDES permit appeal, Region 1 ("Region 1" or "the Region") of the United States Environmental Protection Agency ("EPA") provides this notice of the uncontested and severable conditions of National Pollutant Discharge Elimination System ("NPDES") Permit No. NH0100447, issued by the Region to the City of Manchester ("City" or "Permittee") on November 3, 2025 ("2025 Permit"). When effective, the 2025 Permit will supersede the City's previous permit, which has been administratively continued since its expiration in April 2020 ("2020 Permit").

The Permittee timely petitioned for review of the 2025 Permit on December 3, 2025 (EAB Appeal NPDES No. 25-05 ("City's Petition")). The Permittee originally contested numerous provisions:

1. The condition at Part I.A.1 relating to the ammonia nitrogen limit and the associated compliance schedule at Part I.G.2.¹
2. The condition at Part I.A.1 requiring monitoring of PFAS analytes.

¹ EPA Region 1 withdrew this condition pursuant to 40 C.F.R. § 124.19(j) on September 25, 2026. *See* Notice of Partial Withdrawal.

3. The condition at Part I.H.3(g)(2) requiring the initial notification of a probable CSO activation within two (2) hours.
4. The condition at Part I.A.1 requiring quarterly WET testing.
5. The conditions at Part I.H.5 and I.I.1 requiring monthly Discharge Monitoring Report submissions (for CSO outfalls and all other outfalls respectively).
6. The pollutant scan requirement in Attachment G.

See City's Petition.

When a permit appeal is filed, the Region must issue a notification identifying which permit conditions are stayed as a result of the appeal and which permit conditions will go into effect. *See* 40 C.F.R. § 124.16(a)(2)(i) and (ii). While an appeal is pending, Contested Conditions are stayed. *Id.* at § 124.16(a)(1). Uncontested permit conditions that are “inseverable” from Contested Conditions are also considered to be Contested Conditions and are stayed. *Id.* at §§ 124.60(b)(4), 124.16(a)(2)(i). Uncontested permit conditions that are severable from Contested Conditions are not stayed and become enforceable conditions of the permit. *Id.* at §§ 124.16(a)(2)(i) and (ii).

Prior to issuing this notification, the City and EPA entered into settlement discussions, and as a result of such discussions, the City filed a motion seeking dismissal of its Petition. *See* Request for Dismissal of Petition.² Thus, the Region is notifying you that it has determined that all conditions of the permit are now uncontested and severable and accordingly will become fully effective and enforceable on November 1, 2026.³

Additionally, consistent with this Board's decision in NPDES Permit Appeal No. 25-04, EPA will be reevaluating its approach to PFAS in the permit as it responds to the remand.

If you have any questions regarding this notice, please contact Cayleigh Eckhardt, of our Office of Regional Counsel, at (617) 918-1044.

Sincerely,

**MARK
SANBORN**

Digitally signed by
MARK SANBORN
Date: 2026.09.25
16:19:51 -04'00'

Mark Sanborn
Regional Administrator
U.S. EPA Region 1

² The Conservation Law Foundation separately contested aspects of the permit. *See* EAB Docket No. NH0100447. The Board has since rendered a decision in that docket partially remanding the permitting decision to the Region “to correct the erroneous statements in the response to comments document, and to evaluate whether PFAS ‘are or may be discharged a level which will cause, have the reasonable potential to cause, or contribute to an excursion’ of [applicable water quality standards],” without remanding or vacating any particular permit condition. 19 E.A.D. 269, 300-301 (EAB 2026).

³ This notice is not intended to constitute final agency action or a final permit decision under 40 C.F.R. § 124.19(l)(2). Consistent with 40 C.F.R. § 124.19(l)(2)(iii), the final permit decision and final agency action will occur upon completion of the remand proceedings recently ordered in the other appeal of the permit (EAB Appeal NPDES No. 25-04).

cc (by email):

Adam Dumville, counsel for City of Manchester
Greg Smith, counsel for City of Manchester
Tom Irwin, counsel for CLF
Jillian Aicher, counsel for CLF
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Jeffrey Foote, Town of Bedford
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John Trottier, Town of Londonderry