



# MASSACHUSETTS WATER RESOURCES AUTHORITY

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June 5, 2023

Michele Duspiva  
U.S. Environmental Protection Agency – Region 1  
5 Post Office Square, Suite 100 (06-4)  
Boston, MA 02109-3912

Claire Golden  
Massachusetts Department of Environmental Protection  
150 Presidential Way  
Woburn, MA 01801

**Re: Comments on the draft Holyoke Water Pollution Control Facility and Combined Sewer Overflow NPDES Permit (MA0101630) and the accompanying Fact Sheet and Draft NPDES Surface Water Discharge Permit: Holyoke Water Pollution Control Facility (MA 0101630)**

Dear Ms. Duspiva and Ms. Golden:

The Massachusetts Water Resources Authority (MWRA) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) draft National Pollutant Discharge Elimination System (NPDES) permit number MA0101630 for the Holyoke Water Pollution Control Facility (WPCF) and the accompanying fact sheet (Draft Permit), which were noticed on April 6, 2023. MWRA is providing the following comments in accordance with 40 C.F.R. §124.13.

## **Comments on Section A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

### **Weekly maximum limits for TSS and BOD**

The draft permit includes limits on weekly TSS and BOD loads. MWRA recommends that these be changed to "report only." MWRA notes that maximizing combined flow to the treatment facility is more beneficial to the environment, but is discouraged by weekly mass loading limits.

### **PFAS**

MWRA is pleased to see that the quarterly influent, effluent, and sludge sampling for PFAS calls for grab samples rather than composite samples, which is consistent with the requirements of Method 1633.



### **Adsorbable Organic Fluorine monitoring of influent and effluent**

MWRA is concerned that monitoring of Adsorbable Organic Fluorine (AOF) is untested and the data may be impossible to interpret. MWRA recognizes the value of a measurement would cover all of the thousands of possible PFAS compounds as a class, however, the method is not ready for use in NPDES monitoring. The justification in the Fact Sheet does not address several issues with the method.

Draft Method 1621 (dated April 2022) explicitly states that “[t]his document represents a draft of an AOF method currently under development by the EPA Office of Water, Engineering and Analysis Division (EAD). **This method is not approved for Clean Water Act compliance monitoring until it has been proposed and promulgated through rulemaking.**”

Conversely, EPA issued a memo allowing permit writers to include Draft Method 1633 in permits, even though it has not been finalized and promulgated. As far as MWRA is aware, no such memo has been issued with respect to Draft Method 1621, and there are some good reasons not to do so.

AOF in aqueous matrices by combustion ion chromatography (CIC) is a “method-defined parameter” defined solely by the method used to determine the analyte. Any changes to the method necessitated by the results of the multi-laboratory validation study or public comments on the method should invalidate any prior data collected using the draft procedure.

EPA is adding this method to NPDES permits without having completed the multi-laboratory validation study. There is no way to know what to expect when multiple labs are employed to meet the permit required testing in terms of precision, accuracy, comparability, or repeatability.

By requiring measurement of AOF using Method 1621 in the draft NPDES permit, EPA is side-stepping the requirements of the Paperwork Reduction Act, instead of following the information collection procedures required by that Act.

The current detection limits are on the order of 5,000 ng/L as F. In addressing concerns about the presence of PFAS at ng/L levels, the analysis will not produce useful results, even aside from questions about precision, accuracy, comparability, or repeatability noted above.

MWRA estimates a cost for this analysis of about \$300 - \$400 per sample. Permittees may not be able to find laboratories to do this analysis, as based on inquiries we have made there is currently a shortage of labs currently able to perform this test. At a minimum, there would be additional cost related to sample handling and shipping. This cost is an unreasonable burden to put on permittees, especially because the data generated prior to Method 1621 being approved are likely to be unusable for decision-making.

MWRA recommends that the requirement to monitor and report on AOF be deleted from the NPDES permit. At a minimum, it should be deferred until an available approved method is promulgated.





## **Comments on section B. UNAUTHORIZED DISCHARGES**

### **Unauthorized discharge – public notifications**

MWRA agrees with notification of SSOs, however recommends these reporting requirements be consistent with recently implemented MA regulations 314 CMR 16.00. In particular, MWRA suggests that EPA align Part I.B.2 with 314 CMR 16.00.

## **Comments on section C. OPERATION AND MAINTENANCE OF THE TREATMENT AND CONTROL FACILITIES**

### **Major Storm and Flood Events Plan**

The draft permit contains several new requirements relating to planning for flooding events (Sections C.1.a, C.2.e, C.3.g, C.3.h), as well as new requirements for publishing sewer system maps (C.2.d), which MWRA opposes. While MWRA appreciates the importance of planning for climate change and resiliency of the wastewater system, these requirements will impact the ability of utilities to balance investments in the system to ensure its reliable operation.

MWRA, like all utilities, considers natural disasters and other emergencies as part of routine facilities planning. We believe a critical part of these planning efforts is adapting to the impacts of climate change, such as installing flood protection measures at our facilities vulnerable to sea level rise. However, as detailed below, these requirements are onerous and go beyond what is needed for useful, pragmatic planning for climate change. Any new requirements should encourage and support thoughtful development of locally-relevant plans for each permittee, rather than requiring a hasty, expensive, “one size fits all” approach.

The draft permit Fact Sheet section on Operation and Maintenance notes that “*The requirements of 40 CFR § 122.41(d) impose a ‘duty to mitigate,’ which requires the permittee to “take all reasonable steps to minimize or prevent any discharge in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment.”*

MWRA asserts that the steps EPA has required in the referenced sections are not reasonable. Moreover, EPA has not explained wherefrom it derives the authority to require extensive planning for extreme events. In addition, the requirements are unduly burdensome, raise serious security concerns, and represent an expensive, unfunded mandate. Finally, the requirements are also confusing, inflexible, and not consistent with EPA guidance. An alternative approach similar to emergency planning for drinking water systems in the American Water Infrastructure Act of 2018 (AWIA) would be more appropriate.

### ***The requirements are unduly burdensome.***

As the requirement has been inserted into a draft permit, rather than promulgated as a regulation, EPA has not had to calculate the financial burden on permittees. MWRA strongly urges EPA to



make this calculation, and publish it for public comment. As written, the development of the plan would require hundreds of staff hours – thousands, in the case of a large or complex system – and is likely to have significant cost implications.

Few, if any, permittees and co-permittees will have the in-house resources to develop the extensive plan described. This will require procuring professional engineering services, at a significant cost, and the number of available firms with expertise in climate change planning is limited.

The costs associated with developing such an extensive plan could result in deferring important projects with a more immediate need. For larger facilities, these costs may be absorbed, but for smaller facilities, the development of a plan on this scale and in the proposed timeframe could have immediate impacts on the permittee’s ability to fund other projects. Any rate impacts will be felt by the most vulnerable populations served by the permittee or co-permittee.

Finally, the draft permit’s 12 month timeline to develop the plan is much too short. Even aside from the time to complete the plan, municipalities will need time to obtain funding – which may take a year, even assuming rapid approval by Town Meeting or City Council – and then procure the professional services, which adds several more months. If the requirement is retained, a minimum of **36 months** should be provided (24 months for the asset vulnerability evaluation and another 12 months for the mitigation alternatives analysis) to complete the *Wastewater Treatment Facility Major Storm and Flood Events Plan* and the *Sewer System Major Storm and Flood Events Plan*. Additional time will be required to implement a plan.

*The requirements raise security concerns.*

The draft permit requires permittees and co-permittees to make a sewer system “map available online in a downloadable Geographic Information System (GIS) format, available to the public, in a manner where the system’s performance can be independently assessed and analyzed.” No basis is given in the Fact Sheet for this requirement, and there is no explanation of how the permittee can judge whether the map will allow an independent assessment or analysis of system performance. MWRA notes that its security posture towards sensitive data would prohibit making such information generally available. The risk that malicious actors will target utility infrastructure cannot be ignored, as we know from recent news reports about acts of vandalism targeting electrical infrastructure.

MWRA notes that AWIA required drinking water utilities to develop or update risk assessments and emergency response plans (ERPs)<sup>1</sup>. The AWIA’s requirements differ from this draft permit approach in several key ways:

- The drinking water providers conducted the risk assessment and developed the ERP, but did not submit it to EPA; rather, there is a process for drinking water providers to certify the plans.

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<sup>1</sup> <https://www.epa.gov/waterresilience/awia-section-2013>





- Sensitive information was therefore kept confidential and secure within the utility.
- The requirement was a specific new statutory requirement from Congress, and subject to public comment.
- The ERP was not required to be complete until six months after the risk assessment.
- EPA provided workshops, training and other resources, including online tools, checklists, and template plans.

*The requirements represent an unfunded mandate.*

The draft permit requires permittees to identify sources of funding. Rather than require permittees to apply for grant funding that may not be provided, EPA should provide guaranteed sufficient funding to create the plans and implement them. In the absence of a dedicated funding source, at a minimum, EPA should conduct the risk assessments for each municipality and regional wastewater utility.

*The requirements are confusing, inflexible, and not consistent with EPA guidance.*

Wastewater utilities and public works departments consider natural disasters and other emergencies as part of routine facilities planning. Using local expertise, plans are tailored to the particular circumstances of their municipality and region. The requirement in the draft permit is a “one size fits all” approach that will result in wasted resources.

EPA cites flood resiliency guidance<sup>2</sup> and risk assessment tools in its Creating Resilient Water Utilities program<sup>3</sup>. The guidance documents cited are significantly narrower and better defined, than the conditions included in the draft permit. They also consider a more reasonable shorter planning horizon, which would allow for a more realistic capital planning process.

The language of the requirements is also confusing. In one of the many footnotes, EPA directs permittees to use “...at a minimum, the worst-case data...” This makes little sense; the same footnote requires using a variety of climate projection sources, which very likely conflict (particularly for more distant dates) and are subject to change over time. The same footnote requires “Evaluation must be completed by a qualified person...” without defining who is a qualified person.

There is a requirement to revise plans “...as data sources used for such evaluations are revised or generated...” This is beyond the control of the permittee, and could result in perpetual and costly reevaluations.

Requiring a permitting horizon of 40 years and beyond is unreasonable; there is too much uncertainty in climate predictions to adequately assess risk and propose mitigation measures in longer time frames. NPDES permits are five year permits; the draft permit requires an entity to

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<sup>2</sup> [https://www.epa.gov/sites/default/files/2015-08/documents/flood\\_resilience\\_guide.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/flood_resilience_guide.pdf)

<sup>3</sup> <https://www.epa.gov/crwu>



plan out 80-100 years. Meanwhile, the life expectancy of many wastewater assets is closer to 20 years. Accordingly, this exercise is misplaced as part of a 5-year permit.

Additionally, the requirement to develop a flood events plan and mitigation measures for 80-100 years in the future ignores that adaptation planning for the extremes of climate change possible in 2100 and beyond requires iterative collaboration between the surrounding municipalities. The decisions a permittee makes to protect against extreme sea level rise, for example, are directly related to the measures taken by the entire region. A facility might be protected from rising waters, but if the adjacent communities fail to build adaptive infrastructure, the areas outside the facility would be flooded, making it inaccessible. While facility-specific mitigation measures like flood barriers are pragmatic for mid-term planning, long-term planning requires a region-wide approach, which goes beyond the scope of this permit.

Annual reporting, besides being subject to the same security concerns mentioned above, is excessive for long-term planning. If progress reporting is required, a five-year cycle seems more appropriate.

*A more well thought out approach would be more effective.*

Examples of a less prescriptive, more effective approach are available, such as:

- State Revolving Fund loans require utilities to develop an asset management program.
- AWIA Risk and Resilience Assessments and ERPs are kept on file at the utilities to protect security-sensitive information that could be exposed if plans are submitted to EPA.
- Community water systems may use any standards, methods or tools provided risk and resilience assessment and emergency response plan fully address AWIA requirements.

Rather than require the same onerous procedures for all municipalities as part of a NPDES permit, EPA should work collaboratively with those permittees whose systems are at highest risk from flooding under present and future climate conditions.

## **Comments on section H. COMBINED SEWER OVERFLOWS (CSOs)**

### **Part I.H.3.g(2) Combined Sewer Overflow Public Notification**

It is unclear if EPA intends to allow the permittee a period of time to confirm that a CSO has activated before the two hour public notification clock starts. Alternately, MassDEP has made clear in 314 CMR 16.04(5)(a) that permittees have a set window (contingent on the method of discovery and how the facility operates) to confirm that a discharge has occurred. Once a discharge has been confirmed, 314 CMR 16.04(4) requires the permittee to issue a public notification within two hours. Permittees have put forth considerable effort and resources toward developing public notification programs in accordance with 314 CMR 16.00. This lack of clarity will create confusion and potentially inconsistent requirements for public notification.





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MWRA suggests EPA modify the language of Part I.H.3.g(2) to state the permittee must issue an initial public notification of a CSO activation in accordance with the requirements of 314 CMR 16.04.

In summary, given the MWRA's interest in NPDES permit requirements established by EPA and the Commonwealth, we appreciate the opportunity to comment on the Draft Permit issued for the Holyoke WPCF. Please do not hesitate to contact Wendy Leo with any questions, at [Wendy.Leo@mwra.com](mailto:Wendy.Leo@mwra.com).

Sincerely,

A handwritten signature in blue ink, appearing to read 'DM', with a horizontal line underneath.

David W. Coppes, P.E.  
Chief Operating Officer, MWRA

cc: Carl Rossi, Superintendent, Department of Public Works, [mcmanusm@holyoke.org](mailto:mcmanusm@holyoke.org)

