



MASSACHUSETTS WATER RESOURCES AUTHORITY

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RE: Proposed amendments to MWRA's Regulations for Adjudicatory Proceedings (360 CMR 1.00), Enforcement and Administrative Penalties (360 CMR 2.00), and Sewer Use (360 CMR 10.000)

DATE: March 22, 2019

Overview of Regulations and Proposed Amendments:

MWRA is proposing to amend the following regulations: Adjudicatory Proceedings (360 CMR 1.00), Enforcement and Administrative Penalties (360 CMR 2.00), and Sewer Use (360 CMR 10.000). On February 20, 2019, the MWRA Board of Directors authorized MWRA staff to publish notice of the proposed amendments for public comment.

MWRA's Adjudicatory Proceedings, Enforcement and Administrative Penalty, and Sewer Use Regulations are required by EPA for its Industrial Pretreatment Program, which is administered by MWRA's Toxic Reduction and Control (TRAC) department. The Adjudicatory Proceedings Regulations govern the formal administrative appeal process in the event of disagreements over permit or enforcement actions. The Enforcement and Administrative Penalty Regulations and the Sewer Use Regulations are derived from EPA's federal pretreatment regulations found at 40 CFR Part 403, *et seq.*, and set conditions for use of MWRA and municipal sewers, including charges for obtaining and holding a permit. They also provide for enforcement for noncompliance with MWRA regulations and permits.

The proposed revisions to the three regulations listed above focus on the following four areas: revisions to the Clinton Sewerage Service Area local limits resulting from a revised National Pollutant Discharge Elimination System (NPDES) permit for the Clinton Wastewater Treatment Plant; establishment of a group Dental Discharges permit to comply with the newly promulgated federal dental office effluent guidelines, 40 CFR Part 441; updates to MWRA's Incentive Program Charges; and other revisions to ensure that these regulations reflect current program policies and practices as derived from federal regulations.

Proposed Amendments

On March 1, 2017, MWRA's revised Clinton NPDES permit went into effect. The NPDES permit for the Clinton Wastewater Treatment Plant required that the MWRA conduct an analysis of the industrial discharge limits for permitted industries in the Clinton Sewerage Service Area. Following the analysis, MWRA was required to submit a written technical evaluation of the results of the analysis within 180 days (August 25, 2017) of the effective date of the permit. Under this requirement, MWRA reviewed the adequacy of existing discharge limits and the establishment of additional standards, if necessary, to prevent pollutants from entering the

treatment system that would interfere with the operation of the treatment plant or pass untreated through the treatment plant to contaminate the receiving water. The Clinton local limits discharge evaluation was submitted to EPA on August 9, 2017. On September 28, 2018, EPA published a notice regarding its intent to approve MWRA's proposed modifications to the Clinton local limits. These modifications were approved by EPA on November 6, 2018. The modifications include:

- Elimination of the requirement to regulate parameters listed in Appendix D of the regulations on a facility by facility basis and incorporate all parameters (except formaldehyde) into the Total Toxic Organics (TTO) list. Parameters on the TTO list cannot individually exceed 1 mg/L or in combination exceed 5 mg/L.
- Establishment of a formaldehyde limit of 9 mg/L. Formaldehyde is a limit currently regulated in the Clinton Sewerage Service Area on a facility-by-facility basis. Formaldehyde can pose a fume toxicity risk to sewer workers in large enough quantities. Therefore, fume toxicity was used as the determining factor for establishing a formaldehyde limit, as the MWRA did in its Metropolitan Local Limits completed in 2001. The limit of 9.0 mg/l in the Metropolitan Sewerage Service Area was developed using the American Conference of Governmental Industrial Hygienists' short-term fume toxicity exposure level for formaldehyde in the air and converting that to an undiluted aqueous limit. This is the limit that is being proposed for the Clinton local limits.
- Increase the fats, oils, and grease (FOG) limit from 100 mg/L to 300 mg/L. MWRA's Metropolitan sewerage service area local limit is 300 mg/L. There is a very low concentration of FOG at the Clinton Wastewater Treatment Plant and the plant can effectively remove any increases.

On June 14, 2017, EPA promulgated new dental office effluent guidelines, 40 CFR Part 441. MWRA is proposing to establish a group permit for Dental Discharges to meet the intent of EPA's guidelines. This group permit will be a five-year permit and will cover discharges from a facility where the practice of dentistry is performed including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state, or local governments, that discharge to a sanitary sewer, or to a septic system or holding tank whose contents are hauled for discharge to a sanitary sewer in the MWRA Sewerage Service Area. Dental facilities that do not generate or discharge wastewater from amalgam-related processes are exempt from this permit. Based on an existing database of dental offices in MWRA's Sewerage Service Area regulated by the Massachusetts Department of Environmental Protection (MassDEP) under 314 CMR 73.00, it is anticipated that approximately 1,000 dental offices will be covered under this group permit. MWRA has been working with MassDEP to minimize the overlap of MWRA's new Dental Discharges permit and MassDEP's existing certification requirements.

MWRA has not updated the Incentive Program Charges since fiscal year 2012. In order to reflect increases in the TRAC Department's operating expenditures to implement its Industrial Pretreatment Program, MWRA's Advisory Board requested and MWRA is proposing to update the Incentive Program Charges; increasing fees in FY20 by 4.0% and for the following four fiscal years, an additional 3.0% annually.

In addition to the changes outlined above, other proposed revisions to the regulations are intended to clarify the intent of the existing regulations and/or align them with MWRA practices derived from EPA regulations. The adoption of these changes will not result in any substantial changes to the conduct of the pretreatment program, since they are intended to reflect current practices and procedures.

Attachment 1 presents a summary table of the proposed amendments. The table identifies the section of the regulations to be amended and an explanation of the amendment. Attachment 2 presents the specific charges for the various permit types as they stand now and with the 4.0% increase in FY20 and 3.0% increases in each of the following four fiscal years.

ATTACHMENTS:

1. Summary of Proposed Regulations Amendments
2. Chart of Charges by Permit Type

Attachment 1

EXPLANATION OF PROPOSED AMENDMENTS

The following table outlines the substantive changes made to the three regulations.

REGULATORY CITATION	AMENDMENT DESCRIPTION
360 CMR 1.00: Adjudicatory Proceedings	
360 CMR 1.04	Adds a definition for electronic medium.
360 CMR 1.06 (1) and (3)	Explains how to file a document in a timely fashion and when MWRA deems that document has been received.
360 CMR 1.06 (5)	Adds an additional 3 days to the due dates for any items served in paper.
360 CMR 1.07 (6)	Allows filings to be submitted in electronic medium.
360 CMR 1.22 (2)	Explains how discovery requests can be made.
360 CMR 1.24 (9)	Updates items that can be included as part of the record.
360 CMR 2.00: Enforcement and Administrative Penalties	
360 CMR 2.04	Adds a definition for electronic medium.
360 CMR 2.07 (1)	Allows notices, orders, and rulings to be submitted in electronic medium.
360 CMR 2.22 (4) and (6)	Clarifies how and when appeals of penalty assessment notices are reviewed.
360 CMR 2.34 (3)	Clarification regarding when a stipulated penalty becomes final and outlines the interest rate charged to unpaid balances.
360 CMR 10.000: Sewer Use	
360 CMR 10.004 Definitions	Added definitions of ‘Centralized Waste Treatment Facility,’ ‘Construction Site Dewatering,’ ‘Dental Discharges,’ ‘Food Processing,’ ‘Photo Processing,’ ‘Printing,’ and ‘Reclaimed Water System.’
360 CMR 10.004 Definitions	Revised definitions of ‘Combined Permit,’ ‘Group Permit,’ and ‘Hazardous Waste.’
360 CMR 10.006 (2) (b)	Streamlined text.
360 CMR 10.007 (1) (g) and (h)	Inserted ‘Group Permit for Dental Discharges’ into 1(g) and revised reference to 360 CMR 10.064 (now referred to as a Combined Permit).
360 CMR 10.007 (4)(f)	Incorporates requirements for onetime only Discharges into regulations, explaining when and how a onetime only Discharge will be authorized.
360 CMR 10.007 (4) (g)	Deletes subsection that states that dental offices in compliance with DEP discharge regulations do not require a MWRA permit.
360 CMR 10.008 (2) (f)	Removes references to ‘monitoring reports’ and ‘computer diskette.’
360 CMR 10.009	Updates the signatory and certification language to allow for the electronic submission of documents. Removes references to ‘computer diskette.’
360 CMR 10.011 (7), (8), and (9)	Reorganizes sections, no substantive changes were made.

REGULATORY CITATION	AMENDMENT DESCRIPTION
360 CMR 10.015 (3)	Replaces ‘appeal’ with ‘petition’ or ‘disputes’ and adds clarifying language.
360 CMR 10.023 (10) (a) and (b)	Deletes 10(b) and eliminates reference to the Metropolitan Sewerage Service Area from 10(a).
360 CMR 10.023 (13)	Adds an allowance for a Reclaimed Water System permitted by MassDEP and MWRA to discharge sludge resulting from the treatment of Sanitary Sewage into the MWRA Sewerage Service Area.
360 CMR 10.024 (2) (b)	Adds a 9 mg/L Formaldehyde limit to the Local Limits in the Clinton Sewerage Service Area. Also removes reference to Appendix D which has been incorporated in the Total Toxic Organics (TTO) list (Appendix B) for the Clinton Sewerage Service Area.
360 CMR 10.061 (5) (b)	Clarifies that a dental offices exempt from 10.065 and discharge x-ray waste are exempt from the Group Permit for Photo Processing and Printing operations.
360 CMR 10.064 (1), (2), and (5)	Removes all specific references to ‘Photo Processing and Printing’ from the Combined Permit and incorporates references to 10.063 and 10.065.
360 CMR 10.065	Creates a new Dental Discharges Permit category. Incorporates requirements from both 40 CFR 441 and 310 CMR 73.000- citing the more stringent of the two regulations. The Dental Discharges group permit is modeled after existing MWRA Group Permit types.
360 CMR 10.091	Removes ‘dewatering or drainage from a construction site’ and replaces it with Construction Site Dewatering.
360 CMR 10.092 (9)	Adds a requirement that applications must identify both the owner and general contractor. Both will be listed as permittees.
360 CMR 10.101 (1) (a), (b), (c), (d), (e), and (f)	Strikes existing list of Permit charges and inserts new ones.
360 CMR 10.101 (2) (g) and (l)	Adds definitions for Category 10 and D1 Permits.
360 CMR 10.101 (5)	Removes Permit charge structure for Low Flow and Low Pollutant Permits and replaces it with the Permit Charge structure for the Temporary Construction Dewatering Permit.
360 CMR 10.102 (1) (a), (b), (c), (d), (e), and (f)	Strikes existing list of monitoring charges and inserts new ones.
360 CMR 10.102 (1)(f)(5)	Strikes second paragraph and moves language to new sections 10.102 (4), (5), and (6)
360 CMR 10.102 (4)	Language moved from section 10.102 (1)(f)(5).
360 CMR 10.102 (5)	Language moved from section 10.102 (1)(f)(5).
360 CMR 10.102 (6)	Language moved from section 10.102 (1)(f)(5).
360 CMR 10.102 (7) (a), (b), (c), (d), (e), and (f)	Strikes existing list of monitoring charges and inserts new ones.

REGULATORY CITATION	AMENDMENT DESCRIPTION
360 CMR 10.103 (4)	Adds language that requires Category 12 Permit charges to be paid in full upon submission of Permit application.
360 CMR 10.103 (8)	Replaces ‘appeal’ with ‘petition’ or ‘disputes’ and adds clarifying language.
Appendix A	Removes ‘Bis (2-Chloroisopropyl Ether)’ and adds ‘2,2’-Oxybis(1-Chloropropane).
Appendix B	Incorporates chemicals listed in Appendix D into Appendix B. Removes ‘Bis (2-Chloroisopropyl Ether)’ and adds ‘2,2’-Oxybis(1-Chloropropane).
Appendix D	Appendix D ‘Clinton Sewerage Service Area Facility Specific Limits’ is removed and replaced with Appendix E, ‘Pesticides.’
Appendix E	Appendix E was renamed to Appendix D.

Attachment 2

CHARGE AMOUNTS FOR FISCAL YEARS 2019 - 2024

PERMIT CATEGORIES	CHARGE COMPONENTS	CURRENT CHARGE AMOUNTS FY 2019	PROPOSED CHARGE AMOUNTS FY 2020	PROPOSED CHARGE AMOUNTS FY 2021	PROPOSED CHARGE AMOUNTS FY 2022	PROPOSED CHARGE AMOUNTS FY 2023	PROPOSED CHARGE AMOUNTS FY 2024
1 SIU	Permitting Monitoring	\$2,556	\$2,660	\$2,740	\$2,824	\$2,910	\$2,998
	Low Score	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474
	Medium Score	\$5,926	\$6,164	\$6,350	\$6,542	\$6,740	\$6,944
	High Score	\$8,890	\$9,246	\$9,524	\$9,810	\$10,106	\$10,410
	More than 3 Sample Locations	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474
1 non-SIU	Permitting Monitoring	\$1,686	\$1,754	\$1,808	\$1,864	\$1,920	\$1,978
	More than 3 Sample Locations	\$966	\$1,006	\$1,038	\$1,070	\$1,104	\$1,138
		\$966	\$1,006	\$1,038	\$1,070	\$1,104	\$1,138
2 SIU	Permitting Monitoring	\$1,644	\$1,710	\$1,762	\$1,816	\$1,872	\$1,930
	Low Score	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474
	Medium Score	\$5,926	\$6,164	\$6,350	\$6,542	\$6,740	\$6,944
	High Score	\$8,890	\$9,246	\$9,524	\$9,810	\$10,106	\$10,410
	More than 3 Sample Locations	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474
2 non-SIU	Permitting Monitoring	\$1,400	\$1,456	\$1,500	\$1,546	\$1,594	\$1,642
	More than 3 Sample Locations	\$966	\$1,006	\$1,038	\$1,070	\$1,104	\$1,138
		\$966	\$1,006	\$1,038	\$1,070	\$1,104	\$1,138
3 SIU	Permitting Monitoring	\$1,400	\$1,456	\$1,500	\$1,546	\$1,594	\$1,642
	Low Score	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474
	Medium Score	\$5,926	\$6,164	\$6,350	\$6,542	\$6,740	\$6,944
	High Score	\$8,890	\$9,246	\$9,524	\$9,810	\$10,106	\$10,410
	More than 3 Sample Locations	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474
3 non-SIU	Permitting Monitoring	\$1,054	\$1,098	\$1,132	\$1,166	\$1,202	\$1,240
	More than 3 Sample Locations	\$728	\$758	\$782	\$806	\$832	\$858
		\$728	\$758	\$782	\$806	\$832	\$858
4 SIU	Permitting	\$952	\$992	\$1,022	\$1,054	\$1,086	\$1,120
6 (Septage Hauler)	Permitting	\$952	\$992	\$1,022	\$1,054	\$1,086	\$1,120
10 (General Permit for Low Flow/Low Pollutant)	Permitting	\$244	\$100	\$104	\$106	\$110	\$112
12 (Construction Dewatering)	Permitting	\$3,704	\$3,854	\$3,970	\$4,090	\$4,214	\$4,342
	Monitoring	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474
	More than 3 Sample Locations	\$2,962	\$3,082	\$3,176	\$3,272	\$3,372	\$3,474

PERMIT CATEGORIES	CHARGE COMPONENTS	CURRENT CHARGE AMOUNTS FY 2019	PROPOSED CHARGE AMOUNTS FY 2020	PROPOSED CHARGE AMOUNTS FY 2021	PROPOSED CHARGE AMOUNTS FY 2022	PROPOSED CHARGE AMOUNTS FY 2023	PROPOSED CHARGE AMOUNTS FY 2024
G1 (Group Permit for Photo Processing and Printing)	Permitting NOI	\$218 \$82	\$228 \$86	\$236 \$90	\$244 \$94	\$252 \$98	\$260 \$102
G2 (Group Permit for Food Processing)	Permitting NOI	\$184 \$82	\$192 \$86	\$198 \$90	\$204 \$94	\$212 \$98	\$220 \$102
C1 (Combined Permit)	Permitting	\$266	\$278	\$288	\$298	\$308	\$318
D1 (Group Permit for Dental Discharges)	Permitting NOI	N/A	\$192 \$86	\$198 \$90	\$204 \$94	\$212 \$98	\$220 \$102
ALL	Late/No Discharge Report	\$164	\$170	\$176	\$180	\$186	\$192

Notes:

1. All charge amounts are assessed annually.
2. SIUs receive a low, medium, or high monitoring score charge each year, based on their pollutant loadings and violations status.
3. There is an extra charge for facilities with more than three sampling locations. For each three additional sampling locations (e.g., 4-6, 7-9 locations), the monitoring charge is increased by the amount indicated on the applicable line on the chart.
4. Each Group Permit holder submits a Notice of Intent (NOI) to apply for the permit and pays a one-time charge for the NOI.