

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Kathleen A. Theoharides
Secretary

Karyn E. Polito
Lieutenant Governor

Martin Suuberg
Commissioner

December 15, 2021

Mr. Steven Sullivan, Superintendent
Dartmouth Water Division
751 Allen Street
Dartmouth, MA 02747

RE: DARTMOUTH – Public Water
Supply
Dartmouth Water Division
PWS ID#: 4072000
Enforcement #00012501
Disinfection By-Products Rule

**THIS IS AN IMPORTANT NOTICE.
FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE
COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.**

Dear Mr. Sullivan:

Enclosed please find a Notice of Noncompliance (NON) and Compliance Schedule Approval (CSA) issued by the Massachusetts Department of Environmental Protection (the Department). The NONCSA addresses Maximum Contaminant Level (MCL) exceedances for haloacetic acids (HAA5) occurring during Quarters 2, 3 and 4, 2021. The HAA5 MCL is based on a running annual average at each individual location in the distribution system where disinfection byproducts are monitored.

The Town of Dartmouth (the Town) and the Department entered into an Administrative Consent Order (ACO1) effective March 18, 2014. ACO1 stemmed from a violation of the total trihalomethanes (THM) Maximum Contaminant Level (MCL) occurring during the third quarter of 2013. Although the Town successfully complied with ACO1, further THM MCL violations occurred in 2016, resulting in the Town and Department entering into a second Administrative Consent Order (ACO2) effective December 14, 2016. ACO2 was amended on September 19, 2019 to include HAA5 MCL violations. Note that both THM and HAA5 are chemical disinfection byproduct compounds resulting from the interaction of chlorine with organic matter, with disinfection byproduct levels typically increasing during warm weather. The Town embarked on a more aggressive project to convert its residual disinfectant to chloramines from chlorine at all three (3) of its water treatment plants. The chloramine conversion was completed and activated on March 22, 2021. Water quality sampling results indicate that the chloramine conversion is successfully controlling THM formation. THM levels during the second, third, and fourth quarters of 2021 are significantly lower than historical trends and are well below the MCL. Fourth quarter THM results

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.
TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

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are lower than any recorded in the Town since the current phase of sampling began in November, 2012.

Unfortunately, HAA5 levels during the second and third quarters of 2021 significantly increased, resulting in MCL violations during both quarters plus the fourth quarter. The fourth quarter 2021 MCL violation is due to annual averaging, despite HAA5 results returning to compliant levels. Causes of the HAA5 violations are suspected to be increasing total organic compound (TOC) levels in the source water and excessive storage volume in the distribution system, including large pipes in areas of low water demand.

Following discussions with the Town and its engineering consultants, the Department is issuing the attached NON to cover a planning period. During this planning period, the Department expects the Town to develop permanent solutions to control disinfection byproducts and authorize capital funding. The Department anticipates the NON to be succeeded by a third ACO which will require the specific projects identified during the planning period to be implemented. During this planning period, the Department expects the Town to collect water quality data from its sources, including the purchased finished water from New Bedford, to further inform its decision-making. Water quality data should include TOC.

Please carefully review the enclosed NON, fill out the CSA form and return the completed CSA form to my attention by January 18, 2022. You are required to continue to issue public notification and submit the public notice certification form to me following any quarterly violation, as you have done in the past. If you have any questions concerning this document, please contact me at (508) 946-2805 or via email at james.m.mclaughlin@mass.gov.

Sincerely,



Jim McLaughlin, Chief
Drinking Water Program
Bureau of Water Resources

CERTIFIED MAIL: 7021 0950 0000 9321 7628
JM/encl.

Y:\DWP Archive\SERO\Dartmouth-4072000-Enforcement-2021-12-15 DBPR NONCSA

ec: Town of Dartmouth:
Steve Sullivan, smsullivan@dartmouth.ma.us
Dartmouth Board of Health,
dfarias@town.dartmouth.ma.us

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stantonl@wseinc.com
Tara McManus, mcmanust@wseinc.com
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rollinsb@wseinc.com

MA Department of Public Health:
DPHdrinkingwater@mass.gov

ec: DEP-SERO:
Gerard Martin, DRD
Giliane Tardieu
Scott Sayers
Lara Goodine, Enf. Coordinator

DEP-BOSTON DWP:
Frank Niles
Program.director-dwp@mass.gov

EPA:
Ken Rota



Massachusetts Department of Environmental Protection
 Bureau of Water Resources – Drinking Water Program
**DISINFECTION BYPRODUCTS RULE (DBPR) VIOLATION
 NOTICE OF NONCOMPLIANCE (NON)**

With Violation Response/Compliance Schedule Approval (CSA) Form
 M.G.L. c. 21A, § 16, 310 CMR 5.00

Attention: Public Water Supplier

A General Information

Dartmouth Water Division
 Attn: Mr. Steven Sullivan, Superintendent
 751 Allen Street
 Dartmouth, MA 02747

CITY/TOWN: Dartmouth
PWS ID # 4072000
CLASS: COM
ENF DOC#: 00012501

B Location Where Noncompliance Occurred

Location ID 10376, 965 Reed Street, Dartmouth, MA

C Description of Violations under M.G.L. c. 111, §§159-160 and 310 CMR 22.00

The Department of Environmental Protection (MassDEP) Drinking Water Program has determined that you are in violation of the Disinfection Byproducts Rule for the following checked contaminant(s) and monitoring period(s):

	Contaminant	Monitoring Period(s)
<input checked="" type="checkbox"/>	Disinfection Byproducts - Haloacetic Acids 5 (HAA5)	2021: Quarters 2, 3 & 4 Q2 (4/1/21-6/30/21) LRAA = 63 ppb Q3 (7/1/21-9/30/21) LRAA = 72 ppb Q4 (10/1/21-12/31/21) LRAA = 65 ppb (LRAA = Locational Running Annual Average)

Below is a description of the regulation(s) you have violated.

DISINFECTION BYPRODUCTS - MAXIMUM CONTAMINANT LEVEL

<input checked="" type="checkbox"/>	Your public water system violated the maximum contaminant level (MCL) specified in 310 CMR 22.07E(1) and 310 CMR 22.07F(7)(d) for the disinfection byproduct(s) and monitoring period(s) listed in the Section C table above.
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REPEAT VIOLATOR

<input checked="" type="checkbox"/>	MassDEP records show that your system has committed two or more Disinfection Byproducts Rule violations within the last 12 months. MassDEP considers two or more violations of the same regulation within the last 12 months to constitute a history of significant noncompliance that may impact the system's technical, managerial and financial capacity to operate and maintain the system in compliance with 310 CMR 22.00.
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D *Action to Be Taken, and the Deadline for Taking Such Action*

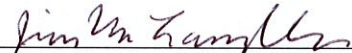
By **January 18, 2022** submit to MassDEP for its review and approval a written proposal setting forth how and when you propose to come into compliance with the requirements cited in Section C of this NON, by **completing and submitting the attached Disinfection Byproducts Rule Violation Response/Compliance Schedule Approval Form (“compliance plan”)** and **conducting all required public notice**. To return to compliance, **you must implement the compliance plan**, including the schedule for completing the activities proposed, as approved by MassDEP. If you are a repeat violator, the compliance plan must include a plan to prevent future noncompliance. If you determine that you need additional time to complete and submit the compliance plan, you may request an extension **before** the submission deadline by contacting Jim McLaughlin at 508-946-2805 or by email at james.m.mclaughlin@mass.gov.

E *Important Information*

If you, the Supplier of Water, fail to take any action MassDEP now wants you to take by the prescribed deadline, or if you otherwise fail to remain in compliance in the future with the applicable requirements, you could be subject to legal action, including, but not limited to, criminal prosecution, court-imposed civil penalties, or civil administrative penalties assessed by MassDEP. A civil administrative penalty may be assessed for every day from now on that you are in noncompliance with the requirements specified above. MassDEP reserves its right to exercise the full extent of its legal authority to obtain compliance with all applicable requirements.

Additionally, to avoid being placed on EPA’s list of public water systems with unaddressed violations, and not on a path to compliance, it is essential to completely respond to all MassDEP enforcement actions, including Notices of Noncompliance and Compliance Schedule Approval (NONCSA). Failure to promptly comply with the NONCSA process will result in the underlying violations shown as federal and state ‘unaddressed’ violations.

Date: **December 15, 2021**



Jim McLaughlin, Section Chief
MassDEP Drinking Water Program
Southeast Regional Office

CERTIFIED MAIL: 7021 0950 0000 9321 7628

Enclosure: CSA

ec: **Boston DWP:** Program.director-dwp@mass.gov
Respondent: Steve Sullivan, smsullivan@dartmouth.ma.us
BOH: dfarias@town.dartmouth.ma.us
DEP SERO Enforcement Coordinator: Lara Goodine

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DISINFECTION BYPRODUCTS RULE (DBPR) VIOLATION RESPONSE AND COMPLIANCE SCHEDULE APPROVAL (CSA) FORM

M.G.L. c. 21A, §16, 310 CMR 5.00

Failure to complete and return this form, and failure to take the actions required to return to compliance, could result in serious legal consequences.

INSTRUCTIONS: By **January 18, 2022**, please complete and submit this form and supporting documentation to MassDEP at the address specified at the bottom of this form to obtain MassDEP approval of your system’s proposed plan for returning to compliance with the requirements cited in your Notice of Noncompliance (NON).

A *General Information*

Dartmouth Water Division
751 Allen Street
Dartmouth, MA 02747

CITY/TOWN: Dartmouth
PWS ID #: 4072000
CLASS: COM
ENF DOC#: 00012501

B *Corrective Actions required under M.G.L. c. 111, §§ 159-160 and 310 CMR 22.00*

PWS: Please check *all* boxes below that apply.

DISINFECTION BYPRODUCTS - MAXIMUM CONTAMINANT LEVEL

- My system did **not** violate the maximum contaminant level (MCL) for the disinfection byproduct(s) and monitoring period(s) identified in the NON. I have attached all supporting documentation demonstrating that the system did not commit the MCL violation(s) cited in the NON.
- My system violated the maximum contaminant level (MCL) for the disinfection byproduct(s) and monitoring period(s) identified in the NON and issued a Tier 2 **public notice** in accordance with 310 CMR 22.16(3). I have completed Section C below to address the MCL violation(s) cited in the NON.
- My system violated the maximum contaminant level (MCL) for the disinfection byproduct(s) and monitoring period(s) identified in the NON and also failed to issue a Tier 2 **public notice** in accordance with 310 CMR 22.16(3). I have completed Section C below to address the MCL violation(s) cited in the NON.
- My system violated the maximum contaminant level (MCL) for the disinfection byproduct(s) and monitoring period(s) identified in the NON and reported to MassDEP the maximum contaminant level (MCL) violation for the disinfection byproduct(s) and monitoring period(s) identified in the NON as required by 310 CMR 22.07(E)(9) or 310 CMR 22.07F(16)(a)1.d. (DWP Staff: Select appropriate citation.) I have completed Section C below to come into compliance with this reporting requirement.
- My system violated the maximum contaminant level (MCL) for the disinfection byproduct(s) and monitoring period(s) identified in the NON and also failed to report to MassDEP the maximum contaminant level (MCL) violation for the disinfection byproduct(s) and monitoring period(s) identified in the NON as required by 310 CMR 22.07(E)(9) or 310 CMR 22.07F(16)(a)1.d. (DWP Staff: Select appropriate citation.) I have completed Section C below to come into compliance with this reporting requirement.

REPEAT VIOLATOR

- My system has committed two or more Disinfection Byproducts Rule violations within the last 12 months. I have completed Section C to explain what my system will do to prevent future noncompliance.

C Request for Compliance Plan Approval

PWS: For each violation cited in the NON, please select **Option 1** or **Option 2** below by checking the appropriate box. Option 1 is a pre-approved plan prepared by the Department. The PWS may propose it's own plan as Option 2 for the Department's review.

OPTION 1: MassDEP Approval of Pre-determined Compliance Plan

For each violation, I understand that, by selecting Option 1, my system's Compliance Plan for that violation will be deemed approved upon MassDEP's receipt of this completed form.

PWS: Select the schedule and approval options below for violations checked off in Section B above.

DISINFECTION BYPRODUCTS - MAXIMUM CONTAMINANT LEVEL

<input type="checkbox"/>	By July 1, 2022 , my system will submit to MassDEP a report by a Massachusetts Registered Professional Engineer with expertise in Drinking Water compliance documenting the causes of the MCL violation and recommendations for preventing future MCL violations in the water distribution system. The report shall include an alternatives analysis including a feasibility evaluation, effectiveness determination, cost estimate, and implementation schedule. My system will implement the recommended actions set forth in the report as approved by MassDEP in accordance with a schedule approved by MassDEP.
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REPEAT VIOLATOR

<input type="checkbox"/>	My system has prepared a proposed plan detailing the specific actions that my system intends to take to prevent future noncompliance with Disinfection Byproducts Rule requirements. I have attached a copy of this plan.
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PUBLIC NOTICE AND CONSUMER CONFIDENCE REPORT

<input type="checkbox"/>	My system provided public notice of each violation that requires Tier 2 public notice in accordance with 310 CMR 22.16 (3) and (5) and submitted to the local Board of Health and MassDEP a certification that it has fully complied with the public notice regulations in accordance with 310 CMR 22.15(3)(b). The public notice and certification are attached. My system will repeat the public notice and certification every three months as long as the violation(s) persist(s) unless MassDEP determines in writing that appropriate circumstances warrant a different repeat frequency.
<input type="checkbox"/>	My system will include in its next Consumer Confidence Report (CCR) the following information: an explanation of each monitoring and/or reporting violation in accordance with 310 CMR 22.16A(6)(a); and/or the information on each MCL, treatment technique or MRDL violation required by 310 CMR 22.16A(4)(k).

OPTION 2: PWS's Proposed Compliance Plan for Approval

For each violation, *I understand that, by selecting Option 2, the following is applicable:*

- My Proposed Compliance Plan must be submitted with this Violation Response Compliance Schedule Form by the date specified in Section D of the NON.
- My Proposed Compliance Plan must include a schedule for coming into compliance with each violation cited in the NON for which the system is required to complete Section C and did not select an Option 1 pre-determined compliance plan.
- At a minimum, my Proposed Compliance Plan must address all applicable elements listed in Option 1.
- If my system is a repeat violator, my Proposed Compliance Plan must also include the actions that the system intends to take to prevent future noncompliance.
- MassDEP will notify me by e-mail whether my system's proposed Compliance Plan is approved or whether it must be revised and resubmitted to MassDEP.
- My Proposed Compliance Plan must be implemented as approved.

D *Water Commissioner, Owner, Owner Representative or Other Responsible Party*

I certify that I am duly authorized to complete and submit this form on behalf of the public water system identified above and that the information contained herein is true, accurate and complete to the best of my knowledge and belief. I understand that MassDEP may assess civil administrative penalties in accordance with M.G.L. c. 21A, §16, and 310 CMR 5.00 on any Supplier of Water that fails to comply with the provisions and schedule set forth in a MassDEP-approved Compliance Plan.

Signature: _____

Date: _____

Print Name: _____

Title: _____

Phone #: _____

Email Address: _____

Please return this form and all attachments to:

**MassDEP/DWP
Attn.: Jim McLaughlin
20 Riverside Drive
Lakeville, MA 02347**