Bacteria Limits/Clean Water Act: South Essex Sewage District/Massachusetts Petition Before the U.S. EPA Environmental Appeals Board

Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

02/16/2026

The South Essex Sewerage District ("South Essex") filed a document before the United States Environmental Protection Agency ("EPA") Environmental Appeals Board styled:

PETITION FOR REVIEW OF SOUTH ESSEX SEWERAGE DISTRICT'S NPDES PERMIT ISSUED BY REGION 1 ("Petition).

South Essex objects to certain conditions found in a Clean Water Act National Pollution Discharge Elimination System ("NPDES") Permit issued by Region 1 of EPA.

The Petition states that South Essex operates a regional wastewater treatment plant in southern Essex County, Massachusetts. Further, South Essex is stated to be "home to some of the poorest ratepayers in the state."

The facility is stated to discharge wastewater into the Atlantic Ocean under an NPDES Permit. Region 1 of EPA is stated to have issued a final permit for South Essex that imposes multiple requirements that exceed its statutory authority and are unreasonable.

The objections to the NPDES Permit include:

- Imposition of a "special condition" water quality assessment that requires extensive testing and recommendations for waters unaffected by the South Essex's discharge, exceeds the scope of EPA's authority under the Clean Water Act.
- The Region's decision to maintain year-round bacteria limits for fecal coliform and enterococci is irrational because it requires unnecessary chlorine disinfection purportedly to protect recreational uses, even though such uses do not occur in the winter months.
- The bacteria limits are also irrational because the Region did not allow a mixing zone in setting them.
- The per- and polyfluoroalkyl substances ("PFAS") and organofluorine analyte monitoring requirements for the Facility's influent, effluent, and sludge (only for PFAS) are clear error.
- The increased frequency of nitrogen monitoring is unnecessary.

South Essex requests that the Environmental Appeals Board remand the Permit to EPA with instructions to issue a new Permit that:

1. Removes the special condition ambient water quality monitoring and assessment;
2. Removes the bacteria limit in the winter (Nov. – Mar.);

3. Recalculates the effluent bacteria limits to reflect a mixing zone at the Facility's outfall;
4. Removes the requirement for monitoring PFAS and organofluorine analytes, or, in the alternative, stays this requirement until a testing method is adopted and promulgated into federal regulations; and
5. Maintains monthly nitrogen sampling frequency of the discharge year-round, consistent with the prior permit.

A copy of the Petition can be downloaded here.