

314 CMR 5.00: GROUND WATER DISCHARGE PERMIT PROGRAM

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Section

- 5.01: Purpose and Authority
- 5.02: Definitions
- 5.03: Discharges Requiring a Permit
- 5.04: Other Activities Requiring a Permit
- 5.05: Exemptions
- 5.06: Restrictions on the Issuance of a Permit
- 5.07: Effect of a Permit
- 5.08: Continuation of an Expiring Permit
- 5.09: Application for a Permit
- 5.10: General Permit Conditions
- 5.12: Modification, Suspension, Revocation and Renewal of Permits
- 5.13: Transfer of Permits
- 5.14: Signatories to Permit Applications and Reports
- 5.17: Interim Permit Status
- 5.19: General Conditions

5.01: Purpose and Authority

314 CMR 5.00 establishes the program whereby discharges of pollutants to the ground waters of the Commonwealth are regulated by the Department pursuant to M.G.L. c. 21, § 43. In addition to regulating these discharges, M.G.L. c. 21, §§ 26 through 53 also requires that the Department regulate the outlets for such discharges and any treatment works associated with these discharges. Through 314 CMR 5.00, the Department will control the discharge of pollutants to

the ground waters of the Commonwealth to assure that these waters are protected for their highest potential use.

Whenever provisions of 310 CMR 7.00 or 30.000 are cited or cross-referenced in 314 CMR 5.00, the provisions cited shall be those published in the Massachusetts Register on or before November 9, 1984.

5.02: Definitions

As used in 314 CMR 5.00, the following words have the following meaning:

Best Management Practices or BMP - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the Commonwealth. BMP include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

Biological Monitoring - any test which includes the use of aquatic algal, bacterial, invertebrate, or vertebrate species to measure acute or chronic toxicity, and any biological or chemical measure of bioaccumulation.

Bypass - the intentional diversion of wastes from any portion of a treatment works.

Combined Sewer Overflows or CSO - any intermittent overflow, bypass or other discharge from a municipal combined sewer system which results from a flow in excess of the dry weather carrying capacity of the system.

Combined Sewer System - a sewer system which by design conveys both wastewaters and storm water runoff.

Commissioner - the Commissioner of the Department.

Contact Cooling Water - water used to reduce temperature which comes into contact with a raw material, intermediate product, waste product (other than heat), or finished product.

Department - the Massachusetts Department of Environmental Protection.

Discharge or Discharge of Pollutants - any addition of any pollutant or combination of pollutants to waters of the Commonwealth from any source, including but not limited to, discharges from surface runoff which are collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to POTW's; and discharges through pipes, sewers, or other conveyances, leading into

privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

Disposal System - a system for disposing of sewage, industrial waste or other wastes, and including sewer systems and treatment works.

Effluent - a discharge of pollutants into the environment, whether or not treated.

Effluent Limitation or **Effluent Limit** - any requirement, restriction, or standard imposed by the Department on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the Commonwealth or to publicly owned treatment works.

Effluent Limitation Guideline or **Effluent Standard** - a regulation published by the EPA Administrator under PL 92-500, § 304, 306 or 307 or by the Department under M.G.L. c. 21, § 27 which is used as a basis for establishing effluent limitations.

Environmental Protection Agency or **EPA** - the United States Environmental Protection Agency.

Federal Act - the Clean Water Act, P.L. 92-500, as amended by P.L. 95-217 and P.L. 95-576, 33 U.S.C. 1251 *et seq.*

Ground Water - water below the land surface in a saturated zone, including perched ground water.

Hazardous Substance - any of the substances designated under 40 CFR Part 116 pursuant to 92-500, § 311 or any hazardous material as defined in M.G.L. c. 21E.

Hazardous Waste - a hazardous waste pursuant to the Massachusetts Hazardous Waste Regulations, [310 CMR 30.000](#).

Health Advisory - the level of a pollutant in water at which, with a margin of safety, adverse health effects would not be anticipated, as determined by the Department or EPA.

Indirect Discharger - a discharger introducing pollutants to a treatment works.

Industrial Waste - any liquid, gaseous, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

Land Utilization Practices - the use of plants, the soil surface, or soil matrix for removal of certain wastewater constituents.

Massachusetts Water Quality Standards - the Massachusetts Surface Water Quality Standards ([314 CMR 4.00](#)) and the Massachusetts Ground Water Quality Standards ([314 CMR 6.00](#)).

Natural Background Conditions - the chemical, physical or biological characteristics of surface or ground waters unaltered by human activity.

Non-contact Cooling Water - water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat), or finished product.

Other Wastes - all liquid discarded matter other than sewage or industrial waste which may cause or might reasonably be expected to cause pollution of the waters of the Commonwealth in contravention of adopted standards.

Outlet - the terminus of a sewer system, or the point of emergence of any water-borne sewage, industrial waste or other wastes or the effluent therefrom, into the waters of the Commonwealth or on the land surface.

Perched Ground Water - unconfined ground water separated from an underlying body of ground water by an unsaturated zone.

Permit - an authorization issued pursuant to M.G.L. c. 21, § 43 and 314 CMR [2.00](#), and [3.00](#), [5.00](#), or [7.00](#), to implement the requirements of M.G.L. c. 21, §§ 26 through 53 and PL 92-500 and regulations adopted thereunder.

Person - any agency or political subdivision of the Commonwealth, the Federal government, any public or private corporation or authority, individual, partnership or association, or other entity, including any officer of a public or private agency or organization, upon whom a duty may be imposed by or pursuant to any provisions of M.G.L. c. 21, § 26 through 53.

Point Source - any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant - any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, in whatever form and whether originating at a point or major non-point source, which is or may be discharged, drained or otherwise introduced into any sewerage system, treatment works or waters of the Commonwealth.

Pollution - the presence in the environment of pollutants in quantities or characteristics which are or may be injurious to human, plant or animal life or to

property or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas as may be affected thereby.

Pretreatment - the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

Public Entity - any city, town, special district, the Metropolitan District Commission or other existing governmental unit eligible to receive a grant for the construction of treatment works from the United States Environmental Protection Agency pursuant to Title II of PL 92-500, as amended.

Publicly Owned Treatment Works or POTW - any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a public entity. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

RCRA - the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (P.L. 94-580, as amended by P.L. 95-609, 42 U.S.C. Section 6901 *et seq.*)

RCRA Facility - a hazardous waste management facility as defined in 314 CMR 8.03.

Saturated Zone - any portion of the earth below the land surface where every available opening (pore, fissure, joint, or solution cavity) is filled with water.

Sewage - the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present.

Sewer System - pipelines or conduits, pumping stations, force mains, and all other structures, devices, appurtenances, and facilities used for collecting and conveying wastes to a site or works for treatment or disposal.

Septage - the liquid and solid wastes, primarily of sewage origin, that are removed from a cesspool, septic tank or similar receptacle.

State Act - the Massachusetts Clean Waters Act, as amended, M.G.L. c. 21, § 26 through 53.

Subsurface Sewage Disposal System - a disposal system which discharges sewage onto or beneath the surface of the ground.

Toxic Pollutants - those pollutants identified in [314 CMR 3.16](#) or any other pollutants, or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly through food chains, may, on the basis of information available to the Department, cause death, disease, behavioral abnormalities, cancer, mutations, physiological malfunctions, biochemical abnormalities, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring.

Treatment Works - any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.

Uncontaminated Water - water which does not contain dredge spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological waste materials, radioactive materials, wrecked or discarded equipment, cellar dirt, industrial, municipal or agricultural waste or any other material which upon discharge could cause a violation of applicable water quality standards.

Underground Injection Control or UIC - the program under Section 1421 of the Safe Drinking Water Act (P.L. 93-523 as amended by P.L. 95-190 and 96-502).

Unconsolidated Deposits - all non-indurated or poorly indurated soil materials above the bed rock.

Unsaturated Zone - that portion of the earth's crust which does not contain sufficient water to fill all interconnected voids or pore spaces. Perched water bodies may exist within the unsaturated zone.

Wastewater - sewage, industrial waste, other wastes or any combination of the three.

Waters of the Commonwealth - all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and ground waters.

Well - a bored, drilled, or driven shaft or a dug hole, whose depth is greater than its largest surface dimension.

5.03: Discharges Requiring a Permit

(1) No person shall discharge pollutants to ground waters of the Commonwealth without a currently valid permit from the Department pursuant to M.G.L. c. 21,

§ 43 and 314 CMR 5.00, unless exempted in 314 CMR 5.05. No person shall construct, install, modify, operate or maintain an outlet for such a discharge or any treatment works required to treat such discharge without having first obtained a discharge permit in accordance with 314 CMR 5.03(1) and written approval from the Department for such activity, unless exempted pursuant to 314 CMR 5.05. Any person who discharges or proposes to discharge to ground waters of the Commonwealth may obtain a permit by filing the appropriate application forms in accordance with 314 CMR 5.00 and 2.00.

- (2) Activities which constitute discharges of pollutants requiring a permit under 314 CMR 5.03(1) include, but are not limited to:
- (a) Any facility which discharges a liquid effluent onto or below the land surface;
 - (b) Any facility which discharges a liquid effluent to a percolation pit, pond, or lagoon;
 - (c) Any facility which discharges a liquid effluent via subsurface leaching facilities including but not limited to: leaching pits, galleries, chambers, trenches, fields and pipes;
 - (d) Any facility which discharges a liquid effluent into a Class V injection well as defined in 310 CMR 27.00; or
 - (e) Any facility with an associated unlined pit, pond, lagoon, or surface impoundment in which wastewaters or sludges are collected, stored, treated, or disposed and from which a liquid portion seeps into the ground.

5.04: Other Activities Requiring a Permit

(1) No person shall engage in any other activity, other than those described in 314 CMR 5.03, which may reasonably result, directly or indirectly, in the discharge of pollutants into ground waters of the Commonwealth, without a currently valid permit from the Department, pursuant to 314 CMR 5.00 and 2.00, unless exempted in 314 CMR 5.05. Any person who engages or proposes to engage in such activities may obtain a permit by filing the appropriate application forms in accordance with 314 CMR 5.00 and 2.00.

(2) Such other activities shall specifically include, but not be limited to:

(a) **Storm Water Discharges** to the ground as defined herein.

"Storm water discharges" means a conveyance or system of conveyances (including pipes, conduits, ditches and channels) primarily used for collecting and conveying storm water runoff, but not including combined municipal sewer systems, and which:

1. Discharges storm water runoff contaminated by contact with process wastes, raw materials, toxic pollutants, hazardous substances, or oil and grease to a leaching facility, or percolation pit, pond, or lagoon; or
2. Is designated under 314 CMR 5.04(2)(b).

Such discharges shall include, but not be limited to, any "storm water discharge" which is located in an industrial plant or in plant associated areas, if there is a potential for significant discharge of storm water contaminated by

contact with process wastes, raw materials, toxic pollutants or hazardous substances. "Plant associated areas" means industrial plant yards, immediate access roads, drainage ponds, refuse piles, storage piles or areas, and material or product loading and unloading areas. The term excludes areas located on plant lands separated from the plant's industrial activities, such as office buildings and accompanying parking lots.

(b) Case-by case designation of storm water discharges to the ground.

The Department may designate a conveyance or system of conveyances primarily used for collecting and conveying storm water runoff as a storm water discharge to the ground. This designation may be made when the Department determines that a storm water discharge is or may be a significant contributor of pollution to the ground waters of the Commonwealth. In making this determination, the Department shall consider the following factors:

1. The location of the discharge with respect to ground waters of the Commonwealth.
2. The size of the discharge.
3. The quantity and nature of the pollutants reaching ground waters of the Commonwealth and the Massachusetts water quality standards applicable to such waters; and
4. Other relevant factors.

(3) Any person owning, operating or maintaining a "storm water discharge" is subject to the requirements of 314 CMR 5.04(1).

(4) Any person owning, operating or maintaining a conveyance or system of conveyances operated primarily for the purpose of collecting and conveying storm water runoff which does not constitute a "storm water discharge" is subject to the provisions of 314 CMR 5.05(8).

5.05: Exemptions

The following activities are exempt from the need to obtain a permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 5.00:

- (1) (a) Any facility which discharges a liquid effluent as a result of the treatment of sewage at a treatment works which is designed to receive and receives less than 10,000 gallons per day, provided that such facility and treatment works are designed, approved, constructed and maintained in accordance with [310 CMR 15.000](#): *The State Environmental Code, Title 5, Standard Requirements For the Siting, Construction, Inspection, Upgrade and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage.*
(b) Any facility which discharges a liquid effluent as a result of the treatment of sewage at a treatment works which is designed to receive and receives 10,000 to 15,000 gallons per day, which, pursuant to the Applicability or Transition provisions of [310 CMR 15.000](#), may be approved, constructed and/or maintained after March 31, 1995; provided that such facility and treatment works are

designed, approved, constructed and maintained in accordance with [310 CMR 15.000](#).

(c) Any facility which discharges a liquid effluent as a result of the treatment of sewage at a treatment works which:

1. is designed to receive and receives 15,000 gallons per day or less provided that the facility and treatment works were designed, approved, constructed and have been maintained in accordance with [310 CMR 15.000](#): *The State Environmental Code, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage* (the "1978 Code," as in effect until March 31, 1995), or in accordance with Article 11 of *The State Sanitary Code, Minimum Standards for Sanitary Sewage* (the predecessor to the 1978 Code) as in effect; and
2. the facility and treatment works are maintained in accordance with [310 CMR 15.000](#).

(d) As used in 314 CMR 5.05(1)(a),(b), and (c), the word "maintained" includes, but is not limited to, upgraded if upgrading is required by [310 CMR 15.000](#).

(2) Any recharge well used exclusively to replenish the water in an aquifer with uncontaminated water.

(3) Any discharge in compliance with the written instructions of an On-Scene Coordinator pursuant to 33 CFR Part 153 - Control of Pollution by Oil and Hazardous Substances, Discharge Removal and 40 CFR Part 300, Subchapter J - Superfund, Emergency Planning, and Community Right-To-Know Programs, Subparts B and C, or if conducted as an Immediate Response Action in compliance with M.G.L. c. 21E and the regulations promulgated thereunder, [310 CMR 40.0000](#) , or if approved in writing by the Department, as necessary to abate, prevent, or eliminate an imminent hazard to the public health, or safety, welfare or the environment.

(4) Any salt water intrusion barrier well used to inject uncontaminated water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water.

(5) Any facility used to return to the ground the waters used for heating or cooling energy in a heat exchanger provided the flow does not exceed 15,000 gallons per day.

(6) Any facility used to discharge non-contact cooling waters provided the flow does not exceed 2,000 gallons per day and the temperature of the wastewater does not exceed 40°C.

(7) Any facility that recirculates sanitary landfill leachate on top of the sanitary landfill over an area that has been specifically designed with a liner and collection system for the purpose of recycling the leachate.

(8) Any conveyance or system of conveyances operated primarily for the purpose of collecting and conveying storm water runoff which does not constitute a "storm water discharge".

(9) Any introduction of pollutants from non point source agricultural, silvicultural, land management or right-of-way maintenance activities including runoff from orchards, cultivated crops, pastures, range lands, forest lands and rights-of-way, but not including point source discharges from concentrated animal feeding operations, discharges of silvicultural process water or any "storm water discharges" (as defined in [314 CMR 5.04\(2\)](#)).

(10) Any landfill approved by the Department pursuant to [310 CMR 19.00](#) provided that such facility is not a point source and does not result in a discharge which causes a violation of applicable water quality standards or result in a threat to public health, safety or welfare.

(11) Any land application of sewage sludge provided it is performed in accordance with a plan approved by the Department.

(12) Any treatment works and discharge therefrom with interim permit status pursuant to [314 CMR 5.17\(3\)](#).

Any exemption in accordance with the provisions of 314 CMR 5.05 does not relieve the discharger of his responsibilities under other state regulations including, but not limited to [310 CMR 27.00 "Underground Water Source Protection"](#).

(13) Any discharge that results from a response action conducted or performed in accordance with the provisions of M.G.L. c. 21E and the regulations promulgated thereunder, [310 CMR 40.0000](#).

5.06: Restrictions on the Issuance of a Permit

The Department shall not issue a permit pursuant to 314 CMR 5.00:

(1) When the discharge will cause or contribute to a condition in contravention of standards for classified waters of the Commonwealth, pursuant to [314 CMR 4.00](#) and [6.00](#);

(2) For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste; or

(3) Where a sewer system is reasonably accessible in the opinion of the Department and where permission to enter such a sewer system can be obtained from the authority having jurisdiction over it, in accordance with [310 CMR 15.02\(12\)](#) and M.G.L. c. 83, § 11.

5.07: Effect of a Permit

Issuance of a permit under 314 CMR 5.00 and 2.00 shall be deemed to allow, to the extent specified in the permit and 314 CMR 5.07, the permittee to discharge pollutants to ground waters of the Commonwealth, to construct, install, modify, operate and maintain an outlet for such discharge, together with any treatment works required to meet effluent limitations specified in the permit for such discharge in accordance with plans and specifications approved in writing by the Department. Issuance of a permit under 314 CMR 5.00 and 2.00 shall not relieve the discharger of any responsibilities under 310 CMR 27.00 (the Massachusetts U.I.C. program).

5.08: Continuation of an Expiring Permit

- (1) The conditions of a permit continue in force under M.G.L. c. 30A, § 13 beyond the expiration date if:
 - (a) the permittee has made timely application for renewal of a new permit pursuant to 314 CMR 5.09(3) which is a complete application under 314 CMR 5.09(4); and
 - (b) the Department does not renew or issue a new permit with an effective date under 314 CMR 2.08 on or before the expiration date of the previous permit.
- (2) Permits continued under 314 CMR 5.08 remain fully effective and enforceable.

5.09: Application for a Permit

- (1) **Duty to apply.** Any person required to obtain a permit pursuant to 314 CMR 5.03 or 5.04 shall complete and submit the appropriate form(s).
- (2) **Who must apply.** The owner of the treatment works or activity resulting in a discharge of pollutants shall apply for a permit.
- (3) **Time to apply.**
 - (a) Any person required to obtain a permit pursuant to 314 CMR 5.03 or 5.04, and who does not have a currently effective permit shall submit an application at least 180 days before the date on which the discharge is to commence, unless permission for a later date has been granted by the Department. Persons proposing a new discharge are encouraged to submit their applications well in advance of the 180 day requirement to avoid delay.
 - (b) Any person with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department.
- (4) **Completeness.** The Department shall not issue a permit before receiving a complete application as required under 314 CMR 2.03(2).

5.10: Permit Conditions

(1) **General Conditions.** The conditions in [314 CMR 5.19](#) apply to every permit issued under 314 CMR 5.00, whether or not expressly incorporated into the permit.

(2) **Special Conditions.**

(a) In addition to conditions applicable to all permits (314 CMR 5.10(1) and [5.19](#)), the Department shall establish special conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the M.G.L. c. 21 §§ 26 through 53 and regulations adopted thereunder. These conditions shall establish effluent limitations, and applicable requirements (314 CMR 5.10(3), and (4)); the duration of the permit (314 CMR 5.10(5)); monitoring, recordkeeping and reporting requirements (314 CMR 5.10(6)); and, where applicable, schedules of compliance (314 CMR 5.10(7)) and other conditions (314 CMR 5.10(8)). An applicable requirement is a state statutory or regulatory requirement which takes effect prior to issuance of the permit. These requirements will be identified in the fact sheet or statement of basis prepared under [314 CMR 2.05](#).

(b) **Effluent Limitations.** In establishing effluent limitations, the Department shall apply the more stringent of the following:

1. Water quality based effluent limitations under 314 CMR 5.10(3); or
2. Technology based effluent limitations under 314 CMR 5.10(4).

(3) **Water quality based effluent limitations.** All permits contain limitations which are adequate to assure the attainment and maintenance of the water quality standards of the receiving waters as assigned in the Massachusetts Ground Water Quality Standards ([314 CMR 6.00](#)). Toward this end, the following effluent limitations shall apply to any discharge from a point source or outlet:

(a) **Primary effluent limitations for Class I and Class II ground waters.** The effluent limitations listed below apply to any discharge from a point source or outlet which enters the saturated zone of, or the unsaturated zone above, Class I and Class II ground waters.

Parameter	Limit
1. Coliform Bacteria	Shall not be discharged in amounts sufficient to render ground waters detrimental to public health, safety or welfare, or impair the ground water for use as a source of potable water.
2. Arsenic	Shall not exceed 0.05 mg/l
3. Barium	Shall not exceed 1.0 mg/l
4. Cadmium	Shall not exceed 0.01 mg/l
5. Chromium	Shall not exceed 0.05 mg/l
6. Fluoride	Shall not exceed 2.4 mg/l
7. Lead	Shall not exceed 0.05 mg/l

8. Mercury	Shall not exceed 0.002 mg/l
9. Total Trihalomethanes	Shall not exceed 0.1 mg/l
10. Selenium	Shall not exceed 0.01 mg/l
11. Silver	Shall not exceed 0.05 mg/l
12. Endrin (1,2,3,4,10, 10-hexachloro-1,7-epoxy-1, 4,4a,5,6,7,8,9a-octahydro-1, 4-endo,endo-5,8-dimethano naphthalene)	Shall not exceed 0.0002 mg/l
13. Lindane (1,2,3,4,5, 6-hexachlorocyclohexane, gamma isomer)	Shall not exceed 0.004 mg/l
14. Methoxychlor (1,1,1- Trichloro- 2, 2-bis (p-methoxyphenyl) ethane)	Shall not exceed 0.1 mg/l
15. Toxaphene (C ₁₀ H ₁₀ C ₁₈ , Technical Chlorinated Camphene, 67-69% chlorine)	Shall not exceed 0.005 mg/l
16. Chlorophenoxy: 2,4-D,(2,4-Dichloro- phenoxyacetic acid)	Shall not exceed 0.1 mg/l
2,4,5-TP Silvex (2,4, 5-Trichlorophenoxy- propionic acid)	Shall not exceed 0.01 mg/l
17. Radioactivity	Shall not exceed the maximum radionuclide contaminant levels as stated in the National Interim Primary Drinking Water Standards.
18. Toxic pollutants (other than those listed above)	Shall not exceed "Health Advisories" which have been adopted by the Department and/or EPA. A toxic pollutant for which there is no available "Health Advisory" and for which there is not sufficient data available to the Department for the establishment of a "Health Advisory" will be prohibited from discharge.

(b) **Secondary effluent limitations for Class I and Class II groundwaters.** In addition to the effluent limitations in 314 CMR 5.10(3)(a), the following limitations shall also apply to any discharge from a point source or outlet which enters the saturated zone of, or the unsaturated zone above, Class I and Class II ground waters.

Parameter	Limit
1. Copper	Shall not exceed 1.0 mg/l
2. Foaming Agents	Shall not exceed 1.0 mg/l

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| 3. Iron | Shall not exceed 0.3 mg/l |
| 4. Manganese | Shall not exceed 0.05 mg/l |
| 5. Oil and Grease | Shall not exceed 15 mg/l |
| 6. pH | Shall be in the range of 6.5 to 8.5 standard units |
| 7. Sulfate | Shall not exceed 250 mg/l |
| 8. Zinc | Shall not exceed 5.0 mg/l |
| 9. All other pollutants | None in such concentrations which in the opinion of the Department would impair the ground water for use as a source of potable water or cause or contribute to a condition in contravention of standards for other classified waters of the Commonwealth. |

(c) **Additional effluent limitations for Class I and Class II ground waters.** In addition to the effluent limitations listed in 314 CMR 5.10(3)(a) and (b), the following limitations shall apply to treatment works designed to treat wastewater at flows in excess of 150,000 gallons per day:

Parameter	Limit
1. Nitrate Nitrogen (as Nitrogen)	Shall not exceed 10.0 mg/l
2. Total Nitrogen (as Nitrogen)	Shall not exceed 10.0 mg/l

(d) **Additional effluent limitations for Class I ground waters.** In addition to the effluent limitations in 314 CMR 5.10(3)(a)(b) and (c) the following limitations shall apply to treatment works discharging to Class I ground waters:

Parameter	Limit
1. Chlorides	Shall not exceed 250 mg/l
2. Total Dissolved Solids	Shall not exceed 1000 mg/l

(e) **Effluent limitations for Class III ground waters.** The effluent limitations listed below apply to any discharge from a point source or outlet which enters the saturated zone of, or the unsaturated zone above, Class III ground waters.

Parameter	Limit
1. Radioactivity	Shall not exceed the maximum radio- nuclide contaminant levels as stated in the National Interim Primary Drinking Water Standards.
2. All Other Pollutants	None in concentrations or combinations which upon exposure to humans will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions or physical deformations or cause any significant adverse effects to the environment, or which would exceed the recommended limits on the most sensitive ground water use.

(4) **Technology based effluent limitations.**

(a) **Technology based effluent limitations for POTW's.** Except as provided in 314 CMR 5.10(9) technology based limitations for discharges from POTW's with design flows greater than 15,000 gallons per day shall be as follows:

1. For discharges to Class I and Class II ground waters the technology based limitations shall be secondary treatment, which is defined as that process or group of processes capable of removing from untreated wastewater a minimum of 85% of the five day biochemical oxygen demand and suspended solids, and virtually all floating and settleable solids, followed by disinfection. Disinfection of treated effluent may be discontinued at the discretion of the Department. Limitations defining secondary treatment may be expressed in terms of concentration as well as mass.
2. For discharges to Class III ground waters the technology based limitations shall be primary treatment, which is defined as that process or group of processes capable of removing from untreated wastewater a minimum of 25% of the five day biochemical oxygen demand, 55% of the suspended solids, and 85% of the floating and settleable solids.

(b) **Technology based effluent limitations for non-POTW's.** Technology based limitations for discharges from non-POTW's shall be the most stringent of the following:

1. Limitations and standards for the applicable industrial category promulgated by EPA pursuant to PL 92-500, §§ 304, 306, 307, 316, and 405 to comply with the requirements of PL 92-500, § 301.
2. Limitations developed on a case-by-case basis which, in the Department's best professional judgment, define the appropriate level of control set forth in PL 92-500 for the category of discharger or class of pollutants discharged. In defining the appropriate level of control hereunder, the Department will consider any draft or promulgated EPA effluent limitation guidelines, draft or proposed EPA development documents or guidance, any available state guidance, or any technology or process which has been demonstrated to be achievable in the experience of the Department for the class or category of discharger.
3. In the case of reissued permits, limitations which are at least as stringent as those of the previous permit, unless the effluent limitations imposed by the previously issued permit are more stringent than subsequently promulgated effluent guidelines and one or more of the following conditions applies:
 - a. The discharger has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations. In this case the limitations in the renewed or reissued permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by the subsequently promulgated effluent limitation guidelines).
 - b. The circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would

constitute cause for permit modification or revocation and reissuance under [314 CMR 5.12](#).

(5) **Duration of permits.** Permits shall be effective for a fixed term not to exceed five years. The Department may issue any permit for a lesser duration.

(6) **Monitoring, recordkeeping and reporting requirements.**

(a) Each permit shall contain monitoring requirements to assure compliance with permit limitations and conditions, including the installation of monitoring wells. The number, location, dimensions, method of construction, and method of sampling of monitoring wells shall be approved by the Department in accordance with [314 CMR 6.08](#). The type, intervals, and frequency of monitoring shall be sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring. Monitoring requirements may include the mass (or other measurement specified in the permit) for each pollutant limited in the permit, the volume of effluent discharged from each facility, and other measurements as appropriate (including biological monitoring methods when appropriate). Monitoring shall be conducted in accordance with the provisions of [314 CMR 5.19\(10\)](#) and [6.08](#). Permittees shall maintain records of all monitoring activities in accordance with [314 CMR 5.19\(11\)](#).

(b) Each permit shall contain requirements to report monitoring results with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. Pollutants for which the permittee must report violations of maximum daily discharge limitations under [314 CMR 5.19\(20\)\(e\)](#) shall be listed in the permit.

(7) **Schedule of Compliance.**

(a) A permit may, when appropriate, specify a schedule leading to compliance with M.G.L. c. 21, §§ 26 through 63 and regulations adopted thereunder. Any such schedule shall require compliance as soon as possible.

Each schedule shall set forth dates to accomplish interim requirements leading toward compliance. Beginning with the date of permit issuance, the time between interim dates shall not exceed one year. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(b) The first permit issued for a discharge which commences after the effective date of [314 CMR 5.00](#) shall not contain a schedule of compliance. No new or recommencing discharge shall commence operations or discharge prior to installation and operation of all treatment works necessary to comply with the effluent limitations established in the permit.

(8) **Other Conditions.** In addition to the conditions established under [314 CMR 5.10\(1\)](#) through (7), a permit may include special conditions as follows:

(a) Requirements for POTWs to comply with pretreatment provisions under [314 CMR 12.00](#); including:

1. The identification, in terms of character and volume of pollutants, of any significant indirect discharge into the POTW subject to the prohibitions and standards of [314 CMR 12.08](#);
2. The establishment of a POTW pretreatment program in accordance with [314 CMR 12.09](#), including any necessary schedule of compliance for adoption of the program;
3. The incorporation of an approved POTW pretreatment program in the permit; and
4. The submittal by a POTW of the reports required by [314 CMR 12.09\(3\)](#).

(b) Requirements applicable to the management of hazardous wastes for treatment works subject to the provisions of [314 CMR 8.00](#).

(c) Requirements to control or abate the discharge of pollutants through the application of best management practices when:

1. Authorized under PL 92-500, § 304(e) for the control of toxic pollutants and hazardous substances from ancillary and industrial activities;
2. Numerical effluent limitations are infeasible; or
3. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of The Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53.

(d) Requirements to monitor, record, and report the quality of water at upgradient and downgradient monitoring wells to determine that the discharge does not result in a violation of the Massachusetts Ground Water Quality Standards ([314 CMR 6.00](#)).

(e) Requirements to prepare and submit monthly operating reports under [314 CMR 12.07](#).

(f) Requirements imposed in grants made by EPA or the Department to POTW's under PL 92-500, §§ 201 and 204 or M.G.L. c. 21, § 30A which are reasonably necessary for the achievement of effluent limitations.

(g) Requirements governing the disposal of sludge from treatment works.

(h) Requirements for the periodic submission of reports regarding the condition and capacity of a treatment works, including any portion of a sewer system.

(9) Exceptions.

(a) A permit may specify effluent limitations less stringent than the water quality based effluent limitations listed in [314 CMR 5.10\(3\)\(b\)](#), (c) and (d) and the technology based effluent limitations specified in [314 CMR 5.10\(4\)\(a\)](#) in the following cases:

1. The permitted facility is a treatment works employing land application techniques and land utilization practices provided that it has been demonstrated to the satisfaction of the Department that any discharge from such facility:
 - a. Will not present an actual or potential public health hazard;
 - b. Will not violate applicable water quality standards in the saturated zone;
 - c. Will not violate applicable water quality standards in adjacent waters of the Commonwealth; or

2. The permitted facility is a treatment works designed, constructed, operated and maintained for the purpose of restoring a contaminated ground water provided that it has been demonstrated to the satisfaction of the Department that any discharge from such facilities will not cause the ground waters receiving the discharge or any adjacent waters of the Commonwealth to be further degraded.

(b) A permit may specify effluent limitations less stringent than the water quality based effluent limitations listed in 314 CMR 5.10(3)(b), (c) and (d) where it can be demonstrated to the satisfaction of the Department that natural background conditions preclude the ground water receiving the discharge from meeting the minimum ground water quality criteria specified in [314 CMR 6.06\(1\)](#) and that any discharge with such less stringent effluent limitations will not adversely impact any current or potential use of that ground water.

5.12: Modification, Suspension, Revocation and Renewal of Permits

(1) As provided in M.G.L. c. 21, § 43(10), the Department may propose and determine to modify, suspend or revoke any outstanding permit, in whole or in part, for cause including, but not limited to, violation of any permit term, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts or any change in or discovery of conditions that calls for reduction or discontinuance of the authorized discharge or activity. The Department may also modify a permit at the request of the permittee upon a showing, satisfactory to the Department, that the requested modification is appropriate in view of circumstances for which the permittee is not at fault.

(2) The modification, suspension, revocation or renewal of a permit shall be processed in accordance with the provisions of [314 CMR 2.10](#).

(3) **Minor Modifications of Permits.** Upon the consent of the permittee, the Department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in 314 CMR 5.12(3) without following the procedures of [314 CMR 2.00](#). Any permit modification not processed as a minor modification under 314 CMR 5.12 must be made for cause and in accordance with the draft permit and public notice requirements of [314 CMR 2.00](#). Minor modifications may only:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in ownership or operational control of a facility where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; or

(e) Delete an outfall when the discharge from that outfall is terminated and does not result in the discharge of pollutants from other outfalls except in accordance with permit limits.

5.13: Transfer of Permits

(1) **RCRA facilities.** Any permit which authorizes the operation of a RCRA facility subject to the requirements of [314 CMR 8.07](#) shall be valid only for the person to whom it is issued and may not be transferred. Operation by an owner or operator other than those named in the permit shall be a violation of 314 CMR 5.00 and a basis for revocation of the permit, or other enforcement action.

(2) **Transfers by modification.** Except as provided in 314 CMR 5.13(1) and (3), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under 314 CMR 5.12(1) and (2), or a minor modification made under 314 CMR 5.12(3)(d) to identify the new permittee.

(3) **Automatic transfers.** As an alternative to transfers under 314 CMR 5.13(2), any permit may be automatically transferred to a new permittee if:

(a) The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in 314 CMR 5.13(3)(b);

(b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

(c) The Department does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. A modification under 314 CMR 5.13(3) may also be a minor modification under 314 CMR 5.12(3)(d). If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in 314 CMR 5.13(3)(b).

5.14: Signatories to Permit Applications and Reports

(1) **Applications.** All permit applications shall be signed as follows:

(a) For a corporation by a responsible corporate officer. For the purpose of 314 CMR 5.14, a responsible corporate officer means:

1. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation; or

2. The manager of one or more manufacturing, production, or operating facility employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(c) For a municipality, State, Federal, or other public agency: by either a principal executive officer, or ranking elected official. For purposes of 314 CMR 5.14, a principal executive officer of a Federal agency includes:

1. The chief executive officer of the agency; or
2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

(2) **Reports.** All reports required by permits and other information requested by the Department shall be signed by a person described in 314 CMR 5.14(1), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(a) The authorization is made in writing by a person described in 314 CMR 5.14(1);

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility; and

(c) The written authorization is submitted to the Department.

(3) **Certification.** Any person signing a document under 314 CMR 5.14(1) or (2) shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

5.17: Interim Permit Status

(1) The continued use and operation of existing treatment works and the discharges to the ground waters therefrom may be authorized in accordance with 314 CMR 5.17 during the period following the effective date of 314 CMR 5.00, and prior to the issuance of an individual discharge permit for such works and discharges. Treatment works and discharges authorized pursuant to 314 CMR 5.17 shall be given "interim permit status" and shall be exempt from the need for an individual discharge permit under M.G.L. c. 21, § 43, pursuant to [314 CMR 5.05\(12\)](#).

(2) Any person owning an existing treatment works with a discharge to the ground waters of the Commonwealth which:

(a) has written approval from the Department or, if approved prior to July 1975, from the Department of Public Health for the treatment works, and

(b) does not have a valid permit from the Department pursuant to M.G.L. c. 21, § 43, and

(c) requires a permit pursuant to 314 CMR 5.03 and 5.04, and

(d) is not exempt from the need for an individual permit pursuant to 314 CMR 5.05(1) through (11), may apply for interim permit status by completing and submitting the appropriate permit application forms, together with a copy of the written approval from the Department or, if approved prior to July 1975, from the Department of Public Health. Such application forms and written approval shall be submitted to the Department by January 1, 1984.

(3) Existing treatment works and discharges for which an application and written approval are received pursuant to 314 CMR 5.17(2) are hereby given interim permit status and are exempt from the need for an individual permit until such time as the Department processes the permit application or issues a final determination to deny the permit in accordance with 314 CMR 2.08, provided the treatment works and discharge authorized herein comply with the following:

(a) the treatment works were designed, constructed and are operated and maintained in accordance with the terms and conditions of the written approval from the Department or the Department of Public Health;

(b) the discharge to the ground waters does not result in a violation of the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, or result in a threat to the public health, safety, welfare or the environment; and

(c) the operation of the treatment works or the discharge therefrom does not result in a violation of any other state or federal law or regulation.

(4) Monitoring at interim status facilities shall continue to be conducted in accordance with the letter of approval for the treatment works unless notified in writing by the Department. The Department may require the installation of monitoring wells and the sampling and analysis of the discharge and the ground water at monitoring wells for any facility given interim permit status under 314 CMR 3.17.

5.19: General Conditions

The following conditions apply to all permits:

(1) No discharge authorized in the permit shall result in a violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or the Massachusetts Ground Water Quality Standards (314 CMR 6.00), or any amendments thereto. Upon promulgation of any amended standard, this permit may be revised or amended in accordance with such standard and 314 CMR 2.10 and 3.12 or 5.12. For purposes of determining compliance with ground water quality standards, a violation of the ground water quality standards, and the discharge permit, will be determined to occur when any parameter measured in any downgradient well exceeds the applicable criteria listed in 314 CMR 6.06. In those cases where it is shown that a measured parameter exceeds the

applicable criteria listed in [314 CMR 6.06](#) at the upgradient monitoring well, a violation of the ground water quality standards and the discharge permit will be determined to occur when it is shown that a measured parameter in any downgradient well exceeds the level of that same measured parameter in the upgradient well for the same sampling period. A statistical procedure approved by the Department shall be used in determining when a measured parameter exceeds the allowable level.

(2) **Duty to comply.** The permittee shall comply at all times with the terms and conditions of the permit, 314 CMR, M.G.L. c. 21, §§ 26 through 53 and all other applicable state and federal statutes and regulations.

(3) **Standards and prohibitions toxic pollutants.** The permittee shall comply with effluent standards or prohibitions established under PL 92-500, § 307(a) for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

(4) **Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the permit, and in accordance with [314 CMR 12.00](#).

(5) **Duty to halt or reduce activity.** Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or discharges or both until the facility is restored or an alternative method of treatment is provided. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(6) **Power Failure.** In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

(a) provide an alternative power source sufficient to operate the wastewater control facilities; or

(b) halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(7) **Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any adverse impact on human health or the environment resulting from non-compliance with the permit.

(8) **Duty to provide information.** The permittee shall furnish to the Department within a reasonable time any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or

terminating the permit, or to determine whether the permittee is complying with the terms and conditions of the permit.

(9) **Inspection and entry.** The permittee shall allow the Department or its authorized representatives to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records required by the permit are kept;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- (c) Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and
- (d) Sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the permit.

(10) **Monitoring.** Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures are specified in the permit.

(11) **Recordkeeping.** The permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and all records of all data used to complete the application for the permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

Records of monitoring information shall include:

- (a) The date, exact place, and time of sampling or measurements;
- (b) The individual(s) who performed the sampling or measurement;
- (c) The date(s) analyses were performed;
- (d) The individual(s) who performed the analyses;
- (e) The analytical techniques or methods used; and
- (f) The results of such analyses.

(12) **Prohibition of bypassing.** Except as provided in 314 CMR 5.19(13), bypassing is prohibited, and the Department may take enforcement action against a permittee for bypassing, unless the discharge is to a surface water and:

- (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (c) The permittee submitted notice of the bypass to the Department:

1. In the event of an anticipated bypass at least ten days in advance, if possible; or
2. In the event of an unanticipated bypass as soon as the permittee has knowledge of the bypass and no later than 24 hours after its first occurrence.

(13) **Bypass not exceeding limitations.** The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if necessary for the performance of essential maintenance or to assure efficient operation of treatment facilities.

(14) **Permit actions.** The permit may be modified, suspended, or revoked for cause. The filing of a request by the permittee for a permit modification, reissuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any permit condition.

(15) **Duty to reapply.** If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department.

(16) **Property rights.** The permit does not convey any property rights of any sort or any exclusive privilege.

(17) **Other laws.** The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

(18) **Oil and hazardous substance liability.** Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under PL 92-500, § 311, and M.G.L. c. 21E.

(19) **Removed substances.** Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed in a manner consistent with applicable Federal and State laws and regulations including, but not limited to, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 and the Clean Water Act, P.L. 92-500, as amended by P.L. 95-217 and P.L. 95-576, 33 U.S.C. 1251 *et seq.*, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, 310 CMR 19.00 and 30.000, and other applicable regulations.

(20) **Reporting requirements.**

(a) **Monitoring reports.** Monitoring results shall be reported on a Discharge Monitoring Report (DMR) at the intervals specified elsewhere in the permit. If the permittee monitors any pollutant more frequently than required by the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

(b) **Compliance schedules.** Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

(c) **Planned changes.** The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility or activity which could significantly change the nature or increase the quantity of pollutants discharged. Unless and until the permit is modified, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

(d) **Anticipated non-compliance.** The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in non-compliance with permit requirements.

(e) **24 hour reporting.** The permittee shall report any non-compliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance.

The following shall be included as information which must be reported within 24 hours:

1. Any unanticipated bypass which exceeds any effluent limitation in the permit.
2. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(f) **Other non-compliance.** The permittee shall report all instances of non-compliance not reported under 314 CMR 5.19(20)(a), (b), or (e) at the time monitoring reports are submitted. The reports shall contain the information listed in 314 CMR 5.19(20)(e).

(g) **Toxics.** All manufacturing, commercial, mining, or silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant listed in [314 CMR 3.16](#) which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
 - a. 100 micrograms per liter (100 ug/l);
 - b. 200 micrograms per liter (200 ug/l) for acrolein and acrylonitrile; 500 micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

c. Five times the maximum concentration value reported for that pollutant in the permit application; or

2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.

(h) **Indirect dischargers.** All Publicly Owned Treatment Works shall provide adequate notice to the Department of the following:

1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to PL 92-500, § 301 or 306 if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

3. For purposes of 314 CMR 5.19, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(i) **Information.** Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

(21) **Signatory requirement.** All applications, reports, or information submitted to the Department shall be signed and certified in accordance with 314 CMR 3.14 and 5.14.

(22) **Severability.** The provisions of the permit are severable, and if any provision of the permit, or the application of any provision of the permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the permit, shall not be affected thereby.

(23) **Reopener clause.** The Department reserves the right to make appropriate revisions to the permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 or the Clean Water Act, P.L. 92-500, as amended by P.L. 95-217 and P.L. 95-576, 33 U.S.C. 1251 *et seq* in order to bring all discharges into compliance with said statutes.

(24) **Approval of plans and specifications for treatment works.** All discharges and associated treatment works authorized herein shall be consistent with the terms and conditions of this permit and the approved plans and specifications. Any modification to the approved treatment works shall require written approval of the Department.

(25) **Transfer of Permits.**

(a) **RCRA facilities.** Any permit which authorizes the operation of a RCRA facility which is subject to the requirements of 314 CMR 8.07 shall be valid only for the person to whom it is issued and may not be transferred.

(b) **Transfers by modification.** Except as provided in 314 CMR 5.19(24)(a) and (c), a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued or a minor modification made to identify the new permittee.

(c) **Automatic transfers.** As an alternative to transfers under 314 CMR 5.19(24)(b), any permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in [314 CMR 5.19\(2\)](#);
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
3. The Department does not notify the existing permittee and the proposed new permittee of the Department's intent to modify or revoke and reissue the permit. A modification under 314 CMR 5.19(24)(c) may also be a minor modification. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in 314 CMR 5.19(24)(c)2.

(26) **Permit Fees.** Any permittee, other than a public entity, required to obtain a surface water or ground water discharge permit pursuant to M.G.L. c. 21, § 43 and 314 CMR [3.00](#) and 5.00, shall be required annually to obtain an inspection certificate from the Department, and submit the information and fee associated therewith in accordance with 314 CMR 2.12.

REGULATORY AUTHORITY

314 CMR 5.00: M.G.L. c. 21, §§ 7(12) and 43.