



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner

**DEP FEES AND PROGRAM IMPROVEMENTS
REGULATION PACKAGE 2009-2**

With proposed amendments to:

310 CMR 4.00, TIMELY ACTION SCHEDULE AND FEE PROVISIONS

Stormwater Permit Fees

February 2, 2009

FOR AGENCY REVIEW AND PUBLIC HEARING

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD# 1-866-539-7622 or 1-617-574-6868.

MassDEP on the World Wide Web: <http://www.mass.gov/dep>

Printed on Recycled Paper

TABLE OF CONTENTS

I.	Summary of Amendments.....	3
II.	Proposed Schedule For Promulgating Regulations.....	4
III.	Notice of Public Hearing.....	5
IV.	Amendments to 310 CMR 4.00, Timely Action Schedule and Fee Provisions.....	6
	A. Index of Amendments	
	B. Highlight/Strikeout Text Amendments	

I. SUMMARY OF PROPOSED AMENDMENTS

Massachusetts General Law Chapter 21A, Section 18 authorizes the Department of Environmental Protection to establish permitting and compliance fees, and schedules for timely action on permit applications. Department fees are established by regulation in 310 CMR 4.00 et seq. The purpose of these regulations is to provide for the orderly and efficient administration of the regulatory programs administered by the Department thereby contributing to the protection of the public health and safety and of the environment.

MassDEP is proposing to make the following amendments to these regulations:

BUREAU OF RESOURCE PROTECTION

Water Pollution Control

Three new permit fee categories are being proposed in conjunction with the Department's proposed stormwater discharge requirements in 314 CMR 21.00: BRPWP76, general permits for stormwater discharges; BRPWP77, annual reports certifying compliance with the conditions of the general permit; and BRPWP78, requests for variances from redevelopment performance standards.

In the first year, the proposed amendments will require permit applications from an estimated 5000 property owners with (1) large impervious areas of 5 or more acres and (2) 2 acres or more in designated TMDL areas - regulated under the Department's new requirements for stormwater discharges. These may include shopping centers, large office facilities and condominium complexes. The program anticipates receiving about 100 new general permit applications annually. Regulated Permittees pay an initial fee of \$200 for the 5 year general permit and an annual fee of \$100 thereafter with the submittal of their annual compliance certifications. Ten applications for variances are anticipated on an annual basis.

These permit application fees are based on the Department's costs for providing technical assistance and performing the activities and analysis necessary for acting on and processing applications, issuing decisions, and the monitoring and enforcement of compliance with the conditions of the permits.

II. PROPOSED SCHEDULE FOR PROMULGATING REGULATIONS

Proposed regulations approved for public hearing.	January 30, 2009
Notification of hearings and proposed amendments mailed to all appropriate agencies, groups and registered interested parties as required.	February 6, 2009
Hearing notice published in newspapers and posted with amendment text on DEP website.	February 20, 2009
Hearing Notice published in MA Register.	February 20, 2009
Public Hearings.	March 13, 2009 March 16, 2009
End of public comment period.	March 26, 2009
Public comment document and proposed final regulation amendment text submitted to EOEA and A&F for review and approval.	April 10, 2009
Filing Form submitted to Secretary of the Commonwealth.	May 1, 2009
Final amendment text published in the MA Register.	May 15, 2009

III. NOTICE OF PUBLIC HEARING

Public hearings will be held for DEP Fees and Program Improvements
Regulation Package 2009-1 and 2009-2

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection

NOTICE

Notice is hereby given that the Executive Office of Environmental Affairs and Department of Environmental Protection (DEP), acting in accordance with the provisions of M.G.L. Chapter 21A, §18, M.G.L. Chapter 21E §3B and M.G.L. Chapter 91 will hold public hearings on Fee Regulation Package 2009-1 with amendments to 310 CMR 4.00, Timely Action Schedule and Fee Provisions, 310 CMR 9.00, Waterways regulations, and 310 CMR 40.0000, Massachusetts Contingency Plan of the Waste Site Cleanup program and Fee Regulation Package 2009-2 with amendments to 310 CMR 4.00, Timely Action Schedule.

The proposed amendments will delete, add, increase and decrease fees and otherwise amend permit or Annual Compliance Fee categories for environmental programs including Water Pollution Control, Title 5 and the Stormwater Discharge Program, Water Supply, Watershed Management, Wetlands and Waterways, Environmental Laboratory Certification, Air Quality, Hazardous Waste, Solid Waste, Waste Site Cleanup, and Mercury Management.

Public Hearings will be conducted under the provisions of Chapter 30A of the Massachusetts General Laws on:

Friday, March 13, 2009 -- Springfield – 10:30 a.m.

DEP Western Regional Office, 436 Dwight Street, (413) 784-1100

Friday, March 13, 2009 -- Worcester – 2:00 p.m.

DEP Central Regional Office, 627 Main Street, (508) 792-7650

Monday, March 16, 2009 -- Boston -- 10:00 a.m.

DEP Headquarters, One Winter Street, (617) 292-5500

Testimony may be presented orally or in writing at the public hearings. In addition, written comments will be accepted at the address below until 5:00 p.m. on March 26, 2009. Please submit three copies of any written testimony. Written testimony must be submitted to: Jay Eberle, 3rd Floor, Department of Environmental Protection, One Winter Street, Boston, MA 02108.

Please call Jay Eberle at (617) 556-1067 if you have questions concerning the public hearings or would like to request a copy of background documents on the proposed regulations. Copies of the regulations and background documents are also available on the DEP website: www.state.ma.us/dep.

For special accommodations or this information in alternate format call Donald Gomes ADA Coordinator 617-556-1057, TDD# 1-866-539-7622 or 617-574-6868.

**IV. AMENDMENTS TO 310 CMR 4.00
TIMELY ACTION SCHEDULE AND FEE PROVISIONS**

Established pursuant to M.G.L. Chapter 21A, §18

**Initial Index Fee Regulation Package 09-2
Proposed Amendments to 310 CMR 4.00**

Page	section	category	description of change
------	---------	----------	-----------------------

Permit Application Fees effective May 15, 2009

141	4.10(7)(k)	WP10	<u>Other Groundwater Discharges</u> – delete stormwater sub-category
147			Add heading - Stormwater Discharges
147	4.10(7)(rr)	WP76	<u>Stormwater General Permit</u> – add new category \$ 200
147	4.10(7)(ss)	WP77	<u>Stormwater Annual Compliance Certification</u> – add new category \$ 100
147	4.10(7)(tt)	WP78	<u>Stormwater Variance</u> – add new category \$ 3,300

310 CMR 4.00 Timely Act Schedule and Fee Provisions

4.10: Appendix: Schedules for Timely Action and Permit Application Fees

(7) Bureau of Resource Protection – Water Pollution Control.

Regulation page 147

Stormwater Discharges

(rr) (BRPWP76) Permits for water pollution control

1. Category: General permit for stormwater discharges and renewal
2. Description: Application for permit and renewal of permit to discharge stormwater pursuant to 314 CMR 21.00 under the provisions of a general permit issued by the Department.
3. Schedule for timely action: for projects for which applications are filed and fee received on or after May 15, 2009,
 - a. Within 45 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review and a public comment review.
 - b. The permit applicant may remedy any identified deficiencies within 30 days of the Department's statement identifying deficiencies, if any.
 - c. Within 15 days of receipt of material from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
4. Permit application fee: \$200

(ss) (BRPWP77) Permits for water pollution control

1. Category: Annual compliance certification
2. Description: Annual certification of compliance pursuant to 314 CMR 21.27 for general stormwater discharge permits.
3. Schedule for timely action: for projects for which applications are filed and fee received on or after May 15, 2009,
 - a. Within 45 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review and a public comment review. Unless the Department issues a statement of deficiencies or a denial the certification is presumptively approved.
 - b. The permit applicant may remedy any identified deficiencies within 30 days of the Department's statement identifying deficiencies, if any.
 - c. Within 15 days of receipt of material from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review. Unless the Department issues a denial the certification is presumptively approved.
4. Permit application fee: \$100

(tt) (BRPWP78) Permits for water pollution control

1. Category: Request for variance from redevelopment performance standard under general stormwater permit for regulated impervious surfaces.
2. Description: Request for variance pursuant to 314 CMR 21.13 from the additional performance standard for the redevelopment of impervious surfaces set forth in 314 CMR 21.08(3).
3. Schedule for timely action: for projects for which applications are filed and fee received on or after May 15, 2009,
 - a. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.
 - b. Within 90 days of making a determination of administrative completeness, the Department shall complete a technical review.
 - c. The permit applicant may remedy any identified deficiencies within 180 days of the Department's statement identifying deficiencies, if any.
 - d. Within 90 days of receipt of material from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
 - e. Within 90 days of the close of the period for public comment, including any public hearing, the Department shall complete a public comment review and issue a final decision.
4. Permit application fee: \$3,300.

Regulation page 141

(k) (BRPWP10) Permits for water pollution control: groundwater discharges

1. Category: other groundwater discharges.
2. Description: permits for discharge of noncontact cooling water; ~~or stormwater~~; discharges with a heat exchanger as the sole treatment provided; discharges with pH adjustment and/or oil water separator as the sole means of treatment; or discharges from construction dewatering.
3. Schedule for timely action: for projects for which applications are filed and fees received on or after May 15, 2009~~July 1, 2007~~,
 - a. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.
 - b. Within 90 days of making a determination of administrative completeness, the Department shall complete a technical review.
 - c. The permit applicant may remedy identified deficiencies within 180 days of the Department's statement identifying deficiencies, if any.
 - d. Within 90 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
 - e. Within 90 days of the close of the period for public comment, including any public hearing, the Department shall complete a public comment review and issue a final decision.
4. Permit application fee: \$2,285