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

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

July 5, 2016

Mr. Paul Carrigg
Edgewater Apartments, LLC
275 Maritime Street, Suite 110
Fall River, Massachusetts 02724

RE: WESTPORT--Water Pollution Control, Draft Groundwater Discharge Permit # 711-2, Westport – Edgewater Apartments, **Public Notice**, BRP WP 12, Transmittal No. X270212

Dear Mr. Carrigg:

The Massachusetts Clean Water Act (M.G.L. c.21, s.21-53) was amended by Chapter 246 of the Acts of 1973 to authorize the Massachusetts Department of Environmental Protection (the MassDEP), to regulate discharges into all waters of the Commonwealth, including groundwaters. The MassDEP regulates discharges through the issuance of discharge permits, which impose limitations on the amount of pollutants that may be discharged in the effluent, together with monitoring and reporting requirements and other conditions to insure adequate treatment of all liquid wastes prior to discharge.

The MassDEP has completed its technical review of your application submitted on behalf of the Edgewater Apartments, LLC to discharge treated wastewater from the facility to be located at the Westport – Edgewater Apartments, 87 Sanford Road, Westport, Massachusetts to the ground, and has developed the conditions contained in the enclosed draft permit.

The proposed draft permit can only be considered in draft form because of provisions in the Law regulating public notice of the proposed issuance of the permit and opportunity for public comments and public hearing. Following receipt of comments on the public notice, and public hearing, if held, the MassDEP will issue its final determination to issue or deny the permit.

Enclosed herewith is a copy of the public notice for your groundwater discharge permit. The enclosed public notice should be published to start the thirty (30) day public comment period.

In accordance with 314 CMR 2.06(4) and M.G.L. c.30A, the applicant or permittee, as applicable, shall publish public notice of the permit proceedings in *The Environmental Monitor,* a publication of the Massachusetts Executive Office of Energy and Environmental Affairs. For

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

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instructions on filing this notice with MEPA please refer to MEPA's website at http://www.env.state.ma.us/mepa/submittingnotices.htm

The applicant or permittee shall submit to the Department a copy of the public notice as published in the *Environmental Monitor,* within seven days after the date of publication or at such other time as the Department requires. This information should be sent to the attention of Brett Rowe at the above letterhead address. The mandatory thirty day public comment period will commence with the date of publication of the public notice.

If you have any questions please contact Mr. Brett Rowe at (508) 946-2754, to discuss the above issues.

Very truly yours,

Jeffrey E. Gould,
Bureau of Water Resources

G/BAR/

Enclosure

ecc: MassDEP-BOSTON
ATTN: Marybeth Chubb, Sandra Rabb

Westport Board of Health
ATTN: James J. Walsh, Agent

Natural Systems Utilities, Inc.
ATTN: Jim Waldron

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PUBLIC NOTICE
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER RESOURCES/WASTEWATER MANAGEMENT PROGRAM
20 RIVERSIDE DRIVE
LAKEVILLE, MASSACHUSETTS 02347
TEL#: (508) 946-2750

Notice is hereby given that the following application for an Individual Groundwater Discharge Permit is being processed and the following actions being proposed thereon pursuant to Section 43 of Chapter 21 of the General Laws, and 314 CMR 5.00 and 2.06:

| | |
|---|---|
| CITY/TOWN: | WESTPORT |
| PROJECT NAME: | WESTPORT - EDGEWATER APRTMENTS |
| APPLICANT: | EDGEWATER APRTMENTS, LLC |
| FACILITY LOCATION: | 87 SANFORD ROAD, WESTPORT, MASSACHUSETTS |
| TYPE OF DISCHARGE: | SANITARY WASTEWATER |
| QUANTITY OF DISCHARGE: | 11,000 GALLONS PER DAY |
| PERMIT NO: | 711-2 |
| TRANSMITTAL NO: | X270212 |
| PROPOSED ACTION: | Tentative determination to issue individual groundwater discharge permit |

A copy of the application, draft permit, and statement of basis or fact sheet relative to the draft permit may be obtained from the MassDEP's Wastewater Management Program at the above address and telephone number or online at:
http://www.mass.gov/eea/agencies/massdep/news/comment/

Comments on the proposed action or requests for a public hearing thereon pursuant to 314 CMR 2.07 must be filed with MassDEP at the above address within thirty (30) days of this notice. For information on the process for formally intervening in adjudicatory proceedings, please refer to 310 CMR 1.00: Adjudicatory Proceedings, Section (7) Intervention and Participation.
http://www.mass.gov/eea/agencies/massdep/water/regulations/310-cmr-1-00-adjudicatory-proceedings.html

_____
Jeffrey E. Gould,
Bureau of Water Resources

# Individual Groundwater Discharge Permit
# Fact Sheet

## I. APPLICANT, FACILITY INFORMATION, and DISCHARGE LOCATION

**Name and Address of Applicant:**

Edgewater Apartments, LLC, 275 Maritine Street, Suite 110, Fall River, Massachusetts 02724

**Name and Address of Facility where discharge occurs:**

Westport – Edgewater Apartments, 87 Sanford Road, Westport, Massachusetts 02790

**Discharge Information:**

Groundwater Discharge Permit Number: 711-2

The Groundwater Discharge Permit will allow the applicant to continue to discharge treated sanitary wastewater from the WWTF located at the existing Westport – Edgewater Apartment complex to groundwaters of the Commonwealth. Westport – Edgewater Apartments consist of two buildings containing 98 bedrooms. The complex has a sewage design flow of 11,000 gallons per day.

The property is not located in a nitrogen sensitive area.

## II. LIMITATIONS AND CONDITIONS

Discharge permit limitations are as listed in the ground water permit and are in conformance with 314 CMR 5.00, the Groundwater Discharge Permit Program.

## III. PERMIT BASIS AND EXPLANATION OF EFFLUENT LIMITATIONS

An Individual Groundwater Discharge permit is required for this discharge in accordance with the Massachusetts Clean Water Act, M.G.L. c. 21, s. 26-53 and 314 CMR 5.03.

Effluent limitations are based upon the location of the discharge, the level of treatment, consideration of human health protection criteria and protection of the groundwaters of the Commonwealth.

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

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## IV. COMMENT PERIOD, HEARING REQUESTS, AND PROCEDURES FOR FINAL DECISIONS

The public comment period for this permit is thirty (30) days following public notice in *The Environmental Monitor*. The public notice for this Individual Groundwater Discharge Permit occurred on [DATE].

Requests for an adjudicatory hearing must be submitted within thirty (30) days of the issuance/denial of the permit, by any person who is aggrieved by such issuance/denial.

A final decision on the issuance/denial of this permit will be made after the public notice period, and review of any comments received during this period.

## V. STATE CONTACT INFORMATION

Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding holidays, from:

Brett A. Rowe
Bureau of Water Resources
20 Riverside Drive
Lakeville, Massachusetts 02347
Brett.Rowe@State.MA.US

Jeffrey E. Gould, Section Chief
Bureau of Water Resources

_____
DATE

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# Department of Environmental Protection

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Commissioner

## GROUNDWATER DISCHARGE PERMIT

Name and Address of Applicants: **Edgewater Apartments, LLC, 275 Martine Street, Suite 110, Fall River, Massachusetts 02724**

| | |
|---|---|
| Date of Current Application: | **May 2, 2016** |
| Permit No. | **SE# 711-2** |
| Date of Issuance: | **DRAFT** |
| Effective date: | **DRAFT** |
| Date of Expiration: | **DRAFT** |

## AUTHORITY FOR ISSUANCE

Pursuant to authority granted by Chapter 21, Sections 26-53 of the Massachusetts General Laws, 314 CMR 2.00, 314 CMR 5.00 as amended, the Massachusetts Department of Environmental Protection (the Department or MassDEP) hereby issues the following permit to:

**Edgewater Apartments, LLC**

Hereinafter referred to together as "the permittees"); authorizing discharges to the ground from the on site wastewater treatment facility located at **Westport – Edgewater Apartments, 87 Sanford Road, Westport, Massachusetts 02790.** Edgewater Apartments consists of two buildings that contain 98 bedrooms. The design flow of the complex is 11,000 gallons per day.

This authorization is expressly conditional on compliance by the permittees with all terms and conditions of the permit hereinafter set forth.

_____ _____

Jeffrey E. Gould
Bureau of Water Resources

Date

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

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# I. SPECIAL CONDITIONS

## A. Effluent Limits

The permittees are authorized to discharge into the ground from the wastewater treatment facility for which this permit is issued a treated effluent whose characteristics shall not exceed the following values:

| Effluent Characteristics | Discharge Limitations |
|---|---|
| Flow | 11,000 GPD |
| Oil and grease | 15 mg/l |
| Total Suspended Solids (TSS) | 30 mg/l |
| Biochemical Oxygen Demand, 5-day @20°C ($BOD_5$) | 30 mg/l |
| Total Nitrogen ($NO_2 + NO_3 + TKN$) | 10 mg/l |
| Nitrate-Nitrogen | 10 mg/l |

1. The pH of the effluent shall not be less than 6.5 nor greater than 8.5 at any time, not more than 0.2 standard units outside the naturally occurring range.

2. The discharge of the effluent shall not result in any demonstrable adverse effect on the groundwater or violate any water quality standards that have been promulgated.

3. The monthly average concentration of BOD and TSS in the discharge shall not exceed 15 percent of the monthly average concentrations of BOD and TSS in the influent into the permittees' wastewater treatment facility.

4. When the average annual flow exceeds 80 percent of the permitted flow limitations, the permittee shall submit a report to the Department describing what steps the permittee will take in order to remain in compliance with the permit limitations and conditions, inclusive of the flow limitations established in this permit.

## B. Monitoring and Reporting

1. INFLUENT:

The permittees shall monitor and record the quality of the **influent** waste stream to the facility according to the following schedule and other provisions:

| Parameter | Minimum Frequency of Analysis | Sample Type |
|---|---|---|
| $BOD_5$ | Monthly | 24-Hour Composite |
| Total Suspended Solids | Monthly | 24-Hour Composite |
| Total Solids | Monthly | 24-Hour Composite |
| Ammonia Nitrogen | Monthly | 24-Hour Composite |

EFFLUENT:

The permittees shall monitor and record the quality and quantity of **effluent** at the effluent pump chamber to the leaching area according to the following schedule and other provisions:

| Parameter | Minimum Frequency of Analysis | Sample Type |
|---|---|---|
| Flow | Daily | Max-Min-Average |
| pH | Daily | Grab |
| Total Suspended Solids | Monthly | 24-Hour Composite |
| Oil & Grease | Monthly | Grab |
| $BOD_5$ | Monthly | 24-Hour Composite |
| Nitrate Nitrogen | Monthly | 24-Hour Composite |
| Total Nitrogen ($NO_2$ + $NO_3$ + TKN) | Monthly | 24-Hour Composite |

| | | |
|---|---|---|
| Total Phosphorus | Quarterly | Grab |
| Orthophosphate | Quarterly | Grab |
| Volatile Organic Compounds[1] | Annually | Grab |

[1]USEPA Method #624

a) After one full year of monitoring the Total phosphorus and Orthophosphate, the Department may determine, upon the request of the permittee, that the frequency of monitoring may be reduced if, in the judgement of the Department, the results of the sampling indicate that existing contaminant levels will not adversely impact down gradient receptors. If the Department reduces the frequency of monitoring for Total Phosphorus and Orthophosphate, the Department reserves the right to resume more frequent monitoring if the Department determines that phosphorus levels are impacting downgradient receptors.

2. The permittee shall monitor, record and report the quality of water in the approved monitoring wells (MW – 1M upgradient, MW-2M, and MW-3M downgradient) as shown on a plan prepared by CAQ Engineering Associates, Inc. titled "Groundwater Monitoring Plan" dated November 20, 2000, according to the following schedule and other provisions:

| **Parameter** | **Frequency of Analysis** |
|---|---|
| Static Water Level | Monthly |
| Specific Conductance | Monthly |
| pH | Monthly |
| Total Nitrogen ($NO_2$+$NO_3$+TKN) | Quarterly |
| Nitrate-Nitrogen | Quarterly |
| Total Phosphorus | Quarterly |
| Orthophosphorus | Quarterly |
| Volatile Organic Compounds[1] | Annually |

[1]USEPA Method #624

a) Static Water Level shall be expressed as an elevation and shall be referenced to the surveyed datum established for the site. It shall be calculated by subtracting the depth to the water table from the surveyed elevation of the top of the monitoring well's PVC well casing/riser.

b) After one full year of monitoring the Total Phosphorus and Orthophosphate results, the Department may determine, upon the request of the permittee, that the frequency of monitoring may be reduced if, in the judgment of the Department, the results of the sampling indicate that existing phosphorus levels will not adversely impact downgradient receptors. If the Department reduces the frequency of monitoring for Total Phosphorus and Orthophosphate, the Department reserves the right to resume more frequent monitoring if the Department determines that phosphorus levels are impacting downgradient receptors.

3. Any grab sample or composite sample required to be taken less frequently than daily shall be taken during the period of Monday through Friday inclusive. Grab samples shall be taken between 8:00 a.m. and 6:00 p.m. All composite samples shall be taken over the operating day.

4. The permittees shall submit all monitoring reports within 30 days of the last day of the reporting month. Reports shall be on an acceptable form, properly filled and signed and shall be sent to the Department of Environmental Protection, Southeast Regional Office, Bureau of Water Resources, Water Pollution Control Section, 20 Riverside Drive, Lakeville, MA 02347, and to the Department of Environmental Protection, Bureau of Water Resources, Wastewater Management Program, One Winter Street/5th Floor, Boston, MA 02108, and to the Westport Board of Health, 856 Main Road, Westport, MA 02790.

a) Submission of monitoring reports in electronic format is available through eDEP and serves as data submission to both the Regional and Boston offices. To register for electronic submission go to:

*http://www.mass.gov/eea/agencies/massdep/service/online/edep-online-filing.html*

**C. Financial Assurance Mechanisms**

1) a) The permittee shall establish and maintain a financial assurance mechanism that provides for the continued availability of an immediate repair and replacement account to be used by the permittee solely for the immediate repair and replacement of any failing components of the PWTF. To create an immediate repair and replacement account, the permittee shall deposit at least 15% of the estimated construction cost of the PWTF into an interest bearing escrow account in accordance with the financial assurance mechanism and 314 CMR 5.15.

b) The permittee shall also establish and maintain a financial assurance mechanism in accordance with 314 CMR 5.15 that provides for the accumulation in a capital reserve account of sufficient funds to make any necessary modifications to the PWTF and other related equipment within twenty years from the date the PWTF commenced operation or such other period determined to be appropriate by the Department based on the age and condition of the PWTF. The financial assurance mechanism shall provide for the accumulation in the capital reserve account of an amount equal to at least 25% of the estimated construction cost of the PWTF.

c) On or before January 31st of each year, the permittee shall submit an annual financial report identifying the initial and current balances in the immediate repair and replacement account and the capital reserve account and confirming the continuing availability of the funds in said account for the purposes specified in the permit and 314 CMR 5.15. Said report shall be prepared in accordance with generally accepted accounting principles. Reports pertaining to the required financial assurance mechanism(s) shall be sent to the Wastewater Management Section Chief at the appropriate Regional Office

2) The permittee shall meet the obligation to establish all required financial assurance mechanisms by using Department-approved form documents and shall submit said Department-approved form documents to the Department for its review and approval as follows:

a) A permittee that constructs the wastewater treatment facility after the issuance of the Individual permit may submit the financial assurance mechanism(s) to the Department for its review and approval no later than ninety (90) days prior to the start-up of the facility. Such a permittee shall not operate the facility unless and until the Department has approved the required financial assurance mechanism(s), the financial assurance mechanisms are in full force and effect, and the permittee has made all contributions required thirty (30) days prior to the start-up of the facility.

b) A permittee with a wastewater treatment facility in existence prior to the submission of the individual permit renewal application may submit the financial assurance mechanisms to the Department for its review and approval no later than ninety (90) days from the date of submission of the individual permit renewal application. Said permittee shall be in compliance with the provision of each approved financial assurance mechanism requiring contributions to the immediate repair and replacement account and the capital reserve account no later than thirty (30) days prior to the date on which the renewal is issued.

3) The permittee shall maintain the current form documents evidencing all required financial assurance mechanisms approved by the Department. The permittee shall perform all its obligations under the required financial assurance mechanisms as approved by the Department.

4) For purpose of the financial assurance mechanism requirement, the estimated construction cost of the wastewater treatment facility shall include the cost of constructing the wastewater treatment plant, collection system, associated mechanical equipment, but not including the land, ground and disposal area.

## D. Supplemental Conditions

1. The permittee shall notify the Department at least thirty (30) days in advance of the proposed transfer of ownership of the facility for which this permit is written. Said notification shall include a written agreement between the existing and new permittees containing a specific date for transfer of permit, responsibility, coverage and liability between them.

2. A staffing plan for the facility shall be submitted to the Department once every two years and whenever there are staffing changes. The staffing plan shall include the following components:

a) The operator(s)'s name(s), operator grade(s) and operator license number(s);
b) The number of operational days per week;
c) The number of operational shifts per week;
d) The number of shifts per day;
e) The required personnel per shift;
f) Saturday, Sunday and holiday staff coverage;
g) Emergency operating personnel

3. The permittee is responsible for the operation and maintenance of all sewers and pump stations for the permitted facility, which shall be operated and maintained under the direction of a properly certified wastewater operator.

4. Operation and maintenance of the proposed facility must be in accordance with 314 CMR 12.00, "Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges", and, 257 CMR 2.00, "Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities.

a) The facility has been rated (in accordance with 257 CMR 2.00), to be a Grade 4 facility. Therefore, the permittee shall provide for oversight by a Massachusetts Certified Wastewater Treatment plant operator (Chief Operator) Grade 4 or higher. The permittee will also provide for a backup operator who shall possess at least a valid Grade 3 license.

b) The date and time of the operator's inspection along with the operator's name and certification shall be recorded in the log book on location at the treatment facility. All daily inspection logs consistent with the O&M Manual requirements shall be kept at the facility for a period of three (3) years.

c) Records of operation of wastewater treatment facilities or disposal systems required by the Department shall be submitted on forms supplied by the Department or on other forms approved by the Department for such use. Monthly reports shall be certified by the wastewater treatment plant operator

in charge and shall be included in the discharge monitoring reports submitted each month.

5. If the operation and maintenance of the facility is contracted to a private concern, the permittee shall submit a copy of the contract, consistent with what is required by the approved Operation & Maintenance manual and signed only by the contractor, to the appropriate MassDEP Regional Office within thirty (30) days of permit issuance. Along with the contract, a detailed listing of all contract operation obligations of the proposed contractor at other facilities shall also be submitted

6. Any additional connections to the sewer system, beyond what is described on page 1 of this permit, shall be approved by MassDEP and the local Board of Health prior to the connection.

7. All tests or analytical determinations to determine compliance with permit standards and requirements shall be done using tests and procedures found in the most recent version of Standard Methods for the Examination of Water and Wastewater and shall be performed by a Massachusetts certified laboratory.

8. The permittee shall notify the Department, in writing, within thirty (30) days of the following events:

a) The date of treatment plant start up.

b) Any interruption of the treatment system operation, other than routine maintenance.

c) Final shutdown of the treatment system.

9. The permittee shall contract to have any and all solids and sludges generated by the treatment system for which this permit is issued removed off site by a properly licensed waste hauler for disposal at an EPA/DEP approved facility. The name and license number of the hauler along with the quantity of wastes removed and the date(s) of removal shall be reported by the permittee in writing to the appropriate MassDEP Regional Office.

10. Simultaneously with the permit renewal application at year eighteen (2021) following the initiation of plant operations, the permittee shall submit two reports to the Department for its review and approval:

a. An engineering report, prepared by a registered professional engineer, that outlines in sufficient detail what modifications (if any) to the facility or other changes are required to insure that the facility can remain in compliance with it's GWDP and other applicable requirements through the next 5 year permit term (year 2026) and beyond.

b. A financial plan that contains the cost estimates for implementing the facility modifications or other changes identified in the engineering report, and describes and demonstrates, how and when the permittee will finance the needed facility modifications or other changes.

11. In the event that effluent limits are not met, or the discharge is determined to impair groundwater quality in accordance with 314 CMR 5.16(1), the permittee may be obligated to modify, supplement or replace the permitted treatment process so as to ensure that the discharge does not impair the ability of the groundwater to act as an actual or potential source of potable water.

12) Pursuant to M.G.L. Chapter 21A, section 18(a), and 310 CMR 4.03, holders of this Permit may be subject to annual compliance assurance fees as assessed each year on July 1st and invoiced by MassDEP. Failure of the Permit holder to pay applicable annual compliance assurance fees shall result in the automatic suspension of the permit by operation of law under the statute. If fee non-payment continues for sixty days or more, MassDEP has the statutory option of revoking the Permit, denying any other pending permit applications filed by the Permit holder or taking other enforcement action. Permit holders are required to notify MassDEP in writing if they wish to relinquish or transfer a permit. Failure to do so will result in the continued assessment of fees.

**D. Appeal Rights**

During the thirty (30) day period following issuance of this permit, a Notice of Claim for an Adjudicatory Appeal may be sent by any person aggrieved (the "Petitioner") by the issuance to:

Case Administrator
Office of Appeals and Dispute Resolution
Department of Environmental Protection
One Winter Street/2nd Floor
Boston, MA 02108

310 CMR 1.01(6)(b) requires the Notice of Claim to: include sufficient facts to demonstrate aggrieved person status; state the facts which are grounds for the appeal specifically, clearly and concisely; and, state relief sought. The permit shall become or remain effective at the end of the 30 day appeal period unless the person filing the Notice of Claim requests, and is granted, a stay of its terms and conditions. If a permit is modified under 314 CMR 2.10, only the modified terms and conditions may be subject to an Adjudicatory Appeal. All other aspects of the existing permit shall remain in effect during any such Adjudicatory Appeal.

Per 310 CMR 4.06, the hearing request to the Commonwealth will be dismissed if the filing fee is not paid. Unless the Petitioner is exempt or granted a waiver, a valid check payable to the Commonwealth to Massachusetts in the amount of $100.00 must be mailed to:

Commonwealth of Massachusetts
Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211

The filing fee is not required if the Petitioner is a city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority effective January 14, 1994, or any municipal housing authority; or, per MGL 161A s. 24, the Massachusetts Bay Transportation Authority. The Department may waive the adjudicatory hearing filing fee for a Petitioner who shows that paying the fee will create an undue financial hardship. A Petitioner seeking a waiver must file, along with the hearing request, an affidavit setting forth the facts believed to support the claim of undue financial hardship.

## PART II GENERAL PERMIT CONDITIONS

The following conditions from 314 CMR 5.16 apply to all individual and general permits:

(1) No discharge authorized in the permit shall cause or contribute to a violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) 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 3.13 or 5.12. Except as otherwise provided in 314 CMR 5.10 (3)(c), 310 CMR 5.10(4)(a)2 and 314 CMR 5.10(9), no discharge authorized in the permit shall impair the ability of the ground water to act as an actual or potential source of potable water. Evidence that a discharge impairs the ability of the ground water to act as an actual or potential source of potable water includes, without limitation, analysis of samples taken in a downgradient well that shows one or more exceedances of the applicable water quality based effluent limitations set forth in 314 CMR 5.10. In those cases where it is shown that a measured parameter exceeds the applicable water quality based effluent limitations set forth in 314 CMR 5.10 at the upgradient monitoring well, evidence that a discharge impairs the ability of the ground water to act as an actual or potential source of potable water is deemed to exist if 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 5.00, M.G.L. c. 21, §§ 26 through 53 and all applicable state and federal statutes and regulations.

(3) Standards and prohibitions for toxic pollutants. The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Federal Act, 33 U.S.C § 1317(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 the regulations promulgated at 314 CMR 12.00 entitled "Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges, and 257 CMR 2.00, Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities".

(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 as specified by the Department 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.

(9A) The permittee shall physically secure the treatment works and monitoring wells and limit access to the treatment works and monitoring wells to those personnel required to operate, inspect and maintain the treatment works and to collect samples.

(9B) The permittee shall identify each monitoring well by permanently affixing to the steel protective casing of the well a tag with the identification number listed in 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 5.16(13), bypassing is prohibited, and the Department may take enforcement action against a permittee for bypassing unless:

(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 in writing.

(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 § 311 of the Federal Act, 33 U.S.C. § 1321, 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 Federal Act, , 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 19.000 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 5.16(20)(a), (b), or (e) at the time monitoring reports are submitted. The reports shall contain the information listed in 314 CMR 5.16(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 3.17 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 § 301 or 306 of the Federal Act, 33 U.S.C. § 1311 or 1316, 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.

(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 3.15 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 Federal Act, 33 U.S.C. §1251 *et seq* in order to bring all discharges into compliance with said statutes.

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

(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 5.16(25)(a) and (c), a permit may be transferred by the permittee to a new owner or operator provided that the permit has been modified or revoked and reissued or a minor modification is made to identify the new permittee in accordance with 314 CMR 5.12(3) and (4).

(c) Automatic transfers. For facilities other than Privately Owned Wastewater Treatment Facilities (PWTFs) that treat at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, and/or assisted living facilities, PWTFs that have been required to establish financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), and RCRA facilities subject to the requirements of 314 CMR 8.07, a permit may be automatically transferred in accordance with 314 CMR 5.12(5).

(26) Permit Compliance Fees and Inspection Information. Except as otherwise provided, any permittee 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 to submit the annual compliance assurance fee established in accordance with M.G.L. c. 21A, § 18 and 310 CMR 4.00 as provided in 314 CMR 2.12. The requirement to submit the annual compliance fee does not apply to any local government unit other than an authority. Any permittee 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 may be required to submit inspection information annually as a condition of the permit as provided in 314 CMR 2.12.