314 CMR 8.00: SUPPLEMENTAL REQUIREMENTS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES

Section

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8.01: Purpose and Authority

314 CMR 8.00 establishes the program whereby wastewater treatment works exempted from M.G.L. c. 21C, which treat, store, or dispose of hazardous wastes generated at the same site are regulated pursuant to M.G.L. c. 21, § 43, to ensure that such activities are conducted in a manner which protects public health and safety and the environment.

Whenever provisions of 310 CMR 7.00: *Air Pollution Control* or 310 CMR 30.000: *Hazardous Waste* are cited or cross-referenced in 314 CMR 8.00, the provisions cited shall be those published in the Massachusetts Register on or before November 9, 1984.

8.02: Definitions

As used in 314 CMR 8.00, the following words have the following meanings:

Accumulation - the short term containment of hazardous waste on the premises of the person who generated such waste in a manner which does not constitute disposal, provided that if such containment is not as provided for in 310 CMR 30.340 or 30.351, such containment is "storage" and not "accumulation" of hazardous waste.

Closure - the act or process of deactivating an active portion of a treatment, storage, or disposal facility in compliance with the approved facility closure plan and all applicable closure requirements.

Constituent or Hazardous Waste Constituent - a constituent that caused the Department to list the waste as a hazardous waste in 310 CMR 30.131 through 30.136 (*see* 310 CMR 30.160 which lists these constituents) or a constituent listed in 310 CMR 30.125.

Container - any portable device in which a hazardous waste is stored, transported, treated, disposed of, or otherwise handled.

Contingency Plan - a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten public health, safety, or welfare, or the environment.

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 is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a POTW; 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 of Hazardous Waste - the discharge, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

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

Existing RCRA Facility - a RCRA facility which was in operation, or for which construction had commenced, on or before November 19, 1980, and whose owner or operator has complied with the provisions of 40 CFR 270.10(e) and (g), 270.13, 270.70, 270.71(a), and (b), and 270.72, by having submitted the required notifications and applications to EPA.

Facility - a site or works for the storage, treatment, dewatering, refining, incineration, reclamation, stabilization, solidification, disposal, or other processes where a hazardous waste is or will be stored, treated, disposed of or used.

Federal Act - the federal Clean Water Act, 33 U.S.C. §§ 1251 *et seq*.

Generation of Hazardous Waste - the act or process of producing a hazardous waste, or an act which first causes a hazardous waste to become subject to regulation.

Hazardous Waste - a hazardous waste pursuant to 310 CMR 30.000: *Hazardous Waste*.

Incineration - controlled combustion in an enclosed device, the primary purpose of which is to thermally break down hazardous waste.

Land Treatment Facility - a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface in a controlled manner in order to alter the physical, chemical or biological state of the waste via biological degradation, chemical reaction or physical processes in the soil so as to render such wastes non-hazardous.

Landfill - a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, or a waste pile.

New RCRA Facility - a RCRA facility other than an existing RCRA facility.

Oil - petroleum in any form including crude oil, fuel oil, petroleum derived synthetic oil and refined oil products other than petrochemicals. It does not mean animal or vegetable oils.

Permit - an authorization issued pursuant to M.G.L. c. 21, § 43, and 314 CMR 2.00: *Permit Procedures* and 314 CMR 3.00: *Surface Discharge Permit Program*, 314 CMR 5.00: *Groundwater Discharge Permit Program*, or 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*, to implement the requirements of the State and Federal Acts and regulations adopted thereunder.

Person - any agency or political subdivision of the Commonwealth, the Federal government, public or private corporation or authority, individual, partnership or association, or other entity, including any officer of a public or private agency or organization.

Pile - any non-containerized aggregation of solid, non-flowing hazardous waste that is being treated or stored.

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.

Post-closure - the period after the time closure has been completed and approved by the Department.

Public Entity - any city, town, special district 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 the Federal Act, as amended.

Publicly Owned Treatment Works or POTW – any device or system used in the treatment (including recycling and reclamation) and disposal of municipal sewage or industrial wastewater which is owned by a public entity. A POTW includes any sewers, pipes, pump stations or other conveyances

only if they convey wastewater to a POTW providing treatment, or to the location where the treated wastewater is discharged.

RCRA - the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*

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

Recycle - to process hazardous wastes in order to produce raw materials or products.

Site - the same or geographically contiguous property in single ownership which may be divided by a public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which that person controls, and to which the public does not have access, are considered on-site property.

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

Storage - the containment of hazardous waste for a temporary period in a manner which does not constitute disposal, at the end of which period the hazardous waste will be used, treated, disposed of, or stored elsewhere.

Surface Impoundment or Impoundment - a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials which is designed to or does hold an aggregation of liquid hazardous waste or waste containing free liquid, and which is not an injection well. This definition includes, without limitation, any depression, excavation, or diked area lined with man-made material without the strength to contain the liquid in the absence of earthen materials. Examples of surface impoundments are: holding,storage,settling, and aeration pits, ponds, and lagoons.

Tank - a stationary device used to store or to contain an accumulation of hazardous waste and which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

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. This term does not include any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.

Wastewater Treatment Unit - a tank that treats an influent wastewater which is a hazardous waste, or treats or accumulates, as part of the treatment process, a wastewater treatment sludge which is a hazardous waste, but not including a tank used solely for accumulation or storage of such wastewater or sludge prior to transportation off site or disposal on site.

8.03: RCRA Facilities Subject to 314 CMR 8.00

(1) What is a RCRA facility. A "RCRA facility" for purposes of 314 CMR 8.00 and 314 CMR 2.00: *Permit Procedures*, 314 CMR 3.00: *Surface Water Discharge Permit Program*, and 314 CMR 5.00: *Ground Water Discharge Permit Program*, is a wastewater treatment works which treats, stores or disposes of hazardous waste generated at the same site by the same owner or operator and which has a wastewater discharge permitted pursuant to M.G.L. c. 21, § 43, and 314 CMR 3.00: *Surface Water Discharge Permit Program* or 314 CMR 5.00: *Ground Water Discharge Permit Program*;

(2) RCRA facilities shall include:

(a) A wastewater treatment unit.
(b) A surface impoundment that treats an influent wastewater which is a hazardous waste, or treats or accumulates, as part of the treatment process, a wastewater treatment sludge which is a hazardous waste, but not including any surface impoundment used solely for accumulation or storage of such wastewater or sludge prior to disposal.
(c) A POTW that generates, accumulates, treats, stores, recycles, or disposes of a hazardous waste.

(3) A RCRA facility does not include:

(a) Any facility identified in 314 CMR 8.03(2) which does not have a valid permit for its wastewater discharge under M.G.L. c. 21, § 43, and 314 CMR 3.00: *Surface Water Discharge Permit Program* or 314 CMR 5.00: *Ground Water Discharge Permit Program* including any facility exempted from permit requirements under 314 CMR 3.05 or 5.05;

(b) Any facility which receives hazardous waste from off the site of the facility;

(c) Any facility or portion of a facility used to conduct hazardous waste management activities other than those identified in 314 CMR 8.03(2) including, but not limited to:

1. For non-POTWs, the generation of hazardous wastes; the accumulation and storage of hazardous waste prior to transportation off site or disposal on site, except where such accumulation is part of the treatment process; the recycling or reuse of hazardous waste; or the disposal of hazardous waste by landfill, land treatment or incineration; and

2. The offsite transportation of hazardous waste, or the transfer of custody or possession of hazardous waste for transportation off site.

Facilities or portions of facilities engaged in such activities are subject to the provisions of 310 CMR 30.000: *Hazardous Waste* and not 314 CMR 8.00.

(d) Any "treatment which is an integral part of the manufacturing process" as defined herein. "Treatment which is an integral part of the manufacturing process" means any treatment method or technique which is at the site of generation of the waste and:

1. If the treatment method or technique is not primarily for the purpose of recycling hazardous waste, the treatment unit shall be:

a. Directly connected via pipes or the equivalent from an industrial production process (i.e., a process which produces a product, produces an intermediate, produces a by-product, renders a service (e.g., dry cleaning), or produces a material which is used back in the production process); and

b. Totally enclosed so that it is designed, constructed and operated to prevent spills, leaks or emissions of hazardous materials to the environment. A treatment unit maybe deemed "totally enclosed" if it is completely contained on all sides (i.e., an open-topped tank or treatment vessel shall not be deemed totally enclosed). If a treatment unit is vented, it may be deemed "totally enclosed" only if such vent(s) is designed to prevent overflow of liquid and emissions of gases, vapors or aerosols where such events might occur through normal operation, equipment failure or process upsets. This shall be accomplished with the use of suitable traps, recycle lines, sorption units or the equivalent. If the effluent from the treatment unit discharges to surface water, ground water or a sewer, the treatment unit may be deemed "totally enclosed" only if all discharges are in compliance with all applicable Federal, State and local laws, regulations and permits. If one unit operation in a series of unit operations is not totally enclosed or connected by pipe to the unit immediately upstream from that unit, then only unit operations upstream from that unit may be deemed "treatment which is an integral part of the manufacturing process"; or

2. If the treatment method or technique is primarily for the purpose of recycling the hazardous waste and hazardous waste constituents for reintroduction into the industrial production process, the treatment unit shall be totally enclosed as specified in 314 CMR 8.03(3)(d)1.b. Such a unit need not be directly connected from an industrial production process as specified in 314 CMR 8.03(3)(d)1.a. in order to be deemed a "treatment process which is an integral part of the manufacturing process" provided that, prior to recycling, the hazardous waste is accumulated in tanks or containers in compliance with 310 CMR 30.340 or stored in compliance with 310 CMR 30.000: *Hazardous Waste*.

(e) Any facility at the site of generation of waste oil which separates waste oil from non-hazardous wastes, provided that the separation process shall be conducted in equipment which is constructed of sturdy, leak-proof material and is designed, constructed, operated and maintained so as to prevent waste oil from being spilled or leaked into or on land or water.

8.04: Additional Standards and Requirements for RCRA Facilities

(1) No person shall operate a RCRA facility, as defined in 314 CMR 8.00, except in accordance with the applicable standards of 314 CMR 8.04 and the terms and conditions of a permit issued under 314 CMR 3.00: *Surface Water Discharge Permit Program* or 314 CMR 5.00: *Ground Water Discharge Permit Program*.

(2) Except for wastewater treatment units permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* and existing RCRA facilities operating under the interim status provisions of RCRA, no person shall construct, operate, or maintain a RCRA facility unless the construction, operation and maintenance of said RCRA facility is specifically authorized in a permit issued under 314 CMR 3.00: *Surface Water Discharge Permit Program* and 314 CMR 5.00: *Ground Water Discharge Permit Program*.

(3) No person operating an existing RCRA facility, other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*, shall continue such operation after the conclusion of a permit proceeding under 314 CMR 8.08 and 314 CMR 2.00: *Permit Procedures* unless authorized to do so by a permit resulting from that proceeding.

(4) From October 15, 1983, until the applicable date specified in 314 CMR 8.04(6), any person who owns or operates an existing RCRA facility other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall comply with the interim status standards of 314 CMR 8.09.

(5) Any person who owns or operates a RCRA facility that is a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall comply with the standards of 314 CMR 8.05.

(6) Any person who owns or operates an existing RCRA facility other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall:

(a) comply with the application requirements of 314 CMR 8.08; and

(b) comply with the standards of 314 CMR 8.07 beginning on the date specified in a discharge permit issued under 314 CMR 2.00: *Permit Procedures* and 314 CMR 3.00: *Surface Water Discharge Permit Program* or 314 CMR 5.00: *Ground Water Discharge Permit Program*.

(7) The requirements of 314 CMR 8.04 are in addition to any requirements established pursuant to 314 CMR 3.00: *Surface Water Discharge Permit Program* or 314 CMR 5.00: *Ground Water Discharge Permit Program*.

(8) The failure of a permittee or permit applicant to comply with the requirements of 314 CMR 8.04 constitutes grounds for revocation or denial of a wastewater discharge permit pursuant to 314 CMR 2.10.

8.05: Standards for Wastewater Treatment Units Permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*_

(1) Applicability. These standards apply to owners and operators of waste-water treatment units permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program*.

(2) Management and Technical Standards. The owner and operator of any facility subject to 314 CMR 8.05 shall comply with the provisions of 310 CMR 30.605(2), (3), (4), (5) and (6).

(3) Operation and Maintenance Manual. The owner and operator of any facility subject to 314 CMR 8.05 shall prepare and submit to the Department by April 16, 1984, an operation and maintenance manual meeting the requirements of 314 CMR 12.04(1).

8.07: Standards for All Other RCRA Facilities

(1) Applicability. These standards apply to owners and operators of RCRA facilities except those subject to interim status standards under 314 CMR 8.04 and except those facilities which are wastewater treatment units subject to the standards of 314 CMR 8.05.

(2) All owners and operators of RCRA facilities subject to 314 CMR 8.07 shall comply with:

(a) The management standards of 310 CMR 30.500, including: general waste analysis; security; general inspection; personnel training; contingency plan; emergency procedures, preparedness and prevention; recordkeeping and reporting; general requirements for ignitable, reactive, or incompatible wastes; closure; and, where applicable, post-closure.

(b) The technical standards of 310 CMR 30.600, including general requirements for all facilities; preparation of waste for disposal; injection wells, leaching fields, and seepage pits; and, if applicable, the standards for surface impoundments, landfills, waste piles, land treatment, ground water protection, use and management of containers, and storage and treatment in tanks.

(c) The location standards of 310 CMR 30.700.

(d) The financial responsibility requirements of 310 CMR 30.900.

(e) In the case of POTWs, the standards for generators in 310 CMR 30.300 and the requirements for incineration in 310 CMR 7.08(4), as applicable.

(3) Any references to a license shall be interpreted to mean a permit issued under 314 CMR 3.00: *Surface Water Discharge Permit Program*, 314 CMR 5.00: *Ground Water Discharge Permit Program*, or 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*.

8.08: Supplemental Application and Permit Requirements

(1) Duty to apply. Any person who owns or operates a RCRA facility other than a wastewater treatment unit permitted under 314 CMR 3.00: *Surface Water Discharge Permit Program* shall complete and submit the Supplemental Application Form HW and shall submit all attachments required by said form, in accordance with the applicable provisions of 314 CMR 8.08(1)(a) or (b):

(a) Any person required to obtain a permit pursuant to 314 CMR 3.00: *Surface Water Discharge Permit Program* or 314 CMR 5.00: *Ground Water Discharge Permit Program*, and who does not have a currently effective permit, or any person who requires modification of a permit under 314 CMR 3.00: *Surface Water Discharge Permit Program* or 314 CMR 5.00: *Ground Water Discharge Permit Program* in order to operate a proposed new RCRA facility, shall submit the Supplemental Application Form HW along with the forms specified in 314 CMR 3.10(1) or 314 CMR 5.09A(1) at least 180 days before the date on which the discharge is to commence or the date on which operation of the RCRA facility is to commence, as applicable, unless permission for a later date has been granted by the Department. Persons proposing new discharges or new RCRA facilities 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 who owns or operates an existing RCRA facility shall submit the Supplemental Application Form HW at the earlier of the following times:

1. Within 180 days of receipt of a request from the Department to submit said form; or

2. At the time of submittal of an application for permit renewal under 314 CMR 3. 10(3)(b) or 314 CMR 5.09A(3)(b), except that item 3 and the attachments required in items 5 through 14 of the Supplemental Application Form HW need not be submitted unless requested by the Department. These items shall be completed and submitted within 180 days of the Department's request.

(2) The Department shall not issue a permit authorizing operation of a RCRA facility unless the applicant demonstrates compliance with the standards of 314 CMR 8.07 through submittal of the Supplemental Application Form HW and all attachments thereto, and any other information as may be required by the Department on a case-by-case basis to determine conformance with applicable requirements.

(3) Any permit authorizing the operation of a RCRA facility shall be allowed to remain in effect only to the extent, and only while, the Department is persuaded that the permittee is in compliance, and will be in compliance routinely and on a continuing basis, with all standards and requirements set forth in 314 CMR 8.00 and the State Act.

(4) The owner and operator of a RCRA facility shall comply with all management plans approved by the Department required by 314 CMR 8.07(2).

(5) Any permit authorizing the operation of a RCRA facility may include additional conditions established by the Department on a case-by-case basis to assure compliance with 314 CMR 8.00 and the State Act.

8.09: Interim Status Standards for RCRA Facilities

On and after October 15, 1983, any person who owns or operates an existing RCRA facility, other than a wastewater treatment unit permitted under314 CMR 3.00: *Surface Water Discharge Permit Program*, which is subject to 314 CMR 8.00 shall comply with 310 CMR 30.064(3) and 30.099 until such time as the requirements imposed pursuant to 314 CMR 8.07 become applicable to the facility. All reports required to be submitted pursuant to 310 CMR 30.064(3) and 30.099 shall be submitted to the Department.

REGULATORY AUTHORITY 314 CMR 8.00: M.G.L. c. 21, §§ 27(12), 34 and 43.