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314 CMR 2.00: PERMIT PROCEDURES

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2.01: Purpose and Authority

314 CMR 2.00 establishes the procedures for processing applications for the following permits issued by the Department under M.G.L. c. 21, § 43:

- (1) surface water discharge permits subject to 314 CMR 3.00: *Surface Water Discharge Permit Program*;
- (2) groundwater discharge permits subject to 314 CMR 5.00: *Ground Water Discharge Permit Program*;
- (3) sewer extension and connection permits subject to 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*; and
- (4) reclaimed water permits subject to 314 CMR 20.00: *Reclaimed Water Permit Program and Standards*.

314 CMR 2.00 is established in accordance with the requirements of M.G.L. c. 21, § 43, M.G.L. c. 21A, § 16, the Federal Clean Water Act, 33 U.S.C. § 1251, and the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. § 6901. Consistency with the permitting procedures established under these Federal acts is necessary to enable the Department to assume delegation of authority from EPA to administer the National Pollutant Discharge Elimination System (NPDES) and RCRA permit programs within the Commonwealth.

2.02: Definitions

When used in 314 CMR 2.00, the following words have the following meanings:

Adjudicatory Hearing - a hearing conducted as part of an adjudicatory proceeding under M.G.L. c. 30A and 310 CMR 1.01: *Adjudicatory Proceeding Rules for the Department of Environmental Protection*.

Department - the Department of Environmental Protection.

Determination - the issuance, denial, renewal, modification, other than a minor modification, revision, suspension and revocation of a permit listed in 314 CMR 2.01 and of general surface water or general groundwater discharge permit coverage, except denial of general groundwater discharge permit coverage.

EPA - the United States Environmental Protection Agency.

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Federal Act - the Federal Water Pollution Control Act, currently known as the Clean Water Act, 33 U.S.C. § 1251.

Massachusetts Government Holiday - any day, other than a Saturday or Sunday, during which the headquarters office of the Department is closed for business.

NPDES - the National Pollutant Discharge Elimination System permit program established pursuant to 33 U.S.C. § 1342.

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.

Prevention of Significant Deterioration or PSD - the national permitting program under 40 CFR 52.21 to prevent emissions of certain pollutants regulated under the Clean Air Act from significantly deteriorating air quality in attainment areas.

RCRA - the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901.

RCRA Facility - a hazardous waste management facility as defined in 314 CMR 8.03: *RCRA Facilities Subject to 314 CMR 8.00*.

Send - to deliver by United States mail, postage prepaid, by electronic medium, including facsimile or electronic mail where available, or by hand.

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

404 - Section 404 of the Federal Act, as amended, 33 U.S.C. § 1344.

2.03: Application for a Permit or General Permit Coverage

(1) Who Must Apply. Any person required to obtain an individual permit or general permit coverage under M.G.L. c. 21, § 43 shall apply to the Department for such permit or general permit coverage by completing and submitting the appropriate application form and required information.

(2) Completeness of Application. The Department shall not issue an individual permit or general permit coverage before receiving a complete application. Upon receipt of the application, the Department will review it to determine the completeness of the information contained therein. If the Department deems the application incomplete or incorrect, it will not be processed by the Department until the inadequacies identified by the Department have been corrected by the applicant. Where the applicant fails to correct the inadequacies identified by the Department within applicable time frames, or requests that the application be processed as submitted, the Department may proceed to process the application. Insufficiency of the information in the application may result in, and form the basis for, a denial of the permit or general permit coverage. The Department may require the applicant to provide additional information and to attend informal conferences relative to any application. Applications will be processed in accordance with 310 CMR 4.00: *Timely Action Schedule and Fee Provisions* and, as applicable, 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards*.

2.04: Tentative Determination and Preparation of Draft Permits

(1) Within a reasonable time following receipt of a complete application for an individual permit, the Department shall tentatively determine to issue or deny the permit. A tentative determination is not required prior to issuance, renewal or denial of general permit coverage.

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(2) If the Department tentatively determines to issue an individual or general permit, then the Department shall prepare a draft permit. The draft permit shall contain such terms and conditions the Department deems necessary to ensure that the permitted activities and facilities comply with all applicable requirements of M.G.L. c. 21, §§ 26 through 53 and 33 U.S.C. § 1251.

(3) In processing an individual or general permit, the Department may determine to withdraw a draft permit before issuing a final permit. If the Department withdraws a draft permit, the existing permit will remain in effect in accordance with the provisions of 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards*. The Department will prepare a statement in connection with a determination to withdraw a draft permit and will provide the statement to the applicant and any other person upon request.

2.05: Preparation of Fact Sheet or Statement of Basis for Permits

(1) For every draft individual or general permit for surface water discharge(s); individual or general permit for groundwater discharge(s); permit for a RCRA facility; and permit with provisions for reclaimed water, the Department shall prepare a fact sheet or statement of basis for the permit in accordance with 314 CMR 2.05. A fact sheet or statement of basis is not required for issuance of general permit coverage or sewer connection permits issued in accordance with 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*. The Department will send a copy of the fact sheet or statement of basis to the applicant or permittee(s), as applicable, and, on request, to any other person.

(2) A fact sheet shall be prepared for every draft general groundwater discharge permit; general surface water discharge permit; permit for a major groundwater discharge; Type I and Type II NPDES permit; permit with provisions on reclaimed water; groundwater discharge permit with Special Effluent Limitations pursuant to 314 CMR 5.10(9): *Special Effluent Limitations*; and for every draft permit which the Department finds is the subject of widespread public interest or raises major issues.

(3) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. For an individual permit, the Department shall send a copy of the fact sheet and draft permit to the applicant and, on request, a copy of the fact sheet, permit application and draft permit to any other person. For a general permit, on request, the Department shall send a copy of the fact sheet and draft permit to any person. For general groundwater discharge permit coverage, the Department shall send a coverage determination to the applicant. On request, the Department shall send a copy of the application for general permit coverage and the coverage determination to any other person. The Department may charge a fee in connection with responding to such requests. The fact sheet shall include where applicable:

- (a) A brief description of the type of facility or activity that is the subject of the draft permit;
- (b) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;
- (c) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;
- (d) Reasons why any requested variances or alternatives to required standards, "Special Effluent Limitations" proposed pursuant to 314 CMR 5.10(9): *Special Effluent Limitations*, or antidegradation authorization requested pursuant to 314 CMR 4.04: *Antidegradation Provisions*, do or do not appear justified;
- (e) A description of the procedures for reaching a determination on the draft permit including:
 - 1. the beginning and ending dates of the comment period under 314 CMR 2.06 and the address where comments will be received;
 - 2. procedures for requesting a public hearing and the nature of that hearing under 314 CMR 2.07; and
 - 3. any other procedure by which the public may participate in the determination;

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- (f) Name and contact information, which may include telephone number and email address, of a person to contact for additional information;
 - (g) Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to any applicable effluent limitation guideline or performance standard provisions and reasons why they are applicable or an explanation of how the alternate effluent limitations, conditions, or standards were developed;
 - (h) When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:
 - 1. limitations to control toxic pollutants;
 - 2. limitations on internal waste streams; or
 - 3. limitations on indicator pollutants;
 - (i) When appropriate, a sketch or detailed description of the location of the discharge described in the application; and
 - (j) In addition to the above, for a draft permit that contains:
 - 1. provisions on reclaimed water, the address of each location at which reclaimed water would be allowed to be discharged or used, along with a brief description of the purpose(s) for which reclaimed water could be discharged or used at each such location;
 - 2. Pursuant to 314 CMR 5.10(9): *Special Effluent Limitations*, the address of each property at which the groundwater would not be required to meet the more stringent of water quality based or technology based effluent limitations as a result of the discharge and a map of the aggregate areas encompassing all such properties.
- (4) Where a request for a determination under 33 U.S.C. § 1326, § 316(a), has been filed relative to a surface water discharge permit, the fact sheet also shall contain:
- (a) A statement that the thermal component of the discharge is subject to effluent limitations under 33 U.S.C. § 1311 or 1316, § 301 or 306, and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under 33 U.S.C. § 1311 or 1316, § 301 or 306;
 - (b) A statement that a 33 U.S.C. § 1326(a), § 316(a), request has been filed and that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under 33 U.S.C. § 1326(a), § 316(a), and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, in the request; and
 - (c) If the applicant has filed an early screening request for a 33 U.S.C. § 1326(a), § 316(a), variance, a statement that the applicant has submitted such a plan.
- (5) The Department shall prepare a statement of basis for every draft permit for which a fact sheet is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them, including references to applicable statutory or regulatory provisions. For a tentative determination to modify, deny, suspend or revoke an individual permit, or to modify, suspend or revoke a general permit or general permit coverage, the Department shall prepare a statement of the reasons supporting the tentative determination, including references to applicable statutory or regulatory provisions. For a determination to deny general permit coverage, the Department shall prepare a statement of the reasons supporting the determination, including references to applicable statutory or regulatory provisions. The statement of basis or statement of reasons shall be sent to the applicant or permittee(s), as applicable, and, on request, to any other person. The Department may charge a fee in connection with responding to such requests.

2.06: Public Notice and Comment

- (1) Public Notice by the Applicant. The applicant or permittee shall provide public notice of the following permit proceedings to be published at the applicant's or permittee's expense in accordance with the requirements of 314 CMR 2.06(3) through 314 CMR 2.06(5):
 - (a) The preparation of a draft individual groundwater discharge, sewer discharge or reclaimed water permit and tentative determination to issue the permit;
 - (b) The filing of a Notice of Intent requesting general groundwater discharge permit coverage or renewal of general groundwater discharge permit coverage;

2.06: continued

- (c) The renewal of an individual groundwater discharge, sewer discharge or reclaimed water permit;
 - (d) The modification of an individual groundwater discharge, sewer discharge or reclaimed water permit under 314 CMR 2.10 when the modification is at the request of the permittee and when public notice is required under 314 CMR 2.10;
 - (e) When requested by the applicant or permittee, the scheduling of a public hearing under 314 CMR 2.07 on the Department's tentative determination to:
 - 1. issue or renew an individual groundwater discharge, sewer discharge or reclaimed water permit under 314 CMR 2.04 or 314 CMR 2.10, respectively; or
 - 2. modify an individual groundwater discharge, sewer discharge or reclaimed water permit under 314 CMR 2.10 when the modification is requested by the permittee; and
 - (f) Additional aspects of permit proceedings as the Department deems appropriate.
- (2) Public Notice by the Department. The Department shall provide public notice of the following permit proceedings in accordance with the requirements of 314 CMR 2.06(3) through 314 CMR 2.06(5):
- (a) A public hearing, except when required to be published by the applicant or permittee under 314 CMR 2.06(1)(e);
 - (b) The preparation of a draft general permit and tentative determination to issue or renew a general permit;
 - (c) The preparation of a draft individual surface water discharge permit and tentative determination to issue or renew an individual surface water discharge permit;
 - (d) A tentative determination to deny an individual permit; suspend or revoke an individual permit, general permit or general permit coverage under 314 CMR 2.10; modify a general permit when public notice is required under 314 CMR 2.10; or modify an individual permit when the modification is not at the request of the permittee and when public notice is required under 314 CMR 2.10; and
 - (e) Additional aspects of permit proceedings as the Department deems appropriate.
- (3) Public Notices may Describe More than One Permit or Permit Proceeding. Public notice is not required for a determination to deny or terminate general permit coverage, to terminate a permit at the request of the permittee, or to withdraw a draft permit. Public notice shall afford a public comment period of at least 30 days after the date of publication, except in the case of RCRA facilities where the public notice shall afford a public comment period of at least 45 days.
- (4) Copies of the public notice shall be published and sent as follows:
- (a) The applicant or permittee, as applicable, shall publish public notice of the permit proceedings listed in 314 CMR 2.06(1) in the *Environmental Monitor*, a publication of the Massachusetts Executive Office of Energy and Environmental Affairs. In addition, for a permit that contains provisions on reclaimed water, the applicant or permittee also shall publish public notice in at least one newspaper of general circulation in each city and town in which reclaimed water would be allowed to be used or discharged under the permit. In addition, for a permit that contains "Special Effluent Limitations" pursuant to 314 CMR 5.10(9): *Special Effluent Limitations*, the applicant or permittee shall also publish public notice in at least one newspaper of general circulation in each city and town in which the permit does not require the groundwater to meet the more stringent of water quality or technology based effluent limitations as a result of the discharge.
 - (b) For each permit proceeding requiring publication of public notice by the applicant or permittee under 314 CMR 2.06(1), within seven days after the date of publication or at such other time as the Department requires, the applicant or permittee shall submit to the Department a copy of the public notice as published in the *Environmental Monitor*, and if applicable, in each newspaper, along with the name and address of each newspaper and the date the notice appeared in each newspaper.
 - (c) With the exception of surface water discharge permit proceedings, the Department shall publish public notice of the permit proceedings listed in 314 CMR 2.06(2) in the *Environmental Monitor*.

2.06: continued

(d) The Department shall send a copy of a public notice to any person who has submitted a written request for notice of specific permit proceedings at the same time it sends the notice to the *Environmental Monitor* for publication. Such written requests for notice must be renewed annually. The Department may charge a fee in connection with responding to such requests.

(e) For individual surface water discharge permits and for permits for RCRA facilities only, public notice, together with a copy of any fact sheet or statement of basis, the draft permit, if any, and the application, shall also be sent to:

1. Any other agency that the Department knows has issued or is required to issue a RCRA, PSD, NPDES or 404 permit under the Federal Act for the same facility or activity, including EPA;
2. Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources, and over coastal zone management plans, the Advisory Council on Historic Preservation, the Massachusetts Historical Commission and other appropriate government authorities, including any affected States; and
3. The U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

(f) For draft groundwater discharge, sewer discharge and reclaimed water permits, the Department shall publish on its website a list of permits currently subject to public review and comment. The Department shall maintain the list on its website until the close of the applicable public review and comment period. The date of public notice in the *Environmental Monitor* shall constitute the date of publication of public notice under 314 CMR 2.00.

(g) The Department shall satisfy its public notice and copy requirements for surface water discharge permit proceedings through jointly issued public notices published by EPA in newspapers and/or on its website, or through mailings sent by EPA. The Department shall publish on its website a list of the surface water discharge permit proceedings for which it has issued public notice jointly with EPA. The Department shall maintain such listings on its website until the close of the applicable public review and comment period. The date of publication of public notice by EPA shall constitute the date of publication of public notice under 314 CMR 2.00.

(5) Contents of Public Notice. All public notices shall contain the following minimum information and such other information as the Department deems appropriate:

- (a) the name and address of the office processing the general permit, application for individual permit, or application for general permit coverage;
- (b) the name and address of the permittee or applicant, if applicable, and, if different, of the facility and discharge regulated by the permit. For a permit with provisions on reclaimed water, the notice also shall contain the address of each location where reclaimed water would be allowed to be used or discharged, along with a brief description of the purpose(s) for which reclaimed water could be used or discharged at each such location; for a permit that contains "Special Effluent Limitations" pursuant to 314 CMR 5.10(9): *Special Effluent Limitations*, the notice also shall contain a description of the area in which the groundwater would not be required to meet the more stringent of water quality or technology based effluent limitations as a result of the discharge and the address of each property within the described area;
- (c) the name, address and telephone number of the person from whom the draft permit, statement of basis or fact sheet, and the application, if applicable, may be obtained; and
- (d) the time within which the public may comment or request a public hearing, and if applicable, the tentative determination to issue or deny the permit, and the statutory and regulatory authority under which the determination is made;
- (e) public notice of individual surface water discharge permit proceedings shall contain a general description of the location of each existing or proposed discharge point and the name of the receiving water;
- (f) where a request for a determination under § 316(a) of the Federal Act has been filed relative to a surface water discharge permit, the public notice shall contain a statement to that effect; and
- (g) a reference to 310 CMR 1.01(7): *Intervention and Participation*, which describes the process for formally intervening in adjudicatory proceedings.

2.07: Public Hearings

- (1) If the applicant or permittee, other than an applicant for or permittee with general groundwater discharge permit coverage, requests a public hearing, or if the Department determines a public hearing to be in the public interest, then the Department shall schedule and conduct such hearing in a community within the area(s) affected by the facility or discharge which is the subject of the permit. The Department may satisfy its public hearing requirements in connection with surface water discharge permit proceedings through public hearings jointly held with EPA.
- (2) When the Department holds a public hearing on a permit with provisions on reclaimed water, the Department also shall conduct a public hearing in each city and town in which reclaimed water would be allowed to be used or discharged under the permit. When the Department holds a public hearing on a permit that contains "Special Effluent Limitations" pursuant to 314 CMR 5.10(9): *Special Effluent Limitations*, the Department also shall conduct a public hearing in each city and town in which the groundwater would not be required to meet the more stringent of the technology or water quality based effluent limitations as a result of the discharge. Public notice of the public hearing(s) shall be published in accordance with 314 CMR 2.06 at least 30 days prior to the hearing(s). Such public notice shall contain, in addition to the contents specified in 314 CMR 2.06(5), reference to the date of previous public notices relating to the permit; the date, time and place of the hearing(s); and a brief description of the nature and purpose of the hearing(s), including any applicable rules and procedures.
- (3) For RCRA facilities, the Department shall schedule and conduct a public hearing whenever the Department receives written notice of opposition to a draft permit and a request for a hearing within the public comment period provided in 314 CMR 2.06(3).
- (4) An applicant for or permittee with general groundwater discharge permit coverage may not request a public hearing, but instead may file an application for an individual permit, in connection with which the applicant may request a public hearing.
- (5) Where a public hearing is held under 314 CMR 2.07, the public comment period under 314 CMR 2.06 shall be extended to the conclusion of the public hearing or such later date as may be established by the Department.

2.08: Issuance and Effective Date of Permit, General Permit Coverage, or Other Determination and Requests for Adjudicatory Hearings

- (1) After the conclusion of the public comment period provided in 314 CMR 2.06 or 2.07, the Department shall issue the permit or general permit coverage, or determination to deny the permit or general permit coverage. If no comments objecting to the issuance or terms of the permit or permit coverage were received by the Department during the public comment period, then the permit or permit coverage shall be effective upon issuance. If comments objecting to the issuance or the terms of the permit or general permit coverage were received by the Department during the public comment period, then the permit or general permit coverage shall become effective 30 days after issuance.
- (2) During the 30 day period following issuance of the permit, general permit coverage, or determination to deny, any person aggrieved by the issuance or the determination, except an applicant for or permittee with general groundwater discharge permit coverage, may file a request for an adjudicatory hearing relative thereto with the Department. The standing of a person to request a hearing, and the procedures for filing such request are governed by M.G.L. c. 30A and 310 CMR 1.01: *Adjudicatory Proceeding Rules for the Department of Environmental Protection*. Except in the case of a surface water discharge permit jointly issued with EPA, unless the person requesting the adjudicatory hearing requests and is granted a stay of the terms and conditions of the permit or general permit coverage, the permit or general permit coverage shall remain effective or become effective at the conclusion of the 30 day period.

2.08: continued

- (3) In the case of an individual surface water discharge permit jointly issued with EPA:
 - (a) an uncontested permit authorizing a new discharge shall remain effective or become effective at the conclusion of the 30 day period following issuance of the permit, unless a later effective date is specifically provided;
 - (b) for a permit authorizing a new discharge, which is contested in a request for an adjudicatory hearing, the effect of the permit shall be stayed pending the Commissioner's final decision on the permit. The Department shall notify the permit applicant and any other party to the adjudicatory appeal proceedings that a stay is in effect; and
 - (c) for any other contested permit, the effect of the contested terms and conditions shall be stayed pending the Commissioner's final decision on the permit. The effect of uncontested terms and conditions that cannot be severed from the contested terms and conditions also shall be stayed. The Department shall notify the permittee and any other party to the adjudicatory hearing of the uncontested and severable terms and conditions of the permit, which will become fully effective enforceable obligations of the permit 30 days after the date of the notification, as well as of the stayed terms and conditions of the permit.
- (4) By submitting an application for general discharge permit coverage, the applicant or permittee waives any right to request an adjudicatory hearing relative to the Department's issuance or denial of the general permit coverage. Such applicants and permittees have the option instead to apply for an individual discharge permit, in which case, they would not waive any right to request an adjudicatory hearing relative to the Department's issuance of the individual permit or permit determination.
- (5) Any person, other than the permit applicant or permittee, who files a request for an adjudicatory hearing with the Department pursuant to 314 CMR 2.08(2) on an individual permit or general permit coverage, also shall simultaneously send a copy of the request by certified mail, return receipt requested, to the applicant or permittee. Any person who files a request for an adjudicatory hearing with the Department pursuant to 314 CMR 2.08(2) on a general permit also shall simultaneously send a copy of the request by certified mail, return receipt requested, to each permittee covered by the general permit.
- (6) In accordance with M.G.L. c. 21, § 45, any Department proposal to suspend or revoke a permit or general permit coverage, in whole or in part under 314 CMR 2.10, including any proposed reduction in an authorized discharge, shall inform the person(s) to whom it is issued of their right to request a hearing within 30 days after issuance of the Department's proposal under the provisions of M.G.L. c. 30A.

2.09: Response to Comments

At the time of issuance of the final permit or general permit coverage under 314 CMR 2.08, the Department shall issue a response to comments, which shall be available to the public. The response to comments shall:

- (1) Specify which provisions, if any, of the draft permit have been changed in the final and the reasons for the change; and
- (2) Briefly describe and respond to all significant comments on the draft permit or application for general permit coverage raised during the public comment period under 314 CMR 2.06, or during any public hearing held under 314 CMR 2.07.

2.10: Modification, Suspension, Revocation, and Renewal of Permits and General Permit Coverage

Consistent with M.G.L. c. 21, § 43(10), the Department may propose and determine to modify, suspend or revoke any outstanding permit or general permit coverage, in whole or in part, for cause including, but not limited to, violation of any permit or general permit coverage term, obtaining a permit or general permit coverage 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 also may modify, terminate an individual permit, or terminate general permit coverage at the request of the permittee upon a showing, satisfactory to the Department, that the requested modification or termination is appropriate in view of circumstances for which the permittee is not at fault. The Department may propose to modify a general permit when the Department determines that the modification is appropriate. A person with general groundwater discharge permit coverage may not request a modification of the coverage, except a minor modification that is allowable pursuant to 314 CMR 5.00: *Ground Water Discharge Permit Program*, but instead may apply for an individual groundwater discharge permit. Any interested person may request the Department to modify, suspend or revoke any outstanding permit for a RCRA facility. If the Department decides to deny such a request, the Department shall prepare a brief written response giving a reason for the Department's determination. Denial of such a request shall not be subject to public notice, public comment, or public hearings pursuant to 314 CMR 2.06 through 2.09, or to an adjudicatory hearing pursuant to 310 CMR 1.01: *Adjudicatory Proceeding Rules for the Department of Environmental Protection*.

A modification, other than a minor modification, or renewal of an individual or general permit or general permit coverage shall be processed under 314 CMR 2.00 in the same manner as an application for an individual permit, issuance of a general permit or an application for general permit coverage, respectively, is processed; provided, however, that no modification of general groundwater discharge permit coverage, other than a minor modification, may be requested by the permittee. Suspension or revocation of an individual permit shall be processed in the same manner as a denial of a permit application; suspension or revocation of general permit coverage or of a general permit shall be processed as specified in 314 CMR 2.05 and 314 CMR 2.06. Minor modifications authorized under 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards* may be processed without compliance with the public notice and hearing procedures of 314 CMR 2.06 and 2.07.

In a permit modification under 314 CMR 2.10, only those conditions to be modified shall be reopened and may be subject to a request for an adjudicatory hearing pursuant to 314 CMR 2.08 when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit.

2.11: Confidentiality of Information

(1) In accordance with M.G.L. c. 21, § 27(7) and 310 CMR 3.00: *Access To and Confidentiality of Department Records and Files*, any information submitted to the Department pursuant to M.G.L. c. 28, §§ 26 through 53, may be claimed as confidential by the submitter, except the information described in 314 CMR 2.11(2). Any such claim must be asserted at the time of submission in the manner prescribed in 310 CMR 3.00. If no claim is made at the time of submission, the Department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the requirements of 310 CMR 3.00.

(2) Claims of confidentiality shall be denied for the following information:

- (a) the name and address of any permit or general permit coverage applicant or permittee or person with general permit coverage; and
- (b) any permit or effluent data and data related thereto, including all information contained in permit applications. This includes any attachments to the application form, but only to the extent the information was required to be part of a complete application.

(3) Additional material requested by the Department during permit processing may be claimed confidential if it was not required to be part of a complete application, in which case the claim will be resolved following the procedures contained in 310 CMR 3.00: *Access To and Confidentiality of Department Records and Files*.

2.11: continued

(4) To the extent provided in M.G.L. c. 21, § 27(7), and 310 CMR 3.21: *When Trade Secrets May Be Disclosed By the Department*, the Department also may disclose certain information that would be entitled to protection as a trade secret.

2.12: Applications, Fees and Inspection Information

In accordance with M.G.L. c. 21, § 43 and M.G.L. c. 21A, § 18, the Department is authorized to impose and collect permit and compliance assurance fees from permit applicants and permittees, including applicants for and persons with general permit coverage.

(1) Applications and Fees. Any person required to obtain a permit or seeking general permit coverage pursuant to M.G.L. c. 21, § 43 and 314 CMR 3.00, 5.00, 7.00, or 20.00 shall submit, together with the application, any application fees established by the Department. Such application fee shall be payable to the Commonwealth of Massachusetts as provided in M.G.L. c. 21A, § 18, and is a condition prerequisite to obtaining a permit or general permit coverage or a renewal. Failure to pay such fee shall be cause for the Department to deny the application or refuse to renew such permit or permit coverage. The Department also has established compliance assurance fees in connection with permits and general permit coverage issued under M.G.L. c. 21, § 43 and 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards*. Any person with a permit or general permit coverage issued pursuant to M.G.L. c. 21, § 43 and 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards* shall submit the compliance assurance fee established by the Department as provided in M.G.L. c. 21A, § 18.

(2) Annual Inspection Information.

(a) Any permittee with a surface water or ground water discharge permit, including general permit coverage, or a reclaimed water permit issued pursuant to M.G.L. c. 21, § 43 and 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards*, respectively, may be required annually to submit inspection information as a condition of the permit or permit coverage. Such persons shall submit to the Department, on a form available from or acceptable to the Department, such information as the Department may specify, which may include, but is not limited to:

1. the nature and amount of pollutants discharged from the treatment works;
2. information which may be needed to determine the nature and amount of pollutants discharged from the treatment works; and
3. any other information pertaining to the operation of the treatment works and the discharge therefrom.

(b) The information required in 314 CMR 2.12(2)(a) shall be submitted to the Department as required by the applicable permit or general permit coverage and is in addition to any other information the Department may require. Submission of such inspection information annually may be a condition of the permit or general permit coverage, and failure to submit such information as required shall be cause for revocation of the permit or general permit coverage. Copies of such information submitted shall be available to the public in accordance with 314 CMR 2.11 and 310 CMR 3.00: *Access to and Confidentiality of Department Records and Files*.

2.13: Computation of Time

Computation of any time period referred to in 314 CMR 2.00 shall begin with the first day following the act that triggers the commencement of the time period. If the last day of the time period falls on a Saturday, Sunday, or Massachusetts government holiday, then the time period shall run until the end of the next Massachusetts government business day. When the time period is seven days or fewer, intervening Saturdays, Sundays and Massachusetts government holidays shall be excluded from the time period.

2.14: Violations

- (1) Violations. It shall be a violation of 314 CMR 2.00 to:
 - (a) Fail to submit a timely application for an individual permit, or request for coverage under a general permit listed in 314 CMR 2.01 for an activity that requires a permit pursuant to 314 CMR 3.00: *Surface Water Discharge Permit Program*, 5.00: *Ground Water Discharge Permit Program*, 7.00: *Sewer System Extension and Connection Permit Program* and 20.00: *Reclaimed Water Permit Program and Standards*;
 - (b) Make any false, inaccurate, incomplete or misleading statement in any submission required by 314 CMR 2.00, or a permit listed in 314 CMR 2.01;
 - (c) Make any false, inaccurate, incomplete or misleading statement in any record, report, plan, file, log, register, or other document which the person is required to keep by a permit listed in 314 CMR 2.01;
 - (d) Fail to provide any information required by the Department pursuant to 314 CMR 2.00, or a permit listed in 314 CMR 2.01.
- (2) Penalties. Any person violating 314 CMR 2.00 shall be subject to the full range of legal actions authorized by M.G.L. c. 21, §§ 42 and 44, including, without limitation, criminal fines, civil and administrative orders and penalties.

REGULATORY AUTHORITY

314 CMR 2.00: M.G.L. c. 21, §§ 27(12) and 43, and M.G.L. c. 21A, § 16.

NON-TEXT PAGE