



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
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Secretary

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January 29, 2019

Mr. Joseph Yetman
Massachusetts DCR
251 Causeway Street
Boston, Massachusetts 02114

RE: BREWSTER: BRPWP12, Nickerson State
Park
Permit No.: 862-1
Transmittal No. X281176

Dear Mr. Yetman:

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 Massachusetts Department of Conservation and Recreation to discharge treated wastewater from the facility located at : Nickerson State Park, Brewster, Massachusetts to the ground, and has developed the conditions contained in the enclosed draft permit. Within fourteen (14) days of receipt of the draft permit, you should indicate to this agency, in writing, either the acceptability of the permit conditions or any problem areas.

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. If you have **no** comments concerning the draft 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*,

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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a publication of the Massachusetts Executive Office of Energy and Environmental Affairs. For 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 Christos Dimisioris at the above letterhead address. The mandatory thirty day public comment period will commence with the date of publication of the public notice.

In addition, your permit contains "Special Effluent Limitations" pursuant to 314 CMR 5.10(9). Therefore in accordance with 314 CMR 2.06(4)(a) 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.

It is the applicant's/permittee's responsibility to forward proof of the newspaper publication along with the name and address of the newspaper and the date that the notice appeared within seven days of the date of publication. This information should be sent to the attention of Christos Dimisioris engineer at the above letterhead address.

If you should have any questions on any information provided with this letter please contact Christos Dimisioris at (508) 946-2736.

Sincerely,



Brian A. Dudley, Chief
Wastewater Management – Cape and Islands

D/CD/
Enclosure

Cc: Brewster Board of Health
2198 Main Street
Brewster, Massachusetts 02631
(with enclosure)

Peter Georgetti, P.E.
Pare Corporation
8 Blackstone Valley Place
Lincoln, RI 02865
(with enclosure)

PUBLIC NOTICE
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER RESOURCES /WASTEWATER MANAGEMENT PROGRAM
20 RIVERSIDE DRIVE, LAKEVILLE, MASSACHUSETTS 02347
TEL#: (508) 946-2736

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:	Brewster
PROJECT NAME:	Nickerson State Park
APPLICANT:	Massachusetts DCR
FACILITY LOCATION:	3488 Main Street, Brewster, Massachusetts 02631
TYPE OF DISCHARGE:	Treated sanitary wastewater

QUANTITY OF DISCHARGE: The Permittee is authorized, pursuant to 314 CMR 5.10 (9), to continue to discharge effluent into the ground from thirty one (31) existing subsurface sewage disposal systems (SSDSs). The SSDSs will serve the 403 site campground, three cottages, four staff buildings, the Cape Rep Theatre, The Cape Repertory Theatre Crosby Cape House, the Crosby Mansion, the Flax Pond restrooms and a Department of Youth Services Youth Forestry Camp, (hereinafter called "the Facility") with a total sewage design flow of 50,926 gpd. Additionally, a tight tank for RV trailer waste dumping has been installed. The contents of the tight tank are transported off site for treatment and disposal. The total site is located on approximately 1,955 acres.

PERMIT NO:	862 - 1
TRANSMITTAL NO:	X281176
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>

Brian A. Dudley, Chief
Wastewater Management – Cape and Islands



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Individual Groundwater Discharge Permit **Fact Sheet**

I. APPLICANT, FACILITY INFORMATION, and DISCHARGE LOCATION

Name and Address of Applicant:

Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 700,
Boston, Massachusetts 02114.

Name and Address of Facility where discharge occurs:

Nickerson State Park, 3488 Main Street, Brewster, Massachusetts 02631.

Discharge Information:

Groundwater Discharge Permit Number: 862 - 1

The Permittee is authorized, pursuant to 314 CMR 5.10 (9), to continue to discharge effluent into the ground from thirty one (31) existing subsurface sewage disposal systems (SSDSs). The SSDSs will serve the 403 site campground, three cottages, four staff buildings, the Cape Rep Theatre, The Cape Repertory Theatre Crosby Cape House, the Crosby Mansion, the Flax Pond restrooms and a Department of Youth Services Youth Forestry Camp, (hereinafter called "the Facility") with a total sewage design flow of 50,926 gpd. Additionally, a tight tank for RV trailer waste dumping has been installed. The contents of the tight tank are transported off site for treatment and disposal. The total site is located on approximately 1,955 acres.

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.

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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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.

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.

In addition, this permit contains "Special Effluent Limitations" pursuant to 314 CMR 5.10(9). Therefore, in accordance with 314 CMR 2.06(4)(a) public notice was also published in [Newspaper] 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:

Christos Dimisioris
DEP /SERO
20 Riverside Drive
Lakeville, MA 02347
(508) 946-2736

 DRAFT
Brian A. Dudley, Chief
Wastewater Management – Cape and Islands

 DRAFT
Date

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GROUNDWATER DISCHARGE PERMIT

Name and Address of Applicant: **Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 700, Boston, Massachusetts 02114**

Date of Application: **August 1, 2018**

Application/Permit No.: **862 - 1**

Date of Issuance: **DRAFT**

Date of Expiration: **DRAFT**

Effective Date: **DRAFT**

AUTHORITY FOR ISSUANCE

Pursuant to authority granted by Chapter 21, Sections 26-53 of the Massachusetts General Laws, as amended, 314 CMR 2.00, and 314 CMR 5.00, the Massachusetts Department of Environmental Protection (the Department or MassDEP) hereby issues the following permit to: Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 700, Boston, Massachusetts 02114 (hereinafter called "the Permittee") authorizing discharges to the ground from the on site wastewater treatment facility located at: Nickerson State Park, 3488 Main Street, Brewster, Massachusetts 02631 such authorization being expressly conditional on compliance by the permittee with all terms and conditions of the permit hereinafter set forth.

DRAFT
Brian A. Dudley, Chief
Wastewater Management – Cape and Islands

DRAFT
Date

I. SPECIAL CONDITIONS

The Permittee is authorized, pursuant to 314 CMR 5.10 (9), to continue to discharge effluent into the ground from thirty one (31) existing subsurface sewage disposal systems (SSDSs). The SSDSs will serve the 403 site campground, three cottages, four staff buildings, the Cape Rep Theatre, The Cape Repertory Theatre Crosby Cape House, the Crosby Mansion, the Flax Pond restrooms and a Department of Youth Services Youth Forestry Camp, (hereinafter called "the Facility") with a total sewage design flow of 50,926 gpd. Additionally, a tight tank for RV trailer waste dumping has been installed. The contents of the tight tank are transported off site for treatment and disposal. The total site is located on approximately 1,955 acres.

A. Treatment Facilities

1. The treatment process for each source of sanitary sewage is identical to that typically regulated under 310 CMR 15.000, Title 5 of the State Environmental Code. Treatment includes primary settling in septic tanks followed by aerobic filtration of tank supernatant as it passes through the in-situ, mixed-grain media of the soil absorption system (SAS). The location of each SSDS is indicated on the site plan provided with the initial permit application.
2. The method of treatment authorized by this Permit does not have prescribed intermediary or end-of-pipe effluent limits. However, with the proper functioning of each component, such systems have been shown to regularly provide adequate removal and reduction of standard domestic-sourced, wastewater pollutants. Routine inspection and pumping of the septic tanks is critical to the proper functioning of each component, and to the overall efficiency of the SSDSs. Therefore, a maintenance and inspection program is required and is discussed in Section C below.
3. Discharge of the effluent shall not result in any demonstrable adverse impact to the groundwater or violate any ground or surface water quality standard which has been promulgated.
4. The Permittee shall take necessary measures to prevent, minimize or mitigate the impact of any discharge of effluent to the surface. Discharge includes, but is not limited to, breakout from an SAS, overflow of a septic tank, breakage of conveyance lines, or any damage, misuse, or disrepair of an SSDS, including the building sewer line.
5. The proper maintenance and inspection of the SSDSs (to include collection systems, treatment systems and facility grounds), and the collection and analysis of groundwater samples collected from monitoring wells is required to protect public health and safety. The requirements for each are detailed below.

B. Nutrient Loading

1. In accordance with the 314 CMR 5.10 (9), the cumulative load of nitrogen discharged at the Facility from wastewater and other sources shall not exceed **4,677 pounds per year of nitrogen** for the entire project. The permitted cumulative load is comprised of nitrogen derived from two (2) sources. These sources and their associated nitrogen contributions are the following:

<u>Source</u>	<u>Nitrogen Contribution (lbs/year)</u>
Wastewater (Septic Systems)	3,632
Atmospheric Nitrogen	1,045
TOTAL	4,677

2. Several assumptions about land use and loading have been used to generate the maximum nutrient loading for this permit. These assumptions are based upon the use of the SSDSs and groundwater recharge due to precipitation.

Wastewater:	Title 5 system: 35mg/l NO ₃ Total wastewater flow: 50,926 gpd
Recharge:	Precipitation recharge: 0.3 mg/l NO ₃ , a weighted average that assumes runoff contains 1.5 mg/l NO ₃ and recharge concentration of 0.05 mg/l NO ₃
Infiltration Zone:	Natural Areas: 904 acres

Adherence to these planning assumptions is necessary to maintain compliance with the cumulative loading limitation of **4,677 pounds per year nitrogen**.

C. Monitoring Requirements

The Permittee shall continue to monitor and record the quantity of water use at the Facility. The Permittee shall visually inspect the existing SSDSs and shall have formal inspections of each. In addition, all monitoring wells shall be tested in accordance with the requirements of this Permit.

1. Water Use Monitoring

The water meter readings from the facility shall be collected and reported to the Department consistent with the Reporting Requirements discussed in Section D, paragraph 2(b) below.

2. Septic Tank Pumping and General Visual Inspection

The Permittee shall contract to have any and all solids and sludge generated by the treatment system for which this Permit is issued removed off site by a properly licensed waste hauler for disposal at a permitted municipal wastewater treatment plant. The name and license number of the hauler, the quantity of wastes removed, and the date(s) of removal, shall be reported by the Permittee, in writing to the Department, with the quarterly monitoring reports. The Permittee shall maintain and report on a regular cycle of septic tank pumping, at

an interval no longer than 3 years between pump-out of each tank. The first pumping shall occur on or before three years from the effective date of this Permit and at least once every three years thereafter. In accordance with 310 CMR 15.351, the condition of the septic tanks shall be noted on the inspection forms submitted to the Department.

3. Formal Inspection of Subsurface Sewage Disposal Systems (SSDS)

The SSDSs shall be formally inspected in accordance with the Department's Regulations at 310 CMR 15.302 (2) (a), (b), (c), (d), (e), (f) and (g) at least once every three years. The first inspection of the SSDSs shall occur on or before three years from the effective date of this permit and at least once every three years thereafter. A formal inspection of the SSDSs shall also be conducted if and when any of the systems exhibit signs of potential failure. In the event of a system failure, design and construction of a replacement SSDS shall be performed in compliance with 310 CMR 15.000, Title 5 and 314 CMR 5.00, the Ground Water Discharge Permit Program. All permit applications shall be submitted to the Department for approval.

4. Groundwater Monitoring

The Permittee shall sample the upgradient monitoring wells NSP-ZAB-01, NSP-ZC2-01, NSP-ZC3-01 and downgradient monitoring wells NSP-ZAB-02, NSP-ZAB-03, NSP-ZC1-01, NSP-ZC1-02, NSP-ZC1-03, NSP-ZC3-02, NSP-ZD-01 and NSP-ZD-02 as shown on the approved plan titled Nickerson State Park, Site Map, Figure 4-1, prepared by Malcolm Pirnie dated June 2010 included with the report titled Nickerson State Park Annual Report dated June 2010.

The Permittee shall monitor, record and report the quality of water in the monitoring wells according to the following schedules:

Parameter	Frequency of Analysis
Static Water Level	Quarterly
Specific Conductance	Quarterly
pH	Quarterly
Total Nitrogen (NO ₂ +NO ₃ +TKN)	Quarterly
Nitrate-Nitrogen	Quarterly
Total Phosphorus (as P)	2X Annually
Orthophosphate (as P)	2X Annually
Volatile Organic Compounds	Annually

- 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 judgement of the Department, the results of

the sampling indicate that existing phosphorus levels will not adversely impact downgradient receptors.

D. Reporting Requirements

1. Quarterly Reporting Requirements

The Permittee shall submit tank pumping reports, results of any formal inspections conducted, monitoring well testing results, and data related to loading limitations in summary form on a quarterly basis, properly filed and signed, on the fifteenth day of the month following the last day of the quarter to:

Department of Environmental Protection
Southeast Regional Office
20 Riverside Drive
Lakeville, Massachusetts 02347

Watershed Permitting Program
Department of Environmental Protection
One Winter Street
Boston, Massachusetts 02108

and

Brewster Board of Health
2198 Main Street
Brewster, Massachusetts 02631

Septic tank/composter pumping reports shall be included in the first quarterly report following the date of pumping. These reports shall be accompanied by a receipt from a certified septage hauler. The SSDS inspection reports shall be properly completed and signed by a Professional Engineer and submitted in the first quarterly report following the inspection. The monitoring well reports shall be prepared under the direction of a certified laboratory, or a Professional Engineer registered by the Commonwealth of Massachusetts and submitted in the first quarterly report following the sampling and monitoring.

2. Annual Reporting Requirements

One year from the date of Permit issuance, and each year thereafter on the anniversary of the date of Permit issuance, the Permittee shall submit an annual report describing the cumulative loadings achieved as compared to the cumulative loading limit of 4,677 pounds per year to the Department for review. The annual report shall contain the following information:

- (a) A summation and discussion about the individual nutrient sources and how cumulatively they compare with the permit limit of 4,677 pounds per year.
- (b) Metered water use for the facility.
- (c) All monitoring well data must be compiled in accordance with Section C, Paragraph 4 above.

- (d) The annual report shall be certified as valid and stamped by a Professional Engineer registered in the Commonwealth of Massachusetts. The report shall contain a certification statement signed in accordance with 314 CMR 5.14.

3. Reporting of Emergency Repairs

For emergency work, the Permittee shall report by telephone or fax to the Department, within 72 hours of an unscheduled pumping or inspection. The Permittee shall follow-up with a written description of the observed problem, the immediate response and mitigating action taken and the proposed long-term solution. This narrative shall be included in the quarterly report to the Department.

E. Nutrient Loading Limitations

The Facility shall comply with the following nutrient loading limitations:

- (a) In accordance with the 314 CMR 5.10 (9), the **cumulative load of nitrogen** discharged on the site from wastewater and other sources shall not exceed **4,677 pounds per year of nitrogen** for the entire project.
- (b) The **nitrate-nitrogen concentration** in the down gradient monitoring wells shall not exceed **5 mg/l**.

In the event that the Department determines, based on an evaluation of the Annual Report or other information, that the nutrient loading assumptions have not been adhered to or otherwise realized by the Permittee, the Department may require the Permittee to modify the Permit in accordance with 314 CMR 2.10 and 314 CMR 5.12 and/or undertake the measures detailed below:

- (a) Install wastewater treatment technology to achieve an additional level of nutrient removal.

F. Supplemental Conditions

1. The Permittee shall notify the Department prior to a transfer of ownership of the Facility for which this Permit is written. Said notification shall include a written agreement between the existing Permittee and the new Permittee(s) containing a specific date for transfer of Permit, responsibility, coverage and liability between them.
2. A notification shall be submitted to the Department prior to any change of engineer or company contracted to obtain, test, and report on the monitoring well samples.
3. 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.

4. The Permittee shall notify the Department of any change in use of the Facility that would increase flow to the treatment works and/or the SSDSs, or alter the characteristics of the waste conveyed.

G. 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.

II. GENERAL PERMIT CONDITIONS

5.16: General Conditions

The following conditions apply to all individual and general permits:

(1) No discharge authorized in the permit shall cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*. Upon promulgation of any amended standard, the permit may be modified to comply with such standard in accordance with the procedures in 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage* and 314 CMR 5.12. Except as otherwise provided in 314 CMR 5.10(3)(c), 5.10(4)(a)2. and 5.10(9), no discharge authorized in the permit shall impair the ability of the ground water to serve as an actual or potential source of potable water. Evidence that a discharge impairs the ability of the ground water to serve as an actual or potential source of potable water includes, without limitation, analysis of samples taken in a downgradient well that demonstrates 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 serve 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 to determine 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 by § 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, 314 CMR 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges*, and 257 CMR 2.00: *Certification of Operators of Wastewater Treatment Facilities*. All equipment shall be maintained in an acceptable condition for its intended use.

(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, discharges, or both, until the facility is restored or an alternative method of treatment is provided. A permittee may not raise as a defense 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 the 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 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. Additionally, the permittee shall take all necessary steps to prevent an operational upset of the PWTf or POTW.

(8) Duty to Provide Information. The permittee and any operator of the permitted facility 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, suspending, 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 only 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 five 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 without limitation:

- (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, or local law, or regulation.

(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 of 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: *Solid Waste Management* and 310 CMR 30.000: *Hazardous Waste*.

(20) Reporting Requirements.

(a) Monitoring Reports. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) at the intervals specified in the permit. If a 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. Beginning on December 2, 2017, a permittee shall submit all DMRs electronically, using the electronic reporting system designated by the Department. A permittee may seek a waiver of this requirement by submitting a written request for the Department's approval.

(b) Compliance Schedules. Reports of compliance or non-compliance with, or any progress reports on interim and final requirements contained in any compliance schedule in 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 communicated orally within 24 hours of 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; and

2. Any violation of a maximum daily discharge limitation for any of the pollutants required by 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, that would result in the discharge of any toxic pollutant listed in 314 CMR 3.17: *Appendix B - Toxic Pollutants* not limited by 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 a 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 the relevant facts or correct information.

(j) The permittee shall notify the Department in writing within seven days of any change in contract operators.

(21) Signatory Requirement. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with 314 CMR 5.14 and 5.15.

(22) Severability. The provisions of the permit are severable. 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 to establish any appropriate effluent limitations, schedules of compliance, or other provisions, as authorized by the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53, or the Federal Act, 33 U.S.C. § 1251 *et seq.*, to bring all discharges into compliance with these statutes.

(24) Approval of Treatment Works. All discharges and associated treatment works authorized in 314 CMR 5.00 shall remain in compliance with the terms and conditions of the permit. Any modification of 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 subject to the requirements of 314 CMR 8.07: *Standards for all other RCRA Facilities* 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 permittee if the permit has been modified or revoked and reissued in accordance with 314 CMR 5.12(2), 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 (PWTs) that treat at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, PWTs that have been required to establish, fund and maintain financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), and RCRA facilities subject to the requirements of 314 CMR 8.07: *Standards for all other RCRA Facilities*, 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 ground water discharge permit pursuant to M.G.L. c. 21, § 43, and 314 CMR 5.00 shall submit the annual compliance assurance fee established in accordance with M.G.L. c. 21A, § 18 and 310 CMR 4.00: *Timely Action Schedule and Fee Provisions*, as provided in 314 CMR 2.12: *Applications, Fees and Inspection Information*. 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 ground water discharge permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 5.00, may be required to submit inspection information annually, as provided in 314 CMR 2.12.