

GROUNDWATER PROTECTION REGULATION

I. Purpose

Whereas:

- * Siting of land uses that have the potential to release hazardous waste, petroleum products, or other contaminants significantly increases the risk of contamination; and
- * Poor management practices, accidental discharges, and improper maintenance of these facilities may lead to the release of pollutants; and
- * Discharges of hazardous wastes, leachate, pathogens, and other pollutants have repeatedly threatened surface and groundwater quality through Massachusetts; and
- * Groundwater resources in the Town of Harwich are the town's drinking water supplies:

Therefore, the Town of Harwich adopts the following Regulations, under its authority as specified in Section II as a preventative measure for the purposes of:

- * Preserving and protecting the Town of Harwich's drinking water resources from potential discharges of pollutants; and
- * Minimizing the risk to public health and the environment of the town due to such discharges.

II. Scope of Authority

The Town of Harwich Board of Health adopts the following Regulations pursuant to authorization granted by Massachusetts General Law c. 111 § 31 and § 122. The Regulation shall apply, as specified herein, to all applicable facilities within the Zone II and/or Interim Wellhead Protection Areas (IWPA) as shown on a map entitled "Drinking Water Resource Protection District and Approved Zone II Delineations, Harwich, Massachusetts", dated December, 1997, Scale: 1:12,000'.

This Regulation supersedes all inconsistent Regulations adopted by the Board of Health prior to the effective date.

III. Definitions

For the purpose of this Regulation the following words and phrases shall have the following meanings:

Commercial Fertilizers – Any substance containing one or more recognized plant nutrients, used for its plant nutrient content and which is designed for such use, or claimed by its manufacturer to have value in promoting plant growth. Commercial fertilizers do not include un-manipulated animal and vegetable manure, marl, lime, limestone, wood ashes and gypsum.

Department – The Massachusetts Department of Environmental Protection

Discharge – The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or otherwise placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the Commonwealth. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

Hazardous Material – Any product, waste or combination of substances, which, because of its quantity, concentration, or physical, chemical, toxic, radioactive, or infectious characteristics, may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed of, or otherwise managed. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as “toxic” or “hazardous” under Massachusetts General Laws (M.G.L.) Chapter 21C and 21E using the Massachusetts Oil and Hazardous Substance List (310 CMR 40.000). The definition may also include acids and alkalis, solvents, thinners, and pesticides.

Historical High Groundwater Table Elevation – A groundwater elevation which is determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

Interim Wellhead Protection Areas (IWPA) – For public supply wells or well-fields that lack a Department approved Zone II, the Department will apply an interim wellhead protection area. This interim wellhead protection area shall be a one-half mile radius measured from the well or edge of a well-field for sources whose approved pumping rate is 100,000 gpd or greater. For wells that pump less than 100,000 gpd, the IWPA radius is proportional to the well’s approved daily volume following the IWPA Chart as referenced in the Department of Environmental Protection Division Water Supply Policy 92-01.

Landfill – A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land pursuant to 310 CMR 19.006.

Non-Sanitary Wastewater – Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6).

Open Dump – a facility which is operated or maintained in violation of the Resource Conservation and Recovery Act c 42 U.S.C. 4004(a)(b) or the Regulations and criteria for solid waste disposal.

Potential Public Water Supply Area – An area which indicates promise as a public water supply well area due to favorable results of preliminary tests and levels of existing and potential future development in its recharge area which would not jeopardize the long term quality of the water.

Septage – The liquid, solid and semi-solid contents of privies, chemical toilets, cesspools, holding tanks or other sewage waste receptacles. Septage does not include any material that is a hazardous waste, pursuant to 310 CMR 30.000.

Sludge – The solid, semi-solid and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

Treatment Works/Sewage Treatment Facilities – 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, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.

Use of Toxic or Hazardous Material – The handling, generation, treatment, storage or management of toxic or hazardous materials.

Waste Oil Retention Facility – A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with M.G.L. c21s 52A.

Zone II – That area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can realistically be anticipated as defined in Massachusetts Drinking Water Regulations, 310 CMR 22.02

IV. Prohibitions

The following uses and activities shall be prohibited:

a. Landfills and open dumps as defined in 310 CMR 19.006, other public or private landfills; refuse facilities, and land-filling of sludge or septage as defined in 310 CMR 32.05, including without limitation landfills receiving only wastewater residuals and/or septage (wastewater residuals, “monofills”) APPROVED BY THE Department pursuant to M.G.L. c.21 § 26 through 53; M.G.L. c. 111 § 17; M.G.L. c. 83 § 6-7 and any Regulations promulgated there-under;

- b. Sewage treatment facilities, public or private, with on-site disposal of effluent unless needed to remediate existing contamination;
- c. Airports, boat, truck and bus terminals or stations;
- d. Stockpiling and disposal of snow or ice removed from highways and streets located outside of Zone II that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;
- e. Land use that results in impervious cover of more than 15% or 2,500 square feet of any lot, whichever is greater, is prohibited, unless a system of artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.
- f. Any activity which involves the use, treatment, generation, storage or disposal of hazardous wastes or hazardous materials in greater than household quantities. Examples of such businesses, whether the primary use or incidental, would include but not be limited to the following:
- * Photo Developing/Processing
 - * Metal Plating
 - * Chemical and Bacteriological Laboratories
 - * Kennels or Veterinary Hospitals
 - * Hospitals
 - * Funeral Homes/Mortuaries
 - * X-ray Facilities
 - * Storage of Heating Fuels of any Kind
 - * Manufacturing and Production of Paving, Roofing and Other Construction Materials Using Petroleum-based Coating and Preserving Materials
 - * Gasoline Stations, Automotive Service Stations and Car Washes
 - * Dry Cleaning Establishments
- g. Underground Storage Tanks
- h. Permanent removal of soil or ground cover within four (4) feet of maximum high groundwater;
- i. Automobile graveyards and junkyards as defined in M.G.L. c. 140B § 1, other areas for disposal of automobiles, junkyards and salvage yards;
- j. Storage of animal manure unless said storage is in a manner consistent with all applicable state and local Regulations relative thereto and as determined by the Board of Health, including without limitation the covering and containment of such manure in accordance with the specifications of the Natural Resource Conservation Service.

k. Petroleum, fuel oil and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the U.S. Office of Management and Budget and may be determined by referring to the publication: "Standard Industrial Classification Manual" and any subsequent amendment thereto.

l. Storage of commercial fertilizers as defined in MGL c. 128 § 64, unless such storage is within a structure designed to prevent the generation and escape of containment runoff or leachate.

m. Floor drains which discharge to the ground, more specifically referenced in 310 CMR 22.21(2).

V. EFFECTIVE DATE

a. This Regulation shall become effective June 1, 2000.

b. As of the effective date of this Regulation all new construction, expansion or alteration of existing uses and/or applicable change of use within the Town of Harwich shall comply with the provisions of this Regulation subject to the applicability of MGL c.111 § 127P, if any.

c. Certification of conformance with the provisions of the Regulation by the Board of Health shall be required prior to the issuance of construction and occupancy permits.

VI. VARIANCE PROCEDURE

The Board of Health may grant variances from this Regulation after a hearing at which the applicant establishes the following:

- (A) The enforcement thereof would do manifest injustice; and
- (B) A variance contemplated from these Regulations will not, in the opinion of the Board of Health, adversely affect the intent of the Regulation.

VII. PENALTIES AND ENFORCEMENT

(A) Non-Criminal Disposition

Whoever violates any provision of these rules and Regulations may be penalized by a non-criminal method in the District Court pursuant to the provisions of MGL c.40 § 21D. For the purposes of this Regulation the following fine schedule will be imposed:

- First Offense: Written Warning
- Second Offense: \$50.00
- Third Offense: \$100.00
- Fourth and Subsequent Offenses: \$300.00

Each day on which a violation exists shall be deemed to be a separate offense. The third offense at a single facility shall result in a hearing before the Board of Health to determine whether the Board shall file a criminal complaint.

(B) Criminal Complaint

Whoever violates any provision of these rules and Regulations may be penalized by indictment or complaint brought in the District Court. Except as otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these provisions shall be \$1,000 for each offense.

VIII. Severability

If any provision of these Regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

Adopted 4/26/2000
Effective 6/1/2000

HARWICH BOARD OF HEALTH

Robert A. Germain
Alfred Hurst
Francis C. Sampson
Ronald E. Hindman