



## Town of Concord Board of Health

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### **Regulations: Minimum Standards for Hazardous Waste Materials Management and for the Protection of Groundwater.**

12.1 The Massachusetts Hazardous Waste Management Act, Chapter 21C, as amended, shall apply to all permits issued by the Concord Board of Health. Where the following rules and regulations of the Town of Concord are more stringent, they shall prevail.

#### 12.2 **DEFINITIONS**

The following terms shall have the following meanings in these regulations:

12.2.1 "**DISCHARGE**" means the disposal, deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous materials, regardless of volume into or on any land or water so that such hazardous material or any constituent thereof may enter the environment to be emitted into the air or discharged into any waters including groundwater. Discharge includes, without limitation, leakage of such hazardous or toxic material from failed or discarded containers or storage systems, and disposal of such materials into any on-site sewage disposal system, drywell, catch basin, or landfill.

12.2.2 "**HAZARDOUS MATERIAL**" means a product or waste, or combination of substances which because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause, or significantly contribute to, in the Board of Health's judgement, an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Without limiting the generality of the foregoing any substance deemed to hazardous waste in 315 Code of Massachusetts Regulations 2.04 or in 40 Code of Federal Regulations Part 2611 shall be deemed a hazardous material for purposes of these regulations.

Wastes generated by but not limited to the following activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Board of Health.

Airplane, boat, and motor vehicle service and repair; barber and beauty shop; batteries; chemical, biological and bacteriological laboratory operation (including schools); cabinet making; dry cleaning; electronics components; electroplating; explosives; hospitals; inorganic chemicals; leather tanning and finishing; metal plating, smelting and refining, finishing and polishing; motor and special machinery

manufacturing, servicing, and assembly; organic chemicals; plastics; paint and allied products; wood preserving and furniture stripping.

### 12.3 **PROHIBITIONS**

12.3.1 (a) Except as provided in Section 12.3.2 hereof, all discharges within the Town are prohibited.

(b) All handling and storage of hazardous materials is prohibited except in accordance with the provisions of these regulations, the Massachusetts Hazardous Waste Management Act, Ch. 21C of the General Laws and the Resource Conservation and Recovery Act, P.L. 94-580, as amended and regulations issued incident thereto.

12.3.2 Section 12.3.1 shall not apply to the following discharges:

(a) Proper disposal of any non-hazardous material in a sanitary or industrial landfill that has received and maintains all necessary Federal, State and Town Permits for such purpose; provided that all current permits have been filed with the Concord Board of Health.

(b) Application of fertilizer and pesticides in accordance with label recommendations and with applicable regulations of the Massachusetts Pesticide Control Board and the U.S. Environmental Protection Agency.

(c) Application of road salts in conformance with the Snow and Ice Control Program of the Massachusetts Department of Public Works and the Concord Department of Public Works.

(d) Disposal of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by Title 5 of the Massachusetts Environmental Code and supplemental rules and regulations issued by the Concord Board of Health.

(e) Industrial discharges which are point source discharges subject to permits under S401 of the Federal Water Pollution Control Act of 1967 as amended.

(f) Discharges pursuant to permits issued by the Concord Board of Health pursuant to Section 12.5 hereof.

### 12.4 **STORAGE CONTROLS AT INDUSTRIAL AND COMMERCIAL SITES**

12.4.1 Every owner or operator of a commercial or industrial establishment, including home businesses, agricultural and horticultural operations, storing toxic or hazardous materials in quantities totaling more than 10 gallons liquid volume or 10 pounds dry weight shall register with the Board of Health the types of materials stored, quantities, location and method of storage. The terms 10 gallons liquid volume or 10 pounds dry weight shall mean any one toxic or hazardous material of such weight or volume stored at any one time. An inventory of such materials shall be maintained on the premises and be reconciled with purchase, use, sales and disposal records on a

monthly basis, in order to detect any product lose. Registration required by this subsection shall be submitted 60 days of the effective date of these regulations, and annually thereafter on such form or forms as the Board of Health may , from time to time, prescribe.

- 12.4.2 Wastes containing toxic or hazardous materials shall be held on the premises in product-tight containers for removal by a licensed carrier and for disposal in accordance with the Massachusetts Hazardous Waste Management Act, Ch. 21C of the General Laws. The name, address, home and business telephone numbers of one or more individuals, form the licensed carrier, authorized to act for and in behalf of the entity storing toxic or hazardous waste, together with estimates of amounts stored and hauled during the past twelve (12) months, shall be provided to the Board of Health.
- 12.4.3 The Board of Health may require that containers of toxic or hazardous materials be stored on an impervious, chemical resistant surface compatible with the material being stored, and that the storage area be enclosed with a permanent dike of impermeable construction.
- 12.4.4 This section does not apply to storage or activities permitted or licensed in accordance with Administrative Policies and Procedures for Storage of Inflammable Materials and Explosives, (APP#22) as amended, and issued by the Concord Board of Selectmen on February 22, 1980.

## 12.5 **SPECIAL PERMITS**

- 12.5.1 Any owner or operator of a commercial or industrial establishment or any person who desires to engage in discharges within the Town other than those discharges permitted pursuant to Section 12.3.2 (a) through 12.3.2 (e) hereof may petition the Board of Health in writing for permission to do so. Nothing in these regulations shall be construed by implication or otherwise to impose upon the Board of Health any obligation to permit any discharges other than those specifically permitted by Sections 12.3.2(a) through 12.3.2.(e) hereof.
- 12.5.2 The procedure for obtaining a special permit for Discharge shall be as follows:
  - (a) The Petitioner shall make application to the Board of Health in writing on such form or forms as the Board may, from time to time, prescribe, setting forth therein in detail the nature of the Discharge which the Petitioner is proposing, the manner, content, amount and environmental impact of said proposed discharge as well as the specific reasons for seeking such special permit.
  - (b) The Board of Health shall, upon receipt of a petition for a special permit promptly assign a hearing date and shall so notify the Petitioner. Not Less than 14 days before the hearing date, Petitioner shall, by certified mail at its own expense, notify all abutters of the specific site involved, advising them of the special permit which is being sought. Notice of the Public Hearing shall

also be published at Petitioner's expense in a newspaper having a general circulation in the Town of Concord. Said publication to be not less than 7 days before the scheduled hearing date.

- (c) The Petitioner shall, at least 14 days prior to the scheduled hearing date, file with the Board of Health, such information as it deems appropriate to fully understand the issues to be presented at the Public Hearing. Petitioner shall also have completed all filings as required under Section 12.6 of these regulations.
- (d) The Board of Health shall, after the Hearing, grant a Special Permit for Discharge only when it has determined, that (1) failure to do so would cause manifest injustice to the Petitioner, and (2) the Petitioner has established to the Board's satisfaction that the same degree of environmental and public health protection required under these regulations and the Town of Concord Groundwater Protection By-Law as adopted by the 1981 Town Meeting, can be maintained under the special permit.
- (e) The Board of Health shall have the right to impose such conditions on said Special Permit as it deems appropriate to the circumstances.
- (f) No permit shall be issued for a term longer than one (1) year, but may be renewed without further hearing on an annual basis, provided the holder of the permit has: (1) maintained updated filings with the Board as required by these regulations, (2) has not changed the conditions upon which the original Special Permit was based, and (3) that no additional information has come to the attention of the Board of Health warranting a new hearing.

12.5.3 Any Special Permit granted by the Board of Health shall be in writing. Any denial of a Special Permit shall also be in writing and shall contain a brief statement of the reasons for the denial. A copy of each Special Permit shall be promptly sent to the Petitioner and conspicuously posted for thirty days following its issuance and shall be available to the public at all reasonable hours at the office of the Board of Health.

12.5.4 The Board of Health may, in its discretion, after a Public Hearing and written notice to the holder of a Discharge Permit issued hereunder, revoke, suspend or modify any such Permit, where the Board finds that there has been a failure of compliance with or violation of the terms of said Discharge Permit.

## 12.6 **FILINGS REQUIRED**

Every owner or operator of a commercial or industrial establishment or any person within the Town whose operations are subject to any of the following Acts shall file with the Board copies of all permit applications and supporting data filed pursuant thereto as well as all permits obtained, notices of approval, denial and revocation in respect thereof and shall provide the Board with such additional information as the Board shall by rule from time to time require.

12.6.1 The Resource Conservation and Recovery Act 42 U.S.C., S 6901 et seq.

- 12.6.2 The Federal Clean Air Act 42 U.S.C. S 1857 et seq.
- 12.6.3 The Federal Clean Water Act 33 U.S.C. S 1251 et seq.
- 12.6.4 Toxic Substance Control Act 15 U.S.C. S2601 et seq.
- 12.6.5 Safe Drinking Water Act 42 U.S.C. S 300 et seq.
- 12.6.6 The Federal Insecticide, Fungicide, and Rodenticide Act.
- 12.6.7 The Massachusetts Hazardous Waste Law, as amended M.G.L. c. 21C and those Massachusetts counterpart statutes to the Federal Acts listed in subparagraphs 12.6.1 through 12.6 above.
- 12.6.8 Massachusetts Clean Water Act, M.G.L., c. 21 S 26 et seq.
- 12.6.9 Concord Groundwater Protection By-Law as adopted at 1981 Town Meeting.

12.7 **REPORTS OF SPILLS AND LEAKS**

- 12.7.1 Every person having knowledge of a spill, leak or other loss of hazardous materials shall immediately report the spill or loss of same to the Board of Health and Fire Department.

12.8 **ENFORCEMENT**

- 12.8.1 The provisions of these regulations adopted hereunder shall be enforced by the Board of Health. The agent or designated representative of the Board of Health may, according to law, enter upon any premises at any reasonable time to inspect for compliance.
- 12.8.2 Upon request of the agent or designated representative of the Board of Health, the owner or operator of any premises at which hazardous materials are used or stored shall furnish all information required to monitor compliance with these regulations including a complete list of all chemicals, pesticides, fuels, and other hazardous materials used or stored on the premises, their volumes and concentrations, a description of measures taken to protect storage containers from vandalism, corrosion and spillage, and the means of disposal of all toxic or hazardous wastes produces on the site. A sample and analysis of wastewater disposed to on-site sewage disposal systems, drywells, or sewage treatment systems may be required by the agent of the Board of Health.
- 12.8.3 A current (not more than 2 years old) written plan for dealing with potential spillage, leakage, or loss of hazardous materials used or stored on one's premises shall be filed with the Board of Health and Fire Department. Said plan shall clearly designate the name, address, and business and home telephone numbers of one or more individuals authorized to act for and in behalf of the entity submitting the plan. The plan shall also list the name, address and telephone number of any company with whom the party submitting the plan had contracted for services in connection with potential spillage, leakage or loss and/or removal of hazardous materials.

12.8.4 All records pertaining to storage, removal and disposal of hazardous wastes shall be maintained for no less than 10 years, and shall be made available for review by the agent or designated representative of the Board of Health upon request.

12.8.5 The Building Inspector of the Town of Concord shall condition issuance of building and occupancy permits upon conformity with the requirements of these regulations respecting any hazardous materials to be used in the course of such construction or occupancy.

12.9 **VIOLATION**

12.9.1 Written notice of any violation of these regulations shall be given by the agent or designated representative of the Board of Health, specifying the nature of the violation; any corrective measures that must be undertaken, including containment and cleanup of discharged materials; any preventive measures required for avoiding future violations; and a time for compliance. Requirements specified in such a notice shall be reasonable in relation to the public health hazard involved and the difficulty of compliance.

12.9.2 Any violation of these regulations shall be punishable by a fine of up to \$200.00 (Two Hundred Dollars) for each day of violation and the Town of Concord may enforce the same remedy available to the Commonwealth for any such similar violation.

12.10 **SEVERABILITY**

12.10.1 Each provision of these regulations shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

12.11 **APPEAL**

12.11.1 Any person aggrieved by a decision of the Board of Health may seek relief herefrom within 30 days in any court of competent jurisdiction, as provided by laws of this Commonwealth.

12.12 **FEES**

12.12.1 The Board of Health may set a schedule of fees as it deems appropriate in connection with the administration of these regulations.