

SECTION 12: Hazardous Materials

- 1. Authority:** The Town of Wareham Board of Health acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws and amendments and additions thereto, and by any other power thereto enabling, has adopted the following rules and regulations in the interest of and for the preservation of the environment and public health.
- 2. Purpose:** The purpose of this Regulation is to protect, preserve and maintain the environment and the public health in Wareham as well as its water reserves from contamination and exposure to hazardous materials. This Regulation is based and related to those regulations set forth by the Massachusetts Department of Environment Protection (DEP), U.S. Environmental Protection Agency (EPA), U.S. Occupational Safety and Health Administration (OSHA), and/or any other local, state or federal regulations.
- 3. Definitions:** The following definitions shall inform about their meanings in this Regulation.
 - A. Abnormal gain of water - defines a gain in the water level of more than one inch of 24 hour period in above ground and underground storage tanks. “Abnormal Loss of Material or Waste” defines a loss of larger than 0.05% of the product stored over a period of a calendar month or; a difference in the recorded height of the stored product of larger than one-half inch when using a dipstick and allowing a minimum time interval of 24 hours between measurements while the tank has been removed from service.
 - B. Biodegradable - defines a product or material, which decomposes at a significant rate into a nontoxic element by natural biological processes.
 - C. CAS - defines the identification number assigned by the Chemical Abstract Service to chemical substances.
 - D. CFR - defines the Code of Federal Regulations.
 - E. Chemical - defines any element, chemical compound or mixture of elements and/or compounds.
 - F. Chemical Name - defines the scientific designation of a substance in accordance with the nomenclature system by the International Union of Pure and Applied Chemistry, or the system developed by the Chemical Abstract Service.
 - G. Common Name - defines any designation or identification such as a code number, name, trade or brand name used to identify a substance other than by its chemical name.
 - H. CMR - defines the Code of Massachusetts Regulations.
 - I. Container - defines any portable device in which hazardous materials or waste are stored transported, treated, disposed or otherwise handled.
 - J. DEP - defines the Massachusetts Department of Environment Protection.
 - K. Discharge - defines the disposal, deposit, injection, dumping, spilling, leaking, escape, incineration or placing of any hazardous material or waste, into or on the land, water or air; as well as this disposal reaches any sewage disposal system, dry well, catch basin or landfill.

- L. Double-walled tank - defines a container with two complete shells, which provide both primary and secondary containment. The container shall have continued 360 degrees interstitial space between the primary and secondary shells. The interstitial space shall be designed so that an approved interstitial space monitor is able to continuously monitor this space. All double-walled tanks shall be UL-listed.
- M. Facility - defines a commercial or industrial facility, including home business, that is registered in accordance with this regulation.
- N. Fire Chief - defines the Fire Chief of the Town of Wareham and shall include any designee of the Fire Chief.
- O. Fuel Oil - defines oil of grades 1,2,4,5 and 6 in accordance with M.G.L. C.94, S.249H.
- P. Hazardous Warning - defines any words, pictures, symbols or combination thereof appearing on a label or other appropriate form or warning which convey the hazard(s) of the chemical(s) or waste(s) in a container.
- Q. Health Hazard - defines any chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur to exposed employees. The term "health hazard" includes chemicals which are carcinogens, mutagens, toxins, irritants, corrosives, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which sensitize, or damage the lungs, skin, eyes or mucous membranes.
- R. Identity - defines any chemical or common name, which is indicated on the material safety data sheet (MSDS) for the chemical.
- S. Label - defines any written, printed, or graphic material displayed or affixed to containers of toxic or hazardous materials.
- T. MGL - defines Massachusetts General Laws.
- U. MSDS - material safety data sheet, defines any written or printed material concerning a hazardous chemical, which is prepared in accordance with 29 CFR 1910.1200(g).
- V. Maximum daily amount - defines the greatest amount of toxic or hazardous material at a given commercial or industrial establishment on any single day during the reporting period.
- W. Owner - defines any person with effective control or legal ownership of a site, facility, or activity.
- X. Operator - defines the lessee or person(s) in control of and having responsibility for the daily operation of a facility for the storage and dispensing of toxic and hazardous materials.
- Y. Person in Charge (PIC) - defined as the individual present at a facility who is responsible for the operation at the time of the inspection.
- Z. Physically hazardous - defines a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

- AA. Release - defines any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any toxic or hazardous material into the environment.
- BB. Reportable discharge - defines quantity of a material under Massachusetts Contingency Plan, 310 CMR 40.0000; the threshold quantity above which a spill or release of oil or a hazardous material must be reported to the DEP.
- CC. Substance - defines any element, chemical compound, combination, or any mixture thereof, whether organic or inorganic.
- DD. Service Company - defines any individual, company, firm or other enterprises which supplies, delivers, services, maintains or repairs any hazardous material or toxic waste containers of the substances stored therein.
- EE. Toxic and hazardous material - defines any substance, including but not limited to, any material, in whatever form, which because of its quality, concentration, chemical, corrosive, fire, reactive, toxic, infectious, and radioactive characteristics either separately or in combination with any substance(s), constitutes a potential threat to human health, safety, welfare or to the environment, when improperly stored, handled, treated, transported, disposed of, used or otherwise managed. This definition includes any substance which is defined as possessing any health or physical hazard(s) pursuant to 29 CFR 1910.1200. Oil shall be included in this definition, as well as any substance which is determined to be a hazardous waste according to 310 CMR 30.100.
- FF. UST - defines underground storage tank. Defined as a storage tank where 10% or more of the tank volume and piping is buried below the ground surface, but shall not include storage in a free-standing container within a building.
- GG. Underground storage tank leakage or leak - defines any uncontrolled movement, measurable by precision test which can accurately detect leak of greater than or equal to 0.10 gallons per hour with a probability of false alarm of 0.01.
- HH. Work Area - defines any area within a workplace, whether outdoors or inside a structure, where substances are stored, used, or manufactured, (and includes, but is not limited to, areas where substances are handled, mixed, processed, packaged, or repackaged); and where employees, licensees, invitees, or other persons may be present.
- II. Workplace - defines an establishment, job site, or project, at one geographical location containing one or more work areas.

4. Actions in Case of Discharges

- A. Any person with knowledge of a release or abnormal loss or gain of toxic or hazardous material shall forthwith report the spill, loss or gain, to the Chief of the Wareham Fire Department and the Wareham Board of Health. Notification is not required for any release which is legally permitted and does not exceed allowable discharge limits.
- B. The owner or operator of a leaking tank system shall immediately:
 - 1. Remove the system from service and, if testing has confirmed that the source of the leak is a tank(s), the owner or operator shall within 24 hours cause the tank(s) to be emptied of all product or waste.

2. Notify the Chief of the Wareham Fire Department, the Office of Incident Response of Department Environmental Protection, and the Wareham Board of Health.
- C. Service companies shall report to tank owners and the Wareham Board of Health any significant increase in heating fuel consumption, which may indicate a leak.
- D. All spill and releases which trigger the reporting requirements of the Commonwealth of Massachusetts as defined in the Massachusetts Contingency Plan 310 CMR 40.0000 must also be reported to the Board of Wareham. In addition, a copy of all documentation including but not limited to environmental assessments including Phase I and Phase II assessments, classifications, remedial action plans including Immediate Response Action Plans and Release Abatement Plans, risk assessments, and closure documentation prepared in accordance to the Massachusetts Contingency Plan during the investigation of these releases must be submitted to the Wareham Board of Health concurrent with its submittal to the Massachusetts Department of Environmental Protection.
- E. All facilities shall submit a report to the Wareham Board of Health evaluating the cause of the spill and actions taken to prevent the recurrence of a spill from the same cause.

5. Permits and Inventory Requirements:

- A. General Requirements: Any owner or operator of a commercial or industrial facilities, (including business, agricultural and horticultural operations) storing, processing, generating or using toxic or hazardous materials in amounts greater than 25 pounds or gallons shall register with the Wareham Board of Health the types, quantities, locations, and method of storage of those materials. All permits will be renewed automatically by the Wareham Board of Health on <date> each year, contingent upon compliance with this Regulation, successful completion of an inspection as conducted at the discretion of the Wareham Board of Health, and submittal by the permit holder to the Wareham Board of Health of the Hazardous Material Registration Form on <date> of each year.
- B. Contingency Plan: Every owner or operator of a commercial or industrial facility (including home occupations and agricultural and horticultural operations) using, manufacturing, storing, transporting, disposing, or discharging toxic and hazardous materials must develop a *Contingency Plan* that includes a spill control plan and a countermeasure plan. Plans must be readily available to the Wareham Board of Health and Wareham Fire Department and accessible during an emergency incident. These plans shall be periodically reviewed and updated as needed. The written plan shall include, but not be limited to, the following information:
 1. The names and telephone number(s) of the emergency coordinator(s) and a waste disposal and cleanup contractor.
 2. The telephone numbers of the following agencies: Wareham Fire Department, Office of Incident Response (DEP), CHEMTREC, National Response Centers, local hospitals, and the Wareham Board of Health.

3. A floor plan indicating locations of the fire extinguishers and spill control materials, and if present, fire alarms. Evacuation routes shall be clearly shown when applicable.
 4. Descriptions of potential unique spill pathways at the facility (including floor drains), spill control measures for preventing releases and cleanup procedures. Reportable quantities (RQs) should also be noted and the agencies to be notified should an RQ release occur and enter the environment.
 5. Employees shall be trained and understand the contingency plan.
- C. The inventory information requirements for toxic and hazardous materials shall include, but not limited to, the material's common or product name, chemical name, CAS (if applicable), storage location and maximum daily amount, for substances which are classified as hazardous waste, number and waste identification will be required.
- D. Documentation stating that all information previously filed with the Wareham Board of Health is correct, or indicating a change in the status of the existing permit shall be submitted annually. A new permit shall be obtained within thirty days from the Wareham Board of Health whenever:
1. There is any change in the type of method of generation, use or storage, or significant change in the quantity or composition of hazardous materials or waste previously permitted.
 2. The method of storage, generation or use fails to comply with information previously submitted to the Wareham Board of Health.
- E. The Wareham Board of Health shall create a standard form which will be known as an "*Hazardous Material Registration Form*" (HMRF) to be used by local commercial and industrial establishments for the purpose of registering and reporting inventory information of toxic and hazardous materials. The HMRF form should be updated annually by the Wareham Board of Health and made available to the public, emergency response personnel, Wareham Fire Department and Town officials. In addition, any commercial and industrial establishment that submits an HMRF as required would retain a copy, which will be made readily available upon request, by the Wareham Board of Health or Wareham Fire Department. MSDSs for substances used in the workplace will be maintained and organized so that they are readily available upon request by the Wareham Board of Health and Wareham Fire Department.

In addition to the registration requirements listed above, all underground storage systems and tanks maintained on commercial and/or industrial property which contains hazardous materials or wastes must be registered with the Wareham Board of Health and the Wareham Fire Department. The following information must be provided: the size, type, age, and location of the tank, as well as the name of the material stored in each tank.

6. Requirements for Approval of Hazardous Material and Waste Permits: Hazardous materials and waste permits, with the exception of residential home heating oil tanks, may be granted by the Wareham Board of Health only if the following criteria are fulfilled:

- A. The proposed storage, use or generation system shall provide adequate discharge prevention safeguards which are appropriate to the materials and wastes to be stored, used or generated and to the location of the storage, use or generation.
- B. The proposed storage, use or generation system shall comply with all local, state and federal regulations.
- C. The proposed storage, use or generation system shall not cause a threat to the public health and safety or to the environment.
- D. The applicant has established and submitted a satisfactory Hazardous Materials Registration Form, and waste discharge Contingency Plan.
- E. All hazardous material and wastes to be stored above ground shall be stored in proper containers on an impervious, chemical resistant surface, under cover, and sheltered from the weather unless otherwise specified by the Wareham Board of Health. The storage area shall be enclosed with a permanent dike of impervious construction providing a volume of at least 110% of the total storage capacity. All outdoor storage areas shall be surrounded by a five foot fence, at a minimum, and shall be kept locked at all times when unattended.
- F. Properly licensed as a carrier in accordance with the Massachusetts Hazardous Waste Management Act, MGL Chapter 21C, and meet all applicable local, state and federal requirements to hold Hazardous Waste on the premises for removal.
- G. Owners or Operators shall park delivery trucks or tank trailers only in designated overnight parking areas approved by the Wareham Board of Health and Wareham Fire Department. These parking areas must allow for detection and containment of discharge from the parked vehicles that are acceptable to the Wareham Board of Health and Wareham Fire Department. All designated parking areas shall conform to the requirements of all local, state and federal laws.
- H. All hazardous materials stored above ground, with the exception of residential home heating oil tanks, shall be monitored weekly unless more frequent monitoring is specified in the permit. Monitoring shall consist of a thorough visual inspection of the container(s) and tank(s) and stock(s) of materials as well as the dike area for deterioration, leakage or unaccounted loss of materials. The facility shall retain these records for a period of <number> years.
- I. Throughout the permit period, owners, users, generators, or operators shall keep copies of all Hazardous Waste Transport Manifests on-site, as required under the Resource Conservation and Recovery Act, MGL Chapter 21C, and 315 CMR, Section 2.04. If a hazardous waste generator is exempted from the manifest requirements sufficient proof of a proper disposal method shall be maintained.
- J. Hazardous waste and materials shall be stored separately and segregated from incompatible materials.
- K. Containers holding hazardous wastes as identified by 310 CMR 30.100 and hazardous materials shall be affixed with a label containing the following information:

Hazardous waste

- 1. The words "hazardous waste"
- 2. Type of waste (chemical name)
- 3. Hazards associated with the material

4. Date accumulation started
5. Any necessary warning

Hazardous material

1. Original manufacturer's label, or equivalent
 2. Type of material (chemical name)
 3. Hazards associated with the material
 4. Date placed on premises
 5. Any necessary warning
- L. Applicants shall attend a mandatory training given by the Wareham Board of Health. Said training provided shall satisfy the educational requirements listed in Section 15.

The Wareham Board of Health may require additional information if it is necessary to adequately evaluate the application.

7. Exception to Permit Requirements

Permits shall not be required under this regulation for the following:

- A. Septic Systems
- B. Gasoline and diesel fuel stored in tanks mounted on a vehicle and used solely to fuel the same vehicle
- C. Hydraulic oil reservoir tanks on heavy vehicular equipment
- D. Use of domestic biodegradable cleaners for residential and business maintenance
- E. Residential oil tanks

8. Underground Injection Control: Owners or operators must comply with the provisions of 310 CMR 27.00

9. Underground Storage of Flammable or Combustible Products and Hazardous Materials or Waste: Owners or operators must comply with all regulations and conditions listed in Appendix A.

10. Air Emissions of Solvents: Volatile chlorinated hydrocarbons emitted to the air from dry cleaner and degreaser systems must, install a totally enclosed degreaser or dry cleaning system with a condenser which will return the solvent to the solvent pump, replace volatile chlorinated solvents with non-volatile cleaning solvent or take action which provides equivalent protection, subject to the approval of the Wareham Board of Health.

11. Enforcement and Inspection: Certification of conformance with the requirements of this Regulation by the Wareham Board of Health shall be required prior to issuance of construction and occupancy permits for all uses.

- A. The Wareham Board of Health shall enforce the provisions of this Regulation. Any agent of the Wareham Board of Health may, according to the law, enter upon any premises at any reasonable time to inspect for compliance.

- B. Upon request of an agent of the Wareham Board of Health, owner or operator shall furnish all information required to enforce and monitor compliance with this Regulation, including a complete inventory of all chemicals, pesticides, fuels and other toxic and hazardous materials used or stored on the premises, a description of measures taken to protect storage containers from vandalism, corrosion and spillage. The spill control and countermeasure plan, the means of disposal of all toxic or hazardous wastes produced on site, a sample of waste water disposed to on-site septic systems, dry wells or sewage treatment systems.
- C. All records pertaining to storage, removal and disposal of toxic or hazardous materials shall be retained by the owner or operator for no less than <number> years, and shall be made available for reviewing upon the request of an agent of the Wareham Board of Health.
- D. This Regulation may also be enforced pursuant to MGL Chapter 40 section 21D by a Town police officer or agents appointed by the Wareham Board of Health. Upon request of the Wareham Board of Health, and/or Town Counsel the town shall take legal action as may be required to enforce this Regulation.

12. Violation: Written notice of any violation of this Regulation shall be given to the Owner and Operator by an agent of the Wareham 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 measure required to avoid future violations, and a schedule of compliance.

The cost of containment and cleanup shall be borne by the Owner and Operator of the involved premises. The Wareham Board of Health may charge for expenses incurred in the enforcement or maintenance of this Regulation.

13. Penalty: Any person who violates any provision of this Regulation may be punished, under Chapter 40 section 21D of the Massachusetts General Laws, by a fine no more than \$100 or by filing a criminal complaint at the appropriate venue. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This penalty is in addition to any cost or charges under registration and inventory requirements above and regulations adopted hereunder.

14. Assignment of Responsibility: Every licensed Hazardous Material Facility shall designate a Person in Charge (PIC) who is responsible for the operation of the facility at the time of the inspection and during all hours of the operation. The PIC shall be knowledgeable about the Town of Wareham 's Hazardous Material Regulations including but not limited to, hazardous material handling and storage, the emergency contingency plan developed by the facility, and records maintenance. The PIC should complete an eight-hour hazards material awareness level (or compatible) training course.

15. Educational Requirements: The Wareham Board of Health or its agents may require additional hazardous material training for facilities that has a Person in Charge who fails to demonstrate knowledge of the Town of Wareham Hazardous

Materials Regulations, hazardous material handling and storage, the emergency contingency plan developed by the facility, and records maintenance. The Wareham Board of Health shall offer at a minimum <number> trainings per year that would satisfy the educational requirements.

- 16. Fees:** Any person registering the storage or generation of toxic or hazardous materials pursuant to this Regulation shall pay to the Wareham Board of Health a one-time Registration Fee for storage and/or generation of hazardous materials or waste. Failure to pay shall constitute a violation and shall subject the violator to the penalties referenced above. The Wareham Board of Health shall adopt and publish a schedule of fees to be charged.
- 17. Regulations:** The Wareham Board of Health shall adopt and enforce, and may from time to time amend regulations consistent with the intent and general provisions of this Regulation, including a schedule of registration fees and expenses charges.
- 18. Severability:** Each provision of this Regulation 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.