Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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PROVISIONAL USE APPROVAL RENEWAL

Pursuant to Title 5, 310 CMR 15.000

Name and Address of Applicant:

Lombardo Associates, Inc.
188 Church Street
Newton, MA 02458

Trade name of technology and models:

Nitrex™ Filter with unit sizing for design flows from 330, 440, 550, 660, 2000, 3000 and 6000 gallons per day (hereinafter the 'System' or the 'Technology'). Owner and Operator manuals, installation manual, schematic drawings illustrating the System models and the technology inspection checklist are part of this Certification.

DEP Transmittal No.: X239310
Date of Issuance: July 20, 2012, revised May 22, 2014
Expiration date: July 20, 2017

Authority for Issuance

Pursuant to Title 5 of the State Environmental Code, 310 CMR 15.000, the Department of Environmental Protection (hereinafter "the Department") hereby issues this Provisional Approval to: Lombardo Associates, Inc., 188 Church Street, Newton, MA 02458 (hereinafter "the Company"), approving Nitrex™ Filter (hereinafter "the Technology" or "System") for use in the Commonwealth of Massachusetts subject to the conditions herein. Sale and use of the Technology is subject to compliance by the Company, the Designer, the System Installer, the Operator, and the System Owner with the terms and conditions herein. Any noncompliance with the terms or conditions of this Certification constitutes a violation of 310 CMR 15.000.

David Ferris, Director
Wastewater Management Program
Bureau of Resource Protection

May 22, 2014
Date

This information is available in alternate format. Call Michelle Waters-Ekanem, Diversity Director, at 617-292-5751. TDD# 1-866-539-7622 or 1-617-574-6868
MassDEP Website: www.mass.gov/dep

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I. Purpose

Subject to the conditions of this Approval and any other local requirements, the purpose of this Approval is to allow installation and operation of at least 50 on-site sewage disposal systems utilizing the Technology in Massachusetts in order to conduct a performance evaluation of the capabilities of the Technology during the first 3 years of operation of each system, in accordance with Title 5 – 310 CMR 15.286 (7), *Provisional Approval of Alternative System*.

The specific goal of the Performance Evaluation is to determine if the Technology is capable of consistently meeting the concentration limits for total nitrogen (TN) of 19 or 25 milligrams per liter (mg/L) for installations with design flows less than 2,000 GPD and 25 mg/L for installations with design flows 2,000 GPD or greater but less than 10,000 gpd, in the effluent discharged to the soil absorption system. In areas subject to nitrogen loading limitations, increases in the discharge rate per acre may be allowed when the nitrogen concentration discharged to the soil is reduced.

The Company is responsible for oversight and sampling of the systems during the Performance Evaluation. The Owner has responsibility for continued oversight and sampling of the system if the property served was allowed to increase the discharge rate per acre above 440 gallons per day per acre (gpda) in an area subject to Nitrogen Loading Limitations or if the property served has a design flow of 2000 gpd or more located in a Nitrogen Sensitive Area. The System Owner will be required to repair, replace, modify or take any other action as required by the Department or the local approving authority, if the Department or the local approving authority determines that the System is not capable of meeting the required reduction in nitrogen in the effluent.

With the other applicable permits or approvals that may be required by Title 5, this Approval authorizes the installation and use of the Alternative System in Massachusetts. All the provisions of Title 5, including the General Conditions for all Alternative Systems (310 CMR 15.287), apply to the sale, design, installation, and use of the System, except those provisions that specifically have been varied by this Approval.

II. General Description of the Technology

The Nitrex Filter (the 'System') is installed in series after an approved I/A treatment technology, which provides nitrifying pretreatment, and before a soil absorption system constructed in accordance with 310 CMR 15.100 – 15.279, subject to the provisions of this Approval. Units may be installed in parallel and/or series to accommodate design flows to less than 10,000 GPD.

The Nitrex Filter consists of nitrate-reactive media, formulated from wood by-products, contained in a watertight enclosure. Pretreatment is required to nitrify the wastewater. The effluent from pretreatment then percolates through the Nitrex Filter's reactive media. Effluent from the Nitrex Filter is recycled once or multiple times over the media, with the final effluent discharged to the soil absorption system. For installations indicating wastewater with high strength TKN-nitrogen and low alkalinity, an alkalinity feed system is provided with the Nitrex Filter System.

For Systems with a design flow of 2000 gpd or greater an influent sampling location that is not impacted by recycled wastewater shall be a part of the design.

The use of the Technology under this Approval requires:

- Disclosure Notice in the Deed to the property;
- Certifications by the Company, the Designer, and the Installer;
- System Owner Acknowledgement of Responsibilities;
- A certified operator under contract for periodic inspection and maintenance;
- Periodic sampling;
- Recordkeeping and reporting; and
- An external power supply

III. Conditions of Approval

A. Basis for Conditions

1. The term "System" refers to the Technology in combination with any other components of an on-site treatment and disposal system that may be required to serve a Facility in accordance with 310 CMR 15.000.
2. The term "Approval" includes the Special Conditions, Standard Conditions, General Conditions of 310 CMR 15.287, and the approved Attachments.
3. Items required by this Approval include:
   a) Performance Evaluation Plan (PEP) with sampling and analysis requirements and approved by the Department. The PEP must be submitted to the Department for review and approval within 60 days of issuance of this Approval and meet the requirements of the Department's *Guidance for the Preparation of Performance Evaluation Plans < 2,000 GPD*, and, *Guidance for the Preparation of Performance Evaluation Plans 2,000 GPD or Greater*;
   b) minimum System installation requirements;
   c) company schematic drawings and specifications;
   d) Owner's Manual, including information on substances that should not be discharged to the System;
   e) Operation and Maintenance manual, including but not limited to, operator qualification requirements, inspection requirements, sampling and analysis requirements, recordkeeping requirements, and/or reporting requirements; and
   f) MassDEP Operation and Maintenance (O&M) checklist and I/A technology inspection checklist.

B. Special Conditions for all Systems

1. Department review and approval of the System design and installation is not required unless the Department determines on a case-by-case basis pursuant to its authority at 310 CMR 15.003(2)(e) that the proposed System requires Department review and approval.

2. System installations must meet the specific siting conditions for Provisional Use provided in 310 CMR 15.286(4) and the facility must meet the siting requirements of this Approval.

3. Any System for which a complete Disposal System Construction Permit Application is submitted while this Approval is in effect, may be permitted, installed, and used in accordance with this Approval unless the Department, the local approval authority, or a court requires the System to be modified or removed or requires discharges to the System to cease.

4. The System Owner shall provide access to the site for purposes of sampling the System in accordance with the Company's technology Performance Evaluation Plan approved by the Department, in addition to providing access for performing inspections, maintenance, repairs, and responding to alarm events.

5. The System Owner shall ensure that no permanent buildings or structures, other than the System, are constructed in the area for the installation of all the components of a fully conforming Title 5 system with a reserve area. The area for a fully conforming Title 5 system with a reserve area shall not otherwise be disturbed by the System Owner in any manner that will render it unusable for future installation of a fully conforming Title 5 system.

6. The Department has not determined that the performance of the System will provide a level of protection to public health and safety and the environment that is at least equivalent to that of a sanitary sewer system.

   If it is feasible to connect a new or existing facility to the sewer, the Designer shall not propose an Alternative System to serve the facility and the facility Owner shall not install or use an Alternative System.

   When a sanitary sewer connection becomes feasible after an Alternative System has been installed, the System Owner shall connect the facility served by the System to the sewer within 60 days of such feasibility and the System shall be abandoned in compliance with 310 CMR 15.354, unless a later time is allowed in writing by the Department or the Local Approving Authority.

7. The control panel including alarms shall be mounted in a location accessible to the System Operator.

8. For Systems with a design flow of 2,000 gpd or greater, an influent sampling location that is not impacted by recycled wastewater shall be a part of the System design.

9. For any System that does not flow by gravity to the SAS, the System shall be equipped with sensors and high-level alarms to protect against high water due to pump failure, pump control failure, loss of power, or system freeze up. The control panel including alarms and controls shall be mounted in a location always accessible to the operator (or service contractor). Emergency storage capacity for wastewater above the high level alarm shall be provided equal to the daily design flow of the System and the storage capacity shall include an additional allowance for the volume of all drainage which may flow back into the System when pumping has ceased.

Instead of providing emergency 24-hour storage, an independent standby power source may be provided for operation during an interruption in power. With any interruption of the power supply the source must be capable of automatically activating in addition to manual start up capability. The standby power must be sufficient to handle peak flows for at least 24 hours and sufficient to meet all power needs of the System including, but not limited to, pumping, ventilation, and controls. Standby power installations must be inspected and exercised at least annually and all automatic and manual start up controls must be tested. Standby power installations must comply with all applicable state and local code requirements. Provided that a standby power installation complies with these requirements, no variance is required to the provisions of 310 CMR 15.231(2).

10. System unit malfunction and high water alarms shall be connected to circuits separate from the circuits to the operating equipment and pumps.

11. All System control units, valve boxes, conveyance lines and other System appurtenances shall be designed and installed to prevent freezing per the Company's recommendations.

12. Any System structures with exterior piping connections located within 12 inches or below the Estimated Seasonal High Groundwater elevation shall have the connections made watertight with neoprene seals or equivalent.

13. In compliance with 310 CMR 15.240(13), a minimum of one (1) inspection port shall be provided within the SAS consisting of a perforated four inch pipe placed vertically down into the stone to the naturally occurring soil or sand fill below the stone. The pipe shall be capped with a screw type cap and accessible to within three inches of finish grade.

<u>Operation and Maintenance</u>

14. Inspection, operation and maintenance (O & M), sampling, and field testing of the System required by this Approval shall be performed by a System Operator with the following qualifications:

    a) is an approved System Inspector in accordance with 310 CMR 15.340;

    b) has been trained by the Company and whose name appears on the Company's current list of qualified operators; and

    c) has been certified at a minimum of Grade Level IV (four) by the Board of Registration of Operators of Wastewater Treatment Facilities, in accordance with Massachusetts regulations 257 CMR 2.00. The name of the Operator shall be included in the O&M agreement required by paragraph B (10).

15. Prior to the use of the System, the System Owner shall enter into an O&M Agreement with a qualified contractor and submit the Agreement to the Approving Authority and the Company. The Agreement shall be at least for one year and include the following provisions:

    a) The name of the qualified Operator that appears on the Company's current list of Service Contractors;

b) The System Operator must have the qualifications specified in paragraph B (9);

c) The System Operator must inspect the System in accordance with the Approval and anytime there is an equipment failure, System failure, or other alarm event;

d) In the case of a System failure, an equipment failure, alarm event, components not functioning as designed or in accordance with the Company specifications, or violations of the Approval, procedures and responsibilities of the Operator and System Owner shall be clearly defined for corrective measures to be taken immediately. The System Operator shall agree to provide written notification within five days describing corrective measures taken to the System Owner, the Company, and the local board of health;

e) The System Operator shall determine the cause of total nitrogen effluent limit violations if they occur and take corrective actions in accordance with the approved O & M Manual, and

f) Procedures and responsibilities for recording quarterly or monthly wastewater flows must be defined, see paragraph C(7) or D(9), *Flow Metering*.

16. At all times, the System Owner shall maintain an O & M Agreement that meets the requirements of paragraph C (9) or D (9).

17. The System Owner and the System Operator shall properly operate and maintain the system in accordance with this Approval, the Designer's operation and maintenance requirements, and the requirements of the local approving authority.

<u>Recordkeeping and Reporting</u>

18. Upon determining that the System has failed, as defined in 310 CMR 15.303, the System Operator shall notify the System Owner immediately.

19. Upon determining that the System has failed, as defined in 310 CMR 15.303, the System Owner and the System Operator shall be responsible for the notification of the local approving authority within 24 hours of such determination.

20. In the case of a System failure, an equipment failure, alarm event, components not functioning as designed or in accordance with the Company specifications, or any violations of the Approval, the System Owner and the System Operator shall be responsible for the written notification of the local approving authority and the Company within five days describing corrective measures taken.

21. Within 60 days of any site visit, the System Operator shall submit an O&M report and inspection checklist to the System Owner and the Company. The O&M report and inspection checklist shall include, at a minimum:

a) for a System failing, any corrective actions taken;

b) wastewater analyses, wastewater flow data, and field testing results;

c) any violations of the Approval;

d) any determinations that the System or its components are not functioning as designed or in accordance with the Company specifications; and

e) any other corrective actions taken or recommended.

22. By September 30th of each year, the System Owner and the Service Contractor shall be responsible for submitting to the local approving authority all monitoring results with all O&M reports and inspection checklists completed by the System Operator during the previous 12 months.

23. By September 30th of each year, the Service Contractor shall be responsible for submitting to the Company copies of all O&M reports including alarm event responses, all monitoring results, violations of the Approval, inspection checklists completed by the Service Contractor, notifications of system failures, and reports of equipment replacements with reasons during the previous 12 months.

24. A copy of the wastewater analyses, wastewater flow data, field testing results, and System Operator O&M reports and inspection checklists shall be maintained by the Company. It is recommended the System Owner also maintain copies of these items.

25. The System Owner shall notify the Approving Authority in writing within seven days of any cancellation, expiration or other change in the terms and/or conditions of the O&M Agreement required by Paragraph B(10).

26. The System Owner and the Service Contractor shall maintain copies of the Service Contractor's O&M reports, inspection checklists, and all reports and notifications to the LAA for a minimum of five years.

C. Special Conditions For Systems less than 2,000 GPD

The Technology is approved for use with a System serving a facility with a maximum design flow of less than 2,000 gallons per day, subject to the following additional conditions:

1. The System may only be installed to serve facilities where a fully conforming Title 5 system with a reserve area exists on-site or could be built on-site in compliance with the design standards for new construction of 310 CMR 15.000, and for which a site evaluation in compliance with 310 CMR 15.000 has been approved by the Approving Authority. A fully conforming Title 5 system may include other approved alternative technologies in accordance with the conditions imposed on the alternative technologies.
2. Subject to the provisions of this Approval, the Technology shall be installed in a manner which neither intrudes on, replaces a component of, or adversely affects the operation of all other components of the System designed and constructed in accordance with the standards for new construction of 310 CMR 15.200 - 15.279.

<u>Effluent Limit and Monitoring Requirements for Systems less than 2,000 GPD</u>,

3. If the System is installed to serve new construction in an area that is subject to the Nitrogen Loading Limitations of 310 CMR 15.214 and the facility does not meet with the Nitrogen Loading Limitations pursuant to the aggregation provisions of 310 CMR 15.216, the System shall not be designed to receive and shall not receive more than 440 gallons of design flow per day per acre (gpda), except:

a) For any facility, an increase in the flow rate per acre is allowed up to a design flow up to 550 gpda provided that the facility meets a TN effluent limit of 25 mg/l or less, or

b) For residential facilities only, an increase in the flow rate per acre is allowed up to a design flow up to 660 gpda provided that the facility meets a TN effluent limit of 19 mg/l or less.

The System Owner shall repair, replace, modify or take any other action as required by the Department or the local approving authority, if the Department or the local approving authority determines that the System is not capable of meeting the total nitrogen concentration limits in the effluent.

Violation of the TN concentration in the System effluent shall not require notifications as required in paragraphs B(13) and (14).

4. Prior to Department approval of the Company's Performance Evaluation Plan, the Company shall be responsible for the following monitoring requirements for all System installations that are subject to a total nitrogen concentration limit in accordance with paragraph C (3). Sampling shall include pH, BOD_5, TSS and Total Nitrogen, unless otherwise stated. Flow shall be recorded at each inspection, see "Flow Metering" below.

   a) Year-round facilities shall be inspected and effluent sampled quarterly.

   b) Seasonal properties shall be inspected and effluent sampled a minimum of twice per year, with at least one annual sample taken 30 to 60 days after seasonal occupancy and a second sample taken no less than 2 months after the first sample.

   c) After 12 rounds of monitoring, sampling may be reduced to TN only quarterly. Reduced sampling shall also include Field Testing of System wastewater when determined necessary by the operator, see *DEP Field Testing Protocol* at http://www.mass.gov/dep/ water/laws/policies.htm#t5pols.

   Properties occupied at least 6 months per year are considered year-round properties. Properties occupied less than 6 months per year are considered seasonal properties.

5. During the Performance Evaluation period, the Company shall follow the monitoring requirements specified in the Performance Evaluation Plan for installed Systems.

6. After the three (3) year Performance Evaluation period by the Company and approval by the Department, and until this Approval is modified, terminated, or superseded by a General Use Certification, the System Owner shall comply with the following monitoring requirements if the System is subject to a total nitrogen concentration limit in accordance with paragraph C (3).

   a) Year-round properties shall be inspected and sampled for at least the TN parameter a minimum of twice/year, at least 5 months apart and with at least one sample taken between December 1 and March 1 of each year. Field testing shall be completed as determined necessary by the System operator, see *DEP Field Testing Protocol* at *http://www.mass.gov/dep/ water/laws/policies.htm#t5pols*. Water meter readings shall be recorded at each inspection, see "Flow Metering" below.

   b) Seasonal properties shall be sampled for at least the TN parameter a minimum of twice/year. At least one annual sample must be taken 30 to 60 days after each

seasonal occupancy. A second sample must be taken no less than 2 months after the first sample. Field testing of the System shall be completed as determined necessary by the operator. Water meter readings shall be recorded at each inspection, see "Flow Metering" below.

7. Flow Metering - At a minimum, for all systems installed prior to this Approval, water meter flow data shall be recorded each time the system is inspected and sampled by the System Operator. For systems installed after the effective date of this Approval, wastewater flow data shall be recorded each time the system is inspected and sampled by the System Operator and may be based on:
   a) actual metering data of wastewater flow to the system; or
   b) water meter data for the total facility with metered non-wastewater flows, if available, subtracted from the total facility water usage.

8. Field Testing: Turbidity, pH and Apparent Color - Turbidity, pH, DO and apparent color shall be measured and/or recorded in the field when when determined necessary by the operator. See applicable sections of the Department's *Field Testing Protocol* at *http://www.mass.gov/dep/water/laws/ policies.htm#t5pols*.

9. At a minimum, the System Operator shall inspect the System:
   a) two times per year;
   b) in accordance with the approved O&M manual, the Designer's operation and maintenance requirements, and the requirements of the local approving authority; and
   c) any time there is an alarm event, equipment failure, or system failure

10. The System Operator shall collect samples and obtain analysis results from an approved lab, perform field testing required by the Approval and submit results within 60 days of the site visit to the System Owner.

11. If the Company successfully demonstrates the effectiveness of the System to reduce nitrogen loadings during the Performance Evaluation period, a minimum of three years, the System Owner shall operate the System subject to the requirements of the General Use Certification, if issued, for this technology.

D. Special Conditions for Systems 2,000 to less than 10,000 GPD

The Technology is approved for use with a System serving a facility with a minimum design flow of 2,000 gallons per day and a maximum design flow less than 10,000 gallons per day (GPD), subject to the following additional conditions:

1. The approved technology may be substituted for the RSF as a required component of a System designed to serve a facility or facilities with a design flow of 2,000 gpd or more to be located in a Nitrogen Sensitive Area in accordance with the requirements of 310 CMR 15.202. When substituted for the RSF, the design, installation, use, and operation of the System shall comply with all the conditions of 310 CMR 15.202(1) to 15.202(5) applicable to an RSF or an equivalent alternative technology, except those provisions that specifically have been varied by the conditions of the Approval.

Effluent Limits and Monitoring Requirements for Systems 2,000 to 10,000 GPD,

2. If the System is installed to serve new construction in an area that is subject to the Nitrogen Loading Limitations of 310 CMR 15.214 and the facility does not meet with the Nitrogen Loading Limitations pursuant to the aggregation provisions of 310 CMR 15.216, the System shall not be designed to receive and shall not receive more than 440 gallons of design flow per day per acre (gpda), except an increase in the flow rate per acre is allowed up to a design flow up to 550 gpda provided that the facility meets a TN effluent limit of 25 mg/l or less.

   The System Owner shall repair, replace, modify or take any other action as required by the Department or the local approving authority, if the Department or the local approving authority determines that the System is not capable of meeting the total nitrogen concentration limits in the effluent.

   Violations of the total nitrogen concentration in the System effluent shall not constitute a failure of the System for the purposes of reporting as required in paragraphs B (13) and (14).

3. Effluent Total Nitrogen - The System shall not exceed a TN concentration of 25 mg/l in the System effluent.
4. Effluent BOD5, TSS and pH - If the System is located in a Nitrogen Sensitive Area, the effluent discharge concentrations shall not exceed secondary treatment standards of 30 mg/L BOD_5 and 30 mg/L TSS and the effluent pH range shall be 6.0 to 9.0.

5. Prior to Department approval of the Company's Performance Evaluation Plan, the Company shall be responsible for the following monitoring requirements for all System installations that are subject to a total nitrogen concentration limit in accordance with paragraphs D (2) and (3). Sampling shall include pH, BOD_5, TSS and TN, unless otherwise stated. Flow shall be recorded at each inspection, see "Flow Metering" below.

   a) For year-round properties, if the facility is not in a Nitrogen Sensitive Area, the effluent shall be monitored monthly for 36 months and monitored thereafter for Total Nitrogen only on a quarterly basis. Reduced sampling shall also include Field Testing of System wastewater when determined necessary by the operator.

   b) For year-round properties, if the facility is located in a Nitrogen Sensitive Area:

      (i) For year-round properties, if the facility is located in a Nitrogen Sensitive Area, the effluent shall be monitored monthly for 36 months and monitored thereafter for pH, BOD_5, TSS and Total Nitrogen on a quarterly basis.

      (ii) The influent shall be monitored quarterly for pH, BOD_5, TSS and Total Nitrogen for a minimum of 12 quarters.

   c) Seasonal properties shall be inspected and sampled monthly only when occupied.

   Properties occupied at least 6 months per year are considered year-round properties. Properties occupied less than 6 months per year are considered seasonal properties.

6. During the Performance Evaluation period, the Company shall follow the monitoring requirements specified in the Performance Evaluation Plan for installed Systems.

7. Upon completion of the Performance Evaluation, after the Performance Evaluation period by the Company, and until this Approval is modified, terminated, or superseded by a General Use Certification, the System Owner shall comply with the following monitoring requirements:

   a) If the System is located in a Nitrogen Sensitive Area, the System Owner shall comply with the following monitoring requirements for TN:

      (i) Year-round facilities shall be sampled a minimum of once/quarter, at least 2 months apart..

      (ii) Seasonal properties shall be sampled a minimum of twice/year. At least one annual sample must be taken 30 to 60 days after occupancy. A second sample must be taken no less than 2 months after the first sample.

   b) If the System is subject to a total nitrogen concentration limit in accordance with paragraph D (2), the System Owner shall monitor <u>only total nitrogen</u> according to the frequency requirements of paragraphs D (8)(a)(i & ii).

   c) Year-round properties, and seasonal facilities when occupied, shall be inspected a minimum of quarterly and sampled for at least the TN parameter. Field Testing of System wastewater shall be completed when determined necessary by the operator, see *DEP Field Testing Protocol* at *http://www.mass.gov/dep/ water/laws/policies. htm#t5pols*. Water meter readings shall be recorded at each inspection, see "Flow Metering" below.

   d) The System Owner shall not be required to monitor influent BOD_5, TSS, pH, and TN as specified in 310 CMR 15.202 (4)(c).

   Properties occupied at least 6 months/year are considered year-round properties. Properties occupied less than 6 months/year are considered seasonal properties.

8. At a minimum, the Service Contractor shall inspect, properly operate, and properly maintain the System:

   a) any time there is System failure, equipment failure, or an alarm event;
   b) in accordance with the O&M manual and Designer requirements;
   c) in accordance with the requirements of the Local Approving Authority;
   d) in accordance with the Approval; and
   e) for seasonal use, the Service Contractor shall be on-site and responsible for the proper start-up and shut down of the Alternative System.

9. Flow Metering – For Alternative Systems installed under Provisional Approval, wastewater flow data shall be reported each time the System is inspected and/or sampled by the Service Contractor. At a minimum, wastewater flow shall be based on:

   a) actual water meter data of flow to fixtures that discharge to the wastewater system; or

   b) actual water meter data for the total facility with either metered or estimated flows for non-wastewater flow subtracted from the total facility water usage. If estimating the wastewater flow as a portion of total metered water usage, the Service Contractor shall provide the method of estimating, such as pump run times, occupancy rates, adjusting for seasonal outdoor water use, etc.

10. Field Testing: pH, DO, turbidity and color shall be measured and/or recorded in the field when determined necessary by the operator. See applicable sections of the Department's *Field Testing Protocol* at *http://www.mass.gov/dep/water/laws/policies.htm#t5pols*.

E. Special Conditions Specific to the Company

1. The Approval shall only apply to model units with the same model designations specified in this approval and meet the same specifications, operating requirements, and plans, as provided by the manufacturer at the time of the application. Any proposed modifications of the units shall be subject to the review of the Department for coverage under the Approval.
2. Prior to submission of an application for a DSCP, the Company shall provide to the Designer and the System Owner:
   a) All design and installation specifications and requirements;
   b) An operation and maintenance manual, including:
      i) an inspection checklist;
      ii) recommended inspection and maintenance schedule;
      iii) monitoring (i.e. water use and power consumption) and sampling procedures, if any;
      iv) alarm response procedures, if any, and troubleshooting procedures;

   c) An owner's manual, including proper system use and alarm response procedures, if any;

   d) Estimates of the Owner's costs associated with System operation including, when applicable: power consumption, maintenance, sampling, recordkeeping, reporting, and equipment replacement;

   e) A copy of the Company's warranty; and
   f) Lists of Designers, Installers, and Service Contractors.

3. The Company shall implement the Performance Evaluation Plan, as submitted and approved by the Department, and shall be responsible for all data collection and submissions to the Department until a final determination on the Performance Evaluation has been made by the Department.

4. Until a final determination has been made by the Department on a completed Performance Evaluation, the Company shall submit to the Department an annual report by February 15th of each year that includes the following:
   a) a table of all sample data collected for all systems installed to date and all information required by the Department as part of the approved Performance Evaluation Plan;
   b) status of preparation of a Performance Evaluation Plan if not yet provided to MassDEP, or any recommended changes to the approved Performance Evaluation Plan;

c) a list of pending applications for system installations which have been submitted to local approving authorities, and

d) identification of any System after start-up in violation of the Approval or not in compliance with any performance criteria at the time of the annual report, the reasons for the noncompliance and the status of any corrective actions that are needed, and

e) any recommendations and requests for changes to the system monitoring and reporting plan or the performance criteria of the Approval.

The report shall be signed by a corporate officer, general partner or the Company owner.

(Service Contractor records submitted to the Company should not be included with the annual report to the Department, but shall be made available to the Department within 30 days of a request by the Department.)

5. The Company shall institute and maintain a program of Installer training and continuing education that is at least offered annually. The Company shall maintain and annually update, and make available the list of qualified Installers by February 15th of each year. The Company shall certify that the Installers on the list have taken the training and passed the Company's training qualifications.

6. The Company shall institute and maintain a program of Designer training and continuing education, as approved by the Department. The Company shall maintain and annually update, and make available the list of qualified Designers by February 15th of each year. The Company shall certify that the Designers on the list have taken the training and passed the Company's training qualifications.

7. The Company shall institute and maintain a program of Operator training and continuing education, as approved by the Department. The Company shall maintain and annually update, and make available the list of qualified Operators by February 15th of each year. The Company shall certify that the Operators on the list have taken the training and passed the Company's training qualifications.

8. The Company shall not sell the Technology to an Installer unless the Installer is trained to install the System by the Company.

9. Prior to its sale of any System that may be used in Massachusetts, the Company shall provide the purchaser with a copy of the Approval with the System design, installation, O&M, and Owner's manuals. In any contract for distribution or sale of the System, the Company shall require the distributor or seller to provide the purchaser of a System for use in Massachusetts with copies of these documents, prior to any sale of the System.

10. Within 60 days of issuance by the Department of a revised Approval, the Company shall provide written notification of changes to the Approval to all Service Contractors servicing existing installations of the Technology and all distributors and resellers of the Technology.

11. The Company shall provide written notification to the Department's Director of the Wastewater Management Program at least 30 days in advance of the proposed transfer of ownership of the Technology for which the Approval is issued. Said notification shall include the name and address of the proposed owner containing a specific date of transfer of ownership, responsibility, coverage and liability between them.

12. The Approval shall be binding on the Company and its officers, employees, agents, contractors, successors, and assigns, including but not limited to dealers, distributors, and resellers. Violation of the terms and conditions of the Approval by any of the foregoing persons or entities, respectively, shall constitute violation of the Approval by the Company unless the Department determines otherwise.

IV. Certification and Notification Requirements

1. Thirty (30) days prior to submitting an application for a DSCP, the Company or its representative shall provide to the Approving Authority a certification, signed by the owner of record for the property to be served by the unit, stating that the property owner:
   a) has been provided a copy of the Provisional Use Approval and all attachments and agrees to comply with all terms and conditions;
   b) has been informed of all the owner's costs associated with the operation including power consumption, maintenance, sampling, recordkeeping, reporting, and equipment replacement;
   c) understands the requirement for a contract with a company approved operator and has been provided a current list of all approved operators;
   d) agrees to fulfill his responsibilities to provide a Deed Notice as required by 310 CMR 15.287(10) and the Approval; and
   e) agrees to fulfill his responsibilities to provide written notification of the Approval conditions to any new owner, as required by 310 CMR 15.287(5).

2. Upon submission of an application for a DSCP to the Approving Authority, the Company shall submit to the Approving Authority, with a copy to the Designer and the System Owner, a certification by the Company or its authorized agent that the design conforms to this Approval and that the proposed use of the System is consistent with the unit's capabilities and all Company requirements. The review shall include evaluation of the need for installation of water meter(s) at each facility. An authorized agent of the Company responsible for the design review shall have received technical training in the Company's products.

3. The System Designer shall be a Massachusetts Registered Professional Engineer**,** or a Massachusetts Registered Sanitarian provided that such Sanitarian shall not design a system with a discharge greater than 2,000 gallons per day.

4. Thirty (30) days prior to delivery of the treatment unit to the site for installation, the Company shall provide to the Approving Authority a copy of a signed contract for a minimum period of one year with a Company approved Operator and the initial Owner/Occupant of the property.

5. Prior to the commencement of construction, the System Installer must certify in writing to the Designer and the System Owner that (s)he has taken the Company's training,

passed the Company's training qualifications, and is listed on the Company's list of Installers.

6. Prior to the issuance of a Certificate of Compliance by the Approving Authority:

   a) In accordance with 310 CMR 15.021(3), the System Installer and Designer must certify in writing that the System has been constructed in compliance with 310 CMR 15.000, the approved design plans, and all local requirements, including any local approving authority site-specific requirements;

   b) In accordance with 310 CMR 15.021(3), the Designer must certify in writing that any changes to the design plans have been reflected on as-built plans which have been submitted to the Approving Authority by the Designer;

   c) As a condition of this Approval, the System Installer and Designer must certify to the Approving Authority in writing that the System has been constructed in compliance with the terms of this Approval;

   d) An authorized agent of the Company must certify to the Approving Authority in writing that the installation was done by a qualified Installer approved by the Company and the installation conforms to this Approval**.** The authorized agent of the Company responsible for the inspection of the installation shall have received technical training in the Company's products; and

   e) Prior to signing any agreement to transfer any or all interest in the property served by the system, or any portion of the property, including any possessory interest, the System Owner shall provide written notice, as required by 310 CMR 15.287(5) of all conditions contained in the Approval to the transferee(s). Any and all instruments of transfer and any leases or rental agreements shall be included as an exhibit attached thereto and made a part thereof of a copy of the Approval for the System. The System Owner shall send a copy of such written notification(s) to the Local Approving Authority within 10 days of such notice to the transferee(s).

V. Standard Conditions

1. The provisions of 310 CMR 15.000 are applicable to the design, installation, use and operation of a System utilizing an approved or certified alternative technology, except those provisions that specifically have been varied by the conditions of this Approval.

2. The design, installation, and use of the System must conform to the terms and conditions of the Approval and the Department approved attachments.

3. The facility served by the System and the System itself shall be open to inspection and sampling by the Department and the local approving authority at all reasonable times.

<u>Standard Conditions Applicable to the System Owner</u>

4. This Approval shall be binding on the System Owner and on its agents, contractors, successors, and assigns. Violation of the terms and conditions of this Approval by any of the foregoing persons or entities, respectively, shall constitute violation of this Approval by the System Owner unless the Department determines otherwise.

5. The System Owner shall obtain all necessary permits and approvals required by 310 CMR 15.000 prior to the installation and use of the System in Massachusetts.

6. The System is approved for the treatment and disposal of sanitary sewage only. The System Owner shall not introduce any wastes that are not sanitary sewage into the System. The System Owner shall dispose of wastes generated or used at the facility that are not sanitary sewage by other lawful means.

7. Prior to issuance of the Certificate of Compliance and after recording and/or registering the Deed Notice required by 310 CMR15.287(10), the System Owner shall submit the following to the Local Approving Authority: (i) a certified Registry copy of the Notice bearing the book and page/or document number; and (ii) if the property is unregistered land, a Registry copy of the System Owner's deed to the property, bearing a marginal reference on the System Owner's deed to the property. The Notice to be recorded shall be in the form of the Notice provided by the Department.

8. The System Owner shall at all times have the installed System properly operated and maintained in accordance with the most recent O&M provisions of this Approval for the alternative technology and in accordance with any additional requirements of the Approving Authority. The most recent O&M provisions of this Approval for the alternative technology are available from the Department.

9. The System Owner shall furnish the Department any information that the Department requests regarding the System, within 21 days of the date of receipt of that request.

Standard Conditions Applicable to the Designer

10. The Designer shall be a Massachusetts Registered Professional Engineer or a Massachusetts Registered Sanitarian, including when designing systems for repair, provided that such Sanitarian shall not design a system to discharge more than 2,000 gallons per day.

11. Prior to the application for a DSCP, the Designer shall provide the System Owner with a copy of this Approval.

Standard Conditions Applicable to the Company

12. This Approval shall be binding on the Company and its officers, employees, agents, contractors, successors, and assigns. Violation of the terms and conditions of this Approval by any of the foregoing persons or entities, respectively, shall constitute violation of this Approval by the Company unless the Department determines otherwise.
13. The Company shall include copies of the Approval with each System that is sold. In any contract executed by the Company for distribution or re-sale of the System, the Company shall require all vendors, distributors, and resellers to provide each purchaser of the System with copies of the Approval.

14. The Company shall make available, in printed and electronic format, the approved Attachments and any approved updates associated with the Approval, to the System

Owners, Operators, Designers, Installers, vendors, resellers, and distributors of the System.

15. The Company shall submit to the Department for approval any proposed updates or changes to the Attachments to the Approval.

16. The Company shall notify all System Owners, resellers, and distributors of changes to the Approval within 60 days of issuance by the Department.

17. The Company shall notify the Department's Director of the Wastewater Management Program at least 30 days in advance of the proposed transfer of ownership of the Technology for which the Approval is issued. Said notification shall include the name and address of the proposed owner containing a specific date of transfer of ownership, responsibility, coverage and liability between them. All provisions of the Approval applicable to the Company shall be applicable to successors and assigns of the Company, unless the Department determines otherwise.

18. The Company shall furnish the Department any information that the Department requests regarding the Technology within 21 days of the date of receipt of that request.

19. If the Company wishes to continue the Approval after its expiration date, the Company shall apply for and obtain a renewal of the Approval. The Company shall submit a renewal application at least 180 days before the expiration date of the Approval, unless written permission for a later date has been granted in writing by the Department. Upon receipt of a timely and complete renewal application, the Approval shall continue in force until the Department has acted on the renewal application.

Reporting

20. All notices and documents required to be submitted to the Department by the Approval shall be submitted to:

    Director
    Wastewater Management Program
    Department of Environmental Protection
    One Winter Street - 5th floor
    Boston, Massachusetts 02108

Rights of the Department

21. The Department may suspend, modify or revoke the Approval for cause, including, but not limited to, noncompliance with the terms of the Approval, non-payment of any annual compliance assurance fee, for obtaining the Approval by misrepresentation or failure to disclose fully all relevant facts or any change in or discovery of conditions that would constitute grounds for discontinuance of the Approval, or as necessary for the protection of public health, safety, welfare, or the environment, and as authorized by applicable law. The Department reserves its rights to take any enforcement action authorized by law with respect to the Approval and/or a System utilizing the

Technology against the Company, the Designer, the System Owner, the Installer, and/or the Operator of the System.

VI. General Conditions

Title 5 Regulations 310 CMR 15.287: "General Conditions for Use of Alternative Systems Pursuant to 310 CMR 15.284 through 15.286"

"The following conditions shall apply to all uses of alternative systems pursuant to 310 CMR 15.284 through 15.286:

(1) All plans and specifications shall be designed in accordance with 310 CMR 15.220.

(2) Any required operation and maintenance, monitoring and testing plans shall be submitted to the Department and approved prior to initiation of the use. Monitoring and sampling shall be performed in accordance with a Department approved plan. Sample analysis shall be conducted by an independent U.S. EPA or Commonwealth of Massachusetts approved testing laboratory, or an approved independent university laboratory, unless otherwise provided in the Department's written approval. It shall be a violation of 310 CMR 15.000 to omit from a report or falsify any data collected pursuant to an approved testing plan.

(3) The facility served by the alternative system and the system itself shall be open to inspection and sampling by the Department and the Local Approving Authority at all reasonable times.

(4) The Department and/or the Local Approving Authority may require the owner or operator of the system to cease operation of the system and/or to take any other action necessary to protect public health, safety, welfare and the environment.

(5) The owner or operator shall provide written notice to any new owner or operator that the system is an alternative system. Such notice shall include notice of the general conditions and any special conditions applicable to the system and its owner.

(6) The owner or operator, or the proponent of the alternative system, shall obtain and provide the Department with a determination from the board of certification of operators of wastewater treatment facilities established pursuant to M.G.L. c. 21, § 34A as to whether a certified operator is required for operation of the alternative system. The Department shall waive this requirement if it has on file a determination for the alternative system, and shall notify the owner, operator, or proponent of the determination.

(7) It is a violation of 310 CMR 15.000 to install, construct, or operate an alternative system except in full compliance with the written approval and 310 CMR 15.287.

(8) The Department may require the issuance of a groundwater discharge permit pursuant to 314 CMR 5.00 (groundwater discharge program) for any alternative system.

(9) The system owner shall maintain an operation and maintenance contract with a Massachusetts certified operator where one is required by 257 CMR 2.00, or otherwise with a person qualified to operate and maintain the system in accordance with the Department's written approval.

(10) Prior to obtaining a Certificate of Compliance for installation of a new or upgraded system, the system owner shall record in the chain of title for the property served by the alternative system in the Registry of Deeds or Land Registration Office, as applicable, a Notice disclosing both the existence of the alternative on-site system and the Department's

approval of the system. The system owner shall also provide evidence of such recording to the Local Approving Authority.