



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

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Commissioner

December 21, 2016

### **URGENT LEGAL MATTER: PROMPT ACTION NECESSARY**

Colonel James J. Keefe  
Commander, 104<sup>th</sup> Fighter Wing  
Barnes Air National Guard Base  
175 Falcon Drive  
Westfield, MA 01085-1385

RE: Westfield- RTN: 1-0020093  
Enforcement Document # 00000277  
Barnes Air National Guard Base  
IR Site 1-Fire Training Area  
IRP Site 6- North and South-Old Fire Training  
Areas  
**Notice of Response Action**

Dear Colonel Keefe:

The Massachusetts Department of Environmental Protection (MassDEP), Bureau of Waste Site Cleanup is tasked with ensuring the cleanup of oil and hazardous material releases pursuant to the Massachusetts Oil and Hazardous Material Release Prevention and Response Act (M.G.L Chapter 21E). This law is implemented through regulations known as the Massachusetts Contingency Plan (the MCP- 310 CMR 40.0000). Both M.G.L. c. 21E and the MCP require the performance of response actions to provide for the protection of harm to health, safety, public welfare and the environment which may result from releases and/or threats of releases of oil and/or hazardous material (OHM) at disposal sites.

The purpose of this letter is to inform you, (as used in this letter "you" refers to the Barnes ANG Base — Massachusetts Air National Guard) that the Department intends to initiate response actions to address the potential release of perfluoroalkyl substances (PFAS) and provide you with a final opportunity to take the Response Actions required to address this site before the Department does so. The Department considers you a Potentially Responsible Party (a "PRP") with liability under section 5 of M.G.L. c. 21E for the costs of responding to the reported release/threat of release.

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

TTY# MassRelay Service 1-800-439-2370  
MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

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MassDEP has reason to believe that there has been a release to the environment which has resulted in designating the Barnes Air National Guard Base (Barnes ANG Base) as a disposal site as defined by the MCP. Specifically, PFAS, including perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) and other related compounds that are contained in aqueous film-forming foam (AFFF) may have been released to the soil and groundwater at Barnes ANG Base (the Site) and thereby impacted the groundwater resource which supplies the City of Westfield Public Water Supply Wells located downgradient of the Site. Specifically, Wells #7 and #8 located a half mile south of Site 6: the Old Fire Training Area and Wells #1 and #2 which are 1.5 to 2 miles south of the Site have been impacted. According to the City of Westfield Water Department, Well #7 and Well #2 were removed from service due to exceedances of the EPA Health Advisory level for PFAS. MassDEP has assigned Release Tracking Number (RTN) 1-0020093 to this Site.

You have previously been issued a "Notice of Responsibility", dated October 11, 2016, (issued to Barnes ANG Base. c/o Colonel James J. Keefe) which outlined needed actions and legal liabilities in this matter. As of the date of this letter, you have failed to conduct the necessary assessment and/or cleanup actions at this site within the time period prescribed in state law and regulation. As a result, if you are a legally liable party, you are in noncompliance with M.G.L. c. 21E and the MCP, and are now subject to Civil Administrative Penalties under M.G.L. c. 21A, Section 16 and 310 CMR 5.00, the Civil Administrative Penalty Regulations.

Unless you promptly reply to this Notice and comply with its requirements, the Department will prepare to take the actions described below on or after January 7, 2017. Massachusetts General Law Chapter 21E, Section 4 authorizes the Department to take such Response Actions and, when time allows, requires the Department to notify you of its intent to take such actions.

#### **STATUTORY LIABILITIES**

The Department has reason to believe that you are a Potentially Responsible Party (a "PRP") with liability under section 5 of M.G.L. c. 21E for the costs of responding to the reported release/threat of release. Section 5 makes the following parties liable to the Commonwealth of Massachusetts: current owners or operators of a site where oil or hazardous materials are located; any person who owned or operated a site at the time hazardous material was stored or disposed of; any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site; any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release or threat of release of such material; and any person who otherwise caused or is legally responsible for a release or threat of release of oil or hazardous material at a site.

This liability is "strict", meaning it is not based on fault; rather it is based solely on your status as an owner, operator, generator, transporter or disposer. It is also "joint and several", meaning that you may be liable for all costs of responding to the reported release/threat of release, regardless of whether there are any other parties with liability for the release/threat of release in question.

M.G.L. c. 21E requires responsible parties to take necessary response actions at a site where a release/threat of release has occurred. By taking such actions, you can avoid liability for costs incurred by the Department and the Department's contractors in the performance of these actions. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, the Department is authorized by M.G.L. c. 21E to have the work performed by its contractors.

You may be liable for up to three (3) times all response action costs incurred by the Department. Response action costs include the cost of direct hours spent by Department employees arranging for response actions or overseeing work performed by persons other than the Department or their contractors, expenses incurred by the Department in support of those direct hours, and payments to the Department's contractors. (For more detail on cost liability, see 310 CMR 40.1200: Cost Recovery.)

In addition to your liability for up to three (3) times all response action costs incurred by the Department, you may also be liable to the Commonwealth for damages to natural resources caused by the release. Further liability may also be imposed under M.G.L. c. 21E, section 11 and other laws for each violation of M.G.L. c. 21E and other laws, or under M.G.L. c. 21A, section 16 for violations of c. 21E, the Massachusetts Contingency Plan, and other statutes, regulations, orders or approvals.

The Department encourages parties with liabilities under M.G.L. c. 21E to provide or arrange for response actions. The Department is authorized pursuant to M.G.L. ch. 21E sections 3A(j) and 4 to take such response actions at the site, as it deems necessary should you fail to respond to the release/threat of release in an appropriate and timely manner.

#### **RESPONSE ACTIONS REQUIRED AT THIS SITE**

To comply with the requirements of M.G.L. c.21E and the MCP, specified in the Notice of Responsibility issued in this matter, all necessary actions must be taken to assess and eliminate, as necessary, potential PFAS impacts to private residential and non-community drinking water supply wells located hydrogeologically downgradient of the Base.

You must retain a Licensed Site Professional (LSP) and submit an Immediate Response Acton (IRA) Plan; prepared in compliance with 310 CMR 40.0424 to evaluate whether PFAS above 0.07 ug/L are present in any residential and non-community private water supply wells located downgradient of the Site. The IRA Plan should identify all public and private water supply wells located downgradient of the Site and provide a plan to sample and analyze the drinking water supply wells for PFAS using EPA Method 537 Revision 1.1. The IRA Plan should also include an evaluation of the measures that the ANG will undertake to prevent, eliminate, and/or abate any hazards associated with the consumption of drinking water impacted by PFAS above the Health Advisory of 0.07 ug/L. Such measures can include, but are not limited to, providing bottled water, installation of a GAC system(s), or connection of private water supply wells to public water. Upon the ANG obtaining positive detections of PFAS above 0.07 ug/L in private wells, notification shall be provided to MassDEP as soon as possible, but in no case greater than two hours after you become aware of the detection. MassDEP will require that bottled water be immediately provided and that a schedule for implementation of additional actions to abate the contaminant at each private well location be submitted within seven (7) days.

In addition, the IRA Plan should include the history of the ANG's use of aqueous film-forming foam at the Site and a soil and groundwater assessment plan, specific to the fire training areas on the Base to evaluate the need to perform response actions at the Base to prevent, eliminate, or minimize harm to health, safety, public welfare of the environment.

Additional submittals are necessary with regard to this notification, including, but not limited to, the filing of a written IRA Plan, IRA Completion Statement and/or a Permanent Solution Statement (PSS).

**COMPLIANCE DEADLINE FOR NOTIFICATION OF YOUR INTENT  
TO CONDUCT RESPONSE ACTIONS**

To perform Response Actions in lieu of the Department, you must respond to this Notice by January 6, 2017, and provide the Department with the following within 30 days of the date of this notice:

1. A strict timetable for conducting Response Actions, including, but not necessarily limited to, the following:
  - A. Coordination with the appropriate local officials to identify private wells and non-community public wells that may be impacted from PFOAs and PFOS.
  - B. Conduct sampling of the private well and non-community wells identified under item 1A for PFAS using EPA Method 537 Revision 1.1.
  - C. Evaluate measures that the ANG will undertake to prevent, eliminate, and/or abate any hazards associated with the consumption of drinking water impacted by PFAS above the Health Advisory of 0.07 ug/L. Such measures can include, but are not limited to, providing bottled water, installation of a GAC system(s), or connection of private water supply wells to public water.

In addition, the IRA Plan should include the history of the ANG's use of aqueous film-forming foam at the Site and a soil and groundwater assessment plan, specific to the fire training areas on the Site to evaluate the need to perform response actions at the Site to prevent, eliminate, or minimize harm to health, safety, public welfare of the environment.

**RESPONSE ACTIONS THE DEPARTMENT INTENDS TO TAKE IF YOU FAIL TO ACT**

If you do not commit to conduct the Response Actions specified above as an initial step in the Site characterization process, the Department will secure the services of one or more of its contractors to conduct one or all of the above-mentioned actions.

Information obtained from the above initial Site investigation activities will help determine the scope, nature, and timing of additional actions. The Department reserves the right to conduct the additional response actions necessary to achieve a level of No Significant Risk at the site without providing additional notice to you.

**POTENTIAL LIABILITY AND TREBLE DAMAGES**

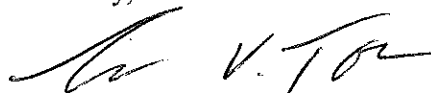
Please be advised that the Department continues to consider you potentially liable under M.G.L. c.21E for up to three (3) times the Department's Response Action Costs incurred by the Department and for damages from the impairment of the Commonwealth's natural resources. This liability was described in the Notice of Responsibility previously issued to you.

Should MassDEP initiate Response Actions at this site, MassDEP reserves the right to exercise the full extent of its legal authority to obtain full compliance with all applicable requirements. If you have any questions relative to this Notice, please contact Cynthia Pawloski at the letterhead address or by telephone

NORA  
Westfield, Barnes ANG Base  
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at 413-755-2247. All future communications regarding this release should reference the following Release Tracking Number: RTN # 1-0020093.

Sincerely,



Eva V. Tor  
Deputy Regional Director  
Bureau of Waste Site Cleanup

**CERTIFIED MAIL #: 7015 1660 0000 9069 4039**

ecc: Christine LeBel, WERO-OGC  
Denise Andler, WERO-BWSC  
Westfield Chief Municipal Officer  
Westfield Board of Health  
Westfield Water Department  
MassDEP – Drinking Water Program, Deidre Doherty  
MassDEP – Drinking Water Program, Kimberly Longridge