

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Central Regional Office • 8 New Bond Street, Worcester MA 01606 • 508-792-7650

Charles D. Baker
Governor

Matthew A. Beaton
Secretary

Karyn E. Polito
Lieutenant Governor

Martin Suuberg
Commissioner

September 6, 2017

Buckley & Mann, Inc.
205 Linden Ponds Way
Hingham, MA 02043

Re: NORFOLK
Former Buckley & Mann Facility
17 Lawrence Street
RTN 2-3000173

Attention: Lois Mann,
President

NOTICE OF AUDIT REQUEST FOR SITE INSPECTION

Dear Ms. Mann:

The Massachusetts Department of Environmental Protection's Bureau of Waste Site Cleanup (MassDEP, the Department) has selected the above referenced site for an audit. MassDEP audits response actions conducted without Department oversight at oil and/or hazardous material disposal sites, in order to ensure that these actions are meeting the requirements of Massachusetts laws and regulations, including Massachusetts General Law Chapter 21E and the Massachusetts Contingency Plan (the MCP), 310 CMR 40.0000.

An Audit Fact Sheet is attached that outlines the audit process and provides citations in the MCP that relate to the audit process. Audit staff from the Central Regional Office will primarily focus on the Permanent Solution with Conditions, prepared by Camp Dresser & McKee, and received by MassDEP on September 4, 2001 for this audit evaluation. A list of all documents available for audit by MassDEP may be found at <http://public.dep.state.ma.us/SearchableSites2/Search.aspx>. MassDEP's evaluation of the site's compliance status will be based on the information provided in these documents. If you are aware of additional, existing documentation relevant to the response actions being audited at the site, please submit the existing documentation to MassDEP within fourteen (14) days of your receipt of this Notice.

Request for Site Inspection

MassDEP requests an appointment to inspect the site. The inspection will be conducted by Joe Laughton from MassDEP's Central Regional Office. You and/or a representative familiar with the site is requested to attend. Please call Joe Laughton within seven (7) days of receipt of this Notice at (508) 849-4018 to arrange a date and time for the inspection. The purpose of the inspection will be to evaluate site conditions in relation to the information received by MassDEP, and to discuss the following issues identified during MassDEP's review of the records:

1. An Activity & Use Limitation was registered for two portions (AUL Sub-areas "A" and "B") of the site in Norfolk Land Court on August 20, 2001 (Certification 15475, Book 774, Page 153). Sub-area "A" consists of the landfill consolidation area and Sub-area "B" consists of former Lagoon #1 and #2. The AUL does not expressly prohibit the use of these areas for residential, daycare, or school usage.
2. The carbonizer lagoon and trench are currently established wetland areas. However, no Stage I environmental risk assessment was completed as part of the Class A-3 RAO.

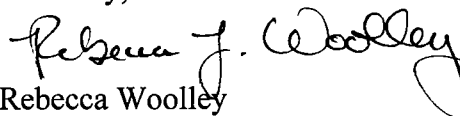
Preliminary audit findings based on MassDEP's file review may also be discussed during the site inspection.

Audit Results

After the site inspection MassDEP will evaluate whether actions taken at the site are in compliance with the regulations and meet performance standards needed to protect public health, safety, and the environment. MassDEP's determination of compliance will be based on the work performed as of the date the submittal was received by DEP. You will receive a Notice of Audit Findings (NOAF) summarizing the results of the audit. If MassDEP finds that response actions were not conducted in compliance with the MCP, you will be notified of the actions needed to return to compliance. MassDEP may set deadlines that you will be expected to meet, to correct any violations, or MassDEP may pursue higher level enforcement.

If you have any questions about this Notice, please call Joe Laughton at (508) 849-4018. MassDEP appreciates your anticipated cooperation in this matter.

Sincerely,



Rebecca Woolley
Audits Section Chief
Bureau of Waste Site Cleanup

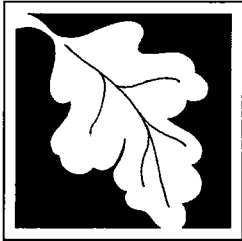
Attachments: Audit Fact Sheet

Certification of Submittal

cc: Norfolk Boards of Health and Zoning

Data Entry: [AUDCOM/NOA]

ec: Tom DiPacido – DiPlacido Development Corporation



Massachusetts
Department
of
ENVIRONMENTAL
PROTECTION

A u d i t F a c t S h e e t

Authority, Mandate, and Funding for Audits

The Massachusetts Department of Environmental Protection (MassDEP) is required to audit response actions at disposal sites by M.G.L. Chapter 21E § 3A(o). This law mandates that MassDEP audit a minimum of 20 percent of all the sites that are required to pay annual compliance assurance fees. Regulations that govern the audit process are contained in the Massachusetts Contingency Plan (MCP) (310 CMR 40.1100). M.G.L. c. 21E and the MCP also give MassDEP the authority to inspect sites, collect environmental samples, and require that pertinent site information be submitted.

What is the Goal of an Audit?

Audits ensure compliance with M.G.L. c. 21E and the MCP by verifying that response actions have been conducted according to applicable MCP requirements. The audit focuses on determining whether human health, safety, public welfare, and the environment have been adequately protected by response actions conducted at the site.

Overall, the MassDEP audit program has been designed to ensure:

- **Compliance** with M.G.L. c. 21E, the MCP, and other applicable requirements.
- **Consistency** of audits within and across MassDEP regions.
- **Credibility** to maintain public confidence that response actions that have little or no direct MassDEP oversight are being performed in a proper and timely manner.
- **Commitment** to achieving the 20 percent audit target in M.G.L. c. 21E.

How Is The Audit Conducted?

The audit includes a comprehensive evaluation of site response actions to ensure compliance with the MCP. This type of Audit is known as a Level 3 (L3) Audit and also includes:

- An examination of documents in MassDEP site files.
- A written **Notice of Audit** (NOA) that may also include: (1) a request for information, (2) a request to meet with MassDEP, (3) a site inspection, (4) collection of samples, or (5) other actions as required.
- A **Notice of Audit Finding** (NOAF) at the conclusion of the L3 Audit. MassDEP is not required to issue a NOAF if doing so might jeopardize other enforcement actions at a site.

Other types of audit include Level 1 Audits and Level 2 Audits. Additional information on these types of audits can be found on the MassDEP web site at <http://www.mass.gov/dep/cleanup/compliance/audits.htm>

When May a Site be Audited?

MassDEP selects a site for audit both randomly (Random Audit) and by criteria-specific methods (Targeted Audit) within the following timeframes:

- From the point of the initial release notification to 2 years after a Class A or B Response Action Outcome (RAO) Statement has been filed, MassDEP may select a site for a Random Audit.
- From the point of the initial release notification to 5 years after a Class A or Class B RAO has been filed, MassDEP may select a site for a Targeted Audit.
- MassDEP may, at any time, initiate/conduct a Random or Targeted Audit of any site subject to an Activity and Use Limitation (AUL).
- After 5 years MassDEP shall not initiate a Targeted Audit unless it has reason to believe that a significant risk may be present at the site and/or that it is noncompliant.

What are My Responsibilities in an Audit?

Whether you are a Responsible Party (RP), Potentially Responsible Party (PRP), or Other Person (OP), you have two principal obligations during an audit:

- You must respond to any "Requests For Information" (RFI) from MassDEP pursuant to M.G.L. Chapter 21E §§ 2, 4, and 8 and the MCP [(310 CMR 40.0165(1-5) and 40.1120(1)(b & c)].
- You must allow entry to the site by MassDEP staff, agents, and contractors so they can sample or inspect any records, conditions, equipment, practices, or property

pursuant to M.G.L. Chapter 21E § 8 and the MCP (310 CMR 40.0166). MassDEP, however, must arrange such entry at reasonable times and give you reasonable notice (at least 24 hour prior notice).

Am I Required to Engage the Expertise of Others?

You are responsible for responding to the audit and complying with any requests made by MassDEP. However, you may engage or may be required to engage the expertise of a Licensed Site Professional (LSP) when responding to the audit. If the audit requests additional follow-up information and/or directs you to submit a **Post-Audit Completion Statement** (P-ACS) to accompany the information requested, an LSP must be hired. Additional information on the LSP profession and hiring LSPs can be found at the Board of Registration of Hazardous Waste Site Cleanup Professional's web site at <http://www.mass.gov/lsp/lsphome.htm>.

How Long Will the Audit Take?

Depending on the type of audit, it may take a single day or up to several months or more to conduct. The length of time will depend on audit findings and any necessary actions. For example:

- An audit could end quickly if a file review raises no questions and/or reveals no deficiencies or violations.
- An audit could take several weeks to months to complete if information is unavailable, and/or deficiencies or violations are discovered.

What May Happen if Violations or Deficiencies are Found?

If the audit discovers violations or deficiencies, at the conclusion of the audit MassDEP will issue a NOAF, which may include a **Notice of Noncompliance** (NON) that may:

- Require you to correct those violations within a specified **Deadline**.
- Require you to correct those deficiencies within a specified **Interim Deadline**.
- Require you to submit an **Audit Follow-up Plan**, which will require MassDEP approval prior to implementation.
- **Invalidate** the submittal and require additional response actions to be conducted to return the site to compliance.

Once these activities are completed, a P-ACS must be submitted to MassDEP together with the required documentation. Bureau of Waste Site Cleanup (BWSC) Transmittal Form 111 must also be submitted for both the Audit Follow-up Plan and the Post-Audit Completion Statement, and can be found on the MassDEP web site at <http://www.mass.gov/dep/cleanup/approvals/bwsc-111.pdf>. The audit is considered closed after the P-ACS, with the signatures of the RP, PRP, or OP and the LSP-of-Record, is submitted. These response actions may also be selected for a random or targeted audit.

Will MassDEP Take Any Other Actions if Violations are Discovered?

MassDEP may also initiate **enforcement** actions for violations found at any time during or after any audit. Enforcement actions may include issuance of a: NON, Notice of Intent to Assess a Civil Penalty, Notice of Enforcement Conference, Notice of Responsibility, Notice of Response Action, Administrative Consent Order, Administrative Consent Order with Penalty, MassDEP Order, and/or referrals to the Attorney General's Office or the Licensed Site Professional Board. Additional information on MassDEP's enforcement procedures, policies, and cases can be found at <http://www.mass.gov/dep/cleanup/enforcem.htm>

Who Should I Talk to if I Have Questions About an Audit Finding?

You may call or write the auditor or the contact person listed in the NOAF. If you disagree with the findings of the NOAF, you may submit the matter to the BWSC Deputy Regional Director for investigation/resolution.

Massachusetts Department of
Environmental Protection
One Winter Street
Boston, MA 02108-4746

Commonwealth of Massachusetts
Deval L. Patrick, Governor
Timothy P. Murray, Lt. Governor

Executive Office of
Energy & Environmental Affairs
Ian A. Bowles, Secretary

Department of
Environmental Protection
Arleen O'Donnell, Acting
Commissioner

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This information is available in
alternate format by calling our
ADA Coordinator at
(617) 292-5565.



ATTACHMENT

CERTIFICATION OF SUBMITTAL (310 CMR 40.0009)

This certification must be included with your response to the Request for Information.

I, _____ attest under the pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this submittal, (ii) that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained in this submittal is, to the best of my knowledge and belief, true, accurate and complete, and (iii) that I am fully authorized to make this attestation on behalf of the person or entity legally responsible for this submittal. I/the person or entity on whose behalf this submittal is made am/is aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for willfully submitting false, inaccurate or incomplete information.

By:

Signature

Date

Title

For:

Name of person or entity

RTNs: 2-3000173

