



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

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URGENT LEGAL MATTER: PROMPT ACTION NECESSARY

November 25, 2019

Town of Princeton
6 Town Hall Drive
Princeton, MA 01541

RE: PFAS SRM Condition @ Town Hall
6 Town Hall Drive
Princeton

RTN: 2-0021072

ATTN: Sherry Patch,
Town Administrator

NOTICE OF RESPONSIBILITY **M.G.L. c. 21E, 310 CMR 40.0000**

Dear Ms. Patch:

The Department of Environmental Protection (MassDEP or the Department) was notified on November 4, 2019, at 4:00 p.m., that a release of per and polyfluorinated alkyl substances (PFAS) was detected at the above-referenced property (the Site). Specifically, PFAS compounds were detected at a concentration of 125 parts per trillion (ppt) in the "Town Hall complex" public drinking water supply well (PWS 2241017-01G) which serves the Town Hall complex in Princeton. The detected concentration of PFAS was greater than MassDEP's current drinking water guideline of 70 ppt. The detection of PFAS in the public drinking water supply well from a release at the Site constitutes a condition of Substantial Release Migration. Such a condition required oral notification to MassDEP as soon as possible but not more than 72-hours after obtaining knowledge of a reportable condition and performance of an Immediate Response Action (IRA). In light of the notification and other information available, MassDEP wishes to ensure that you are aware of your rights and responsibilities under the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E, and the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000.

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

Printed on Recycled Paper

MassDEP has identified the property, or portions thereof, as a disposal site that requires the performance of cleanup or other response actions. The cleanup of disposal sites is governed by Chapter 21E and the MCP. MassDEP has assigned Release Tracking Number (RTN) 2-0021072 to this disposal site for the release notification received.

MassDEP also has reason to believe that you (as used in this Notice, "you" refers to Town of Princeton) as owner of the property are a party with potential liability for response action costs and damages under Chapter 21E, § 5.

The attached summary is intended to provide you with information about liability under Chapter 21E to assist you in deciding what actions to take in response to this Notice.

IMMEDIATE RESPONSE ACTIONS

On November 4, 2019, you/your agent proposed certain response actions. MassDEP gave you oral approval to conduct the proposed IRA pursuant to 310 CMR 40.0410. The approval included the following conditions:

- Provide bottled water or water treatment for every location serviced by this public water supply well;
- Install signs on all water dispensing locations at the Town Hall complex including all buildings served by PWS 2241017-01G, warning people not to drink the tap water due to PFAS contamination;
- Sample and analyze monitoring wells, private drinking water supply wells, and public water supply wells within 500 feet for PFAS contamination; and
- Resample the Town Hall Campus PWS 2241017-01G on a quarterly basis for PFAS;

You must notify MassDEP as soon as possible via telephone, if you do not proceed with the IRA as approved.

You must dispose of any Remediation Waste as defined by the MCP, including, without limitation, contaminated soil and/or debris, generated at the location in accordance with 310 CMR 40.0030. Any Bill of Lading accompanying such waste **must bear the seal and signature of a Licensed Site Professional (LSP).**

NECESSARY RESPONSE ACTIONS AND APPLICABLE DEADLINES

Please be advised that November 4, 2019, is considered to be the date of release/threat of release notification. This date will be the baseline for calculating compliance with deadlines contained within the MCP.

The MCP requires responsible parties and any other person undertaking response actions at a disposal site to perform Immediate Response Actions in response to releases/threats of release, Imminent Hazards and Conditions of Substantial Release Migration. Such persons must continue to evaluate the need for Immediate Response Actions and notify MassDEP immediately if such a need exists.

As an integral part of the response action(s) for this release/threat of release, you must also submit a completed *Release Notification & Retraction Form*, and either an IRA Plan (310 CMR 40.0420), or IRA Completion Statement (310 CMR 40.0427), or a Permanent Solution Statement (310 CMR 40.1000) whichever is applicable to MassDEP by **January 3, 2020**, (within **60 days** of the date of the release/threat of release notification or the date of service of this Notice, whichever comes first) in accordance with 310 CMR 40.0300.

Unless otherwise provided by MassDEP, responsible parties have one year from the initial date notice of a release/threat of release is provided to MassDEP pursuant to 310 CMR 40.0300 or from the date MassDEP issues a Notice of Responsibility, whichever occurs earlier, to file with MassDEP one of the following submittals: (1) a completed Tier Classification Submittal; or (2) a Permanent Solution Statement. The deadline for these submittals for this disposal site is **November 4, 2020**.

PROCEDURES TO FOLLOW TO UNDERTAKE RESPONSE ACTIONS

You must employ or engage an LSP to manage, supervise, or actually perform all response actions that you intend to undertake at this disposal site. You may obtain a list of the names and addresses of LSPs by visiting www.mass.gov/lsp, by contacting the Board of Registration of Hazardous Waste Site Cleanup Professionals by telephone at (617) 556-1091, or in person or by mail at One Winter Street, 3rd Floor, Boston, Massachusetts 02108.

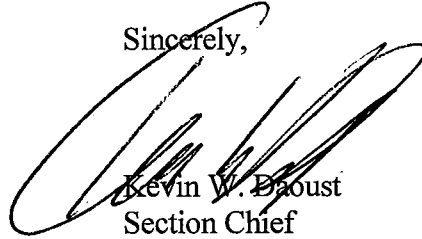
NOTICE OF RESPONSIBILITY

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PFAS SRM Condition @ Town Hall complex; 6 Town Hall Drive; Princeton, MA; RTN 2-0021072

If you have any questions, please contact this office at the letterhead address or the undersigned at (508) 767-2805 or at Kevin.daoust@mass.gov. The MassDEP requests that you inform your LSP of this Notice. All future correspondence communications regarding the disposal site should reference RTN: **2-0021072**.

Sincerely,



Kevin W. Daoust
Section Chief
Emergency Response
Bureau of Waste Site Cleanup

Enclosures: Summary of Liability under Chapter 21E; DEP Compliance and Assurance Fees

cc: Princeton Fire Department
Princeton Board of Health
Princeton Town Administrator
Jeffrey Arps, LSP, Tighe & Bond

cc: Database Entry [NOR/ISSUED-ER]

2-0021072 - Princeton - NOR

SUMMARY OF LIABILITY UNDER CHAPTER 21E

As stated in the Notice of Responsibility accompanying this Summary, the MassDEP has reason to believe that you are a Potentially Responsible Party ("PRP") with potential liability under M.G.L. c. 21E, Section 5, for response action costs and damages to natural resources caused by the release and/or threat of release. The MassDEP has identified you as a PRP because it believes you fall within one or more of the following categories of persons made potentially liable by Subsection 5(a):

- any current owner or operator of a site from or at which there is or has been a release or threat of release of oil and/or hazardous material;
- 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.

For purposes of the MCP, you are considered a Responsible Party ("RP") with actual liability under Chapter 21E if you fall within one of these categories unless you (1) are entitled to a defense under Section 5 or other applicable law, and (2) have reasonably incurred cleanup costs in an amount equal to or greater than any applicable cap on liability under Subsection 5(d).

This liability is "strict," meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that each person who falls within one of these categories may be held liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

Section 5 provides a few narrowly drawn defenses to liability, including a defense for releases and damages caused by an act of God, an act of war or an act by a third party other than an employee, agent or person with whom the party has a contractual relationship (*see* Subsection 5(c)); a defense for certain owners of residential property at which the owner maintains a permanent residence (*see* Subsection 5(h)); and a defense for certain public utilities and agencies of the Commonwealth which own a right-of-way that is a site (*see* Subsection 5(j)).

You may voluntarily undertake response actions under the MCP without having your liability under Chapter 21E formally adjudicated by the MassDEP. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, the MassDEP is authorized by Chapter 21E to perform the necessary work.

By taking the necessary response actions, you can avoid liability for response action costs incurred by the MassDEP in performing these actions. If you are a RP and you fail to perform necessary response actions at the site, you may be held liable for up to three (3) times all response action costs incurred by the MassDEP and sanctions may be imposed on you for failure to perform response actions required by the MCP.

Response action costs include, without limitation, the cost of direct hours spent by MassDEP employees arranging for response actions or overseeing work performed by persons other than the MassDEP or its contractors, expenses incurred by the MassDEP in support of those direct hours, and payments to the MassDEP's contractors (for more detail on cost liability, *see* 310 CMR 40.1200: Cost Recovery). The MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually.

Any liability to the Commonwealth under Chapter 21E constitutes a debt to the Commonwealth. To secure payment of this debt, the MassDEP may place liens on all of your property in the Commonwealth under M.G.L. c. 21E, Section 13. To recover this debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your potential liability for response action costs and damages to natural resources caused by the release, civil and criminal liability may also be imposed by a court of competent jurisdiction under M.G.L. c. 21E, Section 11, and civil administrative penalties may be assessed by the MassDEP under M.G.L. c. 21A, Section 16, for each violation of Chapter 21E, the MCP or any order, permit or approval issued there under.

If you are an RP and you have reason to believe that your performance of the necessary response actions is beyond your technical, financial or legal ability, you should promptly notify the MassDEP in writing of your inability in accordance with Chapter 21E, Subsection 5(e), and 310 CMR 40.0172. If you assert and demonstrate in compliance therewith that performing or paying for such response action is beyond your ability, Subsection 5(e) provides you with a limited defense to an action by the Commonwealth for recovery of two to three times the MassDEP's response action costs and 310 CMR 40.0172 provides you with a limited defense to the MassDEP's assessment of civil administrative penalties.

THIRD PARTY LIABILITY

You should be aware that you might have claims against third parties for damages, including claims for contribution or reimbursement for the costs of cleanup. Such claims do not exist indefinitely but are governed by laws that establish the time allowed for bringing litigation. The MassDEP encourages you to take any action necessary to protect any such claims you may have against third parties.

In addition, per M.G.L. c.21E (6) and 40.0101, MassDEP requires that you investigate the cause of this incident and **take necessary actions where possible to prevent a recurrence and/or mitigate the extent of future releases.** Such requirements may include, without limitation, but without duplication of requirements prescribed in other programs of the Department, the preparation of contingency plans, the acquisition, construction, maintenance and operation of equipment, facilities and resources for the monitoring, prevention and control of releases, and the staffing and training of personnel regarding the prevention and control of releases of oil or hazardous material.

No disposal site will be deemed to have had all the necessary and required response actions taken for it unless and until all substantial hazards presented by the release/threat of release have been eliminated and a level of no significant risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP.

FINANCIAL INABILITY TO PERFORM RESPONSE ACTIONS

If you are unable to perform the Response Action(s) because you have reason to believe that performing the Response Actions are beyond your financial ability, you should so inform the Department in writing, in accordance with the requirements of 310 CMR 40.0172 (1), (3) and (4). The Department has Guidance available for assisting you in applying for a Department Determination of Financial Inability to Perform Response Actions. Please call (617) 348-4055 to obtain the necessary information.

Please be advised that, should the Department determine the Response Actions are beyond your financial ability, such determination does not constitute an express or implied release from liability under c. 21E, nor does it extinguish any obligation you may have to take or arrange for the Response Actions necessary to achieve a permanent solution at the above referenced site.

MASSDEP FEES AND DEADLINES

A fee of \$1,470.00 is assessed if a Permanent Solution is filed 120 days after release notification, but before Tier Classification. Therefore, if all remediation work has been completed, you are encouraged to have the **Permanent Solution** submitted promptly to avoid the fee.

The MassDEP encourages parties having liability under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and hazardous materials. By taking prompt action, liable parties may significantly lower cleanup costs and avoid the imposition of, or reduce the amount of, certain annual compliance assurance fees payable under 310 CMR 4.00 (e.g., no annual compliance assurance fee is due for Permanent Solution Statements submitted to the MassDEP within 120 days of the initial date of release notification).