



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

DEVAL L. PATRICK  
Governor

MAEVE VALLELY BARTLETT  
Secretary

DAVID W. CASH  
Commissioner

September 12, 2014

Mr. Evan Slavitt  
AVX Corporation  
801 17<sup>th</sup> Avenue South, P.O. Box 867  
Myrtle Beach, SC 29578

RE: **NEW BEDFORD**  
Release Tracking Number: 4-0000601  
Former Aerovox Facility  
740 Belleville Avenue  
**REQUEST FOR IMMEDIATE RESPONSE  
ACTION (IRA) PLAN MODIFICATION  
INTERIM DEADLINE**

Dear Mr.Slavitt:

The Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup (MassDEP or the Department) 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). The law is implemented through regulations known as the Massachusetts Contingency Plan (310 CMR 40.0000 et seq. – the MCP). 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 at disposal sites.

Through the MCP, MassDEP is currently regulating a release of oil and/or hazardous material that has occurred at the property located at 740 Belleville Avenue, New Bedford, Massachusetts. AVX Corporation (AVX) has been identified as a Potentially Responsible Party (PRP) and has assigned Release Tracking Number (RTN) 4-0000601 to the Site.

On April 10, 2014, URS Corporation (URS) contacted MassDEP by phone to report the presence of dense nonaqueous phase liquid (DNAPL) at a thickness of 6.5 inches measured in monitoring well MW-15D. Pursuant to 310 CMR 40.0313(1) and 301 CMR 40.0412(2) this condition requires an Immediate Response Action (IRA). At the time of the call URS orally proposed an IRA Plan consisting of removal of DNAPL by periodic bailing and additional assessment to determine the extent of DNAPL. MassDEP provided oral approval of the proposed IRA Plan.

As required by 310 CMR 40.0420(7), a written IRA Plan is required to be submitted within sixty (60) days of oral notification to MassDEP and on June 10, 2014, URS, on behalf of AVX submitted a written IRA Plan. Consistent with the oral IRA Plan proposed on April 10, 2014, the written IRA Plan proposed:

A. Short-Term DNAPL Removal from Monitoring Wells MW-15D and -15B:

DNAPL will be gauged every two (2) weeks and, if present, removed using a peristaltic pump. The DNAPL will be stored in a secured location with secondary containment and disposed of every ninety (90) days to a licensed hazardous waste facility.

B. DNAPL Delineation:

The IRA Plan proposes to delineate the extent of the DNAPL by executing up to fourteen (14) Membrane Interface Probes (MIPs) to the top of bedrock in a radial pattern in three directions from monitoring wells MW-15D and -15B to identify subsurface areas with elevated concentrations of chlorinated organic compounds. A MIP is a semi-quantitative field screening tool that can detect volatile organic compounds (VOCs) in soil and sediment.

After evaluating the MIP data up to eight (8) geoprobes were proposed to be advanced to the bedrock surface to characterize soil, collect samples for Photoionization Detector (PID) headspace screening, make visual observations of soils to identify potential DNAPL-saturated soils, further evaluate the bedrock surface configuration, and to evaluate potential DNAPL recovery well locations.

Although MassDEP orally approved the DNAPL Removal on April 10, 2014 and assessment activities may be conducted at any site without prior MassDEP approval, MassDEP has identified the following issues:

1. Section 6 of the IRA Plan states that the objectives are "to delineate the extent of DNAPL in the subsurface..." A review of the boring logs for the site indicates that a "Dark brown to black NAPL-like color" with a "slight naphthalene odor" was observed in the soil at 12 to 15 feet deep at boring B10A. This description is similar to the "Brown NAPL staining" with a "strong odor" observed in the boring for monitoring well MW-15D. The potential for measurable amounts of DNAPL in the vicinity of boring B10A should be evaluated as part of the IRA.
2. In Section 7.1 of the IRA Plan URS concluded that although one of the Substantial Release Migration (SRM) Conditions exists at the Site (a release to the groundwater that has been or within one year is likely to be detected in a surface water body) the measurable DNAPL IRA condition is not considered an SRM because the U.S. Environmental Protection Agency (EPA) is addressing the contamination in the Acushnet River as part of the New Bedford Harbor Superfund Site Cleanup. The Superfund cleanup efforts have no bearing on the MCP criteria for a condition of Substantial Release Migration and this assertion is not an appropriate basis for discounting applicable conditions of Substantial Release Migration. While the Superfund program remedy will address the polychlorinated biphenyls (PCB) contamination that has impacted the Acushnet River in the future, it does not alleviate AVX from complying with the requirements to control further releases of PCBs and chlorinated VOCs into the Acushnet River.

The fact that PCBs and chlorinated VOCs have been detected at both the site and in the sediment in the Acushnet River, and the fact that the aging sheet pile containment structure does not extend to the bottom of the aquifer, influences the likelihood that the PCBs and chlorinated VOCs detected in the sediments have migrated from the Site and this constitutes a Condition of SRM as defined at 310 CMR 40.0006.

### REQUEST FOR IRA PLAN MODIFICATION

Pursuant to 310 CMR 40.0313(1) and 310 CMR 40.0412(2) an IRA Plan Modification to address the recently confirmed Condition of SRM is required. Pursuant to 310 CMR 40.0414(2), IRAs are presumed to require the initiation of one or more containment or removal actions. It is understood that the on-going IRA assessment activities focus on the collection the data necessary to design, install and operate a DNAPL recovery system. Given that a Condition of SRM exists at the Site the IRA Plan should be modified to include collecting the necessary data to design and install a more effective containment structure along the Acushnet River.

Further, the IRA Plan Modification should be designed to contain the contaminants identified in the subsurface west of the sheet piling, on the landward portion of the Site. If there is not a sufficient amount of information to design this containment system then the IRA Plan Modification should identify the data gaps and propose the necessary assessment activities to address these gaps.

In addition, as identified in item 1 above, there is evidence that DNAPL may exist in the vicinity of Boring B10A and, as such, the IRA Plan Modification should include a proposal to assess the potential for DNAPL in this area.

As required by 310 CMR 40.0424(1)(e), a schedule for the implementation of the work proposed must be included in the IRA Plan Modification. In addition, the work conducted pursuant to the IRA Plan Modification should be conducted in compliance with the applicable Response Action Performance Standards as required by 310 CMR 40.0191 and should consider all applicable guidance documents prepared by MassDEP.

The IRA Plan Modification, prepared in accordance with 310 CMR 40.0424, is hereby requested to be submitted to MassDEP by **November 7, 2014**.

### REQUEST FOR EXPEDITED STATUS REPORT

On July 29, 2014, a representative from MassDEP conducted a Site inspection and observed drilling associated with the installation of monitoring wells. On August 6, 2014 MassDEP received an IRA Status Report presenting the data collected from the MIPs and geobrobes executed as part of the IRA Assessment, but since this Status Report was due prior to the completion of the installation and sampling of the monitoring wells this information could not be included in the status report. Pursuant to 310 CMR 40.0425(2) the next Status Report is due six months after the first Status Report, which would be February 6, 2015.

Given the amount of data collected at the time the August 6, 2014 IRA Status Report was being prepared, MassDEP establishes **October 8, 2014** as the deadline for the submittal of the next IRA Status Report.

The next IRA Status Report shall, at a minimum, document all IRA activities that have occurred since the submittal of the August 6, 2014 IRA Status Report and include data collected prior to this date that was not included in the August 6, 2014 Status Report, including:

- The results of the seismic refraction survey;
- All Membrane Interface Probe (MIP) logs;
- All geoprobe and boring logs,

- All well construction logs;
- All DNAPL measurement data collected from each monitoring well;
- All groundwater and surface water elevation data;
- All groundwater analytical data; and
- Construction details of the existing sheet pile containment structure.

The October 8, 2014 IRA Status Report should also include an environmental Imminent Hazard Evaluation based on the analytical data for the samples collected by URS at the Site and analytical data for surface water and sediment samples collected from the Acushnet River by the EPA and its contractors.

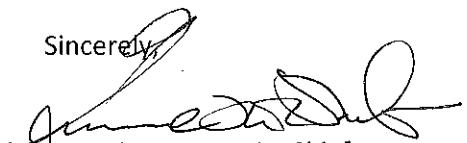
**The dates established for the submittal of the IRA Plan Modification and IRA Status Report are enforceable Interim Deadlines established pursuant to 310 CMR 40.0167.** MassDEP's decision to establish one or more Interim Deadlines in accordance with 310 CMR 40.0167 is not subject to Chapter 30A or any other law governing adjudicatory proceedings

#### POTENTIAL ENFORCEMENT

As outlined above, on April 10, 2014 URS contacted MassDEP to report that 6.5 inches of DNAPL was measured in Monitoring Well MW-15D. The DNAPL was first measured in March 2014. The measurement of greater than ½-inch of nonaqueous phase liquid (NAPL) requires notification to the Department within 72 hours of obtaining knowledge of such a condition. Since the condition was not reported within the required time frame, MassDEP has determined that you have not complied with one or more laws, regulations, orders, licenses, permits or approvals enforced by MassDEP. MassDEP reserves all rights to take any civil, criminal, or administrative enforcement action pursuant to any available legal authority, including the right to seek injunctive relief; the recovery of money expended or to be expended (plus interest); monetary penalties; criminal sanctions; and/or punitive damages regarding any violation of Chapter 21E and the MCP, or any actual or potential threat to human health, safety, public welfare or the environment, or any release of hazardous substances on, at, in, or near the Site. Nothing in this letter shall preclude MassDEP from taking any enforcement actions, including the issuance of Orders and/or additional actions, as MassDEP may deem necessary, or from requiring you to perform additional activities pursuant to any other applicable law.

If you have any questions regarding this matter, or if you would like to discuss compliance with this Notice, please contact me, at the letterhead address or by telephone at (508) 946-2799. All future communications regarding this matter must reference Release Tracking Number 4-0000601.

Sincerely,



Gerard M. R. Martin, Chief  
Brownfields, C&E and Risk Reduction Section  
Bureau of Waste Site Cleanup

MGS/GM/lg

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CERTIFIED MAIL # 7013 1090 0000 9295 4925  
RETURN RECEIPT REQUESTED

ec: City of New Bedford Mayor

New Bedford Office of Environmental Stewardship

New Bedford Health Department

Marilyn M. Wade, P.E., LSP  
URS Corporation

U.S. EPA

Attn: Ginny Lombardo, Team Leader, New Bedford Harbor Superfund Site

DEP-SERO

Attn: Millie Garcia-Serrano, BWSC Deputy Regional Director

Attn: Dawn Stolfi Stalenhoef, Chief Regional Counsel

Attn: Lara Goodine, BWSC – Data

DEP-Boston

Attn: Paul Craffey

Attn: Joe Coyne