



Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK
Governor

MAEVE VALLELY BARTLETT
Secretary

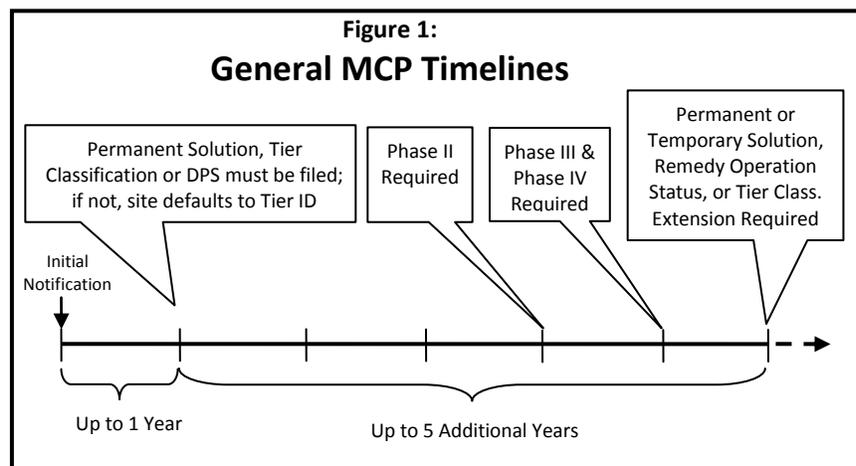
DAVID W. CASH
Commissioner

MCP TIMELINES AND FEES

This document summarizes the timelines and fees associated with response actions conducted pursuant to M.G.L. Chapter 21E and the Massachusetts Contingency Plan (MCP) 310 CMR 40.0000.

MCP TIMELINES

The MCP establishes timelines for cleanups at sites as well as timelines for specific response actions. **Figure 1** shows the general timeline. For all sites, the clock starts when Massachusetts Department of Environmental Protection (MassDEP) is notified of a potential or actual release of oil or hazardous material that exceeds a reporting threshold. One year from that notification, the legally responsible party must either: (1) clean up the site to



MCP standards (i.e. achieve a Permanent Solution), (2) obtain Downgradient Property Status (DPS), or (3) Tier Classify the site as Tier I or Tier II. **If a Permanent Solution, DPS or Tier Classification is not submitted by the one-year deadline, the site is deemed Tier ID by default.** For Tier Classified sites, there are deadlines for completing each phase of the MCP process and filing a Permanent Solution.

SUBMITTALS

To ensure that cleanups are proceeding as required, the MCP requires completion of response actions and the submittal of reports to MassDEP. Submittals must be filed electronically. Missed deadlines can result in requirements for additional documentation, enforcement and penalties, or new or higher fees. The MCP provides a seven-day “grace period” for most submittals. If MassDEP receives the submittal within seven days of the actual due date, the submittal is considered to be received by the deadline. Please note that the seven-day grace period does not apply to some deadlines (see 310 CMR 40.0008).

MCP FEES

Fees have been established to cover a portion of MassDEP’s costs for reviewing submittals, conducting inspections, providing compliance assistance, maintaining records, and pursuing enforcement. This includes MassDEP’s audits to ensure that cleanups are adequate and occurring within specified timeframes. The sooner response actions are completed and an endpoint is reached (i.e. by submitting a Permanent Solution) the lower the total fees incurred will be. Two types of Annual Compliance Assurance Fees (ACFs) are established in the “Timely Action Schedule and Fee Provisions” (310 CMR 4.00) that apply to sites where response actions are or are required to be undertaken.

Annual Compliance Assurance Fees:

1. **One-time fees** apply to three specific submittals if filed prior to Tier Classification (i.e. within the first year after notification): Permanent Solution; DPS Submittal; and Release Abatement Measure Plan. Additionally, a one-time fee applies to each Notice of Activity and Use Limitation filed prior to or concurrent with a Permanent Solution. One-time fees are summarized in **Table 1**.
2. **Annual fees** apply when a Permanent Solution or DPS is not filed in the first year. These fees range from \$490 to \$4,915 per year and are based on the site status on each Annual Status Date. Initiation of Phase V monitoring activities or submittal of a Temporary Solution will trigger a lower annual fee category. Fee rates are summarized in **Table 2** and explained in more detail on page 3.

TABLE 1: ONE-TIME FEES EFFECTIVE JUNE 20, 2014

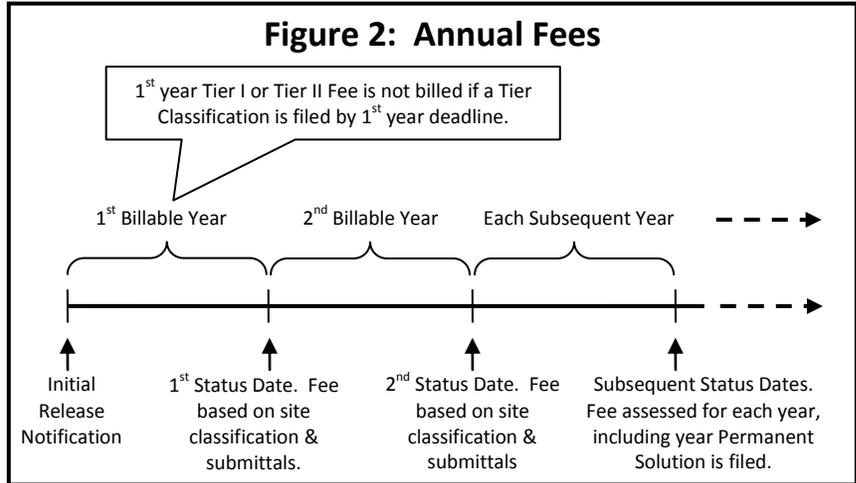
SUBMITTAL	TIME OF FILING	SUBMITTAL FEE
Permanent Solution	within 120 days of notification	No submittal fee
Permanent Solution	after 120 days but prior to Tier Classification	\$1,470 Permanent Solution submittal fee (\$735 Homeowner rate)
Permanent Solution	after Tier Classification (including Tier ID if filed AFTER first 90 days of one-year deadline)	No Permanent Solution fee applies; regular ACF will be billed based on status of site (e.g. Tier I, Tier II, Phase V or Temporary Solution)
Permanent Solution	within 90 days after one-year deadline if classified by default to Tier ID	\$1,470 Permanent Solution fee (\$735 Homeowner rate), in lieu of second year Tier ID fee (first year Tier ID fee will also be billed)
DPS	in first year, prior to Tier Classification	\$1,965 DPS submittal fee, unless upgradient source is Tier Classified or has Permanent Solution.
DPS	after Tier Classification (including default Tier ID)	No DPS fee; regular ACF applicable unless upgradient source is Tier Classified or has a Permanent Solution.
DPS	modification of existing DPS by new party	No DPS Fee or ACF applicable
RAM Plan	prior to Tier Classification (in first year)	\$980 RAM Plan submittal fee (\$490 Homeowner rate)
RAM Plan	after Tier Classification (including Tier ID)	No RAM fee applies (regular ACF will be billed)
RAM Plan	after Permanent Solution	No RAM fee applies if Permanent Solution is in effect
Notice of AUL	prior to or with a Permanent Solution	\$2,000 Notice of AUL fee (\$1,000 Homeowner rate)

TABLE 2: SUMMARY OF COMPLIANCE FEES EFFECTIVE JUNE 20, 2014

Type	Fee Category	Homeowner	Non-Homeowner
One-time Fees	Permanent Solution	\$735	\$1,470
	Release Abatement Measure (RAM) Plan	\$490	\$980
	Downgradient Property Status (DPS)	\$1,965	\$1,965
	Notice of Activity and Use Limitation (AUL)	\$1,000	\$2,000
Annual Fees	Tier ID	\$2,455	\$4,915
	Tier I	\$1,225	\$4,320
	Tier II	\$1,225	\$2,455
	Phase V (including ROS)	\$490	\$980
	Temporary Solution	\$490	\$980

Figure 2 shows how annual fees are assessed for Tier Classified sites. If a Permanent Solution Statement is not filed for the entire site in the first year, the site must be Tier Classified. Tier Classification requires a Phase I Initial Site Investigation Report that summarizes information about the site location, the contaminants identified and a preliminary Conceptual Site Model. The first year fee (\$4,320 for Tier I or \$2,455 for Tier II) is **not applicable** if the Tier Classification submittal is made on time. If a Tier Classification, Permanent Solution, or DPS is not filed, the site is deemed Tier ID by default and the first year’s fee will be invoiced at the \$4,915 Tier ID rate. Fees for subsequent years will be billed based on the site status (i.e. Tier I, Tier II, Phase V, Temporary Solution, or Tier ID) on the annual status date. For a Tier ID site, if a Permanent Solution is filed in the first 90 days of the second year, a Permanent Solution Fee is required to be paid in lieu of the second year Tier ID fee. This is in addition to the first year Tier ID fee.

The fee category is determined by a site’s classification on its Annual Status Date (which falls on the anniversary of initial notification) as well as submittals made during the year. For example, if a Tier I site is downgraded to Tier II one day prior to the status date, a \$2,455 Tier II fee will be assessed for that year instead of a \$4,320 Tier I fee. The fee category can also change to the \$980 Phase V fee after Phase IV activities are completed and Phase V monitoring is conducted. Note that Remedy



Operation Status (ROS) is a subset of Phase V, thus a Phase V fee applies while in ROS. Additionally, if a Temporary Solution is filed, the fee category changes to the \$980 Temporary Solution fee for the billable year in which the Temporary Solution is filed. An Annual Compliance Assurance Fee is assessed for each year in the MCP system, **including** the year in which a Permanent Solution is filed. These fees cannot be pro-rated for a portion of a year, so it is important to remain aware of a site’s Annual Status Date.

Notice of Activity and Use Limitation

Parties who file a Notice of Activity and Use Limitation (AUL) are required to pay a one-time Notice of AUL fee. While other one-time fees (RAM Plan, Permanent Solution, DPS) are generally required when the submittal is made prior to Tier Classification, the Notice of AUL fee is required for each Notice of AUL filed prior to or concurrent with a Permanent Solution. This includes a Notice of AUL filed after Tier Classification. However, no fee is applicable for an AUL Amendment, Release, or Termination. The Notice of AUL fee is \$2,000 for a non-Homeowner or \$1,000 for a Homeowner (more on Homeowners below).

Downgradient Property Status

Parties who file an initial Downgradient Property Status (DPS) submittal are usually required to pay fees until and including the year that the DPS is filed. DPS is applicable to the party making the submittal. As long as the DPS remains in effect, the party that holds the DPS is not subject to Annual Compliance Assurance Fees for subsequent years if they elect to conduct a Release Abatement Measure or file a Permanent Solution. While the DPS remains in effect, a new/subsequent party that files a DPS Modification under 310 CMR 40.0187 is not required to pay an Annual Compliance Assurance Fee.

Homeowners with Oil Releases, and Parties with Financial Technical or Legal Inabilities

A lower schedule of rates may apply to qualifying homeowners and other parties performing response actions. To qualify for the reduced homeowner fee rates, a homeowner must submit a Homeowner Certification Form (BWSC-120) to state they are performing response actions related to a release of oil at the property that they own and occupy as their principal residence for six or more months per year. Also, the

home must be one to four units and used exclusively as a residence. The schedule of fees applicable to homeowners changed effective June 20, 2014 to provide lower fee rates. These include Permanent Solution (\$735) and RAM Plan (\$490) submittals made prior to Tier Classification. The homeowner fee rate for Tier I and Tier II status are both set at \$1,225 per year. Also effective June 20, 2014, lower annual fees are in effect for homeowners in Phase V status (\$490) or Temporary Solution status (\$490). These categories are in place of the Tier I or Tier II fee. A \$1,000 one-time fee applies to each Notice of Activity and Use Limitation that is filed any time prior to or concurrent with a Permanent Solution. The fee rate for a homeowner doing work related to a Tier ID site is \$2,455. Alternative fee rates have also been established in 310 CMR 4.03 for parties with Financial, Technical or Legal Inability Status.

Resetting MCP Timeline & Status Date for New Parties

New parties may qualify for a new timeline for assessment and cleanup of an existing site as well as a new annual status date for fee billing. When a new party intends to conduct assessment and cleanup they may file an Eligible Person, Eligible Tenant, or Other Person Certification form (BWSC-107D). The party must certify that they did not cause or contribute to the release and, were not affiliated with any person or entity who a) caused the release or owned/operated the property from which the release originated, or b) is potentially liable for the site. Upon receipt of a complete Tier Classification and BWSC-107D certification, the new party is provided new deadlines per 310 CMR 40.0570. Additionally, the Annual Status Date for the site will be reset to be equal to one year from the date of receipt of the BWSC-107D. The new party will be assessed Tier I or Tier II fees beginning with the second year under the new timeline.

A new party who does not meet the certification requirements summarized above may file a Tier Classification Transfer to begin performing Comprehensive Response Actions. In this instance, the new party will be assessed Annual Compliance Assurance Fees going forward, starting with the year in which they begin performing response actions and fees will be assessed using the existing Annual Status Date.

Linking RTNs for New Conditions to Existing RTNs

When a new reportable release condition is identified, a new Release Tracking Number (RTN) may be assigned by MassDEP. In most instances the new RTN can be linked to an existing Tier I or Tier II site. Upon making a valid linkage, the RTN with the earlier cleanup timeline becomes the "Primary" RTN and this is used along with the earlier Annual Status Date for fee billing going forward. If the new condition would change the Tier Classification category of the existing RTN, a revised Tier Classification is necessary. The linkage must be with a Tier Classification Transmittal Form (BWSC-107 Section B, Box 8) or an IRA Completion Statement Transmittal Form (BWSC-105 Section B, Box 8a & 8b). When two or more RTNs are linked under a single Tier Classification, the earlier response action deadlines are applicable.

Special Project Designation Permits

Special Project Designation (SPD) Permits may be filed pursuant to 310 CMR 40.0060 to extend regulatory deadlines at complex sites. This includes either extending the deadline for initial Tier Classification by two years or, extending Comprehensive Response Action deadlines after Tier Classification. An Initial SPD Permit requires a \$920 Permit Application Fee. For unclassified sites with an SPD Permit, one-time fees are applicable for RAM Plan or Permanent Solution submittals. For Tier Classified sites with an SPD Permit, regular Tier I or Tier II Annual Compliance Assurance Fees apply. SPD Permit Extensions do not require a Permit Application Fee.

Payment of Fees

All payments should be made to **Commonwealth of Massachusetts**. For One-Time Fees (RAM, Permanent Solution, DPS, AUL) the check and page one of the BWSC transmittal form should be sent to MassDEP, PO Box 4062, Boston, MA, 02211-4062. Invoice payments should be sent to MassDEP, PO Box 3982, Boston, MA 02241-3982 with the invoice remittance. For more information visit MassDEP's website at <http://www.mass.gov/eea/agencies/massdep/cleanup/>. If you have questions about the MCP or fees, contact MassDEP at bwsc.regulations@state.ma.us or the BWSC fee inquiry line at 617-292-5545.