



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Activity & Use Limitation Compliance Reminder

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Activity & Use Limitation Compliance Reminder

The Massachusetts Department of Environmental Protection (MassDEP) periodically sends compliance assistance letters to persons, who according to MassDEP records, own property at which a Notice of Activity and Use Limitation (AUL) applies. These letters remind property owners of their legal responsibilities as owner of a property with an AUL. These responsibilities, described below, are established in Massachusetts General Law chapter 21E and the Massachusetts Contingency Plan (310 CMR 40.0000), the state regulation that specifies requirements related to releases of chemicals (oil or hazardous material) to the environment.

Responsibilities as an Owner of a Property with an AUL

An AUL is a document recorded at the Registry of Deeds to provide notice to current and future property owners and other interested parties of uses or activities that may not be appropriate at a property where contamination remains in the environment. An AUL provides information about: (1) the nature and location of contamination remaining on a property, (2) the appropriateness of certain uses and activities, and (3) a property owner's obligations to ensure that the requirements of the AUL continue to be met.

An owner of a property with an AUL, the Massachusetts Contingency Plan is required to:

- Maintain any obligations and conditions that are specified in the AUL.
- If contemplating a change in activities and/or uses that may not be consistent with the requirements of the AUL, hire a Licensed Site Professional to evaluate whether such change would require an amendment or new AUL, or additional cleanup on the property.
- If the property is sold or transferred to a new owner, ensure that the AUL is incorporated in full or by reference in the instrument of transfer.
- Upon transfer of the property to a new owner, a copy of the new deed for that property must be submitted to MassDEP by either the buyer or the seller of the property. (Both parties are

**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

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obligated to meet this requirement, but it may be satisfied by either party providing the copy of the deed to MassDEP.)

MassDEP Audits of AULs

MassDEP may audit any property for which an AUL has been recorded. An audit evaluates whether the AUL has been properly implemented and whether the activities and uses occurring in the area subject to the AUL are consistent with the terms of the AUL. A failure to comply with the terms of an AUL is a failure to comply with the Massachusetts Contingency Plan, and enforcement actions may be initiated against you. The law provides for administrative penalties of up to \$25,000 per day for failure to comply with the terms of an AUL.

If you received an AUL Compliance Letter, but no longer own the Property with the AUL

- If you are not the current owner of the property listed at the disposal site address of the AUL compliance assistance letter, and the property was conveyed to a new owner on or after June 20, 2014, a copy of the deed must be submitted to MassDEP to meet the requirements of the Massachusetts Contingency Plan at 310 CMR 40.1074(5) using the [online transmittal Form BWSC 113](#) . A PDF version of form BWSC 113 may be viewed [here](#).
- If you are not the current owner of the property listed at the disposal site address of the AUL compliance assistance letter and the property was conveyed to a new owner before June 20, 2014, updated information may be provided to MassDEP either by submitting the deed using Form BWSC 113 as described above, OR by using Form BWSC 127 found [here](#). Form 127 may be completed on your computer, but must be printed, signed and mailed to MassDEP at the address included on the form.

If you have questions, please contact MassDEP by email at BWSC.Regulations@MassMail.state.ma.us or by telephone at (617) 292-5823.