

## AUL COMPLIANCE ASSISTANCE CHECKLIST

Checklist for Notice of Activity and Use Limitation -- MCP as amended through October 29, 1999 -- Form 1075

- NOTE: This checklist is intended to assist parties in preparing and implementing Notices of Activity and Use Limitation (AULs) on Form 1075. This checklist is intended solely as guidance, and is not a substitute for the regulations. Parties implementing AULs should carefully consult 310 CMR 40.0000 (the MCP), for general and specific regulatory requirements for AULs.

REQUIREMENTS FOR COMPLETING FORM 1075				Reference(s) to MCP, Form	Notes
1.	Is the current version of the Form 1075 being used? (Must be current at the time of recording)	Y	N	40.1074(1)(a)	
2.	Is the Form's boilerplate unaltered, except where alterations are allowed through bracketed language?	Y	N	40.1074(1)(a)	
3.	Is the AUL a Confirmatory Notice of Activity and Use Limitation?	Y	N	40.1085	
4.	Is the word "Confirmatory" appropriately included or omitted in the following locations, to indicate whether the AUL is a Confirmatory Notice of Activity and Use Limitation? ___ Header ___ Paragraph 1 ___ Paragraph 15 ___ Paragraph 19	Y	N	Form 1075	
5.	Is optional Paragraph 16 appropriately included or omitted, to indicate whether the AUL is a Confirmatory Notice of Activity and Use Limitation?	Y	N	Form 1075	
6.	If the AUL is a Confirmatory Notice of Activity and Use Limitation, does Paragraph 16 identify the date, Registry, book and page number of the original AUL?	Y	N	Form 1075	
7.	If the AUL is a Confirmatory Notice of Activity and Use Limitation, are the errors in the original AUL listed in Paragraph 16?	Y	N	Form 1075	
8.	Is the Disposal Site name identified in the Header of Form 1075?	Y	N	40.1074(2)(d)	
9.	Is the DEP Release Tracking Number(s) identified in the Header of Form 1075?	Y	N	40.1074(2)(d)	
10.	Does the Form identify, in Paragraph 1, the date on which the AUL was signed by the property owner(s)?	Y	N	Form 1075	
11.	Is(are) the name(s) of the property owner(s) identified, in the following locations? ___ Paragraph 1 ___ Paragraph 2 ___ Paragraph 21 (this paragraph may reference the property owner or an authorized representative)	Y	N	40.1074(2)(b)	
12.	Is(are) the name(s) of property owner(s) consistent in all locations?	Y	N		
13.	If property owner(s) is(are) a corporation(s), is(are) the state(s) of incorporation identified in Paragraph 1?	Y	N	Not applicable (property owner(s) not a corporation)	
14.	Is(are) the address(es) of the property owner(s) identified in Paragraph 1?	Y	N	Form 1075	
15.	Does the Form indicate, through use of bracketed language in Paragraph 2, whether land is vacant or improved?	Y	N	Form 1075	

16.	Is the address of the Property subject to the AUL identified (City/Town & County) in Paragraph 2?	Y	N		40.1074(2)(a)1	
17.	In Paragraph 2, does the Form identify the owner's source of title (i.e. deed, certificate of title, probate docket number)?	Y	N		Form 1075	
18.	In Paragraph 3, is reference made to a survey plan of the Property? (Indicate the form of reference below) <input type="checkbox"/> Registry of Deeds, Plan Book & Plan Number (if Property is unregistered land) <input type="checkbox"/> Land Court Plan Number (if Property is registered land)	Y	N		40.1074(2)(a)3	
19.	Is it clear that the AUL applies to the entire Property, or only to a Portion of the Property? <input type="checkbox"/> entire Property <input type="checkbox"/> Portion of the Property	Y	N		40.1074(2)(a)1	
20.	Is optional Paragraph 4 properly included or omitted, to indicate whether the AUL applies to the entire Property or only to a Portion of the Property?	Y	N		Form 1075	
21.	Is bracketed language selected in the following locations, indicating whether the AUL applies to the entire Property or only to a Portion of the Property (check all that apply)? <input type="checkbox"/> Paragraph 5 (twice) <input type="checkbox"/> Paragraph 6 <input type="checkbox"/> Paragraph 8 <input type="checkbox"/> Paragraph 9 <input type="checkbox"/> Paragraph 10 <input type="checkbox"/> Paragraph 11 <input type="checkbox"/> Paragraph 13	Y	N		Form 1075	
22.	Is bracketed language indicating Property or Portion of Property consistent in all locations?	Y	N			
23.	If only a Portion of the Property is subject to the AUL: Is reference made in Paragraph 4 to a survey plan of the Portion of the Property subject to the AUL? (If yes, indicate the form of reference below) <input type="checkbox"/> Registry of Deeds, Plan Book & Plan Number (if Property is unregistered land) <input type="checkbox"/> Sketch Plan "attached hereto and filed herewith for registration" (if Property is registered land)	Y	N	Not applicable (entire Property is subject to AUL)	40.1074(2)(a)4.	
24.	Is it clear that the area subject to the AUL comprises the entire Disposal Site, or only a Portion of the Disposal Site? <input type="checkbox"/> entire Disposal Site <input type="checkbox"/> Portion of Disposal Site	Y	N		Form 1075	
25.	Is bracketed language selected in the following locations, indicating whether the area subject to the AUL comprises the entire Disposal Site or only a portion of the Disposal Site? <input type="checkbox"/> Paragraph 5 <input type="checkbox"/> Paragraph 6	Y	N		Form 1075	
26.	Is bracketed language indicating entire Disposal Site/Portion of Disposal Site consistent in all locations?	Y	N			
27.	In Paragraph 5, is reference made to a sketch plan, attached as Exhibit B, showing the relationship of the Disposal Site to the Property or Portion of Property subject to the AUL?	Y	N		40.1074(2)(a)5	
28.	Does the Form include, in Paragraph 6, the date of the Activity and Use Limitation Opinion (AUL Opinion)?	Y	N		Form 1075	
29.	Is the purpose of the AUL to maintain a condition of NSR, or to maintain a condition of NSH?	NSR	NSH		Form 1075	

30.	Is bracketed language selected in the following locations, indicating whether the purpose of the AUL is to maintain a condition of No Significant Risk (NSR), or to maintain a condition of No Substantial Hazard (NSH)? ___ Paragraph 8 ___ Paragraph 10 ___ Paragraph 11	Y	N		Form 1075	
31.	Is language indicating NSR or NSH consistent in all locations?	Y	N		Form 1075	
32.	In Paragraph 8, does the Form include a description of permitted activities and uses (i.e., consistent with AUL Opinion)?	Y	N		40.1074(2)(e)	
33.	Is the description of permitted activities and uses written in a clear and understandable manner?	Y	N		40.1074(2)(e)	
34.	In Paragraph 9, does the Form include a description of inconsistent activities and uses?	Y	N		40.1074(2)(g)	
35.	If yes, is the description of inconsistent activities and uses written in a clear and understandable manner?	Y	N	Not applicable	40.1074(2)(g)	
36.	In Paragraph 10, does the Form include a description of obligations and conditions?	Y	N		40.1074(2)(f)	
37.	If yes, is the description of obligations and conditions written in a clear and understandable manner?	Y	N	Not applicable	40.1074(2)(f)	
38.	Is the Form signed by the property owner(s) in Paragraph 17?	Y	N		40.1074(2)(j)	
39.	Is(are) the property owner(s)'s signature authorized and binding? (Check one of the options below) ___ Sole ownership: signed by sole owner ___ Joint ownership: signed by all owners ___ Trust: Signed in accordance with requirements established by the trust document ___ Corporation: Certificate of incumbency AND (Check one) ___ Signed by President and Treasurer ___ Signed by President and Assistant Treasurer ___ Signed by Vice President and Treasurer ___ Signed by Vice President and Assistant Treasurer ___ Signed by other officer(s) authorized by vote of the Board of Directors, with vote authorizing said officer(s) attached to Form ___ Other (explain): _____	Y	N		40.1074(2)(j)	
40.	Is(are) the property owner(s)'s signature dated in Paragraph 17?	Y	N		Form 1075	
41.	Is(are) the property owner(s)'s signature(s) properly notarized (i.e., are each of the following requirements met) in Paragraph 18? ___ All signatures are notarized ___ State and county of notary are identified ___ Property owner(s) is/are named in notary block ___ Notary signature is present ___ Notary signature is dated ___ Commission expiration date is identified ___ Commission is not expired at time of notarization ___ Notary seal or stamp is included (required for out-of-state notary; not required for Massachusetts notary)	Y	N		40.1074(2)(j)	
42.	Is the Form signed by an LSP in Paragraph 19?	Y	N		40.1074(2)(j)	

43.	Is the LSP's signature dated in Paragraph 19?	Y	N		40.0015(1)	
44.	Is the LSP's signature dated on or after (not before) the date of owner's signature? Date of LSP's signature _____ Date of Owner's signature _____	Y	N			
45.	Is LSP's signature sealed with LSP stamp?	Y	N		40.1074(2)(j)	
46.	Is the LSP's signature properly notarized (i.e., are each of the following requirements met) in Paragraph 20? ___ State and county of notary are identified ___ LSP is named in notary block ___ Notary signature is present ___ Notary signature is dated ___ Commission expiration date is identified ___ Commission is not expired at time of notarization ___ Notary seal or stamp is included (required for out-of-state notary; not required for Massachusetts notary)	Y	N		40.1074(2)(j)	
<b>REQUIRED ATTACHMENTS TO FORM 1075</b>						
<b>EXHIBITS A, A-1, A-2</b>					<b>Reference(s)</b>	<b>Notes</b>
47.	Is a legal description of the Property subject to the AUL (either a running description or a bounding description) attached as Exhibit A? (Check one): ___ Running (metes & bounds) description (if Property is unregistered land) ___ Bounding description (if Property is registered land)	Y	N		40.1074(2)(a)2	
48.	If only a Portion of the Property is subject to the AUL, is a legal description of that Portion (running description) attached as Exhibit A-1?	Y	N	Not applicable (entire Property subject to AUL)	40.1074(2)(a)4	
49.	If Property is registered and only a Portion of the Property is subject to the AUL, is an 8.5" x 11" survey plan of the restricted Portion attached as Exhibit A-2?	Y	N	Not applicable (entire Property is subject to AUL, or is unregistered)	40.1074(2)(a) 4.a	
50.	If the Property is registered, and only a Portion of the Property is subject to the AUL, does the description of the Portion subject to the AUL (Exhibit A-1) conform to the survey plan (Exhibit A-2)?	Y	N	Not applicable (entire Property is subject to AUL, or is unregistered)		
<b>EXHIBIT B</b>					<b>Reference(s)</b>	<b>Notes</b>
51.	Is a sketch plan attached as Exhibit B?	Y	N		40.1074(2)(a)5	
52.	Does the sketch plan clearly illustrate the relationship of the area subject to the AUL to the boundaries of the Disposal Site?	Y	N		40.1074(2)(a)5	
53.	Is the sketch plan consistent with the Form (e.g. if the Form indicates that only a Portion of the Property is restricted, does the sketch plan conform)?	Y	N			
<b>EXHIBIT C</b>					<b>Reference(s)</b>	<b>Notes</b>
54.	Is the Activity and Use Limitation Opinion (AUL Opinion), in narrative form, attached as Exhibit C?	Y	N		40.1074(1)(b)	
55.	Is the AUL Opinion signed by the LSP?	Y	N		40.0015(1)	

56.	Is the LSP's signature dated?	Y	N		40.0015(1)	
57.	Is the LSP's seal included?	Y	N		40.0015(1)	
<b>EXHIBIT D</b>					<b>Reference(s)</b>	<b>Notes</b>
58.	Is Transmittal Form 114 attached as Exhibit D?	Y	N		40.1074(1)(b)	
59.	Is the following information about the Disposal Site included? ___ Release Tracking Number ___ Disposal Site name ___ Disposal Site address	Y	N		BWSC Form 114	
60.	Is the address of the Property subject to AUL identified, if different than the address of the Disposal Site?	Y	N	Not applicable (same address)	BWSC Form 114	
61.	Is a box checked to indicate what Form the AUL Opinion supports?	Y	N		BWSC Form 114	
62.	Is the following information about the LSP included? ___ Name ___ License number ___ Telephone number ___ Fax number (if applicable)	Y	N		BWSC Form 114	
63.	Is Transmittal Form 114 signed, dated and sealed by the LSP?	Y	N		BWSC Form 114	
64.	If Transmittal Form 114 indicates that a response action on which the AUL Opinion is based is subject to an EPA or DEP permit, order, or approval, is a statement describing the provisions thereof attached to the Transmittal Form?	Y	N	Not applicable (not subject to EPA or DEP permit, order or approval)	BWSC Form 114	
<b>SIGNATORY AUTHORITY</b>					<b>Reference(s)</b>	<b>Notes</b>
65.	If the person signing the AUL is not an individual signing on his/her own behalf, is there documentation of the person's signatory authority attached as an exhibit to the AUL?	Y	N	Not applicable (individual(s) signing on his/her/their own behalf)	40.1074(2)(c)	

CONSISTENCY OF FORMS & ATTACHMENTS					Reference(s)	Notes
66.	Do the consistent activities and uses in the Form (Paragraph 8) match those permitted in the AUL Opinion (Exhibit C)?	Y	N			
67.	Do the inconsistent activities and uses in the Form (Paragraph 9) match those in the AUL Opinion (Exhibit C)?	Y	N			
68.	Do the conditions and obligations in the Form (Paragraph 10) match those in the AUL Opinion (Exhibit C)?	Y	N			
69.	Are the Form's descriptions of consistent (permitted) activities and uses, inconsistent activities and uses, and obligations and conditions consistent with each other?	Y	N			
70.	Does the date of the AUL Opinion (Exhibit C) match the AUL Opinion date listed in the Form (Paragraph 6)?	Y	N			
71.	Does the date of the AUL Document (Paragraph 1) match the date of the Owner's signature in the signature block (Paragraph 17)?	Y	N			
72.	If the land is unregistered, does the legal description of the Property containing the area subject to the AUL (Exhibit A) conform to the survey plan of the Property?	Y	N	Not applicable (Property is registered land)		
73.	If the land is registered, does the legal description of the Property containing the area subject to the AUL (Exhibit A) conform to the Land Court Plan of the Property?	Y	N	Not applicable (Property is unregistered land)		
74.	If land is unregistered and only a portion of the Property is subject to the AUL, does the legal description of the Portion of the Property (Exhibit A-1) conform to the survey plan of the Portion?	Y	N	Not applicable (entire Property is subject to AUL, or Property is registered land)		
NOTIFICATION OF RECORD INTEREST HOLDERS					Reference(s)	Notes
75.	At least 45 days prior to recording and/or registration of the AUL, were all current record interest holders, if any, notified, by certified mail, return receipt requested, of the existence and location of oil and/or hazardous material within the AUL area, and the terms of the proposed AUL(or did such holders waive the 45 day prior notification)?	Y	N	No record interest holders	40.1074(1)(e)	
REQUIREMENTS FOR RECORDING/REGISTERING FORM 1075					Reference(s)	Notes
76.	Record the AUL at the Registry of Deeds and/or register at the Land Registration Office.	Y	N		40.1074(3)	
77.	If the land is unregistered: have the AUL marginally referenced on the deed into the Owner of the Property.	Y	N	Not applicable (Property is registered land)	40.1074(3)	
78.	If land is unregistered: record a survey plan of the Property containing the area subject to the AUL as a Plan with the Registry of Deeds prior to or with the recording of the AUL.	Y	N	Not applicable (Property is registered land)	40.1074(2)(a)3	
79.	If land is unregistered and only a Portion of the Property is subject to the AUL: record a survey plan of the Portion of the Property as a Plan with the Registry of Deeds prior to or with the recording of the AUL.	Y	N	Not applicable (entire Property is subject to AUL, or is registered land)	40.1074(2)(a)4.b	

PUBLIC NOTICE REQUIREMENTS				Reference(s)	Notes
80.	Forward a copy of the Form to each of the local officials listed below within 30 days of being recorded or registered: <input type="checkbox"/> Chief Municipal Officer <input type="checkbox"/> Board of Health <input type="checkbox"/> Zoning Official <input type="checkbox"/> Building Code Enforcement Official	Y	N		40.1403(7)(a)
81.	Publish a notice of the AUL in a local newspaper within 30 days of the AUL being recorded or registered, identifying the following: <input type="checkbox"/> The name, complete address, and RTN of the Disposal Site <input type="checkbox"/> The type of Activity and Use Limitation (i.e., Notice of Activity and Use Limitation) <input type="checkbox"/> Information about where the AUL and site file can be reviewed <input type="checkbox"/> The name, address and phone number of the person(s) recording the AUL	Y	N		40.1403(7)(b)
REQUIREMENTS FOR PREPARING NOTICE OF AUL – TRANSMITTAL FORM 113				Reference(s)	Notes
82.	Is the following information about the Disposal Site included? <input type="checkbox"/> Release Tracking Number <input type="checkbox"/> Disposal Site name <input type="checkbox"/> Disposal Site address	Y	N		BWSC Form 113
83.	Is the address of the Property subject to AUL identified, if different from the address of the Disposal Site?	Y	N	Not applicable (addresses of Property and Disposal Site are the same)	BWSC Form 113
84.	Is a box checked to indicate what Form is being submitted?	Y	N		BWSC Form 113
85.	Is the following information about the recording of the AUL included? <input type="checkbox"/> Date AUL was recorded or registered <input type="checkbox"/> Registry or Land Registration Office where AUL was recorded or registered <input type="checkbox"/> One of the following: <input type="checkbox"/> Instrument Number (unregistered land only) <input type="checkbox"/> Book and Page Number (unregistered land only) <input type="checkbox"/> Land Court Document Number (registered land only)	Y	N		BWSC Form 113
86.	Is the following information about the person/organization submitting the Transmittal Form included? <input type="checkbox"/> Name of person/organization <input type="checkbox"/> Contact person (if Transmittal Form 113 is submitted by an organization) <input type="checkbox"/> Address <input type="checkbox"/> Telephone number <input type="checkbox"/> Fax number (if applicable)	Y	N		BWSC Form 113
87.	Is the following information about the property owner(s) included, if property owner is different from person/organization submitting Transmittal Form? <input type="checkbox"/> Name(s) <input type="checkbox"/> Addresses(s) <input type="checkbox"/> Telephone number(s) <input type="checkbox"/> Fax number(s) (if applicable)	Y	N	Not applicable (Transmittal Form 113 submitted by property owner(s))	BWSC Form 113

88.	Is a box checked indicating the relationship of the person submitting Transmittal Form 113 to the Disposal Site?	Y	N		BWSC Form 113	
89.	Is the Transmittal Form signed, dated and certified by person submitting Transmittal Form?	Y	N		BWSC Form 113	
90.	Is the signature dated on or after (not before) the date the AUL was recorded or registered?	Y	N		BWSC Form 113	
91.	Is the following information about the person providing certification included, if not already provided earlier in the Transmittal Form? <input type="checkbox"/> Name <input type="checkbox"/> Addresses <input type="checkbox"/> Telephone number <input type="checkbox"/> Fax number (if applicable)	Y	N	Not applicable (information already provided)	BWSC Form 113	
<b>SUBMITTAL OF AUL DOCUMENTATION TO DEP</b>					<b>Reference(s)</b>	<b>Notes</b>
92.	Within 30 days of recording and/or registering the AUL, send DEP a <u>certified</u> copy of the AUL with proof of recording/registration (i.e., Is Registrar's stamp on the document, indicating it is certified?) If yes, check one of the options below: <input type="checkbox"/> AUL marked with a Registry stamp indicating an Instrument Number (if Property is unregistered land and Book and Page Number have not yet been assigned) <input type="checkbox"/> AUL marked with a Registry stamp indicating a Book and Page Number (if Property is unregistered land and Book and Page Number have been assigned) <input type="checkbox"/> AUL marked with a Land Registration stamp indicating a Land Registration Document Number (if Property is registered land)	Y	N		40.1074(4)(a)	
93.	Within 30 days of recording and/or registering the AUL, send DEP a registry copy of the required survey plan(s) referenced in the AUL, bearing the plan book and plan numbers.	Y	N		40.1074(4)(b)	
94.	If the property subject to the AUL is unregistered land, has DEP been sent a registry copy of the deed into the owner, bearing the marginal reference to the AUL, within 30 days of recording the AUL?	Y	N	Not applicable (property is registered land)	40.1074(4)(c)	
95.	Send DEP a statement from the person(s) signing the AUL certifying that the person(s) or entity(ies) identified as the owner(s) on the AUL owned the Property at the time the AUL was recorded and/or registered.	Y	N		40.1074(1)(f)1	
96.	Send DEP a statement from the person(s) signing the AUL certifying that record interest holders were notified pursuant to 40.1074(1)(e), or that there are no such holders.	Y	N		40.1074(1)(f)2	