

AUL COMPLIANCE ASSISTANCE FORM

Checklist for Notice of Activity and Use Limitation -- MCP as amended through April 3, 2006 -- Form 1075

- NOTE: This checklist is intended to assist parties in preparing and implementing Notices of Activity and Use Limitation (AULs) on Form 1075. For ease of reference in using this checklist, each paragraph of the attached Form 1075 has been labeled or numbered. 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 04/30/06 version of the Form 1075 being used?	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	Not Applicable	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	Not Applicable	Form 1075	
8.	Are the Confirmatory Exhibits accurately attached to the Confirmatory AUL? (For example, is documentation of signatory authority attached as Exhibit E)	Y	N	Not Applicable	Form 1075	
9.	Is the Disposal Site name identified in the Header of Form 1075?	Y	N		40.1074(2)(d)	
10.	Is the DEP Release Tracking Number(s) identified in the Header of Form 1075?	Y	N		40.1074(2)(d)	
11.	Does the Form identify, in Paragraph 1, the date on which the property owner(s) signed the AUL?	Y	N		Form 1075	
12.	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)	
13.	Is (are) the name(s) of property owner(s) consistent in all locations?	Y	N			

14.	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)		
15.	Is (are) the address(es) of the property owner(s) identified in Paragraph 1?	Y	N		Form 1075	
16.	Does the Form indicate, through use of bracketed language in Paragraph 2, whether land is vacant or improved?	Y	N		Form 1075	
17.	Is the address of the Property subject to the AUL identified (City/Town & County) in Paragraph 2?	Y	N		40.1074(2)(a)1	
18.	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	
19.	In Paragraph 3, is reference made to a survey plan of the Property? (Indicate the form of reference below) ___ Registry of Deeds, Plan Book & Plan Number (if Property is unregistered land) ___ Land Court Plan Number (if Property is registered land)	Y	N		40.1074(2)(a)3	
20.	Is it clear that the AUL applies to the entire Property, or only to a Portion of the Property? ___ entire Property ___ Portion of the Property	Y	N		40.1074(2)(a)1	
21.	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	
22.	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)? ___ Paragraph 5 (twice) ___ Paragraph 6 ___ Paragraph 8 ___ Paragraph 9 ___ Paragraph 10 ___ Paragraph 11 ___ Paragraph 13	Y	N		Form 1075	
23.	Is bracketed language indicating Property or Portion of Property consistent in all locations?	Y	N			
24.	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) ___ Registry of Deeds, Plan Book & Plan Number (if Property is unregistered land) ___ 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.	
25.	Is it clear that the area subject to the AUL comprises the entire Disposal Site, or only a Portion of the Disposal Site? ___ entire Disposal Site ___ Portion of Disposal Site	Y	N		Form 1075	
26.	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? ___ Paragraph 5 ___ Paragraph 6	Y	N		Form 1075	
27.	Is bracketed language indicating entire Disposal Site/Portion of Disposal Site consistent in all locations?	Y	N			

28.	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	
29.	Does the Form include, in Paragraph 6, the date of the Activity and Use Limitation Opinion (AUL Opinion)?	Y	N		Form 1075	
30.	Is the purpose of the AUL to maintain a condition of No Significant Risk (NSR), or to maintain a condition of No Substantial Hazard (NSH)?	NSR			Form 1075	
31.	Is bracketed language selected in the following locations, indicating whether the purpose of the AUL is to maintain a condition of NSR, or to maintain a condition of NSH? ___ Paragraph 8 ___ Paragraph 10 ___ Paragraph 11	Y	N		Form 1075	
32.	Is language indicating NSR or NSH consistent in all locations?	Y	N		Form 1075	
33.	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)	
34.	Is the description of permitted activities and uses written in a clear and understandable manner?	Y	N		40.1074(2)(e)	
35.	In Paragraph 9, does the Form include a description of inconsistent activities and uses?	Y	N		40.1074(2)(g)	
36.	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)	
37.	Does AUL limit access to and/or use of groundwater in order to achieve a condition of No Significant Risk?	Y	N		40.1074(1)(d)	
38.	Does AUL identify use of a private well as a drinking water source as an inconsistent use pursuant to 310 CMR 40.0932(5)(d)c?	Y	N	Not applicable	40.1074(1)(d) 40.0932(5)(d)c	
39.	In Paragraph 10, does the Form include a description of obligations and conditions?	Y	N		40.1074(2)(f)	
40.	If yes, is the description of obligations and conditions written in a clear and understandable manner?	Y	N	Not applicable	40.1074(2)(f)	
41.	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			
42.	Is the Form signed by the property owner(s) in Paragraph 17?	Y	N		40.1074(2)(j)	
43.	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)	.
44.	Is (are) the property owner(s)'s signature dated in Paragraph 17?	Y	N		Form 1075	

45.	Is (are) the property owner(s)'s signature(s) properly notarized (i.e., are each of the following requirements met) in Paragraph 18? <input type="checkbox"/> All signatures are notarized <input type="checkbox"/> State and county of notary are identified <input type="checkbox"/> Property owner(s) is/are named in notary block <input type="checkbox"/> Notary signature is present <input type="checkbox"/> Notary signature is dated <input type="checkbox"/> <input type="checkbox"/> Notary seal or stamp is included (required for out-of-state notary; not required for Massachusetts notary)	Y	N		40.1074(2)(j)	
46.	Is the Form signed by an LSP in Paragraph 19?	Y	N		40.1074(2)(j)	
47.	Is the LSP's signature dated in Paragraph 19?	Y	N		40.0015(1)	
48.	Is the LSP's signature dated on or after (not before) the date of owner's signature? Date of LSP's signature <u>10-17-00</u> Date of Owner's signature <u>10-27-00</u>	Y	N			
49.	Is LSP's signature sealed with LSP stamp?	Y	N		40.1074(2)(j)	
50.	Is the LSP's signature properly notarized (i.e., are each of the following requirements met) in Paragraph 20? <input type="checkbox"/> State and county of notary are identified <input type="checkbox"/> LSP is named in notary block <input type="checkbox"/> Notary signature is present <input type="checkbox"/> Notary signature is dated <input type="checkbox"/> <input type="checkbox"/> Notary seal or stamp is included (required for out-of-state notary; not required for Massachusetts notary)	Y	N		40.1074(2)(j)	
REQUIRED ATTACHMENTS TO FORM 1075						
EXHIBITS A, A-1, A-2					Reference(s)	Notes
51.	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): <input type="checkbox"/> Running (metes & bounds) description (if Property is unregistered land) <input type="checkbox"/> Bounding description (if Property is registered land)	Y	N		40.1074(2)(a)2	
52.	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	
53.	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	
54.	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)		

EXHIBIT B					Reference(s)	Notes
55.	Is a sketch plan attached as Exhibit B?	Y	N		40.1074(2)(a)5	
56.	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	
57.	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			
EXHIBIT C					Reference(s)	Notes
58.	Is the Activity and Use Limitation Opinion (AUL Opinion), in narrative form, attached as Exhibit C?	Y	N		40.1074(1)(b)	
59.	Does AUL Opinion specify why AUL is appropriate to achieve and/or maintain a condition of No Significant Risk or to eliminate a substantial hazard?	Y	N		40.1074(1)(b)(1)	
60.	Is the AUL Opinion signed by the LSP?	Y	N		40.0015(1)	
61.	Is the LSP's signature dated?	Y	N		40.0015(1)	
62.	Is the LSP's seal included?	Y	N		40.0015(1)	
EXHIBIT D – BWSC TRANSMITTAL FORM 113A					Reference(s)	Notes
63.	Is Transmittal Form 113A attached as Exhibit D?	Y	N		40.1074(1)(b)	
64.	Is the following information about the Disposal Site included? ___Release Tracking Number ___Disposal Site name ___Disposal Site address	Y	N		BWSC Form 113A	
65.	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 113A	
66.	Is a box checked to indicate what Form the AUL Opinion supports?	Y	N		BWSC Form 113A	
67.	Is the following information about the LSP included? ___Name ___License number ___Telephone number ___Fax number (if applicable)	Y	N		BWSC Form 113A	
68.	Is Transmittal Form 113A signed, dated and sealed by the LSP?	Y	N		BWSC Form 113A	
69.	If Transmittal Form 113A indicates that a response action on which the AUL Opinion is based is subject to an EPA orDEP 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 113A	

EXHIBIT E - SIGNATORY AUTHORITY					Reference(s)	Notes
70.	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
71.	Do the consistent activities and uses in the Form (Paragraph 8) match those permitted in the AUL Opinion (Exhibit C)?	Y	N			
72.	Do the inconsistent activities and uses in the Form (Paragraph 9) match those in the AUL Opinion (Exhibit C)?	Y	N			
73.	Do the conditions and obligations in the Form (Paragraph 10) match those in the AUL Opinion (Exhibit C)?	Y	N			
74.	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)		
75.	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)		
76.	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)		
PUBLIC NOTICE REQUIREMENTS					Reference(s)	Notes
77.	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) BWSC Form 113	
78.	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) BWSC Form 113	
BWSC TRANSMITTAL FORM 113					Reference(s)	Notes
79.	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	

80.	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	
81.	Is a box checked to indicate what Form is being submitted?	Y	N		BWSC Form 113	
82.	Is the following information about the recording of the AUL included? ___ Date AUL was recorded or registered (Missing) ___ Registry or Land Registration Office where AUL was recorded or registered ___ One of the following: (Missing) ___ Instrument Number (unregistered land only) ___ Book and Page Number (unregistered land only) ___ Land Court Document Number (registered land only)	Y	N		BWSC Form 113	.
83.	Is the following information about the person/organization submitting the Transmittal Form included? ___ Name of person/organization ___ Contact person (if Transmittal Form 113 is submitted by an organization) ___ Address ___ Telephone number ___ Fax number (if applicable)	Y	N		BWSC Form 113	
84.	Is the following information about the property owner(s) included, if property owner is different from person/organization submitting Transmittal Form? ___ Name(s) ___ Addresses(s) ___ Telephone number(s) ___ Fax number(s) (if applicable)	Y	N	Not applicable (Transmittal Form 113 submitted by property owner(s))	BWSC Form 113	
85.	Is a box checked indicating the relationship of the person submitting Transmittal Form 113 to the Disposal Site?	Y	N		BWSC Form 113	
86.	Is the Transmittal Form signed, dated and certified by person submitting Transmittal Form?	Y	N		BWSC Form 113	
87.	Is the signature dated on or after (not before) the date the AUL was recorded or registered?	Y	N		BWSC Form 113	
88.	Is the following information about the person providing certification included, if not already provided earlier in the Transmittal Form? ___ Name ___ Addresses ___ Telephone number ___ Fax number (if applicable)	Y	N	Not applicable (information already provided)	BWSC Form 113	
89.	The person(s) or entity(ies) identified as the owner(s) on the AUL has certified that they owned the Property at the time the AUL was recorded and/or registered.	Y	N		40.1074(1)(f)1 BWSC Form 113	
90.	The person(s) signing the AUL has certified 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 BWSC Form 113	
91.	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)?			No record interest holders	40.1074(1)(e)	

SUBMITTAL OF AUL DOCUMENTATION TO MassDEP					Reference(s)	Notes
92.	Was the AUL recorded at the Registry of Deeds and/or registered at the Land Registration Office?	Y	N		40.1074(3)	
93.	If land is unregistered: was a survey plan of the Property containing the area subject to the AUL recorded as a Plan with the Registry of Deeds prior to or with the recording of the AUL?	Y	N	<input type="checkbox"/> Registered <input type="checkbox"/> Unclear	40.1074(2)(a)3	
94.	If land is unregistered and only a Portion of the Property is subject to the AUL: was a survey plan of the Portion of the Property recorded as a Plan with the Registry of Deeds prior to or with the recording of the AUL?	Y	N	<input type="checkbox"/> Not a portion <input type="checkbox"/> Registered <input type="checkbox"/> Unclear	40.1074(2)(a)4.b	
95.	Within 30 days of recording and/or registering the AUL, send MassDEP 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: ___ 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) ___ 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) ___ AUL marked with a Land Registration stamp indicating a Land Registration Document Number (if Property is registered land)	Y	N		40.1074(4)(a)	
96.	Within 30 days of recording and/or registering the AUL, send MassDEP 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)	