



Department of Environmental Protection

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UPDATED

Guidance on Continuity of MassDEP Waste Site Cleanup Operations and MCP Compliance during COVID-19 State of Emergency July 22, 2020

On April 7, 2020, MassDEP's Bureau of Waste Site Cleanup (BWSC) published a fact sheet related to Massachusetts Contingency Plan (MCP, 310 CMR 40.0000) requirements and site work during the COVID-19 State of Emergency (declared by Governor Baker on March 10, 2020). Recent Executive Orders¹ issued by Governor Baker promote the resumption of business and economic activity under the Commonwealth's phased reopening and provide a date certain for the resumption of routine deadlines². This phased reopening has reduced or eliminated obstacles to conducting MCP response actions and meeting response action deadlines. Consistent with these recent Executive Orders, BWSC is providing this updated guidance on the status of BWSC operations and expectations regarding MCP compliance. This guidance supersedes the April 7, 2020 fact sheet and will continue to be updated as needed.

Status of BWSC operations

BWSC continues to deploy emergency response staff to the field. Non-emergency BWSC staff are primarily teleworking and responding to email and voice mail. BWSC staff are resuming some non-emergency field work and site inspections (e.g., audit inspections), following established protocols to ensure public health and safety.

Release Notifications

As has been the case since the start of the State of Emergency, BWSC expects all persons required to notify to make all 2-hour, 72-hour and 120-day release notifications. BWSC continues to assign Release Tracking Numbers and issue Notices of Responsibility in response to notifications.

Immediate Response Actions (IRAs)

Emergency Response staff continue to respond to verbal notifications for 2- and 72-hour notifications and issue oral approvals for Immediate Response Actions (IRAs). This is the opportunity for the persons conducting response actions, the LSP and MassDEP staff to discuss the IRA and any concerns about how potential COVID-19 exposure to response staff or other individuals (e.g., building occupants) may affect the nature and/or timing of necessary activities. BWSC continues to review written IRA Plans. If BWSC elects to not issue a written IRA Plan approval, conditional approval or denial within 21 days while the State of Emergency is in effect, the IRA Plan as submitted is approved. MassDEP recommends sending an email informing the regional Emergency Response Section Chief or staff lead for the IRA that the IRA Plan has been submitted.

¹ For example, COVID-19 Order No.41 (<https://www.mass.gov/doc/covid-19-order-no-41/download>) which addresses professional licenses, and COVID-19 Order No.42 (<https://www.mass.gov/doc/covid-19-order-42-resuming-state-permitting-deadlines/download>) which resumes state permitting deadlines.

² Previous Executives Orders, now rescinded, tied the resumption of normal deadlines to the end of the COVID-19 State of Emergency. The new Orders acknowledge that normal operations will resume before a formal end to the State of Emergency is declared.

Other MCP Response Action Deadlines

Throughout the State of Emergency, BWSC has expected persons conducting response actions to continue to make response action submittals not otherwise addressed in this Guidance (“Routine Submittals”) *to the extent practical* via MassDEP’s electronic document submittal service, eDEP. As of the date of this updated guidance, BWSC expects that all Routine Submittals will be made on or prior to the applicable deadline.

In the April 7, 2020 fact sheet, BWSC instructed persons who were unable to meet deadlines for Routine Submittals due to the suspension of field work or other obstacles caused by the State of Emergency to notify MassDEP in writing using transmittal form BWSC121: Notification of Delay. Included with this notification, persons were expected to indicate the deadline(s) to be missed and the anticipated schedule for meeting the deadline following the easing of restrictions under the State of Emergency. BWSC now expects persons who submitted such Notices of Delay to resume the work necessary to meet the missed deadlines. BWSC regional staff will contact those persons who submitted such Notices of Delay in writing to affirm the schedule for returning to compliance.

Active Remedial Systems

In the April 7, 2020 fact sheet, BWSC stated that Active Remedial Systems with air or surface water discharges should continue to be monitored in compliance with permit and/or regulatory requirements, to the extent circumstances allow and if circumstances did not allow for sufficient monitoring to ensure that discharges would not result in adverse impacts that consideration could be given to suspending these operations unless such termination itself would result in an Imminent Hazard. With this updated guidance, BWSC expects that the operation of any Active Remedial System that was suspended because of the State of Emergency, can now be resumed.

Active Exposure Pathway Mitigation Measures (AEPMMs)

In the April 7, 2020 fact sheet, BWSC stated that all AEPMMs addressing vapor intrusion into buildings or a private drinking water supplies should continue to be operated and that any AEPMM addressing Imminent Hazard conditions should continue to be monitored for effectiveness, with consideration to minimizing potential COVID-19 exposure to response staff or building occupants. With this updated guidance, BWSC’s expectation is that monitoring of all AEPMMs should be resumed according to the established monitoring plan. However, where monitoring necessitates entry into a home or business, the potentially affected occupants should be consulted to agree upon an approach.

Resuming remedial actions and/or construction activities at disposal sites that were secured during the initial State of Emergency

In the April 7, 2020 fact sheet, BWSC stated that stockpiles of Remediation Waste on disposal sites where remedial actions and/or construction activities were suspended due to the State of Emergency should be securely covered, excavations should be backfilled or covered and fenced, and that dust monitoring could be suspended if there were no large areas of exposed contaminated soil and all Remediation Waste stockpiles were covered and secured. With this updated guidance, BWSC expects that management of Remediation Waste at disposal sites will resume in accordance with the MCP provisions, including provisions for its removal from the disposal site.

Ongoing Effects of the COVID-19 Pandemic on Waste Site Cleanup Operations

BWSC urges all persons conducting response actions under the MCP to take appropriate protective measures eliminate or minimize potential exposure to COVID-19 while conducting response actions, including exposure to at-risk individuals who may live or work at disposal sites under investigation. BWSC recognizes that there may be unique conditions at a given site that prevent the resumption of normal operations, despite the easing of restrictions. If response actions cannot be conducted in a manner that is safe and protective for all parties, persons conducting response actions at such sites are encouraged to consult with the appropriate MassDEP regional office to discuss the situation and develop an appropriate approach.

Questions

This guidance is written to address common situations related to conducting and resuming MCP response actions during the State of Emergency and phased reopening. If you believe that you have case-specific circumstances that are not clearly addressed above, MassDEP recommends you contact the appropriate regional office to discuss them.

General questions may be submitted to BWSC.Information@mass.gov and BWSC.Regulations@mass.gov .