



Department of Environmental Protection

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Beth A. Card
Secretary

Martin Suuberg
Commissioner

By electronic mail

October 21, 2022

Town of Pepperell
1 Main Street
Pepperell, MA 01463
amaclean@town.pepperell.ma.us

RE: Pepperell Highway Department
45 Lowell Road
Pepperell, Massachusetts

Attention: Andrew MacLean, Town Administrator

Release Tracking #2-0022097

NOTICE OF RESPONSIBILITY
M.G.L. c. 21E, 40.0000

Dear Mr. MacLean,

Your Licensed Site Professional (LSP) on your behalf, Daniel LaFrance, LSP, notified the Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup (MassDEP) on September 30, 2022, at 01:36 p.m. of a release at 45 Lowell Road in Pepperell, Massachusetts (the Site) indicated by the detection of per- and polyfluoroalkyl substances (PFAS) in groundwater at concentrations above the applicable reportable concentration. PFAS has been detected in public water supply wells located approximately one-third of a mile to the south and southeast, indicating that this release has potentially resulted in a Condition of Substantial Release Migration (SRM) as described below. Such conditions require notification to MassDEP within 72 hours and the performance of an Immediate Response Action (IRA).

MassDEP has identified this property, or portions thereof, as a disposal site which requires a response action. The cleanup of disposal sites is governed by the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c. 21E and the Massachusetts Contingency Plan, (the MCP), 310 CMR 40.0000. MassDEP has assigned Release Tracking Number (RTN) 2-0022097 to this release and IRA conditions.

The purpose of this notice is to inform you that MassDEP, based on the available information, considers you (as used in this Notice, "you" refers to the town of Pepperell) a party with potential liability for response action costs and damages under M.G.L. c. 21E, §5 for this disposal site. This liability is "strict" meaning it is not based on fault, but solely on your status as the current owner of the Site. It is also joint and several, meaning that each person who falls within one of the categories in §5 may be held liable for all response action costs incurred at the disposal site, regardless of the existence of any other liable parties.

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

MassDEP wishes to ensure that you are aware of your rights and responsibilities under the M.G.L. c. 21E, and the MCP. This notice and the attached summary are intended to provide you with information about liability under Chapter 21E to assist you in deciding what actions to take in response to the conditions that are present at this disposal site.

You should be aware that you might have claims against third parties for damages, including claims for contribution or reimbursement for the costs of cleanup. Such claims do not exist indefinitely but are governed by laws that establish the time allowed for bringing litigation. MassDEP encourages you to take any action necessary to protect any such claims you may have against third parties.

SITE INFORMATION

MassDEP has established a Reportable Concentration for groundwater category GW-1 (RCGW-1) of 20 nanograms/liter (ng/L) for the sum of 6 PFAS compounds (PFAS6): perfluorooctanesulfonic acid (PFOS), perfluorooctanoic acid (PFOA), perfluoroheptanoic acid (PFHpA), perfluorodecanoic acid (PFDA), perfluorohexanesulfonic acid (PFHxS), and perfluorononanoic acid (PFNA). Category GW-1 includes groundwater within a current or potential drinking water source area.

On September 30, 2022, Licensed Site Professional (LSP) Dan LaFrance notified MassDEP, on your behalf, that the concentration of PFAS6 in a monitoring well located at the Site was 865 ng/L. This concentration exceeds the applicable RCGW-1 reportable concentration of 20 ng/L for PFAS6. PFAS6 has been detected in the Town's Jersey Street public water supply wells (2232000-02G and -03G) at concentrations up to 15.4 ng/L. These municipal public water supply wells are located approximately 1,800 feet southeast and south, respectively, of the release at the Site, indicating a potential Condition of Substantial Release Migration.

On September 30, 2022, MassDEP verbally approved the IRA proposed by Daniel LaFrance, LSP to conduct IRA assessment activities to further evaluate the SRM condition. On October 14, 2022, MassDEP communicated to Daniel LaFrance, LSP an additional IRA requirement to identify any private potable water supply wells within 500 feet of the release and sample the wells, if any, for PFAS.

NECESSARY RESPONSE ACTIONS AND APPLICABLE DEADLINES

Pursuant to 310 CMR 40.0420, you are required to perform the following actions:

Within 60 days of the date of Notification, you are required to submit to MassDEP a completed Release Notification Form (BWSC-103) and a written IRA Plan, prepared in accordance with 310 CMR 40.0424 and subject to MassDEP approval. Your IRA Plan must include:

- Iterative identification and sampling of all public or private drinking water wells located:
 - a. within 500 feet of any drinking water well where PFAS6 is detected; and/or
 - b. within 500 feet of any groundwater monitoring well where PFAS 6 is detected at concentrations equal to or greater than 20 ng/L.

- You must immediately and continually provide bottled water to any residence where any of the PFAS6 compounds are detected above the laboratory reporting limit in the private well serving the residence. You must evaluate the feasibility of the elimination, prevention, and/or mitigation of CEPs, including installation of POET systems before the IRA shall be considered complete.
- Immediately make arrangements to install a POET for any private drinking water well with concentrations of PFAS6 at or above 20 ng/L.
- Provisions for the continued operation, maintenance, and monitoring of installed POETs, including a monitoring schedule.
- Measures to address CEPs must be implemented immediately upon obtaining knowledge of such CEPs. In addition, the IRA Plan must include measures and a schedule to address any future PFAS detections at other private or public water supply wells that are not considered CEPs, but are considered a condition of SRM (e.g., commercial private wells). Such measures can include, but are not limited to, provision of bottled water or installation of treatment systems.
- A schedule to monitor public and private wells with Site-related PFAS6 concentrations below 20 ng/L.
- Specific plans including a defined schedule to assess wetlands, soil, surface water, and groundwater at the Site and implement response actions necessary to control the source and control contaminant migration from the Site.

Please be advised that September 30, 2022, is the date of release notification for RTN 2-0022097. Unless otherwise stated, this date will be the baseline for calculating compliance of this disposal site with the deadlines contained in the MCP.

No disposal site will be deemed to have had all the necessary and required response actions taken for it unless and until all substantial hazards presented by the release and/or threat of release have been eliminated and a level of no significant risk exists or has been achieved in compliance with M.G.L. c. 21E and the MCP. The MCP requires persons undertaking response actions at a disposal site to submit to MassDEP a Permanent Solution Statement prepared by a Licensed Site Professional upon determining that a level of no significant risk exists or has been achieved at the disposal site.

Unless otherwise provided by MassDEP, responsible parties have one year from the initial date notice of a release or threat of release is provided to MassDEP pursuant to 310 CMR 40.0300 or from the date MassDEP issues a Notice of Responsibility, whichever occurs earlier, to file with MassDEP one of the following submittals: (1) a completed Tier Classification Submittal; or (2) a Permanent Solution Statement; or if applicable, (3) a Downgradient Property Status Submittal. Unless otherwise specified by MassDEP, the deadline for these submittals for this disposal site is **September 30, 2023**.

The MCP requires responsible parties and any other person undertaking response actions to perform Immediate Response Actions in response to sudden releases, Imminent Hazards and Conditions of Substantial Release Migration. Such persons must continue to evaluate the need for Immediate Response Actions and notify MassDEP immediately if such a need exists.

PROCEDURES TO FOLLOW TO UNDERTAKE RESPONSE ACTIONS

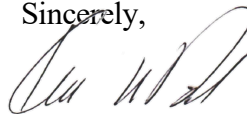
MassDEP encourages parties having liability under M.G.L. c. 21E to take prompt action in response to releases and threats of release of oil and hazardous materials. By taking prompt action, liable parties may significantly lower cleanup costs and avoid the imposition of, or reduce the amount of, certain permit and/or annual compliance assurance fees payable under 310 CMR 4.00. You are encouraged to confer with other potentially responsible parties identified for this disposal site to share information and allocate your responsibilities.

You must continue to employ or engage a Licensed Site Professional (LSP) to manage, supervise or perform all response actions that you intend to undertake at this disposal site. You may obtain a list of the names and addresses of LSPs by visiting <http://www.mass.gov/eea/agencies/lsp>, by contacting the Board of Registration of Hazardous Waste Site Cleanup Professionals by telephone at (617) 556-1091, or in person or by mail at One Winter Street, 3rd Floor, Boston, Massachusetts 02108.

All submittals for this Disposal Site that require an LSP Opinion must be submitted through eDEP, MassDEP's electronic document and form submittal repository. For more information on electronic submittal of forms and reports, please visit MassDEP's website, <http://www.mass.gov/eea/agencies/massdep/service/online/edep-online-filing.html>.

If you have any questions or need additional information, please contact Andrew Salant of MassDEP's Central Regional Office by email at andrew.salant1@mass.gov or phone at 857-972-5731.

Sincerely,



Kevin Daoust
Section Chief
Site Management & Compliance Assistance
Bureau of Waste Site Cleanup

KD\PDV\as

Enclosures.: Summary of Liability Under Chapter 21E, Summary of Fees, Communications Document

ecc: Dan LaFrance, LSP; DLaFrance@fando.com
Pepperell Department of Public Works; dpw@town.pepperell.ma.us
Pepperell Town Engineer; engineer@town.pepperell.ma.us
Pepperell Board of Health; health@town.pepperell.ma.us
Bernard Hayes, OGC, MassDEP-CERO
Mary Jude Pigsley, Regional Director, MassDEP-CERO
Elizabeth Callahan, Acting Assistant Commissioner, MassDEP-Boston
Marielle Stone, Deputy Regional Director BWR, MassDEP-CERO
Douglas Fine, Deputy Regional Director, BAW, MassDEP-CERO
Mark Baldi, Deputy Regional Director, BWSC, MassDEP-CERO
Database Entry [NOR/ISSUED]

SUMMARY OF LIABILITY UNDER CHAPTER 21E

As stated in the Notice of Responsibility accompanying this summary, MassDEP has reason to believe that you are a Potentially Responsible Party ("PRP") with potential liability under M.G.L. c. 21E, section 5, for response action costs and damages to natural resources caused by the release and/or threat of release. MassDEP has identified you as a PRP because it believes you fall within one or more of the following categories of persons made potentially liable by subsection 5(a):

- any current owner or operator of a site from or at which there is or has been a release or threat of release of oil and/or hazardous material;
- any person who owned or operated a site at the time hazardous material was stored or disposed of;
- any person who arranged for the transport, disposal, storage or treatment of hazardous material to or at a site;
- any person who transported hazardous material to a transport, disposal, storage or treatment site from which there is or has been a release or threat of release of such material; and
- any person who otherwise caused or is legally responsible for a release or threat of release of oil or hazardous material at a site.

For purposes of the MCP, you are considered a Responsible Party ("RP") with actual liability under Chapter 21E if you fall within one of these categories unless you (1) are entitled to a defense under section 5 or other applicable law, and (2) have reasonably incurred cleanup costs in an amount equal to or greater than any applicable cap on liability under subsection 5(d).

This liability is "strict," meaning it is not based on fault, but solely on your status as an owner, operator, generator, transporter or disposer. It is also joint and several, meaning that each person who falls within one of these categories may be held liable for all response action costs incurred at the site, regardless of the existence of any other liable parties.

Section 5 provides a few narrowly drawn defenses to liability, including a defense for releases and damages caused by an act of God, an act of war or an act by a third party other than an employee, agent or person with whom the party has a contractual relationship (*see* subsection 5(c)); a defense for certain owners of residential property at which the owner maintains a permanent residence (*see* subsection 5(h)); and a defense for certain public utilities and agencies of the Commonwealth which own a right-of-way that is a site (*see* subsection 5(j)).

You may voluntarily undertake response actions under the MCP without having your liability under Chapter 21E formally adjudicated by MassDEP. If you do not take the necessary response actions, or fail to perform them in an appropriate and timely manner, MassDEP is authorized by Chapter 21E to perform the necessary work.

By taking the necessary response actions, you can avoid liability for response action costs incurred by MassDEP in performing these actions. If you are an RP and you fail to perform necessary response actions at the site, you may be held liable for up to three (3) times all response action costs incurred by MassDEP and sanctions may be imposed on you for failure to perform response actions required by the MCP.

Response action costs include, without limitation, the cost of direct hours spent by Department employees arranging for response actions or overseeing work performed by persons other than MassDEP or its contractors, expenses incurred by MassDEP in support of those direct hours, and payments to MassDEP's contractors (for more detail on cost liability, *see* 310 CMR 40.1200: Cost Recovery). MassDEP may also assess interest on costs incurred at the rate of twelve percent (12%), compounded annually.

Any liability to the Commonwealth under Chapter 21E constitutes a debt to the Commonwealth. To secure payment of this debt, MassDEP may place liens on all of your property in the Commonwealth under M.G.L. c. 21E, section 13. To recover this debt, the Commonwealth may foreclose on these liens or the Attorney General may bring legal action against you.

In addition to your potential liability for response action costs and damages to natural resources caused by the release, civil and criminal liability may also be imposed by a court of competent jurisdiction under M.G.L. c. 21E, section 11, and civil administrative penalties may be assessed by MassDEP under M.G.L. c. 21A, section 16, for each violation of Chapter 21E, the MCP or any order, permit or approval issued thereunder.

If you are an RP and you have reason to believe that your performance of the necessary response actions is beyond your technical, financial or legal ability, you should promptly notify MassDEP in writing of your inability in accordance with Chapter 21E, subsection 5(e), and 310 CMR 40.0172. If you assert and demonstrate in compliance therewith that performing or paying for such response action is beyond your ability, subsection 5(e) provides you with a limited defense to an action by the Commonwealth for recovery of two to three times MassDEP's response action costs and 310 CMR 40.0172 provides you with a limited defense to MassDEP's assessment of civil administrative penalties.



Massachusetts Department of Environmental Protection
One Winter Street, Boston MA 02108 • Phone: 857 262-0606
Communication for Non-English-Speaking Parties - 310 CMR 1.03(5)(a)



1 English:

This document is important and should be translated immediately. If you need this document translated, please contact MassDEP’s Diversity Director at the telephone numbers listed below.



2 Español (Spanish):

Este documento es importante y debe ser traducido inmediatamente. Si necesita este documento traducido, comuníquese con el Director de Diversidad de MassDEP a los números de teléfono que aparecen más abajo.



3 Português (Portuguese):

Este documento é importante e deve ser traduzido imediatamente. Se você precisa deste documento traduzido, entre em contato com Diretor de Diversidade da MassDEP para os números de telefone listados abaixo.



4(a) 中國（傳統） (Chinese (Traditional)):

本文件非常重要，應立即翻譯。如果您需要翻譯這份文件，請用下面列出的電話號碼與 MassDEP 的多元化總監聯繫。



4(b) 中国（简体中文） (Chinese (Simplified)):

本文件非常重要，应立即翻译。如果您需要翻译这份文件，请用下面列出的电话号码与 MassDEP 的多元化总监联系。



5 Ayisyen (franse kreyòl) (Haitian) (French Creole):

Dokiman sa-a se yon bagay enpòtan epi yo ta dwe tradui imedyatman. Si ou bezwen dokiman sa a tradui, tanpri kontakte Divèsite Direktè MassDEP a nan nimewo telefòn ki nan lis pi ba a.



6 Việt (Vietnamese):

Tài liệu này rất quan trọng và cần được dịch ngay lập tức. Nếu bạn cần dịch tài liệu này, xin vui lòng liên hệ với Giám đốc Đa dạng của MassDEP theo các số điện thoại được liệt kê dưới đây.



7 ប្រទេសកម្ពុជា (Kmer (Cambodian)):

ឯកសារនេះគឺមានសារៈសំខាន់និងគួរត្រូវបានបកប្រែភ្លាម។ ប្រសិនបើអ្នកត្រូវបានបកប្រែឯកសារនេះសូមទំនាក់ទំនងឆ្នោតជំនួយក MassDEP នៅលេខទូរស័ព្ទដែលបានរាយខាងក្រោម។



8 Kriolu Kabuverdianu (Cape Verdean):

Es documento é importante e deve ser traduzido imidiatamente. Se bo precisa des documento traduzido, por favor contacta Director de Diversidade na MassDEP’s pa es numero indicode li d’boche.



9 Русский язык (Russian):

Это важный документ и он должен быть безотлагательно переведен. Если вам нужен перевод данного документа, пожалуйста, свяжитесь с директором по разнообразию компании MassDEP по телефону указанному ниже



10 العربية (Arabic):

هذه الوثيقة مهمة ويجب ترجمتها على الفور. إذا لزم الأمر، يرجى الاتصال بمدير التنوع في PMassDE على أرقام الهواتف المدرجة أدناه.



11 한국어 (Korean):

이 문서는 중요하고 즉시 번역해야 합니다. 이 문서의 번역이 필요하시다면, 아래의 전화 번호로 MassDEP의 다양성 감독에 문의하시기 바랍니다.



12 հայերեն (Armenian):

Այս փաստաթուղթը շատ կարևոր է եւ պէտք է թարգմանել անմիջապես. Եթե Ձեզ անհրաժեշտ է այս փաստաթուղթը թարգմանվել դիմել MassDEP բազմազանությունը տնօրեն է հեռախոսահամարների թվարկված են ստորև.



13 فarsi (Farsi [Persian]):

بی سنند مهم است و بی فوراً ترجمه شده است. اگر شما نیاز به بی سن ترجمه شده، لطفاً ما تماس بگیرید PMassDE در شماره تلفن های گسترده در زیر.



14 Français (French):

Ce document est important et devrait être traduit immédiatement. Si vous avez besoin de ce document traduit, s'il vous plaît communiquer avec le directeur de la diversité MassDEP aux numéros de téléphone indiqués ci-dessous.



15 Deutsch (German):

Dieses Dokument ist wichtig und sollte sofort übersetzt werden. Sofern Sie die Übersetzung von diesem Dokument benötigen, wenden Sie sich bitte an den Diversity Director MassDEP unter der unten aufgeführten Telefonnummer.



16 Ελληνική (Greek):

Το παρόν έγγραφο είναι σημαντικό και θα πρέπει να μεταφραστεί αμέσως. Αν χρειάζεστε μετάφραση του παρόντος εγγράφου, παρακαλούμε επικοινωνήστε με τον Διευθυντή Διαφορετικότητας του MassDEP στους αριθμούς τηλεφώνου που αναγράφονται παρακάτω.



17 Italiano (Italian):

Questo documento è importante e dovrebbe essere tradotto immediatamente. Se avete bisogno di questo documento tradotto, si prega di contattare il Direttore di Diversità di MassDEP ai numeri di telefono elencati di seguito.



18 Język Polski (Polish):

Dokument ten jest ważny i powinien zostać natychmiast przetłumaczony. Jeśli potrzebujesz przetłumaczonej wersji dokumentu, prosimy o kontakt z dyrektorem ds. różnorodności MassDEP pod jednym z numerów telefonu wymienionych poniżej.



19 हिन्दी (Hindi):

यह दस्तावेज़ महत्वपूर्ण है और तुरंत अनुवाद किया जाना चाहिए. यदि आपको इस दस्तावेज़ का अनुवाद करने की आवश्यकता है, तो कृपया नीचे सूचीबद्ध टेलीफोन नंबरों पर मासडेप्स डाइवर्सिटी के निदेशक से संपर्क करें।.

Please Be Aware of MassDEP Fees

Unless response actions at this site are completed within one year of the release notification date, you will be billed an Annual Compliance Assurance Fee by MassDEP for each year thereafter up to and including the year in which a Permanent Solution is achieved and filed for this disposal site. Annual Compliance Assurance Fees cover a portion of MassDEP's costs for ensuring compliance of response actions with the Massachusetts Contingency Plan. Annual Compliance Assurance Fees are issued pursuant to M.G.L. chapter 21E Section 3B and 310 CMR 4.00, the *Timely Action Schedule and Fee Provisions*. Fee categories and rates are summarized as shown below. Fees invoiced by MassDEP are considered a debt to the Commonwealth. Unpaid fee invoices are typically referred for collection action. Contact your Licensed Site Professional to discuss what is necessary to *complete the response actions required for this site as quickly as possible*. For more information on the Annual Compliance Assurance Fees that apply in your case, see the "Fees and Payments" entry at <https://www.mass.gov/lists/site-cleanup-fact-sheets> or contact your Licensed Site Professional or the MassDEP Fee inquiry line at (617) 292-5545.

A thorough & timely cleanup will result in fewer MassDEP Fees.

SUMMARY OF MassDEP ANNUAL COMPLIANCE ASSURANCE FEES

Type	Fee Category	Timing of Submittal (for One-Time fees)			Fee Rate	
		Within 120 days of initial notification	After 120 days and prior to Tier Classification	After Tier Classification	Non-Homeowner	Homeowner ³
One-Time Fees¹	Permanent Solution	---	Permanent Solution Fee	See Note ⁴	\$1,470	\$735
	RAM Plan	RAM Fee	RAM Fee	---	\$980	\$490
	DPS	DPS Fee	DPS Fee	---	\$1,965	\$1,965
	Notice of AUL	AUL Fee	AUL Fee	AUL Fee ⁵	\$2,000	\$1,000
Regular Annual Fees²	Tier ID				\$4,915	\$2,455
	Tier I				\$4,320	\$1,225
	Tier II				\$2,455	\$1,225
	Temporary Solution				\$980	\$490
	Phase V				\$980	\$490

Notes: 1. One-Time Fees must be paid when submittal is made.

BWSC 12-5-2018

2. Regular Annual Fees are billed by MassDEP after Tier Classification; Fee Category is based on Status of site on each Annual Status Date.

3: Completed Homeowner Certification Form BWSC120 is required to qualify for lower Homeowner fee rates.

4: One-Time Permanent Solution Fee also applies if site is Tier ID and submittal is made within first 90 days after initial Status Date.

5: One-Time AUL Fee is applicable for a Notice of AUL filed prior to or concurrent with a Permanent Solution.