

## Summary of Various MCP Amendments, February 2024

1. **Historic Fill Definition (40.0006)**: This amendment removes the term “reworked soils” because its meaning was unclear.
2. **Anthropogenic Background Definition (40.0006)**: This amendment adds, to the definition of Anthropogenic Background, impacts attributable to coal, coal ash, or wood ash, excluding ash landfills or wood ash resulting from the combustion of lumber or wood products that have been treated with chemical preservatives.
3. **Non-potential Drinking Water Source Area Definition (40.0006)**: This amendment adds permitted landfills and wastewater residuals “monofills” to the list of land uses that could be included in identifying land use that qualifies as NPDWSA within the boundaries of a Potentially Productive Aquifer. It also makes the term consistent with Massachusetts Drinking Water Regulations Groundwater Supply Protection provisions (310 CMR 22.21) which prohibit the siting of such land uses within Zone II of a public drinking water supply well.
4. **Well Installation, Geolocation, Maintenance and Security (40.0028)**: This amendment requires that latitude and longitude information for any wells installed at MCP sites be provided by RPs, PRPs, and other persons undertaking these response actions. It also requires that wells be maintained and secured not just throughout their period of service, but until they are properly decommissioned.
5. **Management Procedures for Remediation Waste (40.0031(8))**: This amendment prohibits the mixing or dilution of Remediation Waste with environmental media that contains significantly lower concentrations of OHM, except for the addition of Remedial Additives or amendments to achieve specific remedial or geotechnical goals (not including dilution). Officially, the “Solution to Pollution” is no longer “Dilution.” The amendment also clarifies that Remediation Waste must be managed as such even if mixed with environmental media that are not Remediation Waste.
6. **Requirements for the Application of Remedial Additives Near Sensitive Receptors (40.0046(3)(a)5)**: This amendment clarifies that application of remedial additives within 100 feet of a School, Daycare, Child Care Center, or occupied Residential Dwelling requires prior approval by MassDEP only if such additives contain or are used to treat VOCs, or have the potential to volatilize OHM. Pre-existing distance triggers for other remedial additive applications remain unchanged. The amended regulations also clarify

the Plans in which a request for approval may be submitted and shortens the presumptive approval period to 21 days. This amendment also requires that if remedial additives are used to treat above-ground soils, engineering controls must be used to prevent fugitive emissions and potential exposures to the nearby sensitive receptors.

7. **Radioactive Material (40.0115)**: This amendment clarifies oversight of Response Actions for Radioactive Material (now a defined term at 40.0006) at Licensed and Non-Licensed facilities. Response actions at sites and facilities licensed and overseen by the Massachusetts Department of Public Health (DPH) under the provisions of 105 CMR 120.000, The Control of Radiation, are deemed Adequately Regulated with respect to releases of Radioactive Materials, but releases of other OHM at Licensed Facilities are subject to 310 CMR 40.0000. Response actions at sites not licensed and overseen by the Massachusetts DPH under the provisions of 105 CMR 120.000, The Control of Radiation, are subject to 310 CMR 40.0000, and all Permanent and Temporary Solutions achieved at such Non-licensed Sites shall require the implementation of an AUL documenting the nature and location of Radioactive Materials emitting Radiation above background levels and obligations and conditions for preventing exposures to such Radioactive Materials.
8. **Releases and Threats of Release (TOR) Which Do Not Require Notifications (40.0317)**: This amendment clarifies that the Reportable Quantity does apply to a release of oil that exceeds the capacity of a properly functioning oil/water separator. The amendment also clarifies that the exemption for soils going to a licensed, permitted or approved facility (e.g., a COMM-15 facility) also applies to any soil coming from locations that are not MCP disposal sites. The amendment also expands the exemption associated with leakage and discharges of water from a public water supply or distribution system to include other trihalomethanes that may be present in drinking water as the result of chlorination. There is a new notification exemption for liquid N<sub>2</sub> and liquid O<sub>2</sub> releases, provided that such releases are managed according to requirements specified by local public safety officials overseeing the response to such releases.
9. **AULs Where NAPL is Present (40.1012)**: Because the presence of NAPL at a thickness greater than ½ inch could indicate that “NAPL with Micro-scale Mobility” is present, this amendment clarifies that an AUL is required for a Permanent Solution when the thickness of visible NAPL in an excavation, boring or monitoring well remaining at such disposal sites is or is anticipated to be greater than ½ inch, making the regulations consistent with the previously-released LNAPL guidance.
10. **Minimum Public Involvement Activities (40.1403)**: This amendment explicitly allows email as an acceptable method of notice, upon mutual agreement of the local officials and the notifying party.

11. **Minimum Public Involvement Activities (40.1403(11)(a)):** These amendments clarify notification requirements for IRAs being conducted to address conditions that pose an IH or CEP.