



Massachusetts  
Department  
of  
ENVIRONMENTAL  
PROTECTION

# Audit Fact Sheet

## Authority, Mandate, and Funding for Audits

The Massachusetts Department of Environmental Protection (MassDEP) is required to audit response actions at disposal sites by M.G.L. Chapter 21E s. 3A(o). Regulations that govern the audit process are contained in the Massachusetts Contingency Plan (MCP) (310 CMR 40.1100). M.G.L. c. 21E and the MCP also give MassDEP the authority to inspect sites, collect environmental samples, and require that pertinent site information be submitted.

## What is an audit?

An audit is a review of documents or submittals to verify that response actions have been conducted in compliance with MGL c. 21E and the Massachusetts Contingency Plan (MCP). A site could be randomly selected from a pool of submittals, or a specific submittal could be targeted for an audit (e.g. IRA Status Report, Phase II, or Permanent or Temporary Solution Statement).

## What are the steps if my site is audited?

For audits involving a site visit, you will receive a Notice that your site is undergoing an audit. An auditor will review the file and schedule a site visit. You may be asked for clarification or further information to support the LSP Opinion. The Department will summarize its review in a Notice of Audit Findings which identifies any violations or deficiencies and actions necessary to correct them.

## What is the Goal of an Audit?

Audits ensure compliance with M.G.L. c. 21E and the MCP by verifying that response actions have been conducted according to applicable MCP requirements. The audit focuses on determining whether human health, safety, public welfare, and the environment have been adequately protected by response actions conducted at the site. Overall, the MassDEP audit program has been designed to ensure:

- **Compliance** with M.G.L. c. 21E, the MCP, and other applicable requirements.
- **Consistency** of audits within and across MassDEP regions.
- **Credibility** to maintain public confidence that response actions that have little or no direct MassDEP oversight are being performed in a proper and timely manner.
- **Commitment** to achieving the audit target in M.G.L. c. 21E.

## How does MassDEP Conduct an Audit?

MassDEP conducts three different types of audits, which are referred to as a **Level 1 Audit**, **Level 2 Audit**, and **Level 3 Audit**, described below. Each audit type provides varying degrees of review. In general, MassDEP auditing activities include:

- Auditing sites, specific response actions, Responsible Parties (RPs), Potentially Responsible Parties (PRPs), or Other Persons (OPs).
- Selecting sites for audit at random, or on a targeted basis.
- Bringing sites back into the system whenever invalid Response Action Statements are identified.
- Taking enforcement actions for violations at any time in the process.

## What is a Level 1 Audit?

**Level 1 (L1) Audits** provide a screening review of documentation submitted to MassDEP (and located in MassDEP files) using standardized technical screening forms. Sites selected for a L1 audit do not receive a Notice of Audit. The technical screening helps MassDEP identify potential time-critical conditions, Immediate Response Action (IRA) conditions, or Imminent Hazards (IH) that may require immediate attention. L1 Audits also:

- Identify sites or response actions for a targeted L2 or L3 audit and/or further MassDEP involvement.
- Usually do not require specific follow-up.
- Typically focus on the specific response action submittal, although supplemental information may or may not be reviewed.
- When completed, auditors discuss the findings with regional audit chiefs and the screening forms are placed in MassDEP site files.

L1 audit technical screening forms are response-action specific. The standard forms, in checklist format, are available at [Technical Screening Audit Forms/Checklists](#) . The majority of Permanent or Temporary Solution Statements will receive at least an L1 Audit.

## What is a Level 2 Audit?

**Level 2 (L2) Audits** evaluate specific on-going assessment and remedial response actions at active or conditionally closed sites, e.g., Remedy Operation Status (ROS) or an Activity & Use Limitation (AUL). L2 Audits include:

- A focused examination of pertinent documents in MassDEP site files.
- An inspection of the site, collection of samples, or other actions as required.
- Reasonable notice before the inspection, which is generally oral, but may consist of a written **Notice of Audit** (NOA) in some cases. The NOA may include a request for information or a request to meet with MassDEP.
- A written **Notice of Audit Finding** (NOAF), issued at the conclusion of the L2 Audit.

## What is a Level 3 Audit?

**Level 3 (L3) Audits** are assigned by regional section chiefs and may be based on: results from L1 or L2 audits and specific concerns about sensitive receptors, local conditions, potential risks or other flags identified in the L1 Audit. L3 Audits include:

- An examination of all documents in MassDEP site files for a specific site.
- A written NOA that may also include: (1) a request for information, (2) a request to meet with MassDEP, (3) a site inspection, (4) collection of samples, or (5) other actions as required.
- A NOAF at the conclusion of the L3 Audit.

## What are My Responsibilities in an Audit?

Whether you are a RP, PRP, or OP you have two principal obligations during an audit:

- You must respond to any "Requests For Information" (RFI) from MassDEP pursuant to M.G.L. Chapter 21E s.s. 2, 4, and 8 and the MCP [(310 CMR 40.0165(1-5) and 40.1120(1)(b & c)].
- You must allow entry to the site by MassDEP staff, agents, and contractors so they can sample or inspect any records, conditions, equipment, practices, or property pursuant to M.G.L. Chapter 21E s. 8 and the MCP (310 CMR 40.0166). MassDEP, however, must arrange such entry at reasonable times and give you reasonable notice (at least 24 hour prior notice).

## Am I Required to Engage the Expertise of Others?

The RP, PRP, or OP to whom the NOAF is addressed is responsible for responding to the audit and complying with any requests made by MassDEP. However, you may engage or may be required to engage the expertise of a Licensed Site Professional (LSP) when responding to the audit. If the audit requests additional follow-up information and/or directs you to submit a **Post-Audit Completion Statement** (P-ACS) to accompany the information requested, an LSP must be hired. Additional information on the LSP profession and hiring LSPs can be found at the Board of Registration of Hazardous Waste Site Cleanup Professional's [web site](#) .

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Executive Office of  
Energy & Environmental Affairs  
Matthew A. Beaton, Secretary

Department of  
Environmental Protection  
Martin Suuberg, Commissioner

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This information is available in  
alternate format by calling our  
ADA Coordinator at  
(617) 292-5565.



## How long will the Audit take?

Depending on the type of audit, it may take a single day or up to several months or more to complete. The length of time will depend on audit findings and any necessary actions. For example:

- An audit could end quickly if a file review raises no questions and/or reveals no deficiencies or violations.
- An audit could take several weeks to months to complete if information is unavailable, and/or deficiencies or violations are discovered.

## What May Happen if Violations are Found?

If the audit uncovers violations, at the conclusion of the audit MassDEP will issue a NOAF, which may include a **Notice of Noncompliance (NON)** that may:

- Require you to correct those violations within a specified **Deadline**.
- Require you to provide additional information, assessments, or technical justification(s) within a specified **Interim Deadline**.
- Require you to submit an **Audit Follow-up Plan**, which will require MassDEP approval before it is implemented.
- **Invalidate** the submittal and require additional response actions to be conducted to return the site to compliance.

Once these activities are completed, a Post-Audit Completions Statement (P-ACS) must be submitted to MassDEP together with the required documentation. Bureau of Waste Site Cleanup (BWSC) Transmittal Form 111 must also be submitted for both the Audit Follow-up Plan and the P-ACS, and can be found at BWSC's Transmittal Form Page. The audit is considered closed after the P-ACS, with the signatures of the RP, PRP, or OP and the LSP-of-Record, is submitted. These response actions may also be selected for a random or targeted audit.

## Will MassDEP Take any Other Actions if Violations are Discovered?

MassDEP may also initiate **enforcement** actions for violations found at any time during or after an audit. Enforcement actions may include issuance of a: NON, Notice of Intent to Assess a Civil Penalty, Notice of Enforcement Conference, Notice of Responsibility, Notice of Response Action, MassDEP Order, and/or referrals to the Attorney General's Office or Licensed Site Professionals Board. MassDEP is not required to issue a Notice of Audit Finding if doing so might jeopardize enforcement actions at a site. Additional information can be found at MassDEP's [Enforcement Regulations, Policies, and Guidance](#) page.

## Who Should I Talk to if I Have Questions About an Audit Finding?

You may call or write the auditor or the contact person listed in the NOAF. If you disagree with the findings of the NOAF, you may submit the matter to the BWSC Deputy Regional Director for investigation/resolution.

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