



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner



March 11, 2019

Nantucket Memorial Airport
ATTN: Thomas Rafter, Airport Manager
14 Airport Road
Nantucket, MA 02554

RE: **NANTUCKET**
Nantucket Memorial Airport
14 Airport Road
**REQUEST FOR INFORMATION/
INTERIM DEADLINE**

**This is an important notice.
Promptly respond to any requests contained herein.
Failure to respond to any requests herein could result in
serious legal consequences.**

Dear Mr. Rafter,

The Massachusetts Department of Environmental Protection (MassDEP or the Department), Bureau of Waste Site Cleanup is tasked with ensuring the cleanup of oil and hazardous material releases pursuant to the Massachusetts Oil and Hazardous Material Release Prevention and Response Act (M.G.L. Chapter 21E). This law is implemented through regulations known as the Massachusetts Contingency Plan (310 CMR 40.0000 et seq. – the MCP). Both M.G.L. c 21E and the MCP require the performance of response actions to provide for protection of harm to health, safety, public welfare and the environment which may result from releases and/or threats of releases of oil and/or hazardous material (OHM) at disposal sites.

Recently, the United States Environmental Protection Agency (EPA) released the results of samples collected from public water supplies analyzed for Perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) (collectively known as perfluoroalkyl substances or PFAS). PFAS have been widely used in industrial and consumer applications, including stain- and water-resistant coatings for fabrics and carpets, oil-resistant coating for paper products approved for food contact, mining and oil well surfactants, floor polishes, insecticide formulations and aqueous film forming foam (AFFF). As a follow-up to the testing of the public water supply wells, MassDEP is investigating the current and historic use of AFFF at airports in the Commonwealth.

BACKGROUND INFORMATION

In May 2012, the EPA published the final rule "Revisions to the Unregulated Contaminant Monitoring Rule (UCMR3) for Public Water Systems" indicating that thirty chemical constituents that have not historically been considered as drinking water contaminants would be analyzed in samples collected from wells serving large public water systems and a representative number of public water systems serving less than 10,000 people from 2013 to 2015.

The contaminants to be analyzed included, among other compounds, PFAS, including PFOS and PFOA. PFAS are considered "emerging contaminants" which are contaminants that were previously unregulated by any state or the federal government but due to increasing concerns about their widespread use, reports of their presence in public water supplies, and a growing body of information that the toxicity, mobility and bioaccumulation potential of these compounds have the potential to pose adverse effects to human health and the environment

In May 2016, the EPA promulgated a Health Advisory (HA) for PFAS of 0.07 micrograms per liter ($\mu\text{g/L}$) for PFOS and PFOA combined. The EPA "Fact Sheet, PFOS and PFOA Drinking Water Health Advisories" states that if both PFOS and PFOA are detected, the combined concentrations should be compared to the 0.07 $\mu\text{g/L}$ lifetime HA. The EPA health advisory is based on the best available peer-reviewed studies of the effects of PFOA and PFOS on laboratory animals (rats and mice), and was also informed by epidemiological studies of human populations that have been exposed to PFAS. These studies indicate that exposure to PFOA and PFOS over certain concentrations may result in adverse health effects, including developmental effects to fetuses during pregnancy or to breastfed infants (e.g., low birth weight, accelerated puberty, skeletal variations), cancer (e.g., testicular, kidney), liver effects (e.g., tissue damage), immune effects (e.g., antibody production and immunity), thyroid effects and other effects (e.g., cholesterol changes).

In June 2018, using updated information since the EPA's promulgation of the HA in May 2016, MassDEP developed an Office of Research and Standards Guidance (ORSG) value for five PFAS compounds – PFOA, PFAS, perfluorononanoic acid (PFNA), perfluorohexanesulfonic acid (PFHxS), and perfluoroheptanoic acid (PFHpA). The ORSG value is 0.070 $\mu\text{g/L}$, individually or added together. Note that research on PFAS is ongoing, and risk information is constantly being updated.

Given the above, PFAS are therefore considered a hazardous material pursuant to the MCP, specifically 310 CMR 40.0342(1)(a) and are subject to the requirements of M.G.L. c. 21E and the MCP. Since AFFF is commonly used at airports to suppress fires, and private drinking water wells are located in the vicinity of the Nantucket Memorial Airport, MassDEP is requesting information from you relative to the current and past use of use AFFF at Nantucket Memorial Airport ("the Airport").

REQUEST FOR INFORMATION

Pursuant to the Department's authority under M.G.L. c. 21E, sections 2, 4, and 8, and the Massachusetts Contingency Plan, 310 CMR 40.0165, and 310 CMR 40.1120(1), any employee(s), attorney(s), agent(s), assign(s), representative(s), and/or any other person or entity acting on behalf of you (as used in this letter, "you" and "your" and "the Respondent" refer to the Nantucket Memorial Airport), however designated, are asked to provide the Department with the information requested in the enclosed and incorporated REQUEST FOR INFORMATION (Attachment A). All requested information should be provided to the Department on or before the close of business on **April 19, 2019**. This date constitutes

an enforceable Interim Deadline established by the Department pursuant to 310 CMR 40.0167. Failure to comply with an Interim Deadline may result in enforcement actions by the MassDEP, including, but not limited to, the issuance of a Notice of Noncompliance, an Administrative Penalty, and/or Enforcement Orders, or, referral to the Massachusetts Attorney General's Office.

Enclosed and incorporated with this Letter and REQUEST FOR INFORMATION is an INSTRUCTION SUMMARY (Attachment B) providing the information necessary to submit an accurate and complete response.

If you anticipate, or have reason to know, that any of the conditions, requirements, or obligations attendant to submitting an appropriate response to this REQUEST FOR INFORMATION may not be complied with, or if there is any ambiguity, confusion, or question concerning this REQUEST FOR INFORMATION, please contact Angela Gallagher at the letterhead address, or by telephone at (508) 946-2790 within seven days of your receipt of this letter. Thank you for your anticipated cooperation in this effort.

Sincerely,



Gerard M.R. Martin
Deputy Regional Director
Bureau of Waste Site Cleanup

M/JH/AG/lg

Attachments: A. Request For Information
B. Instruction Summary

CERTIFIED MAIL # 7017 1450 0000 0281 9386
RETURN RECEIPT REQUESTED

ec: Town of Nantucket
Board of Health
Selectmen's Office

DEP – SERO

Millie Garcia-Serrano, Regional Director
Angela Gallagher, Project Manager, BWSC, Brownfields, C&E, and Risk Reduction Section

DEP – Boston

Paul Locke, BWSC Assistant Commissioner

Attachment A

**REQUEST FOR INFORMATION PURSUANT TO
M.G.L. c. 21E AND 310 CMR 40.0000 ET SEQ.**

Consistent with the instructions set forth in the incorporated Instruction Summary, please respond to the following request:

1. Please state the full legal name of the Respondent.
2. Please state the nature of the Respondent's relationship to the Airport (*i.e.*, is it the owner, lessor, operator, etc.?).
3. Identify whether the Respondent oversees emergency preparedness at Airport, including management of Aqueous Film Forming Foams (AFFFs) on the property.
4. If the Respondent does not oversee emergency preparedness at the Airport, please indicate who does.
5. Does the Respondent have, or has it ever had, Part 139 Certification from the FAA?
6. Identify of the purposes for which AFFFs were used at the Airport, including fire suppression and prevention, and including training and demonstrations including those required for FAA certifications.
7. Identify the current and past amounts of stockpiles, purchases, and donations of AFFFs. Include the brand name and any MSDS associated with any AFFFs.
8. Identify any areas at the Airport, at an auxiliary facility, or immediately surrounding the Airport where AFFFs were used, including during training events.
9. Identify all dates when AFFFs were used for training events, emergencies, or otherwise.
10. Are there structures at the Airport used to contain AFFF when it is deployed?
11. Has the Respondent ever sampled/analyzed its stores of AFFF at the Airport? If so, please provide the analytical data.
12. Identify the location of any on-site groundwater supply wells or monitoring wells at the Airport.
13. Has the Respondent ever sampled groundwater at or around the Airport for perfluoroalkyl substances? If so, include the results of that sampling, the analytical data, and the well construction details.

Please be advised that the Department hereby requests a reply by April 19, 2019. This date constitutes an Interim Deadline, pursuant to 310 CMR 40.0167.

Please give this matter your immediate attention. Your response must be sent to Angela Gallagher, Bureau of Waste Site Cleanup, Department of Environmental Protection, 20 Riverside Drive, Lakeville, Massachusetts 02347. If you have any questions regarding the information requested herein, please contact Angela Gallagher at the letterhead address, or by telephone at (508) 946-2790.

Thank you for your anticipated cooperation.

Attachment B

INSTRUCTION SUMMARY FOR SUBMITTING RESPONSE TO REQUEST FOR INFORMATION PURSUANT TO M.G.L. c.21E, SECTIONS 2, 4 & 8

I. General Instructions

Pursuant to M.G.L. c.21E and the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000, you are required to complete and submit the enclosed REQUEST FOR INFORMATION ("REQUEST") in the manner and form described below. Failure to submit an accurate and complete response may result in the commencement of legal action against you by the Department. You have a continuing obligation to supplement and/or update responses provided upon obtaining new information material to any REQUEST, or to correct any errors or omissions in any response thereto.

The fact that an investigation is or may be ongoing shall not excuse failure to respond to each REQUEST as fully as possible.

II. Form of Responses

Submit your responses with a dated cover letter by the required deadline. Each response should be set out in a separate, numbered paragraph that corresponds to the REQUEST being answered.

You have an obligation to provide the best information available. Accordingly, you should seek out responsive information from all relevant sources. If specific information has not been memorialized but is responsive to the REQUEST, your response must include that information. Submission of cursory responses when other responsive information is available will be considered noncompliance with this Request.

For each REQUEST and subpart, if the information responsive to the REQUEST is not in your possession, custody, or control, please: (1) undertake reasonable efforts to obtain the information; (2) state what measures you took to obtain that information, if unsuccessful; and (3) identify the person(s) and/or entity(ies) who have or maintain such custody or control over the information, if known.

Unless otherwise specified, attach a legible photocopy of each and every document identified in your response, numbered according to the specific REQUEST to which it responds, unless the information is maintained or stored in such a manner that makes it impossible to submit a photocopy. For any information that does not exist in such a reproducible format, please identify the information and the manner and format in which it is stored or maintained.

III. Confidentiality

For each and every document or part thereof which you claim is protected from disclosure by 310 CMR 40.4011, you must separate the portions of the document(s) for which such protection is not claimed, and, pursuant to 310 CMR 3.00, state the nature of the protected information and the basis for your claim of protection from disclosure.

IV. Personal Privacy Information

Personnel, medical, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses, included on separate sheets, and marked as "Personal Privacy Information." However, unless prohibited by law, the Department may disclose this information to the general public without further notice to you.

V. Deadline

If you know or anticipate that you cannot comply with the deadline set by this REQUEST FOR INFORMATION, submit to the letterhead address and Department employee named in this letter a written request for extension pursuant to 310 CMR 40.0167(2) as soon as possible.

VI. Certification

Your response to this REQUEST FOR INFORMATION is subject to the provisions of 310 CMR 40.0009 and must be certified consistent with its requirements. **Please use Attachment C - Certification of Submittal for this purpose.**

In relevant part, 310 CMR 40.0009: Certification of Submittal, states as follows:

- (1) Any person undertaking a response action shall include the following written declaration...:

"I, _____, attest under the pains and penalties of perjury (i) that I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this submittal, (ii) that, based on my inquiry of those individuals immediately responsible for obtaining the information, the material information contained in this submittal is, to the best of my knowledge and belief, true, accurate and complete, and (iii) that I am fully authorized to make this attestation on behalf of the person or entity legally responsible for this submittal. I/the person or entity on whose behalf this submittal is made am/is aware that there are significant penalties, including, but not limited to, possible fines and imprisonment, for willfully submitting false, inaccurate or incomplete information."

By: _____
Signature Date

Title

For: _____
Name of person or entity

- (2) Th[is] written declaration...shall be made by the highest ranking individual having day-to-day responsibility for the performance of the response action which is the subject of the submittal. The written declaration shall not be made by the Licensed Site Professional engaged or employed by the RP, PRP, or Other Person to render

Professional Services with respect to the site, unless the Licensed Site Professional's client or employer has authorized him or her in writing to act as his or her agent for the purpose of making the written declaration.

- (3) Th[is] written declaration...shall include the signature of each person making the certification, the date of each person's written declaration and the position or office of each such person.

VII. Definitions

Unless otherwise specified, words and phrases used in this REQUEST FOR INFORMATION shall have the meaning ascribed to them by M.G.L. c.21E, § 2 and/or 310 CMR 40.0006, unless the context therein clearly indicates otherwise. In all instances, (1) the use of a singular form includes the use of the plural form as well, and (2) a capital letter designation includes a small type-face designation, if appropriate to the context.

The words "and" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring all responses within the scope of the request.

The following definitions shall apply to the following words and phrases as they appear in this REQUEST FOR INFORMATION:

Communication means any manner or form of information or message transmission, howsoever produced or reproduced, whether by document, orally, electronically, or otherwise, that is made, distributed, and/or circulated between or among persons or data storage or processing units.

Document, documents, documentation, and records and information means any and all memorializations or recordings of any nature whatsoever within your possession, custody, or control (including without limitation, attorneys, advisors, accountants, analysts, consultants or any other person(s) acting or purporting to act for you or on your behalf). This includes, but is not limited to, contracts, agreements, communications, correspondence, telegrams, memoranda, records, reports, books, logs, summaries or records of telephone communications, summaries or records of personal conversation(s) or interviews, diaries, forecasts, statistical statements, work papers, drafts, copies, graphs, charts, accounts, analytical records, minutes or records of meetings or conferences, consultant's reports, appraisals, records, reports, or summaries of negotiations, press releases, drafts, notes, marginalia, bills, invoices, checks, inventory reconciliation records, bills of lading, manifests, photographs, microfilm, microfiche, videotape, journals, and all other written, printed, recorded or photographic matter or sound production or electronically or magnetically stored matter, however produced or reproduced.

For any tape, disc, CD-ROM disc, or other type of memory generally associated with computers and data processing, the attendant information must also be produced: (1) the programming instructions and other written material necessary to use such punch card, disc, disc pack, tape, or other type of memory; and (2) printouts of such punch card, disc, disc pack, tape, or other type of memory.

For purposes of this definition, "draft(s)" means any earlier, preliminary, preparatory, or tentative version of all or part of a document, whether or not such draft was superseded by another draft and whether or not the terms of the final draft are the same as or different from the terms of the final document.

The term "copies" shall mean each and every copy of any document that is not identical in every respect to the document being produced.

Identify means to state:

- (1) with respect to a natural person,
 - (a) the person's full name, present or last-known business and home address, business and home telephone number; and
 - (b) present or last-known job title, position or business and responsibilities in that position, his/her supervisor's title or position, and his/her supervisor's responsibilities and supervisor.
- (2) with respect to persons other than natural persons,
 - (a) the proper name or designation, the address of the principal office, legal form (i.e. corporation, partnership, etc.), and a brief description of its business.
- (3) with respect to a document,
 - (a) whether the document is currently in existence, the date the document bears (or bore) or if undated, the date it was written;
 - (b) the name and address of each person who wrote it or participated in the writing of it;
 - (c) the name and address of each person to whom it was addressed and each person to whom a copy was identified as being directed;
 - (d) the name and address of each person who received or may have received a copy of the document (including recipients designated as blind copies or "bcc");
 - (e) a description of the type of document, a summary of the contents of the document, its present location or custodian, or if unknown, its last known location or custodian; and
 - (f) if the copy is no longer in your possession, custody, or control, the disposition made of it, the reason(s) for such disposition, and the date of disposition thereof.

Person means any agency or political subdivision of the federal, state or local government; any state, public or private corporation or authority; any individual, trust, firm, joint stock company, factor, partnership, association, or entity; any officer, employee, or agent of such person, and/or group of persons.

