

# Science Meets Government: MassDEP Moves Forward With Contingency Plan Regulations

Article By:

Ronald W. Ruth

---

Last month, the **Massachusetts Department of Environmental Protection** (DEP) promulgated [several important amendments](#) to the **Massachusetts Contingency Plan** (MCP), which sets forth the procedures and standards for remediation of **environmental contamination**. [The amendments aim](#) to increase regulatory efficiency while maintaining a high standard of environmental protection by eliminating unnecessary permit requirements, increasing transparency with regards to site closure conditions and updating cleanup standards based on the most recent science.

For example, one amendment addresses the recent change in scientific understanding of the relationship between residual petroleum and future site use. Residual petroleum, a relatively common complication of contamination, is essentially a thin “film” of petroleum existing in a “separate phase” of the surrounding soil and groundwater (think oil and vinegar). In the MCP, this “separate phase” is referred to as a nonaqueous phase liquid (NAPL). The old MCP contemplated a NAPL upper concentration limit (UCL) which required the “film” to be less than ½ inch regardless of NAPL mobility and/or contamination risk.

The new amendment does away with the ½ inch UCL where there is no risk of NAPL mobility. This change in law reflects the scientific conclusion that NAPL, where stable, does not pose a contamination threat with regard to future site use.

The change related to NAPL stands to have an immediate positive impact on development in the Greater Boston Area. Consider a former industrial site, within the bounds Route 128, which has been remediated entirely but for the stubborn presence of NAPL. The site has remained in the MCP system for well over a decade solely because of the NAPL issue, resulting in significant unnecessary costs to both the state and landowners. The new amendment rectifies this situation, allowing DEP to focus on sites with higher risk and allowing the owner to file one final report and “close” the site under the MCP.

The amendment is one of many changes made to the MCP. One would hope that they all prove to have a similarly positive effect and allow for development and real estate ownership in an environmentally responsible manner that incorporates sound science, best practices and common sense.

*This post was written with contributions from Kevin Hall.*

© 2025 SHERIN AND LODGEN LLP

---

National Law Review, Volume IV, Number 134

Source URL: <https://natlawreview.com/article/science-meets-government-massdep-moves-forward-contingency-plan-regulations>