



February 27, 2014

To the Editor:

David Abel's article in the 2/23/2014 Sunday Globe, "Mass. is easing rules for some pollutants," leaves the impression that MassDEP's proposed changes to its regulations governing the cleanup of contaminated properties do not protect public health and the environment, but rather protect the interests of developers. The LSPA, the association of professionals licensed to oversee the cleanup of contaminated sites in the Commonwealth, does not agree. Licensed Site Professionals (LSPs) are, among other things, obligated by law to "hold paramount" protection of public health and the environment.

First, it is important to realize that the Commonwealth's hazardous waste site cleanup program has been used as a model throughout the country and leads the nation in the effective and efficient approach to cleaning up and returning blighted, contaminated properties to active public or private use. We were the first state to use scientific data rather than subjective criteria to set standards for cleanup levels. MassDEP standards are developed using the most recent scientific data on risk to human health and the environment coupled with sound scientific methods. Cleanup levels are set to achieve "no significant risk" at a minimum, and to reach background levels where feasible. Over the past 20 years, MassDEP has revised its regulations as science has evolved, in many cases making standards more conservative – that is, more protective of public health and the environment. As an example, until recently there was no science connecting vapors from subsurface contamination with compromised indoor air quality; now there is. MassDEP now has regulations in this "vapor intrusion" area based on the most recent indoor air science.

Abel's article focuses on one limited area of regulatory change: the concentrations of certain metals in soil *at depth*. Note that these changes were not made to surface soil standards for arsenic or lead (indeed the lead standard became more stringent), where the public may have direct exposure to potential contaminants. MassDEP's regulations have always allowed developers and property owners to leave impacted soils in place where they are not posing an exposure risk to the public or the environment, rather than requiring excavation where the risk of exposure is more likely.



The LSPA would like to make the following points:

- While the new regulations do permit a higher level of contaminated soil below ground surface to be left in place, the regulations also require that these properties carry a deed restriction which requires additional cleanup if the intended use changes or if additional work is done later on that would disturb the buried soils. If these soils were required to be removed, the exposure to the public would actually be greater due to the excavation and transportation of hazardous materials, which carries its own set of risks including toxic dust particles, diesel fumes from trucking, and disposal site issues. Thus, by increasing the amount of lead and arsenic permitted to remain in soil greater than 15 feet below ground surface, the new regulations will reduce, not increase, the potential exposure to the public by reducing the number of sites where such excavation may otherwise be required.
- Development on contaminated property is a key part of the Commonwealth's economic development and community revitalization strategies and programs. Development, if it is to occur, must take place on either open space or on existing developed sites, most of which have some level of contamination. The state's SmartGrowth policies, transit-oriented development plans, and Gateway Cities program all encourage building on brownfields, thereby removing blight, revitalizing urban areas, protecting open space and reducing sprawl.
- Developers were not in a position to wield excessive influence over MassDEP's recent regulatory revision process. Of the 15 seats on MassDEP's Waste Site Cleanup Program Advisory Committee, seven are held by site neighbors, public interest groups, local health agents, municipal officials, water distributors and academia. Three additional seats are held by Licensed Site Professionals, who are charged with holding paramount public health, safety, welfare, and the environment in the performance of professional services. Thus 10 of the 15 advisory committee members are dedicated to protecting "public health, safety, welfare, and the environment" in some form or other. It is misleading to infer developers have had an undue influence on MassDEP.
- The key components of the proposed regulatory changes increase protections for public health. As an example, MassDEP has proposed substantially more conservative requirements for owners and developers of properties at risk of vapor intrusion of volatile organic compounds (VOCs). More rigid standards have been proposed for trichloroethylene (a VOC), among other compounds. Some developers would argue that MassDEP regulates vapor intrusion at levels substantially more conservative than USEPA and most other states. As a matter of thoughtful



public policy and consistent with recent science, MassDEP has chosen a conservative approach in regulating volatile compounds in an effort to reduce human exposure to VOCs within homes and businesses.

There are a number of other points in Mr. Abel's article that could be similarly addressed, but space constraints prohibit. The LSPA does not believe that the process was tainted or the science, faulty. The public should be assured that viewed in its entirety, MassDEP's proposed regulation changes increase protection of public health and the environment in a manner that facilitates environmentally sound recycling of "brownfield" properties.

Thank you,

A handwritten signature in black ink that reads 'Matthew E. Hackman'.

Matthew E. Hackman, P.E., CHMM, LEP, LSP
President

A handwritten signature in black ink that reads 'Wendy Rundle'.

Wendy Rundle
Executive Director