



LSP Association, Inc.  
405 Concord Ave, # 352  
Belmont, MA 02478  
617-977-4304 [www.lspa.org](http://www.lspa.org)

July 14, 2016

Paul Locke, Assistant Commissioner  
Bureau of Waste Site Cleanup, 6th Floor  
Massachusetts Department of Environment Protection  
One Winter Street  
Boston, Massachusetts 02108

**Subject: *Historic Fill/Anthropogenic Background Public Comment DRAFT Technical Update Version 1.0***

Dear Paul:

The LSP Association (LSPA), a professional non-profit association of over 800 LSPs and other environmental professionals, is pleased to submit comments and suggestions to MassDEP on the *Historic Fill/Anthropogenic Background Public Comment DRAFT Technical Update Version 1.0* which was published electronically and opened for public comment on May 24, 2016.

As is typical, the LSPA Regulations Committee considered the draft guidance, solicited comments and suggestions from LSPA members and then, the LSPA Board vetted the comments. As is also typical, there was consensus that some areas of the guidance need clarification and further consideration. The attached matrix identifies specific sections in the draft guidance which, in our opinion, need additional clarification, have areas of inconsistency, or need specific language changes.

This cover letter summarizes the LSPA's key recommendations and concerns regarding the draft technical update.

LSP Association, Inc., 405 Concord Ave. # 352, Belmont, MA 02478  
617-977-4304, [www.lspa.org](http://www.lspa.org)

The draft technical update should emphasize that multiple lines of evidence are able to overrule individual data points with values that fall above those in Tables 1 and 2 and are consistent with the Conceptual Site Model.

The LSPA strongly urges MassDEP to include language more prominently in the draft technical update acknowledging that it is possible to make a determination of Historic Fill as long as it is supported through multiple lines of evidence and is consistent with the overall Conceptual Site Model. Our concern is that, as it now reads, the technical update appears to rely so heavily on levels presented in Table 1 and Table 2 that these levels might be interpreted as “not to exceed” concentrations. This might imply that an exceedance of these values eliminates the possibility that a compound might be attributed to Historic Fill, even if a case can be made for Historic Fill. This is especially true for lead, PCBs, EPH, PAHs, and metals.

Using a percentile cutoff as a quick guideline has value but can be misinterpreted as a “cutoff” point for the compounds presented. We agree with MassDEP that including summary statistics as part of a Historic Fill evaluation (i.e., range, min, max, average, median, etc.), can provide useful information about site conditions. However, suggesting that comparison to Table 1 be based on “not to exceed”, MassDEP is limiting the statistical evaluation to a maximum concentration comparison. Since MassDEP is acknowledging the value of additional data set statistics, Table 1 levels should not be viewed solely as “not to exceed” concentrations.

As we suggest in the attached matrix, the LSPA thinks that the wording in the Notes portion of Table 2 is too important to only be provided as a caveat. The LSPA urges MassDEP to include narrative in the Technical Update to describe the interplay between Tables 1 and 2, and how MassDEP intends the tables to be used. Perhaps, instead of “No” in some cases it is more appropriate and accurate to write: “Unlikely, but additional assessment with multiple lines of evidence can be used to support determination.” This will emphasize that an LSP has the prerogative to use the full range of his/her experience and professional judgment to make appropriate site-specific decisions and recommendations regarding what is and is not Historic Fill.

The draft technical update should discuss how MassDEP will address scenarios involving oil and hazardous materials (OHM) in groundwater.

The LSPA believes that OHM in groundwater at levels of concern is not sufficiently addressed in the document. LSPA members report seeing incidences of groundwater reportable concentration exceedances in wells installed in fill. The LSPA requests that MassDEP acknowledge this potential condition and include language in this technical update to address such scenarios. We recommend that MassDEP allow for the possibility that technical justification may be presented to attribute groundwater issues to Historic Fill conditions.

It would be helpful if MassDEP would provide a rule of thumb or general guideline to help clarify what is meant by “primarily” in the MCP definition of Historic Fill.

We acknowledge this is challenging and tricky territory because it is language extracted directly from the MCP, but it is our opinion that practitioners would benefit from a clearer interpretation of this term. The Historic Fill Consideration section attempts to address this question but uses the term “majority” in discussing the overall content of solid waste material in Fill Material. Without specifics, it could be interpreted by an LSP that material would be acceptable if it contains less than 50% solid waste by volume. The LSPA is of the opinion that this guidance should provide a specific percentage range that MassDEP would deem acceptable.

The LSPA, through our Technical Practices Committee, appreciates the opportunity to have been a resource to MassDEP in the early stages of development of this technical update. We are pleased to see that some of our suggestions have helped inform this draft. As always, we look forward to continuing to work with MassDEP.

Respectfully,  
**The LSP Association, Inc.**



Michael A. Penzo, CPG, PG, LSP  
President



Wendy Rundle  
Executive Director

**Attachment 1:**

*LSPA Comments on Historic Fill/Anthropogenic Background DRAFT Technical Update 2016  
July 14, 2016*