

June 26, 2025

Terry Wood
Executive Director
LSP Board of Registration of Hazardous Waste Site Cleanup Professionals
100 Cambridge Street, 9th Floor
Boston, MA, 02114

Subject: Comments on the Proposed Amendments to 309 CMR 1:00 – 9:00, the regulations of the Board of Registration of Hazardous Waste Site Cleanup Professionals

Dear Ms. Wood,

On behalf of the LSP Association (LSPA), the professional nonprofit organization representing over 800 LSPs and environmental professionals in Massachusetts, we are pleased to submit comments in response to the Board of Registration of Hazardous Waste Site Cleanup Professionals ("LSP Board") proposed amendments to its regulations at 309 CMR 1.00 through 9.00.

We commend the LSP Board for its continued work on improving the regulatory framework governing LSP licensure and appreciate the opportunity to contribute to this process. Our comments reflect input from the LSPA Board of Directors, Regulations Committee, and membership at large, which discussed, refined, and reached consensus on the feedback provided below.

First, the LSPA supports and applauds the following proposed changes to the regulations:

- Streamlining continuing education credit categories into DEP and non-DEP topics;
- Reducing the number of credits required for license renewal from 48 to 36;
- Allowing credits to be used for a future renewal; and
- Allowing credits earned during a renewal lapse or extension to be applied to the next renewal cycle.

These changes will benefit LSPs by enhancing clarity, flexibility, and fairness in maintaining licensure.

The LSPA has identified key areas of concern regarding the amendments made to the regulations at 309 CMR 1.00 through 9.00. This letter provides an overview of those concerns and, included with this letter, is a separate document with our detailed comments, section-

by-section. We respectfully urge the LSP Board to give additional consideration to the following areas:

1. Removal of the exam review and challenges section;
2. Definitions for license renewal;
3. Definitions for continuing education course offerings;
4. Clarification on the implementation timeline for the reduction of credits;
5. Further edits to disciplinary proceedings and other dispositions section;
6. Clarification in the inactive status section; and
7. Inconsistencies in the use of pronouns and other terminology.

Removal of the Exam Review and Challenges Section

309 CMR 3.00 Licensing of Licensed Site Professionals, 3.04(8)

While we understand it is rare for an exam challenge to enable an applicant to achieve a passing score, the LSPA recommends that the LSP Board reinstate this section while providing some limits. For example, (1) in the spirit of learning, transparency, and advancement of the profession, we think it reasonable for an applicant to review the questions it did not get correct; and (2) we think it fair and appropriate for an applicant who doesn't pass the exam by one (or two) questions, to challenge that question/those questions marked as incorrect. The challenge option allows for the possibility that there are other interpretations for a correct answer to a question and reinforces the idea of allowing for "LSP judgement."

Definitions for License Renewal

309 CMR 3.00 Licensing of Licensed Site Professionals, 3.06

The LSPA suggests defining terms such as "suspended," "revoked," "lapsed," and "limited licensure application" in either Section 3.06 or in the main Definitions section (309 CMR 2.02) for consistency and clarity.

Definitions of Continuing Education Course Offerings

309 CMR 3.00 Licensing of Licensed Site Professionals, 3.09

We appreciate the LSP Board expanded and updated the course offering definitions to reflect the current continuing education landscape. That said, the definitions do not fully reflect adult learning standards or evolving course formats. The LSPA suggests further refining these definitions and have proposed a set of definitions in the attached list of detailed comments. To summarize:

- There is no definition for a stand-alone conference (in person, virtual, or hybrid).

- The current definition for “Conference Workshop” does not include that the workshop can be in person, virtual, or hybrid.
- We suggest changing “Live Webinar” to “Live Virtual Course / Workshop / Training (Synchronous Online)” to further note that a live virtual offering can be more than one type of continuing education activity, that it happens on an electronic platform (vs. “the internet”), and there are certain requirements for participation.
- We suggest modifying the definition for “On-Demand,” so it is reflective of modern delivery platforms. A more appropriate description might be that the offering is pre-recorded and offered on an *electronic platform*. In addition, we suggest the definition includes that an assessment tool will be used to evaluate learning and that a 70% passing score is required.
- There is no mention of Hybrid offerings in this document. We’ve provided a definition.

Regardless of what changes are made to these definitions, we ask that the LSP Board ensure course offering labels are consistently used throughout the remainder of the document, and that they are referenced in Appendix B where minimum course length and attendance requirements are referenced. For example, “Live Webinar” is defined earlier in the document, but then not referenced in the matrix (but on-demand is referenced).

Implementation Timeline for Reduction of Credits

309 CMR 3.00 Licensing of Licensed Site Professionals, 3.09

We’d like for the LSP Board to provide guidance on how the reduction of credits will be rolled out to the LSP community.

Further Edits to the Disciplinary Review Section

309 CMR 7.00 Procedure Governing Disciplinary Proceedings and Other Dispositions

In a prior comment letter, the LSPA recommended several changes to this section. There are two suggestions that have not yet been accepted, and we ask the LSP Board to reconsider their inclusion:

- (7.04(2)) The LSPA requests the regulations explain under what circumstances a former Board member might be invited to participate on a Complaint Review Team (CRT). It will be very important to an LSP, who is the subject of a complaint, to understand why a former Board member would be involved.
- (7.05) Under Informal Conference, the LSPA suggests the following language be included at the end of the paragraph, “The complainant and/or the LSP shall have the right to be represented by counsel. When invited to the conference and at the beginning of the conference the LSP must be advised by the Board that (1) attendance

at the conference is voluntary; (2) the Board will not infer any fact from the decision of the LSP not to participate; and (3) the information the LSP provides may be used against him or her by the Board.”

Inactive Status

309 CMR 9.00 Inactive Status

We ask the LSP Board to consider removing or explaining the inclusion of language tied to deadlines that passed in 1999, as it appears outdated and potentially confusing.

Inconsistent Use of Pronouns and Terminology

The removal of gendered language is appreciated, but several instances of “his or her” remain (our detailed comments flag several instances). We suggest consistently using they/them pronouns through the document. Additionally, we recommend replacing “a license” with “their license” or “the LSP license” to emphasize the relationship between the license and the individual professional (e.g., see pages 10 and 27).

Lastly, the regulations use both “LSP” and “hazardous waste site cleanup professional.” We suggest exclusively using “LSP,” consistent with terminology in the MCP (e.g., see pages 40 and 41).

We deeply appreciate the Board’s thoughtful work on these complex and important regulations. Thank you, again, for the opportunity to engage in this process and contribute toward effective regulatory updates that support professional integrity and environmental stewardship.

Sincerely,

LSP Association, Inc.

A handwritten signature in blue ink, appearing to read 'Joe Roman'.

Joe Roman, LSP
President

A handwritten signature in black ink, appearing to read 'Mariellen Morris'.

Mariellen Morris
Executive Director

LSPA Comments on the 2025 LSP Board 309 CMR Amendments

Provided below are the LSP Association's detailed comments on the 2025 LSP Board 309 CMR Amendments.

***"Page No." refers to the pages in the LSP Board 309 CMR Redline document made available electronically published in PDF.

***"Section/Subsection" refers to the new Sections in the LSP Board 309 CMR Redline document, unless otherwise noted.

The LSPA has made every effort to state the issue of concern, provide a specific example wherever possible, and propose suggested language changes (in bold/underlined font) and language deletions (strikethrough, red font), where appropriate.

Page No.	Section/Subsection Number	LSPA Comment
309 CMR 2.00 INTRODUCTORY PROVISIONS		
8	309 CMR 2.02	Waste site cleanup decision making experience: (a) "...were an integral and substantial component of his or her <u>their</u> position;"
9	309 CMR 2.04(1)	There should be reference to compliance with open meeting laws. And should there be explicit language re what constitutes a quorum?
10	309 CMR 2.09	Annual Fee (first line): "To maintain a <u>their</u> LSP license, each...."
		Annual Fee (line 11)"...the LSP may reinstate a <u>their</u> license and terminate..."
10	309 CMR 2.09	The LSPA suggests that " license " needs to more specifically refer to the LSP license .
9	309 CMR 2.04(2)(b)	Change to: "...affirmative note by at least a majority of all Board members who are not prohibited from voting..." (vs. those just in attendance).
309 CMR 3.00 LICENSING OF LICENSED SITE PROFESSIONALS		
15	309 CMR 3.03(1)	If applications can also be submitted via paper, keep in language on the forms needing to be legible and typed.
18	309 CMR 3.04(8 (old))	Deletion of Exam Review and Challenges Section: While we understand it is rare for an exam challenge to enable an applicant to achieve a passing exam score, the LSPA suggests the Board consider reinstating this section while providing some limits. For example: An applicant who misses passing the exam by one (or two?) questions, may challenge one (or two?) of the questions marked incorrect. The challenge option allows for the possibility there are other interpretations for a correct answer to a question. And, this reinforces the idea of allowing for "LSP judgement."
19	309 CMR 3.06	License Renewal: The LSPA suggests there be a definition list for this section (similar to that in 3.09) or in the overall "Definitions" section that includes, but is not limited to, the licensing terms "suspended," "revoked," and "lapsed."
19 and 21	309 CMR 3.04(8)(b)1 and 3.06(4)(b)1	Is "limited licensure application" defined? If not, it should be. Also, is this application available on the website? Or is this an application that the Board develops ad hoc?
22	309 CMR 3.06(5)	Changed to 9 or fewer, but suggesting it be 25% of the requirement (as it was before the credit hours change).
22	309 CMR 3.06(5)(e)	The LSPA recommends the language here at 3.06(5)(e) be replaced with the exact same language as found in 3.09(2)(e). These two different approaches to the same intent is confusing.

23	309 CMR 3.09	The LSPA does not think the different course types an organization could provide are fully defined in the list of Definitions. Please see our suggestions for course types and definitions and which are based on standard terminology used in other continuing education spaces. Related, the term "internet courses" is not defined, but is used in this section. We suggest either defining what this means or dropping this terminology in lieu of the newly proposed definitions we're providing. For reference, the preferred terminology for "internet courses" is online, virtual, or on-demand (as one could argue these are all "internet courses", and accessible via the use of an electronic platform.
23	309 CMR 3.09(1)	"Assessment of Learning"--the LSPA suggests the following edits to this definition: "Assessment of Learning means a diagnostic tool that measures whether an attendee has met set learning goals set by the course provider in accordance with 309 CMR 3.09."
25	309 CMR 3.09(1)	The LSPA suggests doing a universal replace on the term "students" with the term "learners" or "participants." (See two examples here under "Live Webinar" and "On-demand Course.")
25	309 CMR 3.09(1)	Live Webinar definition: See comment above; the LSPA is suggesting an updating of all course offering types, including Live Webinar. But, as it relates to this definition: ***"Internet" is limiting/outdated. It could mean virtual, online, on-demand. Saying "eletronic platform" is more accurate to how someone might obtain these types of training. **What is the LSPB's intention when it says, "...may communicate and interact with the instructor and other students"? Does this mean the course provider needs to provide opportunities for this to happen so that someone can participate in this way, or that this mode of education might include these opportunities, but does not have to? **If attention monitoring is going to be included later on in document, should that also be included here in the definition (see our revised definition)? **What does "otherwise" mean?
25	309 CMR 3.09(1)	On-demand definition: See comment above; the LSPA is suggesting an updating of all course offering types, On-demand course. But, as it relates to this definition: ***"Internet" is limiting/outdated. It could mean virtual, online, on-demand. Saying "eletronic platform" is more accurate to how someone might obtain these types of training. **If an assessment is going to be included later on in document, should that also be included here in the definition (see our revised definition)? **What does "otherwise" mean?
27	309 CMR 3.09(2)(a)	Can the LSPB comment on the implementation timeline for the reduction of credits and once the rule is promulgated? In an effort to be equitable to all LSPs, the LSPA requests the Board stagger the effective dates of the implementation of the reduction in number of required credits. One approach would be to roll out the reduction at the start of each new 3-year renewal date, over a period of 3 years.
27	309 CMR 3.09(2)(a)	Edits to first sentence: "Every three years following issuance of a their license, each an LSP shall demonstrate to the Board's satisfaction that the LSP has they have earned..."

27	309 CMR 3.09(2)(c)	Given the infrequency of exams, and the concomitant long waiting periods, I'd expand this to a full year (vs. the change of "up to six months prior to passing the LSP examination").
27	309 CMR 3.09(2)(c)	The LSPA appreciates this amendment to support approved applicants. However, if annual exam dates are not set and announced on a consistent schedule, this benefit could be lost for many approved applicants.
29	309 CMR 3.09(5)	First sentence references the term, "course provider," but three subnotes all reference, "sponsoring organization." Do these terms mean the same thing to the LSPB? If so, choose one and make consistent throughout the document. If they mean different things, we suggest adding to the definitions section and then applying the terms accordingly.
29	309 CMR 3.09(5)(a)	Clarify what the LSPB means by "adequately" in terms of how attendance is documented. Otherwise, we suggest deleting this word.
29	309 CMR 3.09(5)(a)	Re insertion of , "a minimum of 5 years", why not just 3, the term of the license? This also applies to other 5-year references in this section.
29	309 CMR 3.09(5)(c and d)	Interesting that there's a "passing grade" for the on-demand courses, but not for the live webinars. It's just as easy to multitask during the webinars.
29	309 CMR 3.09(5)(c), (d), and (e)	Can the LSPB clarify the difference between the terms, "certification" (used in c and d), and "documentation" (used in e)?
29	309 CMR 3.09(6)(a)	Why is the goal responding within two months necessary in the regulations?
30	309 CMR 3.09(6)(a)	What does "adequately documented" mean to the LSPB?
31	309 CMR 3.09(6)(b)(5)	Clarify what the LSPB means by "adequately" in terms of how attendance is documented. Otherwise, we suggest deleting this word.
32	309 CMR 3.09(7)(c)	The LSPA suggests editing this section to account for technical difficulties: "To receive continuing education credit for attendance at a live webinar, in addition to meeting the requirements in 3.09(7)(a) or (b), the licensee must complete the polling questions presented during the portion of the course they attended <u>ed (or, in case of technical difficulties, via email with the sponsoring organization and within 15 minutes of the live webinar);</u>
32	309 CMR 3.09(7)(d)	Typo: To receive credit continuing education credit for attendance at an on-demand course of any length, the licensee must attend 100% of the course and achieve a score of at least 70% on the assessment of learning presented during the course; (c)(e) The attendance requirements for conference workshops are set
33-34	309 CMR 3.09(9)(d)	The LSPA recommends: **Adding other course offerings not listed, but that are added (see our definitions list; for example, if the LSPB adds in a definition for Hybrid offerings, it will need to define, here, what the attendance requirements are). **If Hybrid offerings are added, the LSPB will need to define how all audience members are required to complete polling questions/engage during the offering.

34	309 CMR 3.09(9)(d)3	The LSPA suggests editing this section to account for technical difficulties: "For approved conference workshops offered as live webinars, the LSP must complete all polling questions presented during the portion of the session they attend (<u>or, in case of technical difficulties, via email with the sponsoring organization and within 15 minutes of the live webinar</u>).
34	309 CMR 3.09(10)	If the Board's intent is to have this section serve as a placeholder for future electronic or other course platforms, the LSPA recommends using a descriptive term other than "Internet" (see comments above; internet courses can be online, virtual, on-demand, and are offered via an electronic platform). If the LSPB wishes to continue with the use of "Internet" then we recommend it be included in the Definitions section.
37	309 CMR 3.09, Appendix B	This table needs reworking. The four types of courses listed in paragraph one do not match the "Type of Course" listed in the the table. No mention of a live webinar in this table (even though they now define it at beginning of section 3.09). Should it also be included here? We have provided an example of an updated title and based on all the course offering types we're suggesting in our definitions list.
309 CMR 4.00 RULES OF PROFESSIONAL CONDUCT		
40	309 CMR 4.02(4)	There's a reference here to a "hazardous waste site clean up professional." This and any other mentions should be changed to LSP.
41	309 CMR 4.02(4)(c)	Same comment as above.
41	309 CMR 4.03(2)	With regard to the language, "...render a waste site cleaup activity opinion only when the LSP has either...", this language should explicitly recognize the different role of the successor LSP (4.02(4)).
41-42	309 CMR 4.03(4)	Suggested edits: (4) If a licensed site professional identifies a release or threat of release that in the LSP's professional judgment poses or could pose an Imminent Hazard as described in 310 CMR Page - 41 40.0321 at a particular site at which the LSPhe or she is providing Professional Services, the LSPhe or she shall: (a) immediately advise the LSP'shis or her client of the need to notify the Department of the Imminent Hazard if the client is a person required to notify under 310 CMR 40.0331; and (b) notify the Department of the imminent hazard no later than 24 hours after identifying such, unless the client has provided such notice.
42	309 CMR 4.03(7)	Suggested edits: (7) An LSP shall not reveal facts, data or information obtained in the LSP'shis or her professional capacity without the prior consent of the client, except as authorized or required by law, if the client has asserted in writing to the LSP that such facts, data, or information are confidentialif such facts, data, or information are claimed in writing to the licensed site professional to be confidential by the client and are not already in the public domain.

43	309 CMR 4.03(12)	1. Remove gendered pronouns: (12) An LSP who is involved in a management or review capacity at a disposal site will be considered responsible, along with a second LSP, for the second LSP's violation of the Board's Rules of Professional Conduct set forth in 309 CMR 4.00 if the <u>LSP</u> he or she :
44	309 CMR 4.04(3)	2. In the above sentence, it is unclear who the "second LSP" refers to--please clarify.
309 CMR 5.00 ADVISORY RULINGS		
46	309 CMR 5.02(3)	The LSPA suggests this edit, "...license number, telephone number, and email of the ..."
47	309 CMR 5.04(1)	The LSPA recommends the Board commit to posting advisory rulings on its website, in addition to publishing or circulating them as it deems appropriate.
309 CMR 6.00 DESIGN AND USE OF LICENSED SITE PROFESSIONAL'S SEAL		
48	309 CMR 6.00(1)	Re, "...the design, arrangement, size, and working of which shall conform to the Board's specifications...", no reason not to specify (with a figure, etc.) these requirements.
309 CMR 7.00 PROCEDURE GOVERNING DISCIPLINARY PROCEEDINGS AND OTHER DISPOSITIONS		
51	309 CMR 7.04(2)	The LSPA requests the regulations explain under what circumstances a former Board member might be invited to participate in a CRT. It will be very important to an LSP who is the subject of a complaint to understand why a former Board member would be involved.
52	309 CMR 7.06(1)	The LSPA suggests editing this sentence to: "The members of each a Complaint Review Team...."
52	309 CMR 7.05	Changes to "Informal Conference" (LSPA has suggested these changes before): To facilitate disposition of a complaint including by obtaining information from the LSP , the Board may request the person filing the complaint and/or the licensed site professional who is the subject of the complaint, and/or any other person, to attend an informal conference at any time prior to or after the commencement of an adjudicatory proceeding. <u>The complainant and/or the LSP shall have the right to be represented by counsel. When invited to the conference and at the beginning of the conference the LSP must be advised by the Board that (1) attendance at the conference is voluntary; (2) the Board will not infer any fact from the decision of the LSP not to participate; and (3) the information the LSP provides may be used against him or her by the Board.</u>
309 CMR 8.00 ADMINISTRATIVE PENALTY REGULATIONS		
58	309 CMR 8.03(1)(a)	Is there a reason the term "a person" is used instead of "an LSP"? Is this because a non-LSP may be assessed an administrative penalty? First instance is in section a, but is throughout section.
309 CMR 9.00 INACTIVE STATUS		
66	309 CMR 9.01(5)	Is there a reason that this subsection is still included, long after the deadline of 1999? If so, it would be helpful to include an explanation in the regulations. If not, we suggest it be removed.

LSPA Comments on the 2025 LSP Board 309 CMR Amendments

Per our comment in the 309 CMR Appendix B about the minimum length for offerings and minimum course attendance requirements, we are suggesting the updated matrix below to account for all course offering types. This matrix is based off both the proposed course offering definitions we provided and the information included in the matrix in Appendix B.

Type	Minimum Length	Minimum Attendance
Conference	<u>LSP Board to define</u>	<u>LSP Board to define</u>
Conference Workshop	One (1) hour	· For one- to four-hour workshop: 100% · For workshop longer than four hours: four hours or 75% of the workshop, whichever is greater [If attendance requirement is not met, LSP receives no credit.]
<u>In-Person Course / Workshop / Training (inclusive of DEP courses and/or field courses)</u>	<u>One (1) hour</u>	· <u>For one- to four-hour course/workshop/training: 100%</u> · <u>For course/workshop/training longer than four hours: four hours or 75% of the workshop, whichever is greater [If attendance requirement is not met, LSP receives no credit.]</u>
<u>Live Virtual Course / Workshop / Training (Synchronous Online)</u>	<u>One (1) hour</u>	· <u>For one- to four-hour course/workshop/training: 100%</u> · <u>For workshop longer than four hours: four hours or 75% of the course/workshop/training, whichever is greater [If attendance requirement is not met, LSP receives no credit.]</u>
On-Demand Course / Workshop / Training (Asynchronous Online)	One (1) hour	100% and at least a score of 70% on assessment of learning
<u>Hybrid Course / Workshop / Training (Blended Format)</u>	<u>One (1) hour</u>	· <u>For one- to four-hour course/workshop/training: 100% plus all assignments completed (if applicable)</u> · <u>For workshop longer than four hours: four hours or 75% of the course/workshop/training plus all assignments completed (if applicable), whichever is greater [If attendance requirement is not met, LSP receives no credit.]</u>
Courses Offered as Part of a University or College Curriculum	Meets at least weekly for one (1) quarter/term/semester	· If taken for grade: None · If not taken for grade: 75%

LSPA Comments on the 2025 LSP Board 309 CMR Amendments

Per our comment in the 309 CMR 3.09 section about course offering definitions, below is an updated set of definitions we ask the LSP Board to consider.

Term	Definition
Conference	A Board-approved event where 1:1 credit hours are not provided (either in person, online, or hybrid).
Conference Workshop	A Board-approved workshop, short course, or similar training session that occurs at a conference (either in person, online, or hybrid).
In-Person Course / Workshop / Training	A structured, face-to-face educational session (inclusive of field/site trainings). Participants must be physically present and attendance is tracked for compliance.
Live Virtual Course / Workshop / Training (Synchronous Online)	A course conducted in real time using an electronic platform. Learners must log in at specified times. Interaction with instructors and attendees may be expected, and engagement is monitored via the use of polling or other interactive activities.
On-Demand Course / Workshop / Training (Asynchronous Online)	A pre-recorded or web-based course/workshop/training that can be accessed at any time. Learners complete the content independently, and participation is monitored using an assessment of learning. Participants must achieve a score of 70% or greater to have completed the program.
Hybrid Course / Workshop / Training (Blended Format)	A program that integrates both synchronous (live) or asynchronous (on-demand) components, including, but not limited to offerings held in person and virtual at the same time; in-person plus on-demand; and on-demand plus individually completed assignments.
Field-Based Training / Site Visit	An educational experience conducted at a contaminated site, remediation system, or field demonstration location. Emphasizes hands-on learning and application of site assessment or cleanup techniques.
Courses Offered as Part of a University or College Curriculum	Courses offered by an institution accredited to issue associates, bachelors and/or graduate degrees, provided that the course: (a) meets on a regular weekly schedule on a semester or quarterly basis, and (b) the course may be taken for a grade.