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December 19, 2025

Millie Garcia-Serrano
Assistant Commissioner, Bureau of Waste Site Cleanup
Massachusetts Department of Environmental Protection
100 Cambridge Street, Suite 900
Boston, MA 02114

Subject: LSPA Comments on MassDEP *Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the MCP (Public Comment Draft Policy # COMM-25)*

Dear Assistant Commissioner Garcia-Serrano:

The [LSP Association \(LSPA\)](#), a professional non-profit association of 800 LSPs and other environmental professionals, appreciates the opportunity to provide comments on MassDEP's *Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the MCP (Draft Policy # COMM-25)*. The LSPA solicited comments from its membership at large, including from its Regulations and Technical Practice Committees.

A detailed set of comments is included with this letter, but a summary of our overall impression of the draft policy follows in this cover letter.

Scope of Policy and Real-World Applicability

Our members find *Draft Policy # COMM-25* to be logical in concept—particularly in its recognition that soil from multiple RTNs may be blended and reused safely under appropriate controls. That said, given the breadth of soil management challenges across Massachusetts, a policy only intended for large-scale sites does not seem applicable for typical redevelopment and cleanup projects; many LSPs believe the Policy will only be relevant to a very small subset of our clients. In addition, the Policy, as drafted, is so narrow that very few disposal sites statewide appear realistically capable of functioning as soil-receiving sites under the proposed framework.

Inconsistency with Current Practices

We strongly encourage MassDEP to incorporate more flexibility into the Policy and rely more fully on LSP professional judgment, as the MCP framework is built on the premise that LSPs do and can make sound, defensible decisions to protect public health and the environment. LSPs already guide their clients in appropriately managing soils on-site and off-site through established MCP reporting and oversight mechanisms, and this system has proven effective. As such, LSPs are demonstrating that soil can be managed responsibly without the level of additional reporting and sampling proposed in this Policy.

Restrictive Criteria and Prescriptive Requirements

LSPA members expressed concern that strict volume limits and conservative contaminant thresholds will preclude most soils from qualifying for reuse under *Draft Policy # COMM-25*. Proposed thresholds for PCBs and other OHM appear more stringent than risk-based evaluations would require. While the higher proposed lead limit is appreciated, many other limits or criteria (e.g., requiring that any chemical detected at a Donor Site is also detected at a Receiving Site) would still exclude soils that could be reused safely and effectively.

The proposed sampling requirements are similarly challenging. The Policy calls for one sample per 25 cubic yards of soil or load during importation (in addition to more typical pre-characterization of soil at the donor site). Such a high-frequency testing requirement does not provide meaningful additional protection, is not consistent with sampling frequencies at other soil receiving facilities, and would impose substantial logistical and financial burdens. Members recommended risk-based or statistically representative sampling approaches as more appropriate alternatives.

Members also identified concerns with the reporting timelines and documentation requirements. For example, the COMM-25 status report schedule could be aligned with existing reporting frequencies for other MCP compliance documentation such as RAMs (first report at 120 days, followed by status reports every six months). Several members questioned the need for a separate COMM-25 report at all, noting that the information could be incorporated into an existing MCP submittal (e.g., RAM or Phase IV Status Reports), rather than creating a new report category.

Next Steps

While our detailed comments offer specific recommendations, we'd like to provide a broader suggestion: that MassDEP convene a stakeholder working group—including LSPs, municipalities, and receiving-site operators—to continue to refine this Policy. MassDEP has successfully used this collaborative model in the past, and we believe it would help create a more practical and more widely applicable final policy. The LSPA would welcome the opportunity to assist in this effort.

Thank you for your consideration of our comments and for your ongoing work to improve soil management and reuse options in Massachusetts.

Respectfully,

The LSP Association, Inc.



Katie Kudzma, LSP, President



Mariellen Morris, Executive Director

Attachment: LSPA Detailed Comments on MassDEP *Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the MCP (Policy # COMM-25)*

**LSPA Comments on MassDEP Interim Policy Regarding the Re-Use of Soil at Disposal Sites Regulated under the MCP
(Draft Policy # COMM-25)**

Policy: <https://www.mass.gov/doc/public-comment-draft-interim-policy-regarding-the-re-use-of-soil-at-disposal-sites-regulated-under-the-massachusetts-contingency-plan-comm-25-october-24-2025/download>

Provided below are the LSPA's detailed comments on the MassDEP Draft Policy # COMM-25.

***"Page No." refers to the pages in the MassDEP Draft Policy # COMM-25.*

***"Section/Subsection" refers to the Sections in the MassDEP Draft Policy # COMM-25, 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 red font color), where appropriate.

Page No.	Section/Subsection Number	LSPA Comment
General	General	Somewhere in the front part of the guidance, it would be helpful to clarify that the Donor Site can segregate soil at their Site and only send a portion of their soil for re-use at the COMM-25 site, assuming that this is the case. There are numerous references to "soil from the Donor Site" so just clarifying that this is not necessarily "all the soil" present at the Donor Site would be useful.
1	Section I.A.	MassDEP may issue a "limited number" of administrative consent orders; what is considered "limited"?
4	Section II: A, 1 - Size of Project	Why such a large volume (250,000 CY)? Sites with fill requirements as small as 10,000 CY could still substantially benefit from soil re-use, for conceivable examples, fill behind a wall for climate resilience, fill in former tank impoundments or building foundations.
4	Section II: A, 2 - Re-Use, Not Disposal	Re-use should have a broader definition to allow for a municipal client, a state agency, or a non-profit that may be managing multiple sites and RTNs whereby relocating contaminated soils from one location to another may save taxpayer money.
4	Section II: A, 2 - Re-Use, Not Disposal	Would MassDEP consider allowing the proponent to collect application fees or similar to offset the cost of reviewing the donor soil documentation and coordination with the donor site representatives? The review of these materials could take several hours depending on the volume of pre-characterization data and particularly if the donor site is not familiar to the Receiving Site LSP.
4	Section II: A, 4 - Soil Receiving Site is a Disposal Site	Would MassDEP consider allowing the inclusion of disposal sites which have already obtained a Permanent Solution as potential receiving sites, if the proponent would be willing to retract and resubmit the applicable MCP submittals required to evaluate the proposed importation as a remedial action? This could broaden the number of sites eligible as receiving locations.
5-6	Section II: C, Process	Suggest a much simpler and less onerous process for lower volume projects. For example, sites proposing less than 20,000 CY could have fewer parties to be Noticed (e.g., municipality 0.5 miles away, all abutters, etc.)
6	Section II: C, Process	The draft policy states that COMM-25 requests must be signed and sealed by the LSP. Per 309 CMR, an LSP's seal is used for rendering waste site cleanup opinions. Does MassDEP intend to consider a COMM-25 request as an official LSP Opinion?

7	Section II: C, 4 - Demonstration of PS	It is unclear how it will be demonstrated that a Receiving Site can demonstrate that the acceptance of the soil will maintain a condition of NSR for a PS a priori. It is not possible to do a risk assessment in advance since the concentrations that will be brought to the Receiving Site are not known at the point in time at which the COMM-25 proposal is being written. It would seem that this would be the purpose of developing the acceptance criteria, as in if the soil from the Donor Site meets the acceptance criteria of the Receiving Site, then the soil is acceptable for reuse (and is consistent with NSR). The later part of this guidance is clear that the final PS with risk assessment must demonstrate NSR, so it is unclear how one could do this at the Phase III stage.
8	Section III: 1, Maximum Elevation and Volume	Add wording to indicate the maximum is the permanent condition. Temporary soil stockpile heights should not be limited (or could otherwise be limited in the ACO document, either by height, duration, etc.).
9	Section III: 3, Special Restrictions	e (pH), f (conductivity): Suggest eliminating these specific limits from the Policy, but have the LSP and ACO decide on a case by case basis. The site specific conditions, as well as variability in the donor soils, could be such that these criteria are limiting without any benefit to the environment.
9	Section III: 3, Special Restrictions	How is "readily leachable" defined? This is a vague statement for this point in the document. Suggest adding a reference to the later part of the document that discusses leachability, so that it is better defined.
9	Section III: 5, Prohibition of Importation	Note that a donor site may be outside of Massachusetts and the definition of Disposal Site may not be applicable, but could still be otherwise regulated by that State.
9	Section III: 5, Prohibition of Importation, a and b	"no fewer than 30 days": is this a case of Presumptive Approval by MassDEP?
10	Section III: 9, Disqualification of Donor Sites	Disqualification on import is tied to as little as one load failing testing. It is recommended that MassDEP allow the Receiving Site LSP to consider reasoning behind the load's failure of test results, whether it be sampling, laboratory, analytical error, or even donor-site specific conditions, so that they can use judgement in determining whether to disqualify the particular donor site.
10-11	Section III: 10, Fill Management Plan	Suggest clarifying when/what type of "site groundwater monitoring plan" would be appropriate as part of the Fill Management Plan. Given that " <i>The demonstration of No Significant Risk in the Permanent Solution Statement must consider all soils imported to the Soil Receiving Site prior to achieving a Permanent Solution.</i> " (per III. 11), it is unclear what would necessitate such a plan. Reading further, it appears that "plan" is possibly being used interchangeably in the paragraph to mean both an instructional document such as a Soil Management Plan and also as a graphical figure/visual aid.
11	Section III: 10, Fill Management Plan	If such extensive soil analysis is required as part of precharacterization, why would additional soil monitoring be required (Section III.10.h)?
12	Section III: 14, Status Reports	Suggest eliminating the first 30-day report as it will likely take 30 days for the contractor to mobilize and begin importing materials, so the 30-day report will not contain much useful information.
12	Section III: 14, Status Reports	Suggest revising the COMM-25 status report timeline to be consistent with that required for RAMs - so first report 120 days after effectiveness, and every six months thereafter. The timeline suggested seems unnecessarily onerous. This also appears to be a requirement that is in addition to the "Soil Load Documentation" in Appendix B and would therefore represent some duplication of effort. Suggest revisiting the "Status Report" and "Soil Load Documentation" requirements and removing any that are duplicative.

12	Section III: 14, Status Reports	Add item to bullet list for "a description of the materials imported, for example, sand, gravel, stone, clay, fill, etc."
14	Section III: 21, Filing of Records	Note that a donor site may be outside of Massachusetts and the definition of Disposal Site or requirements of the MCP may not be applicable, but could still be otherwise regulated by that State.
14	Section III: 21, Filing of Records	Second bullet; how can the project proponent enforce the requirement for the Donor Sites to submit "all records"?
15	Section IV: A, 1 - Public Involvement	Consider less onerous requirements for smaller reuse sites, especially the requirement to maintain a website.
B-2	Appendix B: B5	Consider flexibility in the pH and Conductivity requirements to overall manage the imported materials variability as well as receiving facility site specific conditions.
B-3	Appendix B: B9	The concentrations listed as acceptable for the "readily leachable OHM or PCBs" appear to be more restrictive than those that would meet the criteria for demonstrating NSR using a Method 1 approach, since in this case the average must be less than one-half RCS-1 (which is the minimum of the Method 1 Standards) and the maximum must be equal to or less than RCS-1. This would seem to be unnecessarily restrictive, given that an average concentration at or lower than the applicable Method 1 Standards would be sufficient for demonstrating NSR using a Method 1 approach. Further, Method 1 specifically accounts for potential leaching, so it is unnecessary to make these criteria more restrictive. (In addition, it is noted that, pursuant to the guidance, the Receiving Site regardless cannot be located in a GW-1 area, which indicates that leaching is less of a concern given that it is not a potential/current drinking water source area.) Suggest revising so that the average must be equal to or less than RCS-1, and that the max is less than 10 times RCS-1 (which is one of the criteria for using an average as an exposure point concentration in 310 CMR 40.0926).
B-3	Appendix B: B9	Second sentence of this section says, " <i>Specifically, the Project Proponent must ensure that the Soil Receiving Site <u>does accept</u> soil with mean and maximum contaminant concentrations of readily leachable OHM or PCBs that are above the following predefined limits (caps), even if existing Soil Receiving Site soil concentrations exceed these limits:</i> " Should the bold/underlined text read, <u>does not</u> accept?
B-4	Appendix B: C1	It seems unnecessarily restrictive to say that all COC must be present at the Receiving Site. For example, a single VOC detection at a Donor Site could therefore disqualify soil from being sent to a Receiving Site with no VOCs. In addition, this does not account for potential differences in reporting limits - if reporting limits are different, then a chemical may be detected at a Donor Site and this concentration is below the RL for the Receiving Site. Suggest identifying some minimal frequency of detection/concentration as criteria, such as can be used in risk assessments. In addition, identify chemicals that may be present due to lab contamination (e.g., acetone) and exclude them from this requirement.
B-4	Appendix B: C2	Clarify how the arithmetic mean should be calculated when Non-detects are incorporated, typically this would be using one-half the reporting limits for non-detects.
B-6	Appendix B: D, Table B-1 (Form Soil Acceptance Criteria Table)	The two Policy Cap Columns C and D transform this from a disposal site re-use and with a few exceptions, make the criteria more onerous than the already permitted "less than RCS-1" receiving facilities. The wording "non-negotiable" suggests this policy is not really open for comment.

B-12	Appendix B: E1a.	Note that a donor site may be outside of Massachusetts and the definition of Disposal Site or requirements of the MCP may not be applicable, but could still be otherwise regulated by that State.
B-13	Appendix B: E1c.	It is unclear why a separate report is needed, when this information could easily be incorporated into a Permit Plan, Phase I Report, or Phase II Report (depending on the Site). Suggest revising so that this requirement is incorporated into an already existing MCP submittal rather than creating an entire separate category of submittal.
B-14	Appendix B: E2	One sample per truckload is extreme. At 25 cy per truck, 250,000 cy would necessitate a sample volume of 1,000 over the lifetime of the project. Suggest a lower sampling frequency.
B-14	Appendix B: E2	The requirement to submit documentation within 30 days of placing the soil may be unrealistic. Typical analytical data TAT could be up to 10 business days (or 14 calendar days), plus time to prepare the documentation. In addition, it is unrealistic to submit the information for each Load separately. Lastly, it is unclear why this information could not be incorporated into the Receiving Site Status Reports rather than being submitted separately, as long as concentrations in the Donor Soil are meeting the Receiving Site criteria.
B-14	Appendix B: E2	Third paragraph states that the documentation must be submitted under both Donor Site and Receiving Site RTNs. Please clarify that submittal of identical reports under each RTN would be acceptable, such that duplication of effort is not needed across sites.
B-14	Appendix B: E2	Comparison of Soil Load Averages to Mean Acceptance Criteria: The criterion that the "average...approaches the Mean Soil Acceptance Criteria" is too vague and subject to interpretation. This should be a quantitative criterion so that it is uniform to all sites and has a bright line boundary. For example, one possibility could be that if the average is 95 percent of the acceptance criterion (e.g., average of 95 mg/kg compared to an acceptance criterion of 100 mg/kg), then corrective measures could be contemplated.
B-14	Appendix B: E2	Grab sampling every truckload is overly prescriptive and onerous. Especially for 250,000 CY.
C-1	Appendix C: C3	This is unnecessary and overly prescriptive for simply importing fill for beneficial purposes. The receiving site is already an RTN by definition. The MCP already has a Public Involvement Plan process. Making site remediation and beneficial reuse harder seems contrary to the intent of this draft policy.
C-2	Appendix C: C4c.	While this seems well-intentioned, it seems overly conservative (and brings up possible privacy issues) to list specific hearing or visually impaired persons within any impacted census block, as this appears to imply that specific person's names should be listed. Please clarify how these populations should be identified.
C-3	Appendix C: C4g.	Suggest stating that the number and locations of the PIP repositories should be based on the nature and size of the community. As stated, the current language is extremely broad and appears to suggest that every site should have many repositories, which may not be necessary.