LSP Association
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May 26, 2026

Massachusetts Department of Environmental Protection
Bureau of Waste Site Cleanup
100 Cambridge Street, Suite 900
Boston, MA 02114

To Whom It May Concern:

The LSP Association (LSPA), a professional association of 800 LSPs and other environmental professionals, appreciates the opportunity to review and comment on the draft ***Guidance for Persons Performing Response Actions at Massachusetts Contingency Plan Disposal Sites Who May be Generators of Hazardous Waste*** (April 2026). We appreciate MassDEP's efforts to address the important and often complex issue of hazardous waste determinations during MCP response actions.

The enclosed comments are informed by Massachusetts LSPs with practical experience at MCP disposal sites and in the application of hazardous waste regulations in real-world response scenarios, including members of the LSPA's Regulations and Technical Practices Committees, as well as an LSPA past president with a longstanding interest in this topic (J. Andrew Irwin, PE, formerly of Pennoni, now retired). We kept Mr. Irwin's comments separate to provide proper credit (he also submitted his comments directly to your office).

Collectively, the comments address technical/regulatory clarity and practical implementation considerations. Key themes include:

- Strengthening alignment with MCP requirements, particularly with Phase I site history and the role of due diligence in hazardous waste determinations;
- Clarifying the application of hazardous waste regulations, including listed waste definitions, the mixture rule, "derived-from" provisions, and distinctions between MCP "hazardous materials" and RCRA "hazardous waste";
- Emphasizing the importance of making hazardous waste determinations early in the response process;
- Expanding the discussion of waste streams and scenarios that often create uncertainty, including groundwater, treatment residuals, uncontainerized waste, and the applicability of the "contained-in" policy; and
- Enhancing usability of the guidance by including visual aids and summary tools (e.g., flow charts, decision trees, and tables) that could help practitioners determine hazardous waste status and select the appropriate shipping documentation.

Thank you for your review and consideration of these comments. We welcome the opportunity to discuss the comments further; please don't hesitate to contact us if that would be helpful.

Sincerely,

Katie Kudzma, LSP
VHB; LSPA President

Mariellen Morris
Executive Director, LSPA

LSPA Comments on Guidance for Persons Performing Response Actions at Massachusetts Contingency Plan Disposal Sites Who May be Generators of Hazardous Waste

Policy:
https://www.mass.gov/doc/public-comment-draft-guidance-for-persons-performing-response-actions-at-massachusetts-contingency-plan-disposal-sites-who-may-be-generators-of-hazardous-waste/download

Provided below are the LSP Association's detailed comments on the above stated MassDEP Guidance.
***"Page No." refers to the pages in the MassDEP Guidance document.*
***"Section/Subsection" refers to the Sections in the MassDEP Guidance 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 red font color), where appropriate.

Page No.	Section/Subsection Number	LSPA Comment
	General Comment	There appears to be floating regulatory references that could be misinterpreted as sentence fragments. Consider incorporating regulatory references into a complete sentence or inserting in a footnote instead. **EXAMPLE**: see Page 3, First Paragraph.
	General Comment	We recommend the inclusion of a Venn diagram (or something similar to demonstrate how Hazardous Waste is just a small portion of all Wastes (Remediation Waste, Uncontainerized Waste, Containerized Waste, etc.)
	General Comment	We recommend adding a flow chart to help reader understand how to determine if the waste could be defined as a Hazardous Waste
	General Comment	We recommend adding a flow chart to help reader understand which shipping manifest is appropriate (MSR vs BOL vs non-haz waste manifest vs Haz Waste Manifest)
	General Comment	We recommend including the definitions of key terms defined under the identified regulatory programs as a "Definitions Section" for ease of reference.
	General Comment	We recommend including specific applicable regulatory references and guidance documents with hyperlinks as an attachment.
	General Comment	Concerning soil wastes, it may be useful if the document explained some of the issues concerning "generation" as it applies to soil waste and, specifically, that soils "in-situ" or even excavated, but stockpiled in the "area of contamination" may not be considered "generated" (depending on the jurisdiction under which they are being managed). Also, landfills located outside of Massachusetts may interpret "generation" differently and this only applies inside MA. This may also trigger the Underlying Hazardous Constituent sample (40 CFR 268.48)
	General Comment	There are not a lot of standards for characteristic waste could put in the limits for the base categories and toxicity (a.k.a as measured by TCLP) could easily be attached as a quick reference.
	General Comment	There is a mix of the use "Hazardous Waste" sometimes its 310 CMR 30.000 other times its RCRA. We could benefit on where MA is more restrictive or different than the RCRA definition. Save a lot of document comparisons.
	General Comment	MA has 5 specific haz waste categories that are not part of the letter listed or characteristic wastes These are MA00, MA95,MA97, MA98, and MA99. These should be included in this document as a MA Specific "Haz Waste Generation" and reference to 30.130 where the definitions can be found.

1+	paragraph 2	The term canisters is used in the second paragraph. Later in the document carbon canisters. Make consistent. There are plenty of other treatment technologies outside of carbon and filters that can be used to treat waste (resin beds for metals is pretty common). Perhaps indicate for example: filters and canisters. These are also primarily used to treat water or air. Treatment for soil often involved in-situ or ex-situ treatment most common pH neutralization of TCLP stabilization. See earlier comment on when "generation" occurs in and outside of MA.
2	III.b	In Section III, the 1st example given states that an unused container of MEK would not likely be a listed hazardous waste. However, it and any resulting spill residue would be a listed hazardous waste under the U-listing U159. Also, in accordance with LDR requirements, all applicable characteristic waste codes would need to be identified for the waste (i.e., D001 and D035), but in accordance with 268.9, since the treatment standard for the listed waste addresses the constituents causing the waste to exhibit the characteristic, these additional codes would not be required to be assigned to the waste. It may be helpful to have this explained a little more in the guidance, but probably not necessary.
2	section a) and/or b)	Mention of wastes with regulatory compliance requirements in addition to, or separate from, RCRA, including but not limited to PCBs regulated under 40 CFR Part 761 and asbestos “special waste” regulated pursuant to 310 CMR 19.061.
3	example #2	The memo needs to discuss groundwater and specifically how this should be addressed at sites for the purpose of waste classification. An example is provided, but it would be helpful to take this a bit further. For example, if levels of TCE are detected at below GW-1 concentrations in a 55-gallon drum, what options are available? I'd like to see discussion regarding 40.0045 included in this document, in particular sections (6) and (7).
3	paragraph 4	There is one mention in this document about used or spent carbon canisters and filters and other contaminated media. I'd like to see more discussion on this topic.
5	paragraph 4	The document states "*Contaminated Media and Contaminated Debris can usually be recognized by containing **oil or hazardous waste** at levels or concentrations for which notification would be required at the Disposal Site at which the waste is produced*." I believe the "oil or hazardous waste" should be replaced with "oil or hazardous materials". This is also the first location in the document where hazardous materials is referenced. Further clarification should be provided here on the difference between the MCP definition of "hazardous materials" and Hazardous Waste.
5	paragraph 4	We'd like to see an example provided for an "Uncontainerized Waste."
6	paragraph 1	MCP citation stated as 310 CMR 30.0000 needs to be corrected.
6	paragraph 3	It would make sense to add that some of the testing needed to verify if the waste is a characteristic waste will happen immediately prior to disposal when sampling is typically required by many landfills to verify ignitability, corrosivity, reactivity and toxicity. In particular, TCLP testing of soil to verify if it exceeds hazardous waste threshold values.
7	paragraph 1	The following sentence is confusing and the question it refers to is unclear: "(The contained-in process is not described further in this Answer.)" Right now the document states that the Contained-In process is not described in this document. While I don't think that the "process" needs a lot more discussion, it seems like this topic is being glossed over too quickly and i think it warrants its own section to describe the concept and how this can be utilized on sites where low-level concentrations of listed wastes are detected in soil, which without the contained-in determination would require handling as Hazardous Waste.

7	first bullet	The example references the "epa" F listed waste are these the same as the MA F listed waste. I would assume the MA listings are equal to or more restrictive than the federal guidelines. It would be helpful to either indicate we are looking at USEPA and not MA 30.0000 or keep the reference to the MA guidance. Perhaps identify where MA changes from the RCRA language?
7	section IV.c	Concerning the F-listings, it is probably worth it for the document to get into a little detail concerning the 10% before-use rule (except for F003 which is 100%) and how that is applied to mixtures of listed solvents. It probably also should get into a little detail concerning the term “used for its solvent properties” as applied by EPA in determining if a spent solvent qualifies for the F-listing and that listed solvents as ingredients in a product such as paints and/or coatings would not qualify for the spent solvent F-listing.
7		We recommend a chart to help the reader understand Listed Waste definitions.
8	Paragraph 3	Question on whether the statement, "U-Listed and P-Listed Wastes are among the most commonly found at Disposal Sites" is true. Some concern it is not and it's also on page 7, paragraph 1.
9	See bulleted list at bottom of page	"(search the Handler section of RCRAInfo Sign In"... Missing closing parentheses.
10	paragraph 1	ASTM E1527 does not contain a dash
10	paragraph 2	“e-Manifest... Missing closing quotation mark.
10	section V.	We recommend adding the following resources: RCRAInfo (rcrainfo.epa.gov); e-Manifest (epa.gov/e-manifest); CDX Exchange (cdx.epa.gov);. TSCA (epa.gov/laws-regulations/summary-toxic-substances-control-act); MassDEP Asbestos Information and Resource Guide (mass.gov/doc/massdep-asbestos-information-resource-guide/download)