

Delivered via Electronic Mail to: alvarez.victor@epa.gov

May 26, 2010

Mr. Victor Alvarez
EPA-Region 1
Office of Ecosystem Protection
5 Post Office Square, Suite 100, Mail Code OEP-06-4
Boston, MA 02109-3912

RE: Massachusetts Licensed Site Professional Association Comments
Draft NPDES General Permit MAG910000

Dear Mr. Alvarez:

The LSPA Association (LSPA), a professional non-profit association of more than 900 environmental scientists and engineers, respectfully submits the following comments and suggestions related to the subject draft Remediation General Permit (RGP).

Background

The U.S. Environmental Protection Agency Region 1 (EPA New England) published the notice of availability of the draft permit on April 26, 2010 and invited interested persons to submit written comments. EPA New England has reissued the RGP to replace the existing RGP which will expire on September 9, 2010. The LSPA has invited its membership to provide comments on the proposed draft RGP, and the following sections summarize the comments received. The LSPA membership has direct experience with implementation of the existing RGP, and as the professionals responsible for the majority of waste site cleanups in Massachusetts, they, and their clients, will be most impacted by the proposed reissued version.

Monitoring and Sampling

The LSPA offers the following comments on the sampling and monitoring provisions contained in the proposed RGP:

1. The draft RGP allows for reduction in the list of parameters for established gasoline only and residential fuel only sites. The RGP should apply the same approach for other applicable release sites such as commercial heating oil releases, dry cleaning releases, transportation accident releases, electrical sub station, or similar locations where sufficient assessment has identified the contaminants of concern (COCs) are limited.

2. Part I.C.8 - The duration of the process required to remove monitoring parameters has doubled. Previously, 6 months of acceptable influent and 12 months of acceptable effluent data were required to remove parameters from monitoring. Now, 12 consecutive months of influent and 24 consecutive months of effluent data are required to remove parameters from monitoring.
 - This allows reduced sampling only for dewatering systems that will run for extended periods of years and no relief for those only operating a few years. We suggest that considering the burden, EPA should return to the prior 6 month and 12 month monitoring data requirements for monitoring reduction.
 - This will be a problem if the treatment system has downtime for more than a month during the one/two year period. We suggest clarifying this requirement as “consecutive operating months”.
3. For sites that have a dilution factor from 0 to 5, under the revised RGP a higher effluent limit can now be calculated for a site that has a dilution factor above 1. This is an improvement to the existing permit requirements. The LSPA supports this change.
4. Under the revised RGP, re-start sampling only needs two sets of samples collected in the first week of restart, and then sampling can be monthly thereafter. This is an improvement to the existing permit requirements. The LSPA supports this change.

Effluent Limits

The LSPA offers the following comments on the effluent limits in the proposed RGP:

1. Under the 2005 RGP we could analyze 1,4-dioxane by EPA Method 8260 and phenols by EPA Method 8270, both of which methods we were already using to analyze BTEX and PAHs, respectively. For the 2010 RGP, EPA is proposing Methods 522 or 1624C for 1,4-dioxane and Method 420 for phenols. This requires us to add 2 new methods, which will increase the cost to test samples for the NOI application. In the reissued RGP Method 8260 should still be allowed for analysis of 1,4-dioxane and Method 8270 should still be allowed for analysis of phenols. Please clarify the technical justification from EPA why the prior allowed methods should not also be acceptable for the revised RGP.
2. The Draft Fact Sheet states that “EPA has added a new sampling requirement for chloride that must be submitted for each discharge with the NOI. EPA will use this information to determine if a reasonable potential exists to exceed water quality standards (taking into account the dilution and the existing levels of chloride in the receiving water). If such a reasonable potential exists, EPA will include a permit limit for chloride in

its authorization letter.” We request that EPA explain the methodology that will be used for imposing and calculating the chloride permit limit.

3. According to past EPA guidance, it has been required that reporting limits for individual constituents be added to determine the ND-related reporting limit for a “total” parameter listing. This causes “total” parameters to be listed at a reporting limit that is substantially higher than individual reporting limits and above the permit limit. Even though individual constituents may not be detected at acceptable reporting limits, the summation of reporting limits always affects management of PCBs and total phthalates, because according to the permit and EPA guidance it is not possible to conclusively state that these “total” constituents are not present. We request that EPA consider revising the guidance approach to “total” constituent evaluations.

Administrative Requirements

The LSPA offers the following comments on the administrative procedures contained in the proposed RGP:

1. The requirement to apply 14 days in advance of commencing discharge does not allow for emergency situations. We suggest that there be a mechanism for obtaining authorization of emergency discharges such as for Immediate Response Actions under the MCP during the 14 days while the NOI filing is being reviewed.
2. The new date for annual certification of the BMPP is the date of authorization for discharge under the new RGP. This certification needs to be submitted to EPA and MassDEP by the anniversary date each year for the first two years. For years after that, the certification needs to be completed annually but instead is to be kept on site for inspection. If the certification is NOT submitted to EPA during the first two years, the RGP authorization will be subject to termination and penalties may be applied. While we agree that the first annual certification of the BMPP should get submitted to EPA and MassDEP on the anniversary of the initial date of authorization, all subsequent years BMPP certifications should be completed and available on site for inspection but not have to be submitted.
3. In addition to posting the individual NOI applications, the actual EPA Letter of Authorization under the RGP permit to discharge should also be posted on the EPA website as a matter of public record.
4. Part I.A.3.k specifies that “*Short-term discharges from sumps or other similar water collection structures, e.g., discharges lasting less than one week (7 days) at residential properties.*” Please clarify whether such short term discharges must get an individual permit or they are exempt. Where one example is provided, please provide further guidance on what types of discharges are excluded from coverage. Specifically, address whether

short term discharges from sumps at non-residential properties are also excluded.

Thank you for the opportunity to comment on the draft RGP permit.

Sincerely,

The LSP Association, Inc.

J. Andrew Irwin, PE, LSP
President 2009-2010

CC: Wes Stimpson, LSPA Exec. Director
Dot McGlincy, LSPA Regulations Committee Co-Chair
Marilyn Wade, LSPA Regulations Committee Co-Chair

LSPA Comments on 2010 RGP_26 May 2010 Final.doc