



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals

MINUTES
of
BOARD MEETING
Held on March 20, 2014
[Approved: April 17, 2014]

Meeting Location: Massachusetts Department of Environmental Protection
Western Regional Office
436 Dwight Street
Springfield, MA

Prepared by: L. Read

List of Documents Used at the Meeting:

1. Agenda
 2. Draft Minutes of Meeting held on February 26, 2014
 3. Renewal Dockets #1 and #2
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1. **Call to Order:** Benjamin Ericson called the meeting to order at approximately 3:25 p.m. Also present were David Austin, Gail Batchelder, Kathleen Campbell, Debra Listernick, Robert Rein, Farooq Siddique, and James Smith. Kirk Franklin and John Guswa were absent. Staff members present were Beverly Coles-Roby, Lori Williamson, and Lynn Read. Also present were Rebecca Woolley, Environmental Analyst with the Bureau of Waste Site Cleanup in MassDEP's Central Region; Wendy Rundle, Executive Director of the LSP Association ("LSPA"); Wesley Stimpson of WES Associates; and Kevin O'Reilly of the LSPA Regulations Committee
 2. **Announcements:** Mr. Ericson welcomed Lori Williamson as the staff Investigator.
 3. **Agenda:** The following item: 13.C. Website Design was added to the agenda.
 4. **Minutes of Meeting Held on February 26, 2014:** The members present reviewed the draft minutes of the meeting of the Board held on February 26, 2014. Ms. Read said she would add a clarifying phrase in item 6.C. **A motion was made and seconded to approve the February 26, 2014 minutes as amended. The motion passed, with Mr. Rein and Ms. Listernick abstaining.**
 5. **Regulations Committee:** Ms. Coles-Roby said the committee met on March 18, 2014, and each member is taking the lead on a section of the regulations. She said the committee plans to present a memorandum at the April Board meeting summarizing its work to date. She said the committee will review the LSPA's letter dated January 31,

2014, and the attached chart of proposed changes, and will bring the committee's recommendations to the full Board.

Mr. Ericson said that he and Dr. Batchelder met to discuss Mr. Stimpson's comments on the standards for LSP applications. He said the committee will consider potential amendments and additions to the Board's regulations, including: definitions and standards for professional experience; the process for Application Review Panels ("ARP"); and the processes for re-applying for a license and appealing a denial of an application. Ms. Coles-Roby asked that any comments in these areas be sent to her.

Ms. Campbell said the committee will address continuing education regulations including electronic connectivity, carryover of credits from one renewal period to the next, methods of earning credits other than attending courses, and the requirements for "MassDEP" and "regulatory" courses. The number of required credits was discussed, and members said the Board originally required 64 credit hours in one renewal period, but later reduced the number to 48 hours. Ms. Woolley asked the Board to address the issue of "black hole credits," i.e., excess credits earned during a 90-day extension for license renewal, which under the Board's current regulations cannot be used toward the following license renewal period. She said this discourages LSPs from taking courses that would otherwise benefit their practice. Mr. O'Reilly said the LSPA Regulatory Committee would send the Board a memorandum to follow up on the LSPA's January 31, 2014 letter suggesting amendments to the regulations.

6. **A-B. Decisions Regarding Licensing of Applicants:** There were no Application Dockets to be considered.

Mr. Smith, Mr. Austin, and Ms. Listernick volunteered to serve on ARP #258, which includes one applicant applying for a second time.

C. Application Committee: Mr. Ericson said that some of the comments received by the Board about application requirements might not result in changes to the regulations, because there are a variety of ways those comments can be addressed, including guidance documents that might include discussion of cases, or standard operating procedures for processing applications. He said the committee considered how best to meet the statutory requirement that LSP opinions can be relied upon to protect public health, safety, welfare, and the environment. He asked the members present to consider some scenarios the committee had discussed; in the first scenario, the applicant worked in-house as environmental advisor, was responsible for the institution's sites, and hired the LSPs. Mr. Ericson asked what the Board would need to know to determine whether this applicant was an active principal decision maker. Members said that active involvement in decision making might occur if the applicant was the client's contact with the LSP, and the Board should consider whether the applicant was involved in the decision making and signed submittals to MassDEP as the Responsible Party, or was simply reviewing and approving the work. Mr. Stimpson said the Board should decide on the skill sets it wants applicants to have. Members said there can be more than one principal decision maker, but an in-house consultant could be too far up the corporate ladder and thus might focus

only on key decision points, and the Board should consider whether an applicant must oversee field work.

Mr. Ericson said the second scenario was an applicant who is a lawyer or works in a law firm, who has a scientific background, such as a Ph.D. in hydrogeology, and meets as often with the LSP as the in-house consultant did in the first scenario. Members said that in the Dayall case, which was discussed at the February meeting, the Board denied the application of a paralegal with experience in chemical engineering on the ground that he was not a principal decision maker. Mr. Ericson said the regulations seem to contemplate active work in containment and removal. The members present discussed whether an applicant such as regulatory staff who does not actually make remedial decisions but reviews the opinions of other LSPs, would worry the Board. Mr. Ericson said some MassDEP staff make day-to-day remedial decisions in overseeing Tier 1 sites, and are very knowledgeable, give technical assistance, and know what works and what does not for site assessment and remediation. Ms. Rundle said an applicant who is not in a company doing waste site cleanup currently does not need to answer to a client, or consider costs or deadlines, and does not need to withstand business pressures. Members said MassDEP's Emergency Response unit faces real-time pressures, and an LSP must be able to walk away from a site cleanup project. Mr. O'Reilly asked the Board to consider an LSP like an engineer who must sign off on a large building project, works on the design from the roots up, and thus has an understanding of the design and what can go wrong. Dr. Batchelder said there have been engineers who have worked only at regulatory agencies, who have engineering licenses.

7. License Renewal Applications:

A. Renewal Dockets. The staff presented the following License Renewal Dockets:

Renewal Docket #1
Renewal Date: April 30, 2014
New Renewal Date: April 30, 2017
 Have completed all requirements for renewal:

	LSP #	First	Middle	Last
1	6837	Richard	J	Rheaume
2	2373	James	S	Currier
3	2149	James	R	Borrebach
4	7126	Rebecca	L	Woolley
5	1078	Suzanne	C	Courtemanche

A motion was made and seconded to renew the licenses of the LSPs on Renewal Docket #1 for the three-year period ending on the date indicated. The motion was approved with Mr. Ericson abstaining.

Renewal Docket #2
Renewal Date: January 30, 2014
New Renewal Date: January 30, 2017
 Has completed all requirements for renewal:

	LSP #	First	Middle	Last
1	9000	Bruce	H	Nickelsen

A motion was made and seconded to renew the license of the LSP on Renewal Docket #2 for a three-year period ending on the date indicated. The motion was approved unanimously.

B. Other Renewal-related Matters. The staff reported that no waiver requests were received since the previous meeting, and there were no other renewal-related matters.

8. Other Licensing-Related Matters:

A. New Panel Assignments and Scheduling. See item 6 above.

B. Appeals Status Report. There were no pending appeals regarding the Board’s denial of license applications.

C. Inactive Status Report. The staff reported that the following LSPs are currently on Inactive Status:

LSP Number	License Status Date	License Status	Last Name	First Name
9282	January 3, 2013	Inactive	Welsh	Mark
2349	January 30, 2014	Inactive	Howell	Deborah
9090	January 30, 2014	Inactive	McCreery	Charles

D. Total Number of Active LSPs. As reported in the Agenda, the total number of Active LSPs was 562 as of March 12, 2014.

9. Examinations:

A. Dates of Next Exam: Ms. Coles-Roby said that MassDEP’s amendments to the Massachusetts Contingency Plan received final approval, therefore no LSP exam will be given in May or June, but the new exam will be given in November or December 2014, as discussed at the last meeting.

B. Exam Committee: Ms. Coles-Roby thanked the members for their work in the Exam Committee, and the next meeting of the Exam Committee will be April 7, 2014. She said the request for proposals from psychometricians has been posted, and the Master Content Outline has been revised. She said that about five applicants have registered to take the LSP exam, some of whom took the exam previously but did not pass. **Ms.**

Rundle requested that the Board post an announcement on its website that the old exam will no longer be administered, and the new exam will not be administered until late in 2014. The members present agreed to this request.

- C. Exam Challenge:** Ms. Coles-Roby reported that the subcommittee addressing exam challenges has not yet received information requested from MassDEP.

10. Continuing Education Committee Report:

- A. Course and Conference Approval Requests.** Mr. Ericson reported that the Committee met earlier in the day and made the following course recommendations to the Board:

- a. MassDEP: *2014 MCP Regulatory Reform Training Initiative* (Tuesday, April 1, 2014, Marlborough Holiday Inn; Tuesday, April 8, 2014, Taunton Holiday Inn; Tuesday, April 15, 2014, Boxborough Holiday Inn; Thursday, May 1, 2014, Westford Regency; Wednesday, May 14, 2014 Springfield Holiday Inn; 6 Regulatory credits).
Committee Recommendation: **Approve**
- b. LSPA: *PCE and TCE Toxicity and Risk-Based Value Updates* (April 10, 2014, Westin Hotel, Waltham, one (1) hour Technical credit)
Committee Recommendation: **Approve**

A motion was made and seconded to accept the Continuing Education Committee's recommendations. The motion passed with Mr. Ericson abstaining as to the MassDEP course, "MCP Regulatory Reform."

Other Business: None.

- 11. Professional Conduct Committee:** The Board agreed to forego a Professional Conduct Committee report, because all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day.

- 12. Personnel, Budget, and Fees:** See Announcements, item 2 above.

13. Other Business

- A. LSPA News Topic:** Ms. Coles-Roby said she will draft an article, as discussed at the last meeting.
- B. Action Items List:** There was no discussion of an Action Items List.
- C. Board's Website:** Ms. Coles-Roby reported that she will attend a website training course. **She requested that Board members email her any biographical information they wish to have posted on the Board's new website.**

16. **Future Meetings:** The Board's next meeting will be April 17, 2014, in the Boston office of MassDEP, and other meetings are planned as follows:
 - May 15, 2014 – MassDEP Northeast Regional Office
 - June 19, 2014 – MassDEP Southeast Regional Office

17. **Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 4:15 p.m.