

>>> "Lewis, Thomas 4/10/2011 9:38 PM >>>

Dear Ms. Hershey,

As Chair of the LSRP Task Force from the American Council of Engineering Companies (ACEC) of New Jersey, I respectfully submit the below listed comments on the proposed LSRP Audit Process (Draft) and LSRP Audit Questionnaire (Draft) on behalf of the Task Force.

Please feel free to contact me, Ileana Ivanciu (ACEC NJ Environmental Committee Chair), and/or Joe Fiordaliso (ACEC NJ President) at the above email addresses if there are any questions with regard to these comments. Best regards,

**Thomas G. Lewis, P.E., J.D.**

Senior Vice President

**mobile 201.247.8921 - - email tlewis@louisberger.com**

**P Before printing, think about ENVIRONMENTAL responsibility**

#### **ACEC NJ Comments on LSRP Audit Process (Draft)**

Page 1, Number 3 – There is a discrepancy in the timeframe required for the completion and return of the LSRP Board Audit Questionnaire from the date of receipt between the Audit Process (21 days) and the Audit Questionnaire (30 days – Para 3). Please correct.

Page 2, Number 5 – Will the “satisfactory” findings of all audits be posted on the Board website at the same time, and thereby implying that the findings of any audits not posted are “unsatisfactory” and being referred to the full Board for disciplinary review?

Page 2; Number 7 – Please clarify how the audited LSRPs with “satisfactory findings” that are removed from the list for 3 years, will not be subject to the random selection process during those 3 years, despite being counted towards 10% of the total number of LSRPs?

#### **ACEC NJ Comments on LSRP Audit Questionnaire (Draft)**

Page 3, Part B, Question 9 - This question pertains to the withdrawal of a LSRP. This question should be limited to involuntary dismissal of the LSRP by the client (i.e., responsible party). In most cases, voluntary withdrawal of a LSRP would not be performance-based; so why is this information pertinent to the audit?

Page 4, Part B, Question 14 - This question relates to reporting all Immediate Environmental Concerns (IEC) in which the LSRP has knowledge and can be answered with “Yes”, “No”, and “N/A”. If “No” or “N/A” are chosen as the answer, the question require explanation regard the circumstances. No explanation should be required when answering “N/A”. If one chooses “N/A” as the answer, it should be assumed that IECs are not applicable at the site.

Page 4, Part B, Question 15 - This question is similar to Question 14, but involves reporting all known discharges discovered as part of any remediation. Same comment as in Question 14: Why is an explanation necessary when answering “N/A”?

Page 4, Part B, Question 21 - This question involves whether one LSRP has knowledge of

another LSRP (under his or her supervision) committing any violation of any provision of Section 16 of SRRA. This question has either a "Yes" or "No" answer. In this case, there should also be a "N/A" answer (not requiring an explanation).

Page 5, Part C - This section requires documentation of continuing education. Is this applicable to the permanent license only? If not, do temporary LSRPs need to document continuing education courses or seminars in preparation for a potential audit over the next 13 months? When will the audits commence - January 1, 2012?

Page 6, Section E, Questions 2 and 3 - These questions regarding health and safety are too broad and should only be limited to remediation activities worked on or supervised as a LSRP at a site since overall construction safety is normally within the expertise and purview of a dedicated health and safety specialist/monitor. Also, are all OSHA regulations (29 CFR 1910.120 and 1926) applicable within the context of these questions (e.g., general construction safety - construction and integrity of scaffolding on a building or other structure, etc.)?

### **ACEC NJ General Comments/Questions**

Early in the process, these questionnaires will likely be submitted to a significant number of LSRPs that have not yet been retained by a responsible party. Is the board in some way going to limit the audit only to LSRPs that have been retained for one or more cases?

It should be clarified whether the Board's intent during the audit process is: a. to defer to NJDEP findings and positions on technical matters associated with LSRP such that the Board focuses more on enforcement of the LSRP Code of Conduct and other licensing requirements; OR, b. to independently (and possibly differently from NJDEP) evaluate all aspects of the LSRP's work product, as well as evaluating their conduct and their licensing status. We believe that it is prudent and appropriate for the Board's approach to be aligned more with the former than the latter, especially where the LSRP reasonably relies upon current or prior NJDEP positions, precedents and documented experience.

It should also be clarified how/if the Board will pre-screen referrals of complaints for reasonableness and foundation prior to triggering full and formal investigations of LSRPs since it is possible for such complaints to be frivolous and/or baseless yet damaging and costly to the subject LSRP.

Although not an issue immediately, there should be a time period cap on the historical information required from the LSRP on a particular case, and should be limited by the record keeping requirements for LSRPs under the SRRA.

**Thomas G. Lewis, P.E., J.D.**

Senior Vice President

**mobile 201.247.8921 -- email [tlewis@louisberger.com](mailto:tlewis@louisberger.com)**

**P Before printing, think about ENVIRONMENTAL responsibility**

This message, including any attachments hereto, may contain privileged and/or confidential information and is intended solely for the attention and use of the intended addressee(s). If you are not the intended addressee, you may neither use, copy, nor deliver to anyone this message or any of its attachments. In such case, you should immediately destroy this message and its attachments and kindly notify the sender by reply mail. Unless made by a person with actual

authority conferred by The Louis Berger Group, Inc., (LBG) the information and statements herein do not constitute a binding commitment or warranty by LBG. LBG assumes no responsibility for any misperceptions, errors or misunderstandings. You are urged to verify any information that is confusing and report any errors/concerns to us in writing.

-----Original Message-----

From: [owner-srra@listserv.state.nj.us](mailto:owner-srra@listserv.state.nj.us) [mailto:owner-srra@listserv.state.nj.us] On Behalf Of SRRA  
Sent: Monday, March 28, 2011 4:00 PM  
To: [srra@listserv.state.nj.us](mailto:srra@listserv.state.nj.us)  
Subject: [SRRA] Site Remediation Professional Licensing Board: LSRP Audit Process

[Resend of an earlier announcement. This copy includes the Web address for the draft process and questionnaire documents.]

In accordance with the Site Remediation Reform Act N.J.S.A. 58:10C-24, et seq. (SRRA), the Site Remediation Professional Licensing Board (SRPLB) shall audit annually the submissions and conduct of at least 10% of all Licensed Site Remediation Professionals (LSRPs). The Audit Committee of SRPLB has prepared a draft process and questionnaire for the completion of these audits and is asking for public input as part of a stakeholder process. The draft process and questionnaire documents can be found on the SRPLB Web site at <http://www.nj.gov/lrspboard/board/auditprocess.htm>

The intent of the process is to audit the LSRP and not the contaminated site or responsible party and the questionnaire will be utilized as the initial tool to obtain information from the LSRP on submissions and compliance with the Code of Conduct (Section 16 of SRRA).

All comments and questions relative to these documents will be accepted in person at the next SRPLB meeting on April 4, 2011, or through 5:00 PM on April 11, 2011 via email to [karen.hershey@dep.state.nj.us](mailto:karen.hershey@dep.state.nj.us) or mail to:

Site Remediation Professional Licensing Board  
c/o New Jersey Department of Environmental Protection/Site Remediation Program  
Office of Assistant Commissioner  
PO Box 420; Mailcode 401-06  
401 East State Street  
Trenton, New Jersey 08625-0420  
Attn: Audit Committee

The intent of SRPLB is to approve the process and questionnaire at the May 2, 2011 meeting.

---

Site Remediation Professional Licensing Board (SRPLB) Web Site: <http://www.nj.gov/lrspboard/>  
Site Remediation Reform Act (SRRA) Web Site: <http://www.nj.gov/dep/srp/srra/>