

Mayor's Roundtable:LSRP Association and Municipalities

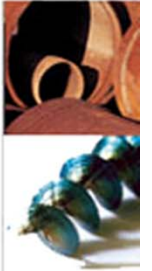
Sue Boyle
GEI Consultants
LSRPA Board Member
1 June 2010



Who We Are




- A non-profit professional organization with 400 members
- Regular members (LSRPs) and Associate Members
- 75% or more of NJ's temporary LSRPs are members of the Association



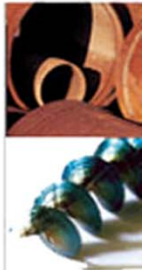


Committees and Sub-Committees of Interest to Municipalities



- *Continuing Education**
 - *Legal and Legislative**
 - *Communications: building a robust website at www.LSRPA.org**
 - *Technical Assistance Grants**
 - *Brownfields**
 - *Mandatory Timeframes**
 - *Stakeholder Engagement**
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LSRPA is well represented on NJDEP's Teams

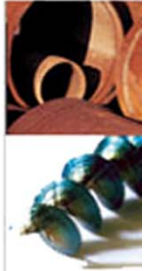


- *Metrics/Measures of Success**
- *Technical Requirements**
- *Guidance Documents**
- *Short Term Administrative Advice**
 - *Joint Courses**
- *Being formed: Remedial Priority Scoring (RPS)**
- *Active Member of the Steering Committee, co-chaired by Deputy Commissioner Kropp and Tom Cozzi**



WHAT IS THE LSRPA SEEING?

- Due diligence separation (non-LSRPs v. LSRP)
- Large cases not opting in quickly enough for NJDEP; Shell op-in may change that
- Some large companies don't want any LSRPs working on their sites now

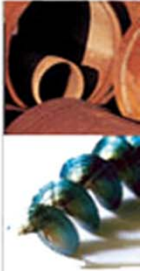


WHAT IS THE LSRPA SEEING (CON'T)



Question: Is it worth suspending a temporary license?

- **Client desire for DEP issued NFA, not a RAO**
- **Hiring non-LSRPs for “strategy”**

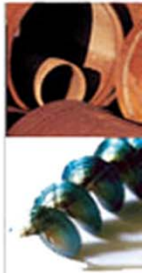


Why some companies are not opting-in yet

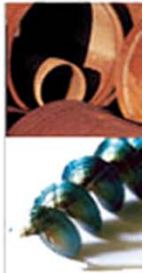


Subsections j. and k. define notification requirements for LSRPs, specifically distinguishing between any and all LSRPs having the obligation to always provide notification of “immediate environmental concerns” (IECs) versus the obligation to notify about non-IEC discharges only when the LSRP has “specific knowledge” that a discharge has occurred on a site for which the LSRP “is responsible.” GEI believes that based on testimony offered by the NJ environmental consulting community during legislative hearings on the bill, “is responsible” should be read as “is the LSRP of record,” which intentionally narrows which professional has the notification requirement for non-IEC discharges.

Both j. and k. also reinforce the duty of the “person responsible for conducting the remediation”, to notify the NJDEP of the IEC or the discharge.



LSRP REPORTING REQUIREMENT: IEC




- j. If a licensed site remediation professional identifies a condition at *a contaminated site* that in his independent professional judgment is an *immediate environmental concern*, then the licensed site remediation professional shall: (1) immediately verbally advise the person responsible for conducting the remediation of that person's duty to notify the department of the condition; and (2) immediately notify the department of the condition by calling the department's telephone hotline.




LSRP REPORTING REQUIREMENT: DISCHARGE



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- k. If a licensed site remediation professional *obtains specific knowledge* that a discharge has occurred on a *contaminated site for which is he is responsible*, the licensed site remediation professional shall: (1) notify the person responsible for conducting the remediation of the existence of the discharge; and (2) notify the department of the discharge by calling the department's telephone hotline. The person responsible for conducting the remediation shall also be responsible for notifying the department of the existence of the discharge. The provisions of this subsection shall not apply to a discharge that may be a result of the existence of historic fill material.



LSRP REPORTING REQUIREMENT: SUMMARY

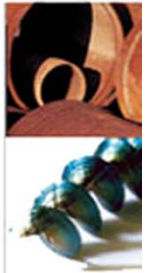


LSRPA believes that if our clients choose to continue with NJDEP oversight until 2012 for remedial sites currently assigned to NJDEP case managers, that temporary LSRP licensees do not have a discharge notification obligation to NJDEP except for Immediate Environmental Concerns. Since there is no “LSRP of record” if the site remains under NJDEP oversight for the time being, there is no obligation for a temporary LSRP to report discharges to NJDEP. Our clients who are the “persons responsible for conducting the remediation” always maintain the obligation to notify the NJDEP of discharges; the client who is a person responsible for conducting the remediation also always has an obligation to notify NJDEP of IECs.

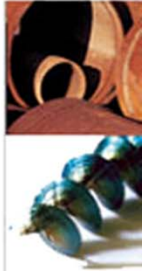
Hot Topics for Municipalities: Brownfields and Real Estate



- **Impact of SRRA on Brownfields Redevelopment**
- **Budget impact on funding the upcoming annual BDA cycle**
- **Legal changes to oversight cost reimbursement**



Are these the Major Issues for Municipalities?



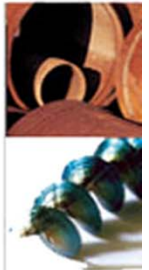
- **Definition of “Person responsible for conducting the remediation” now includes this clause: (5) any other person who is remediating a site.**
- **This is in addition to ISRA subject owners and operators, dischargers, UST owner and operators**
- **Mandatory Timeframes**

What about these?

- RPS
- State Additional Review
- Subrogation
- Other Dept's Oversight Costs
- Requirement that voluntary remediators meet mandatory timeframes to be eligible not to pay the 1% RFS surcharge
- Technical Assistance Grants (TAGS)

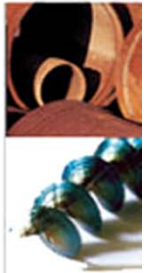


SRRA does Recognize Municipal Needs



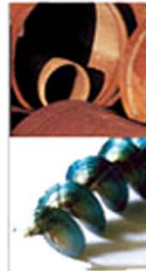
- *Mandatory obligation to remediate extends to ISRA owners/operators, dischargers, UST owners/operators only**
- *Mandatory Obligation to remediate does not apply to “any other person who is remediating a site”**
- *Section 30 of the Act does not apply to persons who: don’t own the site; conduct due diligence regarding previous ownership, AND have not discharged**

SRRA Municipal Recognition (con't.)



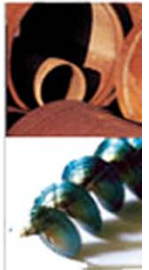
- Gov't entity and others do not have to establish remedial funding source for Institutional/Engineering Control permits
- Gov't entity and others do not have to establish or maintain a remediation funding source

How to Reconcile SRRA Intent and Law's Language?



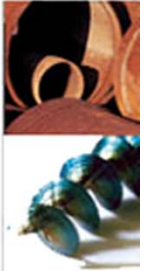
- Section 28 of the Act allows DEP to grant extensions of mandatory timeframes on a case by case basis for “other site-specific circumstances that may warrant an extension as determined by the department”
- Would brownfield sites fit into this category?
- Be represented on teams and stakeholder workgroups and raise the issue up
- Work with the LSRPA to raise the issue up
- Don't take ownership of the site and do AAI due diligence only until clarification is received (is this the solution for now?)

“NON-LSRP” SECTIONS OF SRRA



SRRA #

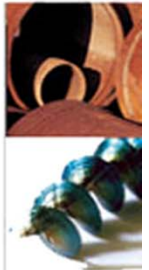
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| 19 | New Permit Program |
| 31 | CNS |
| 31 | Subrogation |
| 33-34 | Conforming Changes to ISRA |
| 35-38 | Conforming Changes to Spill Act |
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| 51 | Remediation Guarantee Fund |



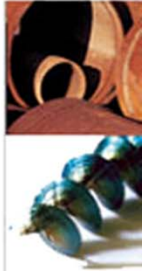


How the LSRPA can assist YOU

- Consider becoming an Associate Member: Individually? Through the League?
- Legal panel
- Continuing Ed
- LSRPA has a Continuing Education Committee: do we need a course to meet municipalities' specific needs?
- We welcome active membership
- Communicate your issues with us so we can raise them up via the team process
- Attend LSRPA open meetings



IN CLOSING



- Go to DEP website often
- Go to the LSRP Association website, www.lsrpa.org
- Look at the rest of the law that isn't about licensing
- Join DEP Teams and Stakeholder Work Groups
- Raise your issues up to the LSRPA

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