

Policy Statement: Licensed Site Remediation Professionals and Certified Subsurface Evaluators Do Not Need to Have an A-901 License When Overseeing Remediation

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The New Jersey Department of Environmental Protection (NJDEP) has determined that Licensed Site Remediation Professionals (LSRPs) and certified Subsurface Evaluators (SSEs), in providing overall management and oversight of a site remediation project, do not need an A-901 license or Certificate of Public Convenience and Necessity in order to handle the management of solid or hazardous waste from that site.

Nearly all of the remediations of discharged contaminants completed within New Jersey are completed under the oversight of Licensed Site Remediation Professionals (LSRPs) or certified Subsurface Evaluators (SSEs).

LSRPs are licensed professionals who meet certain education experience requirements and must pass an examination to be licensed by the Site Remediation Professional Licensing Board. LSRPs oversee the remediation of contaminated sites in accordance with the NJDEP applicable administrative code and guidance and are subject to a strict code of conduct established by the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.) and overseen by the Site Remediation Professional Licensing Board.

SSEs are individuals certified by NJDEP pursuant to the Underground Storage Tank Rules (N.J.A.C. 7:14B) to perform subsurface evaluations on unregulated heating oil tank systems. SSEs are required to meet certain education and experience requirements and must pass an examination to obtain a certification. In addition, the firms where SSEs are employed are also required to be certified. SSEs and their firms are subject to codified professional business practices and subject to enforcement actions including suspension, revocation, denial and refusal to renew certification for violations of various administrative codes and statutes.

NJDEP, in recognition of (a) the education and experience requirements to obtain a license (LSRPs) or certification (SSEs), (b) the code of conduct requirements for LSRPs (N.J.S.A. 58:10C-16), and (c) the codified professional business practice obligations of SSEs (N.J.A.C. 7:14B-16), hereby issues this determination that LSRPs and SSEs, in the course of contracting for the remediation of a contaminated site under the responsibility of an LSRP, or as overseen by a certified SSE, do not require licensure under A-901 pursuant to N.J.S.A. 13:1E-126 to -135, a Certificate of Public Convenience pursuant to N.J.S.A. 48:13A, or prime contractor or subcontractor registration pursuant to N.J.A.C. 7:26-3.2(a)1 in order to investigate, plan for, and arrange for the lawful transportation, disposal, reuse, or recycling of waste materials from these projects. LSRPs and certified SSEs are still obligated, of course, to hire an A-901 licensed and Certificated company utilizing appropriately registered haulers to actually handle the transportation and disposal of these wastes.

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Waste transportation and disposal activities are incidental to other substantial, complex, technical and strategic consulting services performed, which do not require licensure under A-901 or Utility Act rules, and the LSRP or SSE is acting on behalf of the responsible party (generator) for a variety of matters involving the cleanup, of which waste management is only one.

As required by statute (LSRPs) and rule (SSEs), these environmental professionals must undergo continuing education to ensure a thorough and up-to-date knowledge of environmental and regulatory requirements in New Jersey, including the licensing and registration requirements of solid and hazardous waste haulers. Additionally, their licenses or certifications depend on them ensuring the proper management and disposition of potentially hazardous waste generated at cleanup sites under their purview, including the use of A-901 licensed (and registered) haulers and appropriate operating disposal facilities.

Should an LSRP or SSE manage waste outside the parameters of this policy, all licensing, certification, and registration requirements would strictly apply and any/all entities utilized by the LSRP or SSE must be duly licensed, registered, and certificated.