

**Site Remediation Professional Licensing Board
Ad-Hoc Committee on Discharge Notification
Final Report Approved by the Board - November 1, 2021**

The Ad-Hoc Discharge Notification Committee was established on March 1, 2021 by Board Chairperson Mark Pedersen to examine the obligation of an LSRP to report a discharge when retained by a prospective purchaser to perform a preliminary assessment and/or site investigation for the purpose of due diligence or all appropriate inquiry. The Committee met five (5) times and spent over twelve hours analyzing this topic, and spent many additional hours in discussions outside of the meeting schedule. The committee includes Phil Brilliant (Committee Chairperson), Dr. Jorge Berkowitz, Dr. Peter Strom, and Kathi Stetser, as well as Executive Director Janine MacGregor and Regulatory Officer Dana Haymes. The Committee has met with representatives of the LSRPA and received their written comments, the Board's Rules Committee, and the NJDEP SRWMP Rules Committee.

The Committee has reached consensus on the following points:

- The Committee agrees that on behalf of and along with the Person Responsible for Conducting Remediation, the LSRP is responsible to “certify that the work was performed, the licensed site remediation professional managed, supervised, or performed the work that is the basis of the submission, and that the work and the submitted documents are consistent with all applicable remediation requirements adopted by the department” (N.J.S.A. 58:10C-14.a.). LSRPs will be held to the highest of standards, and each LSRP shall consider their professional obligations in accordance with the Rules of Professional Conduct as stated in the Board Rules when retained to perform remediation in the State of New Jersey.
- The Committee agrees that an LSRP has an obligation to report a previously unreported discharge to the Person Responsible for Conducting Remediation and the Department, as per SRRA (N.J.S.A. 58:10C-16.j.) and the Board Rules (N.J.A.C. 7:26I-6.9), when in their independent professional judgment a discharge has resulted in an immediate environmental concern.
- The Committee agrees that an LSRP has an obligation to report a previously unreported discharge to the Person Responsible for Conducting Remediation and the Department, as per SRRA (N.J.S.A. 58:10C-16.k.) and the Board Rules (N.J.A.C. 7:26I-6.10), when he or she is retained to perform remediation at a site or any portion of a site.

While the Committee agrees on these three statements, it has not reached agreement as to its original charge, and suggests that clarity is needed as to whether the Department considers a preliminary assessment and/or site investigation conducted on behalf of a

prospective purchaser for the purpose of due diligence or all appropriate inquiry pursuant to N.J.S.A. 58:10B-1.3.d, as included in the definition of remediation stated in SRRA 2.0. This definition is provided herein:

“Remediation” or “remediate” means all actions to investigate, clean up, or respond to any known, suspected, or threatened discharge of contaminants, including the preliminary assessment, site investigation, remedial investigation, and remedial action, or any portion thereof, provided, however, that “remediation” or “remediate” shall not include the payment of compensation for damage to, or loss of, natural resources.

The Committee recommends that the Board request from the Department this clarification in guidance or the relevant rules regarding when and if a preliminary assessment and site investigation conducted for the purposes of due diligence or all appropriate inquiry is or is not remediation in New Jersey. The Board requests this clarification to assist LSRPs in interpreting their responsibilities, and to assist the Board in resolving complaints related to the matter.