

DISPOSITION

Based on its investigation and findings, the Site Remediation Professional Licensing Board (“Board”) voted to resolve the complaint with a finding that the subject of the complaint did not violate the provisions of the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.) alleged in the complaint and referenced below.

ISSUE

In conducting the audit of the LSRP the Audit Committee found that the LSRP had failed to make the notification required by N.J.A.C. 7:26I-6.8(c) when he failed to notify the Department of Environmental Protection in writing when a mandatory timeframe referenced in N.J.A.C. 7:26C-3 that occurred after December 1, 2018 was not met. Specifically, there was no record that in a particular case the LSRP had notified the Department that the Remedial Investigation Report would not be submitted by the mandatory timeframe of May 7, 2019.

INVESTIGATION

The Audit Committee referred this matter to the Professional Conduct Committee of the Board which investigated. In the course of the investigation the LSRP provided evidence that the person responsible for conducting remediation, his attorney, and the LSRP were involved in discussions with the Department regarding the trigger date of the remediation. The person responsible for conducting remediation, his attorney, and the LSRP took the position that the Department had set an incorrect trigger date, and therefore the remedial timeframes, including the Remedial Investigation Report mandatory timeframe, were not accurate.

FINDINGS

According to N.J.A.C. 7:26I-6.8(c): “an LSRP shall notify the person responsible for conducting the remediation and the Department in writing when in his or her professional judgment based on site history any one or more applicable mandatory or expedited site-specific timeframes referenced in N.J.A.C. 7:26C-3 is unlikely to be met.” In this case, in the LSRP’s professional judgement, based on site history, which included the communications with the Department regarding redetermining the timeframes, he determined that he would be able to submit the RIR by the recalculated mandatory timeframe. The position of the LSRP was that no notification was therefore required because based on his calculation of the correct date for the mandatory timeframe, it was not unlikely to be met. Consequently, the Board found no violation in this matter.

