

Site Remediation Professional Licensing (SRPL) Board  
Statement of Interpretation 2017-01: Independent Professional Judgment  
Version: May 1, 2017

## 1.0 Intended Use of this Document

This document is intended to clarify provisions in the relevant statutes and regulations regarding the professional conduct of Licensed Site Remediation Professionals (LSRPs). These include the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. (hereinafter the “SRRA”) and any rule, regulation, or order adopted or issued pursuant thereto, including the Regulations of the New Jersey Site Remediation Professional Licensing Board, N.J.A.C. 7:26I-1 et seq. (hereinafter the “Board Rules”) with respect to applying Professional Judgment.

## 2.0 Purpose

The term “independent professional judgment” appears three times in the SRRA (N.J.S.A. 58:10C-16.f., N.J.S.A. 58:10C-16.i., N.J.S.A. 58:10C-16.j.). The term “professional judgment” appears one time (N.J.S.A. 58:10C-14.c.(4)). The Board has noted that there has been considerable confusion, and discussion, amongst LSRPs with respect to the exact meaning of “professional judgment,” and what makes “professional judgment” “independent.” This document provides clarification from the Board as to how it interprets these terms. In so doing, the Board intends to assist LSRPs in carrying out their duties and meeting the standards of professional conduct for LSRPs established by the SRRA and the Board Rules.

## 3.0 Independent Professional Judgment

“Independent professional judgement,” also referred to as “professional judgment,” means the practice of applying the specialized knowledge, skill, education, training and experience of an LSRP to the facts, data, reports, site history, and other information regarding contamination or environmental conditions at a site to make informed remediation decisions that comply with all applicable statutes, regulations, and requirements of the New Jersey Department of Environmental Protection (Department) and the Board. It is applied by an LSRP to all actions during the entire course of the remediation, and is also used when an LSRP determines it is appropriate to vary from the technical regulations, propose or implement an alternative remediation standard or screening level, or deviate from technical guidance. Independent Professional Judgment is based on the LSRP’s own expertise and decision-making even when information from other environmental professionals has been considered. Its exercise should be free from outside interests or influences that do not have the protection of public health and safety and the environment as the highest priority. Such influences include, but are not limited to, financial or personal interests, direct or indirect, of clients, persons responsible for conducting remediation and any other persons, that are not compatible with the LSRP’s highest priority to protect public health and safety and the environment.

The concept of “independence” does not require an LSRP to make decisions in a vacuum. An LSRP can and should consider the opinions and advice of other site remediation professionals, including Department staff. When evaluating reliance on past decision made by other LSRPs, site remediation professionals, experts, or Department staff, the LSRP should assess those decisions in light of current information, regulations and guidance, as well as the applicable regulations and guidance that were in effect at the time the remediation was performed. The LSRP is ultimately, and solely, responsible for the decisions and actions taken. A crucial indication that an action or decision is “independent” is the fact that in making the decision or taking the action, the LSRP’s own expertise was relied upon, and the LSRP held as the highest priority the protection of public health and safety and the environment.

#### 4.0 Documentation

Throughout the course of the remediation, the LSRP shall document the factors considered and how those factors influenced decisions or actions. The LSRP shall include a discussion of all the information identified and evaluated. These requirements are included as part of the reporting requirements set forth in the Technical Requirements for Site Remediation (N.J.A.C. 7:26E) and all other statutes and regulations regarding the remediation of contaminated sites. With solid documentation supporting the decisions made and actions taken when applying independent professional judgment, the LSRP can confidently certify all submissions as required by N.J.S.A. 58:10C-14.a.

#### 5.0 Diverging from Technical Requirements for Site Remediation, Standards and Guidance

At times, an LSRP may use independent professional judgment to determine that it is appropriate to vary from the Technical Requirements for Site Remediation, to propose or implement alternative remediation standards or screening levels, or to deviate from technical guidance. When taking any of these actions, as provided in the Technical Requirements, an LSRP shall clearly and sufficiently justify, document and adequately support the actions and decisions with data and other information in order to demonstrate that the remediation as conducted is protective of public health and safety and the environment.

For more information on varying from the Technical Requirements for Site Remediation, see N.J.A.C. 7:26E-1.7. For more information on alternative remediation standards, see N.J.A.C. 7:26D. For more information about deviating from technical guidance, see N.J.A.C. 7:26E-1.5 and 1.6 and N.J.A.C. 7:26C-1.2.