

# **A New Jersey Property Owner's Guide to Hiring Licensed Site Remediation Professionals**

Cleaning up a contaminated site is commonly known as "conducting remediation." Most parties that are responsible for remediation are required to hire a licensed environmental professional, better known as a Licensed Site Remediation Professional ("LSRP"), to oversee or review the remediation. Remediation is the process of identifying/investigating contamination, defining the nature and extent of the chemical that was discharged to the environment, and removing/treating the contamination.

Only an individual who has been licensed by the State of New Jersey may call himself or herself an LSRP. The New Jersey Site Remediation Professional Licensing Board ("Board") is the State entity responsible for licensing and overseeing LSRPs.

The process of hiring an LSRP is similar to the process used to hire any professional who provides a service. The Board prepared this guide for any responsible party, but especially for home owners and small business owners who are responsible for conducting remediation, to answer questions about LSRPs and their role in the remediation process. This guide also presents information to consider when hiring an LSRP.

Note that the requirement to hire an LSRP does not apply to unregulated heating oil tanks (UHOTS) typically found on residential properties. Subsurface Evaluators handle the removal and remediation of a UHOT on a residential property. For more information on the UHOT program, refer to the end of this Guide. For other types of remediation (non-UHOT) on residential properties, an LSRP must be hired.

## ***What is an LSRP?***

An LSRP is an environmental scientist or engineer experienced in the cleanup of oil and other hazardous materials. The LSRP's role is to help the responsible party develop a plan and implement remediation that will satisfy the State requirements for cleanup. The LSRP program is set forth in the Site Remediation Reform Act, also known as "SRRRA". The SRRRA may be found at this link: <http://www.nj.gov/dep/srp/regs/statutes/srra.pdf>

LSRPs are licensed by the Board based upon education and experience. In addition, they must pass an examination that is designed to test their technical knowledge as well as their knowledge of statutes, regulations, and guidance governing remediation. The Board audits the submissions and conduct of LSRPs to ensure that they meet the professional standards set forth in the SRRRA and the Board's rules. The Board rules may be found at this link: [http://www.nj.gov/lrspboard/board/rules/njac7\\_26i.pdf](http://www.nj.gov/lrspboard/board/rules/njac7_26i.pdf)

The Board has the authority to investigate complaints against LSRPs and discipline LSRPs who violate the SRRRA or the Board's rules. Of particular importance is Section 16 of the SRRRA, which mandates that LSRPs make their highest priority the protection of public health and safety and the environment, and sets forth additional codes of conduct for LSRPs.

## ***What will the LSRP do?***

As part of the hiring process, an LSRP typically will gather and evaluate basic information about the contamination on your property. He or she will then recommend a course of action for meeting State requirements. This recommendation will be presented in the form of a written proposal and contract to undertake the work. These proposals do not require New Jersey Department of Environmental

Protection (the Department) approval, so work can begin promptly. After cleanup is complete, the LSRP will issue a Remedial Action Outcome ("RAO") stating that your site has been remediated to applicable standards, or that institutional and engineering controls have been established where the applicable standards have not yet been attained.

An important responsibility of the LSRP is to communicate with the client. In particular, an LSRP must keep you apprised of the remediation timeframes for each phase of the remediation, notify you if those timeframes are unlikely to be met, and identify the consequences of missing timeframes.

### ***Does the New Jersey Department of Environmental Protection get involved?***

The Department's role is to regulate responsible parties through its remediation regulations. This includes inspecting and, as necessary, reviewing documents submitted by LSRPs to ensure that remediation work is completed in accordance with the Department's applicable standards and regulations.

The Department will also monitor remediation timeframes to ensure that responsible parties remediate sites in a timely manner. Information about timeframes may be found at this link: [http://www.nj.gov/dep/srp/srra/training/matrix/new\\_responsibilities/timeframe\\_req.pdf](http://www.nj.gov/dep/srp/srra/training/matrix/new_responsibilities/timeframe_req.pdf)

In addition, the Department will bill the responsible party for remediation fees. These fees are administrative fees, billed by the Department on an annual basis, which must be paid prior to the issuance of a RAO. If remediation of a site is under Department oversight, the Department may bill the responsible party for oversight costs. These oversight costs must also be paid prior to issuance of an RAO. Information about annual fees and oversight costs may be found at this link:

<http://www.nj.gov/dep/srp/directbilling/>

or in the Fee Guidance Document at this link:

[http://www.nj.gov/dep/srp/guidance/srra/fee\\_guidance\\_document.pdf](http://www.nj.gov/dep/srp/guidance/srra/fee_guidance_document.pdf)

### ***Considerations for Hiring an LSRP***

The Department and the Board do not have authority to oversee the contract between a responsible party and an LSRP. The Board cannot mandate the terms that should be in a contract, or make a determination on whether the terms of the contract have been met. However, the Board has assembled the following considerations for hiring an LSRP. Also, please consider the benefit of having an attorney review your contract and your insurance policy, particularly when the remediation is complex or anticipated to be expensive.

#### Screen LSRPs:

- Obtain a current list of LSRPs. Options for lists of LSRPs may be found at this link: [http://datamine2.state.nj.us/DEP\\_OPRA/OpraMain/categories?category=SRRA](http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=SRRA)
- Interview and evaluate more than one LSRP. Obtain written scope of work and cost estimate from more than one LSRP, asking for the following information:
  1. Applicable State requirements;
  2. Actions being proposed to meet those requirements;
  3. Proposed schedule for completing the work;
  4. Timeframes and Department fees;
  5. Deliverables, indicating all reports and documents that will be prepared; and
  6. Cost of all LSRP and related services.

- Check the Board website at <http://www.nj.gov/l srpboard/> to determine if any disciplinary actions have been filed against LSRPs you are considering.
- Request a list of completed projects and the names of the customers who hired the LSRP, to help you determine if the LSRP has experience suited to your needs.
- Ask for and check references. Inquire about the scope and nature of the services provided by the LSRP and if the services were performed in a satisfactory and timely manner.
- Compare the experience and costs of the LSRPs, but do not base your selection strictly on costs.

Agree to a Detailed Contract:

When you hire an LSRP, it is important that you and the LSRP agree to a written contract describing the scope of work and specifying all costs. However, adjustments to the scope of work and costs in response to conditions discovered during cleanup may be necessary. As such, the contract will provide only an **estimate** of the work and costs, based on the information available at the time of the estimate. After work begins, your LSRP may find that the problem is more extensive than originally anticipated. Require your LSRP to discuss any changes with you before proceeding with work.

The contract with your LSRP should include all of the following:

- Clear remediation objectives.
- A provision to address an audit by the Department that determines the RAO is not protective.
- Specific actions that will be taken to investigate and remediate the contamination.
- Proposed schedule for completing work.
- A budget, specifying:
  1. Fixed costs, either as a lump sum or as unit prices for each item; and
  2. Items to be charged (e.g., laboratory work, equipment and materials, labor hours).
- How changes in the project will be handled.
- Specific dates or a periodic schedule for when the LSRP will provide a status update.
- Specific deliverables and the dates they are due, including the final deliverable or end point.
- All applicable remediation timeframes and how you will be informed of your progress toward them, if those timeframes are unlikely to be met, and the consequence of missing them.
- Identification of the working documents and/or final reports to be provided by the LSRP should they, or you, decide to terminate the contract prior to the issuance of an RAO.

*Note that neither the Department nor the Board has authority over the LSRP's charges for their services. Be sure that the contract clearly specifies all LSRP charges and costs.*

***For more information, contact:***

**The New Jersey Department of Environmental Protection:** <http://www.nj.gov/dep/srp/>

**The Site Remediation Professional Licensing Board:** <http://www.nj.gov/l srpboard/index.html>

***When an LSRP is not required for UHOT cases:***

Remediation of a discharge from an unregulated heating oil tank (UHOT) is specifically exempted from the requirement to hire an LSRP. Information on the UHOT program may be found as this link: [http://www.nj.gov/dep/srp/unregulatedtanks/uhot\\_guidance.htm#excluded](http://www.nj.gov/dep/srp/unregulatedtanks/uhot_guidance.htm#excluded)