

Complaint Review Team Guidance

This document is intended as guidance to be used by Complaint Review Teams (“CRTs”) to assist in evaluating and recommending disciplinary measures to be imposed when the CRT recommends that the Site Remediation Professional Licensing Board (“Board”) find that a person has violated the Site Remediation Reform Act (“SRRA”) (N.J.S.A. 58:10C-1 et seq.) or any rule, regulation, or order adopted or issued pursuant thereto, or has knowingly made any false statement, representation, or certification in any documents or information submitted to the Board or the New Jersey Department of Environmental Protection (“Department”). N.J.S.A. 58:10C-17(a)1. Following is a discussion of the factors that the CRT may consider in recommending disciplinary measures, the disciplinary measures available, considerations with respect to the amount of a civil administrative penalty, and considerations with respect to suspension and revocation. This document is intended to be used as guidance by the CRT, and nothing herein precludes the CRT from recommending any actions it deems appropriate based on case specific circumstances or facts. The CRT is expected to convey to the Board the factual basis for its recommendations, including the factors considered in recommending the disciplinary measure, and, when relevant, the amount of a penalty or reason for suspension or revocation.

Factors the CRT may consider when recommending disciplinary measures

The SRRA does not provide the Board with guidance in choosing disciplinary measures, but leaves that choice to the discretion of the Board. The CRT has a significant role in evaluating the factors that are most important when advising the Board as to the appropriate disciplinary measure. In recommending disciplinary measures, as when analyzing the complaint, it is important for the CRT to document facts supporting the recommendation; particularly the factors discussed below.

The following is a suggested list of factors that the CRT may consider. It is acknowledged that the CRT may place more or less emphasis on certain factors, and may include additional factors, depending on circumstances.

Previous Board disciplinary actions. The subject of the complaint has been disciplined for the same or similar violations.

Mitigating Factors. The subject of the complaint has acknowledged that he or she has committed a violation, and tried to remedy it, or prevent further damages.

Aggravating Factors. The subject of the complaint has refused to admit that he or she has committed a violation, or tried to hide it from the investigators, or allowed it to continue even after becoming aware of it. The subject of the complaint has acted intentionally, purposely, or knowingly in carrying out the actions that caused the violation.

Harm to public health, safety or the environment.

In summary, all of the factors above are case specific and fact dependent. Any one of the factors may figure highly, or not at all, in any given case.

Available Disciplinary Measures

SRRA provides the Board with a variety of disciplinary measures when there is a determination that a violation has occurred. Available disciplinary measures are enumerated in N.J.S.A. 58:10C-17, and are set forth below. The following disciplinary measures are not mutually exclusive but can be combined as necessary. One example might be the issuance of an Administrative Order and Notice of Civil Administrative Penalty Assessment (AO/NOCAPA), whereby an LSRP is ordered to pay a penalty and take corrective action. Another example might be the issuance of a revocation and a referral to Criminal Justice for potential criminal action.

- **Suspension or revocation of a license**

This disciplinary measure includes the right to an administrative hearing in the Office of Administrative Law.

This disciplinary measure may be used only against an LSRP.

The CRT may recommend that the Board suspend or revoke the license of an LSRP or impose another penalty against the LSRP. N.J.S.A. 58:10C-17a(1)(a) and N.J.S.A. 58:10C-17b(1). Suspension is temporary removal of a license. When the Board has suspended an individual's license, that individual shall not be, act as, advertise as, hold himself or herself out to be, or represent himself or herself as being an LSRP until the end of the period of suspension. N.J.A.C.

7:26I-2.13(b). The SRRA does not provide a maximum term for license suspension. Revocation is termination of a license. When the Board has revoked an individual's license, that individual shall not be, act as, advertise as, hold himself or herself out to be, or represent himself or herself as being an LSRP. N.J.A.C. 7:26I-2.14(b). An individual whose license has been revoked one time may apply for a new license after three years unless a shorter period is specified by the Board. N.J.A.C. 7:26I-2.14(c). Upon the second revocation of a license an individual is permanently prohibited from applying for a license. N.J.A.C. 7:26I-2.14(d).

Suspension and revocation are subject to a hearing request and are not implemented until AFTER a final order is issued. EXCEPTION: If the conduct of the LSRP is so egregious as to pose an IMMINENT threat to public health, safety or the environment if the LSRP is allowed to conduct remediation of sites or areas of concern pending a hearing on a **revocation** of the license, the CRT may recommend to the Board that the license be **suspended** prior to the outcome of the hearing. N.J.S.A. 58:10C-17b(2).

- **Administrative Order**

This disciplinary measure includes the right to an administrative hearing in the Office of Administrative Law

This disciplinary measure may be used against "any person" (LSRP or non-LSRP)

The CRT may recommend that the Board issue an administrative order. N.J.S.A. 58:10C-17a(1)(c) and N.J.S.A. 58:10C-17d. An administrative order is an order issued by the Board that requires the violator to comply with specified provisions of the SRRA or any rule, regulation or order adopted or issued pursuant thereto. The CRT may appropriately recommend an administrative order when it finds violations of the SRRA or any rule, regulation or order adopted or issued pursuant thereto, and it wants to direct the violator to take action to comply with the provision(s) violated. For example, the CRT may recommend an administrative order to compel an LSRP to produce documents to the Department.

An administrative order may be used to assess and recover the costs of any investigation incurred by the Board, and any other State agency, and the reasonable costs of preparing and successfully enforcing a civil administrative penalty. N.J.S.A. 58:10C-17f(3).

An administrative order is subject to a hearing request and is not implemented until AFTER a final order is issued.

- **Civil administrative penalty**

This disciplinary measure includes the right to an administrative hearing in the Office of Administrative Law

This disciplinary measure may be used against “a person” (LSRP or non-LSRP)

The CRT may recommend that the Board assess a **civil administrative penalty**. N.J.S.A. 58:10C-17a(1)(e) and N.J.S.A. 58:10C-17f(1). A civil administrative penalty is a penalty issued by the Board that requires the violator to pay specified monetary penalties for violations of the SRRA or any rule, regulation or order adopted or issued pursuant thereto. The CRT may appropriately recommend a civil administrative penalty when it finds violations of the SRRA or any rule, regulation or order adopted or issued pursuant thereto, and it wants the violator to pay a penalty of not more than \$10,000 for a first violation and not more than \$20,000 for every subsequent violation. The CRT should recommend to the Board the basis for the amount of the civil penalties to be assessed, as that is required as part of the notice to the violator. N.J.S.A. 58:10C-17f(1).

A civil administrative penalty is subject to a hearing request and is not implemented until AFTER a final order is issued.

- **Institute a civil action in Superior Court**

This disciplinary measure requires filing an action in the Superior Court of the State of New Jersey – Civil Division.

This disciplinary measure may be used against “a person” (LSRP or non-LSRP).

The CRT may recommend that the Board institute a civil action in Superior Court for appropriate relief for any violation of the SRRA (N.J.S.A. 58:10C-1 et seq.) or any rule, regulation, or order adopted or issued pursuant thereto. N.J.S.A. 58:10C-17a(1)(b) and N.J.S.A. 58:10C-17c. The CRT may recommend this measure when it is appropriate for the Board to seek injunctive relief and/or the costs associated with investigation and litigation. An example of injunctive relief would be an order to an unlicensed person to stop advertising or holding himself or herself out as an LSRP.

- **Civil penalty**

This disciplinary measure requires filing a summary proceeding in the Superior Court of the State of New Jersey – Civil Division.

This disciplinary measure may be used against “any person” (LSRP or non-LSRP).

The CRT may recommend that the Board institute a summary proceeding for a **civil penalty**. N.J.S.A. 58:10C-17a(1)(d) and N.J.S.A. 58:10C-17e. The CRT may appropriately recommend a civil penalty when it finds violations of the SRRRA or any rule, regulation or order adopted or issued pursuant thereto, or it finds that any person has failed to pay a civil penalty or civil administrative penalty. A civil penalty may not exceed \$10,000 for a first violation or \$20,000 for every subsequent violation.

- **Petition to Attorney General to bring a criminal action**

This disciplinary measure requires a petition to the Attorney General of the State of New Jersey.

This disciplinary measure may be used only against an LSRP.

The CRT may recommend that the Board petition the Attorney General to bring a **criminal action**. N.J.S.A. 58:10C-17a(1)(f) and N.J.S.A. 58:10C-17a(2). The CRT may appropriately recommend a criminal action when it finds that an LSRP has purposely, knowingly, or recklessly violated a provision of the SRRRA, including making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained pursuant to N.J.S.A. 58:10C-1 et seq., or by falsifying, tampering with, or rendering inaccurate any monitoring device or method, institutional or engineering control.

Considerations with respect to the amount of a civil administrative penalty

Once the CRT has decided to recommend a civil administrative penalty as an appropriate disciplinary measure, it may turn to recommending the amount of the civil administrative penalty.

As noted above, the SRRRA specifies penalty amounts up to \$10,000 for a first violation and up to \$20,000 for each subsequent violation.

A first violation is the first instance of the violation of a provision of the SRRRA or any rule, regulation or order adopted or issued pursuant thereto, or the first instance of knowingly making a false statement, representation or certification in any documents or

information submitted to the Board or the Department. After there is a final order with respect to a violation, if a new complaint is made, and the Board again finds a violation of the same provision(s) by the same violator, the violation(s) in the subsequent case(s) are subsequent violations and subject to greater penalties.

Considerations with respect to Suspension and Revocation

Amongst the actions that may be taken by the Board in response to a violation, the disciplinary measures of suspension and revocation stand out as potentially the most onerous. It is acknowledged that in certain circumstances the suspension or revocation of a license will be warranted.

Factors that may warrant a recommendation of a REVOCATION include:

- Actual or potential harm to public health, safety or the environment; and
- Conduct that was purposeful or knowing.

Taken together, the above factors indicate that there was damage to public health, safety or the environment, and the LSRP knew that the damage would occur as a result of his or her action or inaction.

In addition, or alternatively:

- The Board has issued at least two prior disciplinary actions for the same or similar violations and such actions were upheld resulting in a final order; or
- The violator was found guilty in a criminal action for the violation.

Factors that may warrant a recommendation of a SUSPENSION include:

- Potential harm to public health, safety or the environment; and
- Conduct that was reckless or negligent.

Taken together, the above factors indicate that there was potential damage to public health, safety or the environment, and the LSRP should have known that the damage could occur as a result of his or her action or inaction.

In addition, or alternatively:

- The Board has issued at least two prior disciplinary actions for the same or similar violations and such actions were upheld resulting in a final order.

It is the intent of the PCC to revisit this guidance as circumstances dictate in order to determine the need to amend, addend or delete specific portions thereof. This document is intended to be used as guidance by the CRT, and nothing herein precludes the CRT from recommending any actions it deems appropriate based on case specific circumstances or facts.

APPENDIX A

Provisions of the SRRA and Proposed New Rules

(NOTE: Text is from the SRRA, unless citation is only to the proposed new rules N.J.A.C. 7:26I-1 et seq.)

Knowingly making a false statement, representation or certification in any document or information submitted to the Board or the Department. (N.J.S.A. 58:10C-16q; N.J.S.A. 58:10C-17a(1); N.J.S.A. 58:10C-17a(2); N.J.A.C. 7:26I-2.13(a); N.J.A.C. 7:26I-2.14(a); N.J.A.C. 7:26I-5.4(i)2; N.J.A.C. 7:26I-6.15(c)1; N.J.A.C. 7:26I-7.1(a)1; N.J.A.C. 7:26I-7.1(a)2; N.J.A.C. 7:26I-7.7(a))

N.J.S.A. 58:10C-11 and N.J.A.C. 7:26I-2.3

No person shall be, act as, advertise as, or hold himself out to be, or represent himself as being, a licensed site remediation professional unless that person has been issued a valid license pursuant to P.L.2009, c.60 (C.58:10C-1 et al.).

N.J.S.A. 58:10C-14a and N.J.A.C. 7:26I-6.24(b)

For any site for which a licensed site remediation professional is required to be hired pursuant to the provisions of section 30 of P.L.2009, c.60 (C.58:10B-1.3), the person responsible for conducting the remediation shall certify all documents submitted to the department concerning the remediation of the contaminated site. The licensed site remediation professional shall 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-14b and N.J.A.C. 7:26I-6.24(c)

A licensed site remediation professional shall certify electronic submissions made to the department concerning the remediation of a contaminated site. The licensed site remediation professional shall attest that no other person is authorized or able to use any password, encryption method, or electronic signature provided to the licensed site remediation professional by the board or the department.

N.J.S.A. 58:10C-14c and N.J.A.C. 7:26I-6.3

The licensed site remediation professional shall employ the following remediation requirements in providing professional services for the remediation of contaminated sites:

(1) The licensed site remediation professional shall make each decision concerning a contaminated site in order to meet the following standards:

(a) health risk and environmental standards established pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12);

(b) remediation standards adopted by the department pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12);

(c) maximum contaminant levels for building interiors adopted by the Department of Health and Senior Services pursuant to section 1 of P.L.2007, c.1 (C.52:27D-130.4) as applicable; and

(d) any other applicable standards adopted pursuant to law.

(2) The licensed site remediation professional shall apply the following regulations:

(a) technical standards for site remediation adopted by the department pursuant to P.L.1993, c.139 (C.58:10B-1 et al.);

(b) mandatory remediation timeframes and expedited site specific timeframes adopted by the department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28); and

(c) presumptive remedies adopted by the department pursuant to section 35 of P.L.1993, c.139 (C.58:10B-12).

(3) The licensed site remediation professional shall apply any available and appropriate technical guidelines concerning site remediation as issued by the department. The department shall provide interested parties the opportunity to participate in the development and review of technical guidelines issued for the remediation of contaminated sites.

(4) When there is no specific requirement provided by the technical standards for site remediation adopted by the department, and guidelines issued by the department are not appropriate or necessary, in the professional judgment of the licensed site remediation professional, to meet the remediation requirements listed in paragraph (1) of this subsection, the licensed site remediation professional may use the following additional guidelines to make decisions regarding a remediation, and shall set forth justification for such use, in the relevant submittal:

(a) relevant guidance from the federal Environmental Protection Agency or other states; and

(b) other relevant, applicable, and appropriate methods and practices that ensure the protection of the public health and safety, and of the environment.

N.J.S.A. 58:10C-14d and N.J.A.C. 7:26I-6.25

Upon completion of the remediation, the licensed site remediation professional shall issue a response action outcome to the person responsible for conducting the remediation when, in the opinion of the licensed site remediation professional, the site has been remediated so that it is in compliance with all applicable statutes, rules and regulations protective of public health and safety and the environment. The licensed site remediation professional shall file the response action outcome with the department when it is issued to the person responsible for conducting the remediation.

N.J.S.A. 58:10C-15a

No person shall use a certified subsurface evaluator for the remediation of a discharge from an underground storage tank regulated pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.).

N.J.S.A. 58:10C-15b

Any person who remediates a discharge from an unregulated heating oil tank may hire a certified subsurface evaluator or a licensed site remediation professional to perform the remediation.

N.J.S.A. 58:10C-16a and N.J.A.C. 7:26I-6.2

A licensed site remediation professional's highest priority in the performance of professional services shall be the protection of public health and safety and the environment.

N.J.S.A. 58:10C-16b and N.J.A.C. 7:26I-6.3(d)

A licensed site remediation professional shall exercise reasonable care and diligence, and shall apply the knowledge and skill ordinarily exercised by licensed site remediation professionals in good standing practicing in the State at the time the services are performed.

N.J.S.A.58:10C-16c and N.J.A.C. 7:26I-6.3(e) and N.J.A.C. 7:26I-6.4

A licensed site remediation professional shall not provide professional services outside the areas of professional competency, unless the licensed site remediation professional has relied upon the technical assistance of another professional whom the licensed site remediation professional has reasonably determined to be qualified by education,

training, and experience. A licensed site remediation professional shall not perform services that constitute the practice of professional engineering unless the licensed site remediation professional is a professional engineer licensed in the State.

N.J.S.A. 58:10C-16d and N.J.A.C. 7:26I-6.5

A licensed site remediation professional retained by a person responsible for conducting the remediation shall notify the department within 15 calendar days after being retained. In addition, a licensed site remediation professional shall notify the department within 15 calendar days after being released from responsibility for a remediation if the release occurs prior to issuance of the response action outcome for the site by the licensed site remediation professional.

N.J.S.A. 58:10C-16e and N.J.A.C. 7:26I-6.6

A licensed site remediation professional and the person responsible for conducting the remediation shall correct any deficiency the department identifies in a document submitted concerning a remediation. The deficiency shall be corrected in accordance with timeframes established by the department.

N.J.S.A. 58:10C-16f and N.J.A.C. 7:26I-6.7(a)

A licensed site remediation professional may complete any phase of remediation based on remediation work performed under the supervision of another licensed site remediation professional, provided that the licensed site remediation professional: (1) reviews all available documentation on which he relies; (2) conducts a site visit to observe current conditions and to verify the status of as much of the work as is reasonably observable; and (3) concludes, in the exercise of independent professional judgment, that there is sufficient information upon which to complete any additional phase of remediation and prepare workplans and reports related thereto.

N.J.S.A. 58:10C-16g and N.J.A.C. 7:26I-6.7(b)

A licensed site remediation professional who has taken over the responsibility for the remediation of a contaminated site from another licensed site remediation professional shall correct all deficiencies in a document submitted by the previous licensed site remediation professional identified by the department in accordance with timeframes established by the department.

N.J.S.A. 58:10C-16h and N.J.A.C. 7:26I-6.24(a)

A licensed site remediation professional shall not certify any document submitted to the department unless the licensed site remediation professional has managed, supervised or performed the work that is the basis of the submission, or has periodically reviewed and evaluated the work performed by other persons that forms the basis for the information in the submission, or has completed the work of another licensed site

remediation professional and has concluded such work is reliable pursuant to subsection f. of this section.

N.J.S.A. 58:10C-16i and N.J.A.C. 7:26I-6.8

A licensed site remediation professional shall exercise independent professional judgment, comply with the requirements and procedures set forth in the provisions of P.L.2009, c.60 (C.58:10C-1 et al.), make a good faith and reasonable effort to identify and obtain the relevant and material facts, data, reports and other information evidencing conditions at a contaminated site for which he is responsible that is in possession of the owner of the property, or that is otherwise available, and identify and obtain whatever additional data and other information as the licensed site remediation professional deems necessary. The licensed site remediation professional shall disclose and explain in any document submitted to the department any facts, data, information, qualifications, or limitations known by the licensed site remediation professional that are not supportive of the conclusions reached in the document.

N.J.S.A. 58:10C-16j and N.J.A.C. 7:26I-6.9

If a licensed site remediation professional identifies a condition at a contaminated site that in his independent professional judgment is an immediate environmental concern, then the licensed site remediation professional shall: (1) immediately verbally advise the person responsible for conducting the remediation of that person's duty to notify the department of the condition; and (2) immediately notify the department of the condition by calling the department's telephone hotline.

N.J.S.A. 58:10C-16k and N.J.A.C. 7:26I-6.10

If a licensed site remediation professional obtains specific knowledge that a discharge has occurred on a contaminated site for which he is responsible, the licensed site remediation professional shall: (1) notify the person responsible for conducting the remediation of the existence of the discharge; and (2) notify the department of the discharge by calling the department's telephone hotline. The person responsible for conducting the remediation shall also be responsible for notifying the department of the existence of the discharge. The provisions of this subsection shall not apply to a discharge that may be a result of the existence of historic fill material.

N.J.S.A. 58:10C-16l and N.J.A.C. 7:26I-6.11

If a licensed site remediation professional learns of an action or decision by a client that results in a deviation from the remedial action workplan or other report concerning the remediation developed by the licensed site remediation professional, the licensed site

remediation professional shall promptly notify the client and the department, in writing, of the deviation.

N.J.S.A. 58:10C-16m and N.J.A.C. 7:26I-6.12

A licensed site remediation professional shall not reveal information obtained in a professional capacity, except as may be authorized or required by law, without the prior consent of the client, if the client has notified the licensed site remediation professional, in writing, that the information is confidential. The provisions of this subsection shall not apply to information that is in the public domain.

N.J.S.A. 58:10C-16n and N.J.A.C. 7:26I-6.13

A licensed site remediation professional who learns of material facts, data or other information subsequent to the completion of a report concerning a phase of remediation, which would result in a report with material differences from the report submitted, shall promptly notify the client and the department in writing of those facts, data, information, and circumstances.

N.J.S.A. 58:10C-16o and N.J.A.C. 7:26I-6.7(c)

A licensed site remediation professional who succeeds another licensed site remediation professional before the issuance of a response action outcome, and who learns of material facts, data or other information concerning a phase of the remediation for which a report was submitted to the department and the material facts, data or other information were not disclosed in the report, shall promptly notify the client and the department in writing of those facts, data, information, and circumstances.

N.J.S.A. 58:10C-16p and N.J.A.C. 7:26I-6.14

A licensed site remediation professional shall not allow the use of his name by a person, and shall not associate with a person in a business venture, if the licensed site remediation professional knows or should know that the person engages in fraudulent or dishonest business or professional practices regarding the professional responsibilities of a licensed site remediation professional.

N.J.S.A. 58:10C-16q and N.J.A.C. 7:26I-6.15

A licensed site remediation professional shall cooperate in an investigation by the board or the department by promptly furnishing, in response to formal requests, orders or subpoenas, any information the board or the department, or persons duly authorized by the board or the department, deems necessary to perform its duties. In an investigation by the board of a license application or a license suspension or revocation, a licensed site remediation professional shall not:

- (1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a material misunderstanding known by the licensed site remediation professional to have arisen in the matter;

(3) knowingly and materially falsify, tamper with, alter, conceal, or destroy any document, data record, remedial system, or monitoring device that is relevant to the investigation, without obtaining the prior approval of the department; or

(4) knowingly allow or tolerate any employee, agent, or contractor of the licensed site remediation professional to engage in any of the foregoing activities.

N.J.S.A. 58:10C-16r and N.J.A.C. 7:26I-6.16

A licensed site remediation professional shall be jointly responsible for a violation of any provision of this section committed by another licensed site remediation professional whose work he supervises or reviews if:

(1) the licensed site remediation professional orders, directs, or agrees to the provision of professional services conducted or prepared by another licensed site remediation professional under his supervision;

(2) the licensed site remediation professional knows that the professional services constitute a violation of this section; and

(3) the licensed site remediation professional fails to take reasonable steps to avoid or mitigate the violation.

N.J.S.A. 58:10C-16s and N.J.A.C. 7:26I-6.17

A licensed site remediation professional shall comply with all conditions imposed by the board as a result of a license suspension or other disciplinary proceeding conducted by the board.

N.J.S.A. 58:10C-16t and N.J.A.C. 7:26I-6.18

A licensed site remediation professional shall inform a client or prospective client of any relevant and material assumptions, limitations, or qualifications underlying their communication. Evidence that a licensed site remediation professional has provided the client or prospective client with timely written documentation of these assumptions, limitations, or qualifications shall be deemed by the board or the department to have satisfied the requirements of this subsection.

N.J.S.A. 58:10C-16u and N.J.A.C. 7:26I-6.20

A licensed site remediation professional shall not state or imply, as an inducement or a threat to a client or prospective client, an ability to improperly influence a government agency or official.

N.J.S.A. 58:10C-16v and N.J.A.C. 7:26I-6.21

In any description of qualifications, experience, or ability to provide services, a licensed site remediation professional shall not knowingly:

- (1) make a material misrepresentation of fact;
- (2) omit a fact when the omission results in a materially misleading description; or
- (3) make a statement that, in the opinion of the board, is likely to create an unjustified expectation about results the licensed site remediation professional may achieve, or state or imply that the licensed site remediation professional may achieve results by means that violate the provisions of applicable environmental statutes, rules or regulations, including the provisions of P.L.2009, c.60 (C.58:10C-1 et al.).

N.J.S.A. 58:10C-16w and N.J.A.C. 7:26I-6.22

A licensed site remediation professional shall provide any notification to the board or the department required pursuant to this section, even if the licensed site remediation professional is discharged by the client prior to doing so.

N.J.S.A. 58:10C-16x and N.J.A.C. 7:26I-6.23(a)

A licensed site remediation professional shall not accept compensation, financial or otherwise, for professional services pertaining to a contaminated site from two or more persons whose interests are adverse or conflicting unless the circumstances are fully disclosed and agreed to by all clients engaging the licensed site remediation professional.

N.J.S.A. 58:10C-16y and N.J.A.C. 7:26I-6.23(b)

A licensed site remediation professional shall not be a salaried employee of the person responsible for conducting the remediation, or any related entities, for which the licensed site remediation professional is providing remediation services.

N.J.S.A. 58:10C-16z and N.J.A.C. 7:26I-6.23(c)

A licensed site remediation professional shall not allow any ownership interest, compensation, or promise of continued employment, of the licensed site remediation

professional or any immediate family member, to affect the professional services provided by the licensed site remediation professional.

N.J.S.A. 58:10C-18b

Where necessary to ascertain facts relevant to, or not available at, such site, vessel, or other location, any person shall, upon request of any officer, employee, or duly authorized representative of the board or the department, furnish information relating to activities subject to the provisions of P.L.2009, c.60 (C.58:10C-1 et al.), and shall permit the officers, employees, or authorized representatives to have access to, and to copy, all records relating to the activities.

N.J.S.A. 58:10C-20 and N.J.A.C. 7:26I-6.27

A licensed site remediation professional shall maintain and preserve all data, documents and information concerning remediation activities at each contaminated site the licensed site remediation professional has worked on, including but not limited to, technical records and contractual documents, raw sampling and monitoring data, whether or not the data and information, including technical records and contractual documents, were developed by the licensed site remediation professional or the licensee's divisions, employees, agents, accountants, contractors, or attorneys, that relate in any way to the contamination at the site. Three electronic copies of the records shall be submitted to the department at the time the response action outcome is filed with the department.

N.J.S.A. 58:10C-21d and N.J.A.C. 7:26I-6.28(a)

The licensed site remediation professional and the person responsible for conducting the remediation shall provide any data, documents or other information as requested by the department to conduct a review of the remediation pursuant to this section.

N.J.S.A. 58:10C-21e and N.J.A.C. 7:26I-6.28(b)

Unless directed otherwise by the department, the person responsible for conducting the remediation and the licensed site remediation professional may continue to conduct the remediation while the department conducts any inspection or additional review of documents pursuant to this section.

N.J.S.A. 58:10C-26 and N.J.A.C. 7:26I-9.2(a)

No person shall take retaliatory action if a licensed site remediation professional:

a. discloses, or undertakes to disclose, to the board or to the department an activity, policy or practice that the licensed site remediation professional reasonably believes: (1) is a violation of law, or a rule or regulation adopted pursuant to law, including any violation involving deception of, or misrepresentation to, any client, customer, the department, or any other governmental entity; or (2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation that the licensed site remediation professional reasonably believes may defraud any client, customer, the department, or any other governmental entity;

b. provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any violation of law, or a rule or regulation adopted pursuant to law, by a client or customer with whom there is a business relationship, including any violation involving deception of, or misrepresentation to, any client, customer, the department or any other governmental entity, or, in the case of a licensed site remediation professional, provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into the quality of remediation of a contaminated site; or

c. objects to, or refuses to participate in, any activity, policy or practice which the licensed site remediation professional reasonably believes:

(1) is in violation of law, or a rule or regulation adopted pursuant to law, including any violation involving deception of, or misrepresentation to, any client, customer, the department or any governmental entity;

(2) is fraudulent or criminal, including any activity, policy or practice of deception or misrepresentation which the licensed site remediation professional reasonably believes may defraud any client, customer, the department, or any other governmental entity; or

(3) is incompatible with a clear mandate of public policy concerning the protection of the public health, safety, or the environment.

N.J.A.C. 7:26I-2.7(d)

A candidate's violation of the LSRP Licensing Examination Candidate Agreement at any time before, during or after the LSRP examination constitutes grounds for commencement of disciplinary action pursuant to N.J.A.C. 7:26I-7.

N.J.A.C. 7:26I-2.12(b)

An individual with an expired license shall not be, act as, advertise as, hold himself or herself out to be, or represent himself or herself as being an LSRP until the license has been renewed pursuant to N.J.A.C. 7:26I-2.11 or the individual obtains a new license.

N.J.A.C. 7:26I-2.12(c)

No later than 15 days after the date of the expiration of the license, if not renewed, the individual whose license has expired shall:

1. Notify each of his or her clients by whom he or she has been retained as an LSRP in writing, with a copy to the Board at the address in N.J.A.C. 7:26I-3.7(b), that he or she is no longer an LSRP;
2. Submit an LSRP Notification of Dismissal as found on the Department website at www.nj.gov/dep/srp/srra/forms for each contaminated site for which he or she had submitted a Notification of Retention; and
3. Provide for the maintenance and preservation of all data, documents, records, and information concerning remediation activities at each contaminated site he or she has worked on.

N.J.A.C. 7:26I-2.13(b)

Suspension is temporary removal of a license. When the Board has suspended an individual's license, that individual shall not be, act as, advertise as, hold himself or herself out to be, or represent himself or herself as being an LSRP until the end of the period of suspension.

N.J.A.C. 7:26I-2.13(f)

No later than 15 days after the date of the final order of suspension the individual whose license has been suspended shall:

1. Notify each of his or her clients by whom he or she has been retained as an LSRP in writing, with a copy to the Board at the address in N.J.A.C. 7:26I-3.7(b), that for the duration of the suspension he or she will not be an LSRP;
2. Submit an LSRP Notification of Dismissal as found on the Department website at www.nj.gov/dep/srp/srra/forms for each contaminated site for which he or she had submitted a Notification of Retention; and
3. Provide for the maintenance and preservation of all data, documents, records, and information concerning remediation activities at each contaminated site he or she has worked on.

N.J.A.C. 7:26I-2.14(b)

Revocation is termination of a license. When the Board has revoked an individual's license, that individual shall not be, act as, advertise as, hold himself or herself out to be, or represent himself or herself as being an LSRP.

N.J.A.C. 7:26I-2.14(f)

No later than 15 days after the date of the final order of revocation the individual whose license has been revoked shall:

1. Notify each of his or her clients by whom he or she has been retained as an LSRP in writing, with a copy to the Board at the address in N.J.A.C. 7:26I-3.7(b), that as of the date of the final order of revocation he or she is no longer an LSRP;
2. Submit an LSRP Notification of Dismissal as found on the Department website at www.nj.gov/dep/srp/srra/forms for each contaminated site for which he or she had submitted a Notification of Retention; and
3. Provide for the maintenance and preservation of all data, documents, records, and information concerning remediation activities at each contaminated site he or she has worked on.

N.J.A.C. 7:26I-3.5(e)

Each LSRP shall pay to the Board the annual license fee no later than 60 days after his or her receipt of the Board's annual license fee invoice.

N.J.A.C. 7:26I-5.6(a)

The LSRP, the person responsible for conducting the remediation, and any other person having information regarding an LSRP's submissions and conduct shall cooperate with the Board in the conduct of an audit and shall provide any information that the Board requests.

N.J.A.C. 7:26I-6.19

(a) An LSRP shall respond to public inquiries for information when the person responsible for conducting the remediation designates the LSRP as the point of contact for public inquiries pursuant to N.J.A.C. 7:26C-1.7(o).

(b) Information that the LSRP shall provide, when his or her client has designated the LSRP as the point of contact for the public pursuant to (a) above, shall include:

1. Information that is required to be provided to the public pursuant to N.J.A.C. 7:26C-1.7;
2. Information that has been submitted to the Department; and
3. Any additional information that is important for the public to know in order to protect their health and safety.

(c) An LSRP shall not communicate to the public information that he or she knows is false, inaccurate, misleading, or incomplete. An LSRP shall be deemed to have

provided incomplete information when he or she withholds information that is encompassed within (b) above.

(d) The client confidentiality requirements of N.J.A.C. 7:26I-6.12 apply to this section.

N.J.A.C. 7:26I-6.26

For any contaminated site subject to direct oversight pursuant to the SRRA and N.J.A.C. 7:26C-14, the LSRP shall provide all submissions concerning the remediation that the Department requires simultaneously to the Department and the person responsible for conducting the remediation.

N.J.A.C. 7:26I-9.2(b)

(b) No LSRP shall take or threaten to take retaliatory action against a person who files a complaint with the Board against an LSRP or provides information to the Board during an investigation of a complaint pursuant to SRRA and this chapter or provides information to the Board during an audit pursuant to SRRA and this chapter.

"Person" means an individual, public or private corporation, company, association, society, firm, partnership, joint stock company, the State, and any of its political subdivisions or agents. N.J.S.A. 58:10C-2

"Person" means any individual or entity, including, without limitation, a public or private corporation, company, estate, association, society, firm, partnership, joint stock company, foreign individual or entity, interstate agency or authority, the United States and any of its political subdivisions, the State of New Jersey, or any of the political subdivisions of or found within the State of New Jersey, or any of the other meanings which apply to the common understanding of the term. N.J.A.C. 7:26I-1.3