

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

**FINAL**

April 15, 2013 Meeting Minutes

4:00 p.m., Public Hearing Room, DEP, Trenton

**Board Members:**

***Present:***

Phil Brilliant  
Richard Dewling  
Lawra Dodge  
Joann Held  
Christopher Motta  
Karl Muessig  
Mike Pisauro  
Constantine Tsentas (arrived at 4:10 p.m.)  
David Sweeney  
Ira Whitman

***Absent:***

Jorge Berkowitz

***Others Present:***

Board Secretary Karen Hershey  
DAG Kimberly Hahn  
Board Staff Dana Haymes  
Executive Assistant David Haymes

***Proceedings:***

- Meeting called to Order at 4:05 by Chairman Sweeney
- Statement by Chairman Sweeney that adequate notice of the meeting was provided pursuant to the Open Public Meetings Act.
- Roll Call
- Approval of the April 1, 2013 Meeting Minutes:

- Motion by Ira Whitman to approve April 1, 2013 minutes, seconded by Joann Held. Motion adopted after debate. All present voted Yes.
- A report was given by Committee Chair Lawra Dodge on behalf of the Continuing Education Committee:
  - Lawra Dodge recommended that the following applications be approved for Continuing Education Credit:
    - ✓ NJDEP Case Study Training for LSRPs for 7 Regulatory CECs
    - ✓ Environmental Audits and Site Assessments for 4 Regulatory CECs
  - Motion by David Sweeney to approve these two applications for continuing education credit; seconded by Richard Dewling. Motion adopted after debate. All present voted Yes.

\*Arrival of Constantine Tsentas at 4:10 p.m.

- Public Comment on the Board's draft rules:

Statement by David Sweeney: Public comments on the current draft of the proposed new rule N.J.A.C. 7:26I are part of an informal process of seeking the input of stakeholders. The Board welcomes stakeholder comments, ideas, suggestions, and the opinions of anyone who wants to weigh in on the current draft of the proposed new rule.

Statement by Joann Held: The Board is seeking public comments and suggestions. The Board is interested in listening to the public. This forum is not intended for the Board to provide response to comments.

John Oberer, LSRP Association:

Comments from the LSRPA were submitted in writing. The LSRPA also submitted two draft white papers concerning OPRA-ability of LSRP records and retention of records by LSRP.

Section 2.7(d) At any time Board can request information about an applicant. The LSRPA is concerned that requesting information from a third party gives the Board too much power. The Board should request permission from the applicant, or request the information directly from the applicant.

Audit Section. The purpose of the audit is to assure protection of public health and safety and the environment. Not sure that Board can ensure what LSRP's priorities are. The Board should take another look at that language and put it in a way that makes more sense.

Section 5.3 (g) An LSRP shall be audited no more than once per calendar year. The Board should change this to once every 3 years so as to more fully address the entire population of LSRPs.

The Board should have at least one LSRP on the audit team.

Roger Ferguson, LSRP Association:

Professional Conduct Section 6.5 should be deleted entirely.

Section 6.6 (b) The responsible party must contract with the LSRP. The rule should reflect that possibility.

Section 6.8 (a) The LSRP is constrained by contractual and financial obligations with client.

Section 6.10 (b) The rule should state that the LSRP must be hired to be the LSRP of record for the site or area of concern in order to be considered responsible for the site.

Section 6.10 (d) This section does not go far enough. There should be more exceptions, such as an LSRP doing work to comply with the ASTM standards.

Sections 6.10 (e) and (f) This language should be revised.

Section 6.14 (a) Professional responsibilities should be defined.

Section 6.23 (b) Should define “certify”.

Section 6.24 This section has no bearing on the Board rules and should be deleted.

Section 6.25 The LSRPA submitted a white paper to the Board in which it tried to come up with concrete ideas about how to conduct record retention. Retaining documents for seven years after final submission of any remediation document makes sense. The Board should explain how the LSRP should physically maintain the documents. The Board should state the records should be in the possession of the LSRP. Also, what the documents should include should be spelled out.

Section 6.26 This section should be deleted.

Section 7.4 (c) The Professional Conduct Committee (PCC) should notify the LSRP immediately upon receipt of the complaint, including the name of the complainant and a copy of the complaint.

Section 7.4 (e) 1 At this point the subject of the complaint would have no knowledge that he was the subject of a complaint. Even if the Board felt there was no merit to the complaint, the LSRP has right to know complaint was filed.

The LSRP's name should be confidential until a finding of merit by the PCC. If the complaint has no merit, there should be no name attached to it in the public posting.

Section 7.5 (c) At this point in the process it is too late for the subject of the complaint to learn that he is the subject of a complaint. He should have already been notified by this time.

Section 7.6 (c) The name of the LSRP should not be revealed until adverse action is taken against him by the Board.

Section 7.7 (c) 7 This sounds like the Board can elect to make an example out of the subject of a disciplinary action. This would be arbitrary and capricious. It is not right to punish one person in order to teach a point to everyone else. This is not an appropriate rationale for taking action against an individual.

Kathi Stetser - LSRP Association:

With respect to document retention, the Board needs to be clear what the LSRP needs to have in their possession. The rules should supersede an employment agreement. The Board should define what maintain and preserve means.

Section 6.10 The Board should make more exceptions to when an LSRP is required to report a discharge. Clients won't allow an LSRP on a site if they are afraid the LSRP could turn them in for having a discharge.

Joseph Krulik, LSRP, Brilliant Environmental Services:

Section 6.6 With respect to turnover of records from one LSRP to another, the previous LSRP should be required to turn over all records to the succeeding LSRP.

Devang Patel, LSRP, Environmental Alliance Inc.:

Requested that rules clarify an LSRP's reporting obligations.

David Intintola, LSRP, Cilli Environmental Group:

Requested that rules be clarified that an LSRP should not have to give new LSRP free work that Responsible Party did not pay for.

Andy Robins, Esq., Attorney, Sills Cummis:

In definitions section there are references to other rules. There should only be references to statutes. Also, the term “discharge” should be defined.

Section 2.14 There should be a provision allowing an LSRP whose license has expired or been suspended to correct clerical or non-substantive deficiencies in an RAO he has issued so that the client does not have to hire another LSRP for this minor task.

Section 6.10 (b) and (d) These provisions are not mutually exclusive

Section 6.10 (e) The placement of this provision is confusing.

Section 6.10 (d) Should just have number three because numbers one and two do not add anything

Section 6.25 Urge the DEP to be the repository of critical documents. LSRPs will come and go, the DEP should have all the documents together in one place.

Section 7.3 Complaints This section should not refer to all of N.J.S.A 58:10C-1 because some parts of it the Board has no authority over.

Section 7.5 (d) This section should include a timeframe.

- Public Comment (outside of the draft rules).

None