

New Jersey's LSRP Opt-In Deadline Looms: What You May Not Know

By Stephen E. Fauer

If you are responsible for a remediation that began prior to November 3, 2009 and if you are NOT going to receive a *No Further Action* letter from NJDEP before May 7, 2012, you must retain a Licensed Site Remediation Professional (LSRP). However, did you know that you may be unable to retain an LSRP? It's true. There may not be enough LSRPs to go around as the deadline looms closer, and here's why.

As of mid-January 2012 there are 520 temporary LSRPs, as listed on the NJDEP web site. If there are still ~ 15,000 cases that have not yet opted into the LSRP program and if each LSRP was awarded an equal number of cases today, then each LSRP would be responsible for an additional 28 cases over and above the cases they currently administer (this does not account for new remediation cases that each consultant may acquire through their normal business activities).

Before an LSRP can accept a case, they must be sure they can adhere to the administrative deadlines for compliance. This means an LSRP must review each case and determine their ability to manage each new case among their current and projected workload. This is important because LSRP oversight is far different than pre-Site Remediation Reform Act (SRRA) project management and oversight. Now the LSRP is the de facto NJDEP on each case they manage! Moreover, LSRPs are still held to compliance deadlines. If compliance deadlines are not met, the responsible party is going to look to the LSRP and their firm for redress. Additionally, NJDEP is going to audit cases on a continual basis. Thus every LSRP knows that some of their cases will be audited; they just don't know which ones or when.

In the final analysis each LSRP puts their license on the line when they accept a new case. This is no different than a Professional Engineer (PE). If the LSRP screws up, while their employer may get sued, it is their license that can be rescinded.

Finally, it is the opinion of some (including this author) that when the LSRP licensing exam is given the number of LSRPs is going to decrease. It is anticipated that passing this exam is going to be far more onerous than the qualification procedure required to attain a temporary LSRP designation. Temporary LSRP licenses were conferred after a consultant

submitted a series of qualifying data such as their years experience, number of relevant projects completed, etc. These data were unaudited and dependent upon the veracity of the applicant. Moreover, the act of performing many projects does not indicate the degree of competence and expertise possessed by the consultant. Therefore the exam is, by design, a mechanism to sort for the most proficient consultants.

Therefore, those of you who opt into the LSRP program NOW will be assured of finding a consultant who has the capacity to take your project and complete it in a timely fashion. Finally if you have already retained a LSRP, I suggest that you monitor your LSRP's status vis-à-vis the forthcoming exam. Be certain that your LSRP is among those who pass the new exam.