

LEGAL Q&A

Q Under the new LSRP law in New Jersey, if you hire a Licensed Site Remediation Professional (LSRP) but contract with the consultant to “act in their capacity as a non-LSRP”, will that insulate you from mandatory reporting obligations under the new law?

A Maybe, and maybe not. Under New Jersey’s Spill Compensation and Control Act (“Spill Act”), N.J.S.A 58:10-23.11, owners and operators have an obligation to make both telephonic and written notice to NJDEP where there has been a confirmed discharge of hazardous substances in the soil or ground water. Arguably, where the discharge involves certain regulated storage tanks, “any person”, e.g., a tank contractor would also have an obligation to make the report. However, under the new LSRP law, LSRPs overseeing remediation projects have an independent obligation to report directly to the State regulated discharges and must also report immediate environmental concerns. This is significant, for example, in the context of due diligence exercises in advance of purchasing commercial or residential projects. As a result, developers and lawyers are taking the position that hiring an LSRP in a “non-LSRP capacity” will obviate the need for the LSRP to make such reports. Caution is recommended. The LSRP law is vague on this point and NJDEP has publicly, albeit informally, expressed concern at this practice.



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