

# ASSEMBLY, No. 1555

## STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Assemblywoman LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Establishes site remediation professional licensing board within DEP.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT establishing a board to license certain site remediation  
2 professionals and supplementing Title 58 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. As used in this act:

8 "Board" means the Site Remediation Professional Licensing  
9 Board established pursuant to section 2 of this act.

10 "Contamination" or "contaminant" means any discharged  
11 hazardous substance as defined pursuant to section 3 of P.L.1976,  
12 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to  
13 section 1 of P.L.1976, c.99 (C.13:1E-38), or pollutant as defined  
14 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3).

15 "Department" means Department of Environmental Protection.

16 "Lower priority contaminated site" means a contaminated site  
17 with little to no impact on surface water, groundwater, potable  
18 water supplies, drinking water aquifers, schools, or residential  
19 property.

20 "No further action letter" means a written determination by the  
21 Department of Environmental Protection that, based upon an  
22 evaluation of the historical use of a particular site, or of an area of  
23 concern or areas of concern at that site, as applicable, and any other  
24 investigation or action the department deems necessary, there are no  
25 discharged contaminants present at the site, at the area of concern or  
26 areas of concern, or at any other site to which a discharge  
27 originating at the site has migrated, or that any discharged  
28 contaminants present at the site or that have migrated from the site  
29 have been remediated in accordance with applicable remediation  
30 regulations.

31 "Remediation" or "remediate" means all necessary actions to  
32 investigate and clean up any known, suspected, or threatened  
33 discharge of contaminants, including, as necessary, the preliminary  
34 assessment, site investigation, remedial investigation, and remedial  
35 action, as those terms are defined in section 23 of P.L.1993, c.139  
36 (C.58:10B-1).

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38 2. a. There is established, within the Department of  
39 Environmental Protection, the Site Remediation Professional  
40 Licensing Board. The board shall establish licensing requirements  
41 for site remediation professionals and oversee the licensing and  
42 performance of site remediation professionals with respect to the  
43 remediation of lower priority contaminated sites.

44 b. The board shall consist of 11 members to be appointed and  
45 qualified as follows:

- 1 (1) The chairperson of the board shall be the Commissioner of  
2 Environmental Protection, or a designee, who shall serve ex officio;  
3 and
- 4 (2) 10 public members, residents of the State, who shall be  
5 appointed by the Governor with the advice and consent of the  
6 Senate, no later than the 30th day after the date of enactment of this  
7 act, as follows:
- 8 (a) four shall be contaminated site cleanup professionals  
9 currently engaged in the professional cleanup of contaminated sites,  
10 each of whom shall have at least eight consecutive years of  
11 experience in the cleanup of contaminated sites, and an advanced  
12 degree and relevant experience in any of the following disciplines:  
13 engineering, soil science, environmental toxicology, geology, or  
14 hydrogeology;
- 15 (b) two shall be persons who have been certified to perform  
16 services on underground storage tanks pursuant to section 3 of  
17 P.L.1991, c.123 (C.58:10A-24.3) for at least five consecutive years  
18 immediately preceding the appointment;
- 19 (c) two shall be members, at the time of the appointment, of a  
20 Statewide organization that promotes the protection of the  
21 environment and who are knowledgeable in site contamination  
22 issues;
- 23 (d) one shall be a member of the academic community who is  
24 knowledgeable in the scientific aspects of the remediation of  
25 contaminated sites and who shall have an advanced degree and  
26 relevant experience in any of the following disciplines: toxicology,  
27 geology, hydrogeology, chemistry, engineering, or soil science;  
28 and
- 29 (e) one shall be a member of the business community with at  
30 least five years of experience in the remediation of contaminated  
31 sites.
- 32 c. Board members shall serve for terms of four years, provided  
33 however, that of the members first appointed: two contaminated site  
34 cleanup professionals shall each be appointed to a two-year term;  
35 two contaminated site cleanup professionals shall each be appointed  
36 to a four-year term; two persons who have been certified to perform  
37 services on underground storage tanks shall each be appointed to a  
38 three-year term; one member of a Statewide organization that  
39 promotes the protection of the environment shall be appointed to a  
40 two-year term; one member of a Statewide organization that  
41 promotes the protection of the environment shall be appointed to a  
42 three-year term; the member of the academic community shall be  
43 appointed to a four-year term; and the member of the business  
44 community shall be appointed to a four-year term.
- 45 Each member shall serve for the term of the appointment and  
46 until a successor shall have been appointed and qualified. Any

1 vacancy shall be filled in the same manner as the original  
2 appointment for the unexpired term only.

3 d. (1) The Governor may remove a member of the board for  
4 cause, after a public hearing.

5 (2) The ten public members shall serve without compensation,  
6 but shall be reimbursed for necessary expenses incurred in the  
7 performance of their duties within the limits of funding available to  
8 the board.

9 (3) The Department of Environmental Protection shall provide  
10 administrative support to the board as needed.

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12 3. The board shall have the following powers and duties, in  
13 addition to those prescribed elsewhere in this act:

14 a. Administer the provisions of this act;

15 b. Examine and pass on the qualifications of all applicants for  
16 licensing under this act, and issue a license to each qualified,  
17 successful applicant;

18 c. Examine, evaluate, and supervise all examinations and  
19 procedures;

20 d. Adopt rules and regulations pursuant to the "Administrative  
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regarding  
22 education, training, experience, testing, references and standards for  
23 professional conduct of licensed remediation professionals,  
24 including the minimum educational and professional requirements  
25 for a person to apply for the site remediation professional license;

26 e. Annually publish a list of the names and addresses of all  
27 persons who are licensed under this act, and make the list available  
28 public on the Internet website maintained by the Department of  
29 Environmental Protection;

30 f. Establish standards and requirements for continuing education;

31 g. Adopt a seal which shall be affixed to all licenses issued by  
32 the board; and

33 h. Prescribe or change the fees for examinations, licenses,  
34 renewals, or any other services performed pursuant to this act.

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36 4. The board shall issue licenses to site remediation professionals  
37 determined qualified to oversee site review of certain lower priority  
38 contaminated sites. Each applicant for licensure shall pay an  
39 application fee in an amount set by the board to cover the costs of  
40 processing the application. Thereafter, each licensed site  
41 remediation professional shall pay an annual fee to the board in an  
42 amount calculated to cover the costs of administering the program  
43 and enforcing its provisions. No person shall be licensed by the  
44 board unless the person satisfactorily completes the examination  
45 and other requirements established pursuant to this act, and the  
46 requirements of the board adopted pursuant thereto.

1       5. a. The Department of Environmental Protection shall  
2 establish criteria for lower priority contamination sites that may be  
3 remediated and certified by a site remediation professional licensed  
4 pursuant to this act. For those sites that meet the criteria  
5 established pursuant to this section, a site remediation professional  
6 licensed pursuant to this act may perform the site remediation  
7 consistent with the requirements established in P.L.1993, c.139  
8 (C.58:10B-1 et seq.) and any rules or regulations adopted pursuant  
9 thereto. Upon completion of the remediation, the licensed site  
10 remediation professional shall certify that the remediation has been  
11 completed and shall transmit that certification to the department.  
12 Upon receipt of the certification, the department shall issue a no  
13 further action letter for the site.

14       b. The Department of Environmental Protection shall perform  
15 audits of at least ten percent of the site remediations performed by  
16 licensed site remediation professionals each year. The department  
17 may, with written notice provided to the licensed site remediation  
18 professional, conduct a hearing into any site remediation  
19 determined to have been performed in a manner that is less than  
20 satisfactory. Personnel or authorized agents of the board or the  
21 department may at all reasonable times enter any known or  
22 suspected site, vessel, or other location, whether public or private,  
23 for the purpose of investigating, sampling, inspecting or copying  
24 any records, condition, equipment, practice, or property relating to  
25 activities subject to this section.

26       c. The department may adopt, pursuant to the "Administrative  
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or  
28 regulations necessary to implement the provisions of this act,  
29 including rules or regulations establishing requirements for any  
30 documents, test results or other information to be submitted by the  
31 licensed site remediation professional with the certification that the  
32 remediation has been completed, and establishing fees reflecting the  
33 costs to the department of implementing this act.

34       d. The board and the department shall have the authority to seek  
35 a warrant if such a request is denied. Any court authorized to issue  
36 warrants in criminal cases may issue warrants authorizing entry by  
37 personnel or authorized agents of the board or the department upon  
38 a showing that the entry is necessary to allow the board or the  
39 department to carry out its regular procedures for verifying  
40 compliance with rules and regulations adopted pursuant to this act.

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42       6. a. The board may deny, suspend, revoke or refuse to renew a  
43 license for good cause, including:

44       (1) a violation, or abetting another to commit a violation, of any  
45 provision of this act, P.L.1976, c.141 (C.58:10-23.11 et seq.),  
46 P.L.1986, c.102 (C.58:10A-21 et seq.), or P.L.1993, c.139

- 1 (C.58:10B-1 et seq.), or any rule or regulation adopted, or order  
2 issued under any of those acts;
- 3 (2) making a false statement on a license application or other  
4 information required by the board or the department pursuant to this  
5 act, P.L.1976, c.141, P.L.1986, c.102, or P.L.1993, c.139;
- 6 (3) misrepresentation or the use of fraud in obtaining a license,  
7 or in performing any work on the remediation of a contaminated  
8 site, or tank testing, tank installation, tank removal, tank closure, or  
9 subsurface evaluations for corrective action, closure or corrosivity  
10 on an unregulated heating oil tank, or in performing underground  
11 storage tank services;
- 12 (4) failure to meet the standards or requirements of the license  
13 program, including standards relevant to the performance,  
14 qualifications, and business practices of persons or business firms  
15 who perform site remediation.
- 16 b. Before suspending, revoking, or refusing to renew a license,  
17 the board shall afford the licensee an opportunity to be heard in  
18 accordance with the provisions of the "Administrative Procedure  
19 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
- 20 c. Suspension, revocation, or refusal to renew a license shall  
21 not bar the board or the department from pursuing against the  
22 applicant or licensee any other lawful remedy available to the board  
23 or the department.
- 24 d. Any person whose license is revoked shall be ineligible to  
25 apply for a license for three years from the date of the revocation.
- 26 e. If the board or the department has reason to believe that a  
27 condition exists that poses an imminent threat to the public health,  
28 safety or welfare, it may order the licensee to cease operations  
29 pending the outcome of the hearing.
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- 31 7. a. Any person who acts as, advertises as, holds himself out  
32 to be, or represents himself as being a site remediation professional,  
33 unless that person is in possession of a valid license issued by the  
34 board, shall be subject to a civil penalty of up to \$10,000 for each  
35 occurrence.
- 36 b. Any person violating the provisions of this act, or any rule or  
37 regulation adopted pursuant thereto, shall be subject to a civil  
38 penalty of up to \$10,000.
- 39 c. Any civil penalty imposed pursuant to this act may be  
40 collected with costs in a summary proceeding pursuant to the  
41 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
42 et seq.). The Superior Court and the municipal court shall have  
43 jurisdiction to enforce the provisions of the "Penalty Enforcement  
44 Law of 1999" in connection with this section.
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- 46 8. This act shall take effect immediately.

STATEMENT

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This bill would establish the Site Remediation Professional Licensing Board to oversee licensing requirements and standards for site remediation professionals. Under the bill, licensed site remediation professionals would be authorized to oversee the remediation of lower priority contaminated sites and certify to the Department of Environmental Protection (DEP) that the remediation was performed in accordance with the applicable laws and regulations. The DEP would then issue a no further action letter based on the licensed site professional's certification.

The board would consist of 11 members. The chairperson would be the Commissioner of Environmental Protection or a designee, who would serve ex officio. The 10 public members would be residents of the State, appointed by the Governor, with the advice and consent of the Senate, of whom four would be current site remediation professionals, two would be certified to perform services on regulated underground storage tanks, two would be members of a Statewide organization that promotes the protection of the environment, one would be a member of the academic community knowledgeable in the scientific aspects of site remediation, and one would be a member of the business community with experience in contaminated site remediation. The terms of the members would initially be staggered, with appointments thereafter being for four years.

The board would be responsible for adopting rules and regulations relating to education, training, experience, testing, references and standards for professional conduct for site remediation professionals. The board would then issue licenses to individuals determined to be qualified to oversee lower priority contaminated site remediations. The board would charge a licensing fee to professionals in an amount calculated to cover the costs of administering and overseeing the program.

Finally, the bill would require the DEP to establish criteria for those sites that would be eligible for remediation and certification by a licensed site remediation professional. The DEP would also be required to audit at least 10 percent of the site remediations performed by licensed site remediation professionals each year. In assessing the work of site remediation professionals, the DEP or the board would have the authority to enter any site and obtain a warrant to do so, if necessary.

The bill would authorize the board to deny, suspend, revoke or refuse to renew a license for good cause and would establish penalties of up to \$10,000 for any violation of the act. In addition, the bill would penalize any person who acts as, advertises as, holds himself out to be, or represents himself as being a site remediation

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- 1 professional, unless that person is in possession of a valid license
- 2 issued by the board, with a fine of up to \$10,000.