



## Applicability of A-901 Soil and Fill Recycling Amendments for Licensed Site Remediation Professionals and Certified Subsurface Evaluators

- March 2, 2016 - LSRPs and Certified Subsurface Evaluators (SSEs), in providing overall management and oversight of a site remediation project, are not required to obtain an A-901 License and/or CPCN in order to handle the management of solid or hazardous waste from that site.
- April 22, 2021 - LSRPs and Certified Subsurface Evaluators (SSEs), in order to investigate, plan for, and arrange for the lawful transportation, disposition, reuse, or recycling of waste materials, including collection, transportation, processing, storage, purchase, sale, or disposition of “soil and fill recyclable materials,” from and to these projects to the extent that such materials are needed to remediate the site, do not require licensure under A-901 and/or a CPCN provided:
  - Those activities on a contaminated site that are conducted by an LSRP retained pursuant to the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) at N.J.A.C. 7:26C-2.3(a)1 to remediate that contaminated site; or
  - Those activities on a site that are conducted by a certified SSE who has been hired to provide services associated with the remediation of a discharge(s) from an unregulated heating oil tank system(s) on that site pursuant to the Heating Oil Tank System Remediation Rules, N.J.A.C. 7:26F.



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- Emphasis - LSRPs and SSEs engaged as a “broker,” (“a person who for direct or indirect compensation arranges agreements between a business concern and its customers for the collection, transportation, treatment, storage, processing, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services”) at sites at which they are not retained as an LSRP or hired as an SSE would require an A-901 License and CPCN as appropriate.
- Notice - This A-901/CPCN exemption determination does not follow through to entities subcontracted by the LSRP and the SSE who engage in any of the aforementioned activities. LSRPs and certified SSEs remain obligated to hire an A-901 Licensed and certificated company utilizing appropriately licensed and registered haulers and vehicles for the transportation and/or disposition of these wastes or soil and fill recyclable materials.
- Conversely, the exemption also does not extend upwards to companies that subcontract an LSRP or SSE and engage in regulated activities outside the control of the LSRP/SSE.



## Some Qs and As

- Q.** I have an SRP site where I am the retained LSRP. The remediation contractor is directly contracted to my client. The remediation contractor (not an LSRP) does not have an A-901 license but wants to subcontract waste transportation to an A-901 licensed company. All waste is going out of state. As the prime contractor, he is selecting and arranging for all disposal. It seems this may meet the definition of “broker” even though the prime contractor has a much larger role performing the site remediation. The Site has non-hazardous and TSCA waste. Does the remediation contractor need the A-901 license?
- A.** The remediation contractor would be brokering and thus require a license if they subcontract waste transportation to an A-901 licensed company. If the licensed hauler deals directly (direct payment) with the owner of the site (similar to how the remediation contractor is probably getting paid - assuming no additional middlemen are involved), then it is okay and no license is required by the remediation contractor.
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- Q.** Consultants (including LSRPs) who are conducting all appropriate inquiry (“due diligence”) at a site generate small quantities of contaminated soil (such as from drill cuttings). Will they require licensure if they retain an A-901 firm to manage the T&D of the drill cuttings on behalf of their client?
- A.** LSRPs conducting all appropriate inquiry (“due diligence”) are considered a retained LSRP and are exempt from the A-901 requirements as described in the April 22, 2021 DEP Policy Statement. Any other consultant or person conducting due diligence involving transportation, processing, brokering, purchase, sale, or off-site disposition of contaminated soil will be required to have an A-901 license. The Department will evaluate a de minimis quantity exemption as part of future rulemaking.



## Some More

- Q.** New Jersey-licensed Professional Engineers who are working on a geotechnical study at a non-SRP site generate drill cuttings. Will they require licensure if they retain an A-901 firm to manage the T&D of the drill cuttings on behalf of their client?
- A.** Yes, the PE would require A-901 licensure. The exemption only applies to LSRPs conducting remediation at sites at which they are retained or to SSEs at discharge-confirmed, known UHOT sites. If the PE does not have an A-901 license, then the PE would need to ensure the licensed hauler deals directly (direct payment) with the owner of the site.
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- Q.** Consultants, including LSRPs, non-LSRPs, and New Jersey-licensed PEs, who retain soil or rock cores as samples from drilling. Will they require licensure if they retain an A-901 firm when they ultimately dispose of these core samples?
- A.** Assuming the site is not a site undergoing remediation, then the LSRP, non-LSRP, and/or New Jersey-licensed PE, would require A-901 licensure. If the soil or rock cores are from a site undergoing remediation, then the LSRP or SSE would not require A-901 licensure.

## Important Dates

- Any business concern wishing to engage in Soil and Fill Recycling Services that did not already possess an A-901 License on January 21, 2020, must submit a Registration form to NJDEP no later than **October 14, 2021**.
- Any business concern that does not possess a valid A-901 License or Soil and Fill Recycling Registration must cease to engage in Soil and Fill Recycling Services after **January 13, 2022**.
- To obtain an A-901 License, a Registrant must submit a valid and administratively complete A-901 License application to the New Jersey Office of the Attorney General no later than **April 15, 2022**.

