

Delaware Department of Natural Resources & Environmental Control  
Site Investigation and Restoration Branch  
Policy and Procedures

Subject: **Hazardous Substance Cleanup Act (HSCA) Policy Update**

Issued: April 10, 2006

The Department of Natural Resources and Environmental Control Division – Site Investigation and Restoration Branch (DNREC-SIRB) is performing a comprehensive review of written program documentation as part of the effort to revise the **Regulations Governing Hazardous Substance Cleanup**. The initial step in this process is to identify and purge obsolete HSCA program guidance documents. With the adoption of this policy, DNREC formally archives the documents identified in the attachment to this memorandum and renders them inapplicable to the SIRB's programs.

**Background**

From the early 1990s until 2002, the SIRB routinely drafted policy memoranda to address various details of its program operations. Since 2002, the collection of policies, now numbering 65, has not been consistently updated or expanded. The only complete collection of these policy documents is on a computer drive. The computer files do not contain signatures although most of the documents have lines for the signature of the Director of the Division of Air and Waste Management. These policies cover a wide range of subject matter at various levels of detail. Some of the policies are not specific to the SIRB but are duplicates of Division or Department policies. Statutory amendments or new regulations have superseded some of the policies. A few of the policies address issues specific to one site or project.

The computer files are located at **G:\Policies** on the SIRB local area network and are listed by number. The Attachment to this memo contains the computer file name and date of the policy, a synopsis, and the rationale for archiving the policy.

**Action**

Upon approval, the SIRB Administrative Specialist II will move the designated policy documents to an archive file where they will no longer be considered applicable to the program. The **Policies** file will be renamed "**Current Policies**" and new documents will be added to it when they are approved.

Concurrence: Stephen F. Johnson  
Timothy Ratsep, Program Manager I  
Kathleen Stiller Banning, Program Manager II

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
James D. Werner, Director  
Division of Air and Waste Management

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| <b>POLICY NUMBER</b> | <b>Date</b> | <b>Description</b>   | <b>Proposed Action</b> | <b>Synopsis and Comments</b>  |
|----------------------|-------------|--|------------------------|---|
| POLICY_05            | 09.23.97    | Facility Evaluation<br>Estimated Project<br>Hours                        | Archive                | The guidance is a form listing activities related to FE s for the purpose of estimating costs. Rarely if ever used and probably not needed.   |
| POLICY_10            | 09.27.94    | Lebanon Chemical Site  | Archive                | Site specific memo, not a general policy. It describes an investigation of a site in Seaford. It was probably written in response to an inquiry from the Seaford City manager to the Sec's office.  |
| POLICY_13            | 07.11.96    | South Wilmington Area<br>Brownfield Strategy                             | Archive                | The policy is a brief summary of an area wide investigation encompassing about 200 acres and 10 monitoring wells in S. Wilmington. It outlines various options for applying HSCA. The recommended option is to give a 2 year amnesty period for site owners to join the VCP. Other options are to initiate enforcement by issuing notice letters. The selected option is not indicated. This policy is out of date and no longer necessary. |
| POLICY_14            | 11.20.97    | Voluntary Cleanup and<br>Brownfield Sites<br>Addressed under HSCA        | Archive                | This is an interesting attempt to resolve priority conflicts between VCP sites and "priority list" sites. It states that VCP sites will be the first priority and "priority list" sites will be the second priority. The policy seems no longer relevant. VCP sites are note waiting overlong for attention and non-VCP sites are being taken up depending on their risk.   |
| POLICY_17            | 01.12.93    | HSCA Funding   | Archive                | This file contains a cover memo to another document that appears to be missing. It is followed by a copy of proposed(?) amendments to HSCA concerning the effective dates of different sections of the act and a mandate to convene a committee to examine program funding options by Jan 1, 1994. This is not really a policy and is in any event out of date.   |
| POLICY_18            | 04.07.93    | DE Water and Air<br>Resources Act, 7 <u>Del.</u><br><u>C.</u> Chapter 60 | Archive                | This does not appear to be specific to HSCA programs. There is no explanation of why it is included in this list of policies.   |
| POLICY_20            | 01.23.97    | Request for Approval<br>For Degree Program                               | Archive                | There is DNREC policy for this personnel/admin issue. It does not belong with policies on the site cleanup program.   |
| POLICY_24            | 07.10.92    | DE Hazardous<br>Substance Cleanup Act<br>ltr. To Judge Bifferato         | Archive                | This file is a 1992 memo from BK containing a legal opinion on when a public hearing on a signed consent decree is required by statute. It is a recommendation and there is no indication of whether it was accepted. The following file includes a   |

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|                      |             |  |                        | letter from BK to a judge explaining the comment periods following some early HSCA consent decrees. There is a need to combine this content with clear policy on comment periods and hearings. |
| POLICY_25            | 07.13.95    | DE Hazardous Substance Cleanup Act Part IX, Hazardous Substance Cleanups                                       | Archive                | Just a cover page.   |
| POLICY_26            | 01.15.94    | PRP Search Memorandum  | Archive                | This is a cover for the actual policy stating that it will be followed. The real policy (No 27) is recommended for retention   |
| POLICY_28            | 06.24.94    | Consultant/Contractor Approval Memorandum  | Archive                | This is an early attempt to build a list of qualified consultants in lieu of the site-by-site approval process that occurred before. Not current and has been replaced.                        |
| POLICY_34            | 06.04.91    | Implementation of Draft Superfund Interagency Document Review Policy   | Archive                | Cover page requiring implementation of procedures for identifying ARARs at NPL and HSCA sites and circulating EPA documents through the department.  |
| POLICY_35            | 04.30.91    | Interagency Superfund Document Review Policy Memorandum  | Archive                | Not being used. This procedure has not been used for many years if at all and is probably not needed.  |
| POLICY_38            | 11.19.97    | Environmental Audit  | Archive                | This file is a cover memo for the following three documents. It was written prior to ASTM standards and has been supplanted.   |
| POLICY_39            | 06.29.96    | Interim Guidance on Screening Levels for Hazardous Substances Discovered During Site Assessments Under DE HSCA | Archive                | Obsolete guidance—based on “roy smith” tables.   |
| POLICY_40            | 05.17.91    | Environmental Audit and Cleanup at Properties Prior to Transfer Memorandum                                     | Archive                | Supplanted by other guidance now in wide use.  |

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| POLICY_41            | 09.13.97    | Remediation of Contaminated Properties                                      | Archive                | Phil Rettalick letter to consultants warning that the DNREC requires “reporting under Chapter 60”.   |
| POLICY_42            | 05.20.91    | Assessment of Environmental Audits  | Archive                | White paper on real estate assessments and state role. Recommends adding staff. No longer pertinent.   |
| POLICY_44            | 05.09.91    | Issues and Policies for Managing HSCA                                       | Archive                | Old paper identifying issues and recommendations. Not clear that recommendations were adopted. Of historical interest but all issues have been completely reframed.  |
| POLICY_46            | 01.05.95    | Reporting Requirements under HSCA   | Archive                | Concentration based reporting requirement—incomplete. It seems to require owners to report concentrations higher than the Roy Smith tables. Confusing and unnecessary.   |
| POLICY_47            | 05.31.95    | Use of a Presumptive Remedy for Debris Disposal Pits                        | Archive                | Debris pit sites have been moved to SHWB and are no longer a concern of this Branch.   |
| POLICY_50            | 09.18.91    | Policy for the Development of a Priority List                               | Archive                | Discusses advantages of keeping voluntary sites off a priority list. Unclear whether this policy has been approved and implemented.  |
| POLICY_51            | 01.25.01    | Minimum Qualifications Requirements for Contractors/Consultants under HSCA  | Archive                | This 1991 document has been updated. The new document is not in this list of policies.   |
| POLICY_52            | 02.28.95    | DE HSCA/VCP Legislative Initiative  | Archive                | Notes on VCP philosophy for legislative briefing. Explanation of changes needed to HSCA. The changes were made. This document is not really a policy.  |
| POLICY_57            | 04.26.91    | Policy for Dealing with State Agencies whose Property is being Investigated | Archive                | The policy was written before VCP agreements came into common use and requires doing consent decrees with other state agencies. It discusses two options for consent decrees—chapter 91 and chapter 60—with some pros and cons for each. The document indicates that there are two attachments, but they are missing. My guess is that they are template CD’s, one under each chapter. |
| POLICY_59            | 11.03.97    | Hazard Communications   | Archive                | Seems to be a training outline on MSDSs. Refers to Health and Safety coordinator and other “offices” that are undefined. The document is poorly worded throughout.   |

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|                      |             | Program                                    |                        | The policy is dated 1993. The Division H&S plan probably subsumes everything in this policy that is useful. |
| POLICY_60            | 11.03.97    | Respirator Program                         | Archive                | Subsumed in Division H&S plan.  |
| POLICY_61            | 11.03.97    | Personal Protective Equipment Program      | Archive                | Addresses med monitoring, haz mat id, HASP review. Subsumed in Division H&S plan.                           |
| POLICY_62            | 11.03.97    | Accident Investigation                     | Archive                | Subsumed in Division H&S plan.  |
| POLICY_63            | 11.03.97    | Air Monitoring Equipment Program           | Archive/<br>Update     | 1993, written for old equipment.  |
| POLICY_44            | 05.09.91    | Issues and Policies for Managing DE's HSCA | Update or<br>Archive   | More of a suggestions paper than a final policy regarding NPL listing, PA/SI, innocent landowners           |