



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
391 LUKENS DRIVE
NEW CASTLE, DELAWARE 19720-2774

WASTE MANAGEMENT SECTION
SITE INVESTIGATION &
RESTORATION BRANCH

TELEPHONE: (302) 395-2600
FAX: (302) 395-2601

MEMORANDUM

To: Marjorie Crofts, Division of Waste Management Director

Through: Kathleen Stiller, SIRB Program Manager II *JMS 7/25/10*

From: Gregory DeCowsky, SIRB Project Managers *GD 7/20/10*
Kathryn Durant, SIRB Project Managers *KD 7/20/10*
Lindsay Hall, SIRB Project Managers *LH 7/20/10*
Kristen Thornton, SIRB Project Managers *KT 7/21/10*
Timothy Ratsep, SIRB Program Managers I *TR 7/27/10*
Paul Will, SIRB Program Managers *PW 7/26/10*

Date: July 15, 2010

RE: **Policy on Minimum Qualification Requirements for Consultants/Contractors Performing Work Under the Hazardous Substance Cleanup Act (Effective 6/17/94, Revised 12/5/01, Revised 1/16/04, Revised 6/30/10)**

The State's Hazardous Substance Cleanup Act (HSCA) Program is responsible for identifying and remediating hazardous waste sites which pose threats or potential threats to public health or welfare or the environment. This charge requires that detailed and specific environmental investigations or remediations be executed by either the Department or by private environmental consulting/contracting firms. The HSCA program also has evolved over the years to include Brownfields and Voluntary Cleanup Programs where owners and prospective purchasers can enter into agreements with DNREC to investigate and clean up contaminated property.

The HSCA Program's experience has revealed that a wide range of expertise exists among the private environmental consulting firms. Therefore, a provision was included in the *Regulations Governing Hazardous Substance Cleanup* whereby the Department may not consider any response actions for approval unless performed by consultants or contractors approved by the Department in accordance with specific criteria associated with the consultant's qualifications. In order for the DNREC HSCA Program to determine whether or not a consultant is capable of performing the required work, minimum qualifications requirements have been established in the form of this policy (Attachment 1). Additionally, to assist consultants with gaining approval to perform work under the HSCA program, an application form is attached to this policy which details the required information and format that a consultant needs to provide to the Department to gain approval to perform work under the HSCA program.

Delaware's good nature depends on you!

**Minimum Qualification Requirements for Consultants/Contractors
Performing Work Under the Delaware
Hazardous Substance Cleanup Act including the Brownfields, Voluntary Cleanup, and
HSCA Enforcement Programs.**

OBJECTIVE:

To establish minimum qualification requirements that must be satisfied in order for consultants and contractors to perform investigative or remedial work affiliated with Delaware's Department of Natural Resources and Environmental Control ("the Department" or "DNREC") Hazardous Substance Cleanup Act (HSCA) Program ("Cleanup Program").

DISCUSSION:

The *Regulations Governing Hazardous Substance Cleanup* (the "Regulations") require potentially responsible parties (PRPs) to submit the name and qualifications of the consultant that will be performing the remedial work at a particular site. The Department will grant approval for consultants to perform work in the following two types of work categories:

- **Investigative and Remedial Action work**, such as Facility Evaluations, Remedial Investigations, Brownfield Investigations, Feasibility Studies; Remedial Design, and Remedial Action Oversight; and/or
- **Ecological work**, such as Ecological Risk Assessments and Natural Resource Damage Assessment (NRDA) claims.

The Department will approve firms or project teams to perform work on HSCA projects on a continuous basis as well as a project-specific basis. A consultant may apply for certification to be able to perform investigative/remedial action work, ecological work or both but must meet the following requirements:

- Submit to the Site Investigation and Restoration Branch (SIRB) a complete application in writing with appropriate documentation of experience and training.
- Provide proof of a valid Delaware Business License.

The Application can be found online or at DNREC-SIRB's office. It must contain the appropriate documentation of experience and training as part of the submittal of a qualified consultant/team seeking certification. An application submittal must also contain a verification statement by the applicant, or its duly authorized representative, that they and any person employed by the applicant on any remedy will be required to abide by all applicable rules and regulations promulgated by the Department.

To become a HSCA-certified consultant, a firm or project team must demonstrate that they have the following types of qualified personnel working as part of their firm and/or project team.

- For Investigative or Remedial Action work, a Delaware Professional Engineer (PE) and Delaware Professional Geologist (PG), and experienced Project Manager are required to be on-staff for the lead consulting firm/team to be considered for certification.

- For Ecological work, demonstration of competence in biology, wetlands, ecology, ecotoxicology, and environmental economics are required for a consultant to be considered for certification. Also, the designated Project Manager must be on-staff for the lead consulting firm/team to be considered for certification.

If DNREC is issuing a project-specific approval for a team, the team must have a designated team leader who will be responsible for the overall management of the project, the quality of work performed on the project, and the health and safety of team members working on the project.

REVIEWS AND FAILURE TO COMPLY:

DNREC will conduct a review upon receipt of a complete application. To expedite the process, if requested by the applicant, DNREC will meet with the applicant to go over specific comments related to the application and to answer any questions and concerns that the review committee may have. If a submittal has been determined deficient or incomplete, DNREC will notify the applicant in writing and via email if possible with regards to the deficiencies and request additional information. If the resubmittal does not meet DNREC's requirements, the entire application will be returned to the applicant and the applicant must reapply.

The names of all certified consultants both on a continuous and project-specific basis will be placed on the list for the specific category of work. Once certified, a consultant will remain certified for a particular category unless the Department determines, regardless of qualifications, that any of the following applies: 1) work being performed by the consulting firm is unsatisfactory, 2) the consulting firm performed remedial design, interim remedial action, or remedial action work without oversight from the Department, 3) the firm did not comply with other provisions of the Regulations, 4) the firm has not maintained or secured qualified personnel to perform work under the HSCA Program, 5) the Department becomes aware of any notices of violation, criminal citations, arrests, convictions, or civil or administrative actions related to a person or associated consultant that would render the person's or firm's ability to perform work under HSCA suspect with respect to quality and integrity, 6) the consultant is found to make or to have made misrepresentations with regards to their qualifications or work performed under the HSCA program, or 7) new regulatory requirements mandating re-certification.

If DNREC determines that a consultant/team's conduct may constitute an imminent hazard to human health and/or the environment, DNREC may (1) order the work in question to be stopped immediately, (2) may take such other action as it deems appropriate to prevent or mitigate the hazard or restore environmental damage resulting from it, and (3) may immediately suspend the consultant/team's approval to perform any or all work under HSCA. Notice of such DNREC action shall be made in writing or by Certified Mail--Return Receipt Requested. Any expenses or damages incurred by DNREC as a result of said hazard or its mitigation shall be recoverable pursuant to the relevant section[s] of Title 7, Delaware Code.

Qualifications for all approved firms will be re-evaluated as required by DNREC. However, the consultant/contractor will be required to notify DNREC of any and all substantive changes to their qualifications within 30 days of these changes taking place.

Revised: 01.25.01

Revised 02.22.01

Revised 04.17.01

Revised 4/17/03

Revised 12/23/03

Revised 03/08/04

Revised 03/17/04

Revised 06/30/10

Application for Becoming a Certified Consultant under the HSCA Program Last Updated 06/30/10

1. Please provide the following consulting firm/team contact information:

Name of primary contact:

Name of consulting firm applying for approval:

Address:

Phone number:

Fax number:

Email:

2. Please indicate which category(ies) of work you requesting approval for:

Investigative/Remedial Action work to include FE/RI /Brownfields
Investigations/FS/RD/RAO

Ecological work including Ecological Risk Assessments and NRDA claims

3. **For investigative/remedial work**, provide the following information for **all** of the personnel who will work on HSCA-related projects in Delaware:

- The name and job titles of the people who will be assigned to perform the following job functions. (There must be at least one person for each role.):

Project Manager

Chemist

Professional Geologist

Professional Engineer

Biologist

Health and Safety Officer

Environmental Scientist

Wetland Specialist

Toxicologist or Risk Assessor

*Individuals listed can fulfill multiple roles on a given project provided they are trained and experienced.

- The resumes of these individuals. The Project Manager must demonstrate that he or she has been the Project Manager for at least three different Superfund-related projects
- The contact information for all of these individuals.
- The completion date of initial OSHA training or latest refresher training for those individuals anticipated to perform fieldwork, whichever is most recent.
- The cards or certificates demonstrating that the PG and PE listed are registered and licensed in Delaware

AND/OR

For at least three different Superfund-related projects and Health and Safety Officer

For ecological work, check the areas below in which your firm/team practices, and in which it has training and experience (Please support experience with information included in resumes):

- Natural Resource Damage Assessment
- Environmental economics
- Terrestrial biology/ecology
- Aquatic biology/ecology
- Wetland ecology

Wetland identification and delineation under:

- Federal statues and regulations
- Delaware statues and regulations
- Wildlife biology/management
- Fisheries biology/management
- Botany
- Invasive species management
- Ecotoxicology
- Ecological risk assessment
- Ecological restoration
- Surface water hydrology
- Soil science
- Ecological enhancement of commercial, industrial, and/or residential sites
- Other (specify) _____

For each specialty checked above, provide the name and job titles of the people who will be assigned to perform the respective job functions (Individuals can fulfill multiple roles on a given project provided they are trained and experienced.)

Further, provide the name and job titles of the people who will be assigned to perform the functions of Project Manager (the Project Manager must demonstrate that he or she has been the Project Manager for at least three different ecological projects) and Health and Safety Officer.

Please provide:

- The resumes of these individuals.
- The contact information for all of these individuals.
- The completion date of initial OSHA training or latest refresher training for those individuals anticipated to perform fieldwork, whichever is most recent.

4. **For investigative/remedial work**, please provide one page project summaries describing three different Superfund or RCRA Corrective Action related (state or federal) investigations or remedial actions that the consultant or team leader has performed. A minimum of two projects must demonstrate completion of remedial action work. Credit will not be given for a project that exclusively involved the investigation and cleanup of an underground storage tank petroleum release site. This decision is because HSCA related projects by nature can be considered more complex based on investigating unknown sources of contamination, a much broader range of analytical requirements, and the use of more intensive risk assessment techniques. UST removal actions can be described as a specific activity of the larger facility cleanup effort. List the names of people involved and their role in managing these projects. Provide names, addresses and phone numbers for whom the work was performed. These people may be contacted by DNREC staff to verify this information.

AND/OR

For ecological work, please provide one page project summaries describing three different ecological projects that the consultant or team leader has performed; preferably projects in the context of CERCLA, State Superfund, or RCRA. List the names of people involved and their role in managing these projects. Provide names, addresses and phone numbers for whom the work was performed. These people may be contacted by DNREC staff to verify this information.

5. Consultant or team shall indicate knowledge and experience applying appropriate Federal, State and local regulations as they pertain to the referenced Superfund projects. Consultants should list specific regulations that were dealt with for each referenced Superfund project. Additionally, if not previously referenced, the firm should indicate that they have read and have a working knowledge of the *Delaware Regulations Governing Hazardous Substance Cleanup*, the *Hazardous Substance Cleanup Act Guidance Manual* and the *Hazardous Substance Cleanup Act, 7 Del. C. Chapter 91*. The consultant or team should indicate that they have reviewed the *Delaware Standard Operating Procedures (SOP) for Chemical Analytical Programs (CAP)* as referenced in the HSCA Regulations Subsection 13.5.

Additionally, **for ecological work**, the consultant or team shall describe its knowledge and experience (as applicable to the specialties checked above) applying appropriate Federal, State and local statutes and regulations governing waters, water pollution, wetlands, subaqueous lands, fish, shellfish, wildlife, endangered and threatened species, and land preservation.

6. Demonstrate that the consultant or team has the capability and knowledge to submit data electronically using electronic data deliverables (EDDs) as specified on the SIRB web page http://www.awm.delaware.gov/SIRB/Pages/SIRB_EQuIS.aspx. These requirements are being implemented in phases. Please check this web page for updates.