



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

WASTE MANAGEMENT SECTION
SITE INVESTIGATION &
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TELEPHONE: (302) 395-2600
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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 pending approval)

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 over the last 13 years has revealed that a wide range of expertise exists among the private environmental consulting and contracting 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 firm is capable of performing the required work, minimum qualifications requirements have been established in the form of this policy (Attachment 1). Additionally, to assist firms 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.

For additional information or clarification regarding minimum qualification requirements, please contact Alex Rittberg of the Site Investigation and Restoration Branch (SIRB) at (302) 395-2600.

APPROVED:



3/12/04

John Blevins

Date

Director of Air and Waste Management

Delaware Department of Natural Resources and Environmental Control

**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 work such as Facility Evaluations, Remedial Investigations, and Brownfields Investigations; and/or
- Remedial action work such as Feasibility Studies; Remedial Design, and Remedial Action Oversight.

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. To get either type of approval 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. All of the professionals listed below shall be experienced in working with at least three Superfund or RCRA Corrective Action related projects.

- Project Manager with experience managing at least three Superfund-related projects.
- Professional Geologist licensed to practice geology in the State of Delaware
- Professional Engineer licensed to practice engineering in the State of Delaware
- Experienced Health and Safety Officer
- Biologist(s)/environmental scientist(s) experienced with eco-risk assessment, fish and wildlife population surveys, wetland delineation
- Toxicologist experienced with human health risk assessment
- Chemist experienced with ensuring adequate quality assurance and data validation

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.

DNREC will only approve firms or project teams either for continuous approval or project-specific approval when they demonstrate to DNREC's satisfaction that they meet the criteria listed in the application form. This information must be submitted in the format and order described in the application form.

It is required that all on-site personnel shall be, in compliance with 29 *CFR* 1910.120 requirements.

The Department will also support individuals or new/small businesses seeking to gain experience in working on HSCA projects through a mentoring program, if an individual or new/small firm wishes to work under the direction of a firm that has already been granted continuous approval to perform HSCA work. Under this program the firm or team that has been granted continuous approval must review and certify that the work performed by the less experienced firm meets all of the requirements of the HSCA statute, regulations, and guidance. Upon successful completion of three projects a firm or individual may apply for approval to perform work on a continuous or project-specific basis provided they meet the appropriate requirements.

For firms already on DNREC's approved consultant list as of April 1, 2004, DNREC will consider these firms approved to perform work under the HSCA program on a continuous basis for their previously approved categories of work provided they demonstrate that still meet the minimum staffing requirements as mentioned above, and submit or update the Applicant Background Information Questionnaire, by April 30, 2004.

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 approved firms both on a continuous and project-specific basis will be placed on the list for the specific category of work. Once approved, a firm will remain qualified 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 firm that would render the person's or firm's ability to perform work under HSCA suspect with respect to quality and integrity or 6) the firm is found to make or to have made misrepresentations with regards to their qualifications or work performed under the HSCA program.

For the purpose of removing firms from the approved list, “unsatisfactory work” shall include that on more than one occasion, the Department has had to request substantial changes to a project’s work plan and/or related reports, or has outright rejected such reports, based on the consultant’s failure to correctly apply HSCA rules, regulations, and guidance documents.

Once DNREC determines that a firm or team has conducted itself in a manner that may lead to suspension of their approval to perform work under the HSCA program, DNREC will notify the firm or team in writing detailing the situation, and DNREC’s desire to meet to discuss the issues in question, within 15 days upon the firm or team receiving the letter. If after the meeting, or if the firm/team fails to respond within 15 days, DNREC determines that a suspension is necessary, DNREC will notify the firm or team in writing of the suspension of their approval to perform work under the HSCA program.

If DNREC determines that a firm's/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 firm's/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.

A firm or team whose approval has been suspended shall cease work on all ongoing projects under the HSCA program. A firm or team may reapply no earlier than 6 months from the date that it receives a letter from the Department notifying them that their approval has been suspended provided all deficiencies have been corrected.

Qualifications for all approved firms will be re-evaluated annually or as required by DNREC. DNREC will require firms to update their qualifications packages at the start of every project and at least annually. 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

Application for Becoming an Approved Consultant under the HSCA Program Last Updated 03/08/04

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

Name of individual responsible for preparing this application:

Name of consulting firm applying for approval:

Address:

Phone number:

Fax number:

Email:

2. Please describe which category(ies) of work you requesting approval for?

Investigative work to include FE/RI /Brownfields investigation

Remedial actions including FS/RD/RAO

3. Provide the following information for the personnel who are likely to work on a HSCA-related project in Delaware:

- The name and job titles of the people who will be assigned to perform the following job functions: Project Manager, Professional Geologist, Biologist/Environmental Scientist, Toxicologist, Wetlands Specialists, Chemist, Health and Safety Officer, and Professional Engineer. (Individuals can fulfill multiple roles on a given project provided they are trained and experienced. The Project Manager must demonstrate that he or she has been the Project Manager for at least three different Superfund-related projects.)
- The resumes of these individuals.
- The contact information for all of these individuals.
- The date of initial OSHA training or latest refresher training for these individuals.
- Cards or certificates demonstrating that the PG and PE listed are indeed registered and licensed in Delaware).

4. Please provide one page project summaries describing three different Superfund or RCRA Corrective Action related (state or federal) investigations that the firm or team leader has performed. 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. Though 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.

5. Firm or team should indicate knowledge and experience applying appropriate Federal, State and local regulations as they pertain to the referenced Superfund projects. Firms 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 firm 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.
6. Demonstrate that the firm or team has the capability and knowledge to submit data electronically using the “Delaware Data Deliverable Model” (3 DM) format.
7. If the firm or team is applying for the remedial action category of work please provide one page project summaries describing three projects involving preparing feasibility study, performing remedial design, or conducting remedial action oversight on a Superfund related project. These can be combined with the project summaries for the investigative work detailed above. Please ensure these project summaries include a description of remedial technologies evaluated and selected, a description of the effectiveness of the remedial action with regards to mitigating risk and meeting remedial action objectives, and lastly the use of innovative technologies. DNREC will not give credit for projects that exclusively involve the remediation of petroleum resulting from an underground storage tank release. 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. Though UST removal actions can be described as a specific activity of the larger facility cleanup effort. Provide names, addresses and phone numbers of the clients and/or agencies for whom the work was performed. These people may be contacted by DNREC staff to verify this information.