



Government of **Western Australia**
Department of **Environment and Conservation**

Contaminated Sites Management Series

**CONTAMINATED SITES AUDITORS:
GUIDELINES FOR ACCREDITATION,
CONDUCT AND REPORTING**

November 2009

PREFACE

The Department of Environment and Conservation (DEC) has prepared this guideline, *Contaminated Sites Auditors: Guidelines for Accreditation, Conduct and Reporting*, to provide information about the contaminated sites auditor scheme, the assessment and accreditation process and the responsibilities and obligations of auditors under the *Contaminated Sites Act 2003* and the *Contaminated Sites Regulations 2006*.

This guideline is an updated version of the ‘*Contaminated Sites Auditors: Guidelines for Accreditation, Conduct and Reporting (August 2006) Version 2*’ guideline.

Enquiries may be directed to:
Manager, Contaminated Sites Branch
Department of Environment and Conservation
Locked Bag 104
Bentley Delivery Centre WA 6983

Telephone: 1300 762 982
Facsimile: (08) 9333 7575

Comments by email should be sent to:
contaminatedsites@dec.wa.gov.au

LIMITATIONS

This document refers to sections within the *Contaminated Sites Act 2003* (CS Act) and the Contaminated Sites Regulations 2006 (CS Regulations).

The guideline applies to any person interested in applying for accreditation as an auditor in eastern Australia and an existing auditor seeking renewal of his or her accreditation in WA.

The application of this guideline is limited in certain circumstances. In the event of a discrepancy or inconsistency between this guideline and the CS Act or CS Regulations, the relevant provisions of the CS Act or CS Regulations will prevail. Furthermore, on occasion policy considerations may prevail. DEC should be consulted on policy issues.

DISCLAIMER

No representation or warranty, expressed or implied, is made by DEC as to the relevance, accuracy, completeness or fitness for purpose of this guideline in respect of any particular user's circumstances. In addition, the information in this guideline ("the information"):

- is prepared by DEC voluntarily, in good faith and as a public service;
- is believed to be accurate at the time of publication (including at the time of release of the information on the internet);
- does not constitute advice (including legal and technical advice) and is not intended to be used as such advice;
- is to be used as a guide only and is not to be used as a substitute for obtaining appropriate advice (including legal advice) or making proper inquiries;
- is provided solely on the basis that you will be responsible for making your own assessment of it and that you verify all relevant aspects of the information;
- may become inaccurate as the result of changes in legislation, or other circumstances, after the information is published - you must not rely on the information as being accurate.

Neither the State, nor any employee or agent of the State or any agency or instrumentality of the State, nor any authors or contributors of the information shall be liable for any loss, damage, personal injury or death however caused (whether caused by any negligent or other unlawful act or omission of, by or on the part of the State or otherwise) arising from the use of or reliance on the information.

THE CONTAMINATED SITES MANAGEMENT SERIES

This guideline forms part of a management series developed by DEC to provide guidance on the assessment and management of contaminated sites in WA. The titles of guidelines, prepared for the purposes of section 97(1) of the CS Act, have been published in the *Gazette* in accordance with section 97(4) of the CS Act.

As at October 2009, the titles of the following *Contaminated Sites Management Series* guidelines have been published in the *Gazette* —

Guidelines for the purposes of section 97(1)(a) of the CS Act:

- *Bioremediation of Hydrocarbon Contaminated Soils in Western Australia* (October 2004)
- *Development of Sampling and Analysis Programs* (December 2001)
- *Reporting on Site Assessments* (December 2001)
- *The Use of Risk Assessment in Contaminated Site Assessment and Management: Guidance on the Overall Approach* (November 2006)
- *Use of Monitored Natural Attenuation for Groundwater Remediation* (April 2004)

Guidelines for the purposes of section 97(1)(b) of the CS Act:

- *Potentially Contaminating Activities, Industries, and Landuses* (October 2004)
- *Reporting of Known or Suspected Contaminated Sites* (November 2006)
- *Site Classification Scheme* (November 2006)

Guidelines for the purposes of section 97(1)(c) of the CS Act:

- *Community Consultation Guideline* (November 2006)

In addition, DEC intends to publish notice of the making of the following guidelines in the *Gazette* shortly:

- *Assessment Levels for Soil, Sediment and Water* (Version 4 – in publication)
- *Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia* (Department of Health and DEC, May 2009)

The *Contaminated Sites Management Series* also contains the following guidelines which are not guidelines for the purposes of section 97 of the CS Act:

- *Contaminated Sites Auditors: Guideline for Accreditation, Conduct and Reporting* (September 2009)
- *Certificate of Contamination Audit Scheme* (Draft, July 2000)
- *Disclosure Statements* (November 2006)
- *Contaminated Sites and the Landuse Planning Process* (April 2006)

Reference to this guideline, section 97 guidelines and other guidelines should ensure that the minimum requirements of DEC are satisfied.

Copies of this guideline, section 97 guidelines and the other guidelines are available from DEC's website at <http://www.dec.wa.gov.au/contaminatedsites> or from the DEC Information Centre located at Level 4 The Atrium, 168 St Georges Terrace, Perth. Copies of the CS Act and CS Regulations are available from the State Law Publisher.

LIST OF ABBREVIATIONS

A number of abbreviations will appear in this document. For your convenience, a list of the abbreviations and their meaning is provided as follows:

“Applicant” – an individual seeking accreditation as a contaminated sites auditor.

“Auditor” - an auditor accredited by the Chief Executive Officer of the Department of the Environment and Conservation under section 69 of the *Contaminated Sites Act 2003*.

“Auditor guidelines” – *Contaminated Sites Auditors: Guidelines for Accreditation, Conduct and Reporting* (September 2009).

“CEO” – Chief Executive Officer of the Department of Environment and Conservation

“CS Act” – *Contaminated Sites Act 2003*.

“CS Regulations” – Contaminated Sites Regulations 2006.

“EPA” – Environmental Protection Authority.

“EP Act” – *Environmental Protection Act 1986*.

“DEC” – Department of Environment and Conservation.

“Interested persons” – include landowners, purchasers, occupiers, developers, lenders and government agencies.

“Mandatory auditor’s report” – where an auditor’s report is required for the purposes of the CS Act, the CS Regulations or the EP Act as defined in section 3 of the CS Act.

“Other guidelines” – guidelines in the Contaminated Sites Management Series other than this auditor guideline and those made under section 97 of the CS Act.

“Proponent” – a person responsible for the investigation or the remediation of a site or a person on whom a notice is binding (e.g. an investigation, clean up, or hazard abatement notice - see Part 4 of the CS Act).

“Scheme” – contaminated sites auditor scheme.

“Section 97 guidelines” – guidelines made in accordance with section 97 of the CS Act.

“The State” – The State of Western Australia.

“WA” – Western Australia

TABLE OF CONTENTS

PREFACE	1
LIMITATIONS	2
DISCLAIMER	2
THE CONTAMINATED SITES MANAGEMENT SERIES	3
LIST OF ABBREVIATIONS	4
TABLE OF CONTENTS	5
1 INTRODUCTION	7
1.1 Background	7
1.2 Development of the auditor scheme	7
1.3 Objectives of the contaminated sites auditor scheme	8
1.4 National guidelines for auditor schemes	8
2 CONTAMINATED SITES AUDITORS IN WESTERN AUSTRALIA	9
2.1 When must auditors be engaged?	9
2.2 Voluntary auditor's reports	11
2.3 Who pays the cost of engaging auditors?	11
2.4 DEC's role in accrediting and regulating auditors	12
3 THE ROLE OF CONTAMINATED SITES AUDITORS	13
3.1 The role of the auditor	13
3.2 The scope of a mandatory auditor's report	14
4 APPLICATIONS FOR AUDITOR ACCREDITATION	16
4.1 The application process	16
4.2 Requirements for applicants	17
4.3 Requirements for expert support team	20
4.4 Requirements for professional indemnity insurance	20
5 SELECTION CRITERIA FOR AUDITOR ACCREDITATION	22
5.1 Academic qualifications	22
5.2 Understanding of WA legislation	22
5.3 Understanding of National and WA policies and guidelines	22
5.4 Relevant professional experience	22
5.5 Core competency areas	23
5.6 Other areas of technical expertise	23
5.7 Continued professional development	24

6	SELECTION PROCESS FOR AUDITOR ACCREDITATION	25
6.1	Selection panel.....	25
6.2	Short-listing of applicants	25
6.3	Interview and case study exercise	25
6.4	Accreditation decision	26
6.5	Accreditation fees.....	27
6.6	Period of accreditation	27
6.7	Performance review	27
6.8	Suspension, cancellation or refusal to renew accreditation	28
7	DUTIES AND RESPONSIBILITIES OF AUDITORS	30
7.1	General responsibilities of auditors	30
7.2	Auditors' responsibility to notify the CEO	31
7.3	Code of conduct for auditors.....	32
7.4	Conflict of interest	33
7.5	Auditor meetings	33
8	CONDUCTING AND REPORTING AUDITS	34
8.1	Information reviewed during course of audit	34
8.2	Preparing a mandatory auditor's report.....	35
8.3	Disclosure of mandatory auditor's reports	38
9	REFERENCES.....	39

1 INTRODUCTION

The *Contaminated Sites Act 2003* (CS Act) and the accompanying Contaminated Sites Regulations 2006 (CS Regulations) provide for the identification, recording, management and remediation of contaminated sites in the State.

In recognition of the specialist nature of the investigation and remediation of contaminated sites the CS Act provides for the Department of Environment and Conservation (DEC) to accredit suitably qualified professionals as auditors to undertake an independent review of investigations or remediation work carried out by other professionals.

The CS Act and CS Regulations set out the requirements for accreditation of auditors, the duties of auditors and the circumstances in which auditors must be engaged.

1.1 BACKGROUND

The assessment and remediation of contaminated sites has grown as an issue in Australia since the early 1980s. Traditionally, this work has been undertaken by professionals involved in related disciplines (e.g. engineers, chemists, and geologists) whose skills in the contaminated sites area have developed in response to the requirements of their clients (e.g. landowners and occupiers) and environmental and planning regulatory authorities. The quality of assessments has varied.

In 1989 the Victorian Environmental Protection Authority introduced the Environmental Auditor (Contaminated Land) Scheme to appoint and accredit environmental auditors to review work undertaken by contaminated land consultants. Since then a number of other States in Australia have established various schemes for either accrediting contaminated sites auditors or requiring contaminated land professionals to demonstrate relevant qualifications and experience to certify site assessments.

1.2 DEVELOPMENT OF THE AUDITOR SCHEME

As part of the extensive public consultation during the development of the CS Act, the then Department of Environmental Protection¹ released a discussion paper in 1995 on the *Assessment and Management of Contaminated Land and Groundwater in Western Australia*.

The discussion paper sought public comment on the establishment of an accredited auditor scheme (the scheme) and specifically asked whether accredited auditors should be able to issue “clearances” for sites (as is the case in Victoria and New South Wales), or whether accredited auditors should be used without being authorised to issue “clearances”.

The comments received on the discussion paper, and reflected in the position paper *Contaminated Sites – Assessment and Management of Contaminated Land and Groundwater in Western Australia* (1997) indicated that a system of accrediting auditors was generally supported. However, there was a strong view that auditors should not issue certificates of clearances and that the State Government should undertake this task.

¹ Now the Department of Environment and Conservation

The CS Act and CS Regulations reflect the State Government's recognition of the consultation process described above and the specialised nature of investigating and remediating contaminated sites. Accordingly the CS Act and CS Regulations:

- Provide for DEC's Chief Executive Officer (CEO) to accredit suitably qualified individuals as auditors in order to independently review contaminated sites investigation or remediation work carried out on relevant sites by other persons;
- Set out the requirements for the accreditation of auditors, the duties of auditors, and the circumstances in which auditors must be engaged;
- Empower only DEC to issue site "clearances" through site classifications or Certificates of Contamination Audit.

1.3 OBJECTIVES OF THE CONTAMINATED SITES AUDITOR SCHEME

The independent review of contaminated site investigations and remediation reports by auditors accredited under the contaminated sites auditor scheme achieves objectives that include:

- Providing greater certainty to interested persons concerning the contamination status of sites in the State;
- Reducing public resources that would have had to be expended if the scheme had not been established;
- Ensuring contaminated site investigations consistently meet appropriate standards; and
- Improving access to technical advice for the community, financial institutions, planners and industry by establishing a pool of accredited auditors.

1.4 NATIONAL GUIDELINES FOR AUDITOR SCHEMES

In 1992, the Australian and New Zealand Environment and Conservation Council (ANZECC), in conjunction with the National Health and Medical Research Council (NHMRC), published the first national guideline for the assessment of contaminated sites. A systematic review of the 1992 guidelines began in 1995 under the auspices of ANZECC/NHMRC. Responsibility for the work was transferred to the National Environment Protection Council in cooperation with NHMRC after it was then resolved that policy and technical documents related to assessment of site contamination would form part of the *National Environment Protection (Assessment of Site Contamination) Measure* (NEPM). The NEPM was made in December 1999, and is currently undergoing review.

The Schedule B of the NEPM sets out ten guidelines for assessing site contamination. One of these guidelines, *Guidelines on Competencies and Acceptance of Contaminated Land Auditors and Related Professionals* (Schedule B(10)), was produced to assist the development of a consistent approach to the appointment of contaminated sites auditors across Australia. This guideline is consistent with the principles for appointment of contaminated sites auditors outlined in the NEPM.

2 CONTAMINATED SITES AUDITORS IN WESTERN AUSTRALIA

Part 7 of the CS Act deals with accreditation of “a person as a contaminated sites auditor” by the CEO² and requirements for “mandatory auditor’s reports” prepared by auditors³.

The CEO has discretionary power to accredit an individual as an auditor⁴ and may limit or impose conditions on the duties of an auditor⁵. Once accredited, the CEO must give the auditor “an authority” as written evidence of his or her accreditation and specifying (if applicable) any limits or conditions imposed on the auditor’s duties⁶. Offences (and associated penalties) relating to accreditation (e.g. knowingly providing false information in order to obtain accreditation) are also set out in Part 7 of the CS Act⁷. Further provisions concerning accreditation of auditors are found in Part 9 of the CS Regulations.

Through the contaminated sites auditor scheme, a pool of auditors is established to carry out independent reviews of investigation and remediation work undertaken or commissioned by a proponent, landowner or person responsible for the investigation or remediation of a site. The WA contaminated sites auditor scheme is similar to other contaminated sites auditor accreditation schemes operating in New South Wales, Victoria and South Australia. Auditors accredited under similar schemes in other Australian jurisdictions may seek accreditation in WA under Mutual Recognition legislation. Similarly, auditors who gain initial accreditation in WA may seek accreditation in other Australian jurisdictions under Mutual Recognition legislation.

Although the Third Party Reviewer (TPR) scheme operated in Queensland has similarities with the WA contaminated sites auditor scheme, the Queensland TPR scheme does not have a legal basis. Consequently, Mutual Recognition legislation does not allow for the mutual recognition of TPR status in WA.

It is important to note that in WA, only the CEO may classify sites under the CS Act according to their contamination status – the auditor may not do so.⁸ However, auditors are expected to make recommendations concerning site classification in their reports to the CEO after reviewing investigation, remediation and/or validation works on those sites.

2.1 WHEN MUST AUDITORS BE ENGAGED?

The CS Act and CS Regulations specify circumstances when an auditor must be engaged, as discussed in section 2.1.1 of this guideline.

Auditors may also be engaged in a voluntary capacity to provide guidance on site assessment, remediation and validation, as discussed in section 2.2.

The auditor should be engaged at the start of the site investigation process or as early in the process as possible. Ideally, the auditor should be engaged at the same time the environmental

² See Part 7, Division 1 of the CS Act – “Accreditation”

³ See Part 7, Division 2 of the CS Act – “Mandatory Auditor’s Reports”

⁴ s.69 of the CS Act and r.39 of the CS Regulations

⁵ ss.70(2) of the CS Act

⁶ ss.70(1) and ss.70(2) of the CS Act

⁷ ss.70(3) and s.71 of the CS Act

⁸ s.13 and s.63 of the CS Act

professional/consultant is engaged to undertake and carry out works in relation to the site as this will provide an opportunity for early communication between the auditor, the proponent and any other relevant persons (e.g. environmental professional/consultant). This should ensure that the process is undertaken and carried out efficiently and effectively.

2.1.1 Mandatory auditor's reports under the *Contaminated Sites Act 2003*

In accordance with section 44 of the CS Act and regulations 29(2)(d) and 31(1) of the CS Regulations there are a number of specific circumstances where an **auditor must be engaged** to provide a mandatory auditor's report⁹. These circumstances are:

- when an investigation, clean up or hazard abatement notice is given, the notice will require the person on whom the notice is binding, to engage an auditor to produce a mandatory auditor's report on the actions taken to comply with the requirements of the notice¹⁰;
- when a Certificate of Contamination Audit is requested, the request must be accompanied by a mandatory auditor's report¹¹;
- when a report is submitted to the CEO containing information relevant to the investigation, assessment, monitoring or remediation of a source site¹² (i.e. when contamination has moved beyond the boundaries of the site on which it originated, to affect other sites);
- when a report is submitted to the CEO, containing information relevant to the investigation, assessment, monitoring or remediation of a site, for the purposes of complying or attempting to comply with another written law or a condition or requirement imposed under another written law¹³ (e.g. a condition of subdivision approval issued by the Western Australian Planning Commission); and
- when the CEO requests, in writing, that a mandatory auditor's report be provided in respect of a site that presents particularly complex technical issues, or where inadequate reports or information have been provided or to enable the site to be properly dealt with under the CS Act¹⁴.

2.1.2 Mandatory Auditor's Reports under the *Environmental Protection Act 1986 (EP Act)*

The Environmental Protection Authority (EPA) may require that a mandatory auditor's report be provided in certain circumstances under Part IV of the EP Act. For example, such reports may be required when the EPA undertakes an assessment of a "significant proposal" (e.g. to

⁹ Definition of "Mandatory Auditor's Report" s.3 of the CS Act

¹⁰ s.44 of the CS Act.

¹¹ ss.62(3)(e) of the CS Act read with r.29(2)d of the CS Regulations

¹² r.31(1)(b) of the CS Regulations and definition of "source site" in s.3 of the CS Act

¹³ r.31(1)(c) of the CS Regulations

¹⁴ r.31(1)(d) of the CS Regulations

develop land) where contaminated site issues are referred to it under section 38 of the EP Act or where a “scheme” is referred to it under section 48A of that Act¹⁵.

The engagement of an auditor may also be required as a ministerial condition for proposals or schemes formally assessed by the EPA, or as a condition of works approvals or licenses issued under the EP Act.

Other statutory mechanisms which may require the engagement of an auditor include conditions of planning or development approvals.

2.2 VOLUNTARY AUDITOR'S REPORTS

In cases where there is no statutory requirement, an auditor may be engaged in a voluntary capacity to provide guidance on site assessment, remediation and validation and possibly a voluntary auditor's report. Landowners, occupiers or other interested persons can engage an auditor when independent expert technical advice is sought in relation to contamination issues. This may include a prospective purchaser of a property, who is seeking technical advice on contamination issues associated with the property as part of their decision-making on whether to acquire the property. Auditors may also be engaged by parties involved with a lease agreement, to advise on whether clauses of the lease agreement relating to contamination issues have been met.

It should be noted that if contamination is identified by an auditor during a voluntary audit, the owner and occupier of the site and the person who caused or contributed to the contamination still have an obligation to report the site to the CEO¹⁶.

Where an auditor engaged in a voluntary capacity prepares a report on his or her independent review, DEC recommends that this voluntary auditor's report is compiled and presented in accordance with the requirements for a mandatory auditor's report set out in sections 8.1 and 8.2 of this guideline, using the format provided in *Appendix H*.

2.3 WHO PAYS THE COST OF ENGAGING AUDITORS?

The engagement of an auditor to independently review investigation, assessment, monitoring or remediation work, will always be at the expense of the person who commissioned the auditor, irrespective of whether the work was initiated voluntarily or as a statutory requirement of the CS Act or CS Regulations or the EP Act.

This means that where there is a statutory requirement to engage an auditor, as outlined in sections 2.1.1 and 2.1.2 above, persons such as the proponent of a proposal under the EP Act¹⁷, the person bound by a regulatory notice, the person requesting a certificate of contamination audit or a person submitting an investigation, assessment, monitoring or remediation report of a source site to the CEO, will be required to meet the cost of engaging the auditor.

¹⁵ s.40(2) and s.48C(1) of the EP Act will be amended to make reference to a “contaminated sites auditor's report”

¹⁶ s.11 of the CS Act

¹⁷ See definition of “proponent” in s.3 of the EP Act

2.4 DEC'S ROLE IN ACCREDITING AND REGULATING AUDITORS

DEC's CEO is responsible for administering the CS Act; this includes classifying sites based on the risk to human health and the environment, maintaining the contaminated sites database, issuing regulatory notices where appropriate action is not being taken voluntarily, issuing certificates of contamination audit (if requested), and accrediting auditors.

In accordance with Part 7 of the CS Act and Part 9 of the CS Regulations, in order to accredit auditors under the auditor scheme, the CEO carries out certain functions including:

- establishing the selection criteria for auditor accreditation;
- calling for applications from persons seeking accreditation as auditors and administering the accreditation process;
- establishing selection panels and/or seeking advice from relevant persons to assist the CEO in assessing the competence of persons seeking accreditation as auditors; and
- assessing whether or not a person seeking accreditation as an auditor has the requisite knowledge, skills, resources, and is a fit and proper person to be accredited as an auditor.

In order to regulate the activities of auditors and to protect members of the public, the CEO carries out certain functions including:

- maintaining up-to-date records (including database information) containing relevant details about individuals applying for and/or accredited as auditors;
- maintaining records in relation to professional indemnity insurance that each auditor is required to hold;
- imposing conditions on an auditor's accreditation;
- giving notice where relevant, to auditors, where suspension or cancellation of accreditation or refusal to renew is proposed, inviting such persons to make submissions to the CEO;
- suspending, cancelling or refusing to renew auditor accreditations;
- undertaking criminal proceedings for contraventions by auditors of the CS Act or CS Regulations; and
- developing guidelines for use by environmental consultants, auditors, planners and the community on the assessment and management of contaminated sites in WA.

DEC will investigate any complaint made against an auditor that alleges he or she is in breach of the CS Act or CS Regulations (including the Code of Conduct for auditors). DEC is not responsible for monitoring or regulating any aspect of the auditor's commercial business, and is not able to adjudicate, arbitrate or interfere in any commercial or contractual dispute or disagreement that may arise between the auditor, his client or any other person, including disputes in relation to the payment of fees or charges or the delivery of services.

3 THE ROLE OF CONTAMINATED SITES AUDITORS

3.1 THE ROLE OF THE AUDITOR

The primary role of an auditor is to provide a written report to the CEO after independently reviewing investigation, assessment, monitoring and remediation work undertaken by other professionals (e.g. environmental consultants) in relation to site contamination.

Regulation 3 of the CS Regulations defines “audit” as “*to carry out a review of the investigation or remediation of a site to determine one or more of the following:*”

- *the nature and extent of any contamination of the site;*
- *the nature and extent of the investigation or remediation of the site;*
- *whether any restrictions on the use of the site are required;*
- *the suitability of the land for a specific use, or a specific range of uses;*
- *whether any further investigation of the site is required, recommended or necessary;*
- *whether any further remediation of the site is required, recommended or necessary so that the site is suitable for all uses, or for a specific use, or a specific range of uses; and/or*
- *the suitability or appropriateness of a management plan”.*

In accordance with this role, this section outlines where auditors fit into the site investigation and remediation process in WA:

There may be a variety of triggers for an investigation of the contamination status of soil and groundwater at a site, including a statutory requirement (under the CS Act or EP Act, or a condition of planning or development approval) or knowledge or suspicion that the site is contaminated. To conduct the required investigation the landowner, occupier, recipient of a regulatory notice or proponent should engage the services of a suitably qualified professional (for example, an environmental consultant) to investigate the contamination status of the site.

Where there is a statutory requirement for an auditor, the auditor should be engaged as early as possible and within any time limit stipulated by the requirement. The auditor must be independent of the professional/consultant (whether a person or a company) undertaking the site investigation.

The professional/consultant engaged to undertake the site investigation and/or risk assessment is the person who designs and implements the investigation and assessment program. However, the professional/consultant is encouraged at the outset of preparing the program to consult with the auditor regarding the auditor’s expectations, especially in relation to the accuracy and completeness of the investigation and assessment carried out and the data generated by the program, and adherence to the requirements of *Contaminated Sites Management Series* guidelines and other relevant published technical guidelines. The

professional/consultant can then take that information into account when preparing and implementing the program.

If the investigation indicates that the site is contaminated and requires remediation, then an appropriate remedial action plan/site management plan must be developed by the professional/consultant. The professional/consultant developing the site management plan/remedial action plan and validation strategy should consult with the auditor regarding the auditor's expectations, especially in relation to the accuracy and completeness of the works undertaken and adherence to the requirements of *Contaminated Sites Management Series* guidelines and other relevant published technical guidelines. In particular, DEC recommends that the auditor's agreement to proposed clean up levels be obtained before any remediation works commence.

The auditor's role is to independently and objectively review and comment on the accuracy and completeness the works carried out, taking into account the requirements of *Contaminated Sites Management Series* guidelines and other relevant published technical guidelines.

Where the works are inaccurate, incomplete and/or do not meet appropriate standards, DEC recommends that the auditor communicates this finding to his or her client and the professional/consultant, to provide an opportunity for the omissions or data gaps to be addressed before the auditor completes his or her review.

In WA, auditors are not permitted to conduct any new investigation, data interpretation or risk assessment works as part of their review, or be involved in the design or implementation of any investigation program conducted by the professional/consultant engaged for that purpose.

Where the professional/consultant is unable or unwilling to address the data gaps identified, DEC expects the auditor to comment in his or her report on the effect that the identified omissions or data gaps have on the findings, conclusions or recommendations arising from the works carried out.

3.2 THE SCOPE OF A MANDATORY AUDITOR'S REPORT

In order to determine the scope of the mandatory auditor's report the auditor should first understand the underlying purpose for which the audit has been commissioned. The report is required to provide an independent critical review of the information that is to be submitted to DEC to comply with relevant provisions of the CS Act and CS Regulations. Hence the scope of the audit and resulting report is ultimately informed by the scope of the information that the proponent is required to submit to DEC.

With the introduction of the auditor scheme, DEC no longer requires the submission of reports at the end of each of the four stages of contaminated site assessment¹⁸. Where a full contaminated site assessment is required for a site (i.e. stages 1-4), DEC recommends that the auditor works through all four stages with the proponent and their environmental professional/consultant, and where required, submits the mandatory auditor's report on completion of the remediation/validation works.

¹⁸ Stage 1 – Preliminary Site Investigation (PSI), Stage 2 – Detailed Site Investigation (DSI), Stage 3 – Site Management Plan, Stage 4 – Remediation, Validation and On-going Management.

In some instances, a site may have been the subject of investigation, assessment, remediation or validation works (or combination thereof) stretching over a number of years, and that earlier works may have been reviewed and approved by DEC prior to commencement of the CS Act. In these circumstances, a copy of the relevant DEC approval letter should be submitted as evidence of prior approval, and the scope of the audit may be limited to new or additional reports only.

As earlier reports often provide useful background information which can assist the auditor in his or her review of new or additional reports (e.g. an earlier sampling and analysis plan may provide the rationale for subsequent groundwater monitoring works). As such, DEC recommends that the auditor should be familiar with and, where necessary, refer to important and relevant information from all earlier reports in the mandatory auditor's report.

In some instances a proponent chooses to develop large sites in stages, with smaller areas subject to investigation, assessment, remediation and validation works at different times. The management of such projects may be complex and DEC recommends that the proponent, professional/consultant and auditor work together to determine an effective and efficient strategy that secures a regulatory compliant outcome. DEC is able to provide clearance advice for planning conditions for stages of a larger development, provided that the area for which clearance is sought is clearly defined on a suitable site plan and a mandatory auditor's report accompanies the relevant site assessment information for each stage of the site works.

4 APPLICATIONS FOR AUDITOR ACCREDITATION

4.1 THE APPLICATION PROCESS

The CEO will call for applications from persons interested in applying for first-time accreditation as auditors by public advertisement¹⁹. Applications for first-time accreditation in WA will be invited at least once every two years. There is no restriction on the number of auditors that may be accredited in WA.

Persons seeking first-time accreditation must lodge a completed application form, all supporting information and the application fee²⁰ with the CEO before the closing date specified in the advertisement. Only individuals may be accredited as auditors. A body corporate cannot be accredited²¹. Further detail on the requirements for such applicants is provided in section 4.2.1 of this guideline.

Persons who are already accredited as contaminated sites auditors under equivalent schemes in other Australian jurisdictions may apply for mutual recognition accreditation in WA under the provisions of the *Mutual Recognition (Western Australia) Act 2001* at any time. Further details on the requirements for such applicants are provided in section 4.2.2 of this guideline.

Auditors accredited within WA must apply for renewal of their accreditation **between 35 and 70 days**²² before the expiry of their current term of accreditation. DEC will not issue renewal reminders. Further detail on the requirements for accreditation renewal is provided in section 4.2.3 of this guideline.

All applications for accreditation as an auditor, or for the renewal of an existing WA accreditation, must be submitted in hard copy. **Electronic submissions cannot be accepted.** All applications (including mutual recognition and accreditation renewal) and associated correspondence should be addressed to:

Manager, Contaminated Sites Branch
Department of Environment and Conservation
Locked Bag 104
Bentley Delivery Centre, WA 6983

Alternatively, applications can be couriered to:

Manager, Contaminated Sites Branch
Department of Environment and Conservation
Level 4, The Atrium
168 St Georges Terrace,
Perth, WA 6000

Telephone: 1300 762 982
Facsimile: (08) 9333 7575

¹⁹ r.35 of the CS Regulations

²⁰ r.36(3) of the CS Regulations - An application fee is not refundable regardless of whether the application is successful or unsuccessful

²¹ r.38 of the CS Regulations

²² r.44(1) of the CS Regulations

4.2 REQUIREMENTS FOR APPLICANTS

Applications for accreditation must contain, or be accompanied by, the application forms²³, information and documentation specified in the relevant section below.

4.2.1 Requirements for first-time applicants

Applicants for *first-time* accreditation are required to submit the following forms, information and documentation:

- Form A: Auditor's Application (*Appendix A*).
- Form D: Expert Support Team (*Appendix A*) and provide evidence demonstrating their ability to access expertise or technical resources in the fields where the applicant does not personally possess such expertise or resources (referred to as the "expert support team"). Additional requirements for the expert support team are provided in section 4.3 of this guideline.
- Evidence of professional indemnity insurance cover, or an undertaking to the CEO from the applicant that he or she will obtain such cover if the application is successful. Additional requirements for professional indemnity insurance are provided in section 4.4 of this guideline.
- Form E: Professional Referees (*Appendix A*) providing a nomination from two referees, not directly (i.e. professionally) associated with the applicant or the entity employing the applicant, who can confirm the applicant's experience and/or expertise in contaminated site assessment, management and remediation;
- A current curriculum vitae, including certified copies of certificates evidencing educational/professional qualifications and memberships of any professional associations in Australia;
- A synopsis of projects (in chronological order) in which the applicant has made a significant contribution to the design, implementation, analysis and reporting of contaminated site assessment, management or remediation, including a detailed description of the applicant's role in each case;
- A detailed statement demonstrating their ability to meet the selection criteria set out in sections 5.1 – 5.7 of this guideline.
- Two examples of relevant reports demonstrating their expertise in the investigation, assessment, remediation/validation and/or management of contaminated sites. Example reports should clearly support the statements made by the applicant in addressing the selection criteria. The applicant should provide a statement within their application documentation stating their level of involvement in the preparation of the report.

²³ r.36(1) & r.44(2) of the CS Regulations

Example reports should be selected to demonstrate the applicant's own technical abilities (work prepared by other technical specialists under the applicant's 'project management' would not be suitable). DEC prefers example reports prepared within three years prior to the date of application, to be representative of the applicant's current level of expertise in the investigation, assessment, remediation/validation and/or management of contaminated sites.

Where an example report (including earlier or "draft" versions of that report) has been reviewed by DEC or an auditor (in the course of preparing a mandatory auditor's report), the applicant should provide a copy of any correspondence from DEC or the auditor, resulting from that review.

- Form F: Permission to Reference Client Reports (*Appendix A*) in order to obtain the consent from the client(s) for whom the report was prepared, before the reports are submitted. All the reports will be treated as 'confidential' and will be returned to the applicant upon completion of the application assessment process;
- The application fee of 20 fee units²⁴ (currently \$300) before the application can be accepted as valid. Applicants assessed as meeting the requirements must also pay an accreditation fee of 250 fee units²⁵ per year (currently \$3,750 per year) for the period of accreditation being sought, before accreditation can be granted.

4.2.2 Requirements for *Mutual Recognition* applicants

The *Mutual Recognition (Western Australia) Act 2001* adopts the Commonwealth *Mutual Recognition Act 1992* (MR Act (Cth)) in WA²⁶. Under the MR Act (Cth)²⁷, a person who is registered in one State or Territory for an occupation is entitled to apply for registration in an equivalent occupation in another State or Territory.

Consequently, the CEO accepts applications from contaminated sites auditors appointed under equivalent schemes in other Australian jurisdictions. Applicants seeking *mutual recognition* of existing accreditation in another State or Territory may apply for accreditation in WA at any time.

Applicants seeking *mutual recognition* are required to submit the following:

- Form B: Mutual Recognition Application (*Appendix A*).
- Form D: Expert Support Team (*Appendix A*) including evidence demonstrating their ability to access expertise or technical resources in the fields where the applicant does not personally possess such expertise or resources. Additional requirements for the expert support team are provided in [section 4.3 of this guideline](#).
- Evidence of professional indemnity insurance cover, or an undertaking to the CEO from the applicant that he or she will obtain such cover if the application is successful.

²⁴ r.36(1)(c) of the CS Regulations

²⁵ r.40 of the CS Regulations

²⁶ The *Mutual Recognition (Western Australia) Act 2001* terminates on 28 February 2011, or such earlier date as is fixed by proclamation.

²⁷ s.17(1)(a) of the *Commonwealth Mutual Recognition Act 1992*.

Additional requirements for professional indemnity insurance are provided in section 4.4 of this guideline.

- A statement demonstrating their ability to meet selection criteria relating to WA legislation and guidelines set out in sections 5.2 and 5.3 of this guideline.
- Details of the applicant's existing accreditation(s), as follows:
 - i) Confirmation of the State(s) or Territory(s) where existing accreditation(s) is held;
 - ii) Confirmation that current, valid accreditation in other State(s) or Territory(s) has not been cancelled, suspended or revoked;
 - iii) Notification of any conditions or limitations associated with accreditation(s) held by the applicant;
 - iv) Expiry date of the accreditation(s) held by the applicant;
 - v) Confirmation that the applicant is not subject to disciplinary, criminal or civil investigation, allegation, charge and/or proceedings or similar in any State or Territory in relation to his or her position as a contaminated sites auditor; and
 - vi) Consent to the making of inquiries and the exchange of information with the authorities of State(s) or Territory(s) within which the applicant holds accreditation, regarding the applicant's activities as a contaminated sites auditor.

Applicants seeking *mutual recognition* of existing accreditation are not required to pay an application fee,²⁸ but must pay the accreditation fee of 250 fee units²⁹ per year (currently \$3,750 per year) for the period of accreditation being sought before accreditation can be granted.

Once an application is lodged the CEO will evaluate the application (usually within 30 days after lodgement) and the applicant may be interviewed to determine his or her knowledge of WA legislation and guidelines prior to granting or refusing accreditation.

4.2.3 Requirements for renewal applicants

Auditors accredited within WA must apply for renewal of their accreditation **between 35 and 70 days**³⁰ before the expiry of their current term of accreditation. It is the responsibility of auditors to apply for renewal of accreditation within the appropriate time window and DEC will not issue renewal reminders.

Applicants seeking *renewal* of existing accreditation in WA are required to submit the following:

- Form C: Accreditation Renewal (*Appendix A*).

²⁸ r.37 of the CS Regulations

²⁹ r.40 of the CS Regulations

³⁰ r.44(1) of the CS Regulations

- Form D: Expert Support Team (*Appendix A*) including evidence demonstrating their ability to access expertise or technical resources in the fields where the applicant does not personally possess such expertise or resources. Additional requirements for the expert support team are provided in section 4.3 of this guideline.
- Evidence of professional indemnity insurance cover, or an undertaking to the CEO from the applicant that he or she will obtain such cover if the application is successful. Additional requirements for professional indemnity insurance are provided in section 4.4 of this guideline,
- A summary of all contaminated sites audits undertaken, or in progress, in WA since obtaining or renewing their accreditation;
- Details of continuing professional development undertaken by the applicant, relevant to contaminated sites auditing;
- Confirmation of the duration of accreditation renewal being sought by the applicant. The duration of accreditation renewal will be at the discretion of the CEO and up to a maximum period of five (5) years.
- The accreditation fee of 250 fee units³¹ per year (currently \$3,750 per year) for the period of accreditation being sought, before accreditation renewal can be granted.

Once an application is lodged the CEO will evaluate the application (usually within 30 days after lodgement) prior to granting or refusing *renewal* of an existing WA accreditation.

4.3 REQUIREMENTS FOR EXPERT SUPPORT TEAM

All applicants seeking accreditation as an auditor in WA are required to submit evidence demonstrating their ability to access expertise or technical resources in the fields where the applicant does not personally possess such expertise or resources (referred to as the “expert support team”):

- For each member of the expert support team, both internal and external to the applicant’s organisation, the applicant must submit a current detailed curriculum vitae demonstrating the expert support team member’s expertise in the area(s) nominated (including demonstration of relevant project experience, professional organisation memberships and relevant publications).
- For each member of the expert support team, external to the applicant’s organisation, the applicant must submit statement signed by the expert support team member, agreeing to provide specified expert support services to the applicant.

4.4 REQUIREMENTS FOR PROFESSIONAL INDEMNITY INSURANCE

All auditors must hold a policy of professional indemnity insurance cover (or provide confirmation that cover is held on their behalf by their employer) that is adequate to cover the liability to which the auditor may be exposed.

³¹ r.45 of the CS Regulations

- All applicants must submit evidence of the currency of professional indemnity insurance for accreditation purposes and must clearly state the relevant details of the cover provided, before accreditation (including renewal) will be granted.
- All applicants should carry out a risk assessment to determine the adequacy of the amount of insurance cover. Notwithstanding the comments made in the previous sentence, the minimum amount of cover for each and every engagement is \$5 million.
- The professional indemnity insurance policy may be written on either an occurrence basis or a claims-made basis. If the insurance policy is written on a claims-made basis, the applicant must also undertake to hold run-off (or equivalent) insurance that provides professional indemnity insurance cover for work conducted during the period of accreditation, and for an adequate period after accreditation has ended. Notwithstanding the comments made in the previous sentence, the minimum period of cover from the end of accreditation is seven (7) years³².
- All applicants must ensure that any exclusions of their professional indemnity insurance policy do not limit cover for work undertaken as a contaminated sites auditor, and must provide a statement to this effect whenever a certificate of currency is submitted to the CEO for accreditation purposes.
- A certificate of currency of professional indemnity insurance does not have to be included with the initial application. The applicant may provide an undertaking to the CEO that he or she will obtain such cover if the application is successful. However, successful applicants will not be accredited until evidence of professional indemnity insurance cover (i.e. a certificate of currency) and relevant details of the cover are provided.
- All applicants must be satisfied that their expert support teams hold adequate professional indemnity insurance.

³² Applicants and accredited auditors should note that, in certain circumstances, civil claims could be commenced more than six years after an event/occurrence took place. Auditors should obtain professional advice (including independent legal advice) to determine if a longer period of run-off cover is appropriate for their circumstances.

5 SELECTION CRITERIA FOR AUDITOR ACCREDITATION

Under regulation 39 of the CS Regulations, before accrediting a person as an auditor the CEO must be satisfied that, amongst other things, the applicant:

- has adequate theoretical and practical knowledge and adequate skills to carry out the functions of an auditor;
- has access to persons with complementary theoretical and practical knowledge and skills, where necessary, to assist him/her in carrying out the functions of an auditor;
- has an adequate knowledge and understanding of relevant laws and currently accepted industrial standards;

Applicants for *first-time* accreditation must therefore demonstrate that they satisfy the selection criteria set out in sections 5.1 to 5.7 of this guideline. *Mutual recognition* applicants are required to address selection criteria set out in sections 5.2 and 5.3 of this guideline only.

5.1 ACADEMIC QUALIFICATIONS

The applicant must possess a relevant Bachelor's or Higher Degree from a recognised College or University.

5.2 UNDERSTANDING OF WA LEGISLATION

The applicant must be able to demonstrate a sound understanding of WA legislation relating to the management of contaminated sites and environmental protection in general.

5.3 UNDERSTANDING OF NATIONAL AND WA POLICIES AND GUIDELINES

All applicants must be able to demonstrate a sound understanding of existing national and WA policies and guidelines relating to contaminated site investigation, assessment and management. The principal guidelines and documents for use in the assessment and management of contaminated sites in WA are listed in *Appendix B* of this guideline.

5.4 RELEVANT PROFESSIONAL EXPERIENCE

The applicant is expected to have at least eight (8) years experience in the assessment and management of contaminated sites. This includes at least two (2) years of relevant work in Australia and two (2) years in the role of a supervisor or project manager involving a multi-disciplinary team approach to contaminated sites assessment and management.

The experience in contaminated sites work is to be broadly based in terms of the scale of work undertaken, the range of contaminants encountered, and the scope of work performed. Once accredited, an Auditor is generally not limited in terms of the types of sites and contaminants on which they may work. For this reason, DEC expects applicants to be able to demonstrate experience in the investigation, assessment and management of a range of contaminant types, including heavy metals, hydrocarbons, solvents, pesticides, asbestos, ground gases and vapours in a variety of geological settings.

The applicant must demonstrate that he or she has consistently delivered contaminated sites work of an acceptable standard in accordance with relevant guidelines..

5.5 CORE COMPETENCY AREAS

The applicant must be able to demonstrate ‘general practitioner’ competence in all ten core competency areas set out. In addition, the applicant must be able to demonstrate extensive experience or expertise in at least six of the core competencies. The core competencies are:

- Principles and methodology for conducting environmental audits;
- The general principles, issues and drivers for contaminated site assessment and management;
- Assessment of impacts on soil, water and air quality from contaminated sites;
- Assessment of risk through source-pathway-receptor analysis;
- Soil and groundwater sampling design and methodology;
- Evaluation, interpretation and presentation of analytical data;
- Field and laboratory quality control/assurance procedures;
- Forming and managing multi-disciplinary teams;
- Occupational health and safety in relation to contaminated sites;
- Communication of contaminated sites and risk information to technical and non-technical audiences.

In core competency areas where applicants demonstrate ‘general practitioner’ but not ‘expert’ level of competence, the applicant must demonstrate access to relevant expertise through his or her expert support team.

5.6 OTHER AREAS OF TECHNICAL EXPERTISE

The applicant must be able to demonstrate extensive experience or expertise, or have access to relevant experience or expertise in each of the following areas:

- Theory and practice in geology, soil sciences and geo-technology;
- Theory and practice in hydrogeology;
- Theory and practice in environmental and analytical chemistry;
- Theory and practice in human and environmental toxicology;
- Development and interpretation of site-specific contaminant fate and transport models;

- Development and interpretation of site-specific human health and ecological exposure assessment models;
- Risk management strategies for contaminated sites;
- Designing, implementing and managing soil and groundwater remediation strategies;
- Methods and tools used for the assessment and validation of remediation.

For any of the above competencies in which the applicant cannot demonstrate extensive experience or expertise, the applicant must demonstrate access to relevant expertise through his or her expert support team.

5.7 CONTINUED PROFESSIONAL DEVELOPMENT

The applicant must be able to demonstrate a commitment to on-going training and professional development relevant to contaminated sites. This may include active membership of one or more relevant professional organisations, private study of relevant publications and attending relevant conferences, seminars and training courses.

Applicants should include details of how up-to-date knowledge of scientific, technical, regulatory and legal developments in contaminated sites assessment and management is maintained.

6 SELECTION PROCESS FOR AUDITOR ACCREDITATION

6.1 SELECTION PANEL

Under the CS Regulations, the CEO may establish a selection panel, comprising at least two panel members of the CEO's choosing, to assist in the assessment of applicants for accreditation.

In practice, the CEO is likely to establish a selection panel whenever applicants for first-time accreditation are being assessed. The selection panel may include DEC staff, and persons external to DEC, including representatives of other Australian jurisdictions. In addition to the selection panel, the CEO may seek advice from any other relevant sources to assist in decision-making on the application(s)³³.

6.2 SHORT-LISTING OF APPLICANTS

Following the submission of the completed application form, supporting information and documentation and the application fee, the CEO/selection panel, will assess all applications received, using the relevant provisions of the CS Act and CS Regulations³⁴, the application requirements set out in section 4 of this guideline and the selection criteria detailed in section 5 of this guideline.

In assessing the applications, the CEO/selection panel may also consider other reports and correspondence relevant to the performance and conduct of the applicant, held on its files. Based on the assessment, suitable applicants will be short-listed for interview.

Applications which are incomplete, or do not meet the application requirements set out in this guideline, will not be considered further and all supporting documentation (excluding the original application form and fee) will be returned to the applicant.

If the CEO/selection panel requires further information to properly assess an application, this will be requested by written notice, and the applicant is to provide the requested information³⁵.

6.3 INTERVIEW AND CASE STUDY EXERCISE

Short-listed applicants will be invited to attend an interview with the selection panel³⁶. During the interview, the panellists will test the applicant's ability to deal with issues associated with contaminated sites assessment and management related to the selection criteria.

To enable short-listed applicants to address potential conflict of interest issues prior to the interview, the applicants will be informed of the selection panel membership. The applicant as well as selection panel members must disclose any relationship between the applicant and

³³ r.41 of the CS Regulations

³⁴ Especially r.36 to r.40 of the CS Regulations

³⁵ r.36(2) of the CS Regulations

³⁶ The interview is oral only, as the applicant's written skills will have been assessed during the short-listing process.

the panel member that creates, or has the potential to create, a conflict of interest in relation to the selection process.

For example, in the event that any member of the selection panel has an existing personal or professional relationship with the applicant, or is also a member of an applicant's expert support team, the applicant and selection panel member must notify the CEO and other panel members to ensure no conflict of interest issues arise.

The selection panel will interview short-listed applicants using a case study as the basis for the interview. Applicants will be provided with the case study prior to the commencement of the interview and will then be asked to address a series of questions in relation to the case study. The applicant's responses will be assessed by the selection panel to determine his or her ability to:

- conduct a contaminated site assessment in a technically competent and rational manner;
- competently and objectively review data relating to the assessment;
- identify the key risks posed to the environment and human health;
- determine practical and scientifically sound management approaches based on the assessment; and
- communicate this information effectively whilst demonstrating the logical basis of the decision-making processes used.

In addition the applicant may be invited to provide additional information or clarification to assist the selection panel in assessing his or her expertise in the investigation, assessment and management of contaminated sites.

The time set aside for each interview is 1.5 - 2 hours (including pre-interview case study reading time).

Following interviews, the selection panel will make recommendations to the CEO as to which of the applicants, if any, are suitable for accreditation as auditors.

6.4 ACCREDITATION DECISION

The decision to accredit an individual as an auditor in WA will be made by the CEO after considering the information provided in the application, any further information requested, the recommendations of the selection panel, and any advice sought from other relevant sources³⁷. A person will only be accredited as an auditor if the CEO is satisfied that the person meets the requirements of regulation 39 of the CS Regulations.

Successful applicants will be advised via telephone and in writing, and will be requested to submit the accreditation fee, as set out in section 6.5 of this guideline and two passport size photographs to allow accreditation to proceed.

³⁷ r.36(2) and r.41 of the CS Regulations

After the submission of the accreditation fee and two passport-size photographs, an individual who is assessed as being appropriate for accreditation will receive an authority in writing³⁸ from the CEO, in the form of a Notice of Accreditation.

The Notice of Accreditation will contain a statement that the person is an accredited auditor under the CS Act, the accreditation expiry date and, where applicable, any limitations or conditions imposed on the auditor's duties.

Each unsuccessful applicant will be advised of the reason(s) his or her application was not successful. Unsuccessful applicants may re-apply when DEC next calls for applications for accreditation.

6.5 ACCREDITATION FEES

Accreditation as an auditor takes effect subject to the payment of a prescribed annual accreditation fee of 250 fee units³⁹ per year (currently \$3750 per year) as specified in Schedule 2 Item 5 of the CS Regulations.

This fee is non-refundable in the event of suspension or cancellation of accreditation. The same accreditation fee must be paid for the renewal of accreditation.

6.6 PERIOD OF ACCREDITATION

The period of accreditation for an auditor in WA, including the renewal of that accreditation, is a period of up to five (5) years. It is anticipated that the initial accreditation period for all auditors in WA will be one (1) year. Subsequent accreditation may be granted for longer periods up to a maximum period of five (5) years.

6.7 PERFORMANCE REVIEW

At any time during the period of accreditation, DEC may carry out a performance review of an auditor, to ensure that the standard of the auditor's performance is acceptable, and that the auditor is adhering to the code of conduct. The findings of the performance review may be used to determine whether the auditor's accreditation should be renewed, suspended or cancelled.

A performance review of an auditor may occur at any time during the period of accreditation, and without notice. During the review, DEC may:

- Examine documents it has received from the auditor and any relevant environmental professional/consultant's report(s);
- Require the auditor to provide justification and supporting evidence for decisions made and conclusions drawn;
- Require the auditor to meet with the CEO or his/her delegate to discuss the procedures used and the basis for decisions;

³⁸ s.70 of the CS Act

³⁹ r.40 of the CS Regulations.

- Investigate or collect samples from a site in relation to an audit undertaken; or
- Take any other action deemed necessary to determine the standard of performance, including visiting an auditor's office and reviewing the auditor's files and correspondence.

6.8 SUSPENSION, CANCELLATION OR REFUSAL TO RENEW ACCREDITATION

The CS Regulations detail circumstances in which the CEO must cancel or refuse to renew accreditation, and lists some other circumstances in which the CEO, exercising discretion, may suspend, cancel or refuse to renew accreditation. The CEO must cancel or refuse to renew an auditor's accreditation in the following circumstances:

- The auditor's application for renewal must be refused if the CEO is no longer satisfied that the applicant meets the requirements for accreditation set out in regulation 39 of the CS Regulations⁴⁰;
- The auditor's application for renewal must be refused or accreditation cancelled if he or she has been convicted of certain offences under the Act⁴¹;

The CEO may suspend, cancel or refuse to renew the accreditation of an auditor's accreditation if the auditor:

- has contravened the CS Act or CS Regulations;
- fails to take relevant guidelines into account or to follow a condition in a written authority of accreditation;
- has had their accreditation as an auditor cancelled, suspended or not renewed in any other State or Territory in Australia, under a scheme corresponding to this scheme for the purposes of the *Mutual Recognition Act*⁴²;
- no longer holds a professional indemnity insurance policy which the CEO considers appropriate⁴³; or
- fails a performance review undertaken by DEC⁴⁴.

In addition, an auditor's application for renewal may be refused if he or she has not produced a mandatory auditor's report since accreditation was granted or last renewed (including mandatory auditor's reports and audit reports undertaken in another jurisdiction)⁴⁵.

Prior to cancelling, suspending or not renewing an accreditation, the CEO must notify the auditor in writing of the proposed action and specify the grounds for the impending

⁴⁰ r.46(1)(a) of the CS Regulations

⁴¹ r.46(1)(b) and r.47(1) of the CS Regulations

⁴² r.48(2)(e) of the CS Regulations

⁴³ r.47(2)(b) of the CS Regulations

⁴⁴ r.48(2)(e) of the CS Regulations

⁴⁵ r.46(2) of the CS Regulations

cancellation, suspension or non-renewal. The auditor has 14 days in which to respond in writing as to why accreditation should not be cancelled, suspended or not renewed on any of the grounds specified in the CEO's notice⁴⁶.

Where the accreditation is still current, the CEO may, in certain circumstances, suspend the auditor's accreditation to give the CEO sufficient time to determine whether to cancel or refuse to renew the auditor's accreditation. The CEO has a period of no longer than 14 days from the day that written notice is given to the auditor to make the decision⁴⁷.

If an accreditation is suspended, an auditor is taken not to be accredited and cannot carry out any auditing functions pursuant to the CS Act and CS Regulations during the period of suspension⁴⁸.

A person whose accreditation has been cancelled or not renewed as a result of being convicted of a criminal offence under certain provisions of the CS Act is ineligible to apply for accreditation for a period of three (3) years from the date of cancellation or refusal to renew⁴⁹.

A person whose accreditation ceases must return the Notice of Accreditation to the CEO⁵⁰. An accreditation fee is not refundable if accreditation is cancelled or suspended⁵¹.

⁴⁶ r.49 of the CS Regulations

⁴⁷ r.50 of the CS Regulations

⁴⁸ r.51 of the CS Regulations

⁴⁹ r.52 of the CS Regulations

⁵⁰ r.53 of the CS Regulations

⁵¹ r.54 of the CS Regulations

7 DUTIES AND RESPONSIBILITIES OF AUDITORS

The appointment of persons to the status of accredited auditor places certain responsibilities upon those people that must be fulfilled to maintain accredited status.

7.1 GENERAL RESPONSIBILITIES OF AUDITORS

An accredited auditor must:

- Only use the title of “Auditor” or “Accredited Contaminated Sites Auditor” when carrying out a function of an auditor as specified in regulation 58 of the CS Regulations⁵².
- Not provide any false or misleading information, nor fail to include any relevant information in relation to a mandatory auditor’s report.
- Comply with the provisions of the CS Act and CS Regulations.
- Prepare a mandatory auditor’s report and recommendations for each contaminated site audit undertaken for the purposes of the CS Act and CS Regulations.
- Assess all the relevant information relating to the subject site, prior to providing a mandatory auditor’s report and recommendations to the CEO indicating that a site has been investigated appropriately and meets, or has been remediated to, a defined standard and is suitable for a particular landuse. The auditor should provide a statement that he/she has reviewed all of the information relevant to each part of the contaminated site audit. An Auditor’s Statement Form (*Appendix F*) is provided for this purpose.
- Consult with appropriate expert support team members on technical issues that are outside the auditor’s professional capabilities, and document in the mandatory auditor’s report where and from whom the advice was obtained. The auditor should obtain statement from each expert support team member confirming their part in the preparation of the contaminated site audit⁵³. An Expert Support Team Statement Form (*Appendix G*) is provided for this purpose.
- Where site remediation and management works are to have been carried out, he/she must conduct a site visit to personally verify, as far as is practicable, the completion of those works.

⁵² r.59 of the CS Regulations

⁵³ r.32(2) of the CS Regulations

7.2 AUDITORS' RESPONSIBILITY TO NOTIFY THE CEO

In certain situations the CS Act and CS Regulations require an auditor to notify the CEO during the auditing process. These situations include the following:

- An auditor who is engaged to produce a mandatory auditor's report, must report⁵⁴ the site to the CEO:
 - i) Within 21 days (or such later period approved by the CEO) after the day the auditor first knew that the site was contaminated⁵⁵ (unless the auditor knows that the site has already been reported to DEC in accordance with the provisions of the CS Act); or
 - ii) As soon as is reasonably practicable after first suspecting that the site is contaminated⁵⁶.

Contravention of the above requirements is a criminal offence attracting a maximum penalty of a fine of \$250,000 with a daily penalty of \$50,000.

- An auditor is to notify the CEO of the auditor's engagement, within 7 days after the day the auditor is engaged to provide a mandatory auditor's report⁵⁷. The notification should include the client's details, reason for the appointment, site location (Certificate of Title details) and the environmental consultant undertaking the investigation/remediation. *Appendix D* provides the Audit Notification Form for this purpose.
- An auditor is to provide the CEO with a copy of the mandatory auditor's report no later than 7 days after the auditor has provided the report to the person who engaged the auditor⁵⁸. A copy of the consultant's report(s) should also be provided to the CEO for DEC records.
- An auditor must notify the CEO in writing within 7 days⁵⁹ after the day on which any of the following changes occurring:
 - i) Any change in circumstance that may affect the auditor's eligibility for accreditation;
 - ii) If any substantially similar accreditation held by the auditor under a written law of another State or Territory about the contamination of land is cancelled, suspended or not renewed;
 - iii) An auditor becomes unemployed, self-employed or employed by an employer other than the employer that the auditor was employed by, when the auditor became accredited; or
 - iv) An auditor no longer has access to any person/s who could assist him or her to carry out his or her function as an auditor (e.g. the persons in his/her expert support team);

⁵⁴ All reports under s.11 of the CS Act must be made using Form 1 in Schedule 1 of the CS Regulations.

⁵⁵ ss.11(3)(a) of the CS Act

⁵⁶ ss.11(3)(b) of the CS Act

⁵⁷ r.55(3) of the CS Regulations

⁵⁸ r.57 of the CS Regulations

⁵⁹ r.55(1) of the CS Regulations

- v) An auditor becomes aware of any information that is materially relevant to the person's accreditation as an auditor that the person has not disclosed to the CEO⁶⁰;
- An auditor must notify the CEO in writing as soon as possible if any term of the professional indemnity insurance policy is changed or is likely to change in the future, in any material particular, or the auditor no longer holds that policy, or such a policy is no longer held in respect of the auditor⁶¹.
 - An auditor should bring to the attention of the CEO any significant environmental or human health risk posed by any site he/she is auditing as soon as the auditor becomes aware of the risk.
 - An auditor must notify the CEO, and each person who has engaged the auditor to perform the function, as soon as practicable after a conflict of interest, or potential conflict of interest comes to the auditor's knowledge⁶². Additional information relating to potential and actual conflicts of interest is provided in sections 7.3 and 7.4 of this guideline.

7.3 CODE OF CONDUCT FOR AUDITORS

When carrying out any function as an auditor, an auditor must comply with the Code of Conduct for Auditors as set out in Schedule 3 of the CS Regulations. The Code of Conduct for Auditors sets out certain standards of conduct to which auditors must adhere. These standards include:

- Avoiding situations giving rise to actual or potential conflicts of interest;
- Avoiding situations giving rise to the receipt of gifts or other benefits affecting or potentially affecting the auditor's impartiality; and
- Performing duties diligently, impartially and conscientiously, to the best of the auditor's ability.

In addition the auditor is expected to:

- exercise due care and professional judgement to the standard which may be reasonably expected of a qualified and experienced environmental professional appointed as an auditor under the CS Act;
- demonstrate a sufficient level of independence from the person who engaged the auditor to satisfy a 'reasonable person' that the outcome of the audit will not be influenced by the relationship. The auditor must also consider the independence of his or her expert support team;
- act in a professional manner whilst upholding the independence and integrity of the scheme.

⁶⁰ r.55(2) of the CS Regulations

⁶¹ r.56 of the CS Regulations

⁶² r.62(1) of the CS Regulations

- avoid situations that may lead to conflict of interest to which regulation 62 applies (see section 7.4 of this guideline).

A summary of offences and associated penalties relating to the functions of an auditor pursuant to the CS Act and CS Regulations is provided in *Appendix C* of this guideline.

7.4 CONFLICT OF INTEREST

Regulation 62(1) requires that where an auditor has a potential or actual conflict of interest, whether or not the situation comes within the scope of the Code of Conduct or regulation 62(2), the auditor is required, as soon as is practicable, to notify the CEO and each person engaging the auditor of the conflict or potential conflict.

By way of example, a conflict of interest could arise in the following circumstances:

- The auditor has undertaken or has been involved in the investigation, assessment, remediation or management of contamination at the site being audited;
- The auditor is employed by, contracted to, or regularly works in association with the person or organisation currently undertaking investigation, assessment or remediation of the site being audited;
- The auditor is, or is related to, a person by whom any part of the site is owned or occupied; or
- The auditor has a pecuniary interest in any part of the land or any activity carried out on any part of the land.

7.5 AUDITOR MEETINGS

DEC will hold meetings with auditors on a bi-annual (or as required) basis to discuss a range of topics relevant to the auditor's duties, such as the introduction of new guidelines and policy development. DEC also encourages auditors to put forward topics for discussion.

Auditors will be given written notice of these meetings and DEC expects all auditors to attend.

8 CONDUCTING AND REPORTING AUDITS

The purpose of a site audit is to determine whether, in the opinion of the auditor, the contamination investigation, remediation and validation works undertaken by a professional/environmental consultant are complete, accurate, defensible and in accordance with WA legislation, relevant guidelines and policies.

The audit must also determine whether the professional/environmental consultant's work is sufficiently sound to form a basis for decisions or actions relating to the current or future use of the site.

8.1 INFORMATION REVIEWED DURING COURSE OF AUDIT

An auditor engaged to undertake a mandatory auditor's report must review all relevant information collected and presented by an environmental professional/consultant, as part of the audit process. This information may include, but is not limited to, the following:

- The location of the site and its physical characteristics (including geology/hydrogeology of the area);
- The site's history in relation to current and previous contaminating or potentially contaminating land uses and activities (including emissions, waste management, etc.);
- History relating to compliance with statutory controls (e.g. environmental licences/notices);
- The sampling and analysis program(s), including sampling density and analytical suite;
- Sample collection, handling and transportation procedures;
- Field measurements and observations;
- Nature and mobility of contaminants and impacts of chemicals and chemical mixtures on human health and the environment;
- Potential for off-site migration of contamination;
- Beneficial use, particularly in relation to the quality of ground and surface water resources;
- Data collection, evaluation and interpretation (compliance with relevant standards and guidelines);
- Environmental modelling;
- Assessment of risk (including assessment of identified receptors and exposure pathways);
- Remedial action plans;
- Validation and monitoring programs;
- Quality assurance and quality control procedures; and

- Conclusions and recommendations of reports prepared by the environmental professional/consultant.

8.2 PREPARING A MANDATORY AUDITOR'S REPORT

8.2.1 Use of guidelines

The auditor is to take into account the guidelines listed in *Appendix B* of this guideline, when carrying out any function of an auditor. The listed guidelines provide the basis for assessment and auditing of contaminated sites in WA.

DEC acknowledges that alternative approaches, guidelines and standards may be used during the investigation and assessment of contaminated sites, and auditors are expected to evaluate the suitability and appropriateness of their use by exercising their professional judgement. Where variation from the approaches set out in the guidelines is warranted, the auditor must make specific reference to the variation in the auditor's report and include sufficient justification to support the variation.

8.2.2 Mandatory auditor's report content

The mandatory auditor's report is the material outcome of the site audit and must document the auditor's critical and independent review of the information collected by the environmental professional/consultant during the contaminated site assessment process. In addition, the report must clearly set out the rationale for the auditor's technical findings, assumptions, justifications and conclusions/recommendations contained in the report.

The mandatory auditor's report must be prepared by the auditor and reflect the judgements, opinions and views of the auditor him- or herself, rather than those of the entity employing the auditor. Furthermore, the auditor is ultimately responsible for his or her opinion regarding the contamination status of the site and its suitability for current or future land use(s). Where the auditor has relied on the work of staff or external expert support team members, the auditor must be satisfied that the work is an adequate basis for decision-making.

The mandatory auditor's report must be capable of being relied on by the person who commissioned the audit, and the CEO.

Based on a detailed review of the information provided by the environmental professional/consultant, a mandatory auditor's report must include:

- An evaluation of the contamination status of the site;
- An assessment of whether the site poses or potentially poses a risk of harm to human health, the environment or any environmental value;
- An assessment of whether the contamination status of the site has, or potentially has, a detrimental effect on the beneficial use of the site, including surface and/or groundwater resources;
- An assessment as to whether the condition of the site is impacting surrounding sites and/or land uses;

- An assessment as to whether any further investigation is required;
- An assessment as to whether any remediation or risk mitigation/management measures are required at the site and recommendations relating to remediation or risk mitigation/management measures;
- An assessment as to whether the contaminated site investigation, assessment remediation and management works undertaken on site have been carried out in accordance with the DEC *Contaminated Sites Management Series* guidelines and other relevant guidance, as set out in *Appendix B* of this guideline;
- An assessment of the completeness and effectiveness of any remediation or risk mitigation/management measures employed at the site;
- An evaluation of the suitability of the site for current or proposed landuses; and
- A recommended of classification⁶³ for the site, and any recommended restrictions relating to the use of the site;
- A statement identifying, and signed by, the person who commissioned the report to the effect that the person –
 - i) has not provided information to the auditor that the person knows is false or misleading in a material particular;
 - ii) has not provided information with reckless disregard as to whether or not the information is false or misleading in a material particular; and
 - iii) has disclosed to the auditor all information that the person knows is materially relevant⁶⁴ [*Appendix E* of this guideline provides the Commissioner’s Statement (Form H) for this purpose]
- A statement identifying and signed by the auditor to the effect that the report is accurate and that the auditor –
 - i) has not provided information in the report that the auditor knows is false or misleading in a material particular;
 - ii) has not provided information in the report with reckless disregard as to whether or not the information is false or misleading in a material particular; and
 - iii) has disclosed in the report all information that the Auditor knows is materially relevant⁶⁵ [*Appendix F* of this guideline provides the Auditor’s Statement (Form I) for this purpose].

⁶³ Schedule 1 of the CS Act provides a list of classification descriptions

⁶⁴ s.73 of the CS Act.

⁶⁵ s.73 of the CS Act

8.2.3 Mandatory auditor's report format

The mandatory auditor's report is a technical report and not a narrative summary of the environmental professional/consultant's work. The mandatory auditor's report should be factual, concise and informative, and presented in language and format that is accessible and easily understood by a range of technical and non-technical readers.

A recommended format for mandatory auditor's reports is provided in *Appendix H* of this guideline, to assist auditors. While DEC recognises that each auditor will have his or her own format and style preferences, submission of mandatory auditor's reports in a format generally consistent with *Appendix H* will assist DEC officers in completing their review in a timely manner.

Where an auditor omits any of the information requested in *Appendix H*, he or she must demonstrate in the report why this information is not relevant to be included.

8.2.4 Expert support team involvement

When preparing the mandatory auditor's report, the auditor must detail the involvement of the expert support team in conducting the site audit.

Where part of a mandatory auditor's report has been prepared by a person other than the auditor, or a person employed by the auditor, that person must be clearly identified and must sign the report to confirm the accuracy of the work undertaken by him or her. The Expert Support Team Statement (Form J) is provided in *Appendix G* of this guideline for this purpose.

The auditor must make the final decision about the suitability of the site and critically assess the information provided by his or her expert support team when considering aspects and preparing the mandatory auditor's report.

The auditor should also provide reasons in his or her report why expert support team members were not used where the audit indicates their expertise may have been required.

8.2.5 Community consultation

As detailed in DEC's *Community Consultation Guideline*, community consultation is required when investigating, remediating and managing all contaminated sites in WA. Each contaminated site investigation is different in terms of environmental significance and community sensitivity; therefore different levels of consultation will be required. Regardless of the style or scale required, community consultation should commence as early as possible in the contaminated site assessment process.

It is the responsibility of the proponent (e.g. client/site owner/developer) to develop and implement a community consultation plan or ensure that their environmental professional/consultant does so. The auditor may however, be required to personally discuss the outcomes of his/her audit as part of the proponent's consultation plan. Furthermore, as part of the audit process, an auditor must evaluate the level and type of community consultation proposed and/or implemented to determine compliance with DEC guidelines.

8.3 DISCLOSURE OF MANDATORY AUDITOR'S REPORTS

Disclosure of a mandatory auditor's report or the information arising from it, to a person not directly involved in the investigation, assessment and management processes of a site, may be required for legal reasons.

For example a mandatory auditor's report may be disclosed following:

- submission of a Detailed Summary of Records (DSR) request to the CEO⁶⁶; or
- a summons to produce documents or a request for discovery of documents in legal proceedings.

⁶⁶ s.21 of the CS Act and r.10 of the CS Regulations

9 REFERENCES

Australian and New Zealand Environment and Conservation Council and National Health and Medical Research Council (ANZECC & NHMRC). 1992. *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*.

Department of Environmental Protection (DEP)⁶⁷. 1997. Contaminated sites - Assessment and management of contaminated land and groundwater in Western Australia: a public position paper. May 1997.

National Environment Protection Council (NEPC). 1999. National Environmental Protection (Assessment of Site Contamination) Measure Schedule B(10) – Guideline on Competencies and Acceptance of Environmental Auditors and Related Professionals.

New South Wales Environment Protection Authority. 1998. *Contaminated Sites - Guidelines for the NSW Site Auditor Scheme*. June 1998

New South Wales Environment Protection Authority. 2002. *Contaminated Sites – Draft Guidelines for the NSW Site Auditor Scheme* (2nd edition). June 2002.

Victorian Environment Protection Authority. 2002. *Information Bulletin – Environmental Auditing of Contaminated Land*. Publication 860. July 2002.

Victorian Environment Protection Authority. 2005. *Information Bulletin – Environmental Auditor Guidelines for Appointment and Conduct*. Publication 865.2. August 2005.

⁶⁷ Now the Department of Environment and Conservation (DEC)

APPENDIX A - APPLICATION FORMS



Applicants seeking first time accreditation in WA should submit Applications Forms A, D, E and F and provided the information requested.

DEC WA: CONTAMINATED SITES AUDITOR SCHEME

APPLICATION FORM A – APPLICATION FOR FIRST TIME ACCREDITATION

DEC REF:

CONTAMINATED SITES REGULATIONS 2006 REGULATION 36(1)

Applicant's Full Name:

Contact Address:

Postal Address (If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer: (Company Name)

Are you familiar with the statutory requirements of the Accredited Auditors Scheme in WA pursuant to the *Contaminated Sites Act 2003* and *Contaminated Sites Regulations 2006*? Yes/No

Have you addressed all relevant elements of the Selection Criteria detailed under sections 4 and 5 of the DEC's *Contaminated Sites: Guidelines for Accreditation, Conduct and Reporting* (DEC, 2009)? Yes/No

Is the correct Application Fee attached? Yes/No

Are details of your current Professional Indemnity Insurance coverage attached? Yes/No

Have you provided details of your Expert Support Team? (see Application Form D) Yes/No

Declaration

Under the *Contaminated Sites Act 2003*, Section 71, it is an offence to obtain or attempt to obtain accreditation as an Auditor by –

- *Providing information which you know is false or misleading in a material particular,*
- *Providing information that is false or misleading in a material particular with reckless disregard as to whether or not the information is false or misleading in material particular; or*
- *Failing to disclose information that you know is materially relevant.*

I declare that the information in this Form, and provided with this Form, is true and is not misleading in any material particular and that I have disclosed all information that I know is materially relevant to this application.

Applicant's Signature Date:

Applicant's Full Name



Applicants seeking accreditation in WA under the Mutual Recognition provisions should submit Application Forms B and D and provided the information requested.

DEC WA: CONTAMINATED SITES AUDITOR SCHEME

APPLICATION FORM B – APPLICATIONS UNDER MUTUAL RECOGNITION LEGISLATION

DEC REF:

CONTAMINATED SITES REGULATIONS 2006 REGULATION 36(1)

Applicant's Full Name:

Contact Address:

Postal Address (If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer: (Company Name)

Are you familiar with the statutory requirements of the Accredited Auditors Scheme in WA pursuant to the *Contaminated Sites Act 2003* and *Contaminated Sites Regulations 2006*? Yes/No

Have you addressed all relevant elements of the Selection Criteria detailed under sections 4, 5.2 and 5.3 of the DEC's *Contaminated Sites: Guidelines for Accreditation, Conduct and Reporting* (DEC, 2009)? Yes/No

Under which Australian State or Territory are you currently accredited as a Contaminated Sites Auditor?

Jurisdiction: Appointment Date: Expiry Date:

Jurisdiction: Appointment Date: Expiry Date:

Has your accreditation with any of the above jurisdictions ever been suspended, revoked, cancelled or renewal declined? Yes/No

Does your accreditation include any conditions or limitations? Yes/No

Are you subject to any disciplinary, criminal or civil proceedings in any of the above jurisdictions in relation to your position as Auditor? Yes/No

If "Yes" to any of the above please provide details (jurisdiction, date, grounds, etc)

Are details of your current Professional Indemnity Insurance coverage attached? Yes/No

Do you consent to the DEC making inquiries of, and exchanging information with, the Authorities of any State regarding your activities as an Auditor? Yes/No

Have you provided details of your Expert Support Team? (see Application Form D) Yes/No

Declaration

Under the *Contaminated Sites Act 2003*, Section 71, it is an offence to obtain or attempt to obtain accreditation as an Auditor by –

- *Providing information which you know is false or misleading in a material particular,*
- *Providing information that is false or misleading in a material particular with reckless disregard as to whether or not the information is false or misleading in material particular; or*
- *Failing to disclose information that you know is materially relevant.*

I declare that the information in this Form, and provided with this Form, is true and is not misleading in any material particular and that I have disclosed all information that I know is materially relevant to this application.

Applicant's Signature

Date:

Applicant's Full Name



Applicants seeking renewal of an existing accreditation in WA should submit Application Forms C and D and provided the information requested.

DEC WA: CONTAMINATED SITES AUDITOR SCHEME

APPLICATION FORM C – APPLICATION FOR ACCREDITATION RENEWAL

DEC REF:

CONTAMINATED SITES REGULATIONS 2006 REGULATION 44(2)

Applicant's Full Name:

Contact Address:

Postal Address (If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer: (Company Name)

For what period of accreditation are you seeking renewal? (*Maximum of five years*) Years

Are you familiar with the statutory requirements of the Accredited Auditors Scheme in WA pursuant to the *Contaminated Sites Act 2003* and *Contaminated Sites Regulations 2006*? Yes/No

Have you addressed all relevant elements of the Selection Criteria detailed under Section 4 of the DEC's *Contaminated Sites: Guidelines for Accreditation, Conduct and Reporting* (DEC, 2009)? Yes/No

Have you provided details of your Expert Support Team? (see Application Form D) Yes/No

Have you provided details of contaminated sites audits undertaken or in progress since you were accredited or your accreditation was last renewed? Yes/No

Have you provided details of your Continuing Professional Development (including training courses completed) since your accreditation or most recent renewal? Yes/No

Current Accreditation Date Current Accreditation Expiry Date

Are details of your current Professional Indemnity Insurance coverage attached? Yes/No

Please continue overleaf.

Declaration

Under the *Contaminated Sites Act 2003*, Section 71, it is an offence to obtain or attempt to obtain accreditation as an Auditor by –

- *Providing information which you know is false or misleading in a material particular,*
- *Providing information that is false or misleading in a material particular with reckless disregard as to whether or not the information is false or misleading in material particular; or*
- *Failing to disclose information that you know is materially relevant.*

I declare that the information in this Form, and provided with this Form, is true and is not misleading in any material particular and that I have disclosed all information that I know is materially relevant to this application.

Applicant's Signature

Date:

Applicant's Full Name



DEC WA: CONTAMINATED SITES AUDITOR SCHEME

APPLICATION FORM D – EXPERT SUPPORT TEAM

CONTAMINATED SITES REGULATIONS 2006 REGULATION 44(2)

UAIN:

Applicant's
Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Current Employer:
(Company Name)

EXPERT SUPPORT TEAM DETAILS

(Please provide the information set out in Section 4.6 of the Guideline for each expert support team Member)

Team Member 1

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Current Employer:
(Company Name)

Specialism:

Team Member 2

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Current Employer:
(Company Name)

Specialism:

Applicant's Signature

Date:

Applicant's Full Name

UAIN:

Team Member 3

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer:
(Company Name) Specialism:

Team Member 4

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer:
(Company Name) Specialism:

Team Member 5

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer:
(Company Name) Specialism:

Team Member 6

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer:
(Company Name) Specialism:



UAIN:

DEC WA : CONTAMINATED SITES AUDITOR SCHEME

APPLICATION FORM E – PROFESSIONAL REFERENCES

CONTAMINATED SITES REGULATIONS 2006 REGULATION 36(1)

DETAILS OF PROFESSIONAL REFEREES

Professional Referee 1

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Relationship to Applicant

Professional Referee 2

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Relationship to Applicant

Declaration

I agree that the DEC WA may contact the persons listed above to obtain professional references as part of my application for accreditation under the Contaminated Sites Auditor Scheme.

Applicant's Signature

Date:

Applicant's Full Name



UAIN:

DEC WA : CONTAMINATED SITES AUDITOR SCHEME

APPLICATION FORM F – PERMISSION FROM CLIENTS

CONTAMINATED SITES REGULATIONS 2006 REGULATION 36(1)

DETAILS OF CLIENTS PROVIDING PERMISSION TO REFERENCE PREVIOUS PROJECTS

Client/Report Owner

Full Name:

Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Applicant's Name

Project Description
(Referenced as Part of
Application)

Project/Report Reference

The DEC WA require the submission of two recent examples of the Applicant's project/report work for review as part of the assessment and selection of Applicants for accreditation under the DEC WA Contaminated Sites Auditor Scheme. The DEC WA require the Applicant to obtain the written permission of the Client/Report Owner to allow for the report to be used for this purpose.

All reports submitted to the DEC WA for review as part of the assessment and selection process will be treated as "Confidential" and access to these reports will be strictly controlled. Any reports submitted to the DEC WA for this purpose will be returned to the Applicant.

Declaration

I hereby grant permission for the project/report named above to be submitted to the DEC WA by the Applicant named above for the purposes of review for accreditation under the DEC WA Contaminated Sites Auditor Scheme and I have provided a copy for that purpose.

Report Owner Signature

Date:

Report Owner Full Name

APPENDIX B - LIST OF GUIDELINES

Key documents for use in contaminated sites auditing in WA are listed below.

DEC's *Contaminated Sites Management Series* guidelines provide guidance on the assessment and management of contaminated sites in WA. The titles of guidelines, prepared for the purposes of section 97(1) of the CS Act, have been published in the *Gazette* in accordance with section 97(4) of the CS Act. Auditors must take into account guidelines gazetted under section 97(4) of the CS Act when carrying out any function of an Auditor⁶⁸.

As at September 2009, the titles of the following *Contaminated Sites Management Series* guidelines have been published in the *Gazette* —

Guidelines for the purposes of section 97(1)(a) of the CS Act:

- *Bioremediation of Hydrocarbon Contaminated Soils in Western Australia* (October 2004)
- *Development of Sampling and Analysis Programs* (December 2001)
- *Reporting on Site Assessments* (December 2001)
- *The Use of Risk Assessment in Contaminated Site Assessment and Management: Guidance on the Overall Approach* (November 2006)
- *Use of Monitored Natural Attenuation for Groundwater Remediation* (April 2004)

Guidelines for the purposes of section 97(1)(b) of the CS Act:

- *Potentially Contaminating Activities, Industries, and Landuses* (October 2004)
- *Reporting of Known or Suspected Contaminated Sites* (November 2006)
- *Site Classification Scheme* (November 2006)

Guidelines for the purposes of section 97(1)(c) of the CS Act:

- *Community Consultation Guideline* (November 2006)

In addition, DEC intends to publish notice of the making of the following guidelines in the *Gazette* shortly:

- *Assessment Levels for Soil, Sediment and Water* (Version 4 – in publication)
- *Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia* (Department of Health and DEC, May 2009)

The *Contaminated Sites Management Series* also contains the following guidelines which are not guidelines for the purposes of section 97 of the CS Act:

- *Contaminated Sites Auditors: Guideline for Accreditation, Conduct and Reporting* (September 2009)
- *Certificate of Contamination Audit Scheme* (Draft, July 2000)
- *Disclosure Statements* (November 2006)
- *Contaminated Sites and the Landuse Planning Process* (April 2006)

In addition, DEC considers the following documents to be relevant to the assessment and management of contaminated sites⁶⁹:

⁶⁸ r.60 of the CS Regulations

⁶⁹ List of guidelines/documents were correct at the time of issue of this guideline. Auditors should satisfy themselves that they have had regard to all relevant documents.

- Australian and New Zealand Environment and Conservation Council (ANZECC) and National Health and Medical Research Council (NHMRC) (1992). *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*
- Australian and New Zealand Environment and Conservation Council (ANZECC) and National Health and Medical Research Council (NHMRC) (2000). *Australian and New Zealand Guidelines for Fresh and Marine Water Quality*
- Australian and New Zealand Environment and Conservation Council (ANZECC) (1999). *Guidelines for the Assessment of On-site Containment of Contaminated Soil*
- Commission for Occupational Safety and Health (2005). *Guidance Note: Occupational Safety and Health Management and Contaminated Sites Work.*
- CSIRO (2004). *Petroleum and Solvent Vapours: Quantifying their Behaviour, Assessment and Exposure.*
- Department of Environment (DoE) (2005). *Landfill Waste Classification and Waste Definitions 1996. (As amended).*
- Department of Environment and Conservation (DEC) (2008) *DRAFT - A guideline for the development and implementation of a dust management program*
- Department of Health (2006). *Contaminated Sites Reporting Guideline for Chemicals in Groundwater*
- Department of Health and Ageing and EnHealth Council (2002). *Environmental Health Risk Assessment, Guidelines for assessing human health risks from environmental hazards*
- En-Health (2005) *Management of Asbestos in the Non-Occupational Environment*
- Environmental Protection Authority (EPA) Guidance Statement No.17 (2000). *Guidance Statement for Remediation Hierarchy for Contaminated Land*
- National Environment Protection Council (NEPC) (1999). *National Environmental Protection (Assessment of Site Contamination) Measure, Schedule B(1) to B(8)*
- National Health and Medical Research Council (NHMC) and National Resource Management Ministerial Council (NRMCC) (2004). *Australian Drinking Water Guidelines*
- Standards Australia AS/NZ 4360 (1999). *Risk Management*
- Standards Australia AS/NZ 4482.1 (2005). *Guide to the investigation and sampling of sites with potentially contaminated soil. Part 1: Non-volatile and semi-volatile compounds*
- Standards Australia AS/NZ 4482.2 (1999). *Guide to the sampling and investigation of potentially contaminated soil. Part 2: Volatile substances*
- Standards Australia AS/NZ 5667.1 (1998). *Water Quality – Sampling. Part 1: Guidance on the design of sampling programs, sampling techniques, and the preservation and handling of samples (incorporating ISO Standard (1987) ISO 5667 Water Quality – Sampling Parts 1 – 3)*

Other guidelines and documents may be relevant for the independent review of contaminated site investigations, monitoring and remedial works. It is the responsibility of the auditor to identify and utilise such guidelines where relevant.

APPENDIX C- SUMMARY OF OFFENCES AND PENALTIES

- (iii) If the auditor becomes unemployed, self employed or employed by an employer other than the employer that the auditor was employed by when the auditor became accredited; or
 - (iv) If the auditor no longer has access to persons with complementary theoretical and practical knowledge and skills which would assist the person to carry out the functions of an auditor. Penalty: \$1,000 (Regulation 55(1))
- An auditor is to notify the CEO if the auditor becomes aware of any information relevant to the person's accreditation as an Auditor that the person has not disclosed to the CEO within 7 days after the day on which the auditor became so aware. Penalty \$1,000 (Regulation 55(2)).
- An auditor must notify the CEO in writing within 7 days of being engaged as an auditor to provide a mandatory auditor's report. Penalty \$1,000 (Regulation 55(3)).
- An auditor must notify the CEO in writing if his or her professional indemnity insurance is not maintained or the coverage of the policy changes in a material particular as soon as is possible after the auditor becomes aware that the situation has occurred or is likely to occur. Penalty \$1,000 (Regulation 56).
- An auditor is to give a copy of each mandatory auditor's report produced by the auditor to the CEO not later than 7 days after the auditor gives the report to the person who engaged the Auditor to produce the report. Penalty \$1,000 (Regulation 57).
- An auditor may not use –
 - (i) The title "Contaminated Sites Auditor"; or
 - (ii) The title "Accredited Contaminated Sites Auditor"; or
 - (iii) Any other phrase tending to import the meaning that the person is accredited as an auditor under the Act, other than in relation to carrying out a function of an auditor. Penalty \$1,000 (Regulation 59).
- If, when carrying out any function as an auditor, a potential or actual conflict of interest, comes to the auditor's knowledge, the auditor is to notify the CEO and each person who has engaged the auditor to perform the function, as soon as is practicable after the conflict, or potential conflict, comes to the auditor's knowledge. Penalty \$1,000 (Regulation 62(1)).

APPENDIX D - AUDITOR ENGAGEMENT (FORM G)



DEC WA: CONTAMINATED SITES AUDITOR SCHEME

FORM G – NOTIFICATION OF AUDITOR ENGAGEMENT

CONTAMINATED SITES REGULATIONS 2006 REGULATION 55(3)

DMO:

Accredited Auditor
Full Name:

Contact Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Current Employer:
(Company Name)

Auditor's Assistant:
(Nominated Person)

In accordance with the Contaminated Sites Regulations 2006 Regulation 55(2) I formally advise the CEO of the DEC WA that I have been engaged to supply services to provide a Mandatory Auditor's Report in respect of the following Site.

Site Address

Certificate of Title Details

Parcel/Lot Number

Site Description
(attach site plan as appropriate)

Name of Person engaging
the Auditor

Date of Engagement

Auditor's Signature

Date:

APPENDIX E - COMMISSIONER'S STATEMENT (FORM H)



**TO BE PREPARED
BY THE PERSON
COMMISSIONING
THE MANDATORY
AUDITOR'S REPORT**

DEC WA: CONTAMINATED SITES AUDITOR SCHEME

FORM H – MANDATORY AUDITOR'S REPORT – COMMISSIONER'S STATEMENT

CONTAMINATED SITES ACT 2003 SECTION 73(A)

DMO:

Full Name of Person Commissioning Auditor's Report:

Contact Address:

Postal Address (If different from Above)

Contact Telephone: Mobile Telephone:

Contact Fax: Contact e-mail:

Current Employer: (Company Name)

In accordance with Section 73(a) of the *Contaminated Sites Act 2003* I formally advise the CEO of the DEC WA that I have engaged an Accredited Auditor to prepare a Mandatory Auditor's Report in respect of the following Site.

Site Address

Certificate of Title Details

Parcel/Lot Number

Site Description (Attach site plan as appropriate)

Name of Accredited Auditor engaging to provide a Mandatory Auditor

Date of Engagement

Please continue overleaf.

Declaration

Under Section 73(a) of the *Contaminated Sites Act 2003*, a Mandatory Auditor's Report cannot be accepted unless it is accompanied a statement identifying, and signed by the person who engaged the Auditor to prepare the Mandatory Audit Report.

I declare that

I, *The person described in this statement*

am the person who engaged the Auditor to prepare this Mandatory Audit Report, relating to

Certificate of Title Details

Parcel/Lot Number

Site Description

Site Address

and, that

- *I have not provided information to the Auditor that I know is false or misleading in a material particular; and*
- *I have not provided information with reckless disregard as to whether or not the information is false or misleading in a material particular; and*
- *I have disclosed to the Auditor all information that I know is materially relevant.*

Person who Commissioned
the Mandatory Audit Report

Signature

Date:

Full Name

APPENDIX F - AUDITOR'S STATEMENT (FORM I)



DEC WA: CONTAMINATED SITES AUDITOR SCHEME

FORM I – MANDATORY AUDITOR’S REPORT – AUDITOR’S STATEMENT

CONTAMINATED SITES ACT 2003 SECTION 73(B)

DMO:

Accredited Auditor
Full Name:

Contact Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Current Employer:
(Company Name)

In accordance with Section 73(b) of the *Contaminated Sites Act 2003* I formally advise the CEO of the DEC WA that I have been engaged to prepare a Mandatory Auditor's Report in respect of the following Site.

Site Address

Certificate of Title Details

Parcel/Lot Number

Site Description
(attach site plan as appropriate)

Name of Person engaging
the Auditor

Date of Engagement

Please continue overleaf.

)Declaration

Under Section 73(b) of the *Contaminated Sites Act 2003*, a Mandatory Auditor's Report cannot be accepted unless it is accompanied a statement identifying, and signed by the Auditor engaged to prepare the Mandatory Audit Report.

I declare that

I, *The Auditor described in this statement*

am the Auditor engaged to prepare this Mandatory Audit Report, relating to

Certificate of Title Details	<input type="text"/>
Parcel/Lot Number	<input type="text"/>
Site Description	<input type="text"/>
Site Address	<input type="text"/>

and, that

- *I have not provided information in the Report that I know is false or misleading in a material particular; and*
- *I have not provided information in the Report with reckless disregard as to whether or not the information is false or misleading in a material particular; and*
- *I have disclosed in the Report all information that I know is materially relevant.*

Accredited Auditor's Signature	<input type="text"/>	Date:	<input type="text"/>
--------------------------------	----------------------	-------	----------------------

Accredited Auditor's Full Name	<input type="text"/>
--------------------------------	----------------------

APPENDIX G - EXPERT SUPPORT TEAM STATEMENT (FORM J)



*TO BE PREPARED BY
THE EXPERT SUPPORT
TEAM MEMBER
COMMISSIONING TO
ASSIST IN THE
PREPARATION OF THE
MANDATORY AUDITOR'S
REPORT*

DEC WA: CONTAMINATED SITES AUDITOR SCHEME

FORM J – MANDATORY AUDIT – EXPERT SUPPORT TEAM STATEMENT

CONTAMINATED SITES REGULATIONS 2006 REGULATION 32(2)

DMO:

Expert Support Team
Member Full Name:

Contact Address:

Postal Address
(If different from Above)

Contact Telephone:

Mobile Telephone:

Contact Fax:

Contact e-mail:

Current Employer:
(Company Name)

In accordance with Regulation 32(2) of the Contaminated Sites Regulations 2006 I formally advise the CEO of the DEC WA that I have been engaged as part of an Expert Support Team to prepare a Mandatory Auditor's Report in respect of the following Site.

Site Address

Certificate of Title Details

Parcel/Lot Number

Site Description
(attach site plan as appropriate)

Accredited Auditor
Full Name:

Date of Engagement

Please continue overleaf.

Declaration

Under Regulation 32(2) of the Contaminated Sites Regulations 2006, where part of a Mandatory Auditor's report has been prepared, and is based on work undertaken by a person other than the Auditor, or a person employed by the Auditor, the report is to be accompanied by a statement identifying, and signed by, that person.

I declare that

I, *The person described in this statement*

am the person, engaged as part of an Expert Support Team, in support of

Accredited Auditor's Name

and I am responsible for preparing and undertaking work with respect to that part of the Mandatory Audit Report identified below

Certificate of Title Details

Parcel/Lot Number

Site Description

Site Address

Nature and extent of work prepared and undertaken:

Relevant Report Section Reference(s)

and, that

- *I have not provided information, in the part of the Report described above, that I know is false or misleading in a material particular; and*
- *I have not provided information, in the part of the Report described above, with reckless disregard as to whether or not the information is false or misleading in a material particular; and*
- *I have disclosed, in the part of the Report described above, all information that I know is materially relevant.*

Expert Support Team Member Signature

Date:

Expert Support Team Member Full Name

APPENDIX H - MANDATORY AUDITOR'S REPORT FORMAT



Audit Report Section	Information to be included, where relevant
<p>D-1 Introduction</p>	<ul style="list-style-type: none"> Accredited Auditor's name and contact details. Date the Auditor was accredited in WA. Name of the person who engaged the Auditor and their relationship to the subject site (i.e. owner, occupier, person responsible for remediation). Reason for audit and relevant section of CS Act or Regulations or EP Act. Date audit commenced / Date audit completed. Stage in contaminated site assessment process that site audit covers (e.g. preliminary site investigation through to validation, preliminary site investigation only, etc). <p>Reference CS Act and/or EP Act in relation to <u>reasons for audit</u> (e.g. section 62(3)(e) request for Certificate of Contamination Audit)</p>
<p>D-2 Executive statement</p>	<ul style="list-style-type: none"> Suitability of site for proposed/future land use(s) Recommendation for classification of the site pursuant to Part 2 Division 2 of CS Act. Details of any restrictions relating to the use of the site (including groundwater). <p>Clear and concise Executive Summary only.</p> <p>Detailed discussions under report section D-8 and D-9</p>
<p>D-3 Site Identification</p>	<ul style="list-style-type: none"> Street Address & Cadastral details. Certificate(s) of title (copy of document including survey plan) for the site and all offsite properties impacted by soil and/or groundwater contamination. Location map & contemporary aerial photograph. Current site plan showing infrastructure, scale bar, north arrow, local environmentally significant features. Local Government Authority. <p>Copies of certificate(s) of title are required for all sites impacted by the soil and/or groundwater contamination (including offsite properties)</p>
<p>D-4 Audited Documentation</p>	<ul style="list-style-type: none"> List of all documentation reviewed, including title, date and author <p>Submit hard copies as individual reports, not as attachments to the Mandatory Auditor's Report.</p>
<p>D-5 Site Characteristics</p>	<ul style="list-style-type: none"> Land use - previous, present and future, on site and adjacent land. Residents and other sensitive human receptors in close proximity to site. Details of any relevant local sensitive environments, e.g. water courses, wetlands, local habitat areas. Known depth to groundwater table, quality, direction and rate of flow, conditions (e.g. unconfined, confined, ephemeral, perched), local usage of ground/surface waters and location of groundwater bores within a 1km radius, public drinking water supply and source areas, domestic irrigation, aquatic ecosystems, and the potential impacts on these uses. Extent of soil, groundwater, surface water and ground gas contamination, including off-site effects. Possible exposure routes and exposed populations (human and ecological)/preferential migratory pathway. Conceptual Site Model showing likely SOURCE>PATHWAY>RECEPTOR linkages. <p>Summary only (1-2 pages)</p> <p>A Conceptual Site Model is required</p>



Audit Report Section	Information to be included, where relevant
<p>D-6 Basis for adoption of Assessment Criteria</p>	<ul style="list-style-type: none"> Selected assessment criteria for all media; soil, sediment, waters. Rationale for, and appropriateness of, the selection of criteria used Where the assessment criteria selected are not published criteria, full justification of their appropriateness/relevance/applicability should be provided.
<p>D-7 Guideline Compliance</p>	<ul style="list-style-type: none"> Statement regarding whether the reports submitted are <u>accurate, complete and in accordance with</u> with DEC's <i>Contaminated Sites Management Series</i> of guidelines and other key guideline documents (where applicable). <p>Particular consideration should be given to the Conceptual Site Model, sampling and analysis program, Data Quality Objectives, field and laboratory QA/QC, community consultation and risk identification and assessment.</p>
<p>D-8 Auditor's Assessment</p>	<ul style="list-style-type: none"> An opinion of the quality and completeness of the work forming the subject of the audit (including an evaluation of quality assurance and quality control programs). An evaluation of whether any inaccuracies, omissions or inconsistencies identified within the reports significantly affect the findings, conclusions and recommendations within the reports reviewed. An assessment based on the information within the reports reviewed, of the risk to human health, the environment or environmental values arising from actual or potential contamination on site. Evidence of, or the potential for, off-site migration of contaminants. Any other information relevant to the site audit, including, where relevant, copies of correspondence between the Auditor, client, environmental consultant and DEC. Details of the involvement of the expert support team in conducting the site audit. <p>The Auditor's professional opinion based on the information provided in the reports audited</p>
<p>D-9 Auditor's Conclusions and Recommendations</p>	<ul style="list-style-type: none"> Conclusions made by the Auditor and justifications for the conclusions. Assumptions used in reaching the conclusions. Extent of uncertainties in the results, findings and recommendations. Clear statement regarding the suitability of site for the current and proposed/future land use(s). Recommendation for classification of the site pursuant to Part 2 Division 2 of CS Act and justification for recommendation. Recommendations for further sampling and/or remedial measures considered necessary to render the site suitable for the proposed use (where applicable). Detail any restrictions relating to the use of the site, including groundwater (where applicable). <p>The Auditor's professional opinion based on the information provided in the reports audited.</p>
<p>D-10 Signatures</p>	<ul style="list-style-type: none"> Statement identifying, and signed by, the person who engaged the Auditor to produce a Mandatory Auditor's Report (Form H). <p>Signed by the person engaging the Auditor</p> <ul style="list-style-type: none"> Statement signed by the Auditor to the effect that the information supplied in the Mandatory Auditor's Report is accurate (Form I). Auditor's signature and date. <p>Signed by the Auditor as an individual, not the Auditor on behalf of the company.</p> <ul style="list-style-type: none"> Where a member of the expert support team has undertaken part of the audit, the member must be identified and sign a statement for that portion of the report. (Form J) <p>Signed by each member of the expert support team as an individual, not on behalf of the company.</p>