

Title 33
ENVIRONMENTAL QUALITY
Part XI. Underground Storage Tank

Chapter 12. Requirement for Response Action Contractors who Assess and Remediate Motor Fuel Contaminated Sites Eligible for Cost Reimbursement Pursuant to the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) (R.S. 30:2195).

§1201. Applicability

A. These requirements apply to professional environmental consulting firms engaged in release response action activities, including, but not limited to, assessment, remedial planning, design, engineering, construction, and the operation of recovery systems, or ancillary services that are carried out in response to any discharge or release or threatened release of motor fuel into the groundwater or subsurface soils, and who have been hired by an owner or operator who seeks and is eligible for reimbursement for such services under the MFUSTTF, hereinafter referred to as the Tank Trust Fund.

B. Effective July 15, 1988, the Tank Trust Fund required that Response Action Contractors (RAC) be approved by the department and carried on a list of companies meeting standards if the cost of their work, as performed at underground storage tank (UST) sites, was to be reimbursed for a release which is eligible for Tank Trust Fund participation.

C. Within nine months after promulgation of these regulations, no person shall conduct a response action at a UST site unless the person has met the standards for the qualification of a RAC as defined herein and formally recommended for RAC Listing by the Motor Fuels Underground Storage Tank Trust Fund Advisory Board hereinafter referred to as the "Board" and approved for RAC listing by the administrative authority. The Board may recommend to the

administrative authority at any time that RACs be added or deleted from the list.

D. Qualifications for RAC. In order to be listed by the department as an approved RAC for conducting Tank Trust Fund eligible work, professional environmental consulting firms must submit on a department prescribed-application form, documentation demonstrating and verifying that they meet the following minimum requirements:

1. The company must be licensed by the Louisiana Board of Contractors with a specialty compatible with UST assessment/remedial activities. A copy of the valid, unexpired license must be provided in the name of the company applying to be placed on the RAC list.

2. The company must have a minimum of \$1,000,000 of contractor's general liability and minimum of \$1,000,000 of coverage for an accidental and/or unexpected release(s) from a UST system(s) and or any other accidental releases related to site-specific RAC activities. A valid, unexpired copy of the certificates of insurance coverage must be provided in the name of the company applying to be placed on the RAC list.

3. Company employees must comply with applicable Occupational Safety and Health Administration (OSHA) training and certification requirements. A written statement indicating compliance must be provided.

4. The company must provide a job history and adequately demonstrate, relevant experience in environmental investigation and/or remediation at sites exhibiting subsurface motor fuels contamination. A minimum of five jobs should be documented.

5. The company must have either a geologist or a Louisiana registered professional engineer on staff.

6. Either the company or an employee must be certified by an equipment manufacturer to perform precision tank and line tightness testing or have a company or person on retainer to perform manufacturer-certified precision tank tightness testing. The company or individual(s) must be named and, if on retainer, a signed statement that they are retained must be provided.

7. Company employees must be able to begin work at any site within 24 hours of authorization from an eligible Tank Trust Fund participant. A written statement indicating compliance must be provided.

8. The company must adequately demonstrate experience in soil borings of up to 100 feet for soil sampling and/or groundwater monitoring purposes, to include the installation, development, and sampling/monitoring of groundwater monitoring wells. A minimum of five jobs must be documented.

9. The company must adequately demonstrate experience in physical removal, treatment, and/or proper disposal of soils contaminated with hydrocarbons or motor fuels. A minimum of five jobs must be demonstrated.

10. The company must adequately demonstrate experience in the removal of free-phase hydrocarbons from the subsurface. A minimum of five jobs must be demonstrated.

11. The company must adequately demonstrate proficiency with projects which required design and installation/implementation of corrective action programs for the purpose of remediating contaminated soils and/or groundwater at leaking UST sites, including the installation, operation, and maintenance of recovery wells and the treatment of contaminated groundwater. A minimum of five projects/jobs must be demonstrated.

12. In order to adequately demonstrate required experience, as provided in LAC 33:XI.1201.D.4, and 8 through 11, only the company's experience, or the experience of a full time employee of the company will be considered. The experience of a subcontractor or person(s) on retainer will not meet the requirements of these sections.

E. All information regarding a RAC applicant's qualifications shall be provided to the Office of Environmental Services, Permits Division, Registrations and Certifications Section by 4:30 p.m. on the 15th day of the following months: March, June, September, and December so that the application may be reviewed and ready for the Board's consideration at their scheduled meetings.

F. Companies who submit applications lacking the documentation required in LAC 33:XI.1201.D will be notified in writing of the deficiencies and the application will be returned to the applicant.

G. Any company's application that, in the opinion of the department, adequately demonstrates the requirements of LAC 33:XI.1201.D will be submitted to the Board for consideration. Upon recommendation by the Board and approval by the administrative authority, the company will be included on the approved RAC list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended LR 20:.

§1203. RAC Listing - Annual Application Requirements

A. No later than March 1 of each year, each company on the RAC Listing shall submit

the following information to the department:

1. A copy of a valid, unexpired license by the Louisiana Board of Contractors with a specialty compatible with UST assessment/remedial activities in the name of the company identified on the RAC Listing;

2. A copy of a valid, unexpired certificate indicating a minimum of \$1,000,000 contractor's general liability insurance in the name of the company identified on the RAC Listing; and

3. A copy of a certificate or documentation showing current HAZWOPER training for at least one full time employee of the company identified on the RAC Listing.

B. Companies who fail to submit the documentation required in LAC 33:XI.1203.A, will be notified in writing by certified mail and given thirty days to comply. Failure to submit the requested documentation will result in suspension from the RAC Listing until such time that the required information is submitted, reviewed by the department and the administrative authority approves RAC Listing. This suspension is not subject to the RAC Listing suspension procedures outlined in LAC 33:XI.1205.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended LR 20:.

§1205. Suspension /Revocation from RAC Listing

A. The Administrative Authority may suspend or revoke a RAC from the listing based on any of the following:

1. Failure to submit required documentation in the timeframe specified department;
2. Evidence of fraud or deceit with respect to any documentation submitted to the department;
3. Willful violation of department published policy or procedures, the laws and regulations of Louisiana regarding site assessment or remediation; or
4. Any other cause that, in the opinion of the administrative authority, constitutes adequate grounds for suspension or revocation from the RAC Listing.

2. A RAC Listing may be suspended for a period of 90 days to one year, depending upon seriousness of the offense(s). A RAC Listing is revoked automatically upon a third suspension. After a period of five years, a company who has had a RAC Listing revoked may reapply for RAC Listing. If a RAC Listing is revoked a second time, the revocation shall be permanent.

3. Written Notice

1. When the department determines that a RAC Listing should be suspended or revoked, the department shall provide the company by certified mail a written notice stating:

- a. that the department has sufficient evidence which, if not rebutted or

explained, will justify a recommendation to the Board for suspension or revocation from the RAC

Listing;

b. indicate the general nature of the evidence; and

c. that unless the company within 30 days after receipt of the notice, submits a request for an informal hearing before the Board, the department will recommend to the administrative authority that the company's placement on the RAC Listing be suspended or revoked. A written statement giving the company's view of the circumstances which are the subject of the department's proposed action shall accompany the request for hearing.

2. If the company does not mail a request for hearing and a statement of the circumstances within the time frame specified, the division will recommend to the administrative authority the suspension or revocation of the company from RAC Listing for a specified period of time.

D. Hearings Before the Board

1. At least 20 days prior to a hearing, the department shall provide the company for which the hearing is proposed, a notice of the hearing. The notice shall be sent by certified mail and include the time, date and location of the hearing.

2. All hearings on suspension or revocation from the RAC Listing held before the Board shall be conducted with rapidity and without the observance of all formalities required in adjudications by the Administrative Procedure Act. All hearings conducted by the Board shall be recorded and a transcript prepared.

3. Within 30 days after conducting an informal hearing, the Board shall forward its recommendation to the administrative authority.

E. Record of Hearing. The record of proceedings conducted under this section shall consist of the following:

1. the certified company's request for hearing and statement of the circumstances;
2. the notice of the hearing;
3. all documentary evidence and written comments received;
4. the recording of the hearing; and
5. written recommendations from the Board.

F. Appeal of Suspension or Revocation from the RAC Listing. A company whose RAC Listing has been suspended or revoked may appeal the action in accordance with R.S. 30:2024(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended LR 20:.