

Independent Cleanup Pathway Information Packet

Voluntary Cleanup Program



State of Oregon
Department of
Environmental
Quality

This packet includes:

- How to sign up for the Independent Cleanup Pathway
- Independent Cleanup Pathway Fact Sheet
- Steps In The Process Fact Sheet
- Intent to Participate Form
- Invoicing for Cleanup Program Cost Fact Sheet
- Example Cost Recovery Letter Agreement
- Final Report Checklist
- Cleanup Process and Criteria Fact Sheet
- Selecting an Environmental Consulting Firm
- Voluntary Cleanup Program Reference List
- Protection of Archeological and Cultural Resources Fact Sheet
- List of DEQ Technical Guidance Documents
- Environmental Cleanup Glossary

How to sign up for the Independent Cleanup Pathway (ICP)

1. Call the DEQ office in your area with any questions or issues you would like to discuss before you sign up. Ask for the Cleanup Program Representative.
2. Fill out and send in the “Intent to Participate” form, page 5 - 7 in this packet. Do not send any money now. The “Intent to Participate” form also serves as your notice to DEQ that you intend to submit your final report within 90 days or by the later date indicated on the form.
3. You will receive a cost recovery agreement from DEQ. Sign the agreement and return it to DEQ with your \$1,500 deposit.
4. DEQ will review your information, and send you an acknowledgement letter accepting the project into ICP or advising you of other program options.
5. Generally, when DEQ receives 90 days notice before you submit your report to us, we can complete our review of the report within 60 days.

Please review the enclosed information to learn more about doing business with the DEQ in the Independent Cleanup Pathway.

**Eastern Region
Bend**

2146 NE 4th #104
Bend OR 97701
Phone: (541) 388-6146
TTY: (541)388-6145

**Northwest Region
Portland**

2020 SW 4th Avenue
Portland, OR 97201
Phone: (503) 229-5263
TTY: (503) 229-5471

**Western Region
Eugene**

165 E. 7th Avenue, Suite 100
Eugene, OR 97401
Phone: (541) 686-7838
TTY: (541) 687-5603

Voluntary Cleanup Program Independent Cleanup Pathway

Introduction

The Department of Environmental Quality (DEQ) has formalized an Independent Cleanup Pathway (ICP) to assist parties interested in cleaning up contaminated sites without ongoing DEQ oversight. If a cleanup is completed to a level that is protective of human health and the environment consistent with Oregon's cleanup law, DEQ will issue a No Further Action (NFA) letter to the responsible party when the cleanup activities are completed, reviewed and approved following the public comment period. The ICP is specifically designed for low and medium priority sites and is not applicable to high priority sites that present greater risk. If DEQ receives 90 days notice before the final report is submitted for an ICP project, DEQ intends to review the final report within 60 days of receipt.

Benefits and risks of independent cleanups:

The benefits of independent cleanups to the are:

- The ICP provides a streamlined cleanup path for low and medium priority sites
- ICP provides more certainty to RPs on DEQ's final report review time.
- RPs can set their own schedule for investigation and cleanup.
- RPs can save money by not incurring DEQ oversight charges during the project.
- RPs can dove-tail the project work to other development activities at the site.

The primary potential risk is that DEQ will not issue an NFA after cleanup activities are completed. This would occur if DEQ believed that unacceptable risks remained at the site, even after the cleanup. While this is an unusual outcome, parties wishing certainty in obtaining an NFA should consider either Site-Specific Technical Consultation (described in this fact sheet) or traditional Voluntary Cleanup Program (VCP) oversight through DEQ.

Site priority

The ICP is an alternative to traditional Voluntary Cleanup Program (VCP) oversight. This option is available for sites ranked as low and medium priority for further investigation or cleanup. The main reasons for restricting ICP participation are:

- These sites pose less significant risks, and can generally be cleaned up relatively easily – and without DEQ oversight – to levels that protect human health and the environment.
- More complex or higher priority sites generally require significant DEQ review time, and would not meet the rapid response time we are providing for the ICP.

Site Eligibility

There are two ways to determine if your site is eligible for the ICP. First, complete the Initial Site Screening form, which has five questions that are designed to make sure that the sites are good candidates for the ICP. Sites that pass this initial screening can move directly into the ICP, and RPs do not need to provide additional information to DEQ up front. If your site does not pass this initial screening the ICP may still be an option. To make that determination, you will need to provide enough information for DEQ to determine the environmental priority of the site.

Site-specific technical consultation

DEQ offers Site-Specific Technical Consultation on a cost recovery basis for participants in the ICP who want some level of DEQ input during their cleanup activities. Site-Specific Technical Consultation can range from review of work plans, site investigation reports, and beneficial use determinations, to general advice about any aspect of a site's investigation and cleanup.

RPs interested in Site-Specific Technical Consultation, enter a Cost Recovery Agreement with DEQ. DEQ will then assign a project manager as a point of contact for the duration of the Agreement. The project manager will review work products and discuss them with the RP and with other DEQ staff as needed and will provide either verbal or written non-binding advice as requested.

For moderately complex projects or projects which require a time-critical NFA determination, DEQ recommends that the RP seek Site-Specific Technical Consultation at key project decision points to reduce the risk of submitting an incomplete final report.



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Land Quality Division
Environmental
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Phone: (503) 229-6258
(800) 452-4011
Fax: (503) 229-6954
www.deq.state.or.us

Permit exemptions

Sites participating in the ICP are not eligible for permit exemptions as described in ORS 465.315(3). To be eligible for permit exemptions, a cleanup project must be taking place with DEQ oversight.

Insurance note

Before beginning an independent cleanup, RPs should evaluate their insurance coverage – including present and past policies – to determine if the insurance might cover part or all of the cleanup costs. RPs should be sure to discuss cleanup plans with their insurance agent **before** beginning cleanup activities. At a minimum, many insurers require notice and an opportunity to review cleanup plans before action is taken, as a condition for coverage of cleanup expenses.

Additional Information

Additional information and materials related to the Independent Cleanup Pathway may be obtained through DEQ's web site at <http://www.deq.state.or.us/wmc/cleanup/icpmain.htm>, or by contacting the Environmental Cleanup Program Representative at your regional DEQ office.

Alternative formats

Alternative formats of this document can be made available. Contact DEQ's Office of Communications and Outreach, Portland, for more information at (503) 229-5317.

Independent Cleanup Pathway Steps in the Process



State of Oregon
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Quality

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Fax: (503) 229-6954
www.deq.state.or.us

Introduction

The Independent Cleanup Pathway (ICP) is designed to assist parties interested in cleaning up contaminated sites without ongoing Department of Environmental Quality (DEQ) oversight. It is specifically designed to provide DEQ approval through a more streamlined cleanup path for low and medium priority sites and more certainty for Responsible Parties (RPs) on DEQ final report review time. The recommended steps in the ICP process are described below.

Program Information

ICP information packets, including an Initial Site Screening form, an Intent To Participate form, and example Cost Recovery Letter Agreement are available on request from the Environmental Cleanup Program Representatives in the regional DEQ offices. The information packet can also be downloaded from the DEQ ICP Web site <http://www.deq.state.or.us/wmc/cleanup/icp-main.htm>.

Initial Meeting

DEQ's Environmental Cleanup Program Representative will offer to meet with you and your representatives to discuss the project, the ICP, and any questions or concerns you may have regarding the process, schedule and requirements. The purpose of the meeting is to provide a forum for you to discuss site environmental issues and for DEQ to provide advice regarding the suitability of the site for the ICP. It also provides an opportunity to discuss what, if any, existing information DEQ has about the site, potentially including a ranking by DEQ's Site Assessment Program.

The Initial Site Screening form will also be discussed at this meeting. This form is designed to quickly identify good candidates for the ICP. If you do not have enough information about the site to answer the questions on the Initial Site Screening form, additional site investigation activities need to be conducted before we know if the project qualifies for the ICP.

If the site passes this initial screening, it is eligible for the ICP. If the site does not pass, the ICP may still be an option. To make that determination, you will need to provide enough

information for DEQ to complete a site prioritization.

Intent to participate form and site eligibility information

If the site appears to be appropriate for the ICP, you will be asked to submit the completed Intent to Participate form and Initial Site Screening form or additional site information necessary to complete the site prioritization. The Intent to Participate form has a place where you indicate if you want Site-Specific Technical Consultation from DEQ during the cleanup activities.

Site-Specific Technical Consultation

DEQ offers Site-Specific Technical Consultation on a cost recovery basis for participants in the ICP who want some level of DEQ input during their cleanup activities. Site-Specific Technical Consultation can range from draft work-product review (e.g., work plans, site investigation reports, and beneficial use determinations) to advice on how to manage unanticipated findings at the site.

Cost recovery agreement

After receiving the completed Intent to Participate Form and Initial Site Screening form, DEQ will prepare a Cost Recovery Agreement for your signature. You return the signed Agreement, along with a \$1,500 deposit, to DEQ.

DEQ reviews submitted information

Once DEQ receives the executed Cost Recovery Agreement and deposit check, DEQ will review the site eligibility information, prioritize the site if necessary, and determine if it is eligible for the ICP. If the site does not meet the requirements for the ICP, DEQ's Environmental Cleanup Program Representative will provide information on other program options.

DEQ's acknowledgment letter

If the site is eligible for the ICP, DEQ will prepare and submit an Acknowledgment Letter accepting the project into the ICP. DEQ will add the site to the Environmental Cleanup Site Information (ECSI) database, assign technical consultation staff (if requested), and issue a press release or public notice announcing your participation in the ICP. This public notification

will only be issued for those ICP sites that anticipate additional investigation and/or cleanup activities.

Generally, DEQ requires 90 days advance notice of final report submittal before we can commit to complete our review of the final report within a 60-day time frame.

If you submit your Final Report on schedule after the 90-day notice period, as indicated in the ITP form, a DEQ Project Manager will be immediately assigned. If the Final Report is not submitted on schedule, the time frame for report review will depend on staff availability.

Independent cleanup

You or your consultant or contractor complete the independent cleanup (or has completed the independent cleanup prior to entering the program) in accordance with Oregon statutes and rules.

Prepare final report

You or your consultant or contractor prepare and submits the ICP Final Report Checklist and Final Report to DEQ for review and approval. The Final Report must be signed and stamped by a Registered Geologist or Professional Engineer licensed to practice in Oregon. A report preparation guide is available on our Web site at <http://www.deq.state.or.us/wmc/cleanup/icp-main.htm>.

DEQ's review of final report

If data collection, analysis and conclusions drawn in the report are deemed acceptable in accordance with Oregon statutes and rules, DEQ will send you a letter accepting the report and agreeing that the independent cleanup appears complete.

If the report is found to be incomplete or inaccurate, then the DEQ Project Manager will prepare a letter describing the data gaps or inaccuracies and submit the letter to you within the target time period. You will be asked to correct the data gaps or inaccuracies and resubmit the report. DEQ will attempt to complete its review of the revised report within 60 days of receipt.

DEQ Issues NFA Determination

Once DEQ accepts the final report, DEQ will begin proceeding through the NFA process:

- DEQ Project Manager prepares a Staff Memo recommending NFA.
- DEQ Program Manager reviews and approves the Staff Memo, if appropriate.

- DEQ Project Manager prepares and publishes the public notice* and issues a press release.
- After satisfying the public notice* and Participation requirements, DEQ issues the NFA letter.

Delisting

Sites that are cleaned up or are found to not present an unacceptable risk can be removed from the Confirmed Release List and the Inventory following the completion of public notice. If protection is maintained by institutional or engineering controls, the site must remain listed.

**Note: Public notice is required if a cleanup action was completed, or if institutional or engineering controls are used. Public notice is also required to delist a property from the Confirmed Release List or the Inventory.*

For additional information

Additional information and materials related to the Independent Cleanup Pathway may be obtained through DEQ's Web Site at <http://www.deq.state.or.us/wmc/cleanup/icp-main.htm>, or by contacting the Environmental Cleanup Program Representative at your regional DEQ office.

Alternative formats

Alternative formats of this document can be made available. Contact DEQ's Office of Communications and Outreach, Portland, for more information at (503) 229-5317.



VOLUNTARY CLEANUP PROGRAM INDEPENDENT CLEANUP PATHWAY INTENT TO PARTICIPATE

Identification of Site

Site Name: _____

Site Address: _____

Legal Name of Owner: _____

Legal Name of Operator: _____

Mailing Address: _____

Contact Name: _____ Phone: _____ e-mail: _____

Township: _____ Range: _____ Section: _____ Tax Lot (s): _____ Size (acres): _____

Latitude (Lat) Degrees: _____ Minutes: _____ Seconds: _____

Longitude (Long) Degrees: _____ Minutes: _____ Seconds: _____

Method of determining Lat/Long: _____

(Note: If you cannot provide a lat/long for your site, please include a 7.5 topographical map, with the site clearly marked on it, along with this form and we will determine the lat/long for you.)

Summary of Contamination Information

Please provide (or attach) the information below to the extent available.

Current site use:

Historic site use:

Known or suspected contaminant source(s):

Known or suspected contaminant(s):

Contaminated media:	Soil ___ Yes ___ No ___ Unknown	Groundwater ___ Yes ___ No ___ Unknown
	Sediment ___ Yes ___ No ___ Unknown	Surface Water ___ Yes ___ No ___ Unknown
	Indoor Air ___ Yes ___ No ___ Unknown	Outdoor Air ___ Yes ___ No ___ Unknown

Independent Cleanups – Site Eligibility

Please answer the questions below:

Yes No Has your site been ranked as low or medium priority by DEQ’s Site Assessment Program?

Yes No Are free-phase products present in the groundwater?

Yes No Has the site contamination impacted an existing drinking water source (groundwater or surface water)?

Yes No Has the soil, groundwater or surface water contamination at the site migrated beyond the property boundary?

Yes No Is the site in or within 1000 feet of a Sensitive Environment as defined in OAR 340-122-115(49)?

Yes No Are contaminant odors present in any buildings, manholes or other confined spaces?

If you answered yes to the first question and/or no to all of the last five questions you are automatically eligible for the ICP. If not, please discuss the site conditions with DEQ’s Environmental Cleanup Program Representative in this regional office to determine if your site may still be eligible for the ICP. DEQ may request additional site information to make the final site eligibility determination

Oversight Needed

► Is the investigation and/or cleanup already completed? Yes____ No____

► Would you like DEQ Technical Consultation during execution of the project? Yes____ No____

► Estimated project start date: _____
(month/day/year)

► Estimated project completion date: _____
(month/day/year)

► Estimated date when final report, stamped by a State of Oregon Registered Geologist (RG) or professional engineer (PE), will be submitted to DEQ for review: _____
(month/day/year)

Anticipated Project Complexity

_____ Simple cleanup sites are those where:
a) hazardous substances are limited to containers or to the unsaturated soil zone only;
b) the extent and type(s) of contamination is well-defined;
c) there are few contaminants of concern; and
d) the selected treatment option is a conventional technology.

_____ Moderately complex or complex cleanup - This category includes all sites that do not meet simple cleanup criteria above.

Intent to Participate

The undersigned intends to participate in DEQ's Voluntary Cleanup Program through the Independent Cleanup Pathway, and intends to negotiate in good faith a written agreement with DEQ. However, this Intent to Participate does not constitute such an agreement, and neither DEQ nor the undersigned will be bound to proceed unless such an agreement is executed. The agreement will describe the project activities of each party and will require the undersigned to reimburse DEQ for all of its oversight costs.

If the site is placed on DEQ's waiting list, DEQ will notify the undersigned in writing when it is moved to active status (typically in 90 days or less) and include a cost recovery agreement for signature. Following execution of a signed agreement and payment of the \$1,500 deposit the undersigned shall be prepared to submit all documentation summarizing existing conditions, activities and status at the site to DEQ for review. The undersigned understands that DEQ will move sites from the waiting list to active status based on various considerations, only one of which will be the timing of the original placement of a site on the waiting list.

With this Intent to Participate, the undersigned does not admit or assume liability for investigation or cleanup of the site. In addition, the undersigned may terminate this Intent to Participate at any time by notifying DEQ in writing.

Please execute this Intent to Participate in the space below and return to:

Department of Environmental Quality
Environmental Cleanup Program
(Regional office address)

Please DO NOT submit a deposit check at this time.

By: _____
(signature of authorized officer)

Name: _____
(print or type)

Title: _____

Company: _____

Date: _____

Telephone: _____

Invoicing for Cleanup Program Costs

Background

Owners and operators of facilities or property contaminated by hazardous substances are responsible, under Oregon law, for cleaning up the site. The Oregon Department of Environmental Quality's role is to ensure that the cleanup is done in a way that protects human health and the environment. Oregon's law requires that those responsible for the contamination reimburse DEQ's costs of carrying out this responsibility.

The 1987 Oregon Legislature established the state's first environmental cleanup law, requiring reimbursement, or cost recovery, from responsible parties. Ten years later, the Legislature revised Oregon's hazardous waste law to authorize DEQ's Environmental Cleanup Program to also recover costs at sites being cleaned up under the federal Resource Conservation and Recovery Act (RCRA).

What DEQ costs are charged to responsible parties?

Cleanup and hazardous waste laws authorize DEQ to charge all reasonable costs *attributable to or associated with* cleanup or hazardous waste activities at a particular site. DEQ accounts for these costs as *direct* and *indirect* costs.

Direct costs are expenditures made specifically for the site, such as the cost to travel to the site, and DEQ staff time directly associated with the site, including time spent to:

- Consult with the owner and/or environmental consultants
- Review data and reports describing the type and extent of contamination
- Review proposed cleanup actions
- Provide information about the site and opportunities for the public to comment on the cleanup
- Provide comments and/or direction on the preferred cleanup method or remedy.

Indirect costs are those which support the operation of DEQ's Environmental Cleanup Program in general, but are not directly related to specific projects.

Examples of indirect costs are:

- Office space, equipment and supplies

- Non-site-specific activities of project staff, such as training and program administrative activities
- Clerical, computer network, time accounting, invoicing and grants management
- Management and supervision
- Development of technical guidance and policies
- A share of DEQ centralized services, such as accounting, budgeting, human resources and information systems.

DEQ charges for two types of indirect charges. One is the costs incurred by DEQ's Land Quality Division; the other is Land Quality's share of DEQ-wide costs. Both the Land Quality and DEQ agency indirect rates are designed to charge each project its share of all indirect costs.

How are indirect rates established?

DEQ sets the **Land Quality rate** by calculating the pool of program costs and dividing by the wages and benefits charged to site cleanup work. This produces a factor that can be applied to the salary and benefit charges for each project invoiced.

The **DEQ agency indirect rate** is negotiated annually with the U.S. Environmental Protection Agency (EPA), so that indirect costs can be charged against federal grants and cooperative agreements. EPA requires that this indirect rate be charged to all DEQ activities regardless of funding source.

Rates for the state fiscal year beginning July 1, 2005 are:

- Land Quality rate: 182%
- DEQ agency indirect 19.2%

The average hourly rate for employee time, including indirect assessments, is about \$122.

How are individual site costs calculated?

DEQ's accounting systems record the time each employee works on a project. Staff time is charged to the project using the actual hourly cost of the wages and benefits (such as taxes and health insurance) for each



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employee. Indirect costs are then added to this hourly rate as a percent of directly-charged personnel costs. Separate costs incurred specifically for that cleanup project, such as supplies and travel expenses, are also recorded and invoiced as direct costs.

Oversight cost estimates

Individuals and businesses cleaning up property with DEQ review or oversight typically enter into some type of agreement with DEQ. The agreement varies depending on the nature of the cleanup or the statutory authority under which the cleanup is carried out. The document specifies the type of oversight or technical assistance to be provided by DEQ and the terms of payment for that oversight.

A written estimate of oversight costs is available for a specified timeframe or phase of a project to responsible parties in the Voluntary Cleanup, Site Response and Hazardous Waste programs. DEQ will also provide, on request, a written explanation when actual costs exceed projected costs by more than 20%.

What do invoices look like?

Invoices provide, on request, information about direct charges, including a report that shows the number of hours charged by each employee, and the nature of the work performed.

Employee wages, benefits and indirect charges are combined on one line called "personal services." Direct charges for costs such as supplies travel are listed separately. Current and past due amounts are detailed.

The back of the invoice contains a general description of costs and a name and number to call if there are any questions.

When are payments due?

Payments are due 30 days from the date of the invoice. DEQ is required by law pursue collection of unpaid balances by assignment of the debt to the Oregon Department of Revenue or an independent collection agency or directly by recording liens on real property owned by the responsible party.

For more information

Please contact Norm King of DEQ's Land Quality Division, Portland, at (503) 229-6941, or toll-free in Oregon at 1-800-452-4011, ext. 6941.

Alternative formats

Alternative formats (Braille, large type) of this document can be made available. Please contact DEQ's Office of Communications and Outreach, Portland, at (503) 229-5696, toll-free in Oregon at 1-800-452-4011, ext. 5696.

[DATE]

[NAME]
[COMPANY]
[ADDRESS]
[CITY, STATE ZIP]

RE: Independent Cleanup Agreement – Site Specific Technical Consultation
and/or Final Report Review
[PROJECT NAME, ECSI #]

Dear :

This letter serves as an agreement between the Oregon Department of Environmental Quality (DEQ) and [NAME] regarding DEQ's Site Specific Technical Consultation and DEQ's review of the investigation and/or cleanup of hazardous substances at your property, [SITE] [ADDRESS] in [CITY], Oregon.

DEQ agrees to provide Site Specific Technical Consultation to you regarding the investigation and/or cleanup of the above referenced site. DEQ also agrees to review the Final Report regarding the independent investigation and/or cleanup at the above referenced site. . If adequate documentation of the investigation and current site conditions are provided by [NAME], DEQ will [select or] approve a remedial action and/or make a "no further action" determination that meets the cleanup standards in ORS 465.315 and OAR 340-122-040. DEQ will provide public notice and opportunity for comment on the remedial action and/or "no further action" determination in accordance with ORS 465.320.

DEQ requires that persons seeking DEQ Site Specific Technical Consultation or review of the Final Report for independent cleanups provide a minimum deposit of \$1,500 as an advance against costs DEQ will incur. The advance deposit must be in the form of a check payable to DEQ. When you have signed this Agreement to formalize your request, and your deposit has been received by DEQ, an account will be established for the project.

DEQ technical consultation costs include direct costs and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the DEQ and of the Environmental Cleanup Division (ECD). Indirect costs are those allocable to DEQ oversight of this Agreement, which

[NAME]
Cost Recovery Agreement
ICP with Site Specific Technical Consultation

are not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs. Site Specific Technical Consultation and review costs include only the reasonable costs recoverable by DEQ under ORS 465.255.

DEQ will provide you with a monthly statement, a sample of which is attached. If project costs exceed the account balance, DEQ will submit to you an invoice for all costs in excess of the advance. If project costs do not exceed the account balance, DEQ will refund within 60 days of the close of the project any amount of the deposit remaining in excess of the actual costs.

Either DEQ or [NAME] may terminate this Agreement by giving 15 days advance written notice to the other. Only those costs incurred or obligated by DEQ before the effective date of any termination of this Agreement are recoverable under this Agreement. Termination of this Agreement will not affect any other right DEQ may have for recovery of costs under any applicable law.

[NAME] agrees to hold DEQ harmless and indemnify DEQ for any claims (including but not limited to claims of property damage or personal injury) arising from activities of [NAME] reviewed under this Agreement.

This Agreement is not an admission by [NAME] of any liability under ORS 465.255 or any other law, nor is it a waiver of any defense to such liability. This Agreement is not a waiver, release or settlement of any claims DEQ may have against [NAME] or any other person, nor is it a waiver of any enforcement authority DEQ may have with respect to [NAME] or the property.

Upon DEQ's request and as necessary to review your work under this Agreement, [NAME] will provide DEQ with data and records related to investigation and cleanup activities at the property, excluding any privileged documents identified as such by you.

DEQ appreciates your interest in the Voluntary Cleanup Program and the Independent Cleanup Pathway and looks forward to working with you.

Sincerely,

[NAME]
Voluntary Cleanup Manager

If the terms of this Agreement are acceptable to [NAME], please have it executed by

[NAME]
Cost Recovery Agreement
ICP with Site Specific Technical Consultation

an authorized representative in the space provided below and returned to us.

Accepted and agreed to this _____ day of _____, 20__.

By:

Title:

Attachments: Sample Invoice

[NAME]
Cost Recovery Agreement
ICP with Site Specific Technical Consultation

Independent Cleanup Pathway Final Report Checklist

All reports must be stamped by a State of Oregon R.G or P.E.

Detailed instructions on what to include in each section can be found in the *Independent Cleanup Pathway Report Preparation Guide*. The guide and a report outline are available to download from DEQ's Web site. <http://www.deq.state.or.us/wmc/cleanup/guidelst.htm>

1. Independent Cleanup Pathway Eligibility	Yes	No	NA
a) Independent Cleanup Pathway Cost Recovery Agreement signed and accepted by DEQ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Initial Site Screening or SAPS form demonstrates site is low or medium priority and ranking accepted by DEQ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Current DEQ invoices paid?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>			
2. Remedial Investigation (include report sections, as appropriate)			
a) Executive Summary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Table of Contents <ul style="list-style-type: none"> • List of Tables • List of Figures • List of Appendices 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Introduction <ul style="list-style-type: none"> • Purpose • Objectives 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Site Background <ul style="list-style-type: none"> • Site location (including scaled site map with property boundaries and vicinity map showing areas within approximately 1-mile radius of site) • Site Description including current structures, improvements, underground utilities, dry wells, and water supply wells • Ownership history • Operating history • Regulatory history • Previous investigation 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Environmental Setting <ul style="list-style-type: none"> • Climate information • Topography • Surface water hydrology • Regional and site geology and soils • Hydrogeology 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No	NA
f) Site Investigation <ul style="list-style-type: none"> • Site characterization plan • Sampling methods • Identification and description of the source(s) of contamination • Extent of contamination in soil, groundwater, other media g) Exposure Pathway Summary <ul style="list-style-type: none"> • Groundwater pathways • Direct contact • Surface water and sediment • Indoor and outdoor air h) Contaminant Fate and Transport <ul style="list-style-type: none"> • Contaminant transport • Contaminant degradation/persistence • Demonstration of no impact to groundwater • Preliminary hot spot determination • Conceptual site model i) Land and Water Use Determinations <ul style="list-style-type: none"> • Current and future land use • Beneficial use of water • Locality of the facility 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Site Risk Assessment <ul style="list-style-type: none"> a) Baseline human health b) Baseline ecological c) Cleanup standards and hot spots <ul style="list-style-type: none"> • Selection of cleanup standards • Final hot spot determination d) Residual Risk <ul style="list-style-type: none"> • Residual risk assesment • Protection of human health and the environment • Inspection and maintenance program • Residuals management plan 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Explanation and Rationale of Remedial Actions <ul style="list-style-type: none"> a) Development of remedial action alternatives b) Evaluation of remedial action alternatives c) Recommended remedial action 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Removal or Remedial Action Report <ul style="list-style-type: none"> a) Work completed b) Verification sampling c) Engineering controls d) Institutional controls e) Long term maintenance needs 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. References	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Cleanup Process and Criteria

Background

This fact sheet describes procedures Oregon Department of Environmental Quality (DEQ) uses to review and approve cleanups of hazardous substances under Oregon Revised Statute (ORS) 465.200 et seq. and Oregon Administrative Rules (OAR) 340-122-0010 to 0140.

Cleanup procedures

Many historic releases of hazardous substances are satisfactorily cleaned up without DEQ review and approval of the cleanup action. Discharges to water or air from a site are regulated by DEQ's water quality and air quality divisions, and may need permits from those programs. Federal and state solid waste and hazardous waste laws also apply to cleanup sites.

Property owners often desire review and approval of their cleanup because DEQ issues "No Further Action" determinations for sites that satisfactorily address cleanup requirements. In cases where a past release of hazardous substances poses a significant threat to human health or the environment, DEQ will require cleanup. All work plans and reports prepared for DEQ review and approval must be signed and stamped by a Registered Geologist or Professional Engineer licensed to practice in Oregon. Sites are cleaned up in a variety of ways. DEQ offers the following pathways for review and approval of cleanups conducted by property owners:

- **The Independent Cleanup Pathway** is designed for sites of low or medium environmental priority. A site owner can complete the investigation and cleanup independently, and request final approval from DEQ.
- **The Voluntary Cleanup Pathway** is available for sites of low, medium or high environmental priority and cooperative participants. DEQ provides oversight throughout the investigation and selects or approves the remedial action through a collaborative process.
- **The Site Response Program** addresses sites of medium or high environmental priority that may require enforcement actions. DEQ provides oversight throughout the investigation and cleanup, and selects the remedial action.

Fundamental standard for cleanup

All cleanups that are approved or selected by the DEQ must assure protection of public health, safety, welfare and the environment. If the site does not pose an unacceptable risk, as defined by ORS 465.315, remedial action is not required.

Criteria for remedy selection

Protection of public health, safety, welfare and the environment is the standard applicable to all cleanup sites, including Independent Cleanup Pathway sites. For Voluntary Cleanup and Site Response Sites where DEQ selects the remedy, two additional principles guide DEQ's decisions.

First, DEQ evaluates and selects a cleanup remedy based on the following criteria:

- Effectiveness
- Implementability
- Long-term reliability
- Implementation risk
- Reasonableness of cost

These criteria are used in the evaluation of cleanup options. Please refer to OAR 340-122-0090 and DEQ guidance documents for additional information.

Second, ORS 465.315 establishes preferences for the type of cleanup to be selected. For example, if current or reasonably likely future uses of water are impacted, the cleanup law establishes a preference for treatment. Similarly, if contamination in soil is a highly concentrated "hot spot", the cleanup law establishes a preference for treatment or removal. For contamination that is not a "hot spot" under the cleanup law, there is a preference for selecting the least expensive protective cleanup option.

Additional information

Additional cleanup program information can be found at: www.deq.state.or.us/wmc/cleanup, or by contacting the Environmental Cleanup Program Representative at the regional DEQ office. The contact list can be found at: www.deq.state.or.us/wmc/cleanup/vcp0.htm.

Alternative formats

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SELECTING AN ENVIRONMENTAL CONSULTANT

Welcome to DEQ's Environmental Cleanup Program. This fact sheet offers some tips on how to choose an environmental consultant.

Asking questions and checking references is essential. A competent consultant will help you define the problem and develop solutions that are protective, in compliance with environmental regulations, and cost effective.

Your consulting team should have:

- A thorough understanding of Oregon's environmental cleanup law and rules.
- Experience in projects that are similar to yours in scope and nature.
- Excellent communication skills, both verbal and written.

Where to Begin

Compile all the information you can about the property, including the history of operations at the site, potential sources of contamination, and company records on where and how hazardous substances have been used and/or stored. Prepare a brief, written description of the site, including current use and the work you think needs to be done. Providing as much information as you can will enable consulting firms to give you more accurate estimates. This can save you time and money. While DEQ cannot recommend specific consultants, we can give you references from other cleanup projects.

The firm you select needs to demonstrate not only that it is capable, but that it will have qualified staff available at the time you want the work done. Ask the consulting firm to

estimate the time needed to complete the work required and how they might phase the work to fit your budget and your plans for the site. Keep in mind that environmental investigations often turn up new information that may change the scope.

Questions to Ask Prospective Consultants

- Names of companies they worked for in the past, and how similar the projects are to yours.
- How much work was subcontracted and who were those subcontractors? Would they use them again?
- Did they encounter unexpected delays or staff turnover? How was this handled?
- Was the project completed on time and within budget?
- What is their experience in working with DEQ or other regulators?
- What potential impact will the cleanup have on customers, neighbors or traffic?

Check References!

Checking references is probably the most important part of the selection process. Before choosing a consulting firm, it is critical to talk with businesses the firm cites as references. Some questions you may want to ask include:

- Were you satisfied with your consultant's work?
- Did you have any concerns about the firm's performance or fees?
- What specific staff members were on your team?



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- Was your project completed on time and within budget?
- Did you encounter any unexpected delays or staff turnover? If so, were these handled to your satisfaction?
- Did the firm have to “re-do” any part of your project because it wasn’t done adequately the first time?

Last Step: Request Proposals

Ask for proposals from firms or individuals that seem to best meet your needs. Proposals should include a scope of work, staff resumes, estimated work schedules, anticipated costs and related fees, estimated total project costs with an itemized fee schedule, and references. Make sure the estimated work schedule also includes time for DEQ review and approval. Here are some things to look out for in reviewing proposals:

- Bids that are significantly lower than those of competing firms.
- “Hard sell” approaches.
- Minimizing or maximizing potential technical or legal problems.
- Strong biases against certain investigation techniques or cleanup alternatives.
- Conflicts of interest, and
- Overly optimistic timelines.

Interviewing prospective consultants, checking their references, and reviewing the proposals will help you make an informed decision about which consultant to hire for your project.

Alternative formats

Alternative formats of this document can be made available. Contact DEQ’s Office of Communications and Outreach, Portland, for more information at (503) 229-5317.

VOLUNTARY CLEANUP PROGRAM REFERENCE LIST

References are listed alphabetically by person, and includes company and contact information.

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Protection of Archeological and Cultural Resources

Background

Oregon state law prohibits the excavation, destruction or alteration of any archaeological site or collecting of archaeological objects located on public or private land, unless a state permit and written permission from the landowner are obtained. Destruction or damage to any human burial site, human remains or Native American sacred (or other special) objects are also prohibited, unless a state permit and written permission from the landowner are obtained.

Cultural resources are of significant importance to Native American tribes, and can include ceremonial artifacts, objects at burial sites, or human remains. Traditional cultural values often reflect the way a community or group defines itself, and maintaining such values is critical to maintaining the group's sense of identity. Properties that hold traditional cultural value are of critical significance to the community, and any damage to or intrusion upon them is considered to be deeply offensive to, and even harmful to, the group that values them. As a result, it is extremely important that identification and protection of traditional cultural properties be considered carefully in planning ground-disturbing activities.

Properties with cultural significance include:

- Locations associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world.
- Location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities.
- Locations where a community has traditionally carried out economic, artistic or other cultural practices important in maintaining its historic identity.

The Oregon Department of Environmental Quality (DEQ) recognizes the significance of archeological, historical and cultural resources and is committed to the principle that management of cleanup sites is undertaken in compliance with applicable laws related to historical and cultural resources.

Archeological and cultural resource Laws:

Laws that may apply to a cleanup project include:

- National Historic Preservation Act of 1966 (16 United States Code (USC) 470 et seq.)
- Archeological Resources Protection Act (16 USC 470aa et seq.)
- Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001 et seq.)
- Oregon Laws Protecting Indian Graves (Oregon Revised Statute (ORS) 97.740 et seq.)
- Archeological Site Permit Requirements (ORS 358.905 et seq.)

At cleanup sites in Oregon, the state laws are likely the most applicable. Federal laws regarding the protection of archeological resources may also apply if a federal agency is involved in the project. Federal involvement that may trigger federal cultural resource laws include:

- Work at federal National Priority List (NPL) Superfund sites;
- Work on land owned by the federal government;
- Cleanups where a federal agency is a responsible party; and
- Work that is paid for with federal funds



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Activities affecting cultural or archaeological resources

Any type of ground-disturbing work, (such as installation of monitoring wells, test pits or soil removals) could impact a cultural resource. This could occur during various phases of the cleanup process including site assessment, remedial investigation and remedial or removal actions.

At sites where a Responsible Party is conducting an investigation or cleanup, that party is responsible for complying with all applicable laws.

Assessing needs for a survey

Oregon law does not require that a cultural resource survey be completed before ground-disturbing activity begins. However, it may be beneficial to contact the State Historic Preservation Office before work is performed to determine if any information about the area's historic or cultural significance exists, and to find out if there's a need for a cultural or archaeological resource survey at the site. Taking the time, before a project starts, to identify the possibility that cultural resources exist at the site may reduce the potential for costly delays if artifacts are inadvertently discovered. Before ground-disturbing activity begins, contact the State Historic Preservation Office, Salem, at (503) 378-4168.

Inadvertent discoveries

If you inadvertently discover cultural or archaeological resources on a site, immediately contact the State Historic Preservation Office regarding discovery or potential damage to archaeological sites. Notifications should also be made to the Legislative Commission on Indian Services at (503) 986-1067. The Commission has broad statutory responsibilities concerning the protection of cultural resources in Oregon. Under ORS 390.235 (Historic Materials), the Commission participates with the State Historic Preservation Office in the archaeological excavation permit process. Under ORS 97.740 (Burial Law), and ORS 358.905 (Archaeological Sites and Objects), the Commission is responsible for providing consultation and designating the

appropriate tribe if a Native American burial site or archaeological object is discovered.

Responsible Parties should notify the DEQ cleanup project manager for the site where cultural resources have been encountered, so any necessary modifications in the proposed work can be discussed. However, the specific details of the discovery must be kept confidential, in accordance with state and federal law.

For more information

- For questions about DEQ's policies on cultural resources, contact DEQ's Tribal Liaison: Mikell O'Mealy
Phone: 503-229-6590
Toll-free in Oregon: 1-800-452-4011
e-mail: Omealy.Mikell@deq.state.or.us
- For more information about Oregon laws and cultural resources, contact:
- The State Historic Preservation Office (SHPO) at 503-378-4168, or <http://www.shpo.state.or.us/index.php>
- The Legislative Commission on Indian Services at (503) 986-1067, or <http://www.leg.state.or.us/cis>
- For information on the National Historic Preservation Act, visit the Advisory Council on Historic Preservation Web page: <http://www.achp.gov/usersguide.html>
- For the document *Guidelines for Evaluating and Documenting Traditional Cultural Property*, visit the National Register Bulletin Web page: http://www.cr.nps.gov/NR/publications/bulletins/nr38_toc.htm

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CLEANUP PROGRAM GUIDANCE AND POLICY DOCUMENTS

The Cleanup program statute, administrative rules, and guidance documents are available to view or download at DEQ's Web page <http://www.deq.state.or.us/wmc/cleanup/guidelst.htm>.

Independent Cleanup Pathway Report Preparation Guide

Cleanup Program Quality Assurance Policy

Contaminated Aquifer Policy

Risk-Based Decision Making for the Remediation of Petroleum-Contaminated Sites

Generic Remedies for Soils Contaminated with Polychlorinated biphenyls (PCBs)

Guidance for Conduct of Deterministic Human Health Risk Assessments

Guidance for Ecological Risk Assessment

Level I: Scoping

Level II: Screening

Level II Screening Benchmark Values

Level III: Baseline

Level IV: Field Baseline

Toxicity Equivalency Factors (TEF) Policy Statement

Guidance for Identification of Hot Spots

Pre-Calculated Hot Spot Look-up Tables Guidance

Guidance for Use of Institutional Controls

Guidance for Consideration of Land Use

Guidance for Conducting Beneficial Water Use Determinations at Environmental Cleanup Sites

Guidance for Conducting Feasibility Studies

Guidance for Managing Hazardous Substance Air Discharged from Remedial Systems

Description of "Permit Exemption" Provisions

Guidance for Evaluating Residual Pesticides on Lands Formerly Used for Agricultural Production

Listing and Delisting Criteria

Prospective Purchaser Program Guidance

ENVIRONMENTAL CLEANUP GLOSSARY

CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund; the federal law passed in December 1980 authorizing identification and cleanup of abandoned hazardous waste sites.

Conceptual Site Model (CSM): A summary that identifies all of the known or suspected sources of contamination, where they are located, how they are likely to move, and who is likely to be affected by them.

Confirmed Release List and Inventory: Two related, but separate lists of properties where DEQ has verified the release of hazardous substances into the environment. Sites on the Confirmed Release List (CRL) do not necessarily require any cleanup action. Sites on the Inventory, which is a subset of sites on the CRL, do require further investigation or cleanup, as determined by a Preliminary Assessment (defined below).

DEQ: Department of Environmental Quality; the Oregon state agency established to restore, enhance, and maintain the quality of Oregon's air, water and land.

ECSI: Environmental Cleanup Site Information; DEQ's database of contaminated and potentially contaminated sites throughout Oregon.

EPA: U.S. Environmental Protection Agency; the federal agency responsible for enforcing federal laws protecting the environment.

Environmental Cleanup Law: The 1987 Oregon state law that created the environmental cleanup program.

EQC: Environmental Quality Commission; the five-member citizen panel appointed by the governor to oversee the Dept. of Environmental Quality and set the environmental policies and regulations for Oregon.

Facility or Site: The area defined by the extent (horizontal and vertical) of migration of hazardous substances. The site may be smaller or larger than the property.

Feasibility Study (FS): A study conducted to determine different options for cleaning up a site; it is based on information gathered during the "remedial investigation." The FS examines different levels of cleanup, cost effectiveness, permanence and level of protection, as well as available technology.

Formal Agreement: An agreement that specifies the roles and obligations of the participant and DEQ when investigating or remediating contamination from hazardous substances.

Hot Spot: Contamination concentrations that cause a significant adverse effect in surface water or groundwater, or is highly concentrated in soil or other environmental media.

Letter Agreement: An agreement that specifies a limited scope of work and provides reimbursement for DEQ oversight costs. Used at simple sites and to define the scope at more complex sites.

Locality of Facility: Any point where a humans, animals or plants are likely to come into contact with facility related hazardous substances now or in the future.

OAR: Oregon Administrative Rule. The rules that describe how the cleanup program is implemented start at OAR 340-122-0010.

ORS: Oregon Revised Statute. The Environmental Cleanup Law starts at ORS 456.200.

Preliminary Assessment (PA): The initial investigation to determine whether a hazardous substance has been released into the environment, and whether further action is necessary.

Release: A hazardous substance that has spilled, leaked, or otherwise been discharged into the environment.

Removal Action: Taking the contaminated substance, such as soil, to another location offsite.

Remedial Action: Work done at a contaminated site to clean up, control, or contain hazardous substances.

Remedial Investigation (RI): An environmental investigation that includes information on the types and concentrations of hazardous substances, the geology and hydrology of the area, and an evaluation of potential risks to human health and the environment. It is the basis for determining what cleanup methods will be most effective at a particular site.

Risk Assessment: A comprehensive evaluation that examines potential risk to human health and/or the environment in terms of routes of exposure, populations at risk, and degree of harmful effects; usually conservative, that is, "reasonable maximum exposure" scenarios.

Work Plan: A detailed plan that includes a schedule for completing an investigation, a description of sampling methods to be used, and quality control measures and safety procedures.