

Voluntary Cleanup Pathway Information Packet

Voluntary Cleanup Program



State of Oregon
Department of
Environmental
Quality

This packet includes:

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

DEQ-05-LQ-087

How to sign up for the Voluntary Cleanup Pathway (VCP)

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 - 8 in this packet. Do not send any money now.
3. You will receive a cost recovery agreement from DEQ. Sign the agreement and return it to DEQ with your \$5000 deposit.
4. Please advise DEQ if you have particular schedule needs.
5. DEQ will contact you as soon as a project manager is assigned to your project, generally in 90 days or less.

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

**Eastern Region
Bend**

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

**Northwest Region
Portland**

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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

Background

The Voluntary Cleanup Program offers two options for owners and operators of contaminated property to voluntarily investigate and, if necessary, clean up their sites: the standard Voluntary Cleanup Pathway (VCP) and the Independent Cleanup Pathway (ICP). Please see the Independent Cleanup Pathway Information Packet for detailed information on the ICP. The ICP information packet is available on DEQ's Web site at www.deq.state.or.us/wmc/cleanup/icp-main.htm.

Both options offer flexibility and allow for more efficient investigation and cleaned up to facilitate the use, sale, refinancing and/or redevelopment of contaminated property, while protecting human health and the environment.

Benefits of voluntary cleanups

The VCP is a flexible full service program that:

- Provides DEQ oversight throughout the investigation and cleanup.
- Ensures that your cleanup meets Oregon's Environmental Cleanup Law.
- Is available for high, medium and low priority sites and all environmental media.
- Is accepted by banks and insurance companies.
- Can provide exemption from permits for some on-site work.

Risks

All sites that enter the VCP will be added into DEQ's Environmental Cleanup Site Information (ECSI) database. Sites with a verified release are listed on the Confirmed Release List. Sites that require further action are also listed on the Inventory List.

If you enter the VCP program with a high priority site in terms of environmental risk and work falls unreasonably behind the agreed-to schedule, you may be required to enter the Site Response program and sign a consent order to ensure that human health and the environment are protected. Information about the Site Response program is available at DEQ's Web site at www.deq.state.or.us/wmc/cleanup/srs0.htm.

Services

DEQ's Voluntary Cleanup Program issues No Further Action (NFA) determinations for sites demonstrated not to present unacceptable risk. We also provide the following services:

- Preliminary assessment review
- Risk-based cleanup standards
- Operable unit approach where a section of the site may be redeveloped while cleanup is still occurring on other sections
- Report/document review
- Technical assistance and regulatory guidance
- Negotiated scope of work
- Budget estimate for DEQ oversight costs
- Prospective purchaser agreements, and
- Public participation/public involvement

How to join the program

You can join the Voluntary Cleanup Program by submitting the Intent to Participate form available in this packet and on DEQ's Web site at www.deq.state.or.us/wmc/cleanup/vcp0.htm. DEQ's goal is to assign a project manager within 90 days of receiving the Intent to Participate form.

Steps in the process

Some participants have already completed significant work at their sites before entering the program. Others may demonstrate that their site does not pose an unacceptable risk and, therefore, does not require remediation. A typical project goes through the steps below.

- You submit the Intent to Participate form.
- DEQ prepares a cost recovery letter agreement and requests a \$5,000 deposit when a project manager is assigned. An example cost recovery agreement is included in this packet.
- When the agreement is signed and the deposit received, DEQ completes a file review, site visit, and strategy recommendation to achieve protective conditions at your site.
- DEQ works with you to develop an appropriate scope of work and agreement for your project.
- You develop work plans and reports for DEQ approval, to define the problem, determine the risk to human health and the environment, and evaluate potential solutions.
- You propose a remedy to DEQ. We evaluate it to make sure it meets the requirements of the Environmental Cleanup



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Land Quality Division Voluntary Cleanup Program

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Law, and gather public comments on the proposal.

- Once DEQ selects the remedy, you implement it.
- DEQ issues a “No Further Action” determination once protective conditions have been achieved through remediation or institutional controls. This process also includes a public comment period.

Contacts for further information

Additional information and materials related to the Voluntary Cleanup Program are available on DEQ’s Web site at

www.deq.state.or.us/wmc/cleanup/vcp0.htm.

Information about Brownfields redevelopment and Prospective Purchaser Agreements is available on the DEQ’s Web site at

www.deq.state.or.us/wmc/cleanup/clean.htm

You may also contact the regional and headquarters program representatives listed in the VCP packet and on the DEQ web site at

www.deq.state.or.us/wmc/cleanup/vcp0.htm.

Alternative formats

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

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.

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VOLUNTARY CLEANUP PROGRAM 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

Anticipated Project Complexity

_____ **Voluntary preliminary assessment** - A Preliminary Assessment (PA) is the initial investigation of a site to determine whether a release of hazardous substances requires further investigation or cleanup to protect public health, safety, welfare and the environment.

_____ **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.

_____ **Unknown**, please explain:

Intent to Participate

The undersigned requests oversight by the Department of Environmental Quality (DEQ) of the investigation and cleanup activities of possible contamination at the property described above and requests the site be placed on DEQ's list of sites for oversight.

The undersigned intends to negotiate in good faith a written agreement with DEQ to provide for voluntary oversight. However, this Intent to Participate does not constitute such an agreement, and neither DEQ nor the undersigned will be bound to proceed with voluntary oversight 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.

As DEQ moves sites from the waiting list to active status, DEQ will notify the undersigned in writing. Following receipt of such a notice (or earlier) the undersigned will submit a report to DEQ summarizing existing conditions, activities and status at the site. The undersigned understands that DEQ will move sites from the 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 the 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: Voluntary Letter Agreement
[PROJECT NAME, ECSI #]

Dear [NAME]:

This letter responds to your request to investigate and/or clean up contaminated property under the review and oversight of the Oregon Department of Environmental Quality (DEQ) Voluntary Cleanup Program. This letter also serves as a Letter Agreement between you and DEQ, regarding DEQ review and oversight of the investigation and/or cleanup of hazardous substances at your property located at [SITE NAME, ADDRESS, CITY], Oregon.

DEQ agrees to review environmental documents submitted by you or on your behalf regarding the investigation and/or cleanup of the above- referenced site, and to review related information available in DEQ's files, and conduct a site visit. DEQ will then recommend a course of action to complete the project. The course of action may include, but not be limited to, additional investigation, risk assessment, remedial action evaluation and selection, and/or a "no further action" determination consistent with the Environmental Cleanup Law. DEQ will provide public notice and opportunity for comment on any remedial action proposal or "no further action" determination in accordance with ORS 465.320. DEQ will also determine, in consultation with you, the form of any further agreement needed to manage the project most effectively.

DEQ requires that persons seeking DEQ review and oversight of investigation and cleanup activities provide a minimum deposit of \$5,000.00 as an advance against costs, which DEQ will incur. The advance deposit must be in the form of a check payable to the Department of Environmental Quality. When you have signed this letter to formalize your request, and your deposit has been received by DEQ, a sub-account of the Hazardous Substances Remedial Action Fund will be established to be drawn upon by DEQ as project costs are incurred.

DEQ project costs will 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 State of Oregon and DEQ allocable to DEQ oversight of this Letter Agreement and 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. Review and oversight costs will not include any unreasonable costs or costs not otherwise recoverable by DEQ under ORS 465.255.

DEQ will provide you with a monthly invoice, a sample of which is attached. In the event project costs exceed the sub-account balance, DEQ will submit to you an invoice for any costs in excess of the advance. In the event project costs do not exceed the sub-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, or will apply the remaining amount toward oversight of work under any further agreement necessary for the project.

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

You shall hold DEQ harmless for any claims (including but not limited to claims of property damage or personal injury) arising from activities performed by you and reviewed or overseen by DEQ under this Letter Agreement.

This Letter Agreement is not and shall not be construed as an admission by you of any liability under ORS 465.255 or any other law or as a waiver of any defense to such liability. This Letter Agreement is not and shall not be construed as a waiver, release, or settlement of claims DEQ may have against you or any other person or as a waiver of any enforcement authority DEQ may have with respect to you or the property. Upon DEQ's request and as necessary to oversight of your work under this Letter Agreement, you shall provide DEQ with data and records related to investigation and cleanup activities at the property, excluding any privileged documents identified as such by you.

[NAME OF PM] is currently assigned as the DEQ Project Manager for initiating the review and oversight of the investigation and cleanup activities associated with your property. Please refer all inquiries to [NAME OF PM] at [PHONE].

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

Sincerely,

[NAME OF CLEANUP MANAGER]
[Eastern/Northwest/Western Region Cleanup Program Manager]

VCS Letter Agreement
Page 3

If the terms of this Letter Agreement are acceptable to you, please sign in the space provided below and return to us.

Accepted and agreed to this _____ day of _____, 200 ____.

By: _____

Title: _____

Enclosure

cc:

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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Updated: 10/19/05
By: Ann Levine
03-LQ-013A

- 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.

Jennifer Bariska, Environmental Manager
Weyerhaeuser Co.
PO Box 9777, EC-2-2C1
Federal Way, WA 98063-9777
Phone: (253) 924-3746
E-mail: Jennifer.Bariska@weyerhaeuser.com

Gary Honeyman, Manager
Environmental Site Remediation
Union Pacific Railroad
221 Hodgeman
Laramie, WY 82070
Phone: (307) 745-6532
E-mail: glhoneym@up.com

Marvin Lewallen, Region Manager
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Tualatin, OR 97062-0244
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Cheryl Morrison, Project Manager
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Construction Services Manager
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Portland, OR 97209-3859
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E-mail: obernd@pdc.us

Mr. Charles Schwarz, R.G.
ODOT Region 1 Haz Mat Coordinator
Oregon Department of Transportation
Region 1 Geo/Hydro Unit
123 NW Flanders Street
Portland, OR 97209
Telephone: 503-229-5263
E-mail:
charles.schwarz@odot.state.or.us

Jim Weitkamp, Environmental
Engineer
MasterBrand Cabinets
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Hillsboro, OR 97123
Phone: (503) 693-0314
E-mail:
JWeitkamp@masterbrandcabinets.com

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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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Fax: (503) 229-6899
Contact: Mikell O'Mealy
www.deq.state.or.us

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

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.

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.