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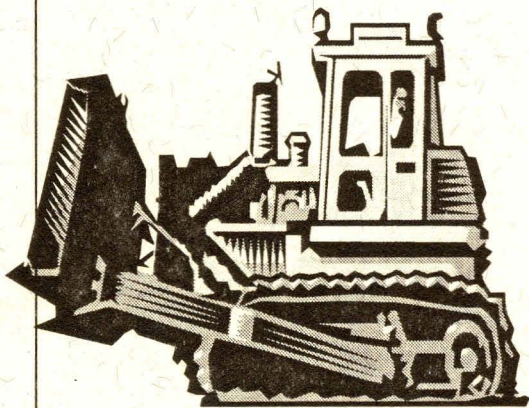
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Voluntary Cleanup & Certification



**Hazardous Materials and
Waste Management Division**



Colorado Department
of Public Health
and Environment

(303) 692-3449

Toll Free 1-888-569-1831

What is the Voluntary Clean-up Program?

Do you want to sell or develop property in Colorado? Voluntary cleanup may streamline the process for you.

The Voluntary Cleanup and Redevelopment Act (HB 94-1299) became effective on July 1, 1994. The Act provides protection of human health and the environment and fosters the transfer, redevelopment, and reuse of facilities and sites that have previously been contaminated with hazardous substances or petroleum products.

The program is intended to permit and encourage voluntary cleanups of contaminated properties. It provides people interested in redeveloping existing industrial and commercial sites with a framework for determining their site-specific clean-up responsibilities. The program also streamlines the review and approval process in order to meet the short time frames often required by property transactions.

What is special or different about this program as compared to other environmental regulatory programs?

This Act represents a new approach to environmental cleanup in the State of Colorado. It is a voluntary program and designed to be non-bureaucratic and user-friendly. It is intended to foster a cooperative relationship between the applicant and the Department. The program is designed to solve problems to the mutual benefit of the parties, not to use information to require excessive cleanup or to initiate enforcement actions against the landowner.

The philosophy of practical and reasonable cleanups is incorporated by allowing the applicant to consider the existing or proposed land use in analyzing the risk posed by any contamination. The cleanup is therefore tailored to the intended land use and not to some "possible" land use which would require additional cleanup. Further, the Department will accept appropriate, risk-based clean-up levels which have been developed elsewhere, so that the applicant does not have to expend the time and money of producing a site-specific risk assessment.

Am I putting myself at risk by applying?

Some potential applicants have expressed concern that they are “putting themselves on the radar screen” by applying, and that they might be better off not letting a regulatory agency know their site exists. The Department understands this apprehension. The best protection for the applicant is to ensure, prior to submitting an application, that their site qualifies for the program. If it does, then by definition the site does not fall within the authority of other environmental programs. Therefore, on the state level, there is no other program which would exert enforcement authority.

Further, the Voluntary Cleanup and Redevelopment Act has no enforcement authority, so that even after informing the Department of the contamination, the owner could still choose not to implement any cleanup at the site. No referral to regulatory programs would occur.

If I do a Voluntary Cleanup, will EPA make me do more work later?

On April 11, 1996, EPA and the Department signed a Memorandum of Agreement. Under it, EPA agrees not to take action on a site that completes an approved voluntary cleanup under the state law.

The MOA also identifies a process for dealing with sites that are not on the National Priorities List (NPL) but are of NPL caliber. In these cases, EPA may request some involvement, but the cleanup may still proceed under the state program.

Who is eligible for the program?

The program is designed for sites which do not fall under existing regulatory programs. Specific exemptions are included for Underground Storage Tank (UST) sites; sites which have or should have a RCRA permit for treatment, storage, or disposal of hazardous waste, or are under a RCRA Corrective Action Order; sites listed or proposed for listing on the NPL (Superfund); and sites subject to an order from the Water Quality Control Division under the Clean Water Act.

How do I apply?

The landowner must submit an application, along with a \$2000 fee. The Department will review the application, charging a rate of \$75.00/hr. against the application fee. The applicant cannot be charged more than the initial \$2000. If there is a surplus after the review is completed, the applicant will receive a refund within 30 days of the Department's approval or denial of the application.

The application must contain five basic elements: 1) site history, 2) where you sampled, what you sampled for, and the rationale for the sampling plan; 3) the results of the sampling; 4) the proposed clean-up plan or justification for a No Action Determination; and 5) the proposed land use.

The submittal requirements are set forth in CRS 25-16-304, 305, and 308. Either the clean-up plan may propose sufficient remediation to meet state standards (if they exist for the contaminant and media of concern) or it may meet an acceptable risk level for the existing or proposed land use.

The Act does not require that all possible future uses (i.e., residential) be considered. However, the Department's approval will be specifically based on the identified use.

As an alternative, the applicant may ask for a No Action Determination, in cases where existing contamination already meets state standards or appropriate risk levels. In this case, no additional remediation would be required.

How long does it take?

The Department is required to approve or deny the application within 45 days of receipt. The applicant is then required to implement the plan within one year and to complete the plan within two years of approval. Verification that the clean-up plan has been completed must be submitted by a qualified environmental professional within 45 days of completion.

What if my site is currently impacted by an offsite source?

The Act allows the Department to issue a No Action Determination if the contamination originates from an off-site source and if the person or entity

responsible for the source is or will be taking necessary action to address the contamination. Alternatively, the applicant may choose to submit a voluntary clean-up plan or show this contamination presents no unacceptable risk.

Is public comment needed?

The Act does not contain any mechanism or requirement for public comment on applications. However, all submittals under the program are considered public documents and are available for public review. When it receives an application, the Department does contact the local health and environment agency to determine if there are any concerns with the site or the proposed cleanup. The Memorandum of Agreement with the EPA requires public notice in order to obtain EPA's assurance that they will take no further action.



How can I get more information?

Copies of the Act and an application form are available from the Department. The application form is not necessary, however, it does assist the Department in its review and acts as a checklist for applicants. For this and other information, please contact:

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