

Utah Department of Environmental Quality

VOLUNTARY CLEANUP PROGRAM

History

The Utah State Legislature passed the Voluntary Release Cleanup Program statute during the 1997 legislative session. This legislation created the Voluntary Cleanup Program (VCP) under the direction of the Utah Department of Environmental Quality (UDEQ), effective May 5, 1997. The purpose of the program is to encourage the investigation and cleanup of sites where there has been a suspected or confirmed contaminant release threatening public health and the environment.

Incentives

- Voluntary cleanups can be tied to land use allowing for a risk-based approach to cleanup. In some instances, the development of the property may be a component of the remedy.
- A successful VCP cleanup results in the issuance of a Certificate of Completion (COC). The COC provides a limited release of liability to qualified applicants as specified in the statute.
- The liability release is transferable to subsequent property owners.
- Sites that are on the Comprehensive Environmental Response Compensation Liability Information System (CERCLIS) database and are issued a COC may be designated No Further Remedial Action Planned (NFRAP) by EPA.

Eligibility

Under the VCP, an applicant may submit an application for inclusion to the program. All sites and applicants are eligible for participation except the following:

- a treatment, storage, or disposal facility regulated under 42 U.S.C. 6901 et seq.;
- that portion of a site that is on the national priorities list; or
- that portion of a site for which an administrative, state, or federal enforcement action is existing or pending against the applicant for remediation of the contaminants described in the application (Utah Code Annotated 19-8-105).

Application Process

To apply, a prospective applicant must submit a formal application (using the UDEQ standard application form) along with a \$2,500 application fee. As part of the application, pertinent site information relating to property ownership, current and proposed property use, prior and present contact with regulatory programs (that relate to the environmental condition of the property), and the applicant's intended response action objective is requested. An Environmental Assessment (EA) must also be submitted as part of the application. The EA must include the following components (Utah Code Annotated 19-8-107):

- a legal description of the site;
- a description of the physical characteristics of the site;
- the operational history of the site to the extent known by the applicant;
- information of which the applicant is aware concerning the nature and extent of any relevant contamination or release at the site and immediately contiguous to the site, and where the contamination is located; and
- relevant information of which the applicant is aware concerning the potential for human and environmental exposure to contamination at the site.

The UDEQ reviews each application to determine if the site is eligible for the program. If the site is eligible, the applicant(s) will be notified and the UDEQ will send an eligibility letter along with a standardized Voluntary Cleanup Agreement (VCA) for signature. If the application is rejected, the application will be returned to the applicant(s) along with a letter of explanation.

Voluntary Cleanup Agreement

A VCA must be executed before the UDEQ will complete review of the EA and review any workplan(s) or report(s) related to site investigation, cleanup and post-remediation management. The agreement provides for reimbursement of the UDEQ's oversight costs by the applicant. It also outlines the terms and conditions of the cleanup and the nature of deliverables to be submitted under the program and specifies the anticipated land use for which the applicant will be cleaning up the property.

Site Characterization and Remedial Action

Prior to implementing a remedy, site characterization is necessary to gather information regarding the nature and extent of contamination. Risk-based cleanups are acceptable under the VCP and may include a Site Management Plan.

Public Participation

Public participation is an important component of the Voluntary Cleanup Program. The minimum requirements include notifying adjacent landowners and placing a notice in the local newspaper, announcing the start of the 30-day comment period on the proposed Remedial Action Plan. The UDEQ may also request further activities based on the level of community interest.

Certificate of Completion

Successful completion of site cleanup results in a Certificate of Completion (COC), which provides a liability release to qualified applicants under certain conditions stipulated in the statute. Responsible parties (including owners, operators and lenders) who are originally responsible for a release or contamination under Title 19, Chapter 5, Part 1, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6 Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act are not eligible for the release of liability but

may still receive the COC acknowledging successful cleanup of the site. The COC is recorded on the real property records of the county in which the site is located, allowing it to be transferable over time.

Permits

Permits are not required for work done under a VCA, unless required by a program delegated to the state by the federal government. For all voluntary cleanups, the substantive requirements of any permit(s) that may normally be required must be met.

Termination and Enforcement Provisions

The VCP is intended to be completely voluntary. As such, the applicant or the UDEQ has the right to terminate a Voluntary Cleanup Agreement at any time and for any reason. If at the time of termination, however, conditions at the site pose a threat to human health and the environment, the UDEQ may use any or all-existing authorities available to mitigate the threats believed to be presented by the site or site conditions.

Summary

The goal of the VCP is to promote the investigation and cleanup of contaminated sites under a cooperative, regulatory-friendly framework. Through voluntary cleanups, the residents and resources of the State of Utah will be protected and the quality of life in the state improved and enhanced. Voluntary cleanups will mitigate risk to human health and the environment while hopefully removing the stigma attached to contaminated sites, which allows the impacted properties to be returned to beneficial use. The UDEQ is committed to the program's success and thanks you for your interest in the VCP.