

Internal Management Directive

Professional Stamping of Cleanup Program Documents



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**Department of
Environmental
Quality**

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*DEQ is a leader in restoring,
maintaining and enhancing
the quality of Oregon's air,
land and water.*

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1. Purpose

This Internal Management Directive addresses the professional stamping of Oregon Department of Environmental Quality (DEQ) Cleanup Program documents prepared by external parties, Agency staff and Agency contractors. As it applies to Agency staff, this Internal Management Directive formalizes the approach for identifying work that may require stamping by a Cleanup Program registered geologist or professional engineer, assigning the work to appropriate staff and determining whether the work product will be stamped.

2. Applicability

This Internal Management Directive is to be used by Cleanup Program staff when reviewing, approving and preparing Cleanup Program documents to ensure that Agency staff are in compliance with professional stamping requirements specified in Oregon Revised Statute (ORS) Chapter 672 and applicable Oregon Administrative Rules (OAR).

3. Background

ORS 672 governs the licensing of professional engineers, land surveyors, photogrammetrists and geologists. A substantive requirement of ORS 672 is the “stamping” or “sealing” of geologic or engineering documents. ORS 672 is applicable to external parties, Cleanup Program staff and Agency contractors who perform work governed by Oregon’s Environmental Cleanup Law codified in ORS 465 and 466 and OAR 340, Division 122.

DEQ's Cleanup Program protects human health and the environment by identifying, investigating and remediating sites contaminated with hazardous substances. The program's objective is to improve sites to the point where no further cleanup action is necessary.

The Cleanup Program incorporates several sub-programs: Site Assessment, Voluntary Cleanup, Independent Cleanup, Brownfields, Dry Cleaners, Orphans and Site Response. DEQ offers Prospective Purchaser Agreements to address environmental liability concerns associated with property transactions. There is also an Emergency Response Program to oversee short-term cleanups of chemical spills resulting from accidents or natural disasters. The Cleanup Program also includes the investigation and cleanup of petroleum releases from Underground Storage Tanks (regulated, unregulated and heating oil).

4. Definitions

Public Practice of Engineering

ORS 672.002(2) defines “engineer,” “professional engineer” or “registered professional engineer” as an individual who is registered in this state and holds a valid certificate to practice engineering in this state as provided under ORS 672.002 to 672.325

ORS 672.002(9)(a) defines “responsible charge” as the supervision and control of the engineering design of works with responsibility for design decisions.

ORS 672.002(10) defines “supervision and control” as establishing the nature of, directing and guiding the preparation of, and approving the work product and accepting responsibility that the work product is in conformance with standards of professional practice.

ORS 672.005(1) defines the “practice of engineering” as performing any professional service or creative work requiring engineering education, training and experience; applying special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, investigation, testimony, evaluation, planning, design and services during construction, manufacture or fabrication for the purpose of ensuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects; surveying to determine area or topography; surveying to establish lines, grades or elevations, or to determine or estimate quantities of materials required, removed or in place; surveying required for design and construction layout of engineering and architectural infrastructure; and performing photogrammetric mapping.

ORS 672.020 specifies that no person shall practice or offer to practice engineering in this state unless the person is registered and has a valid certificate to practice engineering issued under ORS 672.002 to 672.325.

ORS 672.020(2) specifies that every final document including drawings, specifications, designs, reports, narratives, maps and plans issued by a registrant shall be stamped with the seal and signed by the registrant. The signature and stamp of a registrant constitute a certification that the document was prepared by the registrant or under the supervision and control of the registrant.

Public Practice of Geology

ORS 672.505(6) defines “geology” as that science that treats of the earth in general; investigation of the earth’s crust and the rocks and other materials that compose it; and the applied science of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases and other materials for the benefit of humanity.

ORS 672.505(7) defines the “public practice of geology” as the performance for another of geological service or work, such as consultation, investigation, surveys, evaluation, planning, mapping and inspection of geological work, that is related to public welfare or safeguarding of life, health, property and the environment, except as specifically exempted by ORS 672.505 to 672.705.

ORS 672.505(10) defines “registered geologist” as a person who is registered as a geologist under the provisions of ORS 672.505 to 672.705.

ORS 672.505(11) defines “responsible charge of work” as the independent control and direction of geological work by the use of initiative, skill and independent judgment, or the supervision of such work.

ORS 672.525(1) specifies that no person, other than a registered geologist, a registered certified specialty geologist or a subordinate under the direction of either, shall provide or prepare for the public practice of geology any geologic maps, plans, reports, or documents except as specifically exempted in ORS 672.535.

ORS 672.605 specifies that all drawings, reports or other geologic papers or documents involving geologic work as defined in ORS 672.505 to 672.705 that have been prepared or approved by a registered geologist or a subordinate employee under the direction of a registered geologist for the use of or for delivery to any person or for public record within this state shall be signed by the registered geologist and impressed with the seal or the seal of a nonresident practicing under the provisions of ORS 672.505 to 672.705, either of which shall indicate responsibility for them.

OAR 809-050-0000 specifies that a registrant's seal shall be affixed to final products created in the public practice of geology.

OAR 809-050-0000(3) specifies that draft geology or specialty geology products or documents clearly marked as draft do not require a geologist’s seal.

OAR 809-050-0000(6) specifies that a registrant who seals and signs a final version of a geology product must be in responsible charge for the geology content of that product.

5. Acronyms Used in This Policy

DEQ – Oregon Department of Environmental Quality (or Agency)

OAR – Oregon Administrative Rules

ORS – Oregon Revised Statute

OSBEELS – Oregon State Board of Examiners for Engineering and Land Surveying

OSBGE – Oregon State Board of Geologist Examiners

6. Cleanup Program Guidance

Stamping of Cleanup Program Documents Prepared by External Parties

Final documents containing original geologic or engineering work that are submitted to the Cleanup Program must be stamped by the Oregon registered geologist or professional engineer in responsible charge of that work. Typical examples of these documents include site investigation reports, remedial investigation reports, feasibility studies, corrective action plans, remedial designs and construction completion reports (see Tables A and B for a more comprehensive list of documents). Preliminary and draft documents do not need to be stamped as long as they are marked as draft. ORS 672 generally exempts federal employees from the requirement to stamp documents containing geologic or engineering work. However, this exemption does not apply to contractors working for federal agencies.

DEQ shall recognize the Oregon registered geologist or professional engineer who stamps the Cleanup Program document as having responsible charge for the work as defined in ORS 672.505(11) and ORS 672.002(9)(a).

Stamping of Cleanup Program Documents Prepared by Agency Staff

Cleanup Program staff work collaboratively, when possible, with external parties and stakeholders to expeditiously investigate and clean up contaminated sites consistent with Oregon's Environmental Cleanup Law. This work includes reviewing, commenting on and approving technical, legal and administrative documents submitted by external parties and

Agency contractors. These documents are often prepared and stamped by Oregon registered geologists or professional engineers.

Cleanup Program project managers are assigned to contaminated sites. Depending on site complexity, the project managers are supported by Cleanup Program toxicologists, hydrogeologists, environmental engineers or staff with other expertise. These project teams may include Agency contractors.

Most Cleanup Program staff infrequently prepare documents containing original geologic or engineering work for which they have responsible charge as defined in ORS 672.505(11) and ORS 672.002(9)(a). That is, Cleanup Program staff rarely have independent control and direction of geologic work or the supervision of such work. Nor do Cleanup Program staff typically have the supervision and control of the engineering design of works with responsibility for design decisions.

When final documents containing original geologic or engineering work are prepared by Cleanup Program staff, they must be stamped by the Oregon registered geologist or professional engineer in responsible charge of that work. Typical examples of these documents include:

- Technical memoranda containing the detailed examination of geology or hydrogeology; contaminated sediment, soil, groundwater or soil vapor; or engineering components of a remedial system.
- Site investigation reports containing field observations and analytical results of soil, groundwater or soil vapor samples collected by Agency staff.

Technical memoranda and other documents stamped by Cleanup Program staff should reference all supporting documents and identify the original geologic or engineering work performed by Agency staff. Technical memoranda and other documents should be focused on a specific task with defined scope (e.g., groundwater flow calculations). Only technical memoranda and other documents marked as final may be stamped; otherwise, these documents should be marked as draft.

Cleanup Program staff whose position descriptions require them to be an Oregon registered geologist or professional engineer will be assigned work which may result in them assuming responsible charge and stamping Agency documents. These Agency positions are limited to Natural Resource Specialist Hydrogeologists and Environmental Engineers.

Prior to initiating work that may result in Cleanup Program staff preparing a stampable document, the Cleanup Program project manager for the subject site should request approval by the regional Cleanup Program manager or leadworker. The project manager will then review the

draft document potentially needing a stamp to confirm that original work is identified and supporting documents are referenced and to determine whether the document should be marked as draft or final.

Cleanup Program staff should only stamp final geologic or engineering documents representing original work performed under their responsible charge. Agency documents based on geologic or engineering work performed by external parties or Agency contractors shall not be stamped by Agency staff. Typical Cleanup Program documents that do not require a stamp include email communications, fact sheets, meeting notes, correspondence letters, oral presentation materials, staff reports, records of decision, staff memos, no further action determinations, certificates of completion, consent orders, consent judgements, prospective purchaser agreements and other similar documents (see Tables A and B). Document review letters (comment letters) should not be stamped because they typically address a variety of technical, legal and administrative issues. Furthermore, document review letters are rarely issued as “final” documents because of the iterative, progressive and collaborative nature of the comment resolution process. However, when warranted, document review letters should reference or attach draft or stamped final Cleanup Program technical memoranda as described above. These technical memoranda are likely to be needed when disputing technical conclusions made by external parties on significant geologic and engineering issues.

Agency decision documents, such as records of decision, no further action determinations and certificates of completion, should identify and reference the supporting documents that formed the basis for the Agency decision. These supporting documents should be included in the administrative record. Supporting documents containing original geologic or engineering work are expected to be stamped by the Oregon registered geologist or professional engineer who has responsible charge for the work.

Cleanup Program staff should not imply or otherwise assume responsible charge for geologic or engineering work performed by external parties or Agency contractors.

Cleanup Program Natural Resource Specialist Hydrogeologists and Environmental Engineers who stamp Agency documents, like other Agency employees, are protected from liability under the Oregon Tort Claims Act if the employee is acting within the scope of his or her employment and has not committed malfeasance or willful or wanton neglect of duty as outlined in ORS 30.285.

Stamping of Cleanup Program Documents Prepared by Agency Contractors

DEQ contracts with private firms to perform environmental services including but not limited to those defined in ORS Chapter 459, 465 and 466 and the administrative rules promulgated thereunder.

Agency contractors may be tasked with a wide range of activities including but not limited to conducting or contracting for technical data gathering, environmental investigations and analyses; and removal or remediation of hazardous substances, hazardous wastes and petroleum products where there has been or is a potential for release of those substances, wastes and petroleum products which could pose a threat to public health, safety, welfare or the environment.

Similar to external parties, typical work products prepared by Agency contractors include sampling and analysis plans, field and data reports, site investigation reports, remedial investigation reports, feasibility study reports, corrective action plans, remedial design documents and construction completion reports.

Agency contractors must represent and warrant that at all times during the term of the contract they are qualified, professionally competent, and duly licensed to perform the work. DEQ also requires that all reports and other documents produced by the contractors' registered geologists or registered professional engineers are signed and stamped as required by ORS 672.

7. Implementation

This Internal Management Directive was prepared with input from the Oregon State Board of Geologist Examiners (OSBGE) and Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). Additional consultation is anticipated as this guidance is implemented and questions arise. Furthermore, DEQ and the OSBGE have committed to meeting at least once within the next two years to review the implementation of this guidance.

Implementation will include a comprehensive review of Cleanup Program decision document templates, such as records of decision and no further action determinations, to ensure consistency with this Internal Management Directive. Templates will be updated, if necessary, to emphasize the need to reference stamped documents which form the basis for the Agency's decision. Additional guidance is anticipated to include development of "best practices" for drafting of Cleanup Program comment letters and protocols for the engagement of Cleanup Program

hydrogeologists and engineers when performing the public practice of geology and engineering as specified in ORS 672.

Implementation of this Internal Management Directive will include staff training, posting on DEQ's Cleanup Program website and notice to external parties and agency contractors through newsletters and the Cleanup Program's electronic mailing list.

8. Record of Revisions

Revision	Date	Changes	Editor
0	5/16/19	New Document	Kevin Parrett

Table A - Typical Documents for Simple Tank & Cleanup Projects	Prepared By	Stamp
LUST and ECSI Database Site Summary Report - frequent updates	DEQ	---
Site Fact Sheet - frequent updates	DEQ	---
Communications - emails, meetings, presentations	Various Parties	---
Draft Technical Memoranda (original geologic/engineering content)	DEQ/EP/AC	---
Final Technical Memoranda (original geologic/engineering content)	DEQ/EP/AC	RG or PE
20-Day and 45-Day Reports (LUST and HOT only)	EP/AC	---
Federal Screen and Preliminary Assessment Reports (without sampling)	DEQ/AC	---
Preliminary Assessment and Site Inspection Reports (with sampling)	DEQ/AC	RG or PE
Draft Site Investigation Workplan/Report	EP/AC	---
Comments on Draft Workplan/Report	DEQ	---
Response to Comments on Draft Workplan/Report - multiple rounds	EP/AC	---
Final Site Investigation Workplan/Report (incl. soil gas sampling)	EP/AC	RG or PE
Draft Corrective Action Plan or Remedial Action Plan	EP/AC	---
Comments on Draft Plan	DEQ	---
Response to Comments on Draft Plan	EP/AC	---
Final Corrective Action Plan or Remedial Action Plan	EP/AC	RG or PE*
Draft Construction Summary Report	EP/AC	---
Comments on Draft Report	DEQ	---
Response to Comments on Draft Report	EP/AC	---
Final Construction Summary Report	EP/AC	RG or PE*
Easement and Equitable Servitudes (deed restriction)	DEQ/Property Owner	---
Draft Contaminated Media Management Plan	EP/AC	---
Comments on Draft Plan	DEQ	---
Response to Comments on Draft Plan	EP/AC	---
Final Contaminated Media Management Plan	EP/AC	---
Draft Site Completion Report Supporting No Further Action	EP/AC	---
Comments on Draft Report	DEQ	---
Response to Comments on Draft Report	EP/AC	---
Final Site Completion Report Supporting No Further Action	EP/AC	RG or PE*
HOT Certificate of Completion	EP/AC	---
Final HOT Decommissioning Report Form, Checklist and Attachments	EP/AC	---
Final HOT Cleanup Report Form, Checklist and Attachments	EP/AC	RG or PE*
Staff Memo Recommending No Further Action	DEQ	---
Public Comments	---	---
No Further Action Determination	DEQ	---

EP - External Parties, often environmental consultants hired by property owner, developer or responsible party

AC - Agency Contractors, typically used by DEQ for orphan sites

*** PE stamp required for engineering systems such as vapor mitigation systems, groundwater treatment systems and sediment containment systems**

Table B - Typical Documents for Complex Cleanup Projects	Prepared By	Stamp
ECSI Database Site Summary Report - frequent updates	DEQ	---
Site Fact Sheet - frequent updates	DEQ	---
Communications - emails, meetings, presentations	Various Parties	---
Quarterly progress reports	EP/AC	---
Draft Technical Memoranda (original geologic/engineering content)	DEQ/EP/AC	---
Final Technical Memoranda (original geologic/engineering content)	DEQ/EP/AC	RG or PE
Orphan Declaration	DEQ	---
Consent Order for Remedial Investigation/Feasibility Study (RI/FS)	Attorneys	---
Consent Judgement for Remedial Design/Remedial Action (RD/RA)	Attorneys	---
Draft Remedial Investigation Workplan/Report	EP/AC	---
Comments on Draft Workplan/Report - multiple rounds	DEQ	---
Response to Comments on Draft Workplan/Report - multiple rounds	EP/AC	---
Final Remedial Investigation Workplan/Report	EP/AC	RG or PE
Draft Field Sampling Plan and Field and Data Report	EP/AC	---
Comments on Draft Plan/Report - multiple rounds	DEQ	---
Response to Comments on Draft Plan/Report - multiple rounds	EP/AC	---
Final Field Sampling Plan and Field and Data Report	EP/AC	RG or PE
Draft Human Health and Ecological Risk Assessment Workplan/Report	EP/AC	---
Comments on Draft Workplan/Report - multiple rounds	DEQ	---
Response to Comments on Draft Workplan/Report - multiple rounds	EP/AC	---
Final Human Health and Ecological Risk Assessment Workplan/Report	EP/AC	---
Draft Feasibility Study Workplan/Report	EP/AC	---
Comments on Draft Workplan/Report - multiple rounds	DEQ	---
Response to Comments on Draft Workplan/Report - multiple rounds	EP/AC	---
Final Feasibility Study Workplan/Report	EP/AC	PE
DEQ Staff Report (Proposed Record of Decision)	DEQ	---
Public Comments	---	---
DEQ Record of Decision including response to public comments	DEQ	---
Draft Remedial Design Workplan/Report	EP/AC	---
Comments on Draft Workplan/Report	DEQ	---
Response to Comments on Draft Workplan/Report	EP/AC	---
Final Remedial Design Workplan/Report	EP/AC	PE
Supplemental Design Documents	EP/AC	PE
Construction Permit Applications and Supporting Documents	EP/AC	---
Draft Construction Quality Assurance Plan	EP/AC	---
Comments on Draft Plan	DEQ	---
Response to Comments on Draft Plan	EP/AC	---
Final Construction Quality Assurance Plan	EP/AC	PE

Table B - Typical Documents for Complex Cleanup Projects	Prepared By	Stamp
Pre-Construction Submittals	Various Parties	---
Construction Oversight Documents (during construction)	EP/AC	---
Draft Construction Summary Report	EP/AC	---
Comments on Draft Report	DEQ	---
Response to Comments on Draft Report	EP/AC	---
Final Construction Summary Report including as-built record drawings	EP/AC	PE
Easement and Equitable Servitudes (dead restriction)	DEQ/Property Owner	---
Proposed Certificate of Completion for Consent Judgement	DEQ	---
Public Comments	---	---
Certificate of Completion for Consent Judgement	DEQ	---
Draft Contaminated Media Management Plan	EP/AC	---
Comments on Draft Plan	DEQ	---
Response to Comments on Draft Plan	EP/AC	---
Final Contaminated Media Management Plan	EP/AC	---
Draft Long-term Monitoring and Maintenance Plan/Reports	EP/AC	---
Comments on Draft Plan/Reports	DEQ	---
Response to Comments on Draft Plan/Reports	EP/AC	---
Final Long-term Monitoring and Maintenance Plan/Reports	EP/AC	RG or PE*
Draft Site Completion Report Supporting No Further Action	EP/AC	---
Comments on Draft Report	DEQ	---
Response to Comments on Draft Report	EP/AC	---
Final Site Completion Report Supporting No Further Action	EP/AC	RG or PE*
Staff Memo Recommending No Further Action	DEQ	---
Public Comments	---	---
No Further Action Determination	DEQ	---

EP - External Parties, often environmental consultants hired by property owner, developer or responsible party

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