



# Idaho Land Remediation Act

## A Guide for Eligibility of Chapter 72, Title 39, Idaho Code

Waste Management and Remediation Division

### Eligibility for Participation in the Voluntary Cleanup Program under the Idaho Land Remediation Act

This fact sheet explains program eligibility for participating in the Voluntary Cleanup Program under the Idaho Land Remediation Act.

#### ***Idaho Land Remediation Act***

The Voluntary Cleanup Program (VCP) was created in 1996 by the Idaho Land Remediation Act ([Idaho Code § 39-72](#)) to encourage cooperation between the state, local communities, and private parties to cleanup and revitalize properties with hazardous substance or petroleum contamination. Property redevelopment and reuse may be complicated if the environmental status is uncertain, and assurances from DEQ about a property's status may be desired or required. Participating in the VCP to conduct assessment activities under DEQ's oversight may clarify environmental uncertainty and can determine whether any remedial action, such as cleanup, is needed. Any person as defined in Idaho Code § 39-7203(5) is eligible to apply to participate in the VCP, including legal entities such as individuals, associations, local, state, and federal governments, and public or private corporations.

#### ***Legislative Findings in Idaho Code Section 39-7202***

Idaho Code § 39-7202(1) under Legislative Findings does not limit participation in the VCP to only *commercial and industrial* sites. The last sentence of § 39-7202(1) describes the purpose is to minimize risk on commercial and industrial sites: "The minimization of risk to public health and the environment on a commercial and industrial site offers significant potential economic benefit to local communities and is vital to their use and reuse as sources of employment, housing, recreation and open-space areas." While this legislative finding describes minimizing risks to commercial property, it does not restrict participation in the VCP to only commercial and industrial sites.

Idaho Code § 39-7202(2) also does not limit participation in the VCP to only *remediation* activities and does not preclude additional assessment (i.e., sampling) before remediation. Sampling is necessary to determine the need for cleanup actions. Idaho Code § 39-7202(2) also does not preclude sites with perceived contamination from entering the program. Participation of sites that have perceived contamination and a need for assessment and/or remediation activities are consistent with the intent of the Land Remediation Act to assess and reduce risk to public health and the environment and provide potential for economic development and use that benefits communities.

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## ***Definition of Eligible Property Owner for the Community Reinvestment Pilot Initiative Only***

In 2006 the Idaho Land Remediation Act (Idaho Code § 39-7211) was amended to add the Community Reinvestment Pilot Initiative. In this amendment, Idaho Code § 39-7202(3) added new definitions to explain eligibility for the Community Reinvestment Pilot Initiative: (a) eligible property owner, (b) qualifying remediation costs, and (c) technical professional.

Idaho Code § 39-7202(3) and § 39-7211 are the only sections within the Idaho Land Remediation Act that use *eligible property owner*. The definition of *eligible property owner* solely relates to the Community Reinvestment Pilot Initiative and does not impact the definition of *person* as used in the Idaho Land Remediation Act. The term *person* is used for the application (§ 39-7204), work plan (§ 39-7205), evaluation and review responsibilities (§ 39-7206), covenant not to sue (§ 39-7207), rescission (§ 39-7208), and lender liability (§ 39-7209).

## ***Eligible Participant in the Voluntary Cleanup Program is any Person***

DEQ interprets *eligible participant* in the VCP as any *person* interested in remediating a site. A *person* may include a property owner who caused, contributed, or consented to the release that led to the contamination or owned the property at the time of the contamination. A *person* may also include a developer or prospective purchaser who is not the owner of the subject property. Participation in the Community Reinvestment Pilot Initiative is restricted to the *eligible property owner*.

This interpretation is consistent with the intent of the VCP and Community Reinvestment Pilot Initiative, allowing broader participation in the VCP but limited participation in the Community Reinvestment Pilot Initiative.

## **Helpful Resources**

[\*Voluntary Cleanup Program\*](#)

[\*Voluntary Cleanup Program Frequently Asked Questions\*](#)

[\*Idaho Land Remediation Act Title 39, Chapter 72, Section 39-7211\*](#)

[\*Idaho Land Remediation Rules, IDAPA 58.01.18\*](#)

## **For More Information**

For specific questions, contact your DEQ regional office:

- Boise: (208) 373-0550
- Coeur d'Alene: (208) 769-1422
- Idaho Falls: (208) 528-2650
- Lewiston: (208) 799-4370
- Pocatello: (208) 236-6160
- Twin Falls: (208) 736-2190

For general information, visit [www.deq.idaho.gov](http://www.deq.idaho.gov) or call DEQ's VCP Manager at (208) 373-0502.