



# Agency Determination

Washington State Department of Ecology

## AGENCY DETERMINATION CHECKLIST

### Who should use this checklist?

If you're independently cleaning up a tank release of a hazardous substance, this checklist helps you determine which one of three Washington technical assistance programs is most appropriate for providing consultation for your cleanup:

1. **Voluntary Cleanup Program (VCP)** under Washington State Department of Ecology (Ecology),
2. **Heating Oil Technical Assistance Program (HOTAP)** under the Pollution Liability Insurance Agency (PLIA), or
3. **Petroleum Technical Assistance Program (PTAP)** under PLIA.

### What do these programs provide?

All three programs may provide informal, site-specific technical consultations to people who are conducting independent remedial actions at hazardous waste sites. This checklist helps you determine which one your site is eligible to use. Ecology and PLIA may provide such consultations under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW and its implementing regulations, Chapter 173-340 WAC, and Chapter 70.149.040 (9) RCW.

### Both Ecology and PLIA have agency determination checklists; which one should I use?

You can use either checklist initially, but if you submit an application to Ecology's Voluntary Cleanup Program, **you must also submit this checklist** to ensure you've selected the appropriate independent remedial action technical assistance program. Please note that Ecology is not responsible for delays caused by incorrect submissions or determinations based on inadequate data.

### I've determined my site is eligible for Ecology's VCP. What do I do next?

1. Complete and submit a VCP Application, which consists of three documents:
  - a. Agency Determination Checklist ← **THIS DOCUMENT**
  - b. Application Form (including required attachments)
  - c. Agreement
2. Find guidance for completing your application in the VCP Application Instructions at: <https://fortress.wa.gov/ecy/publications/documents/ecy02074i.pdf>  
These are also available on the VCP webpage at: <http://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options/Voluntary-cleanup-program>

### I've determined my site is eligible to enter PLIA's HOTAP or PTAP. What do I do next?

Please follow PLIA's application directions on their website at [www.plia.wa.gov](http://www.plia.wa.gov).

### Accommodation Requests

To request materials in a format for the visually impaired, visit <https://ecology.wa.gov/accessibility>, call Ecology's ADA Coordinator, at 360-407-7668, Relay Service 711, or TTY 877-833-6341.

## Part 1 - ADMINISTRATION

Name of customer:

Application submission date:

### Final agency determination

To be completed after reviewing site eligibility in **Parts 2-5** below.

- Washington State Department of Ecology (Ecology)  
 Washington State Pollution Liability Insurance Agency (PLIA)

### Determination Verification

For use only by Ecology

- Correct determination  
 Incorrect determination

## Part 2 – HEATING OIL TANK RELEASE SITES

As of July 23, 2017, Ecology and PLIA policy dictates that independent remedial actions at heating oil tank release sites can best serve the residents of Washington and provide greater flexibility and capacity for cleanup of contaminated sites when conducted under PLIA's HOTAP.

- Heating oil includes petroleum product used for space heating in oil-fired furnaces, heaters, and boilers, including stove oil, diesel fuel, or kerosene.
- Heating oil does not include petroleum products used as fuels in motor vehicles, marine vessels, trains, buses, aircraft, or any off-highway equipment not used for space heating, or for industrial processing, or the generation of electrical energy.

**A. Heating oil tank release sites**—PLIA is responsible for all heating oil tank release sites, excluding sites meeting both requirements in Part 2, Section B.

This site an abandoned, active, or decommissioned heating oil tank release site (including tanks above ground, below ground, or in a basement).

- If you checked the box, move to **Part 2, Section B**.
- If the box is unchecked, move to **Part 3**.

**B. Comingled Contamination**—If comingled contamination exists on the site, the site is no longer considered as a heating oil tank release sites, but may be eligible for Ecology's VCP or PLIA's PTAP.

Comingled contamination exists on the site.

- If you checked the box, move to **Part 3**.
- If the box is unchecked, move to **Part 2, Section C**.

**C. Heating oil tank release site exemptions**—Ecology and PLIA may agree to allow Ecology to make heating oil tank release site determinations for releases that involve sites already being cleaned up under Ecology's authority.

The heating oil tank release occurred on a site already being cleaned up under Ecology's authority.

Ecology and PLIA have agreed to allow Ecology to make a heating oil tank release site determination at this site.

- If you checked **both** boxes, **STOP**: the site is eligible for Ecology's VCP.
- If **both** boxes are unchecked, **STOP**: the site is eligible for PLIA's HOTAP.

### Part 3 – NON-HEATING-OIL PETROLEUM TANK RELEASE SITES

As of January 1, 2018, PLIA has assumed responsibility for some non-heating-oil petroleum tank release sites (i.e., storage tank systems that contain petroleum or a mixture of petroleum with de minimus quantities of other substances) meeting inclusionary/exclusionary factors developed jointly by Ecology and PLIA (Chapter 70.149.040 (9) RCW).

- Non-heating-oil petroleum includes, but is not limited to, petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used/waste oils.
- It does not include propane, asphalt, or other petroleum product that is not liquid at standard conditions of temperature and pressure.

This site is a non-heating-oil petroleum storage tank release site.

- If you checked the box, move to **Part 4**.
- If the box is unchecked, **STOP**: the site is eligible for Ecology's VCP.

### Part 4 –INCLUSIONARY FACTORS

Ecology and PLIA have jointly developed inclusionary factors for non-heating-oil petroleum release tank sites. If a non-heating-oil petroleum release tank site meets any of the following factors in **Part 4, Section A and Part 4, Section B**, the site is potentially eligible for PLIA's PTAP (depending on results from Part 5).

**A. Ranking factors**—the following inclusionary factors are based on the *Washington Ranking Method (WARM) Scoring Manual* (publication number 90-14, dated April 1992) available at <https://fortress.wa.gov/ecy/publications/SummaryPages/90014.html>

- Site is or has been ranked a 3, 4, or 5 according to WARM Site Hazard Assessment.
- Site is or has been ranked a 1 or 2 according to WARM Site Hazard Assessment, but does not include surface water or sediment contamination pathways.

- If you checked either box, move to **Part 5**.
- If neither box is checked (site has not been ranked), move to **Part 4, Section B**.

**B. Funding and site type factors**—the following inclusionary factors represent applicable factors that may apply, regardless of WARM ranking.

#### 1. Funding factors

- Site is covered by PLIA insurance.
- Site is a recipient of a PLIA grant or loan.

#### 2. Site type factor

- Site involves a release from non-heating-oil petroleum storage tank system(s), but does not include surface water or sediment contamination pathways.

- If you checked any of the boxes, move to **Part 5**.
- If none of the boxes are checked, **STOP**: the site is eligible for Ecology's VCP.

**Part 5 –EXCLUSIONARY FACTORS**

Ecology and PLIA have jointly developed exclusionary factors for non-heating-oil petroleum release tank sites. If a non-heating-oil petroleum release tank site meets any of the following exclusionary factors the site is eligible for Ecology’s VCP and ineligible for PLIA’s PTAP, unless the conditions set forth in **Part 5, Section B** are met.

**A. Location, legal, funding, VCP, and site type factors**

**1. Location factors**

- Site is within the bounds or impacting a Superfund site (U.S. EPA).
- Site is within the bounds or impacting a Nuclear Waste Program-managed site (Ecology).
- Site is within the bounds or impacting an Industrial Section-managed site (Ecology).
- Site is within the bounds or impacting a Hazardous Waste Toxics Reduction Program-managed Dangerous Waste site (Ecology).

**2. Legal factors**

- Potentially liable party (PLP) dispute about liability is in progress.
- Other litigation regarding site, court supervision, or agreed order is in progress.
- Site is being remediated under an active contract between Ecology and the PLP.

**3. Funding factors**

- Site remediation is funded upfront, with Ecology as the sole or leading funding agency.
- Applicant is a local government planning to apply for a Remedial Action Grant (RAG).
- Other litigation regarding site, court supervision, or agreed order is in progress.
- Site is being remediated under an active contract between Ecology and the PLP.

**4. Site type factors**

- Site has known impacts to surface water or sediment.
- Site consists of comingled non-petroleum and non-incidentals contaminants not related to the operations of the site (including contaminant migration from off-site).

- If you checked any of the boxes, move to **Part 5, Section B**.
- If none of the boxes are checked, **STOP**: the site is eligible for PLIA’s PTAP.

**B. Site characterization exemption—Ecology and PLIA may jointly override other exclusionary factors based on the results of a site characterization in accordance with MTCA.**

- Exclusionary factors identified in **Part 5 – Section A** have been overridden by a joint decision between Ecology and PLIA based on the results of a site characterization in accordance with MTCA. **If applicable, please include supporting documentation.**

- If you checked the box, **STOP**: the site is eligible for PLIA’s PTAP.
- If the box is not checked, **STOP**: the site is eligible for Ecology’s VCP.