Technical Assistance Program GUIDANCE

Valley of Clouds (Source: National Park Service)

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Definitions

TERM	DEFINITION
Agency	The Washington State Pollution Liability Insurance Agency (PLIA).
Contaminant	A hazardous substance that does not occur naturally or occurs at greater than natural background levels. Typical contaminants associated with petroleum leaks are listed at WAC 173-340-900, Table 830-1.
Ecology	Washington State Department of Ecology.
Further Action (FA) Letter	An opinion letter issued by PLIA saying that further action is needed to meet the substantive cleanup requirements of the Model Toxics Control Act (MTCA), Chapter 173-340 WAC.
Feasibility Study (FS)	A study that develops and evaluates cleanup alternatives for a Site. WAC 173-340-351.
Heating Oil	Any petroleum product used for heating. "Heating oil" does not include petroleum products used as fuel in vehicles or used to generate electricity, or waste oil or spills from a source other than an underground storage tank. For a more detailed definition, see WAC 374-80-020.
Heating Oil Tank System	A heating oil tank and its connecting pipes. It can be above or below ground. For a more detailed definition, see WAC 374-80-020.
Model Toxics Control Act (MTCA)	Washington State's cleanup law, Chapter 70A.305 RCW, and its regulations, in Chapters 173-340 and 173-204 WAC.
No Further Action (NFA) Letter	A letter stating that no further action is needed to meet the substantive cleanup requirements of MTCA.

Petroleum	Any petroleum-based substance. For this guidance, this includes only liquid petroleum. For a more detailed definition, see WAC 374-80-020.
Petroleum Storage Tank System (PSTS)	A storage tank system that contains petroleum. Other substances can be present in small amounts.
PLIA	Washington State Pollution Liability Insurance Agency.
Project Manager	The service provider who is managing the cleanup. The Project Manager must be the Applicant or hired or designated by the Applicant.
Qualified Tank System	A storage tank system that PLIA and the Department of Ecology find is eligible for the Technical Assistance Program. WAC 374-80-020.
Release	Any spill or leak of petroleum into the environment.
Remedial Action	The cleanup or study of any threat to the health of people or the environment by a leak of petroleum. For a detailed definition, see RCW 70A.305.020(33).
Remedial Investigation (RI)	An investigation to determine the level and extent of contamination from a petroleum leak. The investigation may find that a site crosses property lines. Details about the investigation process are found in WAC 173-340-350.
Site	Any area where a hazardous substance has been released. For a detailed definition, see RCW 70A.305.020.
Uniform Environmental Covenants Act (UECA)	A law, Chapter 64.70 RCW, that ensures that environmental covenants, restrictions on land use related to hazardous waste cleanups, and any other conditions related to cleanup projects are legally valid and enforceable.

**

I. Introduction

The Washington State Pollution Liability Insurance Agency (PLIA) is a state agency with expertise in petroleum cleanup. We provide technical advice and assistance to owners or operators of petroleum storage tanks when they have a leak. Our Advice and Technical Assistance Program (TAP) provides technical assistance and opinion letters for cleanup. The program authority is found in Chapter 70A.330 RCW and its program rule in Chapter 374-80 WAC.

This Guidance Document (Guidance) describes the program's steps. It provides other details like entry into TAP and roles for tank owners and PLIA staff. We will update this guidance as needed.

Please review this guidance before enrolling in TAP. For questions, contact PLIA by phone at (800) 822-3905 or by email at pliamail@plia.wa.gov.

II. Purpose

TAP is a voluntary program. We provide services when they are requested. We offer technical advice and assistance for petroleum cleanup. We provide opinion letters to determine if cleanup meets the state's requirements. Through TAP, we help you understand and meet the state's cleanup law, the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW, and its regulations, Chapter 173-340 WAC. We also help you understand the Underground Storage Tank Regulations, Chapter 173-360A WAC[1].

You are conducting cleanup activities at your own risk. We provide advice and technical assistance. You may need to do other things if your cleanup does not meet the requirements of MTCA. The opinion letter is not binding on us or another state agency like the Department of Ecology (Ecology). These letters may list other actions needed to meet MTCA requirements. Ecology may also decide that other actions are needed.

Under WAC 173-340-300, leaks from petroleum storage tank systems must be reported to Ecology through the Environmental Report Tracking System (ERTS). But, under WAC 173-340-300(4)(b), you do

[1]This chapter does not apply to heating oil tanks.

not need to report a leak from a heating oil tank if the leak was found during your participation in a PLIA Program.

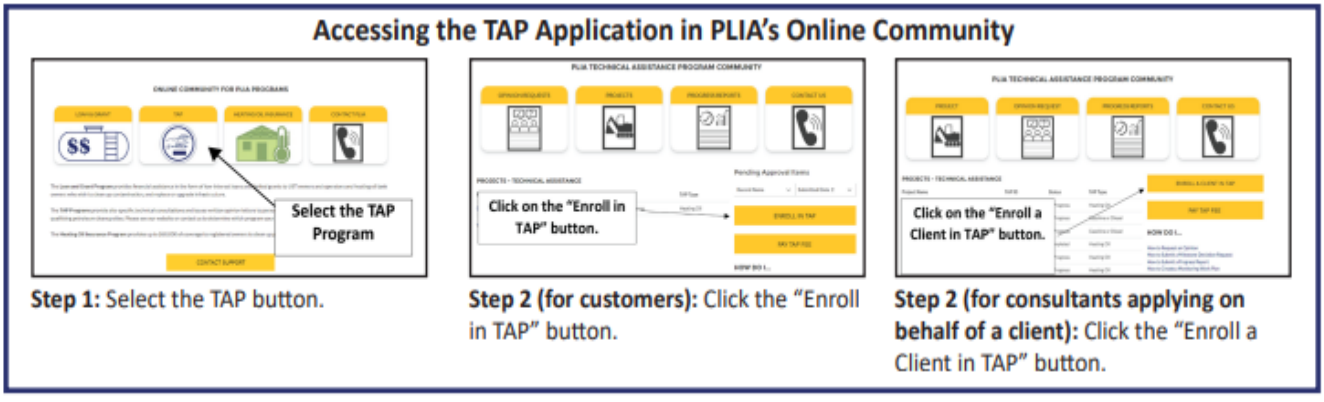
In TAP, you must give us the most up to date information about the cleanup. We will review the work done and draft an opinion. You may need to hire a service provider or environmental consultant when cleaning up a leak. Geology or hydrogeology work must be supervised by someone who is licensed to perform that work under Chapter 308-15 WAC. Service providers performing work on regulated USTs must be qualified under WAC 173-360A-0910. The reports must support your cleanup work. The opinion letter will either say more cleanup is needed to meet MTCA requirements, or it will say you have met MTCA requirements. We may need to have additional meetings during the cleanup process.

III. Eligibility

TAP is open to anyone who is cleaning up a leak from a qualified petroleum storage tank system.

1. Application

The TAP application is available in the Online Community on our website. You need to create a Secure Access Washington (SAW) account before you can access the Online Community. You can find instructions on how to create a SAW account and log in to our Online Community in our How-to Guide. You, your service provider, or environmental consultant can fill it out and submit the application online.



Step 1: Select the TAP button.

Step 2 (for customers): Click the "Enroll in TAP" button.

Step 2 (for consultants applying on behalf of a client): Click the "Enroll a Client in TAP" button.

2. Enrollment Fee

The fee covers the costs of running the program. It must be paid before we can provide you with advice or assistance. You may need to pay an additional fee if gasoline or other chemicals are later found at a heating oil site that entered under the lower fee.

The enrollment fee is:

- Heating Oil: $1,500 per site.
- Gasoline/Diesel[2]: $10,000 per site.

You can pay the fee online. If you are enrolled in another PLIA program, the fee may be paid by program funds. The fee does not cover the cost of work done. The enrollment fees may increase. For gasoline/diesel leaks, it is required that you meet with us to determine your eligibility before paying the enrollment fee.

3. Qualified Tank Systems

A. Heating Oil Tank System. This system includes a tank and its pipes. It can be above or below ground or in a basement. This type of system is used to heat the building where the tank is located. It does not have to be in use per WAC 374-80-020(5). Any heating oil tank cleanup that is funded or managed by Ecology cannot be in TAP.

Heating Oil Tank (source: Michigan.gov).

B. Gasoline/Diesel Tank System[2]. This is typically a tank system for a gas or fueling station. TAP may also accept others, including:

a. Tank systems with small amounts of non-petroleum substances.

b. Leaks from farm tanks.

c. Old leaks from tanks that have been abandoned or removed. This does not include any storage tank system for hazardous waste regulated under Chapter 70A.300 RCW Hazardous Waste Management.

Underground Storage Tanks (source: EPA).

4. Other PLIA Program Funds

[2] Sites with contamination from jet fuel, aviation fuel, mineral oil, heavy oil, bunker-c sites or other products are also eligible to apply. You can attend an intake meeting to confirm program eligibility .

You can enroll in TAP if you are in another PLIA program. Funds from other PLIA programs can pay for cleanup if eligible.

A site may be enrolled in more than one PLIA Program.

IV. TAP Services Provided by PLIA

You will receive advice and technical assistance on your cleanup to help meet MTCA requirements.

1. Informal Technical Assistance

You can request a meeting with the PLIA Site Manager after you receive an opinion letter. Technical meetings may be scheduled with PLIA at the Site Manager's availability. The Site Manager may request more information before the meeting.

2. Written Technical Assistance

You can request an opinion by submitting an opinion request and uploading documents through the Online Community. Reporting requirements are described in Section *IX. Reporting*.

Our goal is to provide a written opinion letter within 70 days of receiving your request. The review process may be delayed if more information is needed.

A. Opinion Letters

The type of opinion letter issued depends on whether MTCA requirements have been met.

Opinion Type	Report Type	Why
No Further Action (NFA)	Cleanup Report	The cleanup meets the substantive requirements of MTCA.
No Further Action (NFA) with Environmental Covenant	Cleanup Report	The cleanup, along with engineering and institutional controls, meets the substantive requirements of MTCA.
No Further Action Likely	Cleanup Action Plan (CAP)	The proposed cleanup will *likely* meet the substantive requirements of MTCA once completed. Additional work

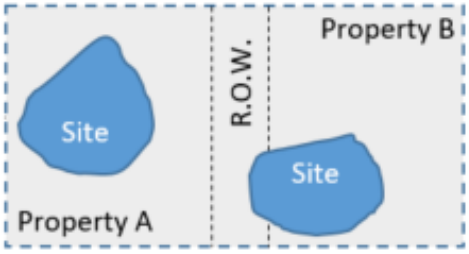
Opinion Type	Report Type	Why
		may be required to receive an NFA.
Further Action (FA)	• Work Plans • Remedial Investigation (RI) • Feasibility Study (FS) • CAP • Cleanup Report	Further action is needed to meet the substantive requirements of MTCA.
Further Action (FA) Likely	CAP	It is *likely* that the planned cleanup will not meet the substantive requirements of MTCA.
RI/FS/CAP Opinion	• RI • FS • CAP	Approval or denial that the RI, FS, and/or CAP meets the substantive requirements of MTCA.
Work Plan Opinion	• Investigation Work Plan • Injection Work Plan • Interim Action Work Plan	Approval or denial that proposed work is consistent with MTCA.
Technical Memorandum	• Work Plan • Cleanup Report	Addresses a specific concern or question or requests additional information.

B. Site vs. Property

A site is where contamination from your leak is located, regardless of the property boundary. The site may include more than one property.

You may be unable to clean up all the contamination of a site if the site is on more than one property. A property-specific NFA may be issued if you can show that cleanup of all contamination cannot be completed. That means contamination remains elsewhere at the site, and the site will remain on Ecology's Confirmed and Suspected Contaminated Sites List (CSCSL).

For example, the site on Property A is only located within the property. If the contamination is cleaned up to meet the requirements of MTCA, a Site NFA would be issued.



However, the site on Property B extends beyond the property line into the right-of-way (ROW). A property-specific NFA could be issued if the owner of Property B cleans up the contamination on their property and cannot access the ROW.

You must make a reasonable effort to gain access to all other properties or rights-of-way before we can issue a property-specific opinion. You will need to show us one of the following:

- Proof that you attempted to work with the easement holder or the other property's owners to get access.
- Document showing that the easement holder or other property owners rejected necessary MTCA actions.

We may try to hold discussions or assist with property access as a neutral 3rd party. We can explain MTCA requirements and the cleanup process to easement holders and other property owners. However, we can't require the other party to participate in the cleanup.

V. Procedures

The TAP application is complete once we receive all the following.

- A completed application.
- Copies of available environmental reports.
- A scheduled intake meeting for gasoline/diesel sites. Intake meetings are not required for most heating oil sites.
- Enrollment fee payment.

1. Submit an Application.

Applications are accepted at any time. Sites are admitted to the program at any stage during the cleanup process.

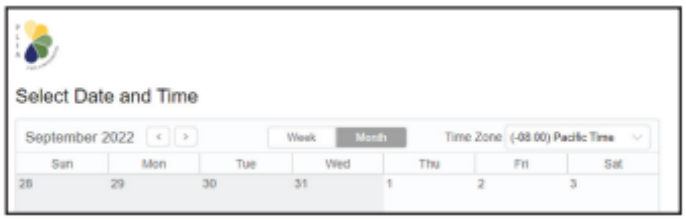
You can submit an application through PLIA's Online Community. You will need a Secure Access Washington account to submit an online application. Guides for using the Online Community can be found on our website. A paper copy or translated version is

available by emailing pliamail@plia.wa.gov or by calling PLIA at 1-800-822-3905, Relay Service 711 or TTY 1-800-833-6388.

2. **Attend an Intake Meeting.**

The intake meeting provides you with a chance to discuss your cleanup goals. **Intake meetings are required for all gasoline/diesel sites.** You may ask questions regarding cleanup and then decide to enroll in TAP. There is no fee, and no enrollment required to attend the 45-minute meeting.

Intake meetings are held online or by phone. You schedule it using our online scheduling tool. You will receive meeting login instructions by email.



During the intake meeting, we will discuss what cleanup actions may be needed or how to prevent more contamination.

Topics may include any of the following.

- Whether or not your site can enroll in TAP.
- A brief history of the site and the proposed or performed cleanup activities.
- Identification of data gaps for the contamination at the site.
- Planned or reasonably anticipated changes to site use.
- The projected timeline for cleanup and project milestones.
    - Milestone date are necessary during TAP enrollment to set a schedule for the progress of the cleanup work. Although meeting stated milestones are important, you may request a change to the planned milestone(s).
    - Milestones include completion of the Remedial Investigation, Feasibility Study, Cleanup Action Plan, and site closure.

Our staff will provide an overview of the process needed to meet MTCA standards. We will complete a general review of the information you provided before the meeting to establish an overall understanding of the site. Copies of technical reports must be provided at least five days before the meeting. Reports can be uploaded by following the directions on our website.

You will need to provide us with the following information before the intake meeting. You must come prepared to discuss this information with your site manager.

- Date of the leak and how it occurred.
- Confirmed and suspected contaminants at the site.
- Site map with sampling locations.
- The known extent of site contaminants.
- Local groundwater information.

3. Pay Enrollment Fee

You must pay the enrollment fee if you decide to enroll in TAP after the intake meeting.

- The fee for each gasoline/diesel tank system is $10,000.
- The fee for each heating oil tank system is $1,500.
- The fee can be paid by credit card through PLIA's online link at Biller-Payments.
- You can also mail a check payable to Pollution Liability Insurance Agency and send it to the following address:

  Pollution Liability Insurance Agency
  P.O. Box 40930
  Olympia, WA 98504-0930

Please include the tax parcel ID on the check. You will receive notice of acceptance, which can take up to ten business days.

- If you are enrolled in another PLIA program, you can ask that the enrollment fee be paid through program funds. Please ask our staff during your application.

4. Program Acceptance

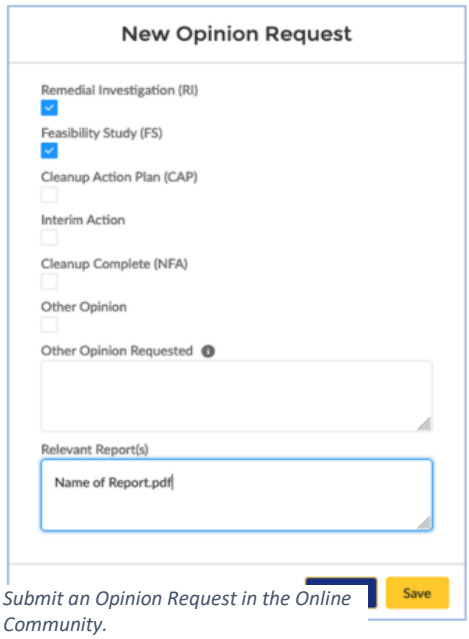
You will receive an email from us to confirm your TAP enrollment. We will give you a link to log in to PLIA's web-based data system, the Online Community. Here you can view your site status, upload reports about the site, and request opinions.

5. Program Ineligibility

If we cannot enroll you in TAP, we will send you a notice to explain why, or we can tell you during the intake meeting if there are issues that will stop you from being in TAP.

6. Submit Opinion Requests

Opinions may be requested at any time by submitting an Opinion Request in the Online Community. You can review the status of your request in the Online Community. Please contact us if you need assistance using the Online Community.



Submit an Opinion Request in the Online Community.

VI. Program Roles and Responsibilities

1. Applicant or Project Manager

Anyone receiving our help under TAP will pay the enrollment fee.

The Project Manager can be the Applicant, service provider, or environmental consultant managing the cleanup.

The Applicant or Project Manager responsibilities include the following.

- Program application.
- Conduct a site characterization and cleanup that meets MTCA requirements.
- Communicate cleanup status and any setbacks or delays with the TAP Site Manager.
- Request opinions and upload all site data and documents to the Online Community.
- Meet cleanup timelines established by Milestones set in the Online Community.
- Submit Milestone Deviation Requests in the Online Community if timelines will not be met.
- Complete a Terrestrial Ecological Evaluation per WAC 173-340-7492, or document qualification for an exclusion.

- Notify us in writing if there is a change in the Project Manager or Property Owner so we can update our records.
- Submit progress reports to the Online Community if monitoring is required.

2. PLIA

We administer TAP and provide technical advice and opinion letters on whether the cleanup meets MTCA requirements.

PLIA responsibilities include the following.

- Answer questions about the application process.
- Review the application to see if a site can enter TAP.
- Host the intake meeting.
- Provide opinion letters in response to requests
- Reply to your emails and phone calls.
- Work with you to come up with options to clean up.
- Schedule site visits as resources allow and when needed to help organize cleanup of the site.

We name a TAP Site Manager for each project. The Site Manager is your primary point of contact for questions. They provide technical advice and letters of opinion. The Site Manager may change during the project.

The TAP goal is to provide a written opinion for each request within 70 days of receiving a request if we have all the required documents and reports.

VII. Remedial Action

Cleanup at a contaminated site must comply with the state cleanup laws and regulations and other applicable federal and local requirements. MTCA, Chapter 70A.305 RCW, and MTCA Regulations, Chapter 173-340 WAC.

MTCA requires multiple steps to clean up a site. Below are the steps the Project Manager must complete. Some steps may be combined.

1. MTCA Steps Towards Cleanup

Review the project documents to make sure that the site and its contaminants are clear.

Project planning and scoping are done at this stage.

a. Site Characterization

Complete the Remedial Investigation and make sure it meets the requirements of WAC 173-340-350. The Remedial Investigation should describe the nature and extent of contamination in the soil, groundwater, and air. All risks and receptors should be identified and addressed through a conceptual site model.

b. Remedial Alternative Evaluation and Selection

The information from the Remedial Investigation can be used to perform a Feasibility Study. This is used to help select a cleanup plan and is described in WAC-173-340-351. At some sites, a "Model Remedy" – a set of procedures used for routine projects - may be used instead of a Feasibility Study to choose a cleanup.

c. Cleanup Action Plan (CAP)

A Cleanup Action Plan (CAP) describes how and when a cleanup action will be completed. How to develop the CAP to make sure it meets the requirements of cleanup and monitoring is described in WAC 173-340-360 through 450. Information deciding whether the cleanup standards have been properly set and applied, including all possible pathways and receptors is described in WAC 173-340-700 through 760.

2. Institutional Controls

Institutional controls are a way to limit or forbid activities that may interfere with cleanup or result in exposure to contamination. Institutional controls can include physical barriers, property restrictions, signs/postings, ongoing monitoring, and maintenance requirements as per WAC 173-340-440.

PLIA must agree that institutional controls are appropriate and required as part of the cleanup before continuing. Institutional controls are typically recorded in an environmental covenant.

The Feasibility Study and disproportionate cost analysis may need to be updated to include all costs as described in WAC 173-340-351 and 173-340-360. Your Site Manager can assist you with understanding the requirements.

a. Environmental Covenants

An environmental covenant is a legally binding agreement that describes how a property can be used. This will then

apply to any future owner of that property. We will ensure the current property owner complies with the environmental covenant.

Covenants are controlled by Chapter 64.70 RCW Uniform Environmental Covenants Act (UECA).

b. Environmental Covenant Review Fee

Before an environmental covenant may be reviewed, you must pay an additional administrative fee. This fee is used to cover the additional long-term periodic reviews and compliance costs.

c. Periodic Review Requirements

A periodic review is a review of post-cleanup site conditions and monitoring data. This ensures the site is still protective of human health and the environment. A periodic review must happen at least every five years after the environmental covenant is recorded as per RCW 70A.330.040(14).

During the review, we may determine that an environmental covenant is no longer required or that more action is required.

A periodic review may have any of the following.

i. Review of data collected during a monitoring period.

ii. Evaluation of institutional controls used at the site.

iii. Review of new and updated technologies available.

iv. Review of site information.

v. A site visit and evaluation.

d. Removal of an Environmental Covenant

You may ask us to remove the environmental covenant if the conditions that caused the environmental covenant no longer exist. We will provide you with a document if we agree. You will need to file that document with the county to finish removing the covenant.

Under Chapter 374-400-600, Ecology may require a 30 day public comment period for removal of covenants.

VIII. Reporting

1. Technical Reports

The Project Manager must comply with the following reporting requirements when requesting opinions:

- Documents submitted with geologic, hydrogeologic, or engineering work must be under seal of a licensed professional as required by Chapter 18.43 RCW and Chapter 18.220 RCW.
- Documents supporting a request should contain sufficient data to evaluate the request. We may request changes to the document(s) if the document(s) referenced in an opinion request does not contain the necessary data.
- **All requests for a written opinion must include supporting data or documents submitted through the Online Community.**

2. Milestone Updates

The Project Manager must submit a Milestone Deviation Request in the Online Community if there is a change from the projected timeline in the project Milestones. The request should include all the following:

- A detailed description of any changes to the project plan or timeline and the reason.
- A plan for making up any lost time and complying with the schedule.
- A list of finished or upcoming work.
- A proposed completion date.

IX. Project Termination

The project ends when we issue a No Further Action (NFA) letter. You may submit more reports for review if we find that Further Action (FA) is needed to clean up the site.

An NFA is a notice of the end of a project with PLIA unless we say otherwise.

We may end the Agreement for other reasons that can include, among other things:

- Failure to meet project Milestones by more than six months. We may allow Milestones to be updated when appropriate.
- Ecology takes over enforcement of the site.

- A hostile working relationship between our staff and the Applicant.
- No communication with PLIA for more than 12 months.

The termination date is

- The date the NFA letter is sent to you; or
    - Note: Sites that receive an NFA that includes a covenant are not terminated from TAP.
- You receive a letter from us telling you that your site is no longer in the Program because you did not follow program requirements and Milestones; or
- You request to end the TAP Agreement.

The enrollment fee is non-refundable. A termination notice will be sent to you and available to the public on our Gasoline/Diesel TAP Project Public Search web page. Termination notices will not be available to the public for Sites in the Heating Oil Insurance Program.

X. Rescinding an Opinion

We may rescind, or cancel, an opinion if we decide that more or different cleanup is needed at the site to protect people and the environment.

We may cancel an opinion if:

- The information we used to make the opinion was false or misleading.
- We have new information or have done a review that tells us the opinion is no longer correct.
- A review indicates the property use restrictions in the environmental covenant are not being followed.
- A review reveals that post-cleanup site conditions may be harmful to people or the environment.

XI. Limitations of Opinions

A site may impact more than one property. Our opinion only applies to the site or property described in the opinion letter. We will write in the opinion letter if properties other than the source property are affected by the contamination.

Our opinion letters do not end a person's liability to the state or protect a person from legal claims from other people. Any liable person may be completely liable for all cleanup costs and damages caused by the leak.

Washington State, PLIA, and its employees will not be liable for the leak. They are immune from all liability related to providing advice under this program.

XII. Disputes Resolution Process

You may follow the below process if you disagree with our decisions.

1. **Notify Site Manager.** You should first try to solve the dispute with the Site Manager. You may need to provide your Site Manager with a new opinion request and technical memorandum that includes an explanation and documents supporting your position. The Site Manager will review the information provided and issue an opinion.

   At the Site Manager's discretion, an informal resolution may also be reached outside of the formal opinion request process.

2. **Notify PLIA's Technical Supervisor**. Notify our Technical Supervisor in writing if you still do not agree with the Site Manager's determination. The Technical Supervisor will either respond in writing or schedule a meeting to discuss possible resolutions.

XIII. Helpful Links

- Pollution Liability Insurance Agency
- Online Community
- Technical Assistance Program
- Model Toxics Control Act
- Department of Ecology
- ERTS
- Voluntary Cleanup Program
- National Priorities List
- Environmental Covenants

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