Hawaii Department of Health
Hazard Evaluation and Emergency Response Office

Fast Track Cleanups

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Introduction

The Hawaii Department of Health (HDOH) Hazard Evaluation and Emergency Response (HEER) Office has instituted a process to streamline and clarify the existing site investigation and cleanup process for voluntary response actions: *Fast Track Cleanups* (FTC). The need was identified as a part of continued program improvements. In particular, FTC will help organize an increasing number of cases where site owners or consultants approach HDOH and request approval of site conditions, sampling strategies, or no-further-action determinations without formally entering the Voluntary Response Program (VRP) or any other cleanup agreement.

FTC streamlines the process by avoiding the submittal of multiple work plans and interim report submittals and therefore enabling the participant to move forward rapidly to cleanup actions.

FTC is intended to encourage and facilitate HDOH involvement in these actions, as well as to help land owners achieve closure at sites where a cleanup investigation may have already occurred.

FTC is intended to be inclusive of most sites; however, it may not be appropriate or beneficial for all sites. HDOH will review eligibility conditions such as off-site contamination or nearby sensitive receptors and habitat. FTC will not provide benefits to prospective purchasers offered under the Voluntary Response Program.

This information packet includes a summary of FTC, including the key steps and technical approaches, a Frequently Asked Questions identifying some of the common questions raised during focus group meetings conducted during the development of FTC, the site screening form, and an example application and agreement form.

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1. Fast Track Cleanups Overview

The purpose of *Fast Track Cleanups* is to enable landowners or other private parties to conduct a voluntary investigation or cleanup under a simple agreement with HDOH, without the submittal of multiple work plans and interim report submittals and therefore enabling the participant to move forward rapidly to cleanup actions. The focus of FTC is to streamline and expedite site closure at removal action sites.

FTC streamlines the review process by enabling the requesting party to conduct the site investigation and carry out cleanup actions without formal HDOH oversight or approval of each step. Project status and updates can instead be conducted with HDOH through scoping meetings or presentations, as needed.

Consultants who conduct the work are expected to follow current HDOH guidance and policies related to site investigation and cleanup activities.

Following completion of the investigation or cleanup, HDOH will review the removal action summary, including the environmental hazard evaluation, to determine if the response actions were completed to a level that is protective of human health and the environment according to the Hawaii Environmental Response Law (Hawaii Administrative Rules [HAR] 11-451 and the State Contingency Plan (Hawaii Revised Statute [HRS] 128D, Part I). Site closure decisions will be based primarily on Hawaii Environmental Action Levels (EAL) for unrestricted and commercial/industrial land use exposures. If no additional cleanup is deemed necessary under unrestricted land uses, HDOH will issue a No Further Action Letter. For sites where cleanup decisions are based on commercial/industrial land use or other limited exposures, HDOH will issue a No Further Action Letter with Institutional Controls specifying the land use, property controls, or conditions required to support the No Further Action determination. In the event that investigation results support no cleanup actions are necessary because site levels are below unrestricted EALs, then HDOH will issue a No Action Letter. Under this scenario, preparation of a removal summary report will not be necessary and HDOH will instead review and approve the site investigation report, including the environmental hazard evaluation.

While still adhering to the State Contingency Plan, FTC offers a fundamentally different approach by placing a greater burden of technical justification on the participant, with less intermediate regulatory review and approval of multiple work plans and other interim report submittals. If HDOH does not believe the quality of work meets current guidelines or expectations, they will direct work to be redone or disqualify the participant from the agreement. This puts great responsibility on the participant to hire a knowledgeable consultant that understands current HDOH guidelines and policies. A knowledgeable consultant must be aware of and ready to implement the most up-to-date regulatory guidance and policies. HDOH offers and encourages periodic consultations, presentations, and informal updates rather than multiple work plan and interim report submittals, thus reducing delays awaiting approval of proposed actions. Such input, provided only upon request, serves to expedite the process by ensuring cleanup actions are consistent with applicable or relevant and appropriate HDOH rules, guidance, and policy statements.

***Fast Track Cleanups* Process**

Site Screening Form and Eligibility Review
↓
Scoping Meeting
↓
Application and Agreement
↓
Self-Directed Investigation and Cleanup
↕
Technical Consultations
(*Recommended at key decision points such as sampling plan and investigation results*)
↓
Removal Action Report
↓
No Further Action Letter

2. Legal Authorities

FTC is implemented as a removal action policy and HDOH responsibilities and technical requirements are presented under HRS §128D-4(a),17(f); and HAR §11-451-8(i), (j). Under these statutes and rules, HDOH has the authority to arrange, provide oversight, or take response with known responsible parties for the removal of any release or threatened release of a hazardous substance, pollutant, or contaminant at any time, provided such arrangements are consistent with the State Contingency Plan.

HDOH is also granted the responsibility of identifying or developing advisories, criteria, or guidance, such as FTC, to be considered useful in developing response actions (HAR §11-451-8(i)). Note that unless any actions taken under FTC are considered arbitrary and capricious, or an abuse of HDOH discretion, FTC should withstand legal challenge (HRS §128D-17(f)).

3. Site Screening Form, Eligibility Determination, and Scoping Meeting

The first step of the process requires that the applicant complete a 2-page site screening form. The screening form identifies basic information regarding the site and the purpose of entering FTC. HDOH will use the screening form to confirm site eligibility and to schedule a scoping meeting with the applicant. The site screening form can be downloaded directly from the HDOH website at

www.hawaii.gov/health/environmental/hazard/index.html.

Completed forms can be submitted directly to the FTC Coordinator at the HEER Office.

Eligibility is not determined by the phase or status of the investigation or cleanup. A site can enter FTC during any phase of the investigation or cleanup process, including:

- Following a known or suspected spill or release
- Prior to, during, or following sampling
- Prior to, during, or following cleanup
- Following a phase I investigation where recognized environmental concerns (REC) identified

HDOH has issued guidance regarding the investigation and assessment of residual pesticides in soils. The guidance focuses on the redevelopment of former agricultural land but is also applicable to golf courses, nurseries, military housing complexes and similar, large-scale projects involving soils that may have been treated with pesticides. HDOH encourages the use of FTC for receiving a No Action Letter regarding residual pesticides at such sites.

FTC is intended to be inclusive of most sites; the following are conditions which may disqualify sites from FTC:

- No known or suspected spills or releases (FTC is not a tool to receive NFA determinations for Phase I reports, for example).
- Contamination is known to or likely to cross property boundaries
- Groundwater contamination is significant
- Soil contamination has migration pathway to drinking water aquifer
- Site is adjacent to sensitive communities or residences
- Site is adjacent to sensitive ecological receptors
- Site has sensitive current or future land use, such as schools, day care, or unrestricted access such as a public recreational area
- Site cleanup decisions would have a significant impact on the local community and thereby require public review or comment. Note that public review or comment can be conducted under FTC if the participant and HDOH believe it would be beneficial, but not required.
- Complex contamination with multiple potential remediation approaches, where a full remedial investigation and completion of a Remedial Alternatives Analysis (RAA) may be warranted.
- Investigation or cleanup activities are already governed by a binding agreement, such as a cleanup order, federal agreement, or state-lead cleanup activity

Each of these conditions will be addressed and assessed on a case-by-case basis. HDOH will make the determination upon review of application process or scoping meeting.

Note that following sites are not eligible for FTC:

- A site that poses an imminent and substantial threat to human health, the environment, or natural resources
- A site listed or proposed to be listed on the National Priorities List (NPL) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Those sites with respect to which an order or other enforcement actions has been issued or entered under CERCLA and is still in effect
- A site where the United States Coast Guard has issued a federal Letter of Interest;
- A site that is subject to corrective action under Subtitle C of the Resource Conservation and Recovery Act (RCRA) or Chapter 342J
- A site that is under the jurisdiction or oversight of the HDOH Solid and Hazardous Waste Branch, including the UST Program

Fast Track vs. Voluntary Response Program?

FTC is different from the VRP in that FTC does not require HDOH approval at each step of the investigation and cleanup process, in addition to not requiring a public participation plan. FTC does not provide a Letter of Completion with exemptions from future liability for prospective purchasers.

Following review of the site screening form and if the site meets eligibility requirements, HDOH will schedule a scoping meeting with the requesting party. The purpose of the scoping meeting is to discuss quality and completeness of any existing data or site information, any potential data gaps that would need to be addressed to support site closure, the project goals, cleanup objectives, HDOH resources, guidelines, and estimated schedule. HDOH will review overall FTC process and the requirements of the Application and Agreement Form.

Site restrictions, such as commercial use or other land-use controls, should be discussed in the scoping meeting and during ongoing consultations with HDOH as data is generated. FTC is not intended to address prospective purchaser agreements or Letters of Completion.

Since FTC can be used at sites that have already been investigated or cleaned up, the scoping meeting can be used to discuss quality and completeness of existing data and any potential data gaps that would need to be addressed to support site closure. The applicant will still be required to submit an application.

4. Application and Agreement

Participation in FTC officially begins with the completion of the application and agreement form. The requesting party will provide contact information, site background, site conditions, and site closure goals. The application and agreement includes statements regarding the roles and responsibilities of all parties, expectations, and general provisions necessary for a voluntary FTC agreement.

HDOH will review the document for completeness and if no updates are required, will return a signed version of the application constituting an agreement for the FTC. In some cases, a follow-up meeting may be recommended to ensure understanding of the roles, responsibilities, and provisions outlined in the agreement.

The agreement is non-binding; HDOH or the participant can terminate at any time. Requesting parties may leave FTC without cause. HDOH can terminate the agreement with cause if it believes that the quality of work is poor or adherence to State guidelines has not been adequately met. Since FTC-eligible sites are without offsite impacts or immediate risks to human health or the environment, HDOH provides the general understanding that it would not pursue the site as a State-lead oversight project.

Once the agreement has been finalized, the applicant can proceed with the investigation and cleanup activities. Submittal of work plans, interim submittals, or other reports is not required prior to the removal action report. In order to guard against possible rework or ensure expectations are consistent, HDOH strongly recommends technical consultations at key decision points of the project, including:

- Initial environmental hazard evaluation
- Conceptual model and sampling strategies
- Site assessment data results
- Evaluation and selection of cleanup alternative
- Post cleanup confirmation results and reevaluate the environmental hazard

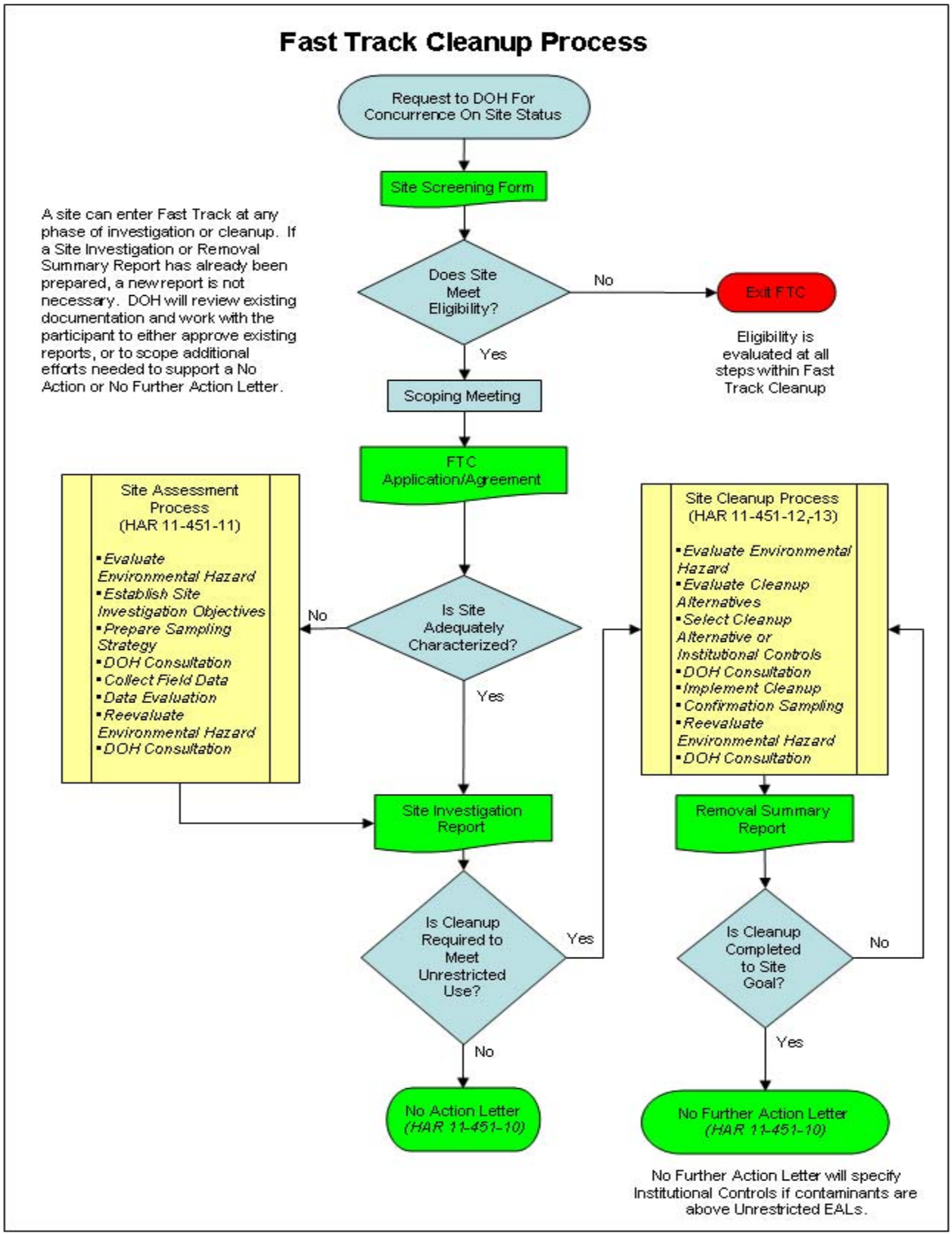
For example, instead of submitting a formal sampling plan for review, the participant could meet with HDOH prior to field activities and discuss the proposed sampling strategy to ensure a common understanding of site-specific data collection requirements.

5. Fast Track Cleanup Process

Fast Track Cleanups is implemented under HDOH's authority to arrange, provide oversight, or take response with known responsible parties for the removal of any release or threatened release of a hazardous substance, pollutant, or contaminant at any time, provided such arrangements are consistent with the State Contingency Plan. As such, FTC follows all relevant and required elements of the State Contingency Plan, Hawaii Environmental Response Law, and guidance documents such as the updated Technical Guidance Manual and HDOH policy memoranda.

Participants in FTC are able to conduct site assessment and cleanup actions without requiring approval of multiple work plans and interim report submittals which enables the participant to proceed more rapidly towards cleanup actions. This does not alleviate the participant's need to follow each step of the State Contingency Plan to adequately support HDOH's no further action documentation. In particular, the FTC participant must adequately implement the site assessment and site cleanup processes identified in HAR 11-451-11, 12, and 13, as well as the specific protocols and guidance materials identified in the updated Technical Guidance Manual.

The overall process and key decision points are identified in the Fast Track Cleanup Process figure below.


Fast Track Cleanup Process
Request to DOH For Concurrence On Site Status
Site Screening Form
A site can enter Fast Track at any phase of investigation or cleanup. If a Site Investigation or Removal Summary Report has already been prepared, a new report is not necessary. DOH will review existing documentation and work with the participant to either approve existing reports, or to scope additional efforts needed to support a No Action or No Further Action Letter.
Does Site Meet Eligibility?
No
Exit FTC
Eligibility is evaluated at all steps within Fast Track Cleanup
Yes
Scoping Meeting
FTC Application/Agreement
Site Assessment Process (HAR 11-451-11)
▪ Evaluate Environmental Hazard
▪ Establish Site Investigation Objectives
▪ Prepare Sampling Strategy
▪ DOH Consultation
▪ Collect Field Data
▪ Data Evaluation
▪ Reevaluate Environmental Hazard
▪ DOH Consultation
No
Is Site Adequately Characterized?
Yes
Site Investigation Report
Site Cleanup Process (HAR 11-451-12,-13)
▪ Evaluate Environmental Hazard
▪ Evaluate Cleanup Alternatives
▪ Select Cleanup Alternative or Institutional Controls
▪ DOH Consultation
▪ Implement Cleanup
▪ Confirmation Sampling
▪ Reevaluate Environmental Hazard
▪ DOH Consultation
Removal Summary Report
Is Cleanup Required to Meet Unrestricted Use?
Yes
No
No Action Letter (HAR 11-451-10)
Is Cleanup Completed to Site Goal?
No
Yes
No Further Action Letter (HAR 11-451-10)
No Further Action Letter will specify Institutional Controls if contaminants are above Unrestricted EALs.

6. Site Assessment Process

Site Assessment is broadly defined in the State Contingency Plan as activities that involve the collection of environmental data for decision-making purposes. The goal of a site assessment is to characterize site conditions in order to identify the necessity for cleaning soil or groundwater that poses unacceptable environmental hazards, either under current site conditions or under uncontrolled, future conditions.

The investigation is carried out by the collection and analysis of samples of soil, groundwater, soil gas, surface water, sediment, air and/or other media as needed. The HDOH Tier 1 EALs may be used to identify contamination "above levels of potential concern." The investigation of contamination below the EALs is generally not necessary.

Additional sampling strategy information is included in the updated TGM Sections 3 and 4.

The presence of a contaminant at concentrations above the Tier 1 EALs indicates a potential environmental hazard. The nature and magnitude of tentatively identified hazards are described in the environmental hazard evaluation (EHE) portion of the site investigation. For some Fast Track Cleanup sites, the presence or absence of potential hazards may be simply identified and the contaminated soil or groundwater quickly remediated without further assessment. In cases where cleanup costs could be significant or the contamination cannot otherwise be easily remediated, a more advanced evaluation of specific environmental hazards may be advantageous to the FTC participant.

The site investigation and EHE are critical steps in the decision-making process to make FTC sites successful. HDOH recommends that participants consult with HDOH when developing site objectives, sampling strategies, and hazard evaluations. Coordination among environmental consultants and HDOH may significantly improve the quality and timeliness of the site assessment actions.

The remainder of this section outlines critical steps in the site assessment process and includes general questions intended to aid in developing each step.

Step 1—State the Problem – Draft a Conceptual Site Model (CSM)

Summarize past or ongoing activities at the site that could have led to environmental contamination and will require additional investigation. This is framed in terms of a Conceptual Site Model (CSM). The CSM is a representation of the current understanding of site environmental conditions with respect to recognized or potential environmental hazards. Developing the CSM serves to define gaps in the current understanding, which in turn defines the key issues that may need investigation. To begin developing the CSM, a concise description of the site and potential concerns are developed.

Issues to consider in Step 1 include:

a. What types of past or ongoing activities at the site could have led to environmental contamination?
b. Do preliminary data indicate the presence of contaminants in soil, groundwater or other environmental media greater than the HDOH Tier 1 EALs, indicating the presence of potential environmental hazards?

Step 2—Identify the Objectives and Chemicals of Potential Concern (COPC)

The primary objective of the site investigation is to collect data necessary to sufficiently understand the presence and nature of environmental hazards at a site. The site investigation design must be adequate to meet this objective, as well as to provide data and information necessary to develop a response action to mitigate identified hazards.

Information critical to identifying areas of concern and COPCs involve:

- Known or potential sources of chemical releases, including underground and aboveground tanks, piping networks, storage areas, disposal areas, etc.

- Develop a description of general surface and subsurface characteristics, including paved versus unpaved areas, soil type, presence of debris or fill material, location of utilities, depth to and use of groundwater, location and types of other manmade structures, etc.
- Identify nearby water supply wells, bodies of surface water and other potentially sensitive ecological habitats that could be threatened by the contamination.

The target COPCs should be identified early in the process based on the known or suspected history of the site. Supplemental guidance regarding the selection of COPCs for specific types of sites is presented in the TGM Section 9 and in the document entitled Screening for Environmental Hazards Concerns at Sites with

Contaminated Soil and Groundwater. If environmental data already exist for the site, they should be evaluated for data quality using the guidelines described in Step 7 below to determine if the data is acceptable to be used for evaluation of site conditions, to be compared to any future sampling data to be collected from the site, and for decision making. Acceptable data should be summarized in map and table form to assist in identifying sample information needs, in the evaluation of environmental hazards, and to assist in technical consultations.

Step 3—Identify Sampling Information Needs

Identify the type(s) and source(s) of information needed to adequately characterize the investigation site, and resolve the question posed in Steps 1 and 2.

Understanding "concentrations of potential concern" is necessary to identify sampling needs. This is one of the primary uses of the HDOH Tier 1 Environmental Action Levels (Tier 1 EALs, refer also to Step 7). In general, contaminants in soil, water, soil gas or indoor air at concentrations below the Tier 1 EALs do not pose a significant threat to human health and the environment. The presence of contaminants above the Tier 1 EALs does not necessarily indicate that significant environmental hazards exist, only that additional evaluation is warranted. Incorporation of the Tier 1 EALs in the site investigation work plan provides a useful endpoint for those tasked to carry out the fieldwork, and can reduce the need for remobilization and additional data collection. Delineating contamination to levels below the Tier 1 EAL for a given contaminant is generally not necessary.

Step 3 involves considering site-specific concentrations of potential concern and pathways that need to be investigated to determine the following:

- Can some groups of COPCs be eliminated from further consideration and testing based on previous investigation results?
- What are the potential environmental hazards posed by targeted COPCs?
- What types of media should be collected and analyzed (e.g., soil, soil gas, groundwater, surface water, etc.) based on areas and types of potential contamination?
- How may representative concentrations of contaminants best be determined?
- What is the most appropriate sampling approach (e.g, multi-increment samples vs discrete samples)?
- What are the most appropriate tools to collect the samples at this site?
- Could additional, non-traditional data potentially be needed to support the Environmental Hazard Evaluation or Response Action (e.g., bioaccessible arsenic data, batch test leaching data)?

Understanding and collecting the information needed to answer the questions posed in Steps 1, 2 and 3 is a critical part of the site investigation process. Data gaps are identified by an evaluation of existing site data and a determination of the need for additional data to meet site investigation objectives. If additional data are needed, the intended use of the data should be clearly identified. Data needs should be continually re-evaluated and refined as more information about the site is gained and potential environmental hazards are identified.

HDOH strongly encourages the use of multi-increment and decision unit strategies to enhance sample representativeness in the investigation of contaminated soil (Ramsey and Hewitt 2005). Multi-increment samples significantly increase the accuracy of representative contaminant concentrations, in comparison to traditional, discrete samples (Jenkins et al. 2005). A number of discrete samples may, however, be useful for initial screening purposes, delineation of spill area boundaries, or collection of samples to be tested for volatile chemicals. Selection of Decision Units is discussed in Step 4 below.

Step 4—Define the Decision Units

A decision unit (DU) is a well-defined area of a site where a decision is to be made regarding the extent and magnitude of contaminants identified within, as well as the potential environmental hazards posed by the contaminants. In some cases, an entire site can be defined as a single decision unit; however, it is more typical to divide a site into multiple decision units.

The size and shape of a decision unit will depend in part on the specific, potential environmental hazards posed by the target COPCs and the intended use of the site. Suspected heavily contaminated areas (sometimes referred to as "hot spots") should in general be treated as individual decision units. This is especially important if the target contaminant is highly leachable from the soil and could pose a threat to groundwater resources (e.g., water-soluble pesticides, solvents, light-end petroleum fuels, etc.). For relatively non-mobile contaminants the driving environmental hazard is often direct exposure, rather than leaching and groundwater protection (e.g., arsenic, lead, PCBs, polychlorinated dibenzodioxins and polychlorinated dibenzofurans "dioxins", etc.). In these cases the appropriate decision unit size may be the

entire residential yard or the outdoor work area(s) of a commercial or industrial site.

Points to consider:

- What are the primary environmental hazards posed by the target COPCs?
- How should the decision units be defined to evaluate these potential hazards?
- What are the lateral boundaries of the selected DUs?
- What is the depth of each DU?
- Do the selected DUs provide sufficient coverage of targeted spill areas and/or the site in general?
- Will the selected DUs be adequate to determine the scope of response actions required if environmental hazards are identified?

Establishing DUs early in the investigation will also help integrate the field investigation with the evaluation of potential environmental hazards, as well as the evaluation of cleanup actions.

Step 5—Develop decision statements and specify field-lab data acceptance criteria

Develop decision statements using sampling information identified in Step 3 and the decision unit boundaries defined in Step 4. Specify contaminants to be measured and action levels to be used for making the decision.

If the data on which the decision will be based consists of multiple values, then the statistic to be used for decision-making must be specified. The most commonly-used statistics are:

- The value itself (if there is only one value)
- The upper end of the estimated range of the mean (based on the Relative Standard Deviation [RSD] from replicate data)
- The 95% Upper Confidence Level (UCL) of the mean

To specify laboratory analytical methods, field-lab data quality and acceptance criteria, first identify the optimal laboratory analytical method for the target COPCs and the media to be tested. More than one laboratory analytical method could be available for a given, target contaminant.

Additional data quality information is included in the updated TGM Sections 10 through 12

Issues to consider in selecting lab analytical methods include:

- Is more than one laboratory method available for a target group of chemicals?
- If more than one lab method is available, is one method considered more accurate for the target COPC?
- Are reporting limits for each method sufficiently low to meet Tier 1 EALs for the COPC and, if not, are they within the generally acceptable range for commercial laboratories?
- How much total sample mass (of the designated maximum particle size, if soil) will be necessary to run all the COPC analyses planned?
- Is prescreening using field equipment or less rigorous lab method desirable to help refine the final analytical method?
- Is the lab familiar with and does it have protocols for representative laboratory subsampling of field samples?
- For soil, has the lab taken steps to reduce error by determining and using a digestion/analysis mass that is based on the maximum particle size in the sample?

Samples collected during a site investigation may be sent to several laboratories based on the types of analyses required. All laboratories should have adequate internal QA/QC procedures to ensure sufficient data quality to satisfy the requirements of the project. The HDOH default standard analytical methods are described in EPA Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, also known as EPA SW-846 (http://www.epa.gov/epawaste/hazard/testmethods/sw846/index.htm).

The reporting limit/practical quantitation limit (RL or PQL) a lab expects to achieve for a particular method generally should be low enough to determine if the analyte is present at or above the Tier 1 EALs or designated alternate value that meets the site investigation objectives. This will be a factor in selecting both the method(s) and the laboratory. A specialized laboratory may be needed.

If soil/particulate samples are being collected and analyzed, the laboratory should be employing a representative laboratory sub-sampling procedure when processing the samples and preparing lab replicates. Such sub-sampling procedures include use of a sectorial splitter or hand multi-increment sampling (USEPA, Nov 1993). Representative sub-sampling in the lab is generally considered the most important factor in reducing overall laboratory error.

Exceeding Tier 1 action levels for some contaminants may indicate a need for additional analyses. For example: if total arsenic is found to be present in soil above 20 mg/kg, additional bioaccessible arsenic tests may be indicated; if contaminants are detected in soil above action levels for leaching hazards, laboratory batch tests may be needed to better evaluate contaminant mobility and the threat to groundwater. These possible outcomes should be identified in advance, and additional analyses identified to accommodate these contingencies as appropriate.

After selecting lab methods based on data needs, the next step is to specify the data quality performance and acceptance criteria the data will need to achieve. Both field and laboratory data quality considerations should be included in setting overall data quality and acceptance criteria for the project. Providing limits on decision errors provides limits on the uncertainty in the data (USEPA, FEB 2006b). Uncertainty limits are site-specific, and include considerations such as precision, accuracy, completeness, and comparability parameters.

This step provides the basis for determining whether the investigation data may be used to answer the decision statements.

Step 6—Develop and Implement the sampling strategy

The sampling strategy should be designed based on the findings of Steps 1-5. Items to consider in developing the sampling plan include:

- How may sample collection be optimized to achieve site investigation objectives in a cost-effective manner?
- What sample collection strategy is most appropriate to meet the site investigation objectives?
- What are the optimal tools for collecting samples for analyses by the methods identified in Step 5?
- Are the investigation areas accessible using the proposed tools and drilling equipment?
- What hazards could the targeted contaminants of potential concern or other chemicals that may be present pose to field staff at the anticipated or potential concentrations in soil, soil gas and groundwater?
- What physical site conditions could pose hazards to field staff and what type of personal equipment is necessary to protect field staff? (e.g., for heavy equipment, confined spaces, trip and fall hazards, etc.)?

Additional sampling information is included in the updated TGM Sections 5 through 9

Final selection of sample point locations and collection of samples is dependent on a multitude of site-specific factors, including the location of buildings and other structures, the presence or absence of pavement, traffic, access, etc. In order to guard against possible rework or ensure expectations are consistent, HDOH strongly recommends technical consultations at key decision points of the project, including the final proposed sampling strategy.

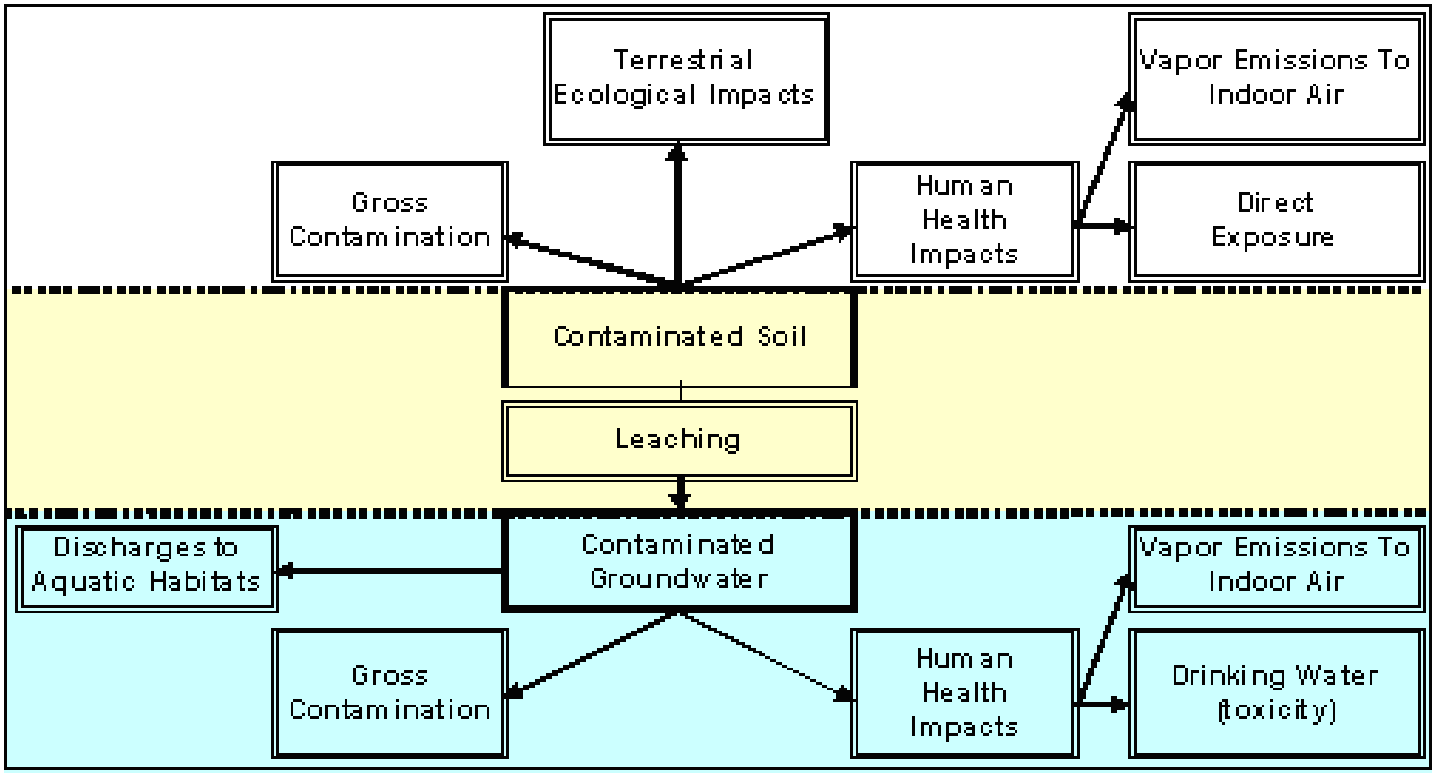
Step 7—Assess Data Quality and Screen for Potential Environmental Hazards

After the environmental data are collected, the data must be reviewed to determine whether the type, quantity, and quality of sampling data are adequate to support the decision making process required for each decision unit. Items to consider in data assessment step include:

- Was the sampling strategy adhered to? Were there any mistakes?
- Was the lab able to complete all analyses?
- Did the laboratory re-analyze or provide appropriate interpretation data for samples that did not meet the subsampling or analysis QC criteria?
- Were enough samples taken to reduce significant error due to site heterogeneity?
- Are the sample data acceptable based on the field and laboratory QC data and acceptance criteria?
- Has there been sample bias due to bad sample handling, transport, preparation, etc.?
- Were the “batch” type lab replicate and other lab QC measures used to assess the precision and accuracy of all laboratory samples in that appropriate (lab) batch?

Additional detail on data validation and data quality assessment is provided in the TGM Section 3.8.

Once the data assessment is complete, data judged appropriate for decision-making is screened for potential environmental hazards. HDOH recommends the use of EAL Surfer, an Excel-based version of the Tier I EAL lookup up tables, which makes use of the EALs and the identification of potential environmental hazards at contaminated sites especially easy. The EAL Surfer is available for download from the HDOH web page.



The figure provides a summary of environmental hazards considered in a typical environmental hazard evaluation. The default Conceptual Site Model used to develop the HDOH Tier 1 EALs assumes that each of these hazards could exist at a site given high enough contaminant concentrations and the absence of engineered or institutional controls.

Items to consider when evaluating the data and environmental hazards include:

- Do reported concentrations of target COPCS exceed Tier 1 EALs and indicate the presence of potential environmental hazards?
- Are additional data needed to fully define the horizontal and vertical extent of contamination exceeding Tier 1 EALs?
- What are the specific, potential environmental hazards posed by contaminants that exceed the Tier 1 EALs?
- Is additional testing of the samples needed to better evaluate potential environmental hazards (e.g., bioaccessible arsenic data or SPLP batch test data)?
- Do current field conditions indicate an existing environmental hazard (e.g., exposed vs capped areas of contaminated soil)?
- Could the removal of existing controls (e.g., pavement, buildings, site use, etc.) lead to actual environmental hazards?
- Is the collection of additional site data needed?

As discussed in previous steps, a basic understanding of environmental hazard evaluation by those tasked with carrying out the field investigation is critical to the accomplishment of the site investigation objectives. Current and anticipated, future site conditions must be clearly documented and considered. An overview of the Environmental Hazard Evaluation process and the use of Tier 1 EALs to screen site data for potential hazards is provided in TGM Section 3.9 and Section 13. Use of the HDOH EAL Surfer to screen site data is strongly recommended.

Additional reporting and hazard evaluation information is included in the updated TGM Section 13 and 17.

Step 8—Prepare Site Investigation Summary Report

The information and data collected in the first seven steps of the site assessment process should be compiled into a site investigation report with recommendations for future actions.

Items to consider when preparing the site investigation report:

- Do site conditions or sample data indicate the presence of previously unanticipated environmental hazards, or the absence of previously suspected hazards?
- Do reported concentrations of COPCs in soil present potential exposure hazards and warrant further analyses of the soil samples?
- Do reported concentrations of COPCs in soil present potential leaching hazards, indicating a

need for groundwater data and a more detailed evaluation of residual contaminant mobility?
- Do reported concentrations of COPCs in soil or groundwater data present potential vapor intrusion concerns, indicating the need for soil gas or even indoor air sampling data?
- Do reported levels of volatile COPCs in soil gas present potential explosive subsurface conditions, indicating the need for an expansion of the health and safety plan to address subsurface drilling or excavation activities?
- Do high levels of contaminants in groundwater indicate potential impacts to nearby aquatic habitats, suggesting the need to collect additional groundwater, sediment or surface water data?

Note that the FTC process does not require HDOH to review or approve the site investigation summary report unless no cleanup action is required. HDOH recommends highly that the participant consult with HDOH at this step in the process to ensure that the strategy for progressing into the cleanup process is clear. Information prepared for the site investigation report will be necessary for the removal summary report to be provided to HDOH following completion of the cleanup action.

For FTC sites where site conditions and contaminant levels are below the unrestricted EALs, HDOH does not recommend cleanup actions. For this scenario, the participant must provide HDOH with a site investigation summary report, including the hazard evaluation, for review and approval. The participant must provide 60 days advance notice that the FTC site investigation report will be submitted for review. HDOH will commit to a 30-day review process and issue the No Action Letter following resolution of any outstanding items identified during the site investigation report review.

7. Site Cleanup Process

The cleanup route for removal actions provides a streamlined process to quickly address contaminant releases. Removal actions are typically effective where site assessment activities have clearly documented that significant contamination in soil is limited in extent, and within the reach of common excavation equipment.

The nature of any cleanup action is generally very site-specific. For sites where the extent of contamination is very limited and/or time is of the essence, aggressive remediation of the contamination may be most cost-beneficial (e.g., excavation and disposal of contaminated soil). In other cases, it may be appropriate to aggressively remediate contamination that is causing immediate environmental hazards (e.g., free product discharging into a surface water body or vapor intrusion into a building) and prepare an Environmental Hazard Management Plan to address long-term management of contamination that must be left in place.

HDOH will ultimately determine if sufficient data is available in the site investigation and environmental hazard evaluation reports to support all removal action decisions. If inadequate data exists for this decision, additional site investigation will be required.

Removal actions are documented in a removal action report containing the following minimum elements:

- Location of release or threat
- Cause of release or threat
- Site history
- General site geology, hydrology, groundwater status, adjacent land uses
- Distance to surface water bodies
- Site investigation and environmental hazard evaluation
- Removal alternatives considered
- Removal action summary
- Sampling methods and data on confirmation testing of removal action
- Description of hazardous substances remaining on site
- Environmental hazard evaluation of final site conditions

HDOH recommends highly that the participant consult with HDOH prior to completion of the formal removal action report to ensure that the HDOH concurs that the site goals have been met and that the cleanup has been completed according to the FTC agreement.

The participant must provide 60 days advance notice that the removal action report will be submitted for review. HDOH will commit to a 30-day review process and issue the No Further Action Letter following resolution of any outstanding items identified during the report review.

Additional cleanup action information is included in the updated TGM Section 14.

8. No Further Action Determinations

Once HDOH concurs that no further action is necessary for a specific release or suspect release site, a no action or no further action letter will be sent to the FTC participant. The letter will only be issued when HDOH has determined that remaining contamination at the site

does not pose unacceptable threat to human health or the environment following a cleanup action. The State Contingency Plan, Hawaii Environmental Response Law, updated TGM, EALs, and other HDOH policy documents will form the basis for all HDOH determinations.

The determination of no action is made after HDOH concurs that a site investigation report adequately supports that a release or threat of release has not occurred. The determination of no further action is made after an appropriate cleanup action has been successfully completed and documented. The letters will typically:

- Summarizes the release or suspect release scenario briefly
- Indicates all pertinent information and data regarding the site assessment and/or response actions have been reviewed
- States that no action or no further action appears necessary for the release
- Notes that if new information indicates that contamination is present at levels of concern, HDOH may require additional assessment and cleanup work (as necessary) to be performed

In some cases, a response action may address the threat posed by a hazardous substance release by containing the hazardous substances on site so that exposure human health and the environment is prevented. For example, a barrier cover might be used to prevent direct contact with contaminated soil. To ensure the continued effectiveness of such controls, HDOH may place institutional controls or other conditions in the no further action letter to require ongoing monitoring or land use controls.

There are three possible letters finalizing the FTC process:

- A *No Action Letter* is issued if no contamination above Tier 1 Unrestricted EALs is identified
- A *No Further Action Letter* is issued if cleanup activities have resulted in chemical concentrations below unrestricted action levels
- A *No Further Action Letter with Institutional Controls* is issued if contaminant levels are acceptable for current land use (such as commercial or industrial) but not acceptable for all uses (such as residential). The letter will include specific institutional controls or site conditions which must be maintained in order to support the No Further Action designation.

9. Continued Rollout Efforts and Long-Term Strategy

This guidance package provides the background and key elements necessary to launch FTC. HDOH understands the value in providing additional information to the public as it is developed. Several upcoming efforts and activities associated with FTC include:

Incorporation into HDOH Technical Guidance Manual. FTC has been incorporated into the current revision of the Technical Guidance Manual. This reinforces that FTC activities must be conducted in accordance with current HDOH guidance and policies. This also ensures that FTC is updated in a web-based platform which is easily accessed by the public. Additional guidance materials will also include a site assessment checklist and sample report templates.

Cost Recovery. HDOH will implement a cost recovery process consistent with cost recovery provisions within HRS 128D-5 at a date to be announced. Sites entering FTC prior to this date will be provided HDOH oversight and site closure without costs until such time as the cost recovery process is implemented. Sites that have entered before this time but not completed FTC will be given 60 days notice prior to the initiation of cost recovery.

User Forums. HDOH will conduct user forums to discuss FTC and lessons learned. HDOH will also invite FTC users for input on the process. The user forum would be targeted towards new and repeat users, stakeholders, and an internal advisory committee. Updates and user outreach may be conducted through participant subscription to a list-serve similar to how current HDOH policies are distributed.

The State of Hawaii would like to acknowledge and thank the support of the Oregon Department of Environmental Quality, the Washington Department of Ecology, and the New Jersey Department of Environmental Protection in the development of Fast Track Cleanups

Hawaii Department of Health
Hazard Evaluation and Emergency Response Office
Fast Track Cleanups

Frequently Asked Questions

Question/Topic	Answer
What are the advantages of FTC?	FTC streamlines the process by avoiding the submittal of multiple work plans and interim reports and therefore enabling the participant to move forward rapidly to cleanup actions. It communicates a straightforward process for receiving a No Further Action Letter.
How is FTC different than the VRP or other state-lead programs?	It does not require formal HDOH reviews at each step (sampling plan or remedial alternatives plan). It does not provide prospective purchaser indemnities as does the VRP Letter of Completion.
Are there disadvantages of FTC?	Yes. Risk or uncertainties associated with lack of formal HDOH approval at each step could be considered a disadvantage. This places added responsibility on the consultant to understand all current HDOH guidance and technical policies if HDOH consultations are not conducted.
Are the technical guidelines the same as any other program?	Yes. FTC operates under HDOH's removal authorities specified in HAR 451 and HRS 128D. All actions conducted under FTC must be consistent with relevant and appropriate Hawaii laws, the HDOH TGM, and policy memoranda.
How is eligibility determined?	FTC is intended to be inclusive of most sites, but there are several conditions HDOH will evaluate when determining eligibility. Site conditions will be addressed and assessed on a case-by-case basis. HDOH will make the determination upon review of site screening form or scoping meeting.
Can a site that has already been investigated or cleaned up be included in FTC?	Yes. Eligibility is not determined by the phase or status of the investigation or cleanup. Sites can enter FTC during any phase of the investigation or cleanup process.
What if previous sampling did not incorporate current, state of the art sampling protocols, like MI/DU?	Previous sample results will be reviewed on a case-by-case basis. If a previous action has been conducted and the file information can support a no further action letter, then HDOH would not require the participant to collect additional data or prepare updated reports.
Will HDOH review a Phase I under FTC?	No. Site eligibility requires that a known or suspected release is present; therefore, if the Phase I does not identify any recognized environmental concerns (REC), the site will not be eligible for FTC or HDOH review. If sampling is proposed to address a REC, FTC may be a useful process to achieve HDOH concurrence environmental hazard or site closure.
If residential EALs are exceeded, can I still get a NFA? Would I need an environmental covenant?	FTC is intended to provide sites exceeding unrestricted EALs but meeting current land use exposures with a No Further Action Letter with Institutional Controls. If site contaminants and hazards have been substantially reduced, HDOH will not require an environmental covenant. The No Further Action Level with Institutional Controls will serve as the documentation supporting the site closure.

If this is a new process, will new guidance or training be provided? Will regulations be required?	Yes. HDOH will conduct FTC trainings in Spring 2009. A primary goal of the trainings is to ensure that lenders, consultants, and participants understand the level of detail and effort required in order to receive site closure. FTC will be incorporated into the updated web-based TGM and will reference relevant HDOH technical policies. HDOH does not currently support the need for new regulations to enhance FTC.
How does FTC fit within other existing guidance documents or policy statements, such as the TGM, EHE, EALs, etc…	All activities under FTC must follow HAR 451-11 (Site Assessment) and HAR 451-12, 13 (Site Response and Cleanup). No further action letters will be issued under the authorities identified in HAR 451-10.
What strength will the closure letter have? **Is it legally defensible?**	Yes. The no further action letters issued for a site within FTC will have the same legal standing as any closure letter issued by HDOH.
Are there any costs?	HDOH will implement a cost recovery program by June 30, 2009. Sites entering FTC prior to this date will be provided HDOH oversight and site closure without costs.
What if I decide to leave the program?	The FTC agreement is non-binding; HDOH or the participant can terminate at any time. Participants may leave the program without cause. HDOH can terminate the agreement with cause if it believes that the quality of work is poor or adherence to State guidelines has not been adequately met. Since FTC-eligible sites are without offsite impacts or immediate risks to human health or the environment, HDOH provides the general understanding that it would not pursue the site as a State-lead oversight project while the agreement is in effect.
What about public participation or notices?	FTC eligibility ensures that sites do not pose significant off-site risks or impacts to adjacent or sensitive communities. As a result, public participation or notice before or after the cleanup is not required. If institutional or site controls are necessary, HDOH will include the provisions within the site closure letter which will be available to the public within HDOH files. Note that public review or comment can be conducted under FTC if both the participant and HDOH believe it would be beneficial, but it is not required.
How can a consultant guard against surprise comments from HDOH in the summary reports?	HDOH strongly recommends technical consultations at key decision points of the project, particularly regarding the sampling strategies, upon completion of data collection, and during the development of environmental hazard evaluations. Other states that have implemented similar programs alerted HDOH that the success of a site is based on the level of department consultation provided. They report that nearly one-third of the sites are supported with outstanding consultation, resulting in minimal or no agency comments during report review and approvals. Depending on the level of consulting provided, the remaining sites can require extensive revisions and frequently additional sampling. Judicious use of experienced consultants and HDOH technical consultations is recommended to streamline the process and reduce the need for revisions or additional expense.

HAWAII DEPARTMENT OF HEALTH
HAZARD EVALUATION AND EMERGENCY RESPONSE OFFICE
FAST TRACK CLEANUPS
SITE SCREENING FORM

Fast Track Cleanups is a HDOH HEER Office program designed to enable landowners or other private parties to conduct a voluntary investigation or cleanup under a simple agreement with HDOH, without requiring multiple work plan and interim report submittals, while still receiving concurrence on the final site status of no further action. The focus of FTC is to streamline and expedite the assessment, cleanup, and closure process at removal action sites.

The first step of the process requires that the applicant complete this site screening form. HDOH will use the screening form to confirm site eligibility and to schedule a scoping meeting with the applicant. Eligibility is not determined by the phase or status of the investigation or cleanup; sites can enter FTC during any phase of the investigation or cleanup process.

GENERAL SITE INFORMATION

Participant Name **Phone** **Email**	
Site Name	
Site Address	
Site Status/Background	
Reason for Entering FTC	
Goal for Exiting FTC	
Estimated Start Date	
Estimated Completion Date	

FTC is intended to be inclusive of most sites; the eligibility criteria on the following page will enable HDOH to determine if the site is eligible for FTC. The following sites are not eligible for FTC:

- A site listed or proposed to be listed on the National Priorities List (NPL) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);
- A site with respect to which an order or other enforcement actions has been issued or entered under CERCLA and is still in effect;
- A site where the United States Coast Guard has issued a federal Letter of Interest;
- A site that is subject to corrective action under Subtitle C of the Resource Conservation and Recovery Act (RCRA) or Chapter 342J;
- A site that is under the jurisdiction or oversight of the HDOH Solid and Hazardous Waste Branch, including the UST Program.
- A site that poses an imminent and substantial threat to human health, the environment, or natural resources as determined by HDOH.

SITE ELIGIBILITY FACTORS

Eligibility Factors	Yes	No	Unknown
Is there a known or suspected contaminant release?			
Is an investigation or cleanup already governed by a current state, local, or federal agency?			
Is contamination known to or likely to cross property boundaries?			
Does soil contamination have a high likelihood of migrating to surface water or groundwater?			
Is groundwater contamination considered significant?			
Is the site adjacent to sensitive communities or residences?			
Is the site adjacent to sensitive ecological receptors?			
Would site cleanup decisions have a significant impact on the local community and thereby require public review or comment?			
Does the site has sensitive current or future land use, such as schools, day care, or unrestricted access such as a public recreational area?			

Additional Comments or Notes:

Each of these conditions will be addressed and assessed on a case-by-case basis. HDOH will contact the applicant no later than 1 week following submittal of this screening form to schedule a scoping meeting to discuss site eligibility, project goals, objectives, technical resources and guidelines, and schedule.

Submitted by	***Signature***	***Date***

HAWAII DEPARTMENT OF HEALTH
HAZARD EVALUATION AND EMERGENCY RESPONSE OFFICE
FAST TRACK CLEANUPS
APPLICATION AND AGREEMENT FORM

Fast Track Cleanups is a DOH HEER Office program designed to enable landowners or other private parties to conduct a voluntary investigation or cleanup under a simple agreement with DOH, without requiring iterative regulatory oversight and approval, while still receiving concurrence on the final site status of no further action. The focus of FTC is to streamline and expedite the assessment, cleanup, and closure process at removal action sites.

The Hawaii Department of Health and [ ] hereby enter into this agreement, effective [ ], relating to the property identified in Item 5 below, and subject to the terms and conditions specified herein.

1. Introduction and Project Description

This agreement is made in accordance with Chapter 128D, Hawaii Revised Statutes ("HRS"). FTC is implemented as a removal action policy and all DOH responsibilities and technical requirements are presented under HRS §128D-4(a),17(f); and HAR §11-451-8(i), (j). Under these statutes and rules, DOH has the authority to arrange, provide oversight, or take response with known responsible parties for the removal of any release or threatened release of a hazardous substance, pollutant, or contaminant at any time, provided such arrangements are consistent with the State Contingency Plan.

DOH is also granted the responsibility of identifying or developing advisories, criteria, or guidance, such as FTC, to be considered useful in developing response actions (HAR §11-451-8(i)).

By participating in the program, the requesting party will conduct investigation and response activities with minimal oversight from the HDOH, Hazard Evaluation and Emergency Response Office ("HEER"). When the investigation summary or removal summary reports are completed to HDOH's satisfaction, the requesting party will receive a no action or no further action letter from HDOH.

The requesting party is the current owner or representative of the current owner of the property which has been found to be, or may be, contaminated. The requesting party is participating in Fast Track Cleanups and desires to complete the work described in Item 12. Completing this work may qualify the requesting party or site owner to receive a "No Action Letter", a "No Further Action Letter" or a "No Further Action Letter with Institutional Controls" as described in Section 4 of this Agreement.

2. Purpose of Agreement

The purpose of this Agreement is to set forth the terms and conditions of the investigation and response to address contamination at the Property, which upon completion will entitle the requesting party to a no further action letter from HDOH. This Agreement constitutes the final approval of HDOH for Requesting Party to conduct a cleanup action

3. Authority to Enter into this Agreement

The signatories to this Agreement certify that they are fully authorized to execute this Agreement on behalf of the party each represents. No change in ownership, corporate, or partnership status of the Requesting Party shall alter its responsibilities under this Agreement.

4. Definitions

a. "Agreement" means this written agreement describing the cleanup action and all associated conditions in order for HDOH to issue a no further action letter for the contaminants, media, and property specified within.

b. "Contaminants" means those hazardous substances, contaminants and pollutants identified prior to, or during the course of the investigation or cleanup incorporated herein by this reference, cleaned up to the risk-based standard set forth in the provisions of Chapter 128D, HRS.

c. "No Action Letter" means the letter to be issued by HDOH, in accordance with §128D-10, HRS, subsequent to the satisfactory completion that site conditions are protective of unrestricted land use without cleanup action.

d. "No Further Action Letter" means the letter to be issued by HDOH in accordance with §128D-10, HRS, subsequent to the satisfactory completion of cleanup activities or site conditions are protective of unrestricted land use.

e. "No Further Action Letter with Institutional Controls" means the letter to be issued by HDOH, in accordance with §128D-10, HRS, subsequent to the satisfactory completion of cleanup activities or site conditions are protective of current property land use only.

f. "Property" means the property described in Item 5 that is subject to the cleanup action specified in this Agreement.

g. "Requesting Party" means the person or persons who have submitted an application to conduct a cleanup action. If the requesting party is not the property owner, then owner consent must be provided.

h. "Site Closure" means concurrence by HDOH through the issuance of any of the three letters defined in items c, d, or e above.

i. "cleanup action" or "work" means the response action to be conducted voluntarily by the Requesting Party pursuant to the provisions of Chapter 128D, HRS, Chapter 11-451, Hawaii Administrative Rules, this Agreement and the statement of work attached hereto.

5. Site Information and Description

Requesting Party **Name** **Company** **Address** **Phone** **Email**	
Property Ownership **Name** **Company** **Address** **Phone** **Email**	

Site Name	
Site Address	
Site Status, Background, History of Property	
Previous Investigations Conducted at Property	
Anticipated Chemicals of Concern	
Anticipated Scope of Work	
Purpose or Goal for Entering FTC	
No Further Action Letter Anticipated	
Estimated Start Date	
Estimated Completion Date	

6. Disclaimer of Admission

The Requesting Party has entered into this Agreement voluntarily. The Agreement is not to be construed as an admission of any liability under the Hawaii Environmental Response Law, or any other law, whether municipal, local, state or federal, or as a waiver of any defense to such liability.

7. Finding of Eligibility

On [ ], the Requesting Party submitted a FTC site screening form to HDOH; a scoping meeting was conducted on [ ]. Site eligibility criteria are presented in the FTC site screening form. Based on the information presented in the screening form and scoping meeting, HDOH has found the Requesting Party and the Property eligible to participate in FTC. By signature at the end of this application and agreement form, HDOH formally approves the site eligibility and agreement in accordance with HRS 128D. Note that updates to site eligibility determinations can be reviewed at any phase of the process.

8. Payment of Fees

The HDOH will implement a cost recovery process consistent with cost recovery provisions within HRS 128D-5 at a date to be announced. Sites entering FTC prior to this date will be provided HDOH oversight and site closure without costs until such time as the cost recovery process is implemented. Sites that have entered before this time but not completed FTC will be given 60 days notice prior to the initiation of cost recovery.

9. Right to Termination

Either party may terminate this Agreement in accordance with the provisions contained herein. The Requesting Party may choose to terminate the Agreement at any time. HDOH may terminate the Agreement as specified in Chapter 128D, HRS, when: (1) there is an imminent and substantial threat to public health, the environment, or natural resources, (2) Requesting Party is not acting in good faith, (3) Requesting Party fails to comply with the terms of this Agreement (including if HDOH determines that the quality of work is poor or adherence to State guidelines has not been adequately met) and fails to commence such activities to cure such noncompliance within thirty days after HDOH issues to Requesting Party a notice of such non-compliance, (4) additional information is brought to the attention of HDOH which renders the cleanup action inadequate, (5) new information becomes available that necessitates a significant change in the statement of work or the priority with which HDOH must treat the project. For purposes of applying item (5), "the priority with which HDOH must treat the project" shall mean a decision made by HDOH, based upon new information about the Property, that had the new information been known by HDOH prior to entering into the Agreement, HDOH would not have proceeded to enter into the Agreement.

The party initiating termination of this Agreement shall immediately provide written notice to the other party of its intention to terminate the Agreement and the date upon which termination will be effective. Upon termination of this Agreement, HDOH may pursue any action related to the Property within its authority. Since FTC-eligible sites are without offsite impacts or immediate risks to human health or the environment, HDOH provides the general understanding that it would not pursue the site as a State-lead oversight project while the agreement is in effect.

HDOH represents to Requesting Party that it is committed to the cleanup action, intends to cooperate with Requesting Party in good faith in connection with those matters contained in this Agreement and agrees to issue a no further action letter upon reasonable satisfactory completion of the cleanup action.

10. Compliance with Applicable Laws, Rules, and Regulations

All work performed by the Requesting Party under this Agreement shall be performed in compliance with applicable federal, state, and local laws, ordinances and regulations. Requesting Party shall be responsible for obtaining all permits necessary to perform the work specified in this Agreement.

11. Roles and Responsibilities

The requesting party will provide 60 days advance notice that an FTC site investigation or removal summary report will be submitted for review. Documents and written submittals

sent by the Requesting Party to the Project Manager will be reviewed by the Project Manager within 30 days from the date of receipt. Within that time, HDOH will provide the Requesting Party with written comments as to the acceptability of the submittal. If more time is needed, the Project Manager will notify the Requesting Party in writing of the need for additional time, the date by which the review will be completed, and the reason why the normal review period is being extended. While the Project Manager may provide informal advice, guidance, or comments, all approvals and decisions regarding the site investigation or removal summary report must be conveyed in writing by the Project Manager to be official. The Requesting Party agrees to perform and submit all work in accordance with state guidelines and policies. If any changes become necessary, the Requesting Party will notify the Project Manager describing the change needed. Verbal agreements for changes are acceptable when necessary and may be relied upon; however, major changes should be followed up in writing or via email by the party who initiated the change within 10 business days of verbal approval. Requests for extensions of time should be made in advance of the date on which the activity or document is due and should include a justification for the delay. All changes acknowledged and approved in writing shall be incorporated into this Agreement.

12. Statement of Work, Submittals, and Schedules

The work to be performed under this Agreement is specified in the statement of work prepared by the requesting party attached hereto as Exhibit A. This statement of work is estimated to be completed in accordance with the schedule provided in Exhibit A. HDOH formal review is expected to be limited to the removal action summary report. In the event that no cleanup actions are required in order to meet the site goals, then HDOH will provide a review of the site investigation report.

13. No Further Action Determinations

Within 30 days of satisfactory completion of the cleanup action as reasonably determined by the HDOH, HDOH will issue to the Requesting Party a no further action letter in accordance with Chapter 128D, HRS and this Agreement.

The letter documents that HDOH is satisfied that the cleanup is protective of human health and the environment and additional clean-up work is not needed at the site. The letter will identify the specific hazardous substances, pollutants, contaminants, media, and land area addressed in the response action. A no action or no further action letter does not provide the liability exemptions like those contaminants covered in a Letter of Completion under Chapter 128D, Part 2, HRS, Voluntary Response Program.

Three letters exist:

a. A No Action Letter will be issued subsequent to the satisfactory completion that site conditions are protective of unrestricted land use without cleanup action.

b. A No Further Action Letter will be issued subsequent to the satisfactory completion of cleanup activities or site conditions are protective of unrestricted land use.

c. A No Further Action Letter with Institutional Controls will be issued subsequent to the satisfactory completion of cleanup activities or site conditions are protective of current property land use only.

If contamination is left on the site above unrestricted land use levels, the letter shall identify land use restrictions and any required management plan at the Property. If any land use restrictions or management requirements that are part of the no further action letter are not subsequently complied with, the letter will be considered void and HDOH may re-open the site for additional investigation and/or action. The No Further Action Letter with Institutional Controls will be placed in the HDOH files and may be included in future HDOH site registries. The benefits and restrictions identified in the letter apply to all future purchasers of the Property.

14. Rights Reserved by HDOH

HDOH reserves the right to take action consistent with Chapter 128D, HRS, against responsible parties, and to exercise rights HDOH may have under any law including recovering costs and taking enforcement actions. Furthermore, HDOH may take enforcement action prior to completion of the cleanup action conducted pursuant to this Agreement and exercise other authorities of section 128D-4, HRS.

15. Site Access

Access During Conduct of Cleanup Action

During conduct of the cleanup action, Requesting Party agrees to provide HDOH access to the Property at all reasonable times and upon reasonable notice, for the purpose of allowing HDOH to perform its administrative oversight functions in connection with the work.

Access After Cleanup Action Is Completed

Requesting Party agrees to provide employees, contractors and other agents of HDOH access to the Property at all reasonable times and upon reasonable notice as specified below, solely for the purpose of possible followup activities associated with any conditions identified in a No Further Action Letter with Institutional Controls. Nothing in this Agreement is to be construed to limit HDOH's rights of access that it may have by operation of any law other than Chapter 128D, HRS.

HDOH shall give Requesting Party reasonable notice before entering upon the Property for any activity, unless HDOH is required to access the Property in the event of an emergency or court order and giving such notice is not possible. In the event of such emergency entry, delivery of notice of the entry, along with an explanation of the emergency conditions, shall be given by HDOH to Requesting Party within five business days of HDOH entry onto the Property.

16. General Provisions

16.1. Dispute resolution

Requesting Party and HDOH agree to notify one another as soon as possible if a material disagreement becomes apparent to them. If this occurs, the party that identifies any such disagreement shall notify the representative of the other party. Initial notification will be by phone or in person, at which time the parties will attempt to resolve the disagreement. If the disagreement is successfully resolved, the situation will require no further action. If the disagreement continues, it will be discussed between the Manager of the HEER Office and a representative of Requesting Party. The Manager of the HEER Office will gather whatever additional information he/she feels is necessary and will render a decision in writing regarding the disagreement. If the decision is satisfactory, the parties will abide by the decision and no further action is necessary. If it is not satisfactory, Requesting Party or HDOH may terminate this Agreement.

16.2. Submittals

Requesting Party shall complete submittals as described in Item 12 and Exhibit B, and shall submit them to the following address in a manner that produces a record of submittal such as certified mail, overnight delivery service, facsimile, or courier hand delivery service:

Fast Track Cleanups Coordinator
Hawaii Dept. of Health, HEER Office
919 Ala Moana Boulevard, Room 206
Honolulu, Hawaii 96814

16.3. Sampling, Data, and Document Availability

Requesting Party shall permit HDOH and its authorized representatives to inspect and copy all sampling, testing, monitoring, or other data generated by Requesting Party pursuant to the work being performed as part of this Agreement.

16.4. Record Retention

Requesting Party will retain all data, reports, and other documents for a minimum of five years after the conclusion of all activities under this Agreement. If HDOH requests that documents be preserved for a longer period of time, then Requesting Party will deliver the documents to HDOH, or permit HDOH to copy the documents prior to destroying them.

16.5. Governmental Liabilities

The State of Hawaii shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by Requesting Party, nor shall the State be held as party to any contract entered into by and between Requesting Party and a third-party contractor for services pertaining to the statement of work (Exhibit B) attached to this Agreement.

16.6. Modifications

This Agreement may be amended in writing by mutual agreement of HDOH and Requesting Party and shall be effective upon the date the change is signed by both parties and such amendment shall be deemed incorporated into this Agreement.

16.7. Counterparts

This Agreement may be executed and delivered in any number of parts, each of which shall be deemed to be an original and together constitute one and the same document.

16.8. Third-Party Actions

In the event that Requesting Party is a party to any suit or claim for damages or contribution relating to the Property to which HDOH is not a party, Requesting Party shall notify HDOH in writing within ten days after service of the complaint in the third-party action.

16.9. Governing law

This Agreement shall be construed and governed by the laws of the State of Hawaii.

16.10. Transfer

With prior written approval of HDOH, all rights and benefits conferred upon Requesting Party under this Agreement may be assigned or transferred to any person. Requesting Party shall notify the Project Manager in writing of its intention to transfer its rights and benefits. Upon receiving the HDOH's approval, the transferee will be bound by all the terms and conditions of this Agreement.

16.11. Integration

This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

17. Approvals

The undersigned hereby agree to the terms and conditions set forth above and to all attachments incorporated into this Agreement.

Requesting Party	**State of Hawaii, Department of Health, HEER Office**
By: _____	**By:** _____
Name:	**Fenix Grange**
Company:	**Site Discovery and Remediation**
Title:	**Manager**
Dated:	**Dated:**

HAWAII STATE
DEPARTMENT
OF HEALTH

Office of Hazard Evaluation and Emergency Response
Hawai‘i State Department of Health
919 Ala Moana Boulevard, Room 206
Honolulu, Hawai‘i 96814
(808) 586-4249

www.hawaii.gov/health/environmental/hazard/vrp.html