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Background Brief on ...

Environmental Cleanup

In the event hazardous substances are released at a property or accident site, state and federal laws are in place to ensure action is taken to protect human health and the environment. The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (**CERCLA**) authorizes the United States Environmental Protection Agency (**EPA**) to respond to releases or threatened releases of hazardous substances. This law also addresses Superfund sites. In 1987, the Oregon Legislative Assembly enacted environmental cleanup language similar to CERCLA. Hazardous substance and waste handling requirements are provided for in ORS chapters 465 and 466.

Status

The following table summarizes fiscal year 2009 progress in Oregon in evaluating, investigating, and cleaning up sites with known or suspected releases of hazardous substances.

Suspected Releases Added to Database	168
Added to Confirmed Release List	6
Added to Inventory	3
Site Screenings	28
Preliminary Assessments	18
Removal Actions	7
Remedial Investigations	13
Feasibility Studies	7
Records of Decision	11
Remedial Actions	10
No Further Action Determinations	84

The Cleanup Process in Oregon

DEQ *screens* sites where hazardous substances may have been released to determine priorities for further action. If a release appears likely, a *Preliminary Assessment* may be conducted to investigate the presence of contamination. A site investigation may also be conducted to delineate the extent of contamination. If an emergency situation exists, a *Removal* may be needed to stabilize the site.

Sites known to be contaminated proceed through a three-step investigation process to determine how (or whether) they are to be cleaned up. A *Remedial Investigation* determines the full nature and extent of the contamination. A *Risk Assessment* looks at threats the contamination may pose to human health and the environment. Finally, a *Feasibility Study* evaluates various cleanup options for the site. From this information, DEQ determines whether the site needs cleanup and, if so, how it should be done. A *Removal* may be conducted at any time during this process to quickly reduce the amount of contamination and the threat it poses.

For sites where the necessary cleanup is relatively straightforward and simple, an initial removal action may be all that is required. However, if the cleanup will be more difficult and complex, DEQ may issue a formal cleanup decision (called a *Record of Decision*) after a public comment period. The resulting cleanup is referred to as a *Remedial Action*.

A site receives a *No Further Action* designation when DEQ determines that the site poses no significant threat to human health or the environment. This may occur at any point during the investigation and cleanup process.

Oregon Law

Oregon's law focuses on investigating and cleaning up releases or threatened releases of hazardous substances. Oregon's clean up law is similar to CERCLA in that it holds owners and operators of facilities liable for cleanup costs where a hazardous substance has been released. In contrast to CERCLA, Oregon's clean up law includes "oil" as a "hazardous substance."

State law authorizes the Department of Environmental Quality (DEQ) to enter a facility to investigate a release or threatened release, to recover costs incurred to investigate and/or clean up a site, and to seek a court order to obtain cooperation for site investigation if necessary. Certain violations of most of Oregon's major environmental statutes, including the cleanup program, are subject to civil penalties up to \$25,000 per day. If responsible parties fail to properly complete the required cleanup, DEQ may clean up the site and recover costs plus treble damages.

Most contaminated sites are cleaned up through DEQ's Voluntary Cleanup Program, where property owners voluntarily arrange for DEQ oversight of their cleanup activities. DEQ also administers an orphan site program to clean up high priority contaminated properties when a responsible party is unknown or unable to perform site remediation. The orphan site program is funded with bond revenues currently backed by the General Fund.

How Clean is Clean?

In 1995, the Oregon Legislative Assembly repealed provisions requiring cleanup to "background or lowest feasible concentration" levels and instead established specific acceptable risk levels for human and environmental exposure. Oregon cleanup standards for various hazardous and toxic substances can be found at: http://www.sos.state.or.us/archives/rules/OARs_300/OAR_340/340_122.html.

Methods used to clean up a site must consider current and anticipated future land uses along with existing and likely beneficial water uses. Remediation plans may also require long-term site monitoring.

Dry Cleaning Facilities

Oregon law establishes a unique program for dry cleaning facilities. The dry cleaner program, initially enacted in 1995, exempts dry cleaning owners and operators from liability, with exceptions, for releases of dry cleaning solvents if fees are paid and waste minimization requirements are followed. The 2001 Legislative

Assembly enacted Senate Bill 463 that clarified and improved dry cleaner waste minimization requirements to protect the environment from future releases.

Underground Storage Tanks

DEQ regulates underground storage tanks holding petroleum-based fuels (primarily those at service stations and those used for heating oil). The tank program handles and regulates the cleanup of soil and groundwater contamination resulting from spills and releases from regulated underground storage tanks.

Orphan Sites

Orphan sites are highly contaminated properties or areas where parties responsible for the contamination are unknown, unwilling, or unable to clean it up. The 1991 Legislature authorized a state *Orphan Site Account (OSA)* to clean up contamination that poses potentially serious threats to human health or the environment.

Orphan sites include a range of contaminated sites such as small businesses, abandoned mines, and larger, “area wide” sites where hazardous substances have affected sources of drinking water. Since 1992, the account has funded work at more than 70 high-priority Orphan sites, about 20 of which are currently active. DEQ designated seven additional sites as Orphans during the 2007-2009 biennium. On average, DEQ identifies 10 new Orphan sites per year. The OSA is funded primarily through the sale of long-term bonds and cost recovery from responsible parties. Since 1992, the Oregon Legislature has approved DEQ’s issuance of bonds totaling about \$41.9 million, including \$4.5 million authorized by the 2007 Legislature. While DEQ’s cost-recovery efforts since 1992 have returned approximately \$8.4 million to the OSA, future cost recovery is expected to be quite limited. No OSA funding was approved in the 2009 legislative session. Furthermore, at the end of the 2009-11 biennium, the OSA will have an extremely low balance. DEQ is concerned about meeting current Superfund match requirements and providing maintenance and

operations for existing infrastructure, much less work on new or previously identified projects.

In 2009, the U.S. Congress approved stimulus program funding pursuant to the *American Recovery and Reinvestment Act (ARRA)*. DEQ requested and received \$2.7 million in ARRA funding for Leaking Underground Storage Tank investigation and cleanup, which is being applied at 13 key sites in Klamath, Wheeler, and Yamhill Counties. These federal dollars have helped to implement work in the past year at sites that otherwise would have required OSA funding.

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