



State of Oregon
Department of
Environmental
Quality

Land Quality Division

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Orphan Site Program Questions and Answers

What is an Orphan Site?

A property or area that has been contaminated by a release of hazardous substances becomes an Orphan Site when no one is willing or able to clean up contamination that presents significant risks to humans or the environment.

Often when hazardous substances are released, DEQ can determine how the release occurred, and persons legally responsible for the release can be made to pay to clean it up. Sometimes, however the source of contamination is unknown. At other times, persons responsible for the release may be unknown, or unwilling or unable to clean it up. Since no one is available to take responsibility for these sites, they are considered to be “orphaned,” and the state must pay to clean them up.

What types of sites are Orphans?

A typical Orphan Site is a property with soil and/or groundwater contamination, where the company responsible for the contamination has gone out of business. The company may also have left behind hazardous substances in tanks or drums. Or, the company may still be operating, but be too small to afford the cleanup. Another type of orphan project is an area where drinking water supply wells have been contaminated, and the source of contaminated groundwater is unknown.

How does DEQ determine if someone is able to pay to clean up a site?

If a person indicates an inability to pay, DEQ will request detailed financial information from them. DEQ uses the information to determine if the person is able to pay for some or all of the investigation and cleanup. The financial information is kept confidential.

A person does not have to be bankrupt in order to be found to have an inability to pay. Typical Orphan Site cleanups are expensive, and most individuals are unable to pay the full cleanup costs. DEQ may recover a portion of its cleanup costs by negotiating a lump-sum payment from an individual or business, or work out a payment plan to reimburse DEQ over time.

Why would DEQ pay for a cleanup if the person(s) responsible were merely “unwilling” to pay?

Individuals and companies identified by DEQ as being potentially responsible for contamination have the right to challenge that determination. At seriously contaminated sites, however, it may not be prudent for DEQ to wait for months or years while trying to force a party to conduct a cleanup. In these cases, DEQ may use state funds to clean up the site in the near term to eliminate threats to humans or the environments, and then seek to recover the costs once these threats have been addressed.

How are Orphan Site cleanups funded?

Orphan Site cleanups are currently funded in one of two ways. Landfill cleanups are financed by the solid waste orphan site account, which relies on a special assessment on solid waste disposal. Other Orphan Sites, which are known as industrial orphans, are funded through the sale of long-term bonds. Since 1992, DEQ has issued bonds totaling \$33.3 million. Debt on these bonds has been repaid with a variety of funds. The current budget finances the debt with state general funds and hazardous substance possession fees. For both solid waste and industrial orphans, when funds are recovered, either from identified responsible parties or through agreements with persons who wish to purchase Orphan Sites, they may then be spent on other orphan cleanups.

How are sites referred to the Orphan Program?

Sites are usually referred to the Orphan Program from DEQ’s Site Assessment Program. Site Assessment reviews information on potentially contaminated sites and prioritizes those sites according to the nature and magnitude of threats the contamination poses to public health and the environment. If a site is determined to be a high priority for further action, and it appears that no one is willing or able to pay for cleanup, Site Assessment will refer the site to the Orphan Program.

Does a site have to be a high priority to be referred to the Orphan Program?

DEQ must determine that an immediate cleanup is necessary to protect public health or the environment before Orphan funds can be spent at sites with “unwilling” responsible parties. There are no similar restrictions for sites where the responsible parties are unknown or unable to pay for cleanup. However, because both Orphan funding and staffing are limited, DEQ has decided to fund only the highest priority sites. All sites currently being cleaned up by the Orphan Site Program rank as high priorities under the Site Assessment Prioritization System.

What happens when a site is referred to the Orphan Program?

If hazardous substances have been dumped or abandoned at a site, the Orphan Site Program will arrange to remove or contain the hazards. At other sites, the program may collect soil and groundwater samples to more accurately

determine the amount and extent of contamination. At all sites, the Orphan Program seeks to identify the person(s) responsible for the contamination and determine if they are willing and able to pay for the investigation and cleanup.

What if I want to purchase an Orphan Site?

You can purchase an Orphan Site at any time, but if the site hasn't been cleaned up yet, DEQ strongly urges you to negotiate a Prospective Purchaser Agreement first. Knowingly purchasing a contaminated site without such an Agreement may leave you liable for the full costs of cleaning up the site.

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