

Dry Cleaners: Environmental Response Claim



State of Oregon
Department of
Environmental
Quality

Background

The dry cleaning industry proposed legislation which was adopted during the 1995 Oregon legislative session to create Oregon's Dry Cleaner Program. Dry cleaners agreed to pay fees and practice sound environmental management in exchange for relief from liability under state law for cleanups and cleanup costs. Fees paid by dry cleaners go into the Dry Cleaner Environmental Response Account which is used by Oregon's Department of Environmental Quality to investigate and clean up contamination caused by solvents at dry cleaning facilities.

Part I of this fact sheet explains how dry cleaner operators or property owners may submit a claim for funding from the account.

Part II provides information about how the account will be used to clean up contaminated dry cleaning facilities.

Part I: Submitting a Claim to the Dry Cleaner Environmental Response Account

Who is eligible?

To be eligible for funding from the account the facility must be:

- Located in Oregon.
- Engaged in dry cleaning of apparel and household fabrics for the general public
- Be contaminated by dry cleaning solvent
- A qualified facility active for a period of 90 days prior to June 30, 1995, or a listed, inactive dry cleaning facility

And the operator must:

- Be current in paying required fees
- Pay the deductible amount
- Comply with waste minimization requirements of the program
- Investigate insurance coverage

Who can make a claim?

The claimant can be either the business operator or landlord. The operator and landlord can also claim jointly. The claim form requires the signature or notification of both the dry cleaner operator and the property owner. You do not need to have environmental testing done to complete and submit a claim. However, you do need to submit information regarding the release or threat of release.

Do I have to make a claim?

No. A claim for cleanup assistance is voluntary and the decision to make a claim should be based on the circumstances surrounding each individual dry cleaning site.

When should I apply?

There is no deadline for submitting a claim. If you are aware of contamination at your facility, you can make a claim now. If you become aware of contamination in the future, you can make a claim at that time. Each claim will be reviewed as it comes in, and the claimant will be notified of eligibility status. Each year DEQ will select which sites will receive funding for the next stage of assessment or cleanup. Those sites not selected for funding do not have to submit claims again. They will automatically be considered during the next review period.

What questions are asked in the claim form?

Information requested in the claim form includes:

- Identification of the facility, property owner, and dry cleaning operator
- Operational history of the facility
- Spills and releases
- Land and water use
- Availability of insurance to pay for cleanup
- Available information about existing contamination at the facility

Please note that a variety of sources can be used to document existing contamination. These sources include environmental testing at the facility or neighboring properties, information on past solvent management practices, or information regarding any past releases or spills.

Is there a fee for filing a claim?

No. However, if your facility is selected for the cleanup program, you must pay a deductible prior to any funds being spent from the account. The deductible is similar to the deductible feature of business insurance in which a set amount or deductible must be paid before the insurance policy provides a benefit.

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*DEQ is a leader in restoring,
maintaining and enhancing
the quality of Oregon's air,
land and water.*

The deductible ranges from \$5,000 to \$10,000, depending on the number of employees at the dry cleaning facility. The dry cleaning owner or operator is responsible for paying the deductible.

What happens after the claim has been submitted?

Each claim goes through four steps:

1. Eligibility Determination

A submitted claim will be **reviewed** by DEQ to make sure the facility is **eligible** for funding from the account. Only those sites that meet all the criteria of the law are eligible to receive funding from the account.

2. Insurance Search

A new feature of the dry cleaner program added by the 2003 Legislature requires dry cleaners and landlord to pursue insurance policies for the cost of investigating and cleaning up contamination. To meet this requirement, both the dry cleaner and the landlord must attempt to locate insurance policies that may be available to pay costs of investigating and cleaning up contaminated sites. Guidance for investigating insurance policies is available from DEQ. If coverage is available you are required to file an insurance claim. However, you are encouraged to coordinate with DEQ before filing a claim or legal action to avoid any action that may prejudice the ability to obtain coverage under an insurance policy as specified in the dry cleaner statute.

3. Site Evaluation

A **site evaluation** will be performed to assess potential risks to human health and the environment from the dry cleaning facility, and determine the site's priority for funding. A site evaluation requires technical information and will require assistance from DEQ staff or a qualified environmental consultant. The applicant will be responsible for the cost - up to the limits of the deductible - of developing the information necessary to complete the site evaluation.

4. Site Prioritization

Sites will be prioritized based on the risk to human health and the environment. Funding will be provided to those facilities with the highest priority for that funding period. The relative priority will be determined by comparing the risks to public health and the environment posed by each of the eligible facilities that submitted an application. The number of sites actually funded will also depend upon the amount of funds available in the account.

What if I make a claim and I'm not eligible?

All claimants will be notified by DEQ within 60 days from the date DEQ receives a completed claim form as to whether or not the facility is eligible for funding from the Account. If a facility is not eligible, the

claimant will receive a letter explaining the reasons why. Facilities ineligible for funding will be referred to the Site Assessment Cleanup Program at DEQ. These facilities will be managed in the same way as any other contaminated site and will not be eligible for funding from the Account for cleanup activities. The owner or operator of ineligible facilities may in fact be responsible for all costs associated with site cleanup.

Who do I contact?

If you believe that you want to submit a claim for funding under this program, please call Nancy Cardwell at 503-229-6240 or toll-free in Oregon at 1-800-453-4011 to receive an application. Also, you can download an application from the dry cleaner Web site <https://www.oregon.gov/deq/Hazards-and-Cleanup/Pages/Dry-Cleaner.aspx>

You must complete a **Dry Cleaner Environmental Response Claim** in order to be considered for funding.

Part II: Cleaning Up Sites Using the Dry Cleaner Environmental Response Account

When will my facility be cleaned up?

After DEQ determines a facility's eligibility, the order in which cleanups will be funded will be based on, at a minimum, the following factors:

- The risk to public health and the environment posed by the release of solvents from the dry cleaning facility
- The need for remedial action at a facility relative to the amount of funds in the account and the needs of other facilities
- The relative environmental risks presented by each of the eligible facilities applying for funding

Funds in the account come exclusively from the dry cleaning industry and use of the funds is limited to DEQ costs to operate the Dry Cleaner Program and cleaning up solvent contamination from dry cleaning facilities.

Site investigation and cleanup work will be funded in stages. The priority for funding future work at a facility will be determined based on results of the previous stage of the cleanup process. For example, a site investigation may show that risk at the facility is much higher or lower than originally expected. The priority for

funding will be revised accordingly. Therefore, it is possible that a facility selected for funding of a preliminary DEQ will fund as many facilities as quickly as possible but, in the event there are not enough funds in the account to clean up all the facilities that apply, those sites that present the highest public health and environmental risk will be funded first. Cleanups at other facilities will be selected as funds are available.

What does cleanup work involve and who will do cleanup work?

The process of cleaning up a contaminated site involves much more than removing contaminated material from the site. It includes an assessment of the type and amount of contamination at the site, development of a plan to clean up or mitigate the contamination, and the cleanup itself, known as *remedial action*.

All or part of the cleanup process may be done by DEQ staff, the claimant, a contractor hired by DEQ, or a contractor hired by the claimant. The decision about who will conduct the work will be made jointly by DEQ and the claimant.

All work funded under the Dry Cleaner Program **must** be conducted under DEQ oversight.

How will the dry cleaning funds be used?

Funds in the account come exclusively from the dry cleaning industry and use of the funds is limited to DEQ costs to operate the Dry Cleaner Program and cleaning up solvent contamination from dry cleaning facilities.

Site investigation and cleanup work will be funded in stages. The priority for funding future work at a facility will be determined based on results of the previous state of the cleanup process. For example, a site investigation may show that risk at the facility is much higher or lower than originally expected. The priority for funding will be revisited accordingly. Therefore, it is possible that a facility selected for funding of a preliminary cleanup activity (i.e., site investigation) will not immediately be selected for funding of additional activities (i.e., cleanup activities). In this event, additional work at the facility will be funded after higher-priority work at other sites is completed.

Can I start work at the facility before receiving funding from the account?

A claimant can begin cleanup activities at any time. The law requires that funds from the account may be spent only on “pre-approved remedial action costs under a department order or agreement expressly authorizing reimbursement from the account.” In order to reserve the opportunity to be reimbursed from the account, DEQ must pre-approve these remedial action costs. A claimant can enter into an agreement with DEQ that pre-approves expenditures and preserves the claimant’s

ability to recover remediation costs from the account. Typically, this agreement will be with DEQ’s Voluntary Cleanup Program.

Such an agreement will not guarantee reimbursement from the account because eligibility must be considered. When the site will receive funding will be based on availability of funds and prioritization.

Who do I call with questions?

For questions about the Oregon Dry Cleaner Program in general, contact the Dry Cleaner Program Coordinator, Nancy Cardwell at 503-229-6240, or call toll-free at 1-800-452-4011 or e-mail drycleanerinfo@deq.state.or.us

Dry cleaner fact sheets and rules

DEQ has several fact sheets explaining in more detail all aspects of the Oregon Dry Cleaner Program, its rules and regulations. All are available on DEQ’s dry cleaner program web page at: <https://www.oregon.gov/deq/Hazards-and-Cleanup/Pages/Dry-Cleaners-QA.aspx>

To request a copy of any or all of these fact sheets, call 503-229-6783, Portland, or call tollfree in Oregon at 1-800-452-4011, ext. 6783.

Alternative formats

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.