

## **Description of “Permit Waiver” Provisions ORS 465.315**

This document presents guidance for the Department of Environmental Quality (the Department) to use in administering ORS 465.315 as it pertains to waivers of state and local government permits, licenses, and authorizations.

### **Section 1: History of ORS 465.315**

The original Oregon environmental cleanup law was adopted in 1987 and in many respects was modeled after the requirements of the federal Comprehensive Emergency Response, Compensation, and Liability Act (CERCLA). ORS 465.315 of the original law established relatively general standards for cleanup<sup>1</sup> which required that:

- any removal or remedial action attain a degree of cleanup of a hazardous substance release, and control of further release to assure protection of present and future public health, safety, welfare and of the environment; and
- that the Director of the Department, to the maximum extent practicable, select a remedial action which is protective, cost effective, and uses permanent solutions and alternative treatment technologies.

Subject to meeting the preceding standards, ORS 465.315 also gave discretion to, and authorized the Director, to:

“exempt the onsite portion of any removal or remedial action conducted under ORS 465.200 to 465.455 and 465.900 from any requirement of ORS 466.005 to 466.385 and ORS 459, 468, 468A and 468B.”

These various statutory references all pertain to laws administered by the Department, including hazardous waste, solid waste, air, and water quality programs. Similar “permit waiver” provisions for environmental cleanups under federal law—whereby the U.S. Environmental Protection Agency Administrator has discretion to waive the onsite portion of any removal or remedial action from the requirements of local, state and federally-administered environmental laws--also exists under CERCLA<sup>2</sup>.

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<sup>1</sup> These standards were supplemented by administrative rules adopted by the state Environmental Quality Commission in September 1989—commonly referred to as the ‘background or lowest feasible concentration’ cleanup standards—and the numeric soil cleanup rules for simple sites adopted in June 1992 commonly referred to as “SOCLEAN”.

<sup>2</sup> CERCLA 121(e)(1) and National Contingency Plan (NCP) 40 CFR, Section 300.400(e)(1).

In 1995, the Oregon Legislature amended the state’s environmental cleanup laws primarily changing ORS 465.315, the standards for cleanup<sup>3</sup> and significantly expanding the statutory language pertaining to on-site exemptions. The complete revised “permit waiver” language as currently enacted reads (the language in bold *italics* indicates the substantive additions adopted by the Legislature in 1995):

“(3) Except as provided in subsection (4) of this section, the director may exempt the onsite portion of any removal or remedial action conducted under ORS 465.200 to 465.455 and 465.900 from any requirement of ORS 465.005 to 466.385 and ORS chapters 459, 468, 468A and 468B. ***Without affecting substantive requirements, no state or local permit, license or other authorization shall be required for, and no procedural requirements shall apply to, the portion of any removal or remedial action conducted onsite where such removal or remedial action has been selected or approved by the director under this section, unless the permit, license, authorization or procedural requirement is necessary to preserve or obtain federal authorization of a state program or the person performing a removal or remedial action elects to obtain the permit, license or authorization or comply with the procedural requirement. The person performing a removal or remedial action shall notify the appropriate state or local body of the permits, licenses, authorizations or procedural requirements waived under this subsection and, at the request of the governmental body, pay applicable fees. Any costs paid as a fee to a governmental body under this subsection shall not also be recoverable by the governmental body as remedial action costs.***

(4) Notwithstanding any provisions of subsection (3) of this section, any onsite treatment, storage or disposal of a hazardous substance shall comply with the standard established under subsection (1)(a) of this section ***and any activities conducted in a public right of way under a removal or remedial action pursuant to this section shall comply with the requirements of the applicable jurisdiction.***”

## **Section 2: Explanation of How the Permit and Procedural Requirements Work**

Tables 1 and 2 outline some of the known issues and associated questions that require answers concerning how the “permit waiver” requirements of ORS 465.315 will work.

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<sup>3</sup> Among other provisions, the 1995 Legislative changes establish an acceptable risk level for exposure and requires that risk assessments be performed in accordance with risk protocol established by the Environmental Quality Commission. Comprehensive amendments to the state’s environmental cleanup rules, including risk protocol rules, were subsequently adopted by the Commission in January 1997.

**TABLE 1**

**SUMMARY OF ORS 465.315 “PERMIT WAIVER” PROVISIONS  
FOR LOCAL AND STATE AGENCIES OTHER THAN DEQ**

In general, the Department of Environmental Quality (Department or DEQ) will not resolve disputes should they occur between parties conducting removals or remedial actions and other jurisdictions. The following table is intended to assist parties in addressing the permit, license, authorization and procedural requirement waivers provided by ORS 465.315.

<b><u>Provisions Known</u></b>	<b><u>Associated Questions</u></b>	<b><u>How to Answer Questions</u></b>
DEQ does not grant exemptions; rather the legislature granted the exemption, subject to certain prerequisites being satisfied.	N/A	N/A
Prerequisites which are generally applicable in all instances are: a) the activity otherwise subject to a permit or procedural requirement must be part of a removal or remedial action; b) the removal or remedial action must be approved by DEQ; and c) the activity must be conducted “on-site.”	Does the proposed activity meet the generally applicable prerequisites?  What does the term “on-site” mean?	Requires site-specific determination. DEQ oversees some (but not all) removal and remedial actions.  OAR 340-122-115(37) defines “onsite.” Typically, DEQ will identify “onsite” boundaries at specific cleanups in a record of decision or other document approving/selecting the remedy. “On-site” is not limited by the property boundaries.
The person performing a removal or remedial action may elect to obtain a permit or comply with a procedural requirement.	N/A	N/A
- Other special conditions: a) the statutory exemption does not apply if the permit or procedural requirement is necessary for federal authorization of a program; and b) permit and procedural requirements must be met for cleanup activities conducted in a public right of way.	Is formal issuance of a permit or adherence to specific procedures necessary for preserving or obtaining federal authorization of a state program?  Is the cleanup activity being conducted in a public right of way?	May require jurisdiction-specific determination.  Requires site-specific determination.

## **Provisions Known**

The legislature exempted permit and procedural requirements without affecting substantive requirements. In other words, a party conducting a removal or remedial action must comply with all substantive requirements of state and local law applicable to the cleanup activity.

A party conducting a removal or remedial action must notify the appropriate governmental body of the permits, license, authorization, or procedural requirement proposed to be waived under ORS 465.315.

At the request of the governmental body, the person undertaking a removal or remedial action shall pay applicable fees even if a permit or license is waived.

## **Associated Questions**

Is a specific requirement procedural, substantive or both?

Has the party notified the appropriate governmental body?

Have applicable fees been paid?

## **How to Answer Questions**

DEQ will not enforce requirements of other jurisdictions. DEQ does not grant permit or procedural exemptions (the exemption was provided by the Legislature). In selecting or approving remedies, DEQ will consider implementability of alternatives and consistency of the action with other laws. DEQ also provides public notice and opportunity for comment (discretionary for removal actions) and will consider comments of other jurisdictions in selecting or approving remedies.

ORS 465.315(3) requires notification of local governments. See also OAR 340-122-085(8), requiring documentation of proposed exempted procedural requirements and an explanation of how substantive requirements will be addressed.

DEQ will not enforce requirements of other jurisdictions.

**TABLE 2**

**SUMMARY OF ORS 465.315 “PERMIT WAIVER” PROVISIONS  
FOR LAWS ADMINISTERED BY OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY**

The following table is intended to assist Oregon Department of Environmental Quality and other interested parties in addressing the permit, license, authorization and procedural requirement waivers provided by ORS 465.315 for laws administered by the Department:

<b><u>Provisions Known</u></b>	<b><u>Associated Questions</u></b>	<b><u>How to Answer Questions</u></b>
DEQ does not grant exemptions to procedural requirements; rather the legislature granted the exemption, subject to certain prerequisites being satisfied.	N/A	N/A
Prerequisites which are generally applicable in all instances are: a) the activity otherwise subject to a permit or procedural requirement must be part of a removal or remedial action; b) the removal or remedial action must be approved by DEQ; and c) the activity must be conducted “on-site”.	Does the proposed activity meet the generally applicable prerequisites?	Activities conducted pursuant to a Consent Order under ORS 465.325 meet part a) and b) of the generally-applicable prerequisites for waivers. OAR 340-122-115(37) defines “onsite” to mean the areal extent of the contamination and all suitable areas in close proximity to the contamination necessary for implementation of a removal or remedial action.
The person performing a removal or remedial action may elect to obtain a permit or comply with a procedural requirement.	N/A	N/A

**Provisions Known**

Other special conditions: a) the statutory exemption does not apply if the permit or procedural requirement is necessary for preserving or obtaining federal authorization of a state program; and

b) permit and procedural requirements must be met for cleanup activities conducted in a public right of way.

For DEQ programs, the exemption of permit and procedural requirements is mandatory subject to prerequisites and conditions, and the exemption of substantive requirements is discretionary.

A party conducting a removal or remedial action must notify the appropriate governmental body of the permits, license, authorization, or procedural requirement proposed to be waived under ORS 465.315.

At the request of the governmental body, the person undertaking a removal or remedial action shall pay applicable fees even if a permit or license is waived except that costs paid as a fee cannot also be collected as remedial action costs.

**Associated Questions**

Is the permit or procedural requirement necessary for preserving or obtaining federal authorization of a state program?

Is the cleanup activity being conducted in a public right of way?

N/A

Has the party notified the appropriate DEQ program?

Have applicable fees been paid?

**How to Answer Questions**

DEQ intends to maintain authorization to administer federal environmental laws. If cleanup projects are administered consistent with this guidance, authorization is not expected to become a major issue.

Since DEQ administers no public rights of way, DEQ interprets this specially-applicable condition as N/A for purposes of DEQ-administered laws.

N/A

DEQ requires parties conducting a FS to document notification of proposed permit and procedural waivers, including proposed waivers of DEQ-administered laws.

Unless the responsible party requests issuance of the permit, in general, other DEQ programs should recover costs using cleanup program project tracking and time accounting system (TAS). If fees have already been paid, the fees should be refunded (if possible) or DEQ staff must avoid charging time for permit-related review activities to the TAS.

### **Section 3: “Permit Waiver” Guidance for DEQ**

As discussed in the preceding sections, ORS 465.315(3) exempts qualifying on-site cleanup activities from the requirement to obtain permits, licenses and authorizations. Similarly, no procedural requirements shall apply to the portion of any removal or remedial action conducted on-site where such removal or remedial action has been selected or approved by the director. These statutory requirements are augmented by rules subsequently adopted by the Environmental Quality Commission, including but not limited to, OAR 340-122-115(37) which defines “on-site” activities.

The following policy statements are intended to summarize and clarify the requirements of ORS 465.315 and the state’s environmental cleanup rules.

#### **“ON-SITE” DEFINITION**

As part of the record of decision, the Director may delineate the specific areal extent to which remedial action occurs onsite, for purposes of ORS 465.315<sup>4</sup>. *“On-Site”, for purposes of administering the requirements of ORS 465.315, means the areal extent of contamination and all areas in close proximity to the contamination necessary for implementation of a removal or remedial action.* The preceding applies to DEQ-administered permits, procedures, licenses and authorizations for hazardous waste, solid waste, water quality and air quality programs. This interpretation is based on the following logic:

- a) the language in italics is a direct quotation from rules enacted by the Environmental Quality Commission;
- b) this definition is consistent with the federal Superfund statute, the U.S. Environmental Protection Agency’s administering rules for environmental cleanups selected by EPA, and EPA administrative actions<sup>5</sup>.

**Example #1 of an “on-site” activity:** A facility requires cleanup for groundwater contaminated with organics, including NAPL, and incidental inorganic contaminants (metals). The contaminated plume extends from the water-bearing zone beneath the source of the release to adjacent properties. To address the release, a treatment system is proposed pursuant to the environmental cleanup rules. Effluent from the proposed

<sup>4</sup> OAR 340-122-090(7)(b).

<sup>5</sup> See CERCLA 121 (e)(1), 55 FR 8666 at 8689 (March 8, 1990); the preamble to the Final NCP; and a memorandum from Carol Browner, Administrator, U.S. EPA entitled “In the matter of the Former Weldon Spring Ordnance Works” dated November 1, 1995. In this decision, EPA ruled on federal facility dispute resolution proceedings brought by the State of Missouri. Missouri contended that, since the proposed remedy for the Weldon Spring facility would involve releases which would eventually migrate off-site, permits were required. However, EPA determined the various remedial activities (including an incinerator, contaminated wastewater treatment facility, and storm water runoff activities) were to be constructed entirely within the geographic area considered to be an NPL site, and were therefore “onsite” activities exempt from the requirement to obtain state permits.

treatment system will be discharged to a ditch bordering the source property and flowing west towards the Willamette River.

**Conclusion:** Since the treatment facility and its point of discharge is within the areal extent of contamination, the proposed remedial activity is defined by the Director as “on-site”, even though the location where treated water eventually ends up (the Willamette River) is not within the areal extent of contamination.

**Example #2 of an “on-site activity”:** Soils contaminated with metals require remedial action under the state’s environmental cleanup rules. The contaminated soils contain lead at concentrations exceeding the Resource Conservation and Recovery Act (RCRA) hazardous waste levels. The responsible party proposes to stabilize the soils so that they no longer have RCRA characteristics before transporting treated residuals off-site for use as fill for highway construction purposes. The soils cannot be treated within the area presently contaminated due to limited available work space. Therefore, the responsible party proposes to excavate the soils and stabilize contaminants in an area adjacent to the contaminated soil area.

**Conclusion:** Since the activity will take place in a “suitable area in close proximity to the contamination” the proposed remedial activity is defined by the Director as “on-site” consistent with OAR 340-122-115(37).

## **PROCEDURAL REQUIREMENTS**

For the full range of investigation, removal and remedial activities required for implementation of on-site cleanup decisions approved or selected by the Director, DEQ-administered requirements of a procedural nature only need not be met. This includes issuance of permits, licenses, authorizations and similar procedural requirements for hazardous waste, solid waste, water quality and air quality programs except as follows:

- a) Responsible parties may elect to obtain on-site permits and licenses<sup>6</sup> and should notify DEQ of their intent to obtain any DEQ-administered permits and licenses at the earliest opportunity.
- b) DEQ reserves its discretion to rescind, in part or in whole, the permit waiver otherwise afforded by ORS 465.315 upon the receipt of information potentially impacting the ability of the State to obtain or maintain authorization for a federally-delegable program<sup>7</sup>.

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<sup>6</sup> For responsible parties, DEQ recommends consultation with the prp’s legal advisor, as appropriate, in considering the potential advantages and disadvantages of obtaining DEQ-administered permits. In particular, some observers believe obtaining permits might provide assurances against the possibility of successful third party suits brought under the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act or other federal statutes.

<sup>7</sup> DEQ, at this time, does not believe formal issuance of permits need become or will become a significant issue for EPA or others for the following reasons: 1) EPA uses similar tools, as previously discussed, for waiver of procedural requirements associated with NPL sites; 2) Some DEQ rules for affected programs already encompass “orders in lieu of permits” as a recognized substitute for formal issuance of permits



## **PUBLIC NOTICE**

For purposes of removal and remedial action decisions under ORS 465, public notice and opportunity to comment requirements of other DEQ-administered laws ordinarily shall be regarded as “procedural” and/or as “substantive but duplicative”<sup>8</sup>. In effect, for removal and remedial action decisions selected or approved by the Director, the notice and hearing requirements of ORS 465 and implementing environmental cleanup rules, if applicable, shall define notice requirements and opportunities to comment.

In the event public notice and opportunity to comment requirements of ORS 465 and implementing regulations are not applicable to a situation where DEQ-administered laws otherwise require notice and an opportunity to comment, the requirements of these other DEQ laws shall be implemented. For example, in a few instances, investigation activities (prior to selection of a remedy) might trigger notice requirements of other DEQ-administered laws; similarly, in a few instances, cleanup project records of decision may lack construction and/or design specificity adequate for full compliance with notice and opportunity to comment requirements of other DEQ-administered laws.

## **RECORD-KEEPING**

Record-keeping required by other DEQ-administered laws is considered procedural in nature<sup>9</sup>. In effect, for removal and remedial activities conducted with oversight provided by DEQ, the environmental cleanup rules and site-specific agreements and work plans shall define the removal and remedial action record-keeping requirements.

Data submitted during the environmental cleanup project should be shared with other DEQ programs, as appropriate, to provide for maintenance of environmental data bases. In addition, if necessary for efficient record-keeping, the cleanup program may require submittal of duplicate cleanup activity reports (progress reports, sampling data results, etc.) directly to affected DEQ programs.

## **SUBSTANTIVE REQUIREMENTS**

In selecting or approving removal and remedial actions, DEQ intends to require compliance with the substantive requirements of DEQ-administered statutory and administrative rules with limited exceptions only. The following addresses substantive requirements of DEQ-administered laws:

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(e.g., OAR 340-45-062); and 3) most important, the goal of DEQ’s cleanup program is to meet substantive requirements of the otherwise applicable permit.

<sup>8</sup> For purposes of implementing CERCLA, the U.S. Environmental Protection Agency (EPA) defines requirements which are administrative in nature, including public notice, as mostly procedural in nature. See, for example, National Contingency Plan, Federal Register, Vol. 55, No. 46, page 8756-57.

<sup>9</sup> Of course investigation and cleanup monitoring requirements are considered “substantive” in nature. For example, monitoring is necessary to document attainment of cleanup levels and compliance with emissions limitations or discharge requirements.

- 1) A detailed delineation of substantive requirements for air quality, water quality, solid waste, and hazardous waste management for the wide range of removal and remedial actions potentially selected or approved by the Director likely would be difficult to develop, incomplete, inaccurate, and out-of-date in a relatively short timeframe. In lieu of a detailed list of substantive requirements, a general list of the types of substantive requirements that need to be considered, if applicable, is provided in Appendix A;
- 2) Responsible parties (and not DEQ) are ultimately responsible for ensuring that proposed investigation, removal and remedial activities are consistent with the substantive requirements of DEQ-administered laws<sup>10</sup>. At the same time, DEQ will actively participate in the identification of applicable substantive requirements and in the selection and approval of remedies consistent with substantive requirements of DEQ-administered laws;
- 3) DEQ Project Managers shall consult with affected air, water, solid waste, and hazardous waste programs, as appropriate, for review of environmental cleanup issues and substantive requirements of DEQ-administered laws and administrative requirements;
- 4) For on-site activities, DEQ cannot require payment of both actual costs (e.g., cost recovery under ORS 465) and payment of permit fees. Therefore, unless alternate arrangements are approved by DEQ, the Department intends to recover actual costs in lieu of permit fees, in those instances where permit fees are associated with on-site activities<sup>11</sup>;
- 5) Applicable substantive DEQ program requirements (including but not limited to construction requirements, effluent limits, and monitoring requirements) should be incorporated into records-of-decision and similar documents which provide for the selection or approval of removal and remedial action activities;
- 6) DEQ has statutory authority to waive, if appropriate, the substantive requirements of ORS 459, 466, 468, 468A and 468B for the onsite portion of any removal or remedial action<sup>12</sup>. As a practical matter, waivers and modifications of substantive requirements, if any, are expected to be warranted in few, if any, circumstances and are subject to the following DEQ decision-making standards:

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<sup>10</sup> DEQ itself conducts investigations, removals and remedial actions including orphan site cleanups and, in these instances, is the entity responsible for identifying requirements applicable to potential removal and remedial actions and consideration of these requirements in making removal and remedial action decisions.

<sup>11</sup> In other words, costs incurred by affected air, water, solid waste and hazardous waste programs for consultation and review of site-specific issues related to potential on-site removal and remedial action activities should be charged to the appropriate environmental cleanup program project.

<sup>12</sup> See ORS 465.315(3) and Section 1 of this guidance document.

- a) If similar (or better) environmental results can be achieved by implementing a functionally-equivalent alternative approach, DEQ may select or approve a remedy or removal action that includes functionally-equivalent alternative requirements; and
- b) All other proposed waivers of substantive requirements of DEQ-administered laws shall be limited to well-defined circumstances where adherence to otherwise applicable requirements would prevent implementation of a removal under OAR 340-122-070 or a remedial action selected or approved by the Director based on the remedy selection balancing factors provided by OAR 340-122-090.

7) In addition to the preceding decision-making standards, any proposed waiver of substantive requirements of a DEQ-administered law, including proposed establishment and adherence to functionally-equivalent alternative requirements, must be:

- a) identified in the proposed record-of-decision or other appropriate decision-making document. The accompanying staff report should explain the basis for the waiver and document consultation with affected DEQ programs; and
- b) any proposed waiver of the substantive requirements of DEQ-administered laws must be identified during the public comment period as part of the proposed remedy or removal action.

### **LOCAL AND OTHER STATE GOVERNMENT REQUIREMENTS**

The following is intended as guidance for DEQ project managers involved in overseeing or conducting removal actions, remedial investigations, feasibility studies, and remedial action decisions in light of the requirements of other state government agencies and local governments<sup>13</sup>:

- 1) The exemption of an otherwise applicable permit, procedure, license or authorization has been granted by the Oregon Legislature for eligible activities. Project managers are not responsible for resolving disputes, should they arise, between responsible parties and local or other state government agencies.
- 2) In the event responsible parties or local or other state agencies have questions about ORS 465.315, in general, assistance should be limited to providing site information, fact sheets about the permit waivers, and copies of DEQ's guidance on permit waivers.
- 3) OAR 340-122-085(8) requires a party conducting a feasibility study to:
  - a) identify the extent to which the remedial action alternative will be conducted onsite;

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<sup>13</sup> Also see guidance under development for conducting feasibility studies (expected fall 1997).

- b) identify all state or local permits, licenses, or other authorizations or procedural requirements that would be exempted;
  - c) describe any consultation with affected state or local government bodies; and
  - d) identify applicable substantive requirements of the affected state laws and how they would be addressed.
- 3) Implementability is one of five balancing factors the Director must consider when selecting or approving a remedy and, as pertaining to legal requirements, includes evaluation of the following information:
- a) consistency of the proposed remedy with federal, state and local requirements (this consistency may be thought of as the ability of the remedy to meet all applicable substantive requirements and any permit or procedural requirements, except for those on-site permit and procedural requirements subject to the waiver granted by ORS 465.315); and
  - b) any legal difficulty or unknown associated with the construction or implementation of an activity.
- 4) As part of DEQ's public notice, including notices concerning proposed remedial action decisions under ORS 465.320, DEQ should provide notice to affected local, state and federal agencies.

The preceding broadly applies to remedial actions, including feasibility studies and records of decisions. For other activities selected or approved by the Director under ORS 465 including removal actions and remedial design work<sup>14</sup>, similar efforts should be made to document permit waivers, consultation with affected federal, state and local agencies, and consideration of the substantive requirements in cleanup decisions.

## **DISCLAIMER**

This guidance document is intended solely as guidance for employees of the Department of Environmental Quality. It does not constitute rulemaking by the Environmental Quality Commission and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law or in equity, by any person. The Department may take action at variance with this policy statement.

APPROVED BY:           Mary Wahl          

DATE:           7/2/98          

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<sup>14</sup> Remedial design typically encompasses detailed engineering of remedial action after completion of a record of decision.

**Appendix A:  
Substantive Requirements for On-Site Environmental Cleanup Activities**

<b>DEQ Program</b>	<b>Applicability</b>	<b>Substantive Requirements May Include</b>
<b>Water</b>		
<ul style="list-style-type: none"> <li>• individual NPDES</li> </ul>	point source wastewater discharges to surface water	effluent and discharge limitations including compliance with applicable waste load allocations if the discharge is to a water quality limited stream; recordkeeping; monitoring and reporting; and operation and maintenance responsibilities
<ul style="list-style-type: none"> <li>• general NPDES</li> </ul>	storm water discharge	storm water pollution control plan, erosion and sediment control plan, storm water discharge limitations
	petroleum-contaminated soil treatment	
<ul style="list-style-type: none"> <li>• individual WPCF</li> </ul>	disposal of wastewater with no direct discharge to surface waters	effluent and discharge limitations; recordkeeping; monitoring and reporting; and operation and maintenance responsibilities
		effluent and discharge limitations; recordkeeping; monitoring and reporting; and operation and maintenance responsibilities
<b>Solid and Hazardous Waste</b>		
solid waste	permanent storage, treatment or disposal of solid waste	best management practices; monitoring and reporting; controls for groundwater protection; controls for gas emissions; closure and post-closure plans and financial assurance.
	temporary storage of solid waste	measures to prevent contamination of air or water; monitoring and reporting.
hazardous waste	hazardous waste generators	RCRA requirements unless categorically exempt by decision of DEQs Director.
	treatment, storage and disposal of hazardous waste	RCRA requirements unless categorically exempt by decision of DEQs Director
	underground storage tanks (petroleum and hazardous substances)	monitoring and reporting of suspected and confirmed releases; decommissioning requirements

**Appendix A (cont.):  
Substantive Requirements for On-Site Environmental Cleanup Activities**

**DEQ Program  
Air Quality**

**Applicability**

construction of air emissions sources

discharges to air including but not limited to emissions of over 5 tons per year of particulates or 10 tons per year of any gaseous criteria pollutant

asbestos removal

**Substantive Requirements May Include**

design and construction of air emission sources

use of highest and best practicable control and treatment technology; emission limits; monitoring and reporting

use of state licensed asbestos contractor