



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

Public Notice and Comment Requirements for Cleanup Sites

Environmental Cleanup Program
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Site Action or Milestone	Required Public Notice and/or Comment, Based on Statute or Rule	Optional Best Practices, Based on Site Circumstances	Notes
Confirmed Release List and Inventory Processes			
Prior to proposing or adding a site to the Confirmed Release List (CRL) or Inventory	No general public notice; see note at right		Prior to listing, we must notify all known past or present owners or operators (OAR 340-122-0074 and 0075)
Prior to a DEQ initiated removal of a site from CRL or Inventory	None		No statute or rule requires public notice of proposed DEQ delistings from CRL or Inventory
Prior to the approval/denial of a petition (from a site owner or operator, or person adversely affected by the listing) to remove a site from Inventory	Public notice and comment OAR 340-122-0078		External petitions for Inventory removal are rare
After removing site from CRL or Inventory	None	No actions suggested for delisting alone	

Proposed Remedial Actions or Removals

<p>Prior to selecting a remedial action based on a DEQ Record of Decision (ROD), staff report, or other documentation proposing actions intended as the permanent site remedy</p>	<p>Public notice and comment ORS 465.320(1), (2) and (3) Note: there is similar language in OAR 340-122-0100(2)</p>	<p>For projects w/significant public interest, notify key stakeholders and groups. If contaminants have migrated off-site, especially onto rights-of-way, notify adjacent and affected property owners</p>	<p>See remedial action definition below. Optional outreach strategies include letters, e-mails, phone calls, WebDocs, news releases, fact sheets, or site-specific web pages</p>
<p>Prior to selecting an Easement and Equitable Servitude (EES) as a final site remedial action in lieu of a formal Feasibility Study (FS)</p>	<p>Public notice and comment ORS 465.320(1), (2) and (3)</p>	<p>Same as best practices for proposed remedial actions</p>	<p>Include in outreach materials the rationale for not requiring formal FS</p>
<p>Prior to implementing a removal</p>	<p>None</p>	<p>Same as best practices for proposed remedial actions. It's a good idea to provide public notice and comment for non-time-critical removals likely to be extensive, highly visible to the community, to take a long time to complete</p>	<p>See removal definition below</p>

Orders, Judgments, and Prospective Purchaser Agreements

<p>At least 30 days before entering into an ORS 465.325 settlement agreement in the form of a Consent Judgment (CJ)</p>	<p>A Prospective Purchaser Agreement (PPA) holder at the site must have written notice/chance to comment. At negotiation completion, notify PPA holder of the revised order ORS 465.325(1)(b)</p>		<p>A PPA holder who's met all PPA requirements may want to assert a claim against Responsible Parties to some or all past remedial action costs incurred at the site in conjunction with a PPA that may affect the terms of a draft ORS 465.325 judgment and 3rd-party protections</p>
<p>After entering into an ORS 465.260 Consent Order (CO) or issuance of a unilateral order requiring implementation of Remedial</p>	<p>None</p>		<p>Standard language in order template contemplates press release following order issuance</p>

Investigation/Feasibility Study, removal , or remedial action			
After entering into an ORS 465.260 remedial action CO or ORS 465.325 settlement agreement	None		Notice required only after DEQ determines that party has met an order's obligations (i.e., DEQ's final approval of the remedial action)
Prior to completing a PPA structured as a CO or CJ (see note at right for PPAs structured as Administrative Agreements [AAs])	Public notice and comment ORS 465.320(1), (2) and (3)	Research and notify parties who may have taken remedial action at or adjacent to site in the past (e.g., via Voluntary Cleanup Program)	No notice required for proposed AA PPAs (which do not protect against 3rd-party liability)
After a CO or PPA of any type is signed by all parties (i.e., completed)	None	Standard practice: issuing news release upon completion of a CO or CJ PPA	
No Further Action Processes			
Prior to approval of completed remedial actions described in DEQ orders or PPA work plans (i.e., before issuing a Certification of Completion)	Public notice and comment ORS 465.320(1) and (2)		See final approval of the remedial action definition below
After approval of completed remedial actions described in DEQ orders or PPA work plans (i.e., after issuing a Certification of Completion)	Public notice (only) ORS 465.320(4)		See final approval of the remedial action definition below
After issuing an No Further Action (NFA) or Conditional NFA for a site where remedial actions are complete	Public notice (only) ORS 465.320(4); but see note at right	Also issue a news release or fact sheet for high-profile projects	NFAs and CNFAs constitute final approval of the remedial action (defined below). Note that procedural requirements may apply for an order or judgment entered to complete the remedial action
After issuing an unconditional NFA letter for a site with a completed removal	None	Issue news release or fact sheet for high-profile projects. Also see note on best practices for proposed removals	Cleanup actions documented in ICP reports are removals, where notice is not required

Prior to issuing a CNFA that includes an EES at a site with a completed removal	Public notice and comment ORS 465.320(1), (2) and (3)	Same as best practices for proposed remedial actions	Any Institutional Control/Engineering Control (IC/EC) is considered a remedial action
After issuing a CNFA and recording an EES at a site with a completed removal	Public notice, ORS 465.320(4)	Issue news release or fact sheet for high-profile projects	Issuing a CNFA or recording an EES is final approval of the remedial action (defined below)
Referenced Statutes and Rules			
ORS 465.320(1): Publish brief description of proposed action in local paper of general circulation and in the Oregon Bulletin (published by the Secretary of State), and make proposal available to the public (link to WebDocs is best).			
ORS 465.320(2): Provide at least 30 days for comments. Upon written request by 10+ persons or by a group of 10+, hold a public meeting at or near the facility to receive comments.			
ORS 465.320(3): Consider any written or verbal comments before approving the removal or remedial action or providing a release from liability under ORS 465.327 to a party in a judicial consent judgment or an administrative consent order.			
ORS 465.320(4): Upon final approval of the remedial action or providing a release from liability under ORS 465.327 to a party in a judicial consent judgment or an administrative consent order, publish brief description of the approved action in local paper of general circulation and in the Oregon Bulletin, and make its documentation available to the public (link to WebDocs is best).			
ORS 465.325(1)(b): (A) At least 30 days before an agreement is entered into under this section, DEQ shall provide written notice to any person who has entered into an agreement with DEQ under ORS 465.327 related to the facility and who is in substantial compliance with the agreement. A person receiving notice under this paragraph shall be invited to participate in any negotiations under this section related to an agreement concerning the facility, and may provide written comments related to the proposed agreement.			
ORS 465.325(10)(b): Before submitting a final certification decision to the court that approved the consent judgment, or before entering a final administrative order, the director shall provide to the public and to persons not named as parties to the agreement or order notice and opportunity to comment on the director's proposed certification decision, as provided under ORS 465.320.			
OAR 340-122-0078: (Notice requirements connected to Inventory delisting arising from external request): 1) Publish notice of proposed delisting in a local paper of general circulation and in the Oregon Bulletin; 2) make proposal available to the public (link to WebDocs); 3) make a reasonable effort to identify and notify interested persons or community organizations; 4) provide at least 30 days for comment. In addition, upon written request received within 15 days after notice, postpone date of intended action by 10 - 90 days, to allow requesting person a chance to comment on proposed delisting. Finally, upon written request by 10+ persons or by a group of 10+, hold a public meeting at or near facility to receive verbal comments.			
OAR 340-122-0100(2): The Department shall, prior to selection or approval of a remedial action: (a) Provide notice and opportunity for comment and a public meeting regarding the proposed remedial action, in accordance with ORS 465.320; and (b) Make a reasonable effort to identify and notify interested and affected			

community organizations and other parties.

Definitions

1. Remedial action: Actions intended to create a **permanent remedy** for a release or threatened release of a hazardous substance into the environment, taken instead of or in addition to removals. These may include any combination of investigation, treatment, excavation and off-site disposal, ICs or ECs, actions required by an EES, and other actions designed to protect human health and the environment for the long term. Remedial actions occur under DEQ oversight, and usually include a remedy-selection process that is documented in a DEQ ROD, staff report, or equivalent.

2. Removal: An action to remove a hazardous substance from the environment or prevent/minimize human or environmental exposure to the hazardous substance. While a removal may include actions similar to a remedial action, the decision process is typically simpler, or focuses on preventing immediate exposure, and in all cases occurs without a deliberative, DEQ-led remedy-selection process. In some cases, a removal will address only part of a site's environmental issues (e.g., many source-control decisions). In other cases, a removal action alone is enough to protect human health and the environment for the long term, but because that was not necessarily DEQ's intention when the action occurred, it is still a removal and not subject to public notice or comment. Finally, DEQ considers any independent cleanup work (i.e., without DEQ involvement, such as through Independent Cleanup Pathway) to be removals.

3. Final approval of the remedial action: DEQ documentation that permanent remedial actions are fully implemented, even if future operations and management activities or reporting on ICs/ECs are required. This is usually in the form of a DEQ NFA or CNFA letter that may or may not incorporate long-term controls documented in an EES. It also comprises DEQ Certifications of Completion for work described in an ORS 465.325 or -327 order, judgment, decree, or agreement.

Acronyms

AA	Administrative Agreement	FS	Feasibility Study
CJ	Consent Judgment	IC	Institutional Control
CNFA	Conditional No Further Action	NFA	No Further Action
CO	Consent Order	PPA	Prospective Purchaser Agreement
CRL	Confirmed Release List	ROD	Record of Decision
EES	Easement and Equitable Servitude	VCP	Voluntary Cleanup Pathway
EC	Engineering Control		

For more information, please contact:

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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.