



Public Notices

Overview

Public notices are announcements that notify the public about important milestones, events, and opportunities for participation in the Superfund process. Public notices may be published in local newspapers, posted on local websites, broadcast on local radio or television, sent as mailings, or communicated to the public in other ways.

Why This is Important

This activity is important because public notices inform the community about various aspects of the Superfund process. When the public is informed in a timely manner about site-related activities, they are better able to participate in the cleanup process and to provide input to the Agency. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and/or other legal authorities require the lead agency (EPA for fund-lead sites, or a federal facility for federal-facility lead sites, or a state or tribe for state/tribe-lead sites) to publish a public notice at various points in the Superfund process:

Remedial process: Section 117(d) of CERCLA establishes requirements for notifying the public at various stages of the remedial process. In the NCP, 40 CFR §300.815(a) addresses an additional notification activity for the remedial process.

Removal process: 40 CFR §300.415(n)(2)(i), §300.415(n)(4)(ii), §300.820(a)(1) and §300.820(b)(1) address notifying the public at various stages of the removal process.

Technical Assistance Grants (TAGs): Communities at sites that are proposed for the National Priorities List (NPL) or are on the NPL may be eligible for a TAG. 40 CFR §35.4110 addresses public notification after EPA receives a letter of intent from a community group to apply for a TAG.

Where to Publish Public Notices

Effective May 4, 2015, the NCP was amended to broaden the mechanisms the lead agency can use

*This and all tools in the Community Involvement Toolkit should be used in conjunction with the **Community Involvement Handbook**, which provides guidance to EPA staff on how EPA typically plans and implements community involvement activities at Superfund sites.*

to provide public notice to the community (80 FR 17703). For the following six actions, the lead agency for the site can publish a notice in a major local newspaper of general circulation **or** use one or more other mechanisms to notify the public:

- The administrative record file becomes available for a time critical removal action (40 CFR §300.415(n)(2)(i)).
- The Engineering Evaluation/Cost Analysis (EE/CA) for a non-time-critical removal action is issued (40 CFR §300.415(n)(4)(ii)).
- A site is proposed to be deleted from the NPL (40 CFR §300.425(e)(4)(ii)).
- The administrative record file for the selection of a remedial action becomes available at the start of the remedial investigation (40 CFR §300.815(a)).
- The administrative record file becomes available for a non-time-critical removal action (40 CFR §300.820(a)(1)).
- The administrative record becomes available for any other removal actions (40 CFR §300.820(b)(1)).

However, for the following actions, the lead agency **is still required** to publish a public notice in a major newspaper of general circulation:

Remedial Actions

- The Proposed Plan becomes available (CERCLA 117(a)(1) and 117(d)).
- The remedial alternative has been selected and the Record of Decision (ROD) is signed (CERCLA 117(b) and 117(d)).
- A remedial action, CERCLA 106 enforcement action, or CERCLA 106/122 settlement is taken that differs significantly from the remedial action that had previously been selected and documented in the ROD or in any ROD amendments (CERCLA 117(c) and 117(d)).



TAGs

40 CFR §35.4110 calls for public notification in a “major newspaper of general circulation” after EPA receives a letter of intent to apply for a TAG.

Implementation

Today, there are many other ways to notify the public, and using more than one method to reach all interested community members is recommended. In addition to publishing notices in a major local newspaper of general circulation, Regions may use one or more of the following mechanisms to provide public notice to the affected community:

- Publishing a display ad or print notice in small circulation, local newspapers
- Issuing [*fact sheets*](#)
- Distributing flyers
- Mailing letters and/or postcards to the site [*mailing list*](#)
- Using [*social media*](#) or posting on Agency, local government, or community websites
- Making telephone calls
- Asking community members to post on neighborhood listservs
- Emailing notices to site email distribution lists
- Issuing regional press releases targeted to [*media*](#) outlets near the site

The site team can determine the most effective type of notice or notices to use and the best communication mechanisms for reaching the community for a site by asking the community about their preferred methods for receiving information in [*community interviews*](#) conducted for the preparation of the site’s [*community involvement plan*](#) (CIP). These interviews with local officials, community residents, public interest groups, and other affected parties are conducted to solicit their concerns and information needs, and to learn how they would like to be involved in the Superfund process. Community interviews for the CIP should include questions about their preferred methods for receiving site-related information. This information and insight will help the site team make decisions about the most effective ways to disseminate information and encourage community involvement. Even if a formal public notice still must be published in a major local newspaper of general circulation, site teams can augment these public notices by communicating important information through other community-preferred mechanisms.

How to Use

No matter what form public notices take, they are effective only if they communicate key messages well and reach the intended audience. Keep the following points in mind when planning public notices:

- **Define the community to reach.** Identify the community members you are trying to reach before deciding how to communicate your message. Determine if you will need to translate any of your public notices to reach non-English-speaking communities.
- **Identify best ways to reach the community.** Identify the methods to reach your target audience by asking people how they usually get information. For example, a display ad in a local community newspaper or a mailing may be more appropriate than a notice in the classified section of the newspaper. Include questions on media-use habits in your initial community interviews. Consult local leaders and community members for suggestions about the most effective publications in which to place public notices, or to determine community preferences for receiving information.
- **Determine the major local newspaper of general circulation.** During community interviews, ask people to identify the major newspapers in the area that community members read. Use this information to identify the major local newspaper of general circulation that will reach the largest number of community members affected by the site.
- **Identify other media outlets.** Small communities or neighborhoods may have their own newspapers or other publications that are more widely read. Foreign-language radio can be a particularly effective method for reaching non-English-speaking communities. Choose the outlets that are most widely consulted by members of your intended audience. Remember that notices also can be published in church bulletins, community and homeowner association newsletters, weekly newspapers and shopping guides. They can be placed in grocery stores, libraries, and other frequently visited locations in the community. In some cases, a mailing to everyone on the site mailing list can be the most effective way to provide notification of an upcoming event.
- **Provide ample notice.** Provide sufficient notice of an upcoming event to ensure the greatest level of public participation. Consider providing public notification more than once. Consider communi-



cating 10 to 14 days before, one week before, and one day before the event being announced.

- **Meet publication or broadcast schedules.** Many local or community newspapers are published on a weekly or bi-weekly basis, so you should plan ahead to coordinate the publication of the notice with the event. Local radio stations may run free public service announcements if they are submitted in advance.
- **Include all essential information.** Announce dates, times, and locations clearly. Make sure these and other essential facts are prominently displayed in your notice.
- **Provide name, address, and telephone number of contact person.** In addition, you may want to include the location (both physical location and digital access, as applicable) of the information repository in a notice.

Tips for Designing an Effective Public Notice

- Both the message and the appearance of the notice are important. Use clear, easy-to-read text along with the EPA logo so the notice will be recognizable at a glance.
- When publishing a notice in a newspaper or newsletter, larger, well-placed notices or large display advertisements are more likely to be read

because they stand out amidst all the competing information on a page.

- Repeat the notice, if time and budget allow.

Documenting the Public Notice in an Administrative Record

When the public notice is required by CERCLA or addressed in the NCP, site teams should document in the appropriate Administrative Record the dates and ways they distribute public notices to community members. It also is advisable to document in the site files the dates and ways all public notification is made to communities. Consider including the following documentation for site-related public notices:

- Dated copy of the newspaper, newsletter or other publication that featured the public notice.
- Printout or screen capture of the website, with URL and date, of any web-based notice.
- Printout or screen capture that includes the date of a public notice announced through social media, such as Facebook or Twitter posts.
- Dated copies of any press releases issued, as well as a list of media outlets that received the release.
- Dated copies of any postcards or letters sent via direct mail or emails sent to site listservs.

Federal Register Notices

There are several instances where EPA is required to publish a notice in the *Federal Register* and seek public comment.

National Priorities List (NPL) Listing/Delisting: EPA uses the formal rule-making process to propose and finalize sites on the National Priorities List, and to remove them from the list (40 CFR §300.425(d) and §300.425(e)(4)). For federal facilities, EPA must publish a notice in the Federal Register every six months for any federal facilities that have been included in a docket for such facilities (CERCLA 120(c)).

Administrative settlements: For any proposed administrative settlement with a de minimis party under CERCLA 122(g), EPA must publish a notice in the Federal Register and give the community at least a 30-day opportunity to comment before the agreement becomes final. This is also true for any administrative settlement under CERCLA 122(h) that embodies a compromise of any portion of the United States' claim for cost recovery. See CERCLA 122(i); 40 CFR §300.430(c)(5)(i) and (ii).

Judicial settlements: For any proposed judicial consent decree with a potentially responsible party (PRP) with respect to CERCLA section 106 remedial action, EPA must coordinate with the Department of Justice (DOJ) on publication of a notice in the Federal Register, giving the public at least a 30-day opportunity to comment on the proposed decree (CERCLA 122(d)(2); 28 CFR §50.7). Moreover, any judicial consent decree proposing to resolve a CERCLA claim must undergo DOJ's Federal Register public notice process (28 CFR §50.7).