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# Public Participation

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*In its 2000 session, the Wyoming Legislature created new opportunities, procedures, and standards for voluntary remediation of contaminated sites. These provisions, enacted as Articles 16, 17, and 18 of the Wyoming Environmental Quality Act and implemented by the Wyoming Department of Environmental Quality (DEQ), will govern future environmental cleanups in Wyoming.*

*This Fact Sheet provides information about the public participation opportunities established by the Voluntary Remediation Program (VRP) and the responsibilities Volunteers and DEQ have to involve the public in remediation activities and decisions.*

## **1. How can the public participate in VRP cleanups?**

The public has an opportunity to participate in every VRP cleanup. DEQ believes that full, fair, and equitable opportunities for public involvement are vital to the cleanup process.

Public participation requirements for the VRP are established in §35-11-1604. These provisions provide two levels of public participation to accommodate different levels of public interest.

All Volunteers must provide public notice and an opportunity to participate in cleanup decisions when sites enter the VRP (called the 'initial public notice') and when remedies are selected or modified (referred to as the 'remedy public notice').

If there is significant public interest in a site, DEQ will require the Volunteer to prepare and implement a site-specific public participation plan to create additional opportunities for public involvement.

## **2. What types of sites will be cleaned up under the VRP?**

Most contaminated sites in Wyoming will be cleaned up under the VRP. Certain types of sites and units are not eligible for the VRP. Sites and units that are not eligible for the VRP include sites that are listed on the federal National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), commercial waste incineration or disposal facilities, sites regulated under the Leaking Above and Underground Storage Tank Program, radioactive waste storage facilities, sites regulated under the Abandoned Mine Lands Program, and waste management and disposal units permitted by DEQ (except under certain circumstances). These sites and units will be cleaned up under other applicable programs. For more information on VRP eligibility, refer to §35-11-1602 or DEQ's Fact Sheet #3 *Application for the Voluntary Remediation Program*.

### **3. Do public participation requirements of other DEQ programs still apply?**

Some VRP sites may fall under differing sets of public participation requirements, such as a mine site or a hazardous waste facility. In general, all public participation requirements will need to be met or addressed. However, DEQ will attempt to reconcile any differences in public participation requirements as well as coordinate with Volunteers to ensure that no requirements are overlooked.

### **4. How can people find out about VRP sites?**

The public finds out about VRP sites through the initial public notice process. As soon as DEQ determines that a site is eligible for the VRP, the Volunteer must notify the public about the site and give people an opportunity to participate in cleanup decisions.

During the initial public notice, a display advertisement must be published in a newspaper of general circulation in the county in which the site is located. The notice is published once per week for a minimum of four weeks. In addition, notice must be given in writing to all surface land owners of record for land that is contiguous to the site and to all known surface land owners of record for land that is adjacent to the site.

### **5. What is the difference between a contiguous land owner and an adjacent land owner?**

Contiguous property is property that is touching or in contact with an eligible VRP site. The VRP statute defines “adjacent” to mean property contiguous to an eligible site and both contiguous and noncontiguous property onto or under which contaminants are known to have migrated from an eligible VRP site.

Contiguous land owners are required to receive written notice even when there is no evidence that contaminants may have migrated from the cleanup site onto the contiguous property. Receipt of a contiguous land owner notification does not mean that the property in question is contaminated.

### **6. What type of information is the Volunteer required to put in the initial public notice?**

At a minimum, Volunteers must include the following information in both newspaper notices and letters to contiguous and adjacent land owners during the initial public notice:

- The name and location of the site.
- A summary of the reasons the site is eligible for the VRP.
- Except for sites accepted into the Independent Cleanup Process (ICP) (see below), notice that the public has 30 days to request development of a public participation plan for the site and an explanation of the process to request a public participation plan.

Templates for the initial public notice newspaper notice and the initial public notice letter to contiguous and adjacent land owners are available upon request.

DEQ has developed special public notice requirements for sites accepted into the ICP. The ICP is a streamlined administrative process under the VRP. It is designed for less complex cleanup sites where Volunteers have chosen a conservative, pre-defined remedy. All VRP sites that participate in the ICP undergo a combined public participation process that involves one integrated public notice of both acceptance into the VRP and selection of the standardized ICP remedy. The DEQ expects ICP Volunteers to include all of the information that would typically be part of an expanded public participation process in the initial public notice for an ICP site.

In addition, because the ICP can be used only at sites where contamination is limited to soil, Volunteers who are accepted into the ICP are required to mail notices only to contiguous property owners, since, in general, groundwater contamination is necessary to meet the definition of “adjacent” land owner under the VRP. As with any notice to contiguous land owners, a notice as part of the ICP does not mean that there is evidence that the contiguous property is contaminated.

For more information on the ICP, including a list of the additional information required in the initial public notice and templates for the ICP public notice, refer to Fact Sheet #6 *Independent Cleanup*.

## **7. How long is the initial public notice period?**

In general, the initial public notice period is 30 days from the date of the last newspaper notice. For sites that are accepted into the ICP, where contamination is limited to soil and the standard required remedy is complete removal of contamination, the public notice period ends 30 days from the date of the first newspaper notice.

## **8. If I request a public participation plan, does the Volunteer automatically have to develop one?**

No. DEQ will evaluate all responses to initial public notices to determine if there is “significant public interest” in a site. DEQ will determine if there is significant public interest in a site by considering:

- Whether there have been at least 25 individual requests for a site-specific public participation plan.
- Whether there has been a request by an organization representing at least 25 people.
- Whether there has been a request by the governing body of a local government.

If DEQ determines that there is significant public interest in a site, the Volunteer must prepare and implement a site-specific public participation plan.

As discussed in Question 6 above, all VRP sites that participate in the ICP undergo a form of combined public participation that involves one integrated public notice of both acceptance into the

VRP and the standardized ICP remedy, therefore, site-specific public participation plans will not be developed for ICP sites.

## **9. What are the requirements for site-specific public participation plans?**

A site-specific public participation plan should identify the activities the Volunteer will carry out to provide the public an opportunity to participate in the cleanup. Site-specific public involvement activities might include review and comment on site investigation proposals, evaluations of remedial alternatives and other cleanup documents, site tours and open houses, newsletters, mailing lists or other updates, establishment of a site-specific advisory group, and other activities.

Under §35-11-1604(b), in preparing a site-specific public participation plan, Volunteers must consult with and consider the public participation needs of all interested parties. At a minimum, interested parties include:

- Surface owners of record for contiguous lands and known surface owners of record for adjacent lands.
- Local government.
- Local economic development agencies or groups.
- Public interest groups.

Site-specific public participation plans must be reviewed and approved by DEQ.

## **10. If there is no site-specific public participation plan, can I still review site-specific information?**

Yes. DEQ's files are public records and VRP site files are open for public review in the same way and to the same degree as any public record. Site files generally include correspondence, work plan proposals and comments, sampling plans and sampling and analysis data, copies of any agreements between the Volunteer and DEQ, and other records. If you are interested in reviewing information about a VRP site, it is helpful to call DEQ in advance so they can ensure that files are readily available (e.g., not checked out by DEQ staff); however, you are not required to call DEQ in advance of reviewing files.

## **11. Is the initial public notice the only opportunity for public involvement at sites where there is no site-specific public participation plan?**

In general, the initial public notice is not the only public involvement opportunity. Even when there is not significant public interest in a site in response to the initial public notice and therefore no site specific public participation plan, Volunteers must again give the public notice and an opportunity to

comment when remedial actions are chosen or modified. DEQ refers to this as the “remedy public notice.”

As with the initial public notice, the remedy public notice must be published as a display advertisement in a newspaper of general circulation in the county in which the site is located once per week for a minimum of four weeks. Written notification also must be given to all surface land owners of record for land that is contiguous to the site and to all known surface land owners of record for land that is adjacent to the site.

As discussed in Question 6 above, all VRP sites that participate in the ICP undergo a combined public participation process that involves one integrated public notice of both acceptance into the VRP and the standardized ICP remedy. Therefore there will be no separate remedy public notice for ICP sites.

## **12. What information is included in the remedy public notice?**

Under §35-11-1604(d), at a minimum, Volunteers must include the following information in the remedy public notice:

- A description of the site.
- A summary of the cleanup activities that have been completed to date (e.g., site characterization) and a description of the contamination that the proposed remedial action is intended to address.
- A description of the proposed remedial action.
- Notice that the public has 30 days from the date of the last publication of the remedy public notice to submit comments on the proposed remedial action and/or to request an oral hearing on the proposed remedial action.
- A description of the procedures for submitting public comments and requesting an oral hearing.

DEQ can enter into a remedy agreement (RA) at any time after completion of the public comment period or after an oral hearing, whichever is later. DEQ cannot enter into remedy agreements before the public comment period is completed.

## **13. How can DEQ be sure that Volunteers complete the required public notices?**

In general, DEQ will be certain that Volunteers comply with the public participation requirements of the VRP through the Department’s ongoing oversight of VRP cleanups. In addition, the Volunteers must submit the original Affidavit of Publication and a copy of all letters for each required public notice to the DEQ. The Affidavit is notarized, signed by a representative of the newspaper in which the public notice is published, and includes a copy of the notice.

## **14. How can I get more information about the VRP?**

To learn about VRP sites that may exist in your community, obtain copies of other VRP Fact Sheets/guidance documents, get answers to your questions, or volunteer for the program, contact DEQ at (307) 777-7752 or visit the VRP website at: <http://deq.wyoming.gov/shwd/voluntary-remediation-program/>.

The VRP website includes all of the Fact Sheets and other guidance documents for the VRP. This website is updated frequently and includes the latest information about DEQ's progress in developing guidance, policy, and other supporting documents for the VRP.