

Key Information About Prospective Purchaser Agreements in Oregon

The Oregon Department of Environmental Quality uses Prospective Purchaser Agreements to encourage cleanup and productive reuse of properties with hazardous substance contamination. Investment in properties with existing contamination can be uncertain due to the strict liability scheme under state and federal laws. PPAs benefit buyers by limiting their liability, and benefit the state and local jurisdiction by providing the benefits associated with environmental cleanup and returning properties to productive use.

Who is a prospective purchaser?

A prospective purchaser can be an individual, business, government body, or any other entity with the interest and ability to purchase or lease contaminated property, where the prospective purchaser has neither caused nor aggravated contamination.

How would a PPA benefit me?

If you're thinking about buying property that you know or suspect to be contaminated with hazardous substances, you may be interested in a PPA. Liability protections spelled out in these agreements clarify and limit your responsibility to the state for the existing contamination. PPAs often make obtaining financing for the property purchase easier. Because it "runs with the land," a PPA can also protect subsequent owners and lessees who adhere to the agreement's terms.

I just bought a contaminated property and didn't cause the contamination. Can I still enter into a PPA?

No. PPAs must be negotiated and finalized before the property is purchased.

If I'm buying contaminated property, do I get an automatic PPA from DEQ?

No. Every property presents a unique set of circumstances. Furthermore, not all properties are appropriate for PPAs. As a starting point, PPA eligibility requirements in the law are:

- There is contamination at the property and the law requires it to be cleaned up.
- The prospective purchaser cannot be

- responsible for existing site contamination.
- The prospective purchaser's proposed property use will not worsen contamination or interfere with necessary cleanup.
- A "substantial public benefit" will result from the agreement.

What is a substantial public benefit?

Oregon law provides a framework for DEQ's evaluation of PPAs by describing what constitutes a "substantial public benefit."

Examples are:

- Generation of *substantial funding* or other resources for environmental cleanup at the property.
- Commitment to perform *substantial environmental cleanup* at the property.
- *Productive reuse* of an abandoned or vacant industrial or commercial facility.
- Development of the property by a governmental entity or non-profit to address an *important public purpose*.

These are examples of common substantial public benefits that DEQ has negotiated in the past. However, DEQ evaluates each agreement individually, and there's a wide range of potential substantial public benefits. DEQ encourages prospective purchasers to be creative.

How do I apply for a PPA? Is there an application fee?

- Start by contacting DEQ's Prospective Purchaser Program coordinator at 503-229-5512 (toll-free in Oregon at 1-800-452-4011, ext. 5512) to obtain a **program packet** and schedule an initial meeting.
- At the **initial meeting**, DEQ will ask questions to determine whether a PPA is appropriate for the property.
- If you and DEQ decide to move forward, you must submit an application and \$2,500 deposit. The deposit allows DEQ to start working on the PPA; it does not ensure that a final agreement will be reached.
- **Begin negotiations**, share technical information about property contamination, and strive to reach an agreement that meets



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both your needs and the state's needs. If, as part of the PPA, you agree to conduct cleanup actions at the property, you will do so through DEQ's cleanup programs.

- When the PPA is completed, or negotiations cease, any balance remaining from the deposit is refunded.

How long does it take to get a PPA?

Average time to complete a PPA is eight to 12 weeks. The length of time depends on: 1) how much DEQ knows about contamination at the property; 2) whether DEQ needs to modify the standard PPA language to accommodate unique circumstances; and 3) the number of other PPAs that DEQ staff is currently working on.

What happens after the PPA is finalized?

You must properly record the PPA and related documents in the appropriate county office, and must meet all conditions specified in the PPA. Failure to do either of these may void the agreement and the liability protections it provides.

Alternative formats

DEQ can make alternative formats of this document available (such as Braille and large type). Contact DEQ's Office of Communications and Outreach, Portland, at 503-229-5696, or call toll-free in Oregon at 1-800-452-4011, ext, 5696. Hearing-impaired persons may call 711.