

U.S. Environmental Protection Agency
U.S. AREAS OF CONCERN (AOC) DELISTING PROCESS
Updated February 2019

DELISTING OF AREAS OF CONCERN BACKGROUND

In 2001, the United States Policy Committee (USPC) developed a document, *“Restoring United States Great Lakes Areas of Concern—Delisting Principles and Guidelines”* that addressed the process to delist US AOCs. The Great Lakes Water Quality Agreement (GLWQA) was subsequently revised in 2012. This document outlines the revised delisting process and supersedes the “Process to Complete Formal Delisting of an AOC” section of the 2001 document.

For binational AOCs, additional process steps may be warranted to ensure ongoing communication and coordination with Canada.

THE DELISTING PROCESS

The following process is based on Annex 1, Section B of the GLWQA (2012) which specifically states:

... “A Party shall solicit a review and comments from the State and Provincial Governments, Tribal Governments, First Nations, Metis, Municipal Governments, watershed management agencies, other local public agencies, the Public, and the Commission ... prior to the removal of a designation as an AOC ...”.

The estimated time frames identified below are expressed in calendar days. The delisting process should take 6 to 9 months to complete but can be extended to resolve issues that may arise at each step.

A) BUI Removal

All Beneficial Use Impairments (BUIs) must be removed from the AOC prior to starting the official delisting process.

B) Develop Preliminary Report

When all BUIs have been removed, EPA will consult with the state to determine who will take the lead in preparing the report. The lead agency will develop the preliminary report in consultation with the local public advisory council (or its equivalent) and:

the state (if EPA is the lead agency); or

EPA (if the state is the lead agency).

The preliminary report should contain the background, data, analysis and rationale for delisting the AOC. While not required, the state is encouraged to provide a letter of support to delist the AOC from the local public advisory council.

C) Initiate Tribal Consultation and Coordination on Preliminary Report

Upon completion of the preliminary report, EPA will initiate tribal consultation and coordination as needed, in accordance with EPA's *"Policy on Consultation and Coordination with Indian Tribes."* (May 4, 2011).

D) Review Preliminary Report (60 days)

Concurrent with the tribal consultation process, EPA will request a review of the preliminary report from the International Joint Commission (IJC).

E) Develop Draft Final Report (30 days)

The lead agency will develop a draft final report within 30 days of receiving all comments from EPA (or the state, as appropriate), the IJC, the tribal consultation process, and the local public advisory council. If the state is the lead agency, they will submit this draft final report to EPA. If EPA is the lead agency, it will submit the draft final report to the state.

F) Public Comment on Draft Final Report (30 days)

EPA will post the report on the EPA AOC webpage for a minimum 30-day public comment period. The state may also wish to place this report on their web page or other venues with a link to the EPA web page to receive any comments. A joint EPA and state public meeting should be held within or near the AOC during this time.

G) Develop and Submit Final Report (30 days)

If the state is the lead agency, it will incorporate public comments including as appropriate and submit the final report including a response to comments to EPA within 30 days after the close of the public comment period. If EPA is the lead agency, it will incorporate public comments as appropriate and submit the final report including a response to comments to the state within 30 days after the close of the public comment period.

H) Concurrence on Final Report (30 days)

If EPA is the lead agency, the state will notify EPA whether it concurs with the final report within 30 days after receipt. If the state is the lead agency, EPA will notify the state whether it concurs within 30 days after receipt.

I) Submit Final Report to U.S. Department of State (DOS) (14 days)

EPA will submit the final report and tribal correspondence summary to DOS within 14 days of concurrence.

J) DOS Delisting Process (30 days)

DOS will notify the Department of Foreign Affairs, Trade and Development Canada (DFATD). This step does not require DFATD approval, just acknowledgement of receipt of the report. The delisting is complete once EPA receives this letter from DFATD.

K) Delisting Complete

EPA will transmit the DFATD acknowledgement letter to the state and the IJC via a cover letter stating that the delisting process is complete. All local, state, and federal partners should work cooperatively to publicize the AOC delisting.