

**NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF
THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

BRIEF DESCRIPTION

The Department of Health and Social Services (DHSS) proposes to adopt regulation changes dealing with radiation sources and protection, including changes that reflect current national standards and new technology. This includes the repeal of certain provisions dealing with the discharge and disposal of radioactive materials. The proposal adds regulations dealing with computed tomography x-ray systems, bone densitometry systems, radiation therapy, ultraviolet radiation (indoor tanning), magnetic resonance imaging, healing arts screening programs, operator qualifications, leakage radiation, and provisions dealing with informal review, evidentiary hearings, and fees. Other changes are described below.

The Department of Environmental Conservation (DEC) proposes to adopt regulation changes dealing with radiation protection, including amending regulations dealing with the discharge and disposal of radioactive materials and ensuring that the DEC regulations are consistent with changes to DHSS regulations. DEC also proposes adopting Nuclear Regulatory Commission radiation standards in order to bring discharge standards up to date. Other changes are described below.

The Department of Health and Social Services (DHSS) proposes to amend, repeal, and to adopt new regulations in Title 7, Chapter 18, of the Alaska Administrative Code (7 AAC 18, Radiation Sources and Protection) and in Title 7, Chapter 80 (7 AAC 80, Fees for Department Services), and the Department of Environmental Conservation (DEC) proposes to amend, repeal, and adopt regulations in Title 18, Chapter 85 of the Alaska Administrative Code (18 AAC 85, Radiation Protection) in a joint regulations project.

Persons and entities affected by the proposed changes to the DHSS regulations may include, but are not limited to, individuals and entities in Alaska who receive, possess, use, transfer, own, or acquire any radiation source in the state (including but not limited to computed tomography x-ray systems, bone densitometry systems, radiation therapy, ultraviolet radiation [indoor tanning], and magnetic resonance imaging), except for a use that is specifically exempted by AS 18.60.525. Additionally, these regulations may affect individuals who seek the services of, or seek to be employed by, the individuals and entities regulated by these provisions.

Persons and entities affected by the proposed changes to the DEC regulations include any person who intends to discharge or dispose of radioactive materials.

The proposed changes for each department include the following:

(1) DHSS proposes to update regulations in 7 AAC 18 dealing with radiation sources and protection, including changes that reflect current national standards and new requirements set by the Centers for Medicare & Medicaid Services and the U.S. Nuclear Regulatory Commission. These changes reflect new technology that is rapidly replacing the old, involving devices with much higher intensity emissions, and with the potential to result in far more serious adverse consequences. The changes are part of the department's five-year strategic plan--Transforming Health Care in Alaska--to improve access to services of the highest quality and safety standards. The proposed changes include but are not limited to the following:

- update operating, monitoring, reporting, notification, and other requirements to reflect current national standards and to better protect persons exposed to a radiation source
- add regulations dealing with computed tomography (CT) x-ray systems, bone densitometry systems, radiation therapy, ultraviolet radiation (indoor tanning), magnetic resonance imaging, healing arts screening programs, operator qualifications, leakage radiation, and provisions dealing with informal review/evidentiary hearings
- add regulations requiring operators to obtain a permit from the department after providing documentation of required training
- repeal provisions dealing with the discharge and disposal of radioactive materials, making it clear that these matters are regulated by DEC and the United States Nuclear Regulatory Commission

DHSS also proposes to increase fees in 7 AAC 80 for the registration and renewal of radiation devices and to add fees, including fees for late registration, shielding plan review, department inspection after notification of violation, and for operator permits

DHSS also proposes to make additional miscellaneous changes to 7 AAC 18 and 7 AAC 80 that include:

- Update references to federal and other requirements adopted by reference to require entities to be in compliance with the most current standards
- Correct or repeal obsolete references
- Add, repeal, and revise definitions
- Clarify department intent
- Make technical and conforming amendments, including ensuring consistency in terminology, using plain English, updating authority lines, and correcting, updating, and adding editor's notes.

(2) DEC proposes to simultaneously amend and repeal regulations in 18 AAC 85 (Radiation Protection) dealing with the discharge and disposal of radioactive materials, as follows:

- Amend regulations dealing with radioactivity in effluents to uncontrolled areas; the subject matter of these regulations is similar to that in regulations being repealed by DHSS in this joint regulations project
- Adopt Nuclear Regulatory Commission radiation standards in order to bring discharge standards up to date.
- Remove references to "registrants" since DHSS will no longer register persons who discharge or dispose of radioactive materials
- Revise and repeal definitions
- Clarify department intent
- Make technical and conforming amendments, including ensuring consistency in terminology and use of plain English.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Clyde E. Pearce, Radiological Health Section Chief, Radiological Health Program, State Laboratories, Alaska Department of Health and Social Services, 5455 Dr. Martin Luther King Jr. Avenue, Anchorage, AK 99507. Public comment may also be submitted to Clyde Pearce by facsimile transmission at (907) 334-2161 or electronically by sending an e-mail message to Clyde.pearce@alaska.gov. **Comments must be received no later than 4:30 p.m. on January 15, 2014.** Any comments dealing with the proposed changes to DEC's regulations in 18 AAC 85 will be forwarded to the Department of Environmental Conservation for its consideration. Written comments received are public records and are subject to public inspection.

Oral or written comments may also be submitted at the public hearing to be held as follows:

City	Date	Time	Location
Anchorage	December 16, 2013	10:00 a.m. – 12:00 p.m.	Legislative Information Office 733 W 4 th Ave., Anchorage First floor conference room

You may also participate in this public hearing by calling 1-855-463-5009. If you are calling from Juneau, please dial 463-5009. The hearing may be extended to accommodate those present within 30 minutes before the hearing is scheduled to close if they have not yet had an opportunity to comment.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Clyde Pearce at (907) 334-2107 or at the address given above no later than December 11, 2013 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Clyde Pearce at (907) 334-2107 or at the address given above, or go to the Alaska Online Public Notice System website at: <http://aws.state.ak.us/OnlinePublicNotices/> and click on the attachment at the bottom of the page for this public notice.

After the public comment period ends on January 15, 2014, the Department of Health and Social Services and the Department of Environmental Conservation will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.**

Statutory Authority for DHSS: AS 18.05.010, AS 18.05.040, AS 18.60.475; AS 18.60.485; AS 18.60.525; AS 44.29.020, AS 44.29.022,

Statutory Authority for DEC: AS 46.03.020, AS 46.03.250, AS 46.03.260.

Statutes Being Implemented, Interpreted, or Made Specific for DHSS: AS 18.05.010, AS 18.05.040, AS 18.60.475; AS 18.60.485; AS 18.60.525; AS 44.29.020, AS 44.29.022,

Statutes Being Implemented, Interpreted, or Made Specific for DEC: AS 46.03.020; AS 46.03.250; AS 46.03.260.

Fiscal Information for DHSS: It is estimated that the proposed regulation changes will require increased appropriations for DHSS as follows: FY2014, \$65,000; FY2015, \$65,000; FY2016, \$65,000; FY2017, \$65,000.

Fiscal Information for DEC: The proposed regulation changes are not expected to require an increased appropriation.

DATE: November 20, 2013.


for William J. Streur - Commissioner
Department of Health and Social Services


Larry Hartig - Commissioner
Department of Environmental Conservation

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Health and Social Services
2. General subject of regulation: Radiation sources and protection.
3. Citation of regulation: 7 AAC 18, Radiation Sources and Protection and 7 AAC 80, Fees for Department Services
4. Department of Law file number, if any JU2009200920
5. Reason for the proposed action:
 - compliance with federal law
 - compliance with new or changed state statute
 - compliance with court order
 - development of program standards
 - other: (please list)
6. Appropriate Allocation: Division of Public Health
7. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year	Subsequent
	FY 14	Years
Operating Cost	\$65	\$65
Capital Cost	\$0	\$0
1002 Federal receipts	\$0	\$0
1003 General fund match	\$0	\$0
1004 General fund	\$0	\$0
1005 General fund/ program	\$65	\$65
1037 General fund/ mental health	\$0	\$0
Other	\$0	\$0

8. The name of the contact person for the regulations:

Clyde E. Pearce, Radiological Health Section Chief
Department of Health and Social Services
5455 Dr. Martin Luther King Jr. Avenue
Anchorage, AK 99507
E-mail: Clyde.pearce@alaska.gov

8. The origin of the proposed action:

staff of state agency
 federal government
 general public
 petition for regulation change
 other (please list) _____

10. Date: November 20, 2013

Prepared by: 
Kurt West
Project Coordinator
907-465-3228

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

- 1. Adopting agency: Department of Environmental Conservation
- 2. General subject of regulation: Radiation standards
- 3. Citation of regulation (may be grouped): _____
- 4. Department of Law file number, if any: JU2012200020
- 5. Reason for the proposed action:
 - () compliance with federal law
 - () compliance with new or changed state statute
 - () compliance with court order
 - () development of program standards
 - (X) other: (please list): coordination with amendments to DH&SS regulations
- 6. Appropriation/Allocation: _____

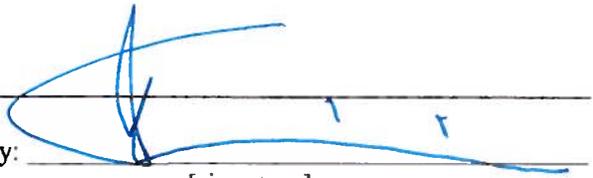
7. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2014	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
1037 General fund/ mental health	\$ <u>0</u>	\$ <u>0</u>
Other	\$ <u>0</u>	\$ <u>0</u>

8. The name of the contact person for the regulations:
Name: Gary Mendivil
Title: Environmental Program Specialist
Address: Alaska Dept. of Environmental Conservation
P.O.Box 111800, Juneau, AK 99811-1800
Telephone: (907) 465-5061
E-mail address: Gary.Mendivil@alaska.gov

9. The origin of the proposed action:
- staff of state agency
 - federal government
 - general public
 - petition for regulation change
 - other (please list) _____

10. Date: Nov 12, 2013

Prepared by:  _____
[signature]

Name (printed): Gary Mendivil
Title (printed): Environmental Program Specialist
Telephone: (907) 465-5061