

CONTAMINATED SITES: NOTICE OF PROPOSED CHANGES
IN THE REGULATIONS OF ALASKA DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

The Alaska Department of Environmental Conservation (DEC) is proposing to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with six per- and poly-fluoroalkyl substances (PFAS), including the following:

- (1) 18 AAC 75.325 is proposed to be changed to update the department's *Procedures for Calculating Cumulative Risk* and adopt it by reference.
- (2) 18 AAC 75.330 is proposed to be changed to add a new subsection specifying that where groundwater contamination exceeds the cleanup levels established under 18 AAC 75.345, the department may require a responsible person to provide an alternative source of drinking water for affected parties or implement other institutional controls under 18 AAC 75.375.
- (3) 18 AAC 75.340 is proposed to be changed to update the department's *Procedures for Calculating Cleanup Levels* and adopt it by reference.
- (4) 18 AAC 75.341 is proposed to be changed to set new soil cleanup levels for six PFAS that include Perfluorobutane Sulfonic Acid (PFBS), Perfluoroheptanoic Acid (PFHpA), Perfluorohexane Sulfonic Acid (PFHxS), Perfluorononanoic Acid (PFNA), Perfluorooctane Sulfonic Acid (PFOS), and Perfluorooctanoic Acid (PFOA).
- (5) 18 AAC 75.345 is proposed to be changed to set new groundwater cleanup levels for six PFAS that include PFBS, PFHpA, PFHxS, PFNA, PFOS and PFOA.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Sally Schlichting, Alaska Department of Environmental Conservation, P.O. Box 111800, Juneau, AK 99811-1800, by facsimile at: (907) 465-5245, or by e-mail to sally.schlichting@alaska.gov. Comments also may be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 5:00 p.m. on November 5, 2018.

You may submit written questions relevant to the proposed action to Sally Schlichting by email to sally.schlichting@alaska.gov and by mail to P.O. Box 111800, Juneau, Alaska 99811-1800. The questions must be received at least 10 days before the end of the public comment period. The Department of Environmental Conservation will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and <http://dec.alaska.gov/spar/regulation-projects>. The Department of Environmental Conservation may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Christine Mash at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than October 29, 2018 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes and material proposed for adoption by reference is available on the Alaska Online Public Notice System or at <http://dec.alaska.gov/spar/regulation-projects> and by contacting Sally Schlichting at the address or email above or by phone at (907) 465-5076.

After the public comment period ends, the Department of Environmental Conservation will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 46.03.010, AS 46.03.020, AS 46.03.050, AS 46.03.070, AS 46.03.710

Statutes being implemented, interpreted, or made specific:

AS 46.03.020	AS 46.03.745	AS 46.04.070
AS 46.03.050	AS 46.03.755	AS 46.08.140
AS 46.03.710	AS 46.03.822	AS 46.09.010
AS 46.03.740	AS 46.04.020	AS 46.09.020

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

Date: October 1, 2018



Larry Hartig, Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION

(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: Contaminated Sites
3. Citation of regulation (may be grouped): 18 AAC 75
4. Department of Law file number, if any: 2018200876

5. Reason for the proposed action:
 - Compliance with federal law or action (identify):
 - Compliance with new or changed state statute
 - Compliance with Federal or state court decision (identify)
 - Development of program standards
 - Other (identify):

6. Appropriation/Allocation: Spill Prevention and Response Division/Contaminated Sites Program.

7. Estimated annual costs in the aggregate to comply with the proposed action:
Private Persons: There are no increased compliance costs to private persons or businesses who are not involved in sites contaminated with per- and polyfluoroalkyl substances (PFAS). There may be reduced or avoided costs from positive health impacts as a result of addressing contamination in residential drinking water.

There is potential for additional costs to private businesses and other entities considered responsible parties (RPs) for PFAS contamination. Facilities most likely to be impacted are airports, fire training areas, industrial sites, and sites where fire-fighting foams have been deployed as these areas are commonly associated with PFAS contamination. Types of costs related to PFAS contamination include, but are not limited to: monitoring, cleanup, and the provision of drinking water treatment options, such as bottled water or water filtration systems. As this is an emerging environmental issue at both the state and national level, cost data for responding to PFAS contamination is limited. It is likely that costs vary significantly dependent on site-specific factors. Sites with PFAS groundwater contamination will be more costly to remediate than sites with contaminated soil only. However, having cleanup levels for these compounds provides entities with certainty for compliance planning decisions.

Should there be concern about compliance costs due to these proposed changes the department encourages the submission of public comments which reference costs and provide specific cost information.

Other State Agencies: The Alaska Department of Transportation and Public Facilities has already experienced costs associated with PFAS groundwater contamination at State of Alaska airports. These costs include: employing additional staff, site inventorying, contracting environmental services (residential drinking water testing and removal of fire-fighting foams), delivering drinking water to affected residents, designing water system alternatives for impacted residents, providing public meetings, and other supplies/materials. It is expected that these costs are ongoing and the adoption of cleanup levels in state regulation does not significantly change the trajectory of the economic impacts; these costs would have been incurred anyway. Adoption of cleanup levels in regulation provides regulatory certainty for the department in addressing the issue of PFAS contamination at state owned facilities.

Municipalities: There is potential for municipalities to be affected in a similar manner as described above. Specifically, when a municipality is considered an RP or when there is a presence of PFAS above the adopted cleanup levels on municipal property. Facilities such as fire stations and water systems are more likely to be affected due to the nature of PFAS contamination.

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

	Initial Year FY 2019	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 (Response Fund)	\$ <u>0</u>	\$ <u>0</u>

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

Name: Sally Schlichting

Title: Unit Manager for Technical Services, Policy and Regulations


Address: ADEC, Contaminated Sites Program

410 Willoughby Ave. Suite 303, P.O. Box 111800, Juneau, AK 99811-1800

Telephone: (907) 465-5076

E-mail address sally.schlichting@alaska.gov

10. The origin of the proposed action:
- Staff of state agency
 - Federal government
 - General public
 - Petition for regulation change
 - Other (identify)

11. Date: October 1, 2018 Prepared by: 

Name (printed): Sally Schlichting

Title (printed): Unit Manager for Technical Services, Policy and Regulations

Telephone: (907) 465-5076