

Public Comment Response Summary

Proposed Revisions to 18 AAC Chapter 75 – Article 9

December 28, 2015

Summary of Changes

This amendment to Article 9 proposes to add section .910 regarding cost recovery procedures, to provide clear and transparent information to the public concerning cost recovery for the costs of oil spill and hazardous substance response and cleanup. Comments were considered on 12/22/15, including comments regarding incidental costs, public inquiries on large spills, descriptions to identify each site or incident, and suggested text for definition of direct staff costs (DSC). The later suggestion was incorporated into the proposed regulation. All others were discussed but not used for reasons documented below.

Summary of Comments

<p>1. Comment: One commenter supports the proposed changes, noting they should help the state recover costs related to enforcing state regulations. Commenter thinks financial consequences (interest accrual) may provide an added incentive to the regulated community. No changes requested.</p> <p>Response: No response required.</p>
<p>2. Comment: A second commenter suggests amending the language describing “direct staff costs” (DSC) in section (c) (2) to include regular hourly cost per staff job class.</p> <p>Response: Incidental costs are addressed in 18 AAC 75.910 (h). No change required.</p>
<p>3. Comment: Commenter requests explanation of incidental costs in (c) (2) for items such as transportation, lodging, meals and/or per diem, etc. and if costs will be billed or excluded in the costs billed to the liable party.</p> <p>Response: Likewise, additional incidental costs are addressed in 18 AAC 75.910(h). Comment rejected as it would be a duplication of information to modify the wording in section (c) (2).</p>
<p>4. Comment: Commenter recommends revising the definition of DSC in (c) (2) to reflect the “regular hourly base cost per staff job class” and include a statement as to the method or basis for determining those values (e.g. “based on the values published annually in the State of Alaska Employee Salary Schedule”).</p> <p>Response: Comment used to change definition of DSC for (c) 2 as follows to clarify Direct Staff Costs: Direct staff costs (DSC) are the average cost of hours worked per job class directly on an incident or site, ... methodology for calculation too detailed and this portion of the comment is rejected.</p>
<p>5. Comment: Commenter recommends removing the proposed text: “...with the exception of inquiries during a large response” from section (c) (2). Distinguishing between large and small responses would be arbitrary, and responding to public inquiries is a government function that should be treated separately from spill response and outside the scope of cost recovery.</p> <p>Response: A large response is typically managed by a formal Incident Management Team (IMT) with public inquiries managed through a Joint Information Center (JIC) or the Unified Command (UC). It is a discretionary decision the division will make on a case by case basis and for this reason comment is rejected. Responses managed by IMT are not predictable in advance.</p>
<p>Comment: Commenter requests section (d) specify the unique code assigned to each incident or site should include a detailed description to easily attribute and verify costs billed to multiple codes on a single invoice.</p>

Response: Comment rejected. No changes to existing language required. Cost Recovery invoice includes the site name that is used on the public contaminated sites and/or spills database. RPs should be able to verify their site using the site name.