

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

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation (DEC) is proposing to update cleanup levels for soil and groundwater and how they are calculated for contaminated sites.

The Alaska Department of Environmental Conservation proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code, updating cleanup levels for soil and groundwater, as well as amending accompanying language for how such levels are calculated on a site-specific basis and in cases where a compound is not listed in the tables. The proposed changes include the following:

- (1) Amend 18 AAC 75.325 to update the department's *Procedures for Calculating Cumulative Risk* and adopt it by reference.
- (2) Amend 18 AAC 75.340 to clarify how reasonable maximum exposure is estimated for developing cleanup levels; provide instruction concerning site-specific cleanup levels; allow the department to set site-specific alternative cleanup levels for compounds listed in Tables B1 or B2; update exposure pathway terminology; update the department's *Procedures for Calculating Cleanup Levels* and adopt it by reference; allow the department to develop site-specific cleanup levels for hazardous substances not listed in the tables; remove the requirement for site-specific analysis where fugitive dust is present and add a requirement for site-specific analysis; modify the requirement for how cleanup levels protecting human exposure are met at a site.
- (3) Amend 18 AAC 75.341 to specify that method one applies to petroleum hydrocarbons and update cleanup levels and notes for method two in Table B1.
- (4) Amend 18 AAC 75.345 to update cleanup levels and notes for groundwater in Table C; allow proposal of a site-specific cleanup level by the department for a compound not listed in regulation, using the procedures in the department's *Risk Assessment Procedures Manual*; allow the department to set a more stringent cleanup level if necessary by considering other factors; specify that where the department determines that toxicity data is insufficient to establish a cleanup level for a hazardous substance or a pollutant, the department may require a responsible person to provide protections, including such measures as an alternative source of drinking water or implement other institutional controls under 18 AAC 75.375; and allow groundwater monitoring wells to be installed, developed, and decommissioned in accordance with an approved method.
- (5) Amend 18 AAC 75.990 to provide definitions for "mutagen;" "mutagenic;" and "sensitive subpopulation."
- (6) Housekeeping edits throughout the chapters to reflect the above changes, revise and clarify wording, correct typographical errors, clarify information in tables, and correct and update referenced regulations and updated documents.

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 Sally Schlichting, Alaska Department of Environmental Conservation, 410 Willoughby Ave., Suite 303,

P.O. Box 111800, Juneau, AK 99811-1800, by facsimile at: (907) 465-5218, or by e-mail to [sally.schlichting@alaska.gov](mailto:sally.schlichting@alaska.gov). Alternatively, you may submit your comments through the State of Alaska's online public notice website at: <http://aws.state.ak.us/OnlinePublicNotices/Default.aspx>. All comments must be received by 5:00 p.m. on June 23, 2016. Comments received after this date will not be considered in final action on these rules.

This is the second public comment period for these proposed changes. The first public comment period occurred from August 26, 2015 through December 11, 2015. This public comment period provides the public with the opportunity to review the changes made to the proposed amendments based on comments received during the last public comment period.

A public workshop will be held at the following location and date:

**Anchorage: Wednesday, June 8, 2016 from 2:30 p.m. to 4:30 p.m. at the BP Energy Center, 900 E. Benson Boulevard.**

Any discussions at the public workshop will not be considered as public comments for purposes of changing the proposed regulations. You may submit written questions relevant to the proposed action to Sally Schlichting by email to [sally.schlichting@alaska.gov](mailto:sally.schlichting@alaska.gov) or by mail to Sally Schlichting, Alaska Department of Environmental Conservation, 410 Willoughby Ave, Suite 303, P.O. Box 111800, Juneau, AK 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 [http://dec.alaska.gov/spar/csp/reg\\_rev.htm](http://dec.alaska.gov/spar/csp/reg_rev.htm). 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 Natalie Wolfe at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than June 13, 2016 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 at <http://aws.state.ak.us/OnlinePublicNotices/> or at [http://dec.alaska.gov/spar/regulation\\_projects/index.htm](http://dec.alaska.gov/spar/regulation_projects/index.htm) 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 regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and are subject to public inspection.

**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 46.03.710 | AS 46.03.745 |
| AS 46.03.050 | AS 46.03.740 | AS 46.03.755 |

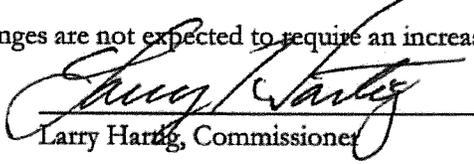
AS 46.03.900  
AS 46.03.822  
AS 46.04.020  
AS 46.04.030

AS 46.04.035  
AS 46.04.055  
AS 46.04.070  
AS 46.08.140

AS 46.09.010  
AS 46.09.020

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

Dated: May 18, 2016  
Juneau, Alaska

  
Larry Harig, Commissioner

CLEANUP LEVEL AMENDMENTS  
ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: Contaminated Site Cleanup Rules
3. Citation of regulation (may be grouped): 18 AAC 75
4. Department of Law file number, if any: JU2015200567
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)
  - (X) Development of program standards
  - ( ) Other (identify):
6. Appropriation/Allocation: The proposed regulation amendments are not expected to require an increased appropriation.
7. Estimated costs in the aggregate to comply with the proposed action to:

**a. Private Persons. This group encompasses the general public, homeowners, and private businesses.**

General Public: There are no increased costs to private persons or businesses who are not involved in contaminated sites. There may be reduced or avoided costs as a result of safer levels in soil and groundwater, especially for the most sensitive receptors – children – and reduced risk for cancer and non-cancer illnesses.

Homeowners are unlikely to incur additional costs, as the majority of residential cleanups relate to total petroleum contamination and the cleanup levels for petroleum hydrocarbons are not changing. However, some additional costs associated with lowered cleanup levels for petroleum constituents such as benzene may prolong some cleanups where these compounds have contaminated groundwater at the site.

Private Businesses with contaminated site issues: Private businesses with contaminated groundwater are more likely to face additional costs than sites only with contaminated soil, as a greater number of cleanup levels for groundwater are becoming more stringent. These costs may materialize as increased expenses to operate treatment systems for a longer period of time; conduct additional groundwater monitoring; and to achieve lower detection limits or practical quantitation limits (PQLs).

Environmental consulting firms will experience short-term incremental learning costs (cost of familiarizing with regulation/compliance planning) which they may pass on to clients. These learning costs include a modest amount of time to understand new cleanup criteria; learn new online calculator tools that replace outdated versions used to develop alternative cleanup levels and calculate cumulative risk; additional analysis to determine whether certain regulatory requirements may apply at certain sites; and becoming familiar with two updated guidance documents, mainly as they apply to calculating alternative cleanup levels under Method 3.

**b. Other State Agencies.** There will be no increase costs to the majority of state agencies and their operations. However there will be a slight increase in contracting costs for state agencies that manage state-owned sites and facilities with groundwater contamination where additional years of monitoring may be required due to more stringent cleanup levels. In addition, increased costs to achieve lower practical quantitation limits (PQLs) may be required for certain analytes, particularly in groundwater.

**c. Municipalities.** There will be an incremental increase in direct costs for municipalities with contaminated sites and municipally owned landfills. These costs include staff oversight time and contracting costs associated with monitoring and cleanup, especially where additional years of groundwater monitoring may be required due to more stringent cleanup levels. In addition, increased costs to achieve lower PQLs may be required for certain analytes, particularly in groundwater.

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

|                                 | Initial Year<br>FY 2017 | Subsequent<br>Years |
|---------------------------------|-------------------------|---------------------|
| Operating Cost                  | \$ 0                    | \$ 0                |
| Capital Cost                    | \$ 0                    | \$ 0                |
| 1002 Federal receipts           | \$ 0                    | \$ 0                |
| 1003 General fund match         | \$ 0                    | \$ 0                |
| 1004 General fund               | \$ 0                    | \$ 0                |
| 1005 General fund/ program      | \$ 0                    | \$ 0                |
| 1037 General fund/mental health | \$ 0                    | \$ 0                |
| Other (Response Fund)           | \$ 0                    | \$ 0                |

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

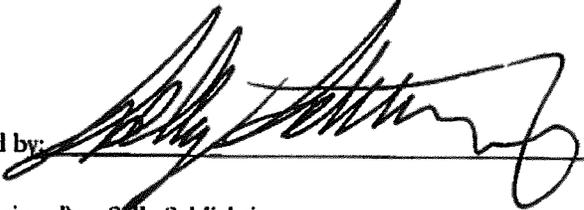
Telephone: (907) 465-5076  
E-mail address sally.schlichting@alaska.gov

10. The origin of the proposed action:

- Staff of state agency  
 Federal government  
 General public  
 Petition for regulation change  
 Other (identify)

11. Date: May 18, 2016

Prepared by:

  
Name (printed): Sally Schlichting  
Title (printed): Unit Manager for Technical Services, Policy and Regulations  
Telephone: (907) 465-5076