

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

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation 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 to conform with the updated soil cleanup level table and how these cleanup levels are calculated and presented; update the department's *Procedures for Calculating Cleanup Levels* and adopt it by reference; require agreement of landowners affected by contamination to create and maintain institutional controls where a cleanup level is less stringent than a level appropriate for unrestricted land use; 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 where sensitive subpopulations are present; and housekeeping changes to address new terminology and update or correct cross-referencing and regulatory references.
- (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) Repeal and readopt 18 AAC 75.345 to update cleanup levels and notes for groundwater in Table C; allow proposal of a site-specific cleanup level by a responsible party or development 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 factors such as the presence of sensitive subpopulations and primary maximum contaminant levels; 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 an alternative source of drinking water for the affected parties or implement other institutional controls under 18 AAC 75.375 until a cleanup level is established; require the responsible party to gain concurrence from an affected property owner for the creation and maintenance of institutional controls if proposing not to meet the cleanup levels established at the property boundary; and allow groundwater monitoring wells to be installed, developed, and decommissioned in accordance with an approved

method rather than the department's Recommended Practices for Monitoring Well Design, Installation, and Decommissioning, April 1992.

- (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.

This is a second SUPPLEMENTAL NOTICE adding to the NOTICE OF PROPOSED CHANGES that was issued on August 26, 2015 and the SUPPLEMENTAL NOTICE that was issued on October 2, 2015, concerning the proposed regulation revisions. This SUPPLEMENTAL NOTICE is being issued to correct technical errors in the proposed amendments and to extend the public comment period. The errors that are corrected are as follows:

- 1) Amendments to 18 AAC 75.340(e)(1) concerning the adoption by reference of the document, *Procedures for Calculating Cleanup Levels*, are corrected to add the document revision date of July 15, 2015.
- 2) Amendments to 18 AAC 75.340(e)(2) are corrected to preserve existing intent of this paragraph.
- 3) Amendments to 18 AAC 75.345 are presented correctly to show that the entire section is repealed and readopted.

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. 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>. **In order to provide additional time for comments the public comment period has been extended. All comments must be received by 5:00 p.m. December 11, 2015.** Comments received after this date will not be considered in final action on these rules.

Public workshops will be held at the following locations and dates:

Anchorage: October 14, 2015, from 2:00 p.m. to 4:00 p.m. at the Legislative Information Office building, 1st Floor Auditorium, 716 West 4th Avenue.

Fairbanks: October 27, 2015, from 2:00 p.m. to 4:00 p.m. at the Department of Environmental Conservation, 610 University Avenue, 1st Floor Conference Rooms, B and C.

Teleconference: November 5, 2015, from 2:00 p.m. to 4:00 p.m. Dial 1-800-315-6338, Access code: 95076#.

Requests can be sent to sally.schlichting@alaska.gov. DEC will announce the cancellation of a

public workshop by publishing a public notice, by 5pm nine days prior to the scheduled workshop on this website: http://dec.alaska.gov/commish/public_notices.htm.

Any discussions at the public workshops 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 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. 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 December 1, 2015 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/csp/reg_rev.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 46.03.822	AS 46.04.070
AS 46.03.050	AS 46.03.900	AS 46.08.140
AS 46.03.710	AS 46.04.020	AS 46.09.010
AS 46.03.740	AS 46.04.030	AS 46.09.020
AS 46.03.745	AS 46.04.035	
AS 46.03.755	AS 46.04.055	

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

Dated: October 22, 2015
Juneau, Alaska


Larry Hartig, Commissioner