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 (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 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) 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 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.

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. **All comments must be received by 5:00 p.m. on November 25, 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 Department of Environmental Conservation, 555 Cordova Street, 1st Floor Conference Room.

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 November 25, 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 46.03.900	AS 46.04.070
AS 46.03.050	AS 46.03.822	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.

Larry Hartig, Commissioner

Dated: August 25, 2015
Juneau, Alaska

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 petroleum contamination and the cleanup levels for petroleum hydrocarbons are not changing.

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 (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, such as how expanded language requiring agreement from impacted property owners to maintain institutional controls may apply on a site specific basis; 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 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 FY 2016	Subsequent 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:

X Staff of state agency

__ Federal government

__ General public

__ Petition for regulation change

__ Other (identify)

11. Date: August 26, 2015

Prepared by:

Name (printed): Sally Schlichting

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

Telephone: (907) 465-5076