

Byron Mallott  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520 465.5400 Fax  
WWW.LTGOV.ALASKA.GOV



530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460 269.0263  
LT.GOVERNOR@ALASKA.GOV

OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA

MEMORANDUM

**TO:** Gary Mendivil, AAC Contact  
Department of Environmental Conservation

**FROM:** Scott Meriwether  
Special Assistant   
907.465.4081

**DATE:** May 18, 2015

**RE:** Filed Permanent Regulations: Department of Environmental Conservation

Regulations re: contaminated site cleanup, underground storage tanks (USTs), and the use of qualified environmental professionals and qualified samplers (18 AAC 75.325(g),(h); 18 AAC 75.333; 18 AAC 75.335(b),(c); 18 AAC 75.345(e); 18 AAC 75.355 - 18 AAC 75.390; 18 AAC 75.990; 18 AAC 78.007; 18 AAC 78.088; 18 AAC 78.090(d)(2)(A),(e),(f); 18 AAC 78.235(b),(c); 18 AAC 78.250(b)(3); 18 AAC 78.271 - 18 AAC 276; 18 AAC 78.600(d),(i); 18 AAC 78.930; 18 AAC 78.995)

---

Attorney General File: JU2011200192

Regulation Filed: May 18, 2015

Effective Date: June 17, 2015

Print: 214, July 2015

cc with enclosures: Linda Miller, Department of Law  
Genevieve Wojtusik, Administrative Regulation Review Committee  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO  
REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached thirty-nine pages of regulations, dealing with qualified person standards in 18 AAC 78 (Underground Storage Tanks) and 18 AAC 75 (Oil and Other Hazardous Substances Pollution Control) are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 46.03 and AS 46.04 after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action, as required by AS 46.03.024.

The regulation changes adopted under this order take effect on the 30<sup>th</sup> day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: May 14, 2015



Larry Hartig, Commissioner  
Department of Environmental Conservation

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on May 18, 2015, at 1:00 .m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: June 17, 2015.

Register: 214, July 2015.

18 AAC 75.325(g) is amended to read:

(g) If using method two or method three for determining the applicable soil cleanup levels as described in 18 AAC 75.340 and 18 AAC 75.341 [18 AAC 75.340 - 18 AAC 75.341], or if applying the groundwater cleanup levels at Table C in 18 AAC 75.345, a responsible person shall ensure that, after completing site cleanup, the risk from hazardous substances does not exceed a cumulative carcinogenic risk standard of 1 in 100,000 across all exposure pathways and does not exceed a cumulative noncarcinogenic risk standard at a hazard index of one, **reported to one significant figure**, across all exposure pathways. Guidance on cumulative risk determinations is provided in the department's *Cumulative Risk Guidance*, dated June 9, 2008. The department's *Cumulative Risk Guidance*, dated June 9, 2008, is adopted by reference.

The introductory language of 18 AAC 75.325(h) is amended to read:

(h) If proposing an alternative cleanup level for soil or groundwater, based on a site-specific risk assessment under method four in 18 AAC 75.340(f) or under the provisions of 18 AAC 75.345(b)(2), a responsible person shall ensure that the risk from hazardous substances does not exceed the cumulative carcinogenic risk standard of 1 in 100,000 across all exposure pathways and does not exceed the cumulative noncarcinogenic risk standard at a hazard index of one, **reported to one significant figure**, across all exposure pathways. Guidance on cumulative risk determinations is provided in the department's *Cumulative Risk Guidance*, adopted by reference in (g) of this section. Instead of the risk standards required by this subsection, the department may consider a risk standard consistent with the range acceptable under 40 C.F.R. 300.430, revised as of July 1, 2004, adopted by reference, based on

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

• • •

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 10/9/2008, Register 188; am 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.740	AS 46.04.020
	AS 46.03.050	AS 46.03.745	AS 46.04.070
	AS 46.03.710	AS 46.03.822	AS 46.09.020

**Editor's note:** The department's Cumulative Risk Guidance, [DOCUMENT] adopted by reference in 18 AAC 75.325 may be viewed at or obtained [REVIEWED AT, OR REQUESTED] from [,] the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna or the department's Internet website at <http://dec.alaska.gov/spar/guidance.htm>.

As of Register 166 (July 2003), and acting under AS 44.62.125 (b)(6), the regulations attorney made technical changes to 18 AAC 75.325(k), to reflect Executive Order 107 (2003). Executive Order 107 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Fish and Game to the Department of Natural Resources.

As of Register 179 (October 2006), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical revision to 18 AAC 75.325(c)(1). This change reflects the enactment of sec. 2, ch. 102, SLA 2006, effective August 5, 2006, which repealed AS 46.03.360 and 46.03.363.

As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.325(k), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes,

and streams from the Department of Natural Resources to the Department of Fish and Game.

18 AAC 75 is amended by adding a new section to read:

**18 AAC 75.333. Qualified environmental professionals and qualified samplers. (a)**

A responsible person shall ensure that a qualified environmental professional

- (1) prepares the site characterization work plan required under 18 AAC

75.335(b)(1);

- (2) prepares the site characterization report required under 18 AAC 75.335(c)(1);

- (3) performs sampling collection required under 18 AAC 75.355(a), or that a

qualified sampler performs sampling collection if the department approves the use of a qualified sampler under 18 AAC 75.355(a);

- (4) conducts or supervises site cleanup work under 18 AAC 75.360;

- (5) prepares the post-treatment sampling and analysis plan under 18 AAC

75.365(a)(1)(C);

- (6) prepares the final cleanup report required under 18 AAC 75.380(a);

- (7) prepares and signs a report to justify a request for a waiver under 18 AAC

75.390.

(b) For purposes of the site cleanup rules, an individual is a qualified environmental professional if the individual

- (1) is an impartial third party;

- (2) is qualified to perform site characterization and cleanup activities, including

- (A) fate and transport analysis;

(B) remediation design; and

(C) other activities associated with contaminated sites;

(3) actively practices in the field of environmental science or another related scientific field;

(4) has not been found to have falsified environmental data or committed other acts of fraud directly related to environmental work; and

(5) meets one or more of the following minimum educational qualification and experience requirements:

(A) has a four-year undergraduate or a graduate degree from a nationally or internationally accredited postsecondary institution in environmental science or another related scientific field, and has at least one year of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after the degree described in this subparagraph was obtained;

(B) has a four-year degree from a nationally or internationally accredited postsecondary institution in any field or a two-year associate degree from a nationally or internationally accredited postsecondary institution in environmental science or another related scientific field, and has at least three years of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after a degree described in this subparagraph was obtained;

(C) is certified as an environmental technician under an apprenticeship

program with a registration under 29 C.F.R. Part 29, and has at least three years of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after the certification described in this subparagraph was obtained.

(c) For purposes of the site cleanup rules, an individual is a qualified sampler if the individual

(1) is an impartial third party;

(2) collects samples of environmental media for laboratory analysis; in this paragraph, "environmental media"

(A) includes soil, groundwater, and surface water;

(B) does not include air or soil gas;

(3) has not been found to have falsified environmental data or committed other acts of fraud directly related to environmental work;

(4) has successfully completed

(A) applied field work involving environmental sample collection of soil, groundwater, or surface water associated with coursework for a completed degree in environmental science or another related scientific field at a nationally or internationally accredited postsecondary institution; or

(B) an environmental sampling training program recognized by the department; and

(5) has at least three months of experience in environmental sampling under the direct supervision of a qualified environmental professional completed after the training

described in (4)(A) or (B) of this subsection was obtained.

(d) In this section, "another related scientific field" includes engineering, geology, physical science, hydrology, biology, and chemistry. (Eff. 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.755	AS 46.09.010
	AS 46.03.710	AS 46.03.822	AS 46.09.020
	AS 46.03.740	AS 46.04.020	

The introductory language of 18 AAC 75.335(b) is amended to read:

(b) A responsible person shall submit a site characterization **work plan** [WORKPLAN] to the department for approval before beginning site characterization work. The department will approve the site characterization **work plan** [WORKPLAN] if the **work plan** [WORKPLAN] is

...

18 AAC 75.335(b)(1) is amended to read:

(1) prepared by a qualified **environmental professional** [PERSON]; and

18 AAC 75.335(c)(1) is amended to read:

(1) is prepared by a qualified **environmental professional** [PERSON];

18 AAC 75.335(c)(2) is amended to read:

(2) sets out the information obtained from activities performed in accordance with

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

a site characterization work plan [WORKPLAN];

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 6 / 17 / 2015, Register 214)

**Authority:** AS 46.03.020 AS 46.03.745 AS 46.04.070  
AS 46.03.050 AS 46.03.755 AS 46.09.010  
AS 46.03.710 AS 46.04.020 AS 46.09.020  
AS 46.03.740

The introductory language of 18 AAC 75.345(e) is amended to read:

(e) The point of compliance where groundwater cleanup levels must be attained is throughout the site from each point extending vertically from the uppermost level of the [SATURATED] zone of saturation to the lowest possible depth that could potentially be affected by the discharge or release of a hazardous substance, unless the department approves an alternative point of compliance as part of the cleanup action under 18 AAC 75.360. For the department to approve an alternative point of compliance under this subsection, the

...

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 10/9/2008, Register 188; am 6 / 17 / 2015, Register 214)

**Authority:** AS 46.03.020 AS 46.03.745 AS 46.04.070  
AS 46.03.050 AS 46.03.755 AS 46.09.010  
AS 46.03.710 AS 46.04.020 AS 46.09.020  
AS 46.03.740

18 AAC 75.355(a) is amended to read:

(a) Unless the department determines that final confirmation sampling is not needed to meet the requirements of the site cleanup rules, a responsible person shall submit a sampling and analysis plan for approval under 18 AAC 75.360, and after implementing the plan, shall submit the analytical sampling results collected to the department. **If approved in the sampling and analysis plan, sample collection for soil or water may be performed by a qualified sampler when a qualified environmental professional is not available.** Based on the results of the analyses, a responsible person shall demonstrate compliance with the site cleanup rules.

18 AAC 75.355(b) is amended to read:

(b) A responsible person and the owner or operator of an offsite or portable treatment facility under 18 AAC 75.365 shall ensure that the collection, interpretation, and reporting of data, and the required sampling and analysis is conducted or supervised by a qualified **environmental professional** [, IMPARTIAL THIRD PARTY. THE DEPARTMENT WILL WAIVE THE REQUIREMENT FOR USE OF AN IMPARTIAL THIRD PARTY IF A RESPONSIBLE PERSON DEMONSTRATES THAT WORK PERFORMED WILL BE CONDUCTED OR SUPERVISED BY A QUALIFIED AND OBJECTIVE PERSON, AND IF THE DEPARTMENT DETERMINES THAT A WAIVER IS PROTECTIVE OF HUMAN HEALTH, SAFETY, AND WELFARE, AND OF THE ENVIRONMENT, AND THAT STRICT COMPLIANCE WITH THE IMPARTIAL THIRD PARTY REQUIREMENTS IS NOT PRACTICABLE. TO REQUEST A WAIVER UNDER THIS SUBSECTION, IN ADDITION TO MEETING THE REQUIREMENTS OF 18 AAC 75.390, A RESPONSIBLE

PERSON SHALL SUBMIT

(1) A WRITTEN REQUEST FOR A WAIVER;

(2) THE RESUME OF THE PERSON QUALIFIED TO CONDUCT OR SUPERVISE THE WORK TO BE PERFORMED, SHOWING RELEVANT EDUCATION, VOCATIONAL TRAINING, RELATED WORK EXPERIENCE, AND ANY SPECIAL TRAINING, LICENSE, CERTIFICATE, OR REGISTRATION HELD BY THAT PERSON; AND

(3) A DESCRIPTION OF THE SUPERVISORY AND ORGANIZATIONAL STRUCTURE RELATED TO THE PERSON IDENTIFIED IN (2) OF THIS SUBSECTION].

18 AAC 75.355(c)(1)(B) is amended to read:

(B) the practical quantitation limit is no greater than the practical quantitation limit established in EPA's *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW-846), Third Edition, including **Final Update IV (2009)** [FINAL UPDATE III (1997)], adopted by reference; and

18 AAC 75.355(d) is amended to read:

(d) Among the analytical methods set out in EPA's *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW-846), as adopted by reference in (c) of this section, if there is more than one analytical method for a hazardous substance, a responsible person may select any of those methods with a practical quantitation limit less than the applicable cleanup level. If only one analytical method has a practical quantitation limit less than the applicable

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

cleanup level, that method must be used. Analysis for petroleum contamination must follow the applicable Alaska methods for petroleum hydrocarbons referred to in Table 1 of Chapter 2 of the *Underground Storage Tanks Procedures Manual*, dated August 18, 2014 [NOVEMBER 7, 2002]. Table 1 of Chapter 2 and Appendices C and D [D AND E] of the *Underground Storage Tanks Procedures Manual*, dated August 18, 2014 [NOVEMBER 7, 2002] are adopted by reference.

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 6 / 17 / 2015, Register 214 )

<b>Authority:</b>	AS 44.46.025	AS 46.03.710	AS 46.04.020
	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020

**Editor's note: The documents adopted by reference in 18 AAC 75.355 may be viewed at or obtained from the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna, or the department's Internet website at <http://dec.alaska.gov/spar/guidance.htm>.**

EPA's *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* (SW-846) **may also be viewed at <http://www.epa.gov/wastes/hazard/testmethods/sw846/online/index.htm>** [,

ADOPTED BY REFERENCE IN THIS SECTION, MAY BE PURCHASED FROM THE U.S. DEPARTMENT OF COMMERCE, NATIONAL TECHNICAL INFORMATION SERVICE, 5285 PORT ROYAL ROAD, SPRINGFIELD, VA 22161, (800) 553-6847, FAX: (703) 321-8547. THE *UNDERGROUND STORAGE TANKS PROCEDURES MANUAL*, ADOPTED BY REFERENCE IN 18 AAC 75.355, MAY BE REQUESTED FROM THE DEPARTMENT AT

ANY OF THE OFFICES LISTED BELOW. BOTH DOCUMENTS MAY BE VIEWED AT THE DEPARTMENT'S ANCHORAGE, FAIRBANKS, JUNEAU, OR SOLDOTNA OFFICE].

The introductory language of 18 AAC 75.360 is amended to read:

**18 AAC 75.360. Cleanup operation requirements.** A responsible person shall ensure that site cleanup is conducted or supervised by a qualified environmental professional [PERSON]. A [EXCEPT AS PROVIDED IN 18 AAC 75.355(B), A] responsible person shall submit each of the following elements for approval before work on that element begins, and for additional approval if a modification to an element is anticipated:

...

(Eff. 1/22/99, Register 149; am 10/9/2008, Register 188; am 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.740	AS 46.04.020
	AS 46.03.050	AS 46.03.745	AS 46.04.070
	AS 46.03.710	AS 46.03.822	AS 46.09.020

18 AAC 75.365(a)(1)(C) is amended to read:

(C) a post-treatment sampling and analysis plan prepared by a qualified environmental professional [PERSON] in accordance with 18 AAC 75.355(b) to verify that the applicable cleanup levels have been met;

18 AAC 75.365(a)(1)(E) is amended to read:

(E) for an offsite treatment facility classified as a Category C or Category

D facility, as described in the department's Operation Requirements for Soil Treatment Facilities, dated March 15, 2013 [SOIL TREATMENT FACILITY GUIDANCE, DATED NOVEMBER 7, 2002], engineering plans and engineering record drawings for contaminated soil and water containment structures; the Operation Requirements for Soil Treatment Facilities, dated March 15, 2013 [SOIL TREATMENT FACILITY GUIDANCE, DATED NOVEMBER 7, 2002], is adopted by reference; and

The introductory language of 18 AAC 75.365(a)(2) is amended to read:

(2) if the facility is a Category C or Category D facility, as described in the Operation Requirements for Soil Treatment Facilities, adopted by reference in (1) of this subsection [SOIL TREATMENT FACILITY GUIDANCE], submit the following to the department before the owner or operator accepts or treats contaminated soil:

...

18 AAC 75.365(c)(4) is amended to read:

(4) "offsite or portable treatment facility" has the meaning given in the Operation Requirements for Soil Treatment Facilities [SOIL TREATMENT FACILITY GUIDANCE], adopted by reference in (a)(1) of this section;

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 6/17/2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020

**Editor's note:** The department's *Operation Requirements for Soil Treatment Facilities* [*SOIL TREATMENT FACILITY GUIDANCE*], adopted by reference in 18 AAC 75.365(a)(1), may be viewed at or **obtained** [REQUESTED] from the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna, **or the department's Internet website at <http://dec.alaska.gov/spar/guidance.htm>**.

18 AAC 75.370(a)(4) is repealed and readopted to read:

(4) place petroleum-contaminated soil on a liner that meets the minimum specifications for the testing methods set out in Table D of this section;

**TABLE D. BOTTOM LINER SPECIFICATIONS**

Method	Coated Fabric	Extruded Fabric
<b>Short-term storage of petroleum-contaminated soil (less than 180 days)</b>		
Cold crack (ASTM D 2136-02(2012), updated 2012)	-60° Fahrenheit	-60° Fahrenheit
Black carbon content (ASTM D 1603-14, updated 2014)	two percent or greater	two percent or greater
Tensile strength (ASTM D 751-06(2011), updated 2011)	125 pounds (warp)	N/A

Method	Coated Fabric	Extruded Fabric
Mullen burst (ASTM D 751-06(2011), updated 2011)	250 pounds per square inch (psi)	N/A
One inch tensile strength (ASTM D 882-12, updated August 2012)	N/A	25 pounds (warp)
One inch elongation MD (machine direction)	N/A	550 percent
Nominal thickness	10 millimeters	10 millimeters
Oil resistance (ASTM D 471-12a, updated December 2012)	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit
<b>Long-term storage of petroleum-contaminated soil (180 days to two years)</b>		
Cold crack (ASTM D 2136-02(2012), updated 2012)	-60° Fahrenheit	-60° Fahrenheit
Black carbon content (ASTM D 1603-12, updated May 2012)	two percent or greater	two percent or greater
Tensile strength (ASTM D 751-06(2011), updated 2011)	300 pounds (warp)	N/A

Method	Coated Fabric	Extruded Fabric
Mullen burst (ASTM D 751-06(2011), updated May 2011)	500 pounds per square inch (psi)	N/A
One inch tensile strength (ASTM D 882-12, updated August 2012)	N/A	45 pounds (warp)
One inch elongation MD (machine direction)	N/A	625 percent
Nominal thickness	20 millimeters	20 millimeters
Oil resistance (ASTM D 471-12a, updated December 2012)	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit
The ASTM International methods referred to in this table are adopted by reference. "N/A" means not applicable.		

(Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 10/9/2008, Register 188; am

6/17/2015, Register 214)

**Authority:** AS 46.03.020      AS 46.03.740      AS 46.04.070  
AS 46.03.050      AS 46.03.745      AS 46.09.020  
AS 46.03.710      AS 46.04.020

**Editor's note:** The ASTM International methods adopted by reference in Table D of 18 AAC 75.370(a) [18 AAC 75.370] may be reviewed at the department's Anchorage, Fairbanks, Juneau, and Soldotna offices, or may be obtained from ASTM International, Publications Department, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959; telephone (610) 832-9585; fax (610) 832-9555, or at [www.astm.org](http://www.astm.org).

18 AAC 75.380(a) is amended to read:

(a) A responsible person shall submit a written final cleanup report to the department for each site undergoing cleanup under the site cleanup rules. The report must be prepared by a qualified environmental professional [PERSON].

The introductory language of 18 AAC 75.380(c)(1) is amended to read:

(1) applicable soil cleanup levels, based on sampling results from onsite contaminated soil and from contaminated soil moved offsite for treatment or disposal, calculated and presented on a per dry weight basis, and based on the maximum concentrations detected, unless the department approves an appropriate statistical method, in which case compliance will be based on the mean soil concentration at the 95th percent upper confidence limit; approval of a statistical method will be based on

...

(Eff. 1/22/99, Register 149; am 10/9/2008, Register 188; am 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.050	AS 46.03.755	AS 46.09.010

AS 46.03.710

AS 46.04.020

AS 46.09.020

AS 46.03.740

18 AAC 75.390 is repealed and readopted to read:

**18 AAC 75.390. Waiver or modification.** (a) Except as provided in (b) of this section, and if the department determines that a waiver or modification will be protective of human health, safety, and welfare, and of the environment, the department will waive or modify the site cleanup rules based on a review of the quantity or concentration of the discharge or release, soil and groundwater conditions, surface water and topography, geology, water and land use, construction methods and materials, and any other human health or environmental factor important to the evaluation. A responsible person seeking a waiver or modification of a provision of the site cleanup rules under this section shall submit a written report to justify the request and to demonstrate that the waiver or modification is protective of human health, safety, and welfare, and of the environment. A qualified environmental professional shall prepare and sign the report submitted under this section.

(b) For purposes of the site cleanup rules, the department will waive on a site-specific basis the requirement in 18 AAC 75.333(b)(1) that a qualified environmental professional be an impartial third party or the requirement in 18 AAC 75.333(c)(1) that a qualified sampler be an impartial third party if

(1) a responsible person, or if the waiver is for an offsite or portable treatment facility under 18 AAC 75.365, a responsible person, owner, or operator

(A) who seeks a waiver from 18 AAC 75.333(b)(1) demonstrates that

work performed will be conducted or supervised by an objective individual who meets the requirements of 18 AAC 75.333(b)(2) - (5);

(B) who seeks a waiver from 18 AAC 75.333(c)(1) demonstrates that work performed will be conducted or supervised by an objective individual who meets the requirements of 18 AAC 75.333(c)(2) - (5); and

(C) submits

(i) a written request for a waiver;

(ii) the resume of the person qualified to conduct or supervise the work to be performed, showing relevant education, vocational training, related work experience, and any special training, license, certificate, or registration held by that person; and

(iii) a description of the supervisory and organizational structure related to the person identified in (ii) of this subparagraph; and

(2) the department determines that a waiver is protective of human health, safety, and welfare, and of the environment, and that strict compliance with the impartial third party requirement is not practicable. (Eff. 1/22/99, Register 149; am 6/17/2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.745	AS 46.09.010
	AS 46.03.050	AS 46.03.755	AS 46.09.020
	AS 46.03.710	AS 46.04.070	

18 AAC 75.990(46)(A) is amended to read:

(A) water in the [SATURATED] zone of saturation [, FOR PURPOSES

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

OF EVALUATING WHETHER THE GROUNDWATER IS A DRINKING WATER  
SOURCE UNDER 18 AAC 75.350]; or

18 AAC 75.990(100) is repealed:

(100) repealed 6/17/2015;

18 AAC 75.990(111) is repealed:

(111) repealed 6/17/2015;

18 AAC 75.990(155)(B) is amended to read:

(B) does not mean a

**(i) qualified environmental professional described in 18 AAC**

**75.333(b); or**

**(ii) qualified sampler described in 18 AAC 75.333(c)**

["QUALIFIED PERSON" AS DEFINED IN THIS SECTION];

18 AAC 75.990 is amended by adding new paragraphs to read:

(187) "qualified environmental professional" means an individual described in

18 AAC 75.333(b);

(188) "qualified sampler" means an individual described in 18 AAC 75.333(c);

(189) "zone of saturation" means the zone

(A) that is below the water table; and

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

(B) where permanently or seasonally all interstices are filled with water.

(Eff. 5/14/92, Register 122; am 9/25/93, Register 127; am 4/4/97, Register 142; am 4/11/97, Register 142; am 1/22/99, Register 149; am 8/27/2000, Register 155; am 10/28/2000, Register 156; am 11/27/2002, Register 164; am 12/14/2002, Register 164; am 1/30/2003, Register 165; am 8/8/2003, Register 167; am 5/26/2004, Register 170; am 12/30/2006, Register 180; am 10/9/2008, Register 188; am 4/8/2012, Register 202; am 9/4/2014, Register 211; am 6 / 17 / 2015, Register 214.)

<b>Authority:</b>	AS 46.03.020	AS 46.03.755	AS 46.04.055
	AS 46.03.050	AS 46.03.822	AS 46.04.070
	AS 46.03.710	AS 46.04.020	AS 46.08.140
	AS 46.03.740	AS 46.04.030	AS 46.09.010
	AS 46.03.745	AS 46.04.035	AS 46.09.020

18 AAC 78.007 is amended to read:

**18 AAC 78.007. UST procedures manual.** The department's *Underground Storage Tanks Procedures Manual (UST Procedures Manual)*, dated **August 18, 2014** [NOVEMBER 7, 2002], is adopted by reference. The department will use this version of the *UST Procedures Manual* in making determinations under this chapter. (Eff. 1/22/99, Register 149; am 6/25/99; Register 150; am 4/16/2000, Register 154; am 1/30/2003, Register 165; am 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.365
-------------------	--------------	--------------

**Editor's note:** The *UST Procedures Manual*, adopted by reference in 18 AAC 78.007, may be **viewed at or** obtained from [THE DEPARTMENT AND MAY BE REVIEWED AT] the department's Anchorage, Fairbanks, Juneau, and Soldotna offices **or the department's** **Internet website at <http://dec.alaska.gov/spar/guidance.htm>**.

18 AAC 78 is amended by adding a new section to read:

**18 AAC 78.088. Qualified environmental professionals and qualified samplers. (a)**

An owner or operator shall ensure that a qualified environmental professional

- (1) conducts or supervises the collection of field data and the interpretation and reporting of site characterization and site assessment data required under 18 AAC 78.090(e);
- (2) conducts or supervises the collection and interpretation of field data and the reporting of release investigation data required under 18 AAC 78.235(b);
- (3) prepares a corrective action plan required under 18 AAC 78.250;
- (4) prepares an interim cleanup activities cost estimate, if the estimate is part of a corrective action plan prepared under 18 AAC 78.250;
- (5) conducts or supervises sampling and analysis required under 18 AAC 78.271(a)(3), or that a qualified sampler performs sampling described in 18 AAC 78.271(a)(3) if the department approves the use of a qualified sampler under 18 AAC 78.271(a)(3);
- (6) prepares a post-treatment sampling and analysis plan required under 18 AAC 78.273(a)(1)(C);
- (7) conducts, under 18 AAC 78.275(a), soil and groundwater sampling for a release investigation or associated with a corrective action;

(8) prepares a final corrective action report required under 18 AAC 78.276(a);

(9) conducts or supervises the collection, interpretation, and reporting of data under 18 AAC 78.600;

(10) prepares and signs a report to justify a request for a waiver under 18 AAC 78.930.

(b) For purposes of this chapter, an individual is a qualified environmental professional if the individual

(1) is an impartial third party;

(2) is qualified to perform site characterization and cleanup activities, including

(A) fate and transport analysis;

(B) remediation design; and

(C) other activities associated with contaminated sites;

(3) actively practices in the field of environmental science or another related scientific field;

(4) has not been found to have falsified environmental data or committed other acts of fraud directly related to environmental work; and

(5) meets one or more of the following minimum educational qualification and experience requirements:

(A) has a four-year undergraduate or a graduate degree from a nationally or internationally accredited postsecondary institution in environmental science or another related scientific field, and has at least one year of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a

qualified environmental professional completed after the degree described in this subparagraph was obtained;

(B) has a four-year degree from a nationally or internationally accredited postsecondary institution in any field or a two-year associate degree from a nationally or internationally accredited postsecondary institution in environmental science or another related scientific field, and has at least three years of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after a degree described in this subparagraph was obtained;

(C) is certified as an environmental technician under an apprenticeship program with a registration under 29 C.F.R. Part 29, and has at least three years of professional experience in contaminated site characterization and cleanup activities under the direct supervision of a qualified environmental professional completed after the certification described in this subparagraph was obtained.

(c) For purposes of this chapter, an individual is a qualified sampler if the individual

(1) is an impartial third party;

(2) collects samples of environmental media for laboratory analysis; in this paragraph, "environmental media"

(A) includes soil, groundwater, and surface water;

(B) does not include air or soil gas;

(3) has not been found to have falsified environmental data or committed other acts of fraud directly related to environmental work;

(4) has successfully completed

(A) applied field work involving environmental sample collection of soil, groundwater, or surface water associated with coursework for a completed degree in environmental science or another related scientific field at a nationally or internationally accredited postsecondary institution; or

(B) an environmental sampling training program recognized by the department; and

(5) has at least three months of experience in environmental sampling under the direct supervision of a qualified environmental professional completed after the training described in (4)(A) or (B) of this subsection was obtained.

(d) In this section, "another related scientific field" includes engineering, geology, physical science, hydrology, biology, and chemistry. (Eff. 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.405	AS 46.03.822
	AS 46.03.050	AS 46.03.710	AS 46.04.020
	AS 46.03.365	AS 46.03.740	AS 46.04.070
	AS 46.03.375	AS 46.03.745	AS 46.09.020
	AS 46.03.380		

18 AAC 78.090(d)(2)(A) is amended by adding a new sub-subparagraph to read:

(viii) all excavated soil must be assessed for levels of contamination to include field screening and analytical samples taken and tested in accordance with the *UST Procedures Manual*;

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

18 AAC 78.090(e) is amended to read:

(e) The collection of field data and the interpretation and reporting of site characterization and site assessment data must be conducted or supervised by a qualified **environmental professional** [, IMPARTIAL THIRD PARTY] in accordance with the *UST Procedures Manual*.

18 AAC 78.090(f) is repealed:

(f) Repealed 6/17/2015.

(Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 11/3/95, Register 136; am 1/22/99, Register 149; am 6/25/99, Register 150; am 1/30/2003, Register 165; am 7/25/2012, Register 203; am 6/17/2015, Register 214)

**Authority:** AS 46.03.020            AS 46.03.380            AS 46.03.405  
AS 46.03.365

[EDITOR'S NOTE: THE EPA DOCUMENT ADOPTED BY REFERENCE IN 18 AAC 78.090 MAY BE OBTAINED FROM UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL TECHNICAL INFORMATION SERVICE, 5285 PORT ROYAL ROAD, SPRINGFIELD, VIRGINIA 22161; TELEPHONE (800) 553-6847; FACSIMILE: (703) 605-6900, AND MAY BE REVIEWED AT THE DEPARTMENT'S ANCHORAGE OFFICE.]

18 AAC 78.235(b) is amended to read:

(b) The collection and interpretation of field data and the reporting of release

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

investigation data must be conducted or supervised by a qualified environmental professional [, IMPARTIAL THIRD PARTY] in accordance with the *UST Procedures Manual*.

18 AAC 78.235(c) is repealed:

(c) Repealed 6 / 17 / 2015

(Eff. 11/3/95, Register 136; am 1/22/99, Register 149; am 1/30/2003, Register 165; am 6 / 17 / 2015, Register 214)

**Authority:** AS 46.03.020 AS 46.03.365

**Editor's note:** The hazard ranking evaluation form mentioned in 18 AAC 78.235(a)(4) is located in the department's *UST Procedures Manual* as Appendix E [F].

18 AAC 78.250(b)(3) is amended to read:

(3) be prepared by a qualified environmental professional [, IMPARTIAL THIRD PARTY; THE OWNER OR OPERATOR MAY REQUEST A WAIVER FROM THE USE OF AN IMPARTIAL THIRD PARTY UNDER THE PROCEDURES OF 18 AAC 78.090(f)].

(Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am 1/22/99, Register 149; am 6 / 17 / 2015, Register 214)

**Authority:** AS 46.03.020 AS 46.03.740 AS 46.04.070  
AS 46.03.050 AS 46.03.745 AS 46.09.020  
AS 46.03.365 AS 46.04.020

**Editor's note:** The ASTM International methods adopted by reference in 18 AAC 78.250 may be reviewed in the department's Anchorage, Fairbanks, Juneau, and Soldotna offices, and may be obtained from ASTM International, Publications Department, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959; telephone (610) 832-9585; fax (610) 832-9555, or at www.astm.org [THE AMERICAN SOCIETY FOR TESTING AND MATERIALS, 1916 RACE STREET, PHILADELPHIA, PENNSYLVANIA 19103].

18 AAC 78.271(a)(3) is amended to read:

(3) ensure that required sampling and analysis is conducted or supervised by a qualified environmental professional; however, a qualified sampler may conduct sampling of soil stockpiles, bioremediation systems, surface water, or groundwater monitoring wells when a qualified environmental professional is not available [, IMPARTIAL THIRD PARTY; THE OWNER OR OPERATOR MAY REQUEST A WAIVER FROM THE USE OF AN IMPARTIAL THIRD PARTY UNDER THE PROCEDURES OF 18 AAC 78.090(f)].

18 AAC 78.271(b) is amended to read:

(b) The owner and operator of an offsite or portable treatment facility shall ensure that a qualified environmental professional [, IMPARTIAL THIRD PARTY] conducts or supervises soil sampling to verify that cleanup levels are met. [THE OWNER OR OPERATOR MAY REQUEST A WAIVER FROM THE USE OF AN IMPARTIAL THIRD PARTY UNDER THE PROCEDURES IN 18 AAC 78.090(f).] Soil sampling and analysis must be conducted as required by the *UST Procedures Manual*.

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

(Eff. 1/22/99, Register 149; am 6/17/2015, Register 214)

**Authority:** AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.273(a)(1)(C) is amended to read:

(C) a post-treatment sampling and analysis plan prepared by a qualified **environmental professional** [PERSON IN ACCORDANCE WITH 18 AAC 75.355(b)] to verify that the applicable cleanup levels have been met;

18 AAC 78.273(a)(1)(E) is amended to read:

(E) for an offsite treatment facility classified as a Category C or Category D facility, as described in the department's **Operation Requirements for Soil Treatment Facilities, dated March 15, 2013** [SOIL TREATMENT FACILITY GUIDANCE, DATED NOVEMBER 7, 2002], engineering plans and engineering record drawings for contaminated soil and water containment structures; the **Operation Requirements for Soil Treatment Facilities, dated March 15, 2013** [SOIL TREATMENT FACILITY GUIDANCE, DATED NOVEMBER 7, 2002], is adopted by reference; and

The introductory language of 18 AAC 78.273(a)(2) is amended to read:

(2) if the facility is a Category C or Category D facility, as described in the **Operation Requirements for Soil Treatment Facilities, adopted by reference in (1) of this subsection** [SOIL TREATMENT FACILITY GUIDANCE], submit the following to the

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

department before the owner or operator accepts or treats contaminated soil:

...

(Eff. 1/22/99, Register 149; am 1/30/2003, Register 165; am 6/17/2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.740	AS 46.04.070
	AS 46.03.050	AS 46.03.745	AS 46.09.020
	AS 46.03.365	AS 46.04.020	

**Editor's note:** The department's *Operation Requirements for Soil Treatment Facilities* [*SOIL TREATMENT FACILITY GUIDANCE*], adopted by reference in 18 AAC 78.273(a)(1), may be viewed at or **obtained** [REQUESTED] from the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna, **or the department's Internet website at** **<http://dec.alaska.gov/spar/guidance.htm>**.

18 AAC 78.274(a)(3) is repealed and readopted to read:

(3) place petroleum-contaminated soil on a liner that meets the minimum specifications for the testing methods set out in Table B of this section;

**TABLE B. BOTTOM LINER SPECIFICATIONS**

Method	Coated Fabric	Extruded Fabric
<b>Short-term storage of petroleum-contaminated soil (less than 180 days)</b>		
Cold crack (ASTM D 2136-02(2012), updated 2012)	-60° Fahrenheit	-60° Fahrenheit
Black carbon content (ASTM D 1603-14, updated 2014)	two percent or greater	two percent or greater
Tensile strength (ASTM D 751-06(2011), updated 2011)	125 pounds (warp)	N/A
Mullen burst (ASTM D 751-06(2011), updated 2011)	250 pounds per square inch (psi)	N/A
One inch tensile strength (ASTM D 882-12, updated August 2012)	N/A	25 pounds (warp)
One inch elongation MD (machine direction)	N/A	550 percent
Nominal thickness	10 millimeters	10 millimeters

Method	Coated Fabric	Extruded Fabric
Oil resistance (ASTM D 471-12a, updated December 2012)	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit
<b>Long-term storage of petroleum-contaminated soil (180 days to two years)</b>		
Cold crack (ASTM D 2136-02(2012), updated 2012)	-60° Fahrenheit	-60° Fahrenheit
Black carbon content (ASTM D 1603-12, updated May 2012)	two percent or greater	two percent or greater
Tensile strength (ASTM D 751-06(2011), updated 2011)	300 pounds (warp)	N/A
Mullen burst (ASTM D 751-06(2011), updated May 2011)	500 pounds per square inch (psi)	N/A
One inch tensile strength (ASTM D 882-12, updated August 2012)	N/A	45 pounds (warp)
One inch elongation MD (machine direction)	N/A	625 percent
Nominal thickness	20 millimeters	20 millimeters

Method	Coated Fabric	Extruded Fabric
Oil resistance (ASTM D 471-12a, updated December 2012)	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit	No signs of deterioration and more than 80 percent retention of tensile and seam strength after immersion for 30 days at 73° Fahrenheit
The ASTM International methods referred to in this table are adopted by reference. "N/A" means not applicable.		

(Eff. 1/22/99, Register 149; am 6/25/99, Register 150; am 4/16/2000, Register 154; am 6/17/2015, Register 214)

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.04.020  
AS 46.03.050 AS 46.03.740 AS 46.04.070  
AS 46.03.365 AS 46.03.745 AS 46.09.020

**Editor's note:** The ASTM International methods adopted by reference in Table B of 18 AAC 78.274(a) may be reviewed at the department's Anchorage, Fairbanks, Juneau, and Soldotna offices, or may be obtained from ASTM International, Publications Department, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959; telephone (610) 832-9585; fax (610) 832-9555, or at [www.astm.org](http://www.astm.org) [AS OF REGISTER 164 (JANUARY 2003), THE REGULATIONS ATTORNEY MADE A

TECHNICAL REVISION UNDER AS 44.62.125(b)(6), TO TABLE B IN 18 AAC 78.274].

18 AAC 78.275(a) is amended to read:

(a) The owner or operator shall ensure that soil and groundwater sampling for a release investigation or associated with a corrective action is conducted by a qualified **environmental professional** [IMPARTIAL THIRD PARTY] in accordance with 18 AAC 78.605 and the *UST Procedures Manual*. [THE OWNER OR OPERATOR MAY REQUEST A WAIVER FROM THE USE OF AN IMPARTIAL THIRD PARTY UNDER THE PROCEDURES SET OUT IN 18 AAC 78.090(f)].

18 AAC 78.275(b) is amended to read:

(b) The owner or operator of an offsite or portable treatment facility under 18 AAC 78.273 shall ensure that the collection, interpretation, and reporting of data, and the required sampling and analysis are conducted or supervised by a qualified **environmental professional** [, IMPARTIAL THIRD PARTY] in accordance with the *UST Procedures Manual*. [THE OWNER OR OPERATOR MAY REQUEST A WAIVER FROM THE USE OF AN IMPARTIAL THIRD PARTY UNDER THE PROCEDURES IN 18 AAC 78.090(f).]

18 AAC 78.275(d) is amended to read:

(d) Among the analytical methods set out in **Table 1 of the UST Procedures Manual** [EPA'S TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS, SW-846, AS ADOPTED BY REFERENCE IN 18 AAC 78.090], if there is more

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

than one analytical method for a contaminant, an owner or operator may select any of those methods with a practical quantitation limit less than the applicable cleanup level. If only one analytical method has a practical quantitation limit less than the applicable cleanup level, that method must be used. Analysis for petroleum contamination must follow the Alaska methods for petroleum hydrocarbons referred to in Table 1 of the *UST Procedures Manual*.

(Eff. 1/22/99, Register 149; 6/25/99, Register 150; am 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.745	AS 46.04.070
	AS 46.03.740	AS 46.04.020	AS 46.09.020

18 AAC 78.276(a) is amended to read:

(a) The owner or operator shall submit a written final corrective action report to the department for each UST site at which corrective action activities have been completed. Based on analytical results, the report must demonstrate that the site meets the applicable cleanup levels and requirements specified in 18 AAC 78.600 - 18 AAC 78.625. The report must be prepared by a qualified **environmental professional** [, IMPARTIAL THIRD PARTY. THE OWNER OR OPERATOR MAY REQUEST A WAIVER FROM THE USE OF AN IMPARTIAL THIRD PARTY UNDER THE PROCEDURES IN 18 AAC 78.090(f)].

(Eff. 1/22/99, Register 149; am 6/25/99, Register 150; am 6 / 17 / 2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.740	AS 46.04.020
	AS 46.03.050	AS 46.03.745	AS 46.04.070
	AS 46.03.365	AS 46.03.755	AS 46.09.010
	AS 46.03.710		

18 AAC 78.600(d) is amended to read:

(d) If using method two or method three for determining the applicable soil cleanup levels as described in 18 AAC 75.340 and 18 AAC 75.341, or if applying the groundwater cleanup levels at Table C in 18 AAC 75.345, the owner or operator shall ensure that, after completing site corrective action activities, the risk from contaminants does not exceed a cumulative carcinogenic risk standard of 1 in 100,000 across all exposure pathways and a cumulative noncarcinogenic risk standard at a hazard index of **one, reported to one significant figure**, [1.0] across all exposure pathways. Guidance on cumulative risk determinations is provided in the department's *Cumulative Risk Guidance*, dated **June 9, 2008** [NOVEMBER 7, 2002]. The department's *Cumulative Risk Guidance*, dated **June 9, 2008** [NOVEMBER 7, 2002], is adopted by reference.

18 AAC 78.600(i) is amended to read:

(i) The collection, interpretation, and reporting of data under this section must be conducted or supervised by a qualified **environmental professional** [, IMPARTIAL THIRD PARTY] as required by the *UST Procedures Manual*. [THE OWNER OR OPERATOR MAY REQUEST A WAIVER FROM THE USE OF AN IMPARTIAL THIRD PARTY UNDER THE PROCEDURES OF 18 AAC 78.090(f).] (Eff. 1/22/99, Register 149; am 8/27/2000, Register 155; am 1/30/2003, Register 165; am 6/17/2015, Register 214)

<b>Authority:</b>	AS 46.03.020	AS 46.03.740	AS 46.04.020
	AS 46.03.050	AS 46.03.745	AS 46.04.070
	AS 46.03.365	AS 46.03.822	AS 46.09.020

**Editor's note:** The department's *Cumulative Risk Guidance*, adopted by reference in 18 AAC 78.600(d), may be viewed at or **obtained** [REQUESTED] from the department's offices in Anchorage, Fairbanks, Juneau, and Soldotna **or the department's Internet website at <http://dec.alaska.gov/spar/guidance.htm>**.

As of Register 188 (January 2009), the regulations attorney made technical revisions under AS 44.62.125(b)(6), to 18 AAC 78.600(e) and (f), reflecting the Department of Environmental Conservation's renumbering of paragraphs in 18 AAC 78.345(b), effective 10/9/2008 (Register 188).

18 AAC 78.930 is repealed and readopted to read:

**18 AAC 78.930. Waivers or modifications.** (a) Except as provided in (b) of this section, and if the department determines that a waiver or modification will be protective of human health and safety, and of the environment, the department will waive or modify the site characterization, site assessment, investigation, corrective action, or cleanup level provisions of this chapter based on a review of release quantity and quality, soil and groundwater conditions, surface waters and topography, geology, water and land uses, construction methods and materials, and any other environmental factor important to the evaluation. A person seeking a waiver or modification of a provision of this chapter under this section shall submit a written report to justify the request, and to demonstrate that the waiver or modification is protective of human health and safety, and of the environment. A qualified environmental professional shall

prepare and sign the report submitted under this section.

(b) For purposes of this chapter, the department will waive on a site-specific basis the requirement in 18 AAC 78.088(b)(1) that a qualified environmental professional be an impartial third party or the requirement in 18 AAC 78.088(c)(1) that a qualified sampler be an impartial third party if

(1) a person

(A) who seeks a waiver from 18 AAC 78.088(b)(1) demonstrates that work performed will be conducted or supervised by an objective individual who meets the requirements of 18 AAC 78.088(b)(2) - (5);

(B) who seeks a waiver from 18 AAC 78.088(c)(1) demonstrates that work performed will be conducted or supervised by an objective individual who meets the requirements of 18 AAC 78.088(c)(2) - (5); and

(C) submits

(i) a written request for a waiver;

(ii) the resume of the person qualified to conduct or supervise the work to be performed, showing relevant education, vocational training, related work experience, and any special training, license, certificate, or registration held by that person; and

(iii) a description of the supervisory and organizational structure related to the person identified in (ii) of this subparagraph; and

(2) the department determines that a waiver is protective of human health, safety, and welfare, and of the environment, and that strict compliance with the impartial third party

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

requirement is not practicable. (Eff. 3/25/91, Register 118; am 11/3/95, Register 136; am 1/22/99, Register 149; am 6/25/99, Register 150; am 6/17/2015, Register 214)

**Authority:** AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.995(81) is amended to read:

(81) "interim cleanup activities cost estimate" means an estimate, prepared by a qualified **environmental professional** [, IMPARTIAL THIRD PARTY], of costs necessary to implement a corrective action plan;

18 AAC 78.995(118) is repealed:

(118) repealed 6/17/2015;

The introductory language of 18 AAC 78.995(142) is amended to read:

(142) "supervise," as it applies to the supervision by a qualified **environmental professional** [PERSON], means

...

18 AAC 78.995 is amended by adding new paragraphs to read:

(164) "qualified environmental professional" means an individual described in 18 AAC 78.088(b);

(165) "qualified sampler" means an individual described in 18 AAC 78.088(c). (Eff. 3/25/91, Register 118; am 8/21/91, Register 119; am 1/27/94, Register 129; am 6/23/94,

Register 214, July 2015 ENVIRONMENTAL CONSERVATION

Register 130; am 8/4/94, Register 131; am 11/3/95, Register 136; am 1/22/99, Register 149; am 4/16/2000, Register 154; am 1/30/2003, Register 165; am 7/25/2012, Register 203; am 6 /17 / 2015, Register 214)

<b>Authority:</b>	AS 44.46.020	AS 46.03.070	AS 46.03.740
	AS 44.46.025	AS 46.03.365	AS 46.03.758
	AS 46.03.020	AS 46.03.375	Sec. 7, ch. 96, SLA 1990
	AS 46.03.050		

# MEMORANDUM

State of Alaska  
Department of Law

To: Hon. Byron Mallott  
Lieutenant Governor

Date: May 15, 2015

File No.: JU2011200192

Tel. No.: 465-3600

From: Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Re: Regulations re: contaminated site cleanup, underground storage tanks (USTs), and the use of qualified environmental professionals and qualified samplers (18 AAC 75.325(g), (h); 18 AAC 75.333; 18 AAC 75.335(b), (c); 18 AAC 75.345(e); 18 AAC 75.355 - 18 AAC 75.390; 18 AAC 75.990; 18 AAC 78.007; 18 AAC 78.088; 18 AAC 78.090(d)(2)(A), (e), (f); 18 AAC 78.235(b), (c); 18 AAC 78.250(b)(3); 18 AAC 78.271 - 18 AAC 78.276; 18 AAC 78.600(d), (i); 18 AAC 78.930; 18 AAC 78.995)

We have reviewed the attached regulations from the Department of Environmental Conservation against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated May 15, 2015 from the Regulations Attorney. The regulations bring up to date procedures and requirements relating to contaminated site cleanup and underground storage tanks (USTs), in particular provisions relating to the use of qualified environmental professionals and qualified samplers.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The September 26, 2014 public notice and the May 14, 2015 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SCW

cc w/enc: (via email)

Hon. Larry Hartig, Commissioner  
Department of Environmental Conservation

# MEMORANDUM

State of Alaska  
Department of Law

To: Hon. Larry Hartig, Commissioner  
Department of Environmental  
Conservation

Date: May 15, 2015

File No.: JU2011200192

Tel. No.: 465-3600

From: Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Re: Regulations re: contaminated site  
cleanup, underground storage tanks  
(USTs), and the use of qualified  
environmental professionals and  
qualified samplers (18 AAC  
75.325(g), (h); 18 AAC 75.333;  
18 AAC 75.335(b), (c); 18 AAC  
75.345(e); 18 AAC 75.355 - 18 AAC  
75.390; 18 AAC 75.990; 18 AAC  
78.007; 18 AAC 78.088; 18 AAC  
78.090(d)(2)(A), (e), (f); 18 AAC  
78.235(b), (c); 18 AAC 78.250(b)(3);  
18 AAC 78.271 - 18 AAC 78.276;  
18 AAC 78.600(d), (i); 18 AAC  
78.930; 18 AAC 78.995)

Under AS 44.62.060, we have reviewed the attached changes by the Department of Environmental Conservation and approve the changes for filing by the lieutenant governor. I have reviewed this project under a specific delegation dated May 15, 2015 from the Regulations Attorney.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulations changes.

Hon. Larry Hartig, Commissioner  
Department of Environmental Conservation  
Our file: JU2011200192

May 15, 2015  
Page 2

The September 26, 2014 public notice and the May 14, 2015 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SCW

cc w/enc: (via email)

Gary Mendivil, Regulations Contact  
Department of Environmental Conservation

Kristin Ryan, Director  
Division of Spill Prevention and Response  
Department of Environmental Conservation

Sally Schlichting  
Division of Spill Prevention and Response  
Department of Environmental Conservation

Lauri J. Adams, Sr. Assistant Attorney General  
Environmental Section

# MEMORANDUM

## State of Alaska Department of Law

TO: Hon. Byron Mallott  
Lieutenant Governor

DATE: May 15, 2015

FILE NO.: JU2011200192

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *Susan R. Pollard*  
Chief Assistant Attorney General  
& Regulations Attorney  
Legislation/Regulations Section—Juneau

SUBJECT: Specific delegation of authority regarding regulations review on Department of Environmental Conservation regulations re: contaminated site cleanup, underground storage tanks (USTs), and the use of qualified environmental professionals and qualified samplers (18 AAC 75.325(g), (h); 18 AAC 75.333; 18 AAC 75.335(b), (c); 18 AAC 75.345(e); 18 AAC 75.355 - 18 AAC 75.390; 18 AAC 75.990; 18 AAC 78.007; 18 AAC 78.088; 18 AAC 78.090(d)(2)(A), (e), (f); 18 AAC 78.235(b), (c); 18 AAC 78.250(b)(3); 18 AAC 78.271 - 18 AAC 78.276; 18 AAC 78.600(d), (i); 18 AAC 78.930; 18 AAC 78.995)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SRP:SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator  
Office of the Lieutenant Governor  
  
Steven C. Weaver  
Sr. Assistant Attorney General &  
Assistant Regulations Attorney  
Legislation/Regulations Section—Juneau

STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS  
AND FURNISHING OF ADDITIONAL INFORMATION

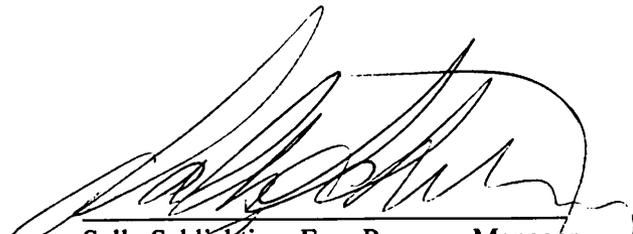
I, Sally Schlichting, Environmental Program Manager, of the Department of Environmental Conservation, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 18 AAC 75 dealing with the standards for Qualified Persons has been given by being

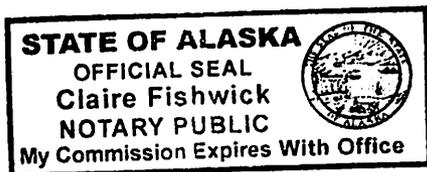
- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulations;
- (5) electronically transmitted to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Legislative Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulations, to the Legislative Affairs Agency, the chair of the Resources Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190(d), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulations notice information also has been posted on the Alaska Online Public Notice System.

DATE: 12/11/14  
Juneau, Alaska

  
Sally Schlichting, Env. Program Manager

SUBSCRIBED AND SWORN TO before me this 11th day of December, 2014.



  
Notary Public in and for the  
State of Alaska  
My commission expires: with office

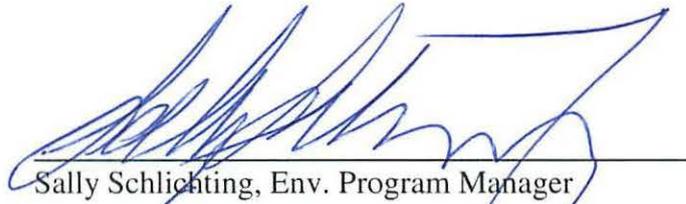
STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

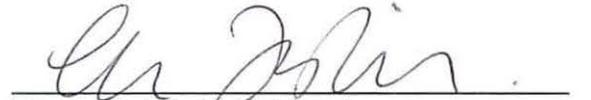
I, Sally Schlichting, Environmental Program Manager for the Department of Environmental Conservation being duly sworn, state the following:

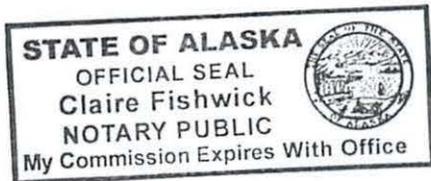
The Department of Environmental Conservation did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Environmental Conservation regulations on contaminated sites, underground storage tanks, functions of qualified environmental professionals, and functions of qualified samplers.

Date: MARCH 5, 2015  
Juneau, Alaska

  
Sally Schlichting, Env. Program Manager

SUBSCRIBED AND SWORN TO before me this 5th day of March, 2015.

  
Notary Public in and for the  
State of Alaska  
My commission expires: with office



**NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED CHANGES TO  
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGULATIONS**

**BRIEF DESCRIPTION**

The Alaska Department of Environmental Conservation (DEC) is proposing to change regulations on contaminated sites and underground storage tanks to broaden the number of individuals who may qualify to conduct environmental work at contaminated sites and underground storage tank sites, adopt updates to referenced documents, and to clarify, simplify and make consistent additional regulatory language.

The DEC proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with Oil and Other Hazardous Substances Pollution Control, and Title 18, Chapter 78 of the Alaska Administrative Code dealing with Underground Storage Tanks. The changes include the following:

- Amend 18 AAC 75.325 to clarify how existing cumulative risk thresholds are to be reported.
- Amend 18 AAC 75.355 to
  - permit a qualified sampler to conduct certain activities when a qualified environmental professional is not available;
  - clarify language to make this section consistent with language in 18 AAC 78.090(f) concerning the department’s authority to waive the requirement for a “qualified impartial third party;” and
  - update the adopted-by-reference version of the Environmental Protection Agency’s Standard Test Methods SW-846 and adopted-by-reference version of the Underground Storage Tanks (UST) Procedures Manual.
- Amend 18 AAC 75.365 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 75.370(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 75.380 to include wording on how sampling results from contaminated soil shall be calculated and presented.
- Amend 18 AAC 75.390 to correct a typographical error.
- Amend definitions at 18 AAC 75.990 to:
  - revise “groundwater” to conform with the parallel definition in 18 AAC 70;
  - provide a new definition for “qualified environmental professional” to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for “qualified sampler” to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for “qualified person” and replacing it with the term, “qualified environmental professional” in the following sections: 18 AAC 75.335, 360, 365, 380, 390 and 990.
- Amend 18 AAC 78.007 to reflect an updated adopted-by-reference version of the UST Procedures Manual;
- Amend 18 AAC 78.090 to:

- add a new sub-subparagraph requiring excavated soil be field-screened and sampled for UST in-place closure assessments; and
  - update section (f) to conform to section 18 AAC 75.355(b).
- Amend 18 AAC 78.235 to:
  - add language to reference the waiver option in 18 AAC 78.090(f); and
  - repeal subsection (c) because it is redundant.
- Amend 18 AAC 78.271 to allow a qualified sampler to conduct certain activities when a qualified environmental professional is not available.
- Amend 18 AAC 78.273 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 78.274(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 78.275 to remove reference to EPA’s Test Methods at SW-846 and replace it with a reference to Table 1 of the UST Procedures Manual.
- Amend 18 AAC 78.600 to:
  - clarify the method of reporting existing cumulative risk thresholds; and
  - correct the out-of-date reference to a since-updated version of the Cumulative Risk Guidance.
- Amend definitions in 18 AAC 78.995 to:
  - provide a new definition for “qualified environmental professional” to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for “qualified sampler” to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for “qualified person” and replacing the term, “qualified impartial third party” with the term, “qualified environmental professional” in the following sections: 18 AAC 78.090, 235, 250, 271, 273, 275, 276, 600, 930 and 995.
- Update two DEC documents that are adopted by reference:
  - Underground Storage Tank Procedures Manual; and
  - Operation Requirements for Soil Treatment Facilities (previously titled the Soil Treatment Facility Guidance).
- 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>. **Comments must be received by 5:00 p.m. on November 26, 2014.** Comments received after this date will not be considered in final action on these rules.

**Comments must be received by 5:00 p.m. on November 26, 2014.** Comments received after this date will not be considered in final action on these rules.

If you are a person with a disability who needs a special accommodation in order to participate in this public process, please contact Eric Hotchkiss at (907) 465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than November 19, 2014, to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact:  
Susan Erben, Alaska Department of Environmental Conservation, 410 Willoughby Ave., Suite 303, P.O. Box 111800, Juneau, AK 99811-1800; by phone at (907) 465-5206; by facsimile at (907) 465-5218; by email at [susan.erben@alaska.gov](mailto:susan.erben@alaska.gov). Or visit:

The State of Alaska online public notice website at <http://aws.state.ak.us/OnlinePublicNotices/>  
The DEC website at [http://www.dec.alaska.gov/commish/public\\_notices.htm](http://www.dec.alaska.gov/commish/public_notices.htm).

For additional information on the proposed changes including updated documents adopted-by-reference and frequently asked questions, visit: [http://dec.alaska.gov/spar/csp/reg\\_rev.htm](http://dec.alaska.gov/spar/csp/reg_rev.htm).

After the public comment period ends on November 26, 2014, DEC will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. 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 44.46.020	AS 46.03.740	AS 46.04.110
AS 44.46.025	AS 46.03.745	AS 46.08.140
AS 46.03.020	AS 46.03.755	AS 46.09.010
AS 46.03.050	AS 46.03.758	AS 46.09.020
AS 46.03.070	AS 46.03.822	AS 46.09.060
AS 46.03.365	AS 46.04.020	AS 46.09.070
AS 46.03.375	AS 46.04.030	AS 46.23.020
AS 46.03.380	AS 46.04.035	AS 46.35.090
AS 46.03.405	AS 46.04.055	Sec. 7, Ch. 96, SLA 1990
AS 46.03.710	AS 46.04.070	

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



Larry Hartig, Commissioner

Dated: September 25, 2014  
Juneau, Alaska

ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: Contaminated sites and regulated underground storage tanks
3. Citation of regulation (may be grouped): 18 AAC 75; 18 AAC 78
4. Department of Law file number: JU2011200192
5. Reason for the proposed action:
  - compliance with federal law
  - compliance with new or changed state statute
  - compliance with court order
  - development of program standards
  - other: (please list)
6. Appropriation/Allocation: Spill Prevention and Response (AR 48500)/Contaminated Sites Program (AR 48502)
7. Cost of implementation to the state agency and available funding (in thousands of dollars): No additional costs expected beyond regular program budget
8. The name of the contact person for the regulations:

Name: Sally Schlichting  
Title: Environmental Program Manager I  
Address: Alaska Department of Environmental Conservation, 410 Willoughby Ave., Suite 303, P.O. Box 111800, Juneau, AK 99811-1800  
Telephone: (907) 465-5076  
E-mail address: sally.schlichting@alaska.gov

9. The origin of the proposed action:
  - staff of state agency
  - federal government
  - general public
  - petition for regulation change
  - other (please list) \_\_\_\_\_

10. Date: September 25, 2014

Prepared by: \_\_\_\_\_  
[signature]

Sally Schlichting  
Environmental Program Manager I  
(907) 465-5076

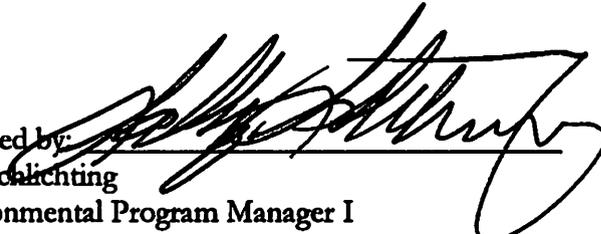
ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: Contaminated sites and regulated underground storage tanks
3. Citation of regulation (may be grouped): 18 AAC 75; 18 AAC 78
4. Department of Law file number: JU2011200192
5. Reason for the proposed action:
  - compliance with federal law
  - compliance with new or changed state statute
  - compliance with court order
  - development of program standards
  - other: (please list)
6. Appropriation/Allocation: Spill Prevention and Response (AR 48500)/Contaminated Sites Program (AR 48502)
7. Cost of implementation to the state agency and available funding (in thousands of dollars): No additional costs expected beyond regular program budget
8. The name of the contact person for the regulations:

Name: Sally Schlichting  
Title: Environmental Program Manager I  
Address: Alaska Department of Environmental Conservation, 410 Willoughby Ave., Suite  
303, P.O. Box 111800, Juneau, AK 99811-1800  
Telephone: (907) 465-5076  
E-mail address: sally.schlichting@alaska.gov

9. The origin of the proposed action:
  - staff of state agency
  - federal government
  - general public
  - petition for regulation change
  - other (please list) \_\_\_\_\_

10. Date: September 25, 2014

Prepared by:   
Sally Schlichting  
Environmental Program Manager I  
(907) 465-5076

**NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED CHANGES TO  
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGULATIONS**

**BRIEF DESCRIPTION**

The Alaska Department of Environmental Conservation (DEC) is proposing to change regulations on contaminated sites and underground storage tanks to broaden the number of individuals who may qualify to conduct environmental work at contaminated sites and underground storage tank sites, adopt updates to referenced documents, and to clarify, simplify and make consistent additional regulatory language.

The DEC proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with Oil and Other Hazardous Substances Pollution Control, and Title 18, Chapter 78 of the Alaska Administrative Code dealing with Underground Storage Tanks. The changes include the following:

- Amend 18 AAC 75.325 to clarify how existing cumulative risk thresholds are to be reported.
- Amend 18 AAC 75.355 to
  - permit a qualified sampler to conduct certain activities when a qualified environmental professional is not available;
  - clarify language to make this section consistent with language in 18 AAC 78.090(f) concerning the department's authority to waive the requirement for a "qualified impartial third party," and
  - update the adopted-by-reference version of the Environmental Protection Agency's Standard Test Methods SW-846 and adopted-by-reference version of the Underground Storage Tanks (UST) Procedures Manual.
- Amend 18 AAC 75.365 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 75.370(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 75.380 to include wording on how sampling results from contaminated soil shall be calculated and presented.
- Amend 18 AAC 75.390 to correct a typographical error.
- Amend definitions at 18 AAC 75.990 to:
  - revise "groundwater" to conform with the parallel definition in 18 AAC 70;
  - provide a new definition for "qualified environmental professional" to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing it with the term, "qualified environmental professional" in the following sections: 18 AAC 75.335, 360, 365, 380, 390 and 990.
- Amend 18 AAC 78.007 to reflect an updated adopted-by-reference version of the UST Procedures Manual;
- Amend 18 AAC 78.090 to:
  - add a new sub-subparagraph requiring excavated soil be field-screened and sampled for UST in-place closure assessments; and
  - update section (f) to conform to section 18 AAC 75.355(b).
- Amend 18 AAC 78.235 to:
  - add language to reference the waiver option in 18 AAC 78.090(f); and
  - repeal subsection (c) because it is redundant.
- Amend 18 AAC 78.271 to allow a qualified sampler to conduct certain activities when a qualified environmental professional is not available.
- Amend 18 AAC 78.273 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 78.274(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 78.275 to remove reference to EPA's Test Methods at SW-846 and replace it with a reference to Table 1 of the UST Procedures Manual.
- Amend 18 AAC 78.600 to:
  - clarify the method of reporting existing cumulative risk thresholds; and
  - correct the out-of-date reference to a since-updated version of the Cumulative Risk Guidance.
- Amend definitions in 18 AAC 78.995 to:
  - provide a new definition for "qualified environmental professional" to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing the term, "qualified impartial third party" with the term, "qualified environmental professional" in the following sections: 18 AAC 78.090, 235, 250, 271, 273, 275, 276, 600, 930 and 995.
- Update two DEC documents that are adopted by reference:
  - Underground Storage Tank Procedures Manual; and
  - Operation Requirements for Soil Treatment Facilities (previously titled the Soil Treatment Facility Guidance).
- 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>. Comments must be received by the deadline date.

**PUBL  
UNITED STATES OF AMERICA  
STATE OF ALASKA**

Georgia Putney \_\_\_\_\_ be  
sworn, on oath deposes and say  
That I am and was at all  
in this affidavit mentions, Sup  
Legals of the Peninsula Clarion  
paper of general circulation ar  
at Kenai, Alaska, that the  
Public Notice for Amendments \_\_\_\_\_

\_\_\_\_\_ a printed copy of which is here  
published in said paper one eac  
every day for one su  
consecutive day in the iss  
following dates:  
September 29, 2014

X Georgia Putney  
SUBSCRIBED AND SWORN  
this 29th day of Septemb

Annette Evans-Helle  
NOTARY PUBLIC in favor fo  
State of Alaska.

My Commission expires 1-14



**Career!**  
Give your job search a boost when you use the classifieds.  
CLARION  
283-7551  
[www.jobsearch.com](http://www.jobsearch.com)

**Classifieds Work!**

**SOLD/INA**  
Furnished 1-Bedroom.  
Shady Lane  
Apartments.  
\$725. Heat & cable  
Included. No pets.  
(907) 283-5203.  
Freedom Realty  
Property Management  
(907) 262-2522

**K-BEACH/SOLD/INA**  
3-bedroom, 2-bath,  
2-car garage.  
1.2 acre  
\$195,000.  
(907) 262-3580

approximately  
2000sqft.  
on 2 acres.  
Very peaceful,  
a lot of wildlife.  
\$310,000.  
(907) 776-8487.  
(907) 394-1122.

270239  
0001304446  
\$ 886.46

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Kayla Lavea  
being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

September 26, 2014

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed Kayla Lavea

Subscribed and sworn to before me this 26th day of September, 2014

Bretney Thompson

Notary Public in and for the State of Alaska  
Third Division  
Anchorage, Alaska  
MY COMMISSION EXPIRES



05/18/2015

**NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED CHANGES TO ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGULATIONS**

**BRIEF DESCRIPTION**

The Alaska Department of Environmental Conservation (DEC) is proposing to change regulation contaminated sites and underground storage tanks to broaden the number of individuals who may qualify to conduct environmental work at contaminated sites and underground storage tank sites, adopt updated referenced documents, and to clarify, simplify and make consistent additional regulatory language.

The DEC proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with Oil and Other Hazardous Substances Pollution Control, and Title 18, Chapter 78 of the Alaska Administrative Code dealing with Underground Storage Tanks. The changes include the following:

- Amend 18 AAC 75.325 to clarify how existing cumulative risk thresholds are to be reported.
- Amend 18 AAC 75.355 to:
  - permit a qualified sampler to conduct certain activities when a qualified environmental professional is not available;
  - clarify language to make this section consistent with language in 18 AAC 78.090(f) concerning the department's authority to waive the requirement for a "qualified impartial third party;" and
  - update the adopted-by-reference version of the Environmental Protection Agency's Standard Test Methods SW-846 and adopted-by-reference version of the Underground Storage Tanks (UST) Procedures Manual.
- Amend 18 AAC 75.365 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 75.370(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 75.380 to include wording on how sampling results from contaminated soil shall be calculated and presented.
- Amend 18 AAC 75.390 to correct a typographical error.
- Amend definitions at 18 AAC 75.990 to:
  - revise "groundwater" to conform with the parallel definition in 18 AAC 70;
  - provide a new definition for "qualified environmental professional" to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing it with the term, "qualified environmental professional" in the following sections: 18 AAC 75.335, 360, 365, 380, 390 and 990.
- Amend 18 AAC 78.007 to reflect an updated adopted-by-reference version of the UST Procedures Manual;
- Amend 18 AAC 78.090 to:
  - add a new sub-subparagraph requiring excavated soil be field-screened and sampled for UST in-place closure assessments; and
  - update section (f) to conform to section 18 AAC 75.355(b).
- Amend 18 AAC 78.235 to:
  - add language to reference the waiver option in 18 AAC 78.090(f); and
  - repeal subsection (c) because it is redundant.
- Amend 18 AAC 78.271 to allow a qualified sampler to conduct certain activities when a qualified environmental professional is not available.
- Amend 18 AAC 78.273 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 78.274 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.

2011 NISSAN MURANO • STK#A120715, NADA Retail \$19,999

2008 CHEVY SILVERADO EXT CAB 4X4 • STK#A140599, NADA Retail Book \$17,050

2011 NISSAN MURANO • STK#A120715, NADA Retail \$19,999

2008 CHEVY SILVERADO EXT CAB 4X4 • STK#A140599, NADA Retail Book \$17,050

AFFP

Public Notice for Amendments

### Affidavit of Publication

UNITED STATES OF AMERICA }  
STATE OF ALASKA } SS.  
FOURTH DISTRICT }

22588

NOTICE OF PUBLIC COMMENT PERIOD ON  
PROPOSED CHANGES TO  
ALASKA DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION  
REGULATIONS

Before me, the undersigned, a notary public, this day personally appeared Corinna Whiteley, who, being first duly sworn, according to law, says that he/she is an Advertising Clerk of the Fairbanks Daily News-Miner, a newspaper (i) published in newspaper format, (ii) distributed daily more than 50 weeks per year, (iii) with a total circulation of more than 500 and more than 10% of the population of the Fourth Judicial District, (iv) holding a second class mailing permit from the United States Postal Service, (v) not published primarily to distribute advertising, and (vi) not intended for a particular professional or occupational group. The advertisement which is attached is a true copy of the advertisement published in said paper on the following day(s):

**BRIEF DESCRIPTION**

The Alaska Department of Environmental Conservation (DEC) is proposing to change regulations on contaminated sites and underground storage tanks to broaden the number of individuals who may qualify to conduct environmental work at contaminated sites and underground storage tank sites, adopt updates to referenced documents, and to clarify, simplify and make consistent additional regulatory language.

September 26, 2014

The DEC proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with Oil and Other Hazardous Substances Pollution Control, and Title 18, Chapter 78 of the Alaska Administrative Code dealing with *Underground Storage Tanks*. The changes include the following:

and that the rate charged thereon is not excess of the rate charged private individuals, with the usual discounts.

- Amend 18 AAC 75.325 to clarify how existing cumulative risk thresholds are to be reported.
- Amend 18 AAC 75.355 to
  - permit a qualified sampler to conduct certain activities when a qualified environmental professional is not available;
  - clarify language to make this section consistent with language in 18 AAC 78.090(f) concerning the department's authority to waive the requirement for a "qualified impartial third party;" and
  - update the adopted-by-reference version of the Environmental Protection Agency's Standard Test Methods SW-846 and adopted-by-reference version of the Underground Storage Tanks (UST) Procedures Manual.
- Amend 18 AAC 75.365 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil

Advertising Clerk

Subscribed to and sworn to me this 26th day of September 2014.

Marena Burnell, Notary Public in and for the State Alaska.

My commission expires: December 07, 2017

00007018 00022588

SALLY SCHLICHTING  
ADEC CONTAMINATED SITES PROGRAM  
410 WILLOUGHBY AVENUE  
SUITE 303

NOTARY PUBLIC  
M. BURNELL  
STATE OF ALASKA  
My commission Expires December 7, 20\_\_\_\_

Treatment Facilities.

- Repeal and readopt 18 AAC 75.370(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 75.380 to include wording on how sampling results from contaminated soil shall be calculated and presented.
- Amend 18 AAC 75.390 to correct a typographical error.
- Amend definitions at 18 AAC 75.990 to:
  - revise "groundwater" to conform with the parallel definition in 18 AAC 70;
  - provide a new definition for "qualified environmental professional" to allow more flexibility by
    - including alternate ways to meet the definition;and
  - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing it with the term, "qualified environmental professional" in the following sections: 18 AAC 75.335, 360, 365, 380, 390 and 990.
- Amend 18 AAC 78.007 to reflect an updated adopted-by-reference version of the UST Procedures Manual;
- Amend 18 AAC 78.090 to:
  - add a new sub-subparagraph requiring excavated soil be field-screened and sampled for UST in-place closure assessments; and
  - update section (f) to conform to section 18 AAC 75.355(b).
- Amend 18 AAC 78.235 to:
  - add language to reference the waiver option in 18 AAC 78.090(f); and
  - repeal subsection (c) because it is redundant.
- Amend 18 AAC 78.271 to allow a qualified sampler to conduct certain activities when a qualified environmental professional is not available.
- Amend 18 AAC 78.273 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 78.274(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 78.275 to remove reference to EPA's Test Methods at SW-846 and replace it with a reference to Table 1 of the UST Procedures Manual.
- Amend 18 AAC 78.600 to:
  - clarify the method of reporting existing cumulative risk thresholds; and
  - correct the out-of-date reference to a since-updated version of the Cumulative Risk Guidance.

NOTARY PUBLIC  
M. BURNELL  
STATE OF ALASKA  
My commission Expires December 7, 20\_\_\_\_\_

- Amend definitions in 18 AAC 78.995 to:
  - provide a new definition for "qualified environmental professional" to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing the term, "qualified impartial third party" with the term, "qualified environmental professional" in the following sections: 18 AAC 78.090, 235, 250, 271, 273, 275, 276, 600, 930 and 995.
- Update two DEC documents that are adopted by reference:
  - Underground Storage Tank Procedures Manual; and
  - Operation Requirements for Soil Treatment Facilities (previously titled the Soil Treatment Facility Guidance).
- 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>.

Comments must be received by 5:00 p.m. on November 26, 2014. Comments received after this date will not be considered in final action on these rules.

If you are a person with a disability who needs a special accommodation in order to participate in this public process, please contact Eric Hotchkiss at (907) 465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than November 19, 2014, to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact:  
Susan Erben, Alaska Department of

NOTARY PUBLIC  
M. BURNELL  
STATE OF ALASKA  
My commission Expires December 7, 20\_\_\_\_

AFFP

Public Notice for Amendments

### Affidavit of Publication

UNITED STATES OF AMERICA }  
STATE OF ALASKA } SS.  
FOURTH DISTRICT }

22588

NOTICE OF PUBLIC COMMENT PERIOD ON  
PROPOSED CHANGES TO  
ALASKA DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION  
REGULATIONS

Before me, the undersigned, a notary public, this day personally appeared Corrinna Whiteley, who, being first duly sworn, according to law, says that he/she is an Advertising Clerk of the Fairbanks Daily News-Miner, a newspaper (i) published in newspaper format, (ii) distributed daily more than 50 weeks per year, (iii) with a total circulation of more than 500 and more than 10% of the population of the Fourth Judicial District, (iv) holding a second class mailing permit from the United States Postal Service, (v) not published primarily to distribute advertising, and (vi) not intended for a particular professional or occupational group. The advertisement which is attached is a true copy of the advertisement published in said paper on the following day(s):

**BRIEF DESCRIPTION**

The Alaska Department of Environmental Conservation (DEC) is proposing to change regulations on contaminated sites and underground storage tanks to broaden the number of individuals who may qualify to conduct environmental work at contaminated sites and underground storage tank sites, adopt updates to referenced documents, and to clarify, simplify and make consistent additional regulatory language.

September 26, 2014

The DEC proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with Oil and Other Hazardous Substances Pollution Control, and Title 18, Chapter 78 of the Alaska Administrative Code dealing with Underground Storage Tanks. The changes include the following:

and that the rate charged thereon is not excess of the rate charged private individuals, with the usual discounts.

- Amend 18 AAC 75.325 to clarify how existing cumulative risk thresholds are to be reported.
- Amend 18 AAC 75.355 to
  - permit a qualified sampler to conduct certain activities when a qualified environmental professional is not available;
  - clarify language to make this section consistent with language in 18 AAC 78.090(f) concerning the department's authority to waive the requirement for a "qualified impartial third party;" and
  - update the adopted-by-reference version of the Environmental Protection Agency's Standard Test Methods SW-846 and adopted-by-reference version of the Underground Storage Tanks (UST) Procedures Manual.
- Amend 18 AAC 75.365 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil

Advertising Clerk

Subscribed to and sworn to me this 26th day of September 2014.

Marena Burnell, Notary Public in and for the State Alaska.

My commission expires: December 07, 2017

00007018 00022588

SALLY SCHLICHTING  
ADEC CONTAMINATED SITES PROGRAM  
410 WILLOUGHBY AVENUE  
SUITE 303

NOTARY PUBLIC  
M. BURNELL  
STATE OF ALASKA  
My commission Expires December 7, 20\_\_\_\_

Treatment Facilities.

- Repeal and readopt 18 AAC 75.370(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 75.380 to include wording on how sampling results from contaminated soil shall be calculated and presented.
- Amend 18 AAC 75.390 to correct a typographical error.
- Amend definitions at 18 AAC 75.990 to:
  - revise "groundwater" to conform with the parallel definition in 18 AAC 70;
  - provide a new definition for "qualified environmental professional" to allow more flexibility by
    - including alternate ways to meet the definition;
    - and
    - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing it with the term, "qualified environmental professional" in the following sections: 18 AAC 75.335, 360, 365, 380, 390 and 990.
- Amend 18 AAC 78.007 to reflect an updated adopted-by-reference version of the UST Procedures Manual;
- Amend 18 AAC 78.090 to:
  - add a new sub-subparagraph requiring excavated soil be field-screened and sampled for UST in-place closure assessments; and
  - update section (f) to conform to section 18 AAC 75.355(b).
- Amend 18 AAC 78.235 to:
  - add language to reference the waiver option in 18 AAC 78.090(f); and
  - repeal subsection (c) because it is redundant.
- Amend 18 AAC 78.271 to allow a qualified sampler to conduct certain activities when a qualified environmental professional is not available.
- Amend 18 AAC 78.273 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 78.274(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 78.275 to remove reference to EPA's Test Methods at SW-846 and replace it with a reference to Table 1 of the UST Procedures Manual.
- Amend 18 AAC 78.600 to:
  - clarify the method of reporting existing cumulative risk thresholds; and
  - correct the out-of-date reference to a since-updated version of the Cumulative Risk Guidance.

NOTARY PUBLIC  
M. BURNELL  
STATE OF ALASKA

My commission Expires December 7, 20\_\_\_\_

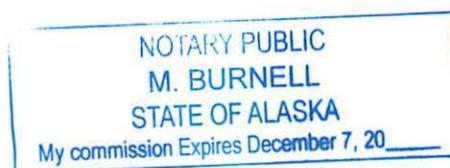
- Amend definitions in 18 AAC 78.995 to:
  - provide a new definition for "qualified environmental professional" to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing the term, "qualified impartial third party" with the term, "qualified environmental professional" in the following sections: 18 AAC 78.090, 235, 250, 271, 273, 275, 276, 600, 930 and 995.
- Update two DEC documents that are adopted by reference:
  - Underground Storage Tank Procedures Manual; and
  - Operation Requirements for Soil Treatment Facilities (previously titled the Soil Treatment Facility Guidance).
- 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>.

Comments must be received by 5:00 p.m. on November 26, 2014. Comments received after this date will not be considered in final action on these rules.

If you are a person with a disability who needs a special accommodation in order to participate in this public process, please contact Eric Hotchkiss at (907) 465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than November 19, 2014, to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact:  
Susan Erben, Alaska Department of



**\*NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED CHANGES TO ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGULATIONS**

**BRIEF DESCRIPTION**

The Alaska Department of Environmental Conservation (DEC) is proposing to change regulations on contaminated sites and underground storage tanks to broaden the number of individuals who may qualify to conduct environmental work at contaminated sites and underground storage tank sites, adopt updates to referenced documents, and to clarify, simplify and make consistent additional regulatory language.

The DEC proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with Oil and Other Hazardous Substances Pollution Control, and Title 18, Chapter 78 of the Alaska Administrative Code dealing with Underground Storage Tanks. The changes include the following:

- Amend 18 AAC 75.325 to clarify how existing cumulative risk thresholds are to be reported.
- Amend 18 AAC 75.355 to
  - permit a qualified sampler to conduct certain activities when a qualified environmental professional is not available;
  - clarify language to make this section consistent with language in 18 AAC 78.090(f) concerning the department's authority to waive the requirement for a "qualified impartial third party;" and
  - update the adopted-by-reference version of the Environmental Protection Agency's Standard Test Methods

# Notice of Publication

State of Alaska

AD #:161562

Legal # 900-017

Account #15115171

Juneau

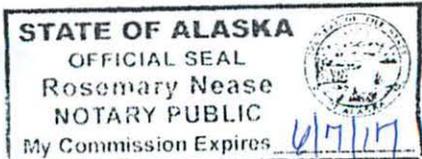
I, Alexis Cropley, being first duly sworn, oath, depose, and say that I am the Principle Clerk of the JUNEAU EMPIRE, a newspaper of general circulation, published in the city of Juneau, State of Alaska; that the publication was published in said newspaper and on [www.juneauempire.com](http://www.juneauempire.com), the online edition, on the 28<sup>th</sup>, September 2014 and thereafter for 0 additional day(s), the last date of publication being September 28, 2014

*Alexis Cropley*

Subscribed and sworn to before me this October 10<sup>th</sup>, 2014

*Rosemary Nease*

Notary Public in and for the State of Alaska.



**Features:**

- 1,845 Sqft
- Commercial Lease Space
- Parking negotiable
- Landlord pays all utilities & services except phone, data, fax and cable.

Photo by Michael Penn