

NOTICES OF PUBLIC INFORMATION

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DEPARTMENT OF ENVIRONMENTAL QUALITY

1. **Title and its heading:** 18, Environmental Quality
Chapters and its heading: 7, Department of Environmental Quality - Remedial Action
Articles and their headings: 1, Water Quality Assurance Revolving Fund
 2, Soil Remediation Standards
Section numbers: R18-7-109 and R18-7-201 through R18-7-209 (and Appendices)

- Chapters and its heading:** 8, Department of Environmental Quality - Waste Management
Article and its heading: 1, Reserved Remedial Action Requirements
Section number: R18-8-101

2. **Subject matter of the proposed rule:**

The purpose of these emergency rules is to establish Department-wide standards to be used in cleaning up sites where contaminated soil is located. The rules provide a systematic method for establishing a soil remediation level that, in every case, protects health and the environment.

This Notice is being submitted to the Office of the Secretary of State pursuant to Laws 1995, Ch. 232, requiring interim emergency rules on soil remediation standards. These proposed rules, although exempt from the requirements of the Administrative Procedure Act (APA) are subject to notice and comment. A permanent rulemaking subject to the APA will follow the promulgation of these interim rules, at which time the public is encouraged to comment again. The Department seeks comment on economic impacts for the purpose of the final permanent rulemaking.

Since proposed emergency rules are not published in the *Register*, please obtain copies of the rules by calling the Department at (602) 207-2222 (1-800-234-5677, ext. 2222); or by leaving the name and address to which the copy should be sent on the VoiceMail recording at (602) 207-2244; or by picking up a copy at the Customer Service Office at the Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona. Copies of the proposed interim rules are free.

Environmental regulations regarding soil remediation were developed over recent years in a patchwork fashion often resulting in overlap, inconsistencies, and delays in cleanups. This approach did not serve the regulated community or the Department well because the differing standards for various affected programs created unpredictable outcomes, slowed down remediation, and discouraged voluntary remediations. In addition, the varying standards led to confusion or "shopping" for the "best" program. Recognizing that the present situation was not optimal, the Department undertook efforts to bring consistency, standardization, and efficiency to the regulatory approach for soil remediation. In working towards this goal, the Department sought the active collaboration of the interested public and created a Task Force.

Today's proposed interim rules represent the recommendations of that Task Force and a move toward regulatory consistency and predictability. This will result in better utilization of both public and private sector resources. Uniform remediation standards will allow site remediation activities to quickly move to the remedy-selection phase, and ultimately remediation, with a resulting increase in the number of sites actually cleaned up. Today's rules also mark Departmental recognition of risk-based remediation standards protective of human health and the environment, which is a move toward regulatory flexibility.

The Sections affected are as follows:

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R18-7-109	Amend
R18-7-201	New Section
R18-7-202	New Section
R18-7-203	New Section
R18-7-204	New Section
R18-7-205	New Section
R18-7-206	New Section
R18-7-207	New Section
R18-7-208	New Section
R18-7-209	New Section
Appendix A	New Section
Appendix B	New Section
Appendix C	New Section
Appendix D	New Section
R18-8-101	New Section

The proposed interim standards set forth statewide standards to be used in soil remediation. The rule sets forth three different standards: background contaminant levels, health-based guidance levels (HBGLs), or Departmental-approved remediation levels derived from a site-specific risk assessment.

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Today's rules apply to persons conducting soil remediation activities. In many cases, people are aware of their obligations to remediate contaminated soil as required by various provisions of law and voluntarily undertake cleanup activities. In other cases, people only begin cleanup after being compelled to do so by and enforcement action. The rule applies in both situations.

4. A citation to all published notices relating to the proceeding:

Original Notice of Rulemaking Docket Opening:

95 A.A.R. 893, June 30, 1995
Vol. # Page # Issue date

Supplemental Notices of Rulemaking Docket Opening:

See "Notices of Rulemaking Docket Opening" in this *Register*.

5. The date, time, and location of public hearings:

The Department has scheduled public hearings at the following locations:

Date: September 12, 1995

Time: 7 p.m.

Location: Game and Fish Department
3500 South Lake Mary Road
Flagstaff, Arizona

Call (520) 774-5045 for special assistance pursuant to the Americans with Disabilities Act.

Date: September 13, 1995

Time: 7 p.m.

Location: Department of Environmental Quality
Public Meeting Room
3033 North Central Avenue
Phoenix, Arizona

Call (602) 207-4795 for special assistance pursuant to the Americans with Disabilities Act.

Date: September 14, 1995

Time: 7 p.m.

Location: Corporation Commission Hearing Room
400 West Congress, Room 222
Tucson, Arizona

Please enter through the northwest door; this entrance is the only one open in the evening.

Call (520) 628-6301 for special assistance pursuant to the Americans with Disabilities Act.

END OF FORMAL WRITTEN COMMENT PERIOD: September 22, 1995

6. The name, address, and telephone number of agency personnel to whom questions and comments on the rules may be addressed:

Name: Martha L. Seaman

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3033 North Central Avenue
Phoenix, Arizona 85012-2809

Telephone: (602) 207-2222

Fax: (602) 207-2251