

NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF ENVIRONMENTAL QUALITY

Editor's Note: The purpose of this Notice of Public Information is to extend the formal written comment period. The new deadline is listed under question #5.

1. **Title and its heading:** 18, Environmental Quality
Chapter 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)
Chapter and its heading: 8, Department of Environmental Quality - Waste Management
Article and its heading: 1, Remedial Action Requirements
Section Number: R18-8-101

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

The reason for this notice is to extend the formal comment period for these proposed rules from April 4, 1997 to May 9, 1997.

The Notices of Proposed Rulemaking which appeared at 3 A.A.C. 616 and 662, February 28, 1997, contain a reference which requires that in any instance where soil remediation is done under Chapter 8, it is to be conducted in accordance with R18-7-201 through R18-7-208. For further information, please see explanatory material for this rulemaking found in the Register issue cited above.

Current ADEQ statutes and rules require contaminated soil to be cleaned up (or remediated). The proposed rule answers the question of "how clean is clean" across all ADEQ soil cleanup programs. Generally speaking, soil which meets the remediation standards described in the rule is "clean enough."

The purpose of the proposed rule is to establish permanent Department-wide standards applicable for soil remediation activities. A.R.S. § 49-152(A) set forth a 2-step process to be used in promulgating soil remediation standards: interim and final standards. Today's rule which contains final standards, completes that 2nd step.

A.R.S. §§ 49-151 and 49-152 do not mandate soil remediation; they set forth the methods by which remediation standards are calculated. The mandate to perform soil remediation is found in the specific program statutes for the Water Quality Assurance Revolving Fund (WQARF); the Underground Storage Tank (UST) Program; the Hazardous Waste Management Program; the Special Waste Management Program; and the Aquifer Protection Permit Program. The Department is not creating new duties to remediate with this proposed rule. Rather, this rule sets forth Department-wide remediation standards which are applied in addition to, and implement consistently, the existing program requirements.

Within certain limits, the proposed rules allow a person cleaning up contaminated soil to choose a remediation standard from a range of three acceptable approaches. The choice of remediation standards includes an "off the shelf" or "one-size-fits-all" approach, called the Soil Remediation Levels (SRLs). The SRLs are pre-determined standards. A "customized" approach allows a person to determine a site-specific cleanup standard based on the concentration of a contaminant, the health effects of that contaminant, and the potential for people to come into contact with that contaminant. A 3rd approach allows a site to be cleaned up to a level consistent with naturally occurring contaminants in the soil. This approach is called "cleaning up to background", and like the "customized" approach, is based on site-specific information.

Depending upon the choice of remediation standards, the rule contains other requirements which assure that the standard selected is fully effective in protecting human health and the environment. Generally speaking, the rule is based on the idea of "risk-based remediation" which means that cleanup levels relate to risk to human health and the environment posed by contaminated soil. After risk-based remediation, the resulting site is safe for human contact and is protective of the environment. Risk-based remediation should result in greater cost effectiveness by better matching expenditures to the contamination site posing the greatest amount of risk. The proposed rule only applies to contaminated soil, and the rule will not apply retroactively.

As discussed above, the first step to establish soil remediation standards consisted of promulgating the Interim Soil Remediation Standards (Interim Rule). As required by A.R.S. § 49-152 these rules were promulgated on an emergency basis, but included notice to the public and an opportunity for public comment. The Interim Rule became effective March 29, 1996, and according to the statutory provisions, remains in effect until the Final Soil Remediation Rule (Final Rule) is adopted. The statute further requires that the Department adopt the Final Rule by August 1, 1997.

The Sections affected are as follows:

Sections Affected	Rulemaking Action
R18-7-109	Amend
R18-7-201	Repeal
R18-7-201	New Section

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R18-7-202	Repeal
R18-7-202	New Section
R18-7-203	Repeal
R18-7-203	New Section
R18-7-204	Repeal
R18-7-204	New Section
R18-7-205	Repeal
R18-7-205	New Section
R18-7-206	Repeal
R18-7-206	New Section
R18-7-207	Repeal
R18-7-207	New Section
R18-7-208	Repeal
R18-7-208	New Section
R18-7-209	Repeal
Appendix A	Repeal
Appendix A	New Appendix
Appendix B	Repeal
Appendix B	New Appendix
Appendix C	Repeal
Appendix C	New Appendix
Appendix D	Repeal
R18-8-101	Amend

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

Notice of Docket Opening:

1 A.A.R. 893, June 30, 1995

Notice of Public Information:

1 A.A.R. 1350, August 11, 1995

Notice of Docket Opening:

1 A.A.R. 1353, August 11, 1995

Notice of Docket Opening:

1 A.A.R. 1354, August 11, 1995

Notice of Emergency Rulemaking:

2 A.A.R. 1465, April 19, 1996

Notice of Emergency Rulemaking:

2 A.A.R. 1484, April 19, 1996

Notice of Proposed Rulemaking:

3 A.A.R. 616, February 28, 1997

Notice of Proposed Rulemaking:

3 A.A.R. 662, February 28, 1997

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

Date: March 31, 1997

Time: 1 p.m.

Location: Flagstaff City Council Chambers
211 West Aspen Avenue
Flagstaff, Arizona

Date: April 2, 1997

Time: 1 p.m.

Location: State Office Building
400 West Congress
Room #222, South Building
Tucson, Arizona

Arizona Administrative Register

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Date: April 3, 1997
Time: 2 p.m.
Location: ADEQ Public Meeting Room
3033 North Central Avenue,
Phoenix, Arizona

END OF THE FORMAL WRITTEN COMMENT PERIOD HAS BEEN EXTENDED TO: May 9, 1997

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

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