

SUBCHAPTER C: AFFECTED PROPERTY ASSESSMENT

§§350.51 - 350.55

Effective March 19, 2007

§350.51. Affected Property Assessment.

(a) The person shall conduct an affected property assessment in a manner appropriate for the affected property considering the hydrogeology, physical and chemical properties of the COCs, location of human and ecological receptors, and the complete or reasonably anticipated to be completed exposure pathways identified in §350.71 of this title (relating to General Requirements). The assessment shall be designed to collect information necessary to support notification of affected landowners and remedy selection, determine whether or not water resources have been affected or are threatened, and may also evaluate the effectiveness of existing physical controls. Additionally, when existing physical controls will be used as part of the response action in accordance with Remedy Standard B, then the assessment may be conducted such that the primary focus is placed beyond the limits of the existing physical control in order to reduce the degree of assessment within the limits of the physical control. The assessment shall be conducted in a manner most likely to detect the presence and distribution of COCs above the concentration levels defined in subsections (b) - (e) of this section considering the nature of the release and subsequent modifications to the affected property (e.g., judgmental samples in hot spots, stratified random sampling, systematic grid, etc.), and shall use appropriate quality assurance/quality control. The geology and hydrogeology of the affected property shall be adequately characterized, such that COC fate and transport can be reliably predicted in order to confidently locate existing environmental media containing COCs above the concentration levels defined in subsections (b) - (e) of this section and an appropriate response action can be designed. The person shall use sample collection techniques that meet the data quality needs and are acceptable to the executive director. The results of the assessment shall be documented in an Affected Property Assessment Report in accordance with §350.91 of this title (relating to Affected Property Assessment Report). The person shall conduct an assessment in a manner which is timely considering the size and complexity of the situation, and shall comply with an assessment schedule established in any commission rule, order, or permit, or any assessment schedule approved by the executive director.

(b) The person shall perform an affected property assessment through the collection and analysis of a sufficient number of samples from environmental media to reliably characterize the nature and degree of COCs in the source area(s), as well as the horizontal and vertical extent of COCs in soil and groundwater, which equals or exceeds the applicable concentration of COCs as specified in subsections (c), (d) and (e) of this section, unless the executive director determines on a site-specific basis that additional assessment of the extent of COCs is necessary to evaluate a potential threat to human health and the environment. Information obtained from attempts to attain Remedy Standard A may be submitted for this purpose. The person shall characterize the nature, degree and extent of COCs in other environmental media as required by the executive director in consideration of property-specific factors. The executive director may require the person to determine the concentrations of COCs in outdoor or indoor air on a property-specific basis.

(c) The person shall demonstrate that all COCs in environmental media (except for on-site soils as noted below) which exceed the residential assessment level have been characterized horizontally in all

directions. If the assessment level is based upon background concentrations, then the assessment shall only extend to the background concentration level. For soils only, the person can focus the horizontal on-site assessment to define the area exceeding the applicable critical PCL (i.e., residential or commercial/industrial). However, the person shall investigate environmental media, including soils, using adequate on-site or off-site data to determine whether off-site properties have been affected with concentrations of COCs which exceed the residential assessment levels. The requirement to use an assessment level based upon a residential receptor (i.e., residential assessment level) pertains to all off-site properties (i.e., both residential and commercial/industrial land use).

(d) For the vertical soil assessment to adequately determine if groundwater has been or will be affected, the person shall complete the requirements of paragraph (1), (2), (3) or (4) of this subsection.

(1) The person shall demonstrate that the vertical limit of COCs in soil which exceed the higher of the method quantitation limit or background concentrations has been characterized. If the person satisfactorily demonstrates that all reasonably available analytical technology has been used to show that the COC cannot be measured to the method quantitation limit due to sample specific interferences, then the sample detection limit may be used in lieu of the method quantitation limit.

(2) If an adequate groundwater assessment has been conducted (i.e., COC concentrations in groundwater have been measured from appropriate locations), then the person shall characterize the vertical limits of COCs in soil which exceed the residential assessment level. The ^{GW}Soil PCL may not be applicable in the determination of the residential assessment level if the person has conducted an adequate groundwater assessment and can meet the requirements of §350.75(i)(7)(C) of this title (relating to Tiered Human Health Protective Concentration Level Evaluation). The executive director may omit or modify the requirement for a groundwater assessment under this paragraph for use of §350.75(i)(7)(C) of this title on a site-specific determination based upon a combination of supporting evidence including, but not necessarily limited to, probable depth to groundwater, presence of soils or bedrock that prohibit or impede vertical migration of COCs, and physical and chemical properties of the COCs.

(3) If the uppermost groundwater-bearing unit is encountered before the vertical limit of COCs is determined to the higher of the method quantitation limit or background concentrations, then representative groundwater samples (i.e., a groundwater sample does not have to be collected from each boring) must be collected to evaluate potential groundwater impacts. The vertical extent of the soil assessment shall continue beyond the uppermost groundwater-bearing unit as appropriate based on the likelihood that COCs have migrated deeper considering the chemical and physical properties of the COCs (e.g., dense non-aqueous phase liquids) and the hydrogeology of the affected property. The executive director may omit or modify this requirement on a site-specific basis if the vertical assessment would exacerbate the vertical migration of COCs.

(4) If a person has already determined that the groundwater is impacted, then they may satisfy the requirements of this subsection by declaring the entire soil column to the top of the lowest impacted groundwater bearing unit as a soil PCLE zone.

(e) The person shall define the vertical extent of COCs in groundwater to below the residential assessment level by collecting a representative sample from a deeper groundwater-bearing unit with concentrations less than the residential assessment levels, unless the person demonstrates that vertical

migration to a lower groundwater-bearing unit is not possible. The person shall base such demonstration on the hydrogeology and the chemical and physical properties of the COCs. The person shall take proper precautions to prevent cross-contamination when collecting a sample from a deeper groundwater-bearing unit. The executive director may omit or modify this requirement on a site-specific basis if the vertical assessment would exacerbate the vertical migration of COCs.

(f) The person shall use concentrations measured in groundwater at or immediately upgradient of the zone of groundwater discharge to surface water to determine if COCs in groundwater have discharged to surface waters.

(g) For affected properties with response actions which are designed and approved under Remedy Standard B for the use of a plume management zone, the person shall characterize the geology and hydrogeology throughout all areas of the plume management zone (i.e., including those areas of the plume management zone which are currently beyond the limits of the groundwater which contains COCs in excess of the assessment level).

(h) The person shall attempt to identify all surface and subsurface structures at the affected property which may influence COC migration, including subsurface utilities.

(i) The person shall conduct a field survey to locate potential receptors, including water wells and surface waters to at least 500 feet beyond the boundary of the affected property; and conduct a records survey to identify all water wells and surface water bodies within 1/2 mile of the limits of groundwater which contains COCs in excess of the residential assessment level. The person shall also attempt to identify any off-site properties within 1/4 mile of the affected property that have environmental information (e.g., soil boring logs, analytical results from samples of environmental media, etc.) collected for submission to the agency which may be useful in fulfilling the requirements of this section, although collection and submittal of this information by the person is not required.

(j) When determining concentrations of COCs in an environmental medium, the person shall collect and handle samples in accordance with sampling methodologies which will yield representative concentrations of COCs present in the sampled medium.

(k) When determining concentrations of COCs in surface water and sediment, the person shall collect and handle samples in accordance with the requirements in the agency's *Surface Water Quality Monitoring Procedures, Volume I*, as amended, or shall use an alternative methodology approved by the executive director.

(l) The person shall determine concentrations of COCs within the environmental media at the affected property. The executive director may approve the use of statistical or geostatistical methods to determine representative concentrations of COCs at the affected property or within areas representative of site-specific background conditions as long as the following conditions are satisfied.

(1) The person shall ensure that all assumptions for the selected statistical or geostatistical method are met or critically examined and explained if the assumptions cannot be met (e.g., random

sampling design, normal or log-normal distribution, etc.). Judgmental samples may be used, as long as it can be demonstrated that the resulting estimated representative concentration is not biased low.

(2) An appropriate number of samples for the statistical method shall be used. If site-specific background is determined using the upper confidence limit or similar statistical method, then a minimum of eight samples shall be used. If the person uses an arithmetic average to determine the background concentration, then a minimum of five samples shall be used.

(3) The soil exposure area for existing residential yards or platted residential properties shall not exceed 1/8th acre or the size of the front or back yard of the affected residential lot, unless it is demonstrated that a larger area, not to exceed 1/2 acre, is appropriate based upon the activity patterns of residents at a specific affected property. For other properties classified as residential (e.g., parks, hospitals), the executive director may approve a larger exposure area if justified based on site-specific conditions. If an area larger than 1/8th acre or the size of the front or back yard of the existing affected residential lot is approved by the executive director, then the person shall comply with the applicable institutional control in requirements §350.111(b), (b)(8) or (10) of this title (relating to Use of Institutional Controls). If COCs are relatively homogeneous over an area larger than the residential default size, the executive director may allow concentrations to be averaged over this larger area, in which case the institutional control would not be required.

(4) The soil exposure area for commercial/industrial properties shall not exceed 1/2 acre, unless it is demonstrated that a larger area is appropriate based upon documented activity patterns for commercial/industrial workers at an active commercial/industrial facility (the assumed exposure area should represent the smallest area over which an individual can be expected to move randomly). In approving an exposure area for an active commercial/industrial facility, the executive director may consider any appropriate site-specific information which documents typical worker activity patterns. If an area larger than 1/2 acre is approved by the executive director, then the person shall comply with the institutional control requirements in §350.111(b), (b)(9) or (11) of this title (relating to Use of Institutional Controls), as applicable. If COCs are relatively homogeneous over an area larger than 1/2 acre, the executive director may allow concentrations to be averaged over this larger area, in which case the institutional control provision would not be required.

(5) The executive director may require a separate assessment of smaller but notable areas of soil contamination (i.e., "hot spots") at sites where site-specific features are present such that there is likely to be preferential exposure to this smaller area (e.g., worker exposures around the physical infrastructure of a work space, soils within a child's play area). The presence of hot spots with respect to ecological risk shall be determined on a site-specific basis.

(m) If a person does not desire to determine a site-specific soil background concentration, then they may use the Texas-specific median background concentrations for metals provided in the following figure. The Texas-specific background concentrations may be used to determine the critical PCL and then used in comparisons to individual measurements of COCs or representative concentrations of COCs in accordance with §350.79(1) or (2)(A) of this title (relating to Comparison of Chemical of Concern Concentrations to Protective Concentration Levels), respectively.

Texas-Specific Soil Background Concentrations milligrams per kilogram (mg/kg) ¹	
Metal	Median Background Concentration (mg/kg)
Aluminum	30,000
Antimony	1
Arsenic	5.9
Barium	300
Beryllium	1.5
Boron	30
Total Chromium	30
Cobalt	7
Copper	15
Fluoride	190
Iron	15,000
Lead	15
Manganese	300
Mercury	0.04
Nickel	10
Selenium	0.3
Strontium	100
Tin	0.9
Titanium	2,000
Thorium	9.3
Vanadium	50
Zinc	30

¹ Source: “Background Geochemistry of Some Rocks, Soils, Plants, and Vegetables in the Conterminous United States”, by Jon J. Connor, Hansford T. Shacklette, et al., Geological Survey Professional Paper 574-F, US Geological Survey.

(n) Analytical results, including non-detected analytical results, should be considered whether doing direct comparisons of individual measurements or when using statistical or geostatistical approaches. In cases where there is reason to believe, based on available analytical data, that the COC could be present at that sampling location and that the concentration of the COC is suspected to be near but below the sample detection limit, the full value of the sample detection limit should be used as a proxy for the non-detected result. If there is reason to believe, based on available analytical data, that the COC could be present at that sampling location and that the concentration of the COC is suspected to be below, but not near to, the sample detection limit, then 1/2 the sample detection limit should be used as a proxy for the non-detected result. Other statistically-based approaches for handling non-detected results or assigning proxy values may be appropriate and approved if there is sufficient technical basis. If greater than 15 percent non-detected results are reported for a particular medium, and the exposure area cannot be definitively identified based on documented and verifiable site-specific information, the executive director may require persons to utilize alternative statistical methods for calculating the concentration term.

(o) When required by the executive director, the person shall classify an affected property in accordance with a risk-based system established by the executive director. The classification shall consider all information collected during the affected property assessment, any historical knowledge concerning the conditions at the affected property, and the short-term or long-term potential for human or ecological receptors to be exposed to COCs.

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Effective March 19, 2007

§350.52. Groundwater Resource Classification.

The person shall use the following groundwater resource classification system to classify each groundwater-bearing unit which contains COCs at concentrations equal to or greater than the residential groundwater assessment level. The person shall submit data which support the groundwater resource classification in an affected property assessment report. If a groundwater-bearing unit meets the criteria for more than one of the following classifications, then the person shall assign the higher of the classifications (e.g., if a groundwater-bearing unit falls in class 1 and class 3, it will be classified as class 1), unless otherwise approved by the executive director.

(1) Class 1 groundwater resource. To be considered a class 1 groundwater resource, the groundwater-bearing unit must meet at least one of the following conditions:

(A) any groundwater-bearing unit within 1/2 mile of an existing well used to supply drinking water to a public water system as defined in §290.38 of this title (relating to Definitions), as amended, which can contribute COCs to the groundwater production zone of such public water supply well based on the chemical properties of the COCs, the hydrogeology, and the construction of the well;

(B) a groundwater-bearing unit which is the only reliable source of water (i.e., a connection to a public water system is not currently available and will not be provided to the affected property as part of the RAP) not more than 800 feet below the land surface that is capable of producing groundwater with a naturally occurring total dissolved solids content of less than 1,000 milligrams per

liter (mg/l) and at a sustainable rate greater than 5,000 gallons per day to a well with a four inch diameter casing or an equivalent sustainable rate in gallons per day to a well with a smaller or larger diameter casing; or

(C) groundwater-bearing unit capable of yielding groundwater with less than or equal to a naturally occurring total dissolved solids content of 3,000 mg/l and at a sustainable rate greater than or equal to 144,000 gallons per day to a well with a 12 inch diameter casing or an equivalent sustainable rate in gallons per day to a well with a smaller or larger diameter casing, and the natural quality of that groundwater meets all primary drinking water standards as defined in 40 Code of Federal Regulations Part 141, as amended.

(2) Class 2 groundwater resource. Class 2 groundwater resources include:

(A) any groundwater-bearing unit which is a groundwater production zone for an existing well located within 1/2 mile of the affected property and which is used to supply groundwater for human consumption, agricultural purposes or any purpose which could result in exposure to human or ecological receptors; or

(B) any groundwater-bearing unit which is capable of producing waters with a naturally occurring total dissolved solids content of less than 10,000 mg/l and at a sustainable rate greater than 150 gallons per day to a well with a four inch diameter casing or an equivalent sustainable rate in gallons per day to a well with a smaller or larger diameter casing.

(3) Class 3 groundwater resource. Class 3 groundwater resources include any groundwater-bearing unit which produces water with a naturally occurring total dissolved solids content of greater than 10,000 mg/l or at a sustainable rate less than 150 gallons per day to a well with a four inch diameter casing or an equivalent sustainable rate in gallons per day to a well with a smaller or larger diameter casing.

Adopted September 2, 1999

Effective September 23, 1999

§350.53. Land Use Classification.

The person shall determine the current land use of all properties affected with concentrations of COCs which exceed the residential human health assessment levels. Land use shall be determined by comparison of existing land use to the definitions for residential and commercial/industrial land use as specified in §350.4 of this title (relating to Definitions and Acronyms). In the event the land use changes prior to the executive director's approval of the RACR, the PCLs must be protective of that final land use. If off-site property or leased affected property is determined to be commercial/industrial, the person must provide written landowner concurrence for the associated institutional control in accordance with §350.111 of this title (relating to Use of Institutional Controls), unless the property is subject to zoning or governmental ordinance that is equivalent to the deed notice, VCP certificate of completion or restrictive covenant that otherwise would have been required.

Adopted September 2, 1999

Effective September 23, 1999

§350.54. Data Acquisition and Reporting Requirements.

(a) The person submitting data to the agency is responsible for the quality of the data.

(b) The person shall provide data that are of sufficient and documented quality to meet the program and project objectives. The data package, including the supporting quality control data generated by the laboratory, shall be available upon a reasonable request by the agency within and up to three years after submittal of the report. The project data quality objectives should be included in the APAR, unless a response action is self-implemented in which case the project data quality objectives should be included in the RACR. These data quality objectives should include, but are not limited to:

(1) the rationale for the sampling design, including the number, type, location and intended use of samples;

(2) the levels of required performance (e.g., assessment level, critical PCL, attenuation action level) and the applicable method quantitation limit in accordance with subsection (e)(3) of this section for each COC; and

(3) the precision, accuracy, representativeness, comparability, and data completeness objectives for the project.

(c) The report shall indicate the type of sample (e.g., composite or discrete sample) that was collected and the method or standard operating procedure by which it was collected. Samples shall represent the environmental media of the affected property being monitored or assessed. Field quality control shall be adequate to demonstrate that the COC is present or absent from the environmental media.

(d) The person shall ensure that the laboratory selected to perform the analyses of samples has in place an adequate and documented quality assurance program and the capability to meet the project and measurement objectives. The laboratory's quality assurance program must be compliant with the requirements in Chapter 25 of this title (relating to Environmental Testing Laboratory Accreditation and Certification), as amended, by July 1, 2008. For data generated on or before July 1, 2008, the person shall ensure the laboratory's quality assurance program is consistent with:

(1) the International Organization for Standardization "Guide 25: General Requirements for the Competence of Calibration and Testing Laboratories (ISO 25, 3rd edition, 1990)", as amended, or

(2) the quality standards outlined in the National Environmental Laboratory Accreditation Program, as amended.

(e) The person shall ensure the data are generated by a laboratory performing the analytical methods that meet the intralaboratory performance standards for the method and that those performance standards are sufficient to meet the bias, precision, sensitivity, representativeness, comparability, and completeness, as specified in the project data quality objectives.

(1) The bias of the method may be demonstrated through the use of reference materials, comparison to alternative methods, or spiked samples.

(2) The precision of the method may be determined by evaluation of relative standard deviation or the relative percent difference through the use of replicate analyses.

(3) In order to address sensitivity requirements, the person shall select a standard available analytical method that provides a method quantitation limit below the necessary level of required performance for purposes of assessment as well as demonstration of conformance with critical PCLs. If it is not possible to achieve a method quantitation limit below the necessary level of required performance, and the COC does not meet the conditions of §350.71(k) of this title (relating to General Requirements), then the person shall select the standard available analytical method that provides the lowest possible method quantitation limit for that COC. The executive director may require that the person demonstrate that a lower method quantitation limit is not achievable or is not practicable, using standard available analytical methods.

(4) The method detection limit shall be verified after major instrument maintenance or major changes in instrumentation or instrument conditions. The person shall ensure that the laboratory has performed and has documented an initial demonstration of proficiency for the analysis of each COC and each method used, and has also demonstrated, in a scientifically valid manner, and has documented the method detection limit the laboratory can achieve. This demonstration and documentation shall be preparatory and method specific and include any cleanup method used. The method detection limit should be routinely checked for reasonableness.

(5) The representativeness of the method may be demonstrated by the laboratory through the use of proper storage, preparation, and subsampling techniques.

(6) The standard available method may either be a documented method from the U. S. EPA, American Society for Testing and Materials, other organizations nationally recognized as having scientifically acceptable methods, or the executive director, or a laboratory method that is completely documented in an appropriate Standard Operating Procedure. All methods derived by a laboratory must meet the quality control criteria recommended in U.S. EPA Test Methods for Evaluation of Solid Waste, Update III, as amended, unless the project and/or samples require less stringent quality control requirements than those recommended in U.S. EPA Test Methods for Evaluation of Solid Waste, Update III, as amended. Such projects or samples which require less stringent quality control shall be clearly identified and the rationale for lower levels of quality control shall be documented.

(A) Application of the method shall include the use of instrument calibration that brackets the value reported or includes a low standard that is below the necessary level of required performance, unless the method quantitation limit has been determined to be the necessary level of required performance in accordance with §350.78(c) of this title (relating to Determination of Critical Protective Concentration Levels). The calibration range shall yield results which demonstrate that the sample reporting level has not exceeded the necessary level of required performance after correction for sample weight or volume.

(B) Laboratory control samples must be used to demonstrate that the method can produce results for the COCs that meet the bias and precision requirements at or below the necessary level of required performance or at the method quantitation limit in a clean laboratory matrix. The matrix must be similar to the medium of the environmental samples. Results for a sample spike may be substituted for the laboratory control samples, if the bias and precision criteria have been met.

(f) The person shall identify any data that may be affected by laboratory deviations from the analytical method or by the laboratory's performance not meeting the project-required and/or method-required quality control acceptance criteria. The person shall also identify any data that may be affected by improper field procedures.

(g) The person shall be responsible for having all documentation readily available to demonstrate that the sample integrity has not been compromised and that an appropriate analytical method has been used, and shall provide all reasonable information requested by the executive director.

(h) The person shall:

(1) report all results (corrected for sample weight or volume, sample preparations, and/or laboratory adjustments) greater than the method detection limit that meet the qualitative identification criteria recommended in the analytical method used, and shall use a qualifier flag on all those results reported as greater than the method detection limit and less than the method quantitation limit; and

(2) report all non-detected results as less than the value of the sample detection limit; or

(3) report as otherwise requested by the executive director when such reporting as specified in paragraphs (1) and (2) of this subsection is not warranted.

(i) When reasonably appropriate, the executive director shall require persons to perform confirmation analysis for tentatively identified compounds.

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§350.55. Notification Requirements

(a) If in the course of the affected property assessment conducted pursuant to §350.51 of this title (relating to Affected Property Assessment) or in the course of complying with this chapter, a person collects any samples from property they do not own (i.e., leased lands and off-site properties), then the analytical results for those samples and any samples subsequently collected from that property that will be provided to the executive director, shall be made available to the owner of that property. The analytical results of any samples collected at any depth from within an easement/franchise area (e.g., municipal or private utility, right-of-way, etc.) exceeding Tier1 human health PCLs, which will be provided to the executive director, shall be provided to those current easement holders/franchisees. The information made available shall include at a minimum, all analytical results from the sample analyses along with the critical PCL values for the applicable land use classification. The person shall initially provide a notice of availability no later than at the time of submission of a plan and/or report for executive director review

which contains this information. Notices of availability shall be delivered to the chief clerk or city secretary for municipal entities. If an ecological exposure pathway is complete, but final ecological PCLs have not yet been established in accordance with §350.77 of this title (relating to Ecological Risk Assessment and Development of Ecological Protective Concentration Levels), then the person shall at a minimum provide the critical human health PCLs. Within 30 days of commission approval of the Ecological Risk Assessment (i.e., Tier 2 or 3) which contains the final ecological PCLs that shall be used under Remedy Standards A or B, the person shall make the ecological PCLs available to leaseholders to the extent they are known or obvious, and to the owner of the property where that ecological PCL is the critical PCL.

(b) If the person submits other information (i.e., evidence other than samples of environmental media collected from a particular property, such as but not limited to, COC distribution maps) to the executive director which indicates that a COC originating from on-site activities more likely than not exceeds a residential assessment level on property they do not own, then the person shall at a minimum make this information and the critical PCLs for the applicable land use classification available to the owner of the property. The required information shall also be provided to current easement holders/franchisees when there is other information that suggests Tier 1 human health PCLs are exceeded at any depth within an easement/franchise area (e.g., municipal or private utility, right-of-way, etc.). The person shall provide a notice of availability no later than at the time of submission of a plan and/or report for executive director review which contains this information. Notices of availability shall be delivered to the chief clerk or city secretary for municipal entities. If an ecological exposure pathway is complete, but final ecological PCLs have not yet been established in accordance with §350.77 of this title, then the person shall at a minimum provide the critical human health PCLs. Within 30 days of commission approval of the Ecological Risk Assessment (i.e., Tier 2 or 3) which contains the final ecological PCLs that shall be used under Remedy Standard A or B, the person shall make the ecological PCLs available to leaseholders to the extent they are known or obvious, and to the owner of the property where that ecological PCL becomes the critical PCL.

(c) The person shall provide notice of the availability of historical information (i.e., actual sampling and analysis data collected on the property described in subsections (a) and (b) of this section prior to these rules being applicable to that property) to the parties listed in subsections (a) and (b) of this section, as applicable, at the time of submission of the first plan and/or report which includes this same historical information to the executive director for review under this rule.

(d) When subsections (a), (b), or (c) of this section require information to be made available, the notice of availability shall indicate that information is available regarding environmental sample analysis results for the specific property, what information is available, and how to obtain that information (e.g., submit written request to identified contact point). Persons may use legible signs located in readily visible locations to provide notice when the use of signs provides effective notice of the availability of information. If signs are used, the person shall post and maintain the sign for a minimum of 180 consecutive days. To document that all required notices have been completed, the person shall provide a notarized statement of such fact including the names and addresses of persons receiving direct notice such as mail, personal contact, public meeting, fliers, etc., if any, to the executive director which is signed by the person or their appropriate authorized agent certifying that the required notifications have been completed. The notarized statement is to be provided to the executive director within 60 calendar days of

the date the notices are due, and may be included within any report submitted under this chapter that is to be submitted within this same time period. The person shall keep on file information which documents that notice was completed for a minimum of five years following the issuance of a no further action letter in accordance with §350.34(1) or (3) of this title (relating to No Further Action) for the affected property. The person shall provide the information which documents notice was completed when requested by the executive director. If the executive director determines that the notice was not sufficient (e.g., it is not factual or clear, or not all appropriate parties were notified) then the person shall complete the notice in a sufficient manner.

(e) When there is an actual or probable human exposure to a COC at a concentration which exceeds the Tier 1 human health PCL (e.g., not ^{GW}Soil in this instance) established in accordance with Subchapter D of this chapter (relating to Development of Protective Concentration Levels) for the applicable land use and exposure pathways (e.g, direct contact to soils with concentrations of COCs exceeding the ^{Tot}Soil_{Comb} PCL, or ingestion of groundwater with concentrations of COCs exceeding the ^{GW}GW_{Ing} PCL, but not including ^{GW}Soil), the person shall:

(1) provide notice, as soon as possible, but no later than 60 calendar days from receipt of the laboratory analysis from the performing laboratory, to those actually or probably exposed, the property owner, and the executive director. The determination of those who could be exposed shall consider at a minimum tenants and leaseholders; human activity patterns at the affected property; presence of any areas of congregation or recreation such as but not limited to playgrounds, natural areas, or green belts, or break areas; the distribution and concentration of COCs; conditions of any structures which may allow or prevent exposure to COC in soils, water or vapors; and the source of drinking water. As new information becomes available which indicates that additional parties could be exposed, then those additional parties and the executive director shall be notified as soon as possible, but not later than 14 days of the date actual or probable exposure is determined; unless the actual or probable exposure was determined by additional sampling results in which case notice must occur no later than 60 days from the date of receipt of the laboratory analyses from the performing laboratory.

(2) ensure that the notice indicates that information is available regarding environmental sample analysis results for the specific property, that exposure to COCs is possible given existing conditions, the critical human health PCLs (Tier 1,2,or 3), how the exposure could be occurring, that more information is available upon request, what that additional information is, and how to obtain the additional information (e.g., submit written request to contact point).

(3) use and maintain legible signs to provide public notice in instances where potential exposure for publically accessible areas such as playgrounds or other similar situations may occur. The person shall maintain the sign so long as the actual or probable exposure conditions exist.

(4) document that all required notices have been completed by providing a notarized statement of such fact including the names and addresses of persons receiving direct notice such as mail, personal contact, public meeting, fliers, etc., if any, and to the executive director which is signed by the person or their appropriate authorized agent certifying that the required notifications have been completed. The certification is to be provided to the executive director within 30 calendar days of the date the notices are due, or within a report to be submitted under this chapter within this same time

period. The persons shall keep on file information which documents that notice was completed for a minimum of five years following the issuance of a no further action letter in accordance with §350.34(1) or (3) of this title for the affected property. The person shall provide the information which documents notice was completed when requested by the executive director. If the executive director determines that the notice was not sufficient (e.g., it is not factual or clear, or not all appropriate parties were notified), then the person shall complete the notice in a sufficient manner.

(f) Once a party identified in subsections (a), (b), or (c) of this section provides a written request for the information required to be made available in subsections (a), (b), or (c) of this section from the person providing the notice and at the address provided in the notice, the person must deliver the information to the requestor within 14 calendar days of the date of receipt of the request.

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