

ENVIRONMENTAL PROTECTION

OFFICE OF LEGAL AFFAIRS

Notice of Receipt of Petition for Rulemaking

Remediation Standards, N.J.A.C. 7:26D

Non-residential soil remediation standard for hexavalent chromium

Petitioners: Interfaith Community Organization, GRACO Community Organization, and Natural Resources Defense Council

Take notice that on May 4, 2009, the Department of Environmental Protection (Department) received a petition for rulemaking pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 7:1D-1.1 from Interfaith Community Organization, GRACO Community Organization, and Natural Resources Defense Council (petitioners). Petitioner Interfaith Community Organization is based in Hudson County and comprises religious congregations in Jersey City and Hoboken and individual residents of the county. Petitioner GRACO is a community organization made up of residents of several streets in Jersey City. Petitioner Natural Resources Defense Council is a national, not-for-profit environmental advocacy organization. The petitioners request that the Department amend the Remediation Standards at N.J.A.C. 7:26D to include a non-residential soil remediation standard for hexavalent chromium protective of human health. Concurrently with this petition, petitioners submitted a petition requesting that the Department amend the soil remediation standards to include a residential soil remediation standard for hexavalent chromium, which petition is the subject of a notice of receipt published elsewhere in this issue of the New Jersey Register.

The petitioners assert that Hudson County suffers from a legacy of widespread chromium contamination from toxic waste and byproducts of former large-scale production of hexavalent chromium chemicals by industry in Jersey City and Kearny. The petitioners state that hexavalent chromium is a known Class A human carcinogen, and has been a regulated groundwater quality parameter and safe drinking water parameter for decades. In addition, petitioners state that the National Toxicology Program has recently confirmed hexavalent chromium as a carcinogen via the ingestion route. The petitioners assert that the Department has no health-based remediation standards for hexavalent chromium in soil and currently relies on insufficiently protective and inconsistent site-by site determinations based on outdated scientific information. The petitioners further assert that the Department has obtained updated scientific information to develop and implement a protective human health-based chromium soil remediation standard.

The petitioners state that applying a human cancer slope factor estimated to be $0.5 \text{ (mg/kg/day)}^{-1}$ to equation 3 in N.J.A.C. 7:26D, Appendix 2, yields a non-residential soil standard for hexavalent chromium of 6 mg/kg. The petitioners request the following amendments to the Remediation Standards, N.J.A.C. 7:26D:

1. Amend Appendix 1, Table 1B (Non-Residential Direct Contact Health Based Criteria and Soil Remediation Standards) to include the ingestion-dermal health based criterion of 6 mg/kg for the contaminant hexavalent chromium (CAS No. 18540-29-9);

2. Amend Appendix 1, Table 1B, to include a “practical quantitation level” or “PQL” for the contaminant hexavalent chromium (CAS No. 18540-29-9), based upon USEPA Method 6800, “Elemental and Speciated Isotope Dilution Mass Spectrometry,” from USEPA’s Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, also known as SW-846; and

3. Amend Appendix 1, Table 1B, to include the non-residential direct contact soil remediation standard of 6 mg/kg for the contaminant hexavalent chromium (CAS No. 18540-29-9).

In accordance with N.J.A.C. 7:1D-1.1, the Department will subsequently mail to the petitioner and file with the Office of Administrative Law a notice of action on the petition.

DATE

Janis E. Hoagland, Director
Office of Legal Affairs