

# Hazardous Waste Program



## Program Description

**DRAFT**

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## **ACRONYMS**

AA – Administrative Assistant  
AAC – Alaska Administrative Code  
AAG – Assistant Attorney General  
ADEC – Alaska Department of Environmental Conservation  
AS – Alaska Statute  
CA – Compliance Assistance  
CATS – Compliant Automated Tracking System  
CFR – Code of Federal Regulations  
CSP – Contaminated Sites Program  
EPA – United States Environmental Protection Agency  
EPM – Environmental Program Manager  
EPS – Environmental Program Specialist  
FTE – Full Time Equivalent  
ID – Identification  
LQG – Large Quantity Generator  
MOA – Memorandum of Agreement  
NOV – Notice of Violation  
OJT – On the Job Training  
PCN – Position Control Number  
QAPP – Quality Assurance Project Plan  
RCRA – Resource Conservation and Recovery Act  
SNC – Significant Non-Complier  
SQG – Small Quantity Generator  
TSDF – Treatment Storage or Disposal Facility  
VSQG – Very Small Quantity Generator

## INTRODUCTION

The Alaska Department of Environmental Conservation (ADEC) Hazardous Waste Program is established to ensure that all hazardous waste generated in the state is handled, treated, and disposed according to regulations, in a manner that conserves, improves, and protects natural resources and the environment, controls pollution, and enhances the health, safety, and welfare of the people of the state and their overall economic and social well-being. Regulatory compliance is managed for hazardous waste generators, treatment, storage, and disposal facilities (TSDFs), transfer facilities, and transporters through a combination of permits and authorizations, inspections, monitoring, enforcement, and technical assistance. This document is being developed as a general guide for the operation of the program and to apply to the United States Environmental Protection Agency (EPA) for approval of the ADEC program to regulate hazardous waste management for Alaska.

This document will include discussions of the scope, coverage, and processes of the program as related to federal requirements for the Resource Conservation and Recovery Act (RCRA), Subtitle C. The structure of the program finances and personnel is also included. The bulk of this document will discuss the procedures for the various aspects of regulating hazardous waste management.

The program description will be reviewed at least every two years to ensure it meets program standards and current hazardous waste regulations and will be updated periodically to address any changes. Updates may include changes to the existing language or additions to address specific changes in program processes or federal or state regulations. All significant revisions will be submitted to EPA for approval.

## REGULATORY SCOPE

The ADEC Hazardous Waste Program encompasses the full scope of hazardous waste regulated by EPA in Alaska and has established the Alaska Hazardous Waste Regulations in Title 18, Chapter 62 of the Alaska Administrative Code (18 AAC 62) to comply with the requirements of the Resource Conservation and Recovery Act (RCRA), Subtitle C. The Alaska Hazardous Waste Regulations directly adopt and incorporate the federal hazardous waste regulations of Title 40, Part 260 of the Code of Federal Regulations (40 CFR 260), 40 CFR 261, 40 CFR 262, 40 CFR 263, 40 CFR 264, 40 CFR 265, 40 CFR 266, 40 CFR 267, 40 CFR 268, 40 CFR 270, 40 CFR 273, 40 CFR 279, and administrative requirements of 40 CFR 124, revised as of July 1, 2022. Although applicable regulations are adopted to apply in the state, EPA administers regulations in relation to transboundary movements of hazardous waste and manifest requirements. A memorandum of understanding (MOU) between ADEC and EPA details each party's responsibilities (Appendix A).

The Hazardous Waste Program has chosen to expand four requirements beyond the federal regulations. First, annual notification will be required of all hazardous waste handlers (18 AAC 62.335, 420, 522, 622, and 842) In addition, TSDFs will be required to complete a full EPA 8700-13A/B report each year, and for the first five years after the Hazardous Waste Program is authorized, all LQGs will be required to submit the report annually. After the first five years,

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LQGs will notify annually, and revert to biennial reporting. The notification and reporting requirements are more frequent than the federal reporting requirements for large quantity generators (LQGs), which is biannual, and small quantity generators (SQGs), which is quadrennial, and includes reports for TSDFs and notification for transporters. This will help the program establish a better record of the generation and movement of hazardous waste in the state and keep a better record of facilities and contacts. This requirement is more stringent than the federal regulations.

Second, for purposes of groundwater monitoring, the regulations adopt *Statistical Analysis of Groundwater Monitoring at RCRA Facilities – Unified Guidance*, March 2009 (Unified Guidance) in 18 AAC 62.525(b). This document is used as a guide for determining the most effective statistical methods for analyzing groundwater data for detection monitoring under 40 CFR 264.97 and 40 CFR 264.98. By adopting the guidance, some limits on the specific methods chosen are introduced, making this more stringent than the federal regulations.

Third, 18 AAC 62.527 requires that corrective action for a release from a solid waste management unit must meet both the requirements under RCRA and the state requirements under the Contaminated Sites Program in 18 AAC 75.300-18 AAC 75.396. The state regulations require specific procedural requirements for cleanup, and in some cases more stringent standards for soil and groundwater. Where standards differ between other state regulations and RCRA regulations, the most stringent of the standards will be used (18 AAC 62.532 and 18 AAC 62.632). These requirements are more stringent than the federal regulations.

Fourth, the regulations include electronic waste as universal waste (18 AAC 62.205, 1110, 1135, and 1390) which results in streamlined handling requirements if the electronic waste is properly recycled. Electronic waste is a fast-growing source of hazardous waste and presents difficulty in making a hazardous waste determination for the generator. This will reduce the onus on the generator to make a difficult waste determination, will encourage recycling versus disposal in a landfill, and because the waste will not be counted toward generator status, will allow SQGs and very small quantity generators (VSQGs) to maintain a less complex generator status. Allowing electronic waste to be managed as a universal waste is broader in scope than federal regulations.

In addition to adopting the federal hazardous waste regulations, the Hazardous Waste Program also references requirements of 18 AAC 15 (Administrative Procedures) regarding appeal of a decision. The requirements of 18 AAC 62.1020 adopts portions of 40 CFR 124 specific to RCRA Subtitle C administrative procedures for permits.

### Updating Regulations

ADEC expects to update 18 AAC 62 to address changes in the federal RCRA regulations. In addition, the regulations may be updated for state specific changes that are more stringent or broader in scope than the federal regulations. This process will include submitting the proposed regulations and any changes to the Program Description to EPA for review and approval, as well as a review by the ADEC Commissioner and the Department of Law. Changes to regulations also require a 30-day public notice process, and signature and filing by the Lieutenant Governor.

## ORGANIZATION AND STRUCTURE

ADEC is a regulatory agency within the executive branch of the Alaska State Government and is responsible for environmental protection in Alaska. Appendix B provides the applicable organizational charts for the Hazardous Waste Program.

### Office of the Commissioner

The Office of the Commissioner oversees the activities of all the ADEC Divisions, provides direction for the Department, establishes Department objectives, and assures performance. The Commissioner is appointed by the Governor and serves as spokesperson for the Governor on environmental matters and adopts all ADEC regulations. The RCRA legislation and administrative code provide that all permits be issued by the Commissioner or the Commissioner's designee. The Commissioner retains the final decision-making authority on all agency actions relating to permit issuance, compliance, and enforcement. The Department consists of five divisions: Information and Administrative Services; Water; Air Quality; Environmental Health; and Spill Prevention and Response.

### Division of Administrative Services

The Division of Administrative Services provides several support services for the Department, including finance and accounting, procurement, and preparation of the annual budget. The Division of Administrative Services provides ADEC with planning and technical support through the centralized electronic network system, including data management, desktop support, and computer hardware and software assistance. The Environmental Crimes Unit, within the Division of Administrative Services, conducts criminal investigations and, when appropriate, initiates criminal enforcement when violations are intentional, knowing, reckless, or negligent. Working closely with staff and the Department of Law, the Environmental Crimes Unit has statewide responsibility to investigate and prosecute the most egregious violations of environmental law.

### Division of Environmental Health

The Division of Environmental Health provides clear standards and technical assistance to ensure environmental protection, safe food, and safe drinking water for all Alaskans. The Director of Environmental Health oversees the Laboratory Services Program, the Office of the State Veterinarian, the Food Safety Program, the Drinking Water Program, and the Solid Management Program.

### Solid Waste Management Program

The Solid Waste Management Program is housed within the Division of Environmental Health and includes the Solid Waste Program, the Hazardous Waste Program, and the Pesticides Control Program. An Environmental Program Manager (EPM 3) (PCN 18-7387) provides senior level management over all facets of the three programs.

### Hazardous Waste – Core Program

The Hazardous Waste Program is the lead program for implementation of RCRA, Subtitle C in Alaska. The core program team consists of an EPM 1 (PCN 18-7874) and five Environmental Program Specialists (EPS) (PCNs 18-7881, 18-7882, 18-7883, 18-7884, and 18-7980). The



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Hazardous Waste Program administers and implements 18 AAC 62 in Alaska and has the lead in coordination with EPA for RCRA. This includes permitting, compliance inspections, corrective action management, technical assistance, and enforcement.

In this Program Description, the term Hazardous Waste Program refers to the management and staff of the core program and specific actions taken in implementation of 18 AAC 62 in Alaska by the management and staff of the core program, unless otherwise indicated. Position descriptions for the Hazardous Waste Program are included in Appendix C.

### Other Assisting Programs

#### Solid Waste Management Program

Staff within the larger Solid Waste Management Program assist the Hazardous Waste Program. The Program Coordinator (PCN 18-7993) works on regulatory process management and research, public notices, and other internal department processes. The Solid Waste Management Program EPS 4 (PCN 18-7576) provides technical expertise on groundwater monitoring, hydrogeology, quality assurance and quality control, and sampling requirements.

#### Environmental Health Director's Office

Administrative support is provided by the Division of Environmental Health's Director's Office. Contributing staff include an Administrative Operations Manager, Accountant 4, Administrative Officer, and Administrative Assistant 3. These staff provide fiscal management, accounting, grant administrative assistance, and personnel assistance. In addition, the Program Coordinator 2 within the Director's Office is providing project management assistance with the RCRA C program authorization effort.

#### Contaminated Sites Program

The Contaminated Sites Program in the ADEC Division of Spill Prevention and Response provides oversight of corrective actions under the state cleanup requirements. The Hazardous Waste Program coordinates with program senior management and staff level EPS personnel in the Contaminated Sites Program to provide support on RCRA corrective action activities to ensure that the projects meet any additional RCRA standards and reporting.

#### Alaska Department of Law

The Environmental Section of the Department of Law advises and represents the Department in all aspects of its duties and functions. The Department of Law statewide Environmental Section is staffed by 8 full-time attorneys, one paralegal, and one law office assistant. Program staff work closely with attorneys at Department of Law Environmental Section on several aspects of the Hazardous Waste Program. Hazardous waste regulations are developed in consultation with the Department of Law. The regulations are reviewed and approved by an Assistant Attorney General (AAG) and by the statewide Regulations Attorney (see AS 44.62.060). The Department of Law assists with informal reviews and adjudicatory hearings, and with civil enforcement cases. Program staff may consult with Department of Law, as appropriate, in permit drafting and development and in preparing responses to public comments received on draft permits. AAGs familiar with the Hazardous Waste Program will be involved in the review of any guidance drafted by the Program.

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The Criminal Division of the Department of Law also employs an environmental crimes prosecutor within the Office of Special Prosecutions and Appeals who will work with the ADEC Environmental Crimes Unit and be responsible for the criminal enforcement of Alaska's environmental statutes and regulations.

### Staffing Estimate

The breakdown below includes an estimate of 10 full time equivalents (FTEs) to operate the directives of the Hazardous Waste Program (Table 1). For issues where technical expertise is not available within ADEC, we will hire an appropriate contractor to assist the Hazardous Waste Program.

Table 1. Program FTE Estimate

Position	FTE	Position	FTE	Position	FTE
SWMP EPM 3	.35	HW EPS 1/2/3	1.0	Accountant 4	.20
HW EPM 1	1.0	HW EPS 1/2/3	1.0	CSP EPM 1	.25
HW EPS 1/2/3	1.0	SWMP PC 1	.25	CSP EPS 3	1.0
HW EPS 1/2/3	1.0	SWMP EPM 4	.25	CSP EPS 3	1.0
HW EPS 1/2/3	1.0	EH AA 3	.20	Attorney 3	.50
				<b>Total</b>	<b>10.0</b>

## PROGRAM FUNDING AND BUDGET

ADEC anticipates a two-year budget of \$3,191,935, broken down into three fund sources: General Fund, Federal Funding, and Cost Recovery. A total of 10 full time equivalent positions are expected to work on administration of the hazardous waste program in Alaska, as listed in Table 1. These positions include direct implementation, administrative support, and technical support.

The Alaska Legislature approves the Operating Budget for the following fiscal year during their regular session, which is held starting in January each year. The Alaska state fiscal year extends from July 1 to June 30 of the following year. The positions proposed for working on administration of the Hazardous Waste Program are currently funded for State Fiscal Year 2024.

### Fund Sources

Administration of the hazardous waste program in Alaska is anticipated to receive funding from the following fund sources.

#### General Fund

The Alaska General Fund is one of the fund sources for the Hazardous Waste Program. General fund resources include both the increment received beginning in State Fiscal Year 2023 to pursue hazardous waste authorization, and funding for existing positions that will also be used to support the program.

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Federal Funding

The Hazardous Waste Program anticipates EPA funding of \$400,000 per year, starting in State Fiscal Year 2025, for implementation of Alaska's Hazardous Waste Program. Alaska will contribute 25% matching funds, which will come from the Alaska General Fund. For the purposes of this budget, the matching funds are included in the General Fund totals.

Cost Recovery

Implementation of Alaska's regulatory program will include support from ADEC's Contaminated Sites Program to manage contaminated site cleanups under state cleanup requirements. Funding for Contaminated Sites Program work is anticipated to come from cost recovery that is directly billed to responsible parties for work done in support of corrective action work. Responsible parties may include federal, state, or local government entities, as well as private entities. For the purposes of this budget, federal funding for cleanup of sites where the federal government is the responsible party are counted as part of Cost Recovery, rather than Federal Funding.

**Budget**

The Hazardous Waste Program anticipates program approval July 1, 2024, for the purposes of this budget, and as such, these budget tables cover State Fiscal Years 2025 and 2026.

Table 2: Alaska Hazardous Waste Program Budget – SFY 2025 and SFY 2026

Category Breakdown by Fund Source - SFY 2025				
Category	General Fund	Federal	Cost Recovery	Total
Personal Services	\$720,342	\$301,703	\$302,988	\$1,325,033
Travel	\$8,750	\$26,250	\$5,000	\$40,000
Other	\$26,100	\$0	\$0	\$26,100
Supplies	\$15,000	\$0	\$0	\$15,000
Indirect/CCst	\$49,072	\$72,047	\$12,250	\$133,369
Total	\$819,264	\$400,000	\$320,238	\$1,539,502

Category Breakdown by Fund Source - SFY 2026				
Category	General Fund	Federal	Cost Recovery	Total
Personal Services	\$802,984	\$301,703	\$328,476	\$1,433,163
Travel	\$8,750	\$26,250	\$5,000	\$40,000
Other	\$26,530	\$0	\$0	\$26,530
Supplies	\$15,000	\$0	\$0	\$15,000
Indirect/CCst	\$52,413	\$72,047	\$13,280	\$137,740
Total	\$905,677	\$400,000	\$346,756	\$1,652,433

Breakdown by fund source			
Fund Source	SFY 25	SFY 26	Total - 2 year
General Fund	\$819,264	\$905,677	\$1,724,941
Federal Funding	\$400,000	\$400,000	\$800,000
Cost Recovery	\$320,238	\$346,756	\$666,994
Total	\$1,539,502	\$1,652,433	\$3,191,935

Additional budget details, including the personal services cost details for the FTEs listed in Table 1, can be found in Appendix D.

## TRAINING PLAN

The Hazardous Waste Program team will receive training in all aspects of hazardous waste regulations and management, but their individual duties will focus on one of the following areas: permitting, compliance and enforcement, corrective action and site closure, or RCRA data management and regulatory research, with additional training and mentoring by ADEC or EPA in their specialization. Table 3 includes the minimum training requirements for an Environmental Program Specialist in the Hazardous Waste Program.

Table 3. EPS Training Program

<b><u>EPS Training</u></b>
EPA RCRA Training Modules: 32 modules
Fed Talent RCRA Inspector Training:
Field Health & Safety Training - 24 hour
13 Modules
On the Job Training (OJT) - Inspector requirements:
Review one completed LQG and one completed TSDF inspection report
Accompany an experienced, credentialed Inspector on at least 1 LQG & 1 TSDF Inspection
Conduct at least 1 LQG and 1 TSDF OJT inspection while being observed by Credentialed Inspector
OJT Permitting/Corrective Action requirements:
Review a TSDF Permit Application or Application Modification and Permit Process
Review a Corrective Action Plan and Process
Review a Closure Plan and Process
Other Trainings:
Hazwoper 40 Hour
ADEC Inspector Training/Credentials
McCoy RCRA
PFAS – ITRC Online Trainings
GW Fate and Transport
GW Monitoring Requirements for Hazardous Waste
GW Report Review (Solid Waste Management Program & OJT)
RCRAInfo Training
E-Manifest Training
Western States Enforcement Training
Other trainings as assigned

## PROGRAM PROCEDURES

### Technical Assistance

Providing technical assistance for hazardous waste handlers and the public is one of the most impactful functions of the Hazardous Waste Program. We will ensure that appropriate resources, whether in print, electronic, or human, will be maintained to ensure that the Hazardous Waste Program can provide the most up to date guidance on technical questions. This will also be supported by producing written guidance that is readily available on our website regarding typical hazardous waste management issues.

### Permitting

Permitting hazardous waste TSDFs is a primary function of the Hazardous Waste Program. The Hazardous Waste Program is responsible for issuing new permits and renewing existing permits. The permit process is initiated with the owner or operator of a hazardous waste TSDF submitting of a Part A permit application on EPA form 8700-23. In addition, Part B of the permit application, which contains the applicable information required in 18 AAC 62.1030 (40 CFR 270.14 - 270.28) must also be submitted for the application to be reviewed.

#### Siting of New TSDF in Alaska

For a new facility, in addition to the requirements of 18 AAC 62, the Hazardous Waste Program, manages the requirements of 18 AAC 63, for the Siting of a Hazardous Waste Management facility, prior to considering a full permit application. These regulations require a pre-application meeting at least one year prior to intended construction of the facility to discuss location and permitting requirements. Under Alaska Law, the siting of a new hazardous waste facility must receive approval under Siting of Hazardous Waste Management Facilities in 18 AAC 63. The requirements of 18 AAC 63 are not applicable to an existing facility.

#### Permit Application Process

Once the permit application, Parts A and B, are submitted, the Hazardous Waste Program will review the application for completeness. If the application is incomplete, the Hazardous Waste Program will return the application and indicate the insufficiencies in the application – a new permit application addressing the insufficiencies must be submitted. If the application is complete, the Hazardous Waste Program will notify the applicant and perform a more comprehensive review to ensure the facility will meet the applicable RCRA requirements. During this review, additional information may be required from the applicant to address any details before the Hazardous Waste Program issues a draft permit decision.

#### Comprehensive Application Review

The comprehensive application review will be performed by an EPS with the appropriate training and experience. This review will include the details of the facility operations and design, as well as the Part B application to address regulatory requirements. Additional information will be requested to ensure the facility will meet all requirements.

#### Denial

After the comprehensive review, the Hazardous Waste Program may deny a permit application under 18 AAC 62.1030 (40 CFR 270.29) for cause. In this case, a notice of intent to deny will be

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issued to the applicant, noticed to the public, and will include a statement of basis and/or fact sheet that provides the basis, facts, and legal or policy issues considered in denying that permit. If the final decision is that the tentative decision to deny the permit was incorrect, the notice of intent to deny will be withdrawn and the process will proceed to preparing a draft permit. If the decision to deny the permit stands, a final denial statement will be issued.

### Draft Permit

For an initial TSDF permit, or a significant change to a permit, the Hazardous Waste Program will prepare a draft permit based on the information in the permit application and other information gathered in the comprehensive review, according to 18 AAC 62.1020 (40 CFR 124.6). A decision document and/or permit fact sheet that provides the basis, facts, and legal or policy issues considered in preparing the permit will also be prepared (40 CFR 124.7 & 40 CFR 124.8). Prior to public notice of the draft permit, the Hazardous Waste Program will allow the applicant 10 working days to review and comment on the permit and permit conditions and negotiate any flexible permit conditions.

### Public Notice/Public Comment

The Hazardous Waste Program will publish a minimum 45-day public notice of the draft permit or notice to deny a permit, including a decision document and/or factsheet as required by 18 AAC 62.1020 (40 CFR 124.4 to 40 CFR 124.10). Additional notice time may be considered for permits that may be controversial. The public notice will be published in at least two consecutive issues of a major newspaper in the affected area, on the State of Alaska website, and via other appropriate methods to reach the affected population. In addition, the notice will be emailed to any parties expressing interest in the facility, applicable state agencies, and the hazardous waste listserv.

For a draft permit that engenders a significant degree of public interest or opposition, and where a public hearing (40 CFR 124.12) is requested by one or more commenters, the Hazardous Waste Program will hold a public hearing. Public notice of the hearing must also be published at least 30 days prior to the hearing. Testimony received at a public hearing will be considered part of the public comment record.

A summary of the public comment and a discussion of substantive issues raised in the public comment period or at a public hearing will also be included at the time the permit is issued or denied.

### Permit Modification, Revocation, and Renewal

Permits may be modified or revoked at the request of the permittee, due to facility or regulatory changes, or the initiative of the Hazardous Waste Program, for just cause. When requested by the permittee, proposed modifications are categorized as Class 1, Class 2, or Class 3 based on the chart in Appendix 1 of 40 CFR 270.42 (18 AAC 62.1050). The classifications and requirements are based upon the magnitude of impact to the facility, human health, and the environment, with Class 3 modification being the most significant changes. All modifications require submission to the Hazardous Waste Program; Class 2 and Class 3 modifications also require that the permittee must notify the public and interested parties of the proposed change, allow 60 days for public comment, and hold a public meeting within the comment period to address the proposed changes. The Hazardous Waste Program may modify a permit

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to address facility changes, new information, new requirements, or alternative compliance schedules. All modifications require submittal of permit application information relevant to the changes.

The Hazardous Waste Program may revoke (and may reissue) a permit for applicable cause under 18 AAC 62.1050 (40 CFR 270.4), including transfer of a permit, non-compliance, failure to disclose or misrepresentation of relevant facts, or a determination that the facility endangers human health or the environment.

Permits may be issued for no more than ten years but will be reviewed by the Hazardous Waste Program at least every 5 years to determine the validity of the permit conditions. A permit may be renewed by the facility submitting a new permit application no later than 180 days prior to the expiration date of the existing permit. All other permit review requirements remain the same.

### Standardized Permits

One permitting option for some facilities is a standardized permit. This permit is designed for facilities that only store or non-thermally treat hazardous waste on-site in tanks, containers, or containment buildings. The Hazardous Waste Program can issue a standardized permit under 18 AAC 62.800 – 18 AAC 62.895 (40 CFR 267) and 18 AAC 62.1020 (40 CFR 124.200 – 40 CFR 124.214). A standardized permit contains a uniform portion related to the type of facility and a supplemental portion that is specific to the facility.

The owner or operator of a facility must submit a written Notice of Intent to operate under a standardized permit that has been developed by the Hazardous Waste Program, including all the information required in 18 AAC 62.1090 (40 CFR 270.260 – 270.280). The Hazardous Waste Program will review the Notice of Intent and determine if the facility qualifies for a standardized permit and will be public notice the permit. Alternately, if the facility does not qualify, a complete permit application will be required. Most general requirements for the permit process apply for a standardized permit.

### Interim Status

Interim status under 18 AAC 62.600-18 AAC 62.699 applies to existing facilities that have been determined to require a permit and have submitted a Part A application and notification of Interim Status. There are not currently any facilities in interim status in Alaska. The status will apply until a permit is issued and the regulations of 18 AAC 62.500-18 AAC 62.599 (40 CFR 264) and specific and general permit conditions of the permit apply. Alternately, if a permit application for the facility is denied, corrective action will be required under a compliance order.

### Other Permit Types

Some variations on traditional permits are used in specific situations that may be issued under 18 AAC 62.1070. These include:

#### Emergency Permit

A temporary Emergency Permit (40 CFR 270.61) may be issued in cases of imminent and substantial endangerment to human health or the environment. The permit is valid for

90 days and incorporates the relevant conditions of a permit. The permit must follow the public notice requirements.

#### Permit by Rule

These permits are self-implementing and only require that the permittee meet the requirements of their specific section (40 CFR 270.60).

- Ocean disposal from barges or vessels
- Injection wells
- Publicly owned treatment works

#### Hazardous Waste Incinerator Permit

No active hazardous waste incinerators exist within Alaska. Should the Hazardous Waste Program receive a permit application (40 CFR 270.62), we will coordinate with the Air Quality Program to ensure that all regulatory requirements for RCRA and Air Quality are met and process the application accordingly.

#### Land Treatment Demonstrations

For the purpose of allowing a facility to meet the treatment demonstration requirements of 18 AAC 62.550 (40 CFR 264.272), the Hazardous Waste Program may issue a treatment demonstration permit that contains the requirements necessary to meet the standards for field and laboratory tests. This will be a two-phase permit, with the first phase identifying the requirements for the demonstration, and the second phase of the permit will include conditions to meet all the applicable requirements of 18 AAC 62.550.

#### Research, Development, and Demonstration

The Hazardous Waste Program may issue a research, development, and demonstration permit (40 CFR 270.65) for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated. The permit would provide for the construction and operation of a facility, include the necessary requirements for to protect human health and the environment, and be limited to a one-year duration with the possibility of three additional renewals.

#### Boilers and Industrial Furnaces Burning Hazardous Waste

No facilities exist in Alaska. Should the Hazardous Waste Program receive a permit application (40 CFR 270.66), we will coordinate with the Air Quality Program to ensure that all regulatory requirements for RCRA and Air Quality are met and process the application accordingly.

#### Remedial Action Plans

A remedial action permit (40 CFR 270.68) may be issued to authorize the treatment storage or disposal of hazardous remediation waste at a remediation waste management site. Where this is allowable, and all the required information is submitted, it will be included as part of the overall corrective action approval process for the Hazardous Waste Program and include the appropriate public notice process.

#### Post-Closure Permit

A post-closure permit is required for a facility that includes a surface impoundment, land treatment unit, or waste pile that is being closed via removal of the waste that has not met the closure requirements of 18 AAC 62.500-18 AAC 62.599.



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### Compliance Order-Based Permit

Where applicable, a compliance order that specifies the requirements for a unit to meet the requirements of the regulations for purposes of closure may be adopted into a permit so that all conditions apply.

### Facility/Permit Closure

If a facility ceases hazardous waste handling operations, the owner or operator must remove all hazardous waste and hazardous waste residues, contaminated soils, structures, and equipment, and meet all closure requirements under 18 AAC 62.530 and 18 AAC 60.532 or 18 AAC 62.630 and 18 AAC 632. If waste is intended to remain in place at the facility, a post-closure monitoring period is required. The operating permit will be modified to a post closure permit including the requirement for post-closure monitoring and engineering and institutional controls.

### Financial Assurance

Facilities that require a permit must also demonstrate financial assurance under 18 AAC 62.535, 18 AAC 62.635, and 18 AAC 62.870 (40 CFR 264.110 – 264.120; 40 CFR 265.140 – 265.150; and 267.140 – 267.151, respectively) for the cost of closure and post-closure requirements of the facility. Estimates for the cost of closure and post-closure must be the cost calculated for a third party to perform closure and post-closure at the facility and must be approved by the Hazardous Waste Program. The regulations outline the options to demonstrate financial assurance. The estimates for financial assurance must be updated annually, reported to ADEC, and the chosen mechanism updated accordingly.

### Appeal

A person who is directly and adversely effected by a final decision may request an informal review or adjudicatory hearing of a permit under 18 AAC 62.1300 which refers to 18 AAC 15 (Administrative Procedures). The process information is included each permit or applicable decision:

*A person authorized under a provision of 18 AAC 15 may request an informal review of a contested decision by the Division Director in accordance with 18 AAC 15.185 and/or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. See ADEC's "Appeal a DEC Decision" web page <https://dec.alaska.gov/commish/review-guidance/> for access to the required forms and guidance on the appeal process. Please provide a courtesy copy of the adjudicatory hearing request in an electronic format to the parties required to be served under 18 AAC 15.200. Requests must be submitted no later than the deadline specified in 18 AAC 15.*

- Informal Review  
Under 18 AAC 15.185, a person may request informal review of a final decision by the Environmental Health Division director. The director will grant or deny a request for informal review. If the request is granted, in making a final decision, the director may affirm the contested decision, remand the entire decision to staff, or change the contested decision. As part of the final decision, the director will inform the requester and other parties of their right to seek an adjudicatory hearing under 18 AAC 15.200. An

informal review is not required before requesting an adjudicatory hearing before the Commissioner.

- **Adjudicatory Hearing**

Under 18 AAC 15.195 – 18 AAC 15.340, a person may request an adjudicatory hearing of a final decision before the Commissioner, as well as a stay. The Commissioner will deny or conditionally approve the request and refer it to the Office of Administrative Hearings for a recommended decision on whether the request meets requirements. If the Commissioner ultimately grants a request for an adjudicatory hearing, the department will publish notice of the action and the Commissioner will refer the matter to the Office of Administrative Hearings for briefing, completing the administrative record, and the hearing. The Office of Administrative Hearings will render a recommended decision, and the Commissioner will render a final decision. The hearing requester may appeal this final decision to state superior court.

An appeal does not automatically stay a permit or decision, but a stay may be requested. Unless a stay is approved, the requirements of the permit remain in force.

## **Environmental Monitoring**

### Visual

Visual monitoring of any hazardous waste management area by the operator is essential to ensure compliance with the regulations. For permitted facilities, the permit application must include a description, timeline, and checklist of visual monitoring activities (18 AAC 62.505 (40 CFR 264.15)). Generators must document visual monitoring under 18 AAC 62.301 (40 CFR 262.16 and 40 CFR 262.17). Hazardous waste handlers are required to save visual monitoring checklists and reports in the facility record for at least three years. Records will be reviewed during inspections and record audits.

### Groundwater

Groundwater monitoring is required for permitted hazardous waste units under 18 AAC 62.525 and 18 AAC 62.625 (40 CFR 264.90 – 264.99 and 40 CFR 265.90 – 265.94) and may be required for corrective action units to demonstrate that the unit is not impacting groundwater or that any impacts are mitigated. Groundwater monitoring reports must be submitted to the Hazardous Waste Program within 90 days of a monitoring event and will be reviewed by a Hazardous Waste Program EPS, with second level monitoring review from the Solid Waste Management Program EPS 4, to ensure that the monitoring plan and Quality Action Project Plan (QAPP) is being followed, and to address whether any change in constituent concentrations reflect impacts from the facility.

Groundwater monitoring report reviews include a review to determine if there is a significant change to groundwater quality and a transition to compliance monitoring or corrective action is required. Any required change in a facility groundwater monitoring program will be communicated to the facility owner/operator as soon as it is identified, and any required timelines will be initiated.

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A more detailed review that includes any notable problems in the monitoring activities, analyses, or reporting, including requirements for resolution will be submitted to the owner/operator, ideally prior to the next monitoring event.

### Surface Water

In some cases, the Hazardous Waste Program may under 18 AAC 62.525 (40 CFR 264.90(f)) require monitoring surface water bodies that may be impacted by the facility. Surface water results will be compared to the applicable Alaska Water Quality Standards. In the case of conflicting or missing standards, the Hazardous Waste Program will use the list of standards developed by the Solid Waste Program for RCRA, Subtitle D facilities, available on their website: <https://dec.alaska.gov/media/13067/surface-water-standards-table.pdf>. As with groundwater monitoring, reports must be submitted within 90 days of the monitoring event. A Hazardous Waste Program EPS, with appropriate training and oversight from the Solid Waste Management Program EPS 4, will review results to determine if any results exceed the water quality standards and whether the exceedance is likely to be related to the facility. Any exceedances will also be reported to the Water Quality Program, and Hazardous Waste Program will work in concert to determine compliance or enforcement measures.

### Air/Gas

Where air quality monitoring is required under 18 AAC 62.570 – 572 or 62.691 – 693 or other gas monitoring is required under a facility permit or order, reports of any exceedances are submitted to the Hazardous Waste Program at least semi-annually. Reports will be reviewed to ensure that the owner/operator responded to any exceedances in a timely and effective manner as required in the regulations. Any regular or ongoing exceedances will be reviewed for possible enforcement actions.

### Thermal

Thermal monitoring may be required of some facilities to evaluate impacts on permafrost. This may be required by permit condition, order, or agreement. Reports will be reviewed to ensure that the facility is not impacting the underlying permafrost and that permafrost degradation is not likely to impact the containment at the facility.

### Inspections

Inspections of TSDFs, generators, and transfer sites are one of the primary methods for ensuring that hazardous waste handlers are complying with the regulations. Each year the Hazardous Waste Program will perform inspections of hazardous waste handling sites. Our proposed inspection frequency is included below in Table 4.

Table 4. ADEC Annual Inspection Plan

Site Type	Number of Facilities per Year
Permitted Treatment, Storage, or Disposal Facilities (TSDF)	All active facilities inspected
Active Corrective Action Sites	20% of sites
Large Quantity Generators (LQG)	25% of active sites
Small Quantity Generators (SQG)	10% of active sites
Very Small Quantity Generators (VSQG)	As many as allowed by work time, location, and outreach program. At least 10 annually
Non-Compliers	
Other Inspections to respond to EPA directives	As needed

These will be comprehensive site inspections or alternately, an in-depth site records audit. A site records audit may be used as an alternative no more than once per year for TSDFs and for no more than 25% of all the inspections performed by the Hazardous Waste Program in each calendar year.

#### Records Audit

The Hazardous Waste Program may perform a records audit at a site if an onsite inspection is not possible. This is particularly useful if inspection travel must be canceled or postponed due to weather conditions. The records audit will be a comprehensive review of a facility's required records for the previous 3 years. Records may be reviewed based on previous required submittals and/or requested from the facility. This will include all records required to be kept in the operating record, including, but not limited to:

- Permit and permit application
- Facility inspections, both internal and external inspections
- Manifests and manifest exception reports
- Facility monitoring reports
- Corrective action records and reports

#### Onsite Inspection

An onsite inspection is used to determine the current state of compliance of a site with the regulations. Onsite inspections will be conducted by a Hazardous Waste Program EPS who is a fully trained and accredited RCRA Subtitle C inspector. While inspections will vary based on the type and design of a particular location, they require preparation and planning, will be recorded in writing or electronically, and will typically include the following steps:

- Site drive-by
- Opening conference
- Records review
- Site walk-through
- Staff interviews
- Closing conference

Any deficiencies noted will be recorded photographically where possible, discussed at the closing conference, and included in the Inspection report. The deficiencies will also be forwarded to the enforcement lead and manager for enforcement consideration.

Any environmental sampling that is performed by the Hazardous Waste Program as part of the inspection will be performed by a qualified sampler or contracted to a third party.

#### Inspection Report

A written report documenting the findings of an inspection will be sent to the site within 60 days of completing the inspection, when possible. The report will include:

- The date(s), scope, and purpose of the inspection.
- A list of the participating individuals.
- A brief discussion of the type of site and its compliance history.
- Any noted improvements at the site (if applicable)
- Any noted deficiencies at the site, and any corrections made while onsite or documented since the inspection.
- A photo log demonstrating improvements and/or deficiencies.
- A discussion of any pending enforcement action based on the deficiencies.

#### Compliance & Enforcement

The Hazardous Waste Program is responsible for the enforcement of the RCRA Subtitle C regulations as codified in 18 AAC 62. The primary goal of the program is to ensure that hazardous waste handlers comply with the regulations in 18 AAC 62, facility permit requirements, and compliance orders issued by the program. Enforcement should be predictable, timely, and appropriate to the nature and severity of the violation.

#### Complaint Response

Complaints from the public can be a valuable source of compliance information. The Hazardous Waste Program is committed to receiving, understanding, and properly addressing public complaints related to mishandling of hazardous waste.

A single individual will be assigned as the point of contact for public complaints. These may be registered via the ADEC website “Report a Suspected Violation” or “Report a Spill” web pages, or directly via phone or email. In all cases, the complaint will be forwarded to the point of contact and the manager for the program.

The point of contact will determine, with assistance from management, if needed, the proper order of response for the complaint. Regardless of the order of response, the point of contact will respond to the complainant, if their contact information was provided, within two business days to gather additional information and/or to report that the program is investigating the complaint, or to inform them that the complaint has been transferred to another entity and the contact information for that entity.

Other actions to be taken may include, but are not limited to:

- Determine if the complaint is a hazardous waste issue – if not forward the complaint to the correct entity to address the complaint and contact the point of contact for that entity by email or phone to confirm that they can address the situation;
- For chemical spills, notify Spill Prevention and Response;

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- Contact the Hazardous Waste Program specialist assigned to the site to clarify proper operating procedures for the site, which may require the specialist contacting the site to understand the possible compliance issue in the complaint;
- Work with site and compliance specialists to schedule an on-site inspection; or
- Coordinate with other ADEC programs potentially involved in addressing the complaint.

If the complaint is found to be legitimate, the site specialist and enforcement specialist will determine a path forward. The point of contact will be responsible for entering and updating information in the CATS database and RCRAInfo. In addition, the point of contact will be responsible for following up with the complainant once the complaint has been verified or determined to be unfounded to explain that ADEC did not find evidence of a violation, that the investigation is ongoing, or the outcome, once any enforcement action is completed.

Enforcement Determination

The primary tools used for compliance and enforcement are inspection and compliance monitoring. Regular comprehensive inspections will be performed at TSDFs and generators to ensure they are operating in compliance with the regulations. Environmental monitoring will be required by a facility permit, authorization, or compliance agreement. Anything that is determined not in compliance with the regulations will be evaluated to determine the appropriate level of enforcement response. For many minor violations, compliance can be achieved by providing awareness, guidance, and technical assistance to the responsible party. Other situations warrant additional enforcement action to ensure compliance and to deter future non-compliance.

To help determine the necessary level of compliance/enforcement action, several factors must be considered, including, but not limited to:

- the potential or actual impact to human health or the environment caused by the violation;
- the number of violations at the facility or by the handler;
- the knowledge and intent of the violator;
- the compliance history of the violator; and
- whether and how quickly the violation was corrected.

The Hazardous Waste Program will use the information in Table 4 to determine the appropriate enforcement response to a violation.

Significant Non-Complier

A hazardous waste handler may be designated a Significant Non-Complier (SNC) in the RCRAInfo database based upon the following:

- A history of environmental violations, especially similar ones;
- Multiple violations at a single site or multiple sites owned or operated by the handler;
- A violation that has or threatens exposure to human health or the environment;
- Failure to take immediate steps necessary to mitigate the violation; or
- An obvious or egregious violation.

The Hazardous Waste Program will evaluate each violation to determine if a handler should be designated a SNC. If a handler is designated a SNC, violations will be addressed with formal enforcement.

#### Compliance Assistance (CA)

Compliance assistance is an important option in determining a path forward for most minor violations. This may include providing individual technical assistance, working with the handler to develop creative solutions, identifying interim steps toward compliance, or providing applicable outreach material to address the violations. The violation and any compliance plan will be documented in the electronic file.

#### Informal Enforcement (IE)

An informal enforcement action is an important tool for addressing violations. Informal enforcement is warranted if the violation is beyond the scope of compliance assistance, a repeated violation at the same facility, akin to similar violation at multiple facilities under the owner/operator's control, may present potential impact to human health or the environment, or follows failure to correct a violation through compliance assistance. Informal enforcement is documented in a compliance letter or a Notice of Violation (NOV). The compliance letter or NOV documents the violation and clearly identifies the statutes, regulations, and/or permit conditions violated, the requirements for coming into compliance, and potential civil or criminal penalties for failing to comply. In addition, it establishes timelines for compliance goals and details for failure to meet those goals. If the conditions of the compliance letter or NOV are not met in a timely manner, the violation should move to formal enforcement.

#### Formal Enforcement (FE)

When a violation poses an imminent risk to human health or the environment, the responsible party has failed to respond to compliance assistance and/or informal enforcement action, or a responsible party is a serious repeat environmental violator, formal enforcement may be necessary. At this point, the EPM 3 and the Department of Law will be involved in the discussion of how to proceed.

In formal enforcement, the most common mechanism to address the violation is a Compliance Order by Consent that commits the violator to a specific series of actions to come into compliance with the regulations. Any formal enforcement will likely include a penalty.

Options for formal enforcement include:

- Compliance Order by Consent under AS 46.03.020 is an enforceable agreement that lists the terms or conditions negotiated between the Department and the violator to resolve violations. A Compliance Order by Consent is often used when the violator agrees to perform tasks in order to continue to operate while coming into compliance. A Compliance Order by Consent can contain a stipulated penalty clause for missed deadlines, avoidable delays, or other violations.
- Compliance Order under AS 46.03.850 is an administrative order that establishes steps that the violator must undertake in order to abate a violation. The Compliance Order is a

unilateral, non-judicial enforcement tool that differs from the Compliance Order by Consent in that it is not consensual.

- Nuisance Abatement Order under AS 46.03.810 is an administrative order that allows the Department to require a person guilty of creating or maintaining an air or land nuisance to abate the nuisance. If a person neglects or refuses to follow the abatement order, they may be charged with a class A misdemeanor.
- Emergency Order under AS 46.03.820 is an administrative order that temporarily abrogates the rights of the person upon whom the order is served. An Emergency Order will immediately stop an activity that presents an imminent danger to human health or welfare or that is likely to cause serious damage to natural resources or the environment.
- Settlement Agreement under AS 46.03.020 is a legally binding contract between the violator and the state to settle an action before or after filing a civil complaint and is generally used when further remedial actions are unnecessary to resolve a case and when filing a consent decree is not warranted.
- Permit revocation or modification is an enforcement action that may be pursued instead of or in addition to other administrative remedies when appropriate. For use as an enforcement tool, staff must first consult with the Attorney General's Office before proceeding to ensure that the permittee is given due process.

#### Judicial Action (JA)

Where necessary, the Hazardous Waste Program with the Department of Law may use the additional force of the courts for enforcement. These actions may include the following:

- A Civil Suit under AS 46.03.760(e) is a civil action that can seek damages, costs, and penalties for violations. A civil action is filed by an Assistant Attorney General in consultation with the Department. There must be sufficient evidence available to prove the case in court.
- A Consent Decree under AS 46.03.020 is a judgment enforced by the court that addresses serious civil violations and can include stipulated penalties, response actions, cost recovery provisions, and payment of damages and civil assessments by the violator. A consent decree is very similar to a COBC except that the consent decree is filed in court, and once approved by the court as an agreed upon settlement, is enforceable as a court order.
- Temporary Restraining Order and Preliminary Injunction under AS 46.03.765 are extraordinary court orders that the court modifies to specific situations that may require certain actions be taken by the defendant, standards be met, or acts not be performed during the period prior to a trial. These orders are available early in a civil suit to protect human health or the environment.



Determining Enforcement Action

Table 5 includes some typical hazardous waste violations and the associated options for enforcement. This will also be used as guidance for enforcement action for other violations that are similar in scope and impact. A range of responses is noted to allow for exacerbating factors, such as large quantities of hazardous waste involved, multiple violations, repeat violations, SNC status, relative risk factors, and failure to comply with previous enforcement action.

The Hazardous Waste Program reserves the right to exercise enforcement discretion, including departing from the approach set out in this guide.

Table 5. Enforcement Options

Violation	Regulation	Range of Response
<b>Operational Violations that may directly impact or pose high probability of impact to health and environment</b>		
Failure to make a complete and accurate hazardous waste determination.	18 AAC 62.301 40 CFR 262.11	IE if first and only violation FE, JA
Failure to meet the Land Disposal Restrictions when disposing hazardous waste.	18 AAC 62.901-999 40 CFR 268	IE if first/only violation FE, JA
Operating a TSDF without a permit.	18 AAC 62.1000 40 CFR 270.1	FE, JA
Transporting, or offering for transport hazardous waste to a facility not authorized or permitted to manage hazardous waste.	18 AAC 62.301 40 CFR 262.10(a)(3); 262.14(a)(5);	FE, JA
Illegally treating or disposing of hazardous waste.	18 AAC 62.502 40 CFR 264.1(b)	FE, JA
Failure to properly control volatile organic hazardous waste emissions, by an LQG or TSDF, when such failure could result in harm to employees, the public or the environment.	18 AAC 62.285; 290; 295;580; 581; 582; 692; 693; 694. 40 CFR 261, 264, & 265, sub. AA, BB, CC; 262.17(a)(1)(i)	IE if first/only violation FE, JA
Treatment, storage or accumulation of hazardous waste in a unit that does not meet the appropriate design or integrity assessment criteria.	18 AAC 62.260; 270; 301; 380; 540-547; 640-655. 40 CFR 261, 264, 265, & 267, sub I-L; 261.179;	IE if very low risk and first/only violation FE, JA
Failure to immediately cleanup spills or releases of hazardous waste.	262.15(a)(1), 16(a)(1) &17(a)(1); 262.251; 264, 265 & 267, sub. AA, BB, CC	IE if small, low risk spill FE, JA
Failure to properly maintain equipment to prevent spills or releases of hazardous waste.		IE if no spill or release FE, JA
Failure to comply with management requirements for ignitable, reactive, or incompatible hazardous waste.	18 AAC 62.260; 301 40 CFR 261.176-177; 262.15(a)(3); 262.16(b); 262.17(a)	IE if very low risk and first/only violation FE, JA
Failure to properly install, maintain, or sample a groundwater monitoring system at a TSDF.	18 AAC 62.260; 525; 625 40 CFR 264.97-100; 265, sub. F	IE if only one sampling event missed FE, JA
Failure to follow procedures in a contingency plan or other emergency response requirements	18 AAC 62.280; 380; 515; 615; 830	FE, JA

Table 5. Enforcement Options

Violation	Regulation	Range of Response
during an incident in which a hazardous waste is released or the incident poses a risk to health or environment.	40 CFR 261.420; 262.261; 264.51; 265.51; 267.51	
Failure to comply with personnel training requirements.	18 AAC 62.280; 301; 505; 605; 810; 1120; 1130 40 CFR 261.420(g); 262.17(a)(7); 264.16; 265.16; 267.16; 273.16; 273.36	IE if first/only violation FE, JA
<b>Significant Administrative Violations</b>		
Accepting, transporting, or offering for transport hazardous waste without a uniform hazardous waste manifest.	18 AAC 62.301; 411; 520; 620; 840 40 CFR 262.20; 263.20(a)(1); 264.71; 265.71; 267.71	IE if first/only violation FE, JA
Failure to submit Land Disposal Restriction notifications.	18 AAC 62.901 40 CFR 268.5-.9	IE if first/only violation FE, JA
Failure to have and maintain a closure plan or post closure plan for a TSDF or for each hazardous waste management unit.	18 AAC 62.530; 630; 860 40 CFR 264.112(a); 265.112(a); 267.112(a);	IE if first/only violation FE, JA
Failure to carry out or complete closure or post-closure requirements according to plan.	18 AAC 62.530; 630; 860 40 CFR.264.113; 265.113; 267.113	IE if first/only violation FE, JA
Failure to establish or maintain financial assurance or hazard liability as required.	18 AAC 62.250; 535; 635; 870 40 CFR 261, 264, 265, 267, sub H.	IE if first/only violation FE, JA
Failure to submit a manifest exception report.	18 AAC 62.330; 520; 620 40 CFR 262.42; 264.72(f)(8); 265.72(f)(8);	IE if first/only violation FE, JA
Failure to comply with import/export requirements.	18 AAC 62.301; 311; 350; 411; 505; 520; 605; 620; 840 40 CFR 262.18(e); 262.23(c)-(d); 262, sub H; 263.20(a)(2), (c), (e), (f)(2), & (g); 264.12(a); 264.71(d); 265.12(a); 265.71(d); 267.71(d)	IE if first/only violation FE, JA
<b>Operational Violations less likely to directly impact or pose high probability of impact to health and environment.</b>		
Failure to maintain appropriate aisle space to allow unobstructed movement in hazardous waste accumulation areas.	18 AAC 62.280; 301; 380; 512; 611; 820; 1250 40 CFR 261.410(e); 262.16(b)(8)(v); 262.255; 264.35; 265.35; 267.35; 279.52(a)(5)	CA if first/only violation IE, FE, JA
Failure to maintain closed containers except when adding or removing waste.	18 AAC 62.260; 301; 540; 640; 880	CA if low risk and first/only violation

Table 5. Enforcement Options

Violation	Regulation	Range of Response
	40 CFR 261.173(a); 262.15(a)(4); 264.173(a); 265.173(a); 267.171(c)(1);	IE, FE, JA
Failure to properly label or date containers or tanks used for the accumulation and storage of hazardous waste.	18 AAC 62.201;240; 301; 360; 1120; 1130; 1135; 1220; 1240; 1250; 1260  40 CFR 261.1(c)(8); 261.4(a)(26)(i); 261.39(a)(2); 262.11(g); 262.14(5)(viii)(B); 262.15(a)(5); 262.210(b)(1-2); 262.211(e)(1-2); 262.212(e)(1-2); 273.14; 273.15(c)(1-2); 273.18(c); 273.34; 273.35(c)(1-2); 273.38(c); 279.22(c); 279.45(g); 279.54(f); 279.64(f); 49 CFR, sub B	CA if first/only violation IE, FE, JA
Failure to properly manage containers or tanks in accumulation areas, other than the requirements for ignitable, reactive or incompatible waste at a hazardous waste generator or storage facility.	18 AAC 62.201; 261; 301; 321; 370; 401; 540; 640; 880; 1120; 1130; 1220; 1240; 1250; 1260  40 CFR 261, sub I; 262.15; 262.16(b)(1-3); 262.17(a)(1-3); 262, sub C; 262.206; 262.208; 262.232; 263.10(c)(2); 263.12; 264, Sub I; 265, sub I; 267, sub I; 273.13; 273.33; 279.22; 279.45; 279.54; 279.64;	CA if low risk and first/only violation IE, FE, JA
Failure to prevent unauthorized entry into waste management areas of a TSDF.	18 AAC 62.505 40 CFR 264.14	CA if low risk and first/only violation IE, FE, JA
Failure to post emergency response information next to the telephone by an SQG.	18 AAC 62.301 40 CFR 262.16(b)(9)(ii)	CA if first/only violation IE, FE, JA
Failure to conduct and record required inspections at hazardous waste generator accumulation sites or hazardous waste permitted storage areas.	18 AAC 62.285; 290; 295; 580; 581; 582  40 CFR 261, 264, & 265, sub AA, BB, CC.	CA if first/only violation IE, FE, JA
Accumulation of hazardous waste for more than 30 days beyond the specified time frame.	18 AAC 62.301; 1120; 1130  40 CFR 262.16(b)(2)(iv); 262.17(a)(1)(v) 273.15; 273.35	CA if first/only violation IE, FE, JA
Improper segregation or handling of pharmaceutical waste.	18 AAC 62.760 40 CFR 266, sub P	CA if first/only violation IE, FE, JA
Improper storage of Universal Waste.	18 AAC 1120, 1130, 1150 40 CFR 273, sub B, C, & E	CA if first/only violation IE, FE, JA

Table 5. Enforcement Options

Violation	Regulation	Range of Response
<b>Administrative Violations</b>		
Failure to prepare a contingency plan.	18 AAC 62.280; 380; 515; 615; 830; 1250 40 CFR 261.420; 262.260-263; 264, 265, & 267, sub D; 279.52(b)	CA if first/only violation IE, FE, JA
Shipping hazardous waste on manifests that do not comply with department rules.	18 AAC 62.311 40 CFR 262.20(a);	CA if first/only violation IE, FE, JA
Failure to properly sign a manifest by the generator.	18 AAC 62.311 40 CFR 262.23; 262.25	CA if first/only violation IE, FE, JA
Failure to submit a manifest discrepancy report.	18 AAC 62.520; 620; 840 40 CFR 264.71(a)(1); 264.72(c); 265.71(a)(1); 265.74(c); 267.72;	CA if first/only violation IE, FE, JA
Failure to obtain a hazardous waste EPA identification number when required.	18 AAC 62.301; 401; 505; 605; 760; 810; 1070; 1080; 1130; 1240; 1250; 1260; 1270. 40 CFR 262.18(a); 263.11; 264.11; 265.11; 266.502(a)(1)(ii); 267.11; 270.60; 270.110; 273.32(a)(1); 279.42; 279.51; 279.62; 279.73;	CA if first/only violation IE, FE, JA
Failure to submit an annual report in a timely manner.	18 AAC 62.335; 430; 522; 622; 842	CA if first/only violation IE, FE, JA
<b>Operational and Administrative Violations not likely to directly impact or pose high probability of impact to health and environment.</b>		
Accumulation of hazardous waste for less than 30 days beyond the specified time frame.	18 AAC 62.301; 1120; 1130 40 CFR 262.16(b)&(d); 262.17(a)&(b); 273.15; 273.35	CA if first/only violation IE, FE, JA
Improper labeling of Universal Waste.	18 AAC 62.1120; 1130 40 CFR 273.14; 273.34	CA if first/only violation IE, FE, JA
Improper labeling of used oil.	18 AAC 62.1220 40 CFR 279.22(c)	CA if first/only violation IE, FE, JA
Failing to submit a contingency plan to all police, fire, hospital, and local emergency responders.	18 AAC 62.280; 380; 515; 615; 830; 1250 40 CFR 261.420(c); 262.262(a); 264.53(b); 265.53(b); 267.53(b); 279.52(b)(3)(ii)	CA if first/only violation IE, FE, JA

#### Penalties

Alaska Statute 46.03.760(e) provides the civil penalty authority for the Hazardous Waste Program. Penalties will be calculated based on the following criteria:

1. reasonable compensation in the form of liquidated damages for adverse environmental effects caused by the violation;
2. reasonable costs incurred by the State in detection, investigation, and attempted correction of the violation;
3. the violator's economic benefit of noncompliance using an EPA approved financial model; and
4. the need for an enhanced civil penalty to deter future noncompliance.

The Hazardous Waste Program can assess penalties up to \$100,000 for an initial violation and up to \$10,000 per day per violation. Penalty amounts will be determined using EPA approved software.

A violator may have the option of entering into a Supplemental Environmental Project agreement, where they complete a related environmental project in return for a reduction in the penalty.

#### Enforcement Timeframes

The Hazardous Waste Program will endeavor to work within the following time frames to manage informal and formal enforcement actions.

- Day 0 – Violation identified
- Day 75 – Inspection report and informal or initial enforcement document issued.
- Day 90 – Acknowledgement of enforcement action by violator
- Day 180 – Final draft enforcement document issued
- Day 240 – Return to compliance if another timeline is not specified in an enforcement document
- Day 360 – Final enforcement document issued

#### Compliance Tracking

The Hazardous Waste Program uses the EPA RCRAInfo database to record compliance and enforcement actions as well as the department's Compliance Action Tracking System (CATS) database. All enforcement action other than compliance assistance will be entered in both databases.

#### Criminal Enforcement

At the time that an investigation is forwarded for potential enforcement action, the Hazardous Waste Program may determine that a criminal violation may have occurred. In this instance, the Hazardous Waste Program will engage the ADEC Environmental Crimes Unit. The Hazardous Waste Program may decide to refer the case to the Environmental Crimes Unit for investigation, or the Environmental Crimes Unit may initiate investigation on their own. The Environmental Crimes Unit is responsible to investigate and, if it determines that it is

warranted, build a case for criminal prosecution separate from, but parallel to the case for civil enforcement.

### Corrective Action

RCRA Section 3004(u) requires RCRA corrective action for releases of hazardous waste and hazardous constituents from any solid waste management unit, hazardous waste management unit, or a hazardous waste TSDF subject to a RCRA permit, regardless of when the waste was placed in the unit. Additionally, RCRA Section 3004(v) requires RCRA corrective action for releases of hazardous waste and hazardous constituents that migrate beyond the boundary of TSDFs. The requirements for corrective action will be addressed via a permit, a closure permit, an Order or Compliance Order, or a Remedial Action Plan.

These releases may impact groundwater, surface water, air quality, or soil. When contaminants are present above the most stringent regulatory standards for soil or groundwater in 18 AAC 75 or above the cleanup standards for surface water in 18 AAC 70, the site will be added to the Contaminated Sites Program database and must also comply with regulatory requirements of both the Contaminated Sites and Hazardous Waste Programs.

### Corrective Action Performance Measures

The EPA has developed goals for the RCRA Corrective Action Program to be addressed by the year 2030. The Hazardous Waste Program will strive to meet or exceed these goals for Alaska and ensure that all reporting is complete and accurate.

1. Through 2030, the RCRA Corrective Action Program will ensure that RCRA cleanups are initiated and completed efficiently and expeditiously. Commitments regarding what work is planned and what progress is made will be visible to the public. An ambitious universe of cleanups will be identified for completion by 2030.
  - For commitments and tracking, the program will use the relevant Corrective Action Program measures and will use flexible approaches as appropriate.
2. By 2030, the RCRA Corrective Action Program will eliminate or control adverse impacts beyond facility boundaries at RCRA Corrective Action facilities wherever practicable and the program will focus attention on cleanups that will not meet this target. The program will develop procedures to:
  - identify and address emerging risk issues (e.g., vapor intrusion, evolving science), and
  - address timelines for facilities brought into the program post-2020.
3. By 2030, the RCRA Corrective Action Program will ensure or confirm that land within facility boundaries at RCRA Corrective Action facilities will be safe for continued use or reasonably foreseeable new uses wherever practicable and the program will focus attention on cleanups that will not meet this target.
  - The program will develop procedures to address timelines for facilities brought into the program post-2020.

## DRAFT Hazardous Waste Program Description

4. By 2025, the RCRA Corrective Action Program will identify the key elements of effective Long-Term Stewardship for Corrective Action cleanups, and regions and states will have approaches in place to ensure implementation of the key elements.
  - The program will develop procedures to leverage interest and investment in new or existing commercial and community entities to sustain Long Term Stewardship controls.

### Corrective Action Oversight

For the purposes of project management at RCRA Corrective Action Sites, the Contaminated Sites Program will manage site cleanup activities consistent with normal 18 AAC 75 cleanup practices and requirements, as the requirements in Alaska's 18 AAC 75, Article 3 Oil and Other Hazardous Substances Pollution Control regulations will generally provide the characterization and cleanup requirements and risk mitigation necessary to achieve corrective action objectives. The Hazardous Waste Program will manage all aspects of the project that involve the RCRA corrective action requirements of 18 AAC 62, including evaluation of plans in comparison to RCRA cleanup standards, preparation of RCRA-specific corrective action orders or permits, permit modifications related to corrective action management at permitted sites, and enforcement of RCRA permits or orders related to the corrective action. The Contaminated Sites Program EPS overseeing the project will coordinate closely with the Hazardous Waste Program EPS assigned to the project to make sure all RCRA corrective action requirements are clearly communicated to the regulated party during the corrective action process.

### Process

Corrective action can be triggered due to a spill or other recognized release of a hazardous waste, an exceedance of groundwater protection standards during compliance monitoring, or identification of other contamination subject to RCRA corrective action. When these situations arise, the Hazardous Waste Program will notify the Contaminated Sites Program if the matter has not already been reported. The Contaminated Sites Program will notify the regulated entity (responsible party) in writing of their liability for the release of a hazardous substance in accordance with AS 46.03.822 as well as the Contaminated Sites Program cost recovery requirements in accordance with AS 46.04.010. These requirements will be communicated in the standard Letter of State Interest format. After notifying the responsible party of their liability, the Contaminated Sites Program project manager will coordinate with the Hazardous Waste Program, who will review the Corrective Action request to verify that RCRA requirements are met. The Contaminated Sites Program project manager will send the final Corrective Action work plan request.

Interim removal actions under 18 AAC 75.330 may be required prior to site characterization, as necessary to prevent exposure to the hazardous substance at the site or migration of the hazardous substance from the site. If the Contaminated Sites Program and the Hazardous Waste Program determine interim removal is necessary, that requirement will be communicated in writing to the responsible party.

Prior clean up actions, the responsible party must provide a site characterization workplan prepared by a Qualified Environmental Professional as defined in 18 AAC 75.333 that meets the requirements of 18 AAC 75.335. In addition, the responsible party must submit information regarding the site cleanup operations that meets the requirements of 18 AAC 75.760.

## DRAFT Hazardous Waste Program Description

Submittals will be reviewed by a Contaminated Sites Program project manager who will coordinate with the Hazardous Waste Program to ensure RCRA requirements are met.

### Closure

The goal of the corrective action process is to remove hazardous substances to the extent that it controls, minimizes, or eliminates potential impacts to human health and the environment. This will be demonstrated in a closure report that includes the relevant requirements of 18 AAC 75.380, 18 AAC 62.525, 530, and 532.

If the sampling results at a site demonstrate that all contaminants have been removed to the approved standards in the permit, a facility may qualify for clean closure under the Hazardous Waste Program, or a "Cleanup Complete" in 18 AAC 75 indicating no further action is required. Alternately, a facility or unit may be closed with institutional controls that require post-closure management, or in some cases an Environmental Covenant in accordance with AS 46.04.300 if contamination remains in soil or groundwater that does not allow for unrestricted use of the property. The Contaminated Sites Program project manager will coordinate with the Hazardous Waste Program on review of the closure report for compliance with 18 AAC 75 and the Hazardous Waste Program RCRA requirements.

Once closure is approved by both the Hazardous Waste Program and Contaminated Sites Program, an approval letter will be issued that details the actions taken to achieve closure and will include discussion of closure requirements met under both the Contaminated Sites Program and the Hazardous Waste Program. If corrective action allows for closure under one program but not the other, separate letters may be sent as needed. The closure letter will include a release from the mechanism of financial assurance for clean closure under the Hazardous Waste Program. For closure with institutional controls required, the appropriate financial assurance must be maintained during the post-closure care period.

## INFORMATION MANAGEMENT

### RCRAInfo Database

The Hazardous Waste Program will use the EPA RCRAInfo database for tracking handler information, hazardous waste movement, inspections, and enforcement. All TSDFs, LQGs, SQGs, are required to file notification of their activities in RCRAInfo. This information generates an EPA hazardous waste identification number specific to the entity and tracks any data submitted from the handler, EPA, or an approved state program. The system allows for a variety of search options and provides a plethora of reports for users that allow accurate accounting of hazardous waste within a state.

The Hazardous Waste Program will manage RCRAInfo data according to the most recent RCRA Data Management Letter of Agreement between the department and EPA Region 10. (Appendix F)



### Manifest Tracking System

Manifests are required for shipments of hazardous waste. The Hazardous Waste Program will continue to use the EPA manifest tracking system and required forms for hazardous waste in Alaska. This will provide the least confusion and interruption for hazardous waste handlers.

Manifest information in RCRAInfo will be reviewed weekly to identify transport exceptions or manifest discrepancies. Once identified, they will be forwarded to the appropriate staff for additional research, technical assistance, or referral for enforcement.

### State Only Tracking

The Hazardous Waste Program will develop spreadsheets or databases as needed to track additional information that the program decides to collect.

### Information Available to the Public

Alaska Statute 46.03.311 requires that permits, permit applications, records, reports and other documentation regarding hazardous waste facilities and generators is available to the public in electronic or paper format for review or copying. A public records request form is available at <https://dec.alaska.gov/online-services/>.

### Confidential Business Information

If requested and approved, ADEC will maintain the confidentiality of certain business material when the material, if made public, would divulge information, methods, or processes entitled to protection.

ADD E Signature

Commented [LA2]: Will be added once requirements are clear.

## PUBLIC OUTREACH PLAN

The Hazardous Waste Program will have a significant outreach component to ensure that generators statewide are aware of their responsibilities under the regulations as well as the resources available to them, and to allow for stakeholder input into the program.

### Pre-Program Authorization

Prior to the completion of the state hazardous waste regulations (18 AAC 62), the program will engage stakeholders to evaluate whether conditions exist for regulations to be modified to better serve Alaska's hazardous waste generators. Engagement of the Hazardous Waste Program will be focused on presenting to industry and tribal groups but will be open to any interested party.

As the authorization package progresses, the program will establish a listserv to ensure that interested parties are kept informed of the process and offered opportunities for input. Prior to submitting the authorization application to the EPA, ADEC will post public notice of the draft final regulations, as well as the intent to apply to EPA for authorization to enforce hazardous waste regulations. These will be two separate opportunities for stakeholders to formally comment.

### Post-Program Authorization

Once authorized, the program will initiate several different outreach campaigns:

1. Very Small Quantity Generators (VSQGs) – This will focus on information regarding the responsibilities of VSQGs and using the episodic generator rule to remain a VSQG. This will include working with small businesses and rural communities via website, emailed information, and in person presentations.
2. Small Quantity Generators (SQGs) – This will initially consist of an email campaign to inform SQGs of the transition from EPA to ADEC enforcement of the regulations and to clarify their responsibilities, including submitting annual reports to ADEC. As the program progresses, more individual contact will be initiated.
3. Large Quantity Generators (LQGs) – Initial contact will be direct, either by phone or email. We will clarify whether the entity is indeed still an LQG, or if they were registered due to an episodic generation. We will provide a copy of the regulations and assistance via an individual ADEC program specialist.
4. Treatment Storage and Disposal Facilities (TSDFs) – Each TSDF will be contacted by an assigned ADEC program specialist and inspected within 12 months of ADEC receiving authorization.
5. Corrective Action Projects – The Hazardous Waste Program will assign a liaison to work with the CSP on the corrective action projects and will contact each individual project manager with information regarding any changes that may affect them.
6. Transporters – This will consist of an email campaign to all registered transporters regarding the change from EPA to ADEC enforcement of the regulations and the requirement for an annual submittal to ADEC. Additionally, effort will be made to distribute information thru associations to ensure that any transporters handling hazardous waste have obtained an EPA ID number.

Ongoing outreach will be focused on specific issues that arise frequently, changes to ADEC or EPA regulations, and common errors in managing hazardous waste. Most outreach will be via email and the listserv and include guidance on various subjects. The guidance will also be available on the ADEC Hazardous Waste Program webpage. In addition, the program will provide presentations for various meetings and conferences regarding the program and applicable regulations.

## ALASKA HAZARDOUS WASTE HANDLERS

### Regulated Community

The Alaska hazardous waste universe includes over 2500 handlers with EPA ID numbers. Table 6 below includes the numbers of active handlers by type from RCRAInfo data.

Table 6. Active HW Handlers

Handler Type	# Active in Alaska (RCRAInfo 6/5/23)*
LQG	47
SQG	201
VSQG	827
Transporter	284
Transfer Facility	17
TSDf	2
Corrective Action	6

\*Will be updated for the final version

2023 waste reported

## **Appendix A**

**MOA between EPA and ADEC**

## **Appendix B**

### **ADEC Organization Charts**

## Appendix C

### Hazardous Waste Program Position Descriptions

## Appendix D

### Hazardous Waste Program Budget

## **Appendix E**

### **Referenced ADEC Regulations**



## **Appendix F**

### **RCRA Date Management Agreement**