

Hazardous Waste Regulations - Questions and Answers

The Alaska Department of Environmental Conservation (ADEC) is revising Alaska Hazardous Waste Regulations as part of the process of applying to the Environmental Protection Agency (EPA) for authorization to regulate hazardous waste in Alaska. ADEC is updating Title 18, Chapter 62 of the Alaska Administrative Code (18 AAC 62), the Hazardous Waste Regulations to reflect the most current federal regulations, found in 40 CFR 260 through 279, and 40 CFR 124, which are the regulations applicable to Alaska until ADEC receives authorization from EPA.

1) What does the bold, underlined, and capitalized formatting mean in the proposed regulations?

The formatting is due to Department of Law requirements for regulations changes. Bold and underlined text is proposed new language. Text within brackets and capitalized is proposed for deletion.

2) What opportunities will the public have to review and comment on ADEC's proposal to EPA for hazardous waste program authorization?

- a) The current public comment period is focused on ADEC changes to 18 AAC 62, which are necessary to ensure that Alaska regulations are at least as restrictive and at least as broad in scope as federal requirements.
- b) Prior to formally applying to EPA for program authorization, ADEC is required to public notice our intent to apply for program authorization and receive comments on this authorization package. During that public comment period, the public will have the opportunity to comment on our entire application, which will include:
 - a. Program Description (which describes how we propose to implement the hazardous waste regulatory program in Alaska),
 - b. Memorandum of Agreement with EPA (which describes which roles will be filled by ADEC and EPA in implementation of the program),
 - c. Attorney General Statement (which explains how Alaska's statutes and regulations meet federal requirements)
 - d. Applicable state Statutes and Regulations
 - e. Request from Governor for program approval
- c) Within 90 days after Alaska formally applies to EPA for program authorization, EPA will make a tentative determination as to whether or not it intends to grant authorization. This tentative determination will be subject to public notice through the Federal Register and will allow for a 30-day public comment period.

3) Why is ADEC proposing to primarily adopt federal regulations by reference?

ADEC is proposing to modify 18 AAC 62 to primarily adopt federal requirements by reference for the following reasons:

- a) Adoption by reference of the complex federal regulations is preferred by EPA because it will allow them to most efficiently review proposed regulations to ensure that they are not less restrictive or narrower in scope than the federal requirements.
- b) Adoption by reference will facilitate easier adoption of new requirements proposed by EPA in the future.

- c) Minimization of changes to current requirements will hopefully provide the least confusion and change for hazardous waste handlers.

Once ADEC gains program approval from EPA and begins to implement regulation of hazardous waste in Alaska, we intend to develop guidance to help Alaska hazardous waste generators comply with the complex requirements for hazardous waste management.

4) Which changes to federal regulatory requirements are ADEC proposing?

ADEC is proposing 4 changes at this time we believe will benefit Alaska:

- a) Electronic Waste as Universal Waste
- b) Annual Reporting
- c) Adoption of Unified Guidance
- d) Closure for Corrective Action

Details related to each of these variances are discussed in some of the following questions and answers.

5) What is Universal Waste?

Universal wastes are hazardous wastes that were determined to pose a lower immediate risk to people and the environment compared to other hazardous wastes. In federal regulations, hazardous wastes that may be managed as universal wastes include batteries, certain pesticides, mercury-containing equipment, lamps, and aerosol cans.

The proposed regulations include electronic waste (e-waste) as an Alaskan universal waste, which will allow for streamlined handling requirements if the e-waste is properly managed and sent to a reclamation or recycling facility.

Note that management of electronic waste as universal waste is optional; however, if the e-waste wasn't managed as universal waste, it would be subject to the hazardous waste determination requirements, if applicable. See responses to Questions 7 and 8 below, for details applicable to various generator types.

6) What is e-waste?

The proposed definition of e-waste is available in the draft regulations under 18 AAC 62.1390, but in simplistic terms e-waste is an electronic device that contains circuitry, such as computers, laptops, cell phones, etc.

7) How is e-waste currently managed in Alaska?

E-waste is handled in a multitude of ways across the state from being disposed of in landfills to being collected in programs and shipped out of state for recycling. ADEC's goal is to encourage recycling of e-waste to minimize the amount of e-waste disposed of in our landfills.

E-waste often includes toxic components, such as parts of circuit boards, and testing may indicate that the e-waste is a toxicity characteristic hazardous waste. Studies have indicated that a considerable percentage of electronic wastes do test out as characteristic hazardous wastes, although testing is difficult. The burden is on the generator (excluding waste from households) to make a determination whether an electronic item that is being discarded is hazardous waste. ADEC is proposing management of e-waste as universal waste to alleviate the need for hazardous waste determination when e-waste is managed through recycling or reclamation.

8) [How would designating e-waste as universal waste impact rural backhaul programs?](#)

Our intent with this change would be to make managing and shipping e-waste for recycling easier, while also reducing e-waste disposal in Alaska landfills. Rural villages and hub communities often have e-waste backhaul programs. As the bulk of these programs' e-waste are from households (which are exempt from hazardous waste requirements), these programs are anticipated to have little to no impact regarding collection and not be constrained by accumulation time limits.

9) [How would designating e-waste as universal waste impact to Very Small Quantity Generators, Small Quantity Generators, and Large Quantity Generators who manage e-waste?](#)

- **Very small quantity generators** – Businesses that produce less than 220 pounds of hazardous waste in a calendar month qualify as very small quantity generators. Although the hazardous waste management standards are much less stringent for very small quantity generators, they are required to make a hazardous waste determination and maintain records of hazardous wastes generated. If e-waste is managed by them as universal waste, no determination is required. Since universal waste does not count against generator status, maintaining records will not be required.
- **Small quantity generators** – Businesses that produce more than 220 pounds of hazardous waste in a calendar month must meet the requirements for a small quantity generator, including waste determination, obtaining a hazardous waste identification number, record keeping, waste management, and manifesting requirements among many others. If e-waste is managed as universal waste, the requirements would primarily be proper storage, labeling with a universal waste label, and shipping to a reclamation or recycling contractor or facility. In addition, since the weight of universal waste does not count against generator status, a month where more e-waste was generated would not cause the business to become a large quantity generator which carries significantly more requirements.
- **Large quantity generators** – A business that produces more than 2,200 pounds of hazardous waste in a calendar month must meet the requirements for a large quantity generator, which are extensive. If e-waste is managed as universal waste, the requirements would primarily be recordkeeping, proper storage, labeling with a universal waste label, and shipping to a reclamation or recycling contractor or facility. In addition to the reduced handling requirements, universal waste can be accumulated for a year, or more in some cases, far more than the 90 days for other hazardous waste.

10) [How are the proposed regulations different from the federal requirements for reporting?](#)

Annual reporting will be required of hazardous waste handlers and facilities. This requirement is more stringent than the federal reporting requirements. Large quantity generators are currently

required to submit a hazardous waste activity report biennially (using EPA Form 8700-13 A/B). Under 18 AAC 62.330 annual hazardous waste activity reporting will be required for the first 5 years that ADEC is authorized, after which, it will return to the biennial requirements. Additionally, annual notification (using EPA Form 8700-12) of site information will be required for all hazardous waste handlers, including transporters. These requirements will help the program establish and maintain a better record of the generation and movement of hazardous waste in the state.

11) How would changes to reporting impact Very Small Quantity Generators, Small Quantity Generators, Hazardous Waste Transporters, and Large Quantity Generators?

- **Very small quantity generators** – there are no changes to the notification or reporting requirements.
- **Small quantity generators or Hazardous waste transporters** – you will be required to update your notification annually on EPA form 8700-12, site information form, rather than once every four years for small quantity generators, or when information changes for transporters. This can be easily completed using RCRAInfo, where you can review your current notification information, update any information that has changed, and simply click the submit button. This should take much less than one hour even if changes need to be made.
- **Large quantity generators** – For the first 5 years that ADEC is authorized to regulate hazardous waste, large quantity generators will be required to complete a full report of hazardous waste activities on EPA form 8700-13 A/B each year, rather than every other year as currently required. After 5 years, large quantity generators will be required to update their notification (EPA form 8700-12) annually, through RCRAInfo or by submitting an electronic or paper copy to ADEC.
- **Permitted TSDFs** will be required to update their notification and complete a full report annually.

12) What is Unified Guidance and why are we adopting it?

The EPA, March 2009, Statistical Analysis of Groundwater Monitoring at Resource Conservation and Recovery Act (RCRA) Facilities – Unified Guidance (Unified Guidance) is adopted by reference in the proposed regulations. The Unified Guidance provides a framework and recommendations for the statistical analysis of groundwater monitoring data at RCRA facility units subject to 40 CFR Parts 264 and 40 CFR Part 258, to determine whether groundwater has been impacted by a hazardous constituent release. Specific statistical methods are identified in the RCRA regulations, but their application is not described in any detail. The Unified Guidance provides examples and background information that will aid in successfully conducting the required statistical analyses. While the Unified Guidance is intended to address statistical analysis of ground water for RCRA facilities, adoption of the document ensures that appropriate methods will be used.

13) Who is impacted by the adoption of Unified Guidance?

Only treatment storage and disposal facilities required to perform groundwater monitoring and statistically analyze the data will be affected. Statistical methods for analysis of the data would be limited to the methods recommended by the Unified Guidance for the data set.

14) What changes are proposed for closure standards for corrective action?

The regulations require that a corrective action process address closure under both the RCRA and ADEC Contaminated Sites Program. In addition, it clarifies that where RCRA and other state standards differ, the most stringent standard will apply. This requires addressing additional requirements of the Contaminated Sites Program in the corrective action process, and in some cases will require more stringent groundwater protection standards or soil cleanup standards.

15) Who is impacted by the proposed closure standards for corrective action?

Any sites requiring corrective action under the RCRA regulations would be required to also meet the state regulations for Contaminated Sites as part of the process. This could potentially impact required cleanup standards and will include the additional process and approval requirements for the Contaminated Sites Program. Please note that the major difference would be that the requirements would need to be met simultaneously, rather than having the ability to delay addressing one or the other set of requirements.

16) Does the definition of electronic waste in 18 AAC 62.1390(c)(2) include other ancillary equipment, such as excess plugs and cables?

Generally, excess plugs and cables that have been removed from an electronic device are not a source of the leachable metals for an electronic device and would not be considered e-waste unless it contained a circuit board or other complex circuitry.

17) Could Polychlorinated biphenyls (PCBs) be added as a state specific coded waste?

ADEC does not have any plans to designate any state-specific hazardous wastes at this time.

18) 18 AAC 62.330 – Is there potential for use of international disposal facilities? If so, what is the guidance?

Hazardous waste may be transported to international facilities. However, the use of international treatment or disposal facilities would not impact any of the generator requirements of this section.

19) Will there be additional criteria or clarifying language regarding backhaul and/or barging under 18 AAC 62.350: Transboundary movements of hazardous waste for recovery or disposal?

Transboundary movement of hazardous waste for recovery or disposal applies to waste shipped across international borders and may apply in some cases with waste shipped through Canadian waters. No changes are being proposed from the federal regulations with regard to managing hazardous waste.

20) 40 CFR Part 266 Subpart P: specific waste. It appears that the definitions (section 500) and regulations for Reverse Distributors (section 510) were repealed 8/7/92. Does this mean that the current EPA language in these sections are applicable?

These regulations were published by in the Code of Federal Regulations (Annual Edition), dated July 1, 2022. The definitions in section 500 have not changed since that publication. However, EPA has published some non-controversial technical corrections and minor fixes, including a clarification to 40 CFR 266.510 that will become effective December 7, 2023. Once this and other changes are promulgated in the federal regulations, ADEC will determine the need and timing for a corresponding update to the state regulations.

- 21) 18 AAC 62.1020(b) lists multiple regulations under 40 CFR Part 124 that are proposed to not be adopted by reference. What is the reasoning for this?

40 CFR Part 124 includes administrative procedures covering permits or authorizations for several federal environmental acts, including RCRA Subtitle C. Each of the listed acts/regulations in 18 AAC 62.1020(b) are not applicable to RCRA Subtitle C Hazardous Waste; and therefore, are not adopted.

- 22) How will the regulation changes impact a Conditionally Exempt Small Quantity Generator (CESQG) that collects household hazardous waste and universal waste from both residents and Very Small Quantity Generator (VSQG)?

No changes are being made to the regulations in the definitions or requirements for a VSQG. The term Conditionally Exempt Small Quantity Generator (CESQG) was updated to VSQG in 2017.

- 23) Would an organization that provides a collection program to the community be considered a Universal Waste Handler under the proposed regulations?

All generators or receivers of universal waste, including recycling collection events, must meet the requirements of a universal waste handler. This is true of the current regulations and is not being modified in 18 AAC 62, with the exception of being able to include electronic waste as a universal waste.

A Universal Waste Handler is defined in 40 CFR 273.9 as:

Universal Waste Handler:

(1) Means:

- (i) A generator (as defined in this section) of universal waste; or
- (ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Note: If ONLY household hazardous waste (HHW) is collected, it is not considered universal waste when collected.

However, at any point, if HHW is comingled with universal wastes collected from commercial generators, it must be all counted as universal waste and the collector must determine their applicable requirements as a small quantity or large quantity universal waste handler.

24) Would an organization that provides universal waste collection services be subject to the 1-year accumulation limit?

The federal regulations include accumulation time limits of one year for small and large universal waste handlers in 40 CFR 273.15 and 273.16, respectively. However, the regulations include an exception “if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.” If a universal waste handler maintains the collection dates and quantities of universal waste, they can easily demonstrate the need to accumulate for more than one year prior to shipment, if required.

25) 18 AAC 62.1135(b) *Standards for Electronic Waste for Universal Handlers* requires universal waste handlers of universal electronic waste to “...notify the department of the quantity of universal electronic waste shipped to each individual recycling facility each calendar year...”

Does this notification requirement only apply to electronic waste and no other universal waste material? If so, why – what is the justification for only electronic waste having this requirement?

The intent of the reporting requirement is to gather data for the state for the recycling of electronics and the impact of including it as universal waste to inform the program and future rulemaking. At this point it only applies to electronic universal waste, but voluntary reporting for other universal waste may be included.

How is ADEC going to use this information?

ADEC will use this and other reporting information to better understand the generation, movement, and final disposition of hazardous materials in the state.

To what accuracy does this need to be reported?

We are envisioning an online form to provide the recipients and reasonable estimates of either weight or volume of electronic waste transferred to each facility.

26) If an e-waste collection event for both household and businesses anticipates receiving in excess of 11,023 lbs of electronics, would the event be subject to 18 AAC 62.1130 Standards for Large Quantity Handlers of Universal Waste?

Yes, this event would be subject to 18 AAC 62.1130.