THE STATE of ALASKA
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Department of Environmental Conservation
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June 15, 2026

Ms. Emma Pokon
Regional Administrator
U.S. EPA, Region 10
Regional Administrator's Office, RA-140
1200 6th Ave., Suite 155
Seattle, WA 98101

RE: Alaska's Section 402 Program

Dear Regional Administrator Pokon,

This letter is to notify EPA Region 10 that the Alaska Department of Environmental Conservation (DEC) has finalized its framework for determining when discharge authorizations under Section 402 of the Clean Water Act are required. To ensure transparency and provide clarity to the regulated community, DEC has incorporated Appendix M into Alaska's approved Section 402 program description (attached).

Publication of Appendix M formalizes DEC's existing decision-making process and promotes consistent, timely, and predictable permitting decisions. DEC had anticipated that EPA's post-Sackett rulemaking efforts would provide additional clarity regarding the scope of waters subject to federal jurisdiction and the resulting permitting framework. However, in the absence of a final revised Waters of the United States (WOTUS) rule, DEC has determined that providing public notice of its existing permitting approach is necessary to address ongoing implementation questions and provide regulatory certainty to permit applicants.

Consistent with DEC's delegated authority under the Clean Water Act, 18 AAC 83, AS 46.03, and the implementation authority recognized in the 2008 Memorandum of Agreement between DEC and EPA, DEC is responsible for determining the appropriate permitting pathway for applicants seeking authorization to discharge wastewater. Appendix M does not alter DEC's existing authorities, permitting responsibilities, or implementation of the approved Section 402 program; rather, it documents the process DEC currently uses to make permit applicability determinations and therefore constitutes a non-substantial revision to the program description consistent with 40 C.F.R. § 123.62.

Thank you for your continued engagement with DEC to ensure the continued and effective implementation of Alaska's Section 402 program.

Sincerely,

Randy Bates
Commissioner

Attachment