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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Gary Mendivil
Department of Environmental Conservation

FROM: Scott Mcriwether, Office of the Lieutenant Governor 
465.4081

DATE: September 28, 2017

RE: Filed Permanent Regulations: Department of Environmental Conservation

Department of Environmental Conservation regulations re: solid waste, particularly oil and gas solid waste (18 AAC 60.005 - 18 AAC 60.009; 18 AAC 60.010(i); 18 AAC 60.200(a),(e); 18 AAC 60.210(b),(c); 18 AAC 60.213(c); 18 AAC 60.255(e); 18 AAC 60.265; 18 AAC 60.410(a); 18 AAC 60.430; 18 AAC 60.432; 18 AAC 60.440; 18 AAC 60.490(c); 18 AAC 60.505(a),(b); 18 AAC 60.510(b); 18 AAC 60.700; 18 AAC 60.990)

Attorney General File:	JU2013200245 (Part 1)
Regulation Filed:	9/27/2017
Effective Date:	10/27/2017
Print:	224, January 2018

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached 39 pages of regulations, dealing with 18 AAC 60 Solid Waste regulations, are adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 44.46.020; AS 44.46.025; AS 46.03.020; and AS 46.03.100 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken. The Department of Environmental Conservation also gave special attention to alternate practical methods in this regulatory action as required by AS 46.03.024.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: September 21, 2017



Larry Hartig, Commissioner

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on September 27, 2017, at 1155 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: October 27, 2017

Register: 224, January 2018

18 AAC 60.005(c)(16) is amended to read:

(16) other solid wastes and materials that are placed on the land and that are approved for use in a small or large structural fill project under 18 AAC 60.008 [WHICH MEET THE CONDITIONS ESTABLISHED IN 18 AAC 60.007].

18 AAC 60.005(d) is amended to read:

(d) A treatment works designed to treat less than five tons of waste daily or 10 tons in a single batch is exempt from the requirements of this chapter unless the treatment works

(1) treats

(A) medical waste;

(B) drilling waste;

(C) sewage solids or septage to create biosolids; or

(D) a waste with characteristics similar to medical waste, sewage solids, or drilling waste, as determined by the department;

(2) [IT] causes or contributes to a threat to public health, safety, or welfare, or the environment; or

(3) [UNLESS THE WORKS] is operated in a manner that causes or contributes to a nuisance.

(Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am 9/7/2002, Register 163; am 10/27/2017, Register 224)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 46.03.010	AS 46.03.110	AS 46.06.080
	AS 46.03.020		

18 AAC 60.007 is repealed and readopted to read:

18 AAC 60.007. Beneficial use of solid waste. (a) Except for the materials and actions allowed under 18 AAC 60.005(c)(11) and (13), and the use of coal ash in a mine reclamation project or a roadway project, the beneficial use of solid waste is allowable only with prior approval of the department. If a person wants to beneficially use a solid waste, the person must submit a proposal that meets the requirements set out in this section for the appropriate beneficial use as set out under (b) of this section. The proposed beneficial use may not begin until the department approves the proposal.

(b) Solid waste may be beneficially used

- (1) in a structural fill project in accordance with 18 AAC 60.008; or
- (2) as an ingredient in a manufactured product or a similar beneficial use in accordance with 18 AAC 60.009; in this paragraph, "manufactured product" does not include compost, biofuels, or other organic products.

(c) The following solid wastes may be beneficially used in accordance with an approval by the department under 18 AAC 60.008 or 18 AAC 60.009:

- (1) wood waste;
- (2) coal ash;
- (3) crushed asphalt;

(4) other similar solid wastes approved by the department.

(d) The following solid wastes may not be beneficially used under 18 AAC 60.008 or 18 AAC 60.009:

- (1) animal waste;
- (2) asbestos;
- (3) biosolids;
- (4) commercial solid waste;
- (5) hazardous waste;
- (6) household waste;
- (7) industrial solid waste;
- (8) medical waste;
- (9) pathological waste;
- (10) PCB waste;
- (11) putrescible waste;
- (12) selected isolation waste;
- (13) sewage solids;
- (14) vehicles and construction equipment. (Eff. 9/7/2002, Register 163; am

10 / 27 / 2017, Register 224)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 46.03.010	AS 46.03.110	AS 46.06.080
	AS 46.03.020		

18 AAC 60.008 is repealed and readopted to read:

18 AAC 60.008. Structural fill using solid waste. (a) A solid waste listed under 18 AAC 60.007(c) may be approved for use as structural fill. Any solid waste approved for use in a structural fill project must substitute for natural or raw materials that would otherwise be used and, if placed below the natural ground surface, must be placed at least five feet above the seasonal high water level of the uppermost aquifer. A structural fill project may be approved as a small project under (b) of this section or as a large project under (c) of this section. Any proposed large fill project for which the applicant cannot successfully demonstrate the required components under (c) of this section will be permitted as a non-municipal landfill under 18 AAC 60.200 - 18 AAC 60.270 and 18 AAC 60.400 - 18 AAC 60.490 using the requirements applicable to the solid waste that is used.

(b) A structural fill project qualifies as a small fill project if the total volume of solid waste placed as fill material is less than 23,000 cubic yards. A proposal submitted for a small structural fill project must be on a form provided by the department and must include

(1) an appraisal or assessment showing the current value of the property where solid waste will be placed and an estimate of the value the property will have after the project is complete;

(2) proof of landowner consent for the proposed project or proof that the person proposing the project is the legal owner of the land on which the fill will be placed;

(3) a list of each solid waste that will be placed at the site, including the expected volume and source of each waste type;

- (4) information documenting that each solid waste proposed for use will meet available and relevant product specifications, regulatory standards, or design standards;
- (5) an estimate of the total area on which solid waste will be placed as fill material;
- (6) a description of the purpose for the project and the proposed future use of the site;
- (7) an operations plan explaining where, how, when, and over what time period the solid waste will be placed on the land;
- (8) an estimate of the expected compaction density and load bearing capacity of the finished fill;
- (9) a list of each permit and approval issued or expected to be issued by government agencies other than the department;
- (10) a description of the material that will be used to cover the beneficially used solid waste at the completion of the project; and
- (11) construction drawings showing
 - (A) the surface contours of the existing site;
 - (B) the surface contours of the finished site;
 - (C) the location and details for any proposed drainage ditches and culverts;
 - (D) the location of any temporary or permanent road or ramp; and
 - (E) any pavement, sewer, plumbing, or electrical installation on the site.

(c) Except for the use of coal ash that under 18 AAC 60.007 is exempt from this section if the coal ash is used in roadway projects and mine reclamation projects, a structural fill project qualifies as a large fill project if the total volume of solid waste used is more than 23,000 cubic yards. A proposal for a large fill project must be submitted on a form provided by the department, must include the information and items required under (b) of this section, and must include

(1) documentation that environmental releases to groundwater, surface water, soil, and air from each solid waste proposed for use will not exceed releases from each natural or raw material replaced by the solid waste, or will be at or below relevant regulatory and health-based benchmarks for human and ecological receptors; and

(2) copies of analytical results from a sample of each solid waste proposed for use; the analytical results must document current values for volatile organic compounds and metals using EPA Method 1312, *Synthetic Precipitation Leaching Procedure*, revised as of September 1994 and adopted by reference, and any other parameters requested by the department.

(d) If a large structural fill project will require more than one year to complete, the department may require the applicant to analyze, once each year for the duration of the project, each solid waste that will be used as fill. The applicant must

(1) analyze each sample in accordance with (c)(2) of this section; and

(2) submit to the department a statistical comparison of the recent results and the analytical data on which the documentation provided under (c)(1) of this section was based.

(e) The department will approve a proposal for a structural fill project under (b) or (c) of this section not later than 30 working days after receipt of a complete proposal if each solid waste to be used may be beneficially used under 18 AAC 60.007(c) and is not prohibited under 18 AAC 60.007(d), the person requesting permission has submitted the information required under (b) or (c) of this section as applicable, the department finds that each proposed solid waste is suitable for the proposed use, and the department finds that the proposed beneficial use of solid waste will

- (1) increase the market value of the property;
- (2) meet available and relevant product specifications, regulatory standards, or design standards;
- (3) not shift, erode, or settle in a way that will preclude the proposed future use of the site;
- (4) not create any harmful leachate;
- (5) not undergo combustion; and
- (6) not cause a threat to public health, safety, or welfare, or to the environment.

(f) Any solid waste used in an approved structural fill project under this section must, at the conclusion of the project, be entirely covered by at least six inches of an earthen material exempt from regulation under this chapter. Alternative cover materials, including asphalt or concrete pavement, may be used only with prior approval of the department. A request for prior approval must include documentation that the solid waste is a suitable base for the proposed cover material.

(g) A person authorized to use solid waste as fill under this section shall take corrective action for any violation of state statutes or regulations pertaining to water quality, air quality, public or private nuisances, and solid waste management that is caused by the mismanagement of the solid waste used as fill. (Eff. 9/7/2002, Register 163; am 10/27/2017, Register ~~224~~)

Authority: AS 44.46.020 AS 46.03.100 AS 46.03.810
AS 46.03.010 AS 46.03.110 AS 46.06.080
AS 46.03.020

18 AAC 60 is amended by adding a new section to read:

18 AAC 60.009. Beneficial use of solid waste as an ingredient in a manufactured product. (a) If a person wants to use a solid waste as an ingredient in a manufactured product or for a similar beneficial use, the person must submit a proposal that explains, for each solid waste that will be used,

- (1) the proposed use of the solid waste;
- (2) the comparative qualities and characteristics of the product made with the solid waste and the product made without the solid waste;
- (3) how the qualities and characteristics of the solid waste make the solid waste suitable for the proposed use;
- (4) a demonstration that the solid waste will be bound into the product in such a way that the solid waste cannot be mobilized into the surrounding environment;
- (5) each procedure that is incorporated in the proposal to protect public health, safety, and welfare, and the environment during the transport, storage, and use of the solid waste;

and

(6) if the product is a new product, information about the projected market for the product.

(b) The department will approve a proposal submitted under (a) of this section if the proposal clearly documents that

(1) the product made with the solid waste will meet all relevant product specifications and use of the solid waste will not degrade the quality or utility of the product;

(2) the solid waste in the product will not be mobilized into the surrounding environment;

(3) the procedures described under (a)(5) of this section will protect public health, safety, and welfare, and the environment; and

(4) for proposals involving a new product, the proposal documents the presence of a suitable and sufficient market for the proposed product. (Eff. 10/27/2017, Register ~~224~~)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 46.03.010	AS 46.03.110	AS 46.06.080
	AS 46.03.020		

The introductory language of 18 AAC 60.010(i) is amended to read:

(i) The owner or operator of a solid waste treatment works that is **not exempt under 18 AAC 60.005(d)** [DESIGNED TO TREAT MORE THAN FIVE TONS OF WASTE DAILY], and that is not located within the boundaries of a permitted landfill shall

...

(Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am 9/7/2002, Register 163; am 10/27/2017, Register 224)

Authority: AS 44.46.020 AS 46.03.100 AS 46.03.810
AS 46.03.010 AS 46.03.110 AS 46.06.080
AS 46.03.020

The introductory language of 18 AAC 60.200(a) is amended to read:

18 AAC 60.200. Permit requirement. (a) Except as otherwise provided in this section, a person may treat or dispose of solid waste, or construct, modify, or operate a solid waste facility only in accordance with a waste disposal permit issued by the department under 18 AAC 60.215, an authorization under (c), [OR] (d), or (e) of this section, or a research, development, and demonstration permit issued under 18 AAC 60.213. However, a permit or authorization under this chapter is not required for

...

18 AAC 60.200(a)(10) is amended to read:

(10) a solid waste treatment works or a solid waste treatment facility that is designed to treat less than five tons of waste daily, unless the treatment works or facility

(A) treats sewage solids or septage to create biosolids;

(B) treats medical waste, and is not contained within a hospital,

medical office, laboratory, or other medical or research institution treating medical waste;

(C) treats drilling waste;

(D) treats a waste with characteristics similar to a waste described in

(A), (B), or (C) of this paragraph, as determined by the department; or

(E) causes or contributes to a threat to public health, safety, or welfare, or the environment, or is operated in a manner that causes or contributes to a nuisance;

18 AAC 60.200(a)(14) is amended to read:

(14) storage of drilling [INDUSTRIAL SOLID] waste under 18 AAC 60.430

[18 AAC 60.430(a)];

18 AAC 60.200(a)(15) is amended to read:

(15) solid waste approved for use in a small or large structural fill project [AS FILL] under 18 AAC 60.008 [18 AAC 60.007]; or

18 AAC 60.200(a)(16) is amended to read:

(16) solid waste approved for beneficial use as an ingredient in a manufactured product under 18 AAC 60.009 [18 AAC 60.008]; [OR]

18 AAC 60.200(a)(17) is repealed:

(17) repealed 10/27/2017.

18 AAC 60.200 is amended by adding a new subsection to read:

(e) The department will issue a written authorization for a treatment works that will operate for less than one year if

(1) the owner or operator of the treatment works submits for department review a plan of operations that demonstrates

(A) that waste will be properly contained to prevent the release of any hazardous constituents;

(B) that the treatment will effectively reduce the volume or toxicity or change the characteristics of the waste to make the waste suitable for reuse or disposal;

(C) that the treatment works will prevent or control run-off that would violate the water quality standards of 18 AAC 70;

(D) that the treatment works will be managed so that the standards for disease vectors and animal control in 18 AAC 60.230 are met;

(E) that the treatment works will be operated to prevent odors, dust, and other nuisances;

(F) how treated wastes will be managed, handled, and stored until reused or disposed, and how treated wastes will be transported to the reuse or disposal facility;

(G) that the treatment works and all waste will be completely removed not later than one year after the date of the authorization; and

(H) that the plan addresses any other conditions that the department requires to ensure the protection of the public health, safety, and welfare and the environment; and

(2) the owner or operator of the treatment works provides documentation to the department that the landowner consents to the proposed activity. (Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am 9/7/2002, Register 163; am 9/5/2010, Register 195; am 4/12/2013, Register 206; am 10/27/2017, Register 224)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.06.010
	AS 46.03.010	AS 46.03.800	AS 46.06.080
	AS 46.03.020	AS 46.03.810	

18 AAC 60.210(b)(8) is amended to read:

(8) the permit application review fee and any applicable one-time fees required under Table E-3 [BY TABLE I-3] in 18 AAC 60.700(a).

The introductory language of 18 AAC 60.210(c) is amended to read:

(c) For a solid waste disposal facility or treatment works [LANDFILL THAT ACCEPTS MORE THAN FIVE TONS OF WASTE PER DAY, ON AN ANNUAL BASIS], the owner or operator shall ensure that a permit application or renewal described in this section is signed and sealed by a registered engineer verifying that the

...

(Eff. 1/28/96, Register 137; am 6/28/96, Register 138; am 10/29/98, Register 148; am 7/11/99, Register 151; am 6/30/2002, Register 162; am 9/7/2002, Register 163; am 9/5/2010, Register 195; am 4/8/2012, Register 202; am 4/12/2013, Register 206; am 10/27/2017, Register 224)

Register 224, January 2018

ENVIRONMENTAL CONSERVATION

Authority:	AS 44.46.020	AS 46.03.010	AS 46.03.100
	AS 44.46.025	AS 46.03.020	AS 46.03.110

18 AAC 60.213(c) is amended to read:

(c) The department will assess **a fee** [FEES] in accordance with **Table E-1 in 18 AAC 60.700(a)** [18 AAC 60.700(f)] for a research, development, and demonstration permit.

(Eff. 9/5/2010, Register 195; am 10 / 27 / 2017, Register 224)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 46.03.010	AS 46.03.110	AS 46.06.010
	AS 46.03.020	AS 46.03.800	AS 46.06.080

The introductory language of 18 AAC 60.255(e) is amended to read:

(e) A general permit will contain criteria by which facilities may qualify for coverage under the general permit. A person who seeks to be covered under a general permit issued under this section may submit an application to the department on a form provided by the department or in accordance with the conditions of the general permit. The application must be accompanied by the annual fee identified in **Table E-4** [TABLE I-4] in 18 AAC 60.700(a). In addition, the application must

...

(Eff. 1/28/96, Register 137; am 6/28/96, Register 138; am 10/29/98, Register 148; am 6/30/2002, Register 162; am 7/11/2002, Register 163; am 9/5/2010, Register 195; am 4/8/2012, Register 202; am 10 / 27 / 2017, Register 224; am 10 / 27 / 2017, Register 224)

Register ~~224~~ January 2018

ENVIRONMENTAL CONSERVATION

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 44.46.025	AS 46.03.110	AS 46.06.010
	AS 46.03.010	AS 46.03.800	AS 46.06.080
	AS 46.03.020		

18 AAC 60.265 is amended to read:

18 AAC 60.265. Proof of financial responsibility. The [UNLESS THE APPLICANT HAS PROVIDED EQUIVALENT SURETY THROUGH A GOVERNMENT AGENCY OR HAS DEMONSTRATED FINANCIAL ASSURANCE UNDER 18 AAC 60.398, THE] department will require proof of financial responsibility to cover the cost of closing a solid waste disposal facility or treatment works [LANDFILL] and [, IF MONITORING IS REQUIRED,] the cost of post-closure monitoring [, IF THE DEPARTMENT DETERMINES PROOF OF FINANCIAL RESPONSIBILITY IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, OR WELFARE, OR THE ENVIRONMENT]. Proof of financial responsibility under this section may be demonstrated by self-insurance, insurance, surety, or other guarantee approved by the department to assure compliance with applicable closure standards and post-closure monitoring requirements. (Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 10/27/2017, Register 224)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.830
	AS 46.03.010	AS 46.03.110	AS 46.06.080
	AS 46.03.020	AS 46.03.810	

18 AAC 60.410(a) is amended to read:

18 AAC 60.410. Location standards. (a) A **new landfill and each lateral expansion of an existing landfill subject to the requirements of 18 AAC 60.400**

(1) [MONOFILL BUILT AFTER 1/28/96] may not be constructed on slopes greater than 10 percent grade or unstable soils that might cause the waste to slide or settle excessively; **and**

(2) must comply with the requirements for

(A) wetlands in 18 AAC 60.315; and

(B) fault areas, seismic impact zones, and unstable areas in 18 AAC

60.320.

(Eff. 1/28/96, Register 137; am 10/27/2017, Register ~~224~~)

Authority: AS 44.46.020 AS 46.03.020 AS 46.03.110
AS 46.03.010 AS 46.03.100

18 AAC 60.430 is repealed and readopted to read:

18 AAC 60.430. Drilling waste temporary storage facility. (a) Except for an inactive reserve pit subject to 18 AAC 60.440, the owner or operator of a drilling waste temporary storage facility shall meet the storage requirements of this section.

(b) A person who plans to store drilling waste during drilling operations, in a manner that does not require a permit under 18 AAC 60.200, must submit a storage plan to the department not later than 30 days before operations are planned to begin. Storage may not begin until the department has approved the plan. A plan submitted under this subsection must include

- (1) the name, address, telephone number, and affiliation of each person responsible for conducting the drilling activity;
- (2) the location and type of each storage container;
- (3) plans and material specifications to be used in the construction of each lined containment structure to be used for temporary storage;
- (4) methods to be used to prevent the discharge of drilling waste or leachate to the land or water of the state;
- (5) the name and location of each facility to which stored drilling waste will be transferred;
- (6) the anticipated dates of storage and waste removal;
- (7) the location of the ultimate disposal of the drilling waste; and
- (8) certification that the waste will be removed from the property not later than one year after the date of issuance of the approval.

(c) Each containment structure under (b)(3) of this section must conform to the following standards unless the department provides written approval of an alternate plan that will protect the public health, safety, and welfare, and the environment in a similar manner:

- (1) a containment structure must be sized to contain all the waste and any anticipated precipitation that may accumulate in the area with a minimum of two feet of freeboard;
- (2) a containment structure must be leakproof;
- (3) liner material must be compatible with petroleum hydrocarbons, drilling waste, and any other material that might be deposited into the temporary structure; and

(4) liner material must be a flexible geomembrane liner that is at least

(A) 30 mils in thickness; or

(B) 60 mils in thickness, if it consists of high density polyethylene

(HDPE).

(d) After removal of drilling waste from a storage area, the person conducting the activity shall

(1) conduct a visual site inspection to verify that all drilling waste has been removed from the site; and

(2) submit written notification to the department not later than seven days after the final site inspection and provide information regarding drilling waste volume and the final disposition of the transferred drilling waste. (Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am 9/7/2002, Register 163; am 10/27/2017, Register ~~224~~)

Authority: AS 44.46.020 AS 46.03.100 AS 46.03.800

AS 46.03.010 AS 46.03.110 AS 46.03.810

AS 46.03.020

[EDITOR'S NOTE: THE DOCUMENTS ADOPTED BY REFERENCE IN 18 AAC 60.430 MAY BE REVIEWED AT THE DEPARTMENT'S OFFICES IN ANCHORAGE, FAIRBANKS, AND JUNEAU, AND AT THE OFFICE OF THE LIEUTENANT GOVERNOR. THE ENVIRONMENTAL PROTECTION AGENCY DOCUMENTS MAY BE ORDERED FROM NATIONAL TECHNICAL INFORMATION SERVICES, 5285 PORT ROYAL ROAD, SPRINGFIELD, VIRGINIA 22161.]

18 AAC 60 is amended by adding a new section to read:

18 AAC 60.432. Drilling waste landfill. (a) The owner or operator of a drilling waste landfill shall meet the operating requirements of this section. The owner or operator shall

(1) accept only drilling waste that meets the exclusion criteria of 40 C.F.R. 261.4(b)(5), revised as of July 1, 1998 and adopted by reference, or other materials as authorized by the department;

(2) keep to a minimum the introduction of extraneous liquids;

(3) operate in accordance with a department-approved fluid management plan;

and

(4) operate with a minimum of two feet of freeboard.

(b) The owner or operator shall ensure that the drilling waste landfill is designed to

(1) contain the total volume necessary for drilling waste disposal and emergency relief volume;

(2) prevent overflow from, or damage to, containment structures or other waste management areas, from operations, annual average precipitation, wind action, or wave action;

(3) ensure that drilling waste, leachate, or eroded soil from the drilling waste landfill does not impact groundwater or surface water quality and establish a monitoring program in compliance with 18 AAC 60.810 - 18 AAC 60.860;

(4) ensure that each containment structure will support and maintain the integrity of the liner throughout the life of the facility, including post-closure; and

(5) ensure that any liner used

(A) is designed and installed to remain in place during the active life of

the drilling waste landfill and any post-closure care period;

(B) will prevent drilling waste or leachate from escaping from the containment structure or other waste management area; and

(C) is constructed of materials that are chemically, physically, and biologically compatible with the disposed drilling waste and its leachate.

(c) The plans for the proposed design and construction of the drilling waste landfill and the fluid management plan must be signed and sealed by a registered engineer and approved by the department under 18 AAC 60.203 before construction.

(d) The containment system for a new or lateral expansion of a drilling waste landfill, constructed after October 27, 2017 {*effective date of regulations*}, must

(1) include a double liner consisting of two distinct geomembrane liners, each capable of independently containing waste, and that are each at least

(A) 30 mils in thickness; or

(B) 60 mils in thickness, if each liner consists of high density polyethylene (HDPE); and

(2) be selected, constructed, installed, and maintained in accordance with industry standards.

(e) The owner or operator shall install a system designed to detect fluids between the two layers of liner to detect any leakage of the primary liner.

(f) In addition to meeting the requirements of (d) and (e) of this section, the owner or operator of a drilling waste landfill or facility sited in a permafrost region shall

(1) ensure that it is designed such that the underlying permafrost will not thaw;

(2) ensure that the liner is compatible with the range of temperatures present in the permafrost zone; and

(3) install and monitor a subsurface thermal monitoring system designed to detect thawing of the permafrost.

(g) The owner or operator of a drilling waste landfill shall

(1) conduct visual monitoring as described in 18 AAC 60.800(a); and

(2) sample and analyze groundwater or surface water as required under 18 AAC 60.810 and 18 AAC 60.820 - 18 AAC 60.860.

(h) At the closure of a drilling waste landfill, except for an inactive reserve pit subject to 18 AAC 60.440, the owner or operator shall

(1) remove all pumpable fluids, resulting in a waste that is in a non-liquid condition;

(2) take appropriate measures to ensure that the contents of a containment structure are of sufficient compressive strength to support a cap while maintaining the proposed design contour;

(3) in accordance with a department-approved closure plan, construct a cap that is designed to

(A) have a hydraulic conductivity less than or equal to the hydraulic conductivity of the containment liner;

(B) withstand erosion, cracking, adverse effects of freeze-thaw cycles, frost heaves, and other events that might cause degradation or damage to the cap's barrier layer; and

(C) include a geomembrane liner that is at least

(i) 30 mils in thickness or

(ii) 60 mils in thickness if the cap is constructed of high density polyethylene (HDPE); and

(4) ensure that the cap is revegetated or otherwise treated in a manner appropriate to the long-term use of the facility.

(i) After closure of the drilling waste landfill, the owner or operator shall

(1) meet the closure demonstration and post-closure care requirements of 18 AAC 60.490;

(2) prepare logs and submit written reports of inspections, with photographs of the disposal site;

(3) maintain the integrity of the final cover, slopes, drainage structures, liners, caps, groundwater monitoring devices, and thermal monitoring devices;

(4) if a containment structure or other waste management area is located in permafrost, ensure that the drilling wastes do not cause thawing of the permafrost; and

(5) establish permanent markers or survey monuments, if there are no readily observable existing monuments or markers, from which the exact location of a facility and each closed waste management area in the facility can be determined.

(j) After completion of the post-closure care period for a drilling waste landfill, the owner or operator shall certify to the department that post-closure care has been completed in accordance with the department-approved post-closure plan. The certification must be signed and sealed by a registered engineer and must be approved by the department. (Eff. 10/27/2017)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 46.03.010	AS 46.03.110	AS 46.06.080
	AS 46.03.020	AS 46.03.800	

18 AAC 60.440 is repealed and readopted to read:

18 AAC 60.440. Closure of inactive reserve pits. (a) An inactive reserve pit must be closed in accordance with this section unless the pit was previously closed under approval from the department.

(b) For an inactive reserve pit that is discovered on or after ^{October 27, 2017} {*effective date of regulations*}, the owner or operator of an inactive reserve pit shall submit a closure plan to the department that includes

(1) specific location data, including global positioning system (GPS) coordinates of the four corners of the reserve pit,

(2) a map showing all surface water within 1,000 feet of the inactive reserve pit;

(3) a detailed description or photographs demonstrating the existing site conditions and indicating any potential exposed drilling waste, ponding, or signs of ponding within the boundaries of the inactive reserve pit;

(4) analytical data, including parameters specified by the department, for surface water located within 1,000 feet of the inactive reserve pit, including any surface water within the inactive reserve pit; and

(5) a proposal to either

(A) perform a corrective action under (c) and (d) of this section; or

(B) if no water is present within the reserve pit and no drilling waste is evident on the surface at the site, request permanent closure of the inactive reserve pit under (e) of this section.

(c) The owner or operator of an inactive reserve pit for which corrective action is required shall submit a plan to the department at least 90 days before the proposed initiation of the corrective action. The plan must include

(1) a description of the proposed corrective action and the overall project goals;

(2) a map that shows each location of each inactive reserve pit that will be included in the corrective action;

(3) a detailed description of the existing site conditions and inactive reserve pit conditions and any previous monitoring results;

(4) plan view and cross-sectional drawings that clearly show how the corrective action will be conducted;

(5) a description of soil and water sampling that will be conducted in support of the corrective action; and

(6) an estimate of the timeframe under which the corrective action will be performed.

(d) The owner or operator may not initiate corrective action until the department has approved the corrective action plan.

(e) The department may issue permanent closure approval for an inactive reserve pit if

(1) the owner or operator demonstrates, to the satisfaction of the department, that

the inactive reserve pit does not pose any risk to public health or the environment; or

(2) the corrective action plan under (c) of this section is implemented and the action is demonstrated to the satisfaction of the department to eliminate, mitigate, or abate the risk to public health and the environment present at the site.

(f) If the owner or operator seeking permanent closure approval is not the landowner of record, the owner or operator shall provide proof that the landowner has been notified of the request for permanent closure approval.

(g) If conditions at an inactive reserve pit closed under (c) of this section change in a way that makes corrective action necessary to protect public health and the environment, the department may require further investigation, assessment, monitoring, or remediation.

(h) The department will apply a fee described in 18 AAC 60.700(g)(1)(A) for any action taken by the department for closure or corrective action plan review, oversight of corrective action, monitoring review, department inspections, issuance of permanent closure approval, or any other action under this section. (Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 6/30/2002, Register 162; am 10/27/2017, Register 224)

Authority:	AS 44.46.020	[AS 46.03.090]	AS 46.03.800
	AS 44.46.025	AS 46.03.100	AS 46.03.810
	AS 46.03.020		

[EDITOR'S NOTE: INFORMATION ABOUT HOW TO OBTAIN OR REVIEW
SW-846 ADOPTED BY REFERENCE IN 18 AAC 60.440 IS IN THE EDITOR'S NOTE FOR
18 AAC 60.365.]

18 AAC 60.490(c) is amended to read:

(c) **The** [EXCEPT FOR A DRILLING WASTE DISPOSAL FACILITY SUBJECT TO 18 AAC 60.430(E)(2), THE] owner or operator of a monofill shall conduct visual monitoring, for settlement and erosion, for at least 60 consecutive months immediately following the closure. The department will require periodic visual monitoring at a monofill for up to 360 consecutive months immediately following the closure, if based on the type of waste and the site's compliance history under this chapter, the department determines that **the** monitoring is necessary to protect the public health, safety, or welfare, or the environment. In addition to visual monitoring, the department will require groundwater, surface water, leachate, gas, and thermal monitoring at a monofill if the department finds that monitoring is necessary to protect the public health, safety, or welfare, or the environment. The department will also require additional monitoring and corrective action necessary to meet the standards in 18 AAC 60.815 and 18 AAC 60.860. The department will extend the post-closure monitoring period if necessary to ensure that the facility will not harm the public health, safety, or welfare, or the environment. At the end of the post-closure period, the owner or operator shall submit a report to the department that describes site conditions and summarizes the information collected during post-closure period.

(Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am

10/27/2017, Register ~~224~~)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 46.03.010	AS 46.03.110	AS 46.06.080
	AS 46.03.020	AS 46.03.800	

18 AAC 60.505(a) is amended to read:

(a) Regulations of the federal government for land application of biosolids in 40 C.F.R. 503.8 (sampling [SAMPLING] and analysis), revised as of March 26, 2007, 40 C.F.R. 503.9 (general [GENERAL] definitions), revised as of August 4, 1999, [AND] 40 C.F.R. Part 503, Subpart B (land application [LAND APPLICATION]) [,] and Subpart D (pathogens and vector attraction reduction [PATHOGENS AND VECTOR ATTRACTION REDUCTION]), revised as of October 22, 2015, and 40 C.F.R. Part 503, Appendices A and B, revised as of August 4, 1999 [JULY 1, 1997], are adopted by reference.

18 AAC 60.505(b) is amended to read:

- (b) A person may not apply biosolids to land unless
- (1) the concentration of metals in the soil is below, and will remain below, the limits set in 40 C.F.R. 503.13, Table 1, revised as of August 4, 1999 [JULY 1, 1997];
 - (2) the project is consistent with the management practices in 40 C.F.R. 503.14, revised as of August 4, 1999 [JULY 1, 1997];
 - (3) the concentration of metals in the biosolids is less than the limits set in 40 C.F.R. 503.13, Table 1, revised as of August 4, 1999 [JULY 1, 1997];
 - (4) the biosolids have been treated to meet the pathogen reduction requirements of 40 C.F.R. 503.15(a), revised as of August 4, 1999 [JULY 1, 1997]; and
 - (5) the biosolids have been treated to meet the vector attraction requirements of 40 C.F.R. 503.15(c), revised as of August 4, 1999 [JULY 1, 1997].

(Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 10/27/2017, Register ~~224~~)

Register ~~224~~ January 2018

ENVIRONMENTAL CONSERVATION

Authority:	AS 44.46.020	AS 46.03.020	AS 46.03.110
	AS 46.03.010	AS 46.03.100	AS 46.03.810

The introductory language of 18 AAC 60.510(b) is amended to read:

(b) A permit under this section is not required for biosolids bought, sold, or given away in a bag or other container if the generator demonstrates to the department's satisfaction that

...

(Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am 9/7/2002, Register 163; am 9/5/2010, Register 195; am 4/8/2012, Register 202; am 10/27/2017, Register 224)

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.800
	AS 46.03.010	AS 46.03.110	AS 46.03.810
	AS 46.03.020		

18 AAC 60.700 is repealed and readopted to read:

18 AAC 60.700. Fee requirements. (a) Except as provided in (g) of this section, the owner or operator of a solid waste disposal facility shall pay the applicable fees as prescribed in Tables E-1, E-2, E-3, and E-4 [I-1, I-2, I-3, AND I-4] of this subsection. The owner or operator of a facility subject to the annual fee requirement shall continue to pay the annual fee until the department approves termination of the post-closure obligations under 18 AAC 60.270.

TABLE E-1
ANNUAL MUNICIPAL SOLID WASTE LANDFILL
FACILITY FEES

Facility Type:	Class I	Class II	Class III (camp) ¹	Class III (community)¹
Individual permit	\$9,000	\$4,000	\$670	\$250
R, D, and D permit²	\$1,035	Not applicable	Not applicable	Not applicable
Comprehensive permit under 18 AAC 60.207	\$11,250	\$5,000	\$835	\$310
Post-closure period³	\$3,370	\$2,020	\$320	\$140

Notes:

¹ A Class III (camp) landfill is a MSWLF that is classified under 18 AAC 60.300(c)(3)(A), and a Class III (community) landfill is a MSWLF that is classified under 18 AAC 60.300(c)(3)(B).

² An R, D, and D permit is a research, development, and demonstration permit issued under 18 AAC 60.213. This permit type is only allowed for a Class I MSWLF.

³ The post-closure period fee is payable each year from the time final closure is completed under 18 AAC 60.390 – 18 AAC 60.395 until the department approves termination of the post-closure obligations under 18 AAC 60.270.

TABLE E-2

**ANNUAL TREATMENT FACILITY, NONMUNICIPAL SOLID WASTE LANDFILL
FACILITY, AND BIOSOLIDS LAND APPLICATION FEES**

Facility Type:	Type X	Type Y	Type Z
	<ul style="list-style-type: none"> - Industrial waste treatment - Drilling waste treatment, including grind and inject - Drilling waste monofill - Lined coal ash monofill - Industrial waste monofill 	<ul style="list-style-type: none"> - Asbestos monofill - Wood waste monofill - Sewage solids monofill - Land application of biosolids (without treatment facility) 	<ul style="list-style-type: none"> - Inert waste monofill - Unlined coal ash monofill - Biosolids treatment facility - Medical waste treatment facility - Municipal solid waste treatment
Individual permit	\$4,440	\$1,220	\$2,225
Comprehensive permit under 18 AAC 60.207	\$5,550	\$1,525	\$2,780
Post-closure period¹	\$490	\$370	\$245

Notes:

¹ The post-closure period fee is payable each year from the time final closure is completed under 18 AAC 60.430 – 18 AAC 60.490 until the department approves termination of the post-closure obligations under 18 AAC 60.270.

TABLE E-3 ONE-TIME SOLID WASTE FACILITY FEES	
Fee type¹:	
Storage plan review, at site without a permit	\$895
One-time solid waste treatment facility plan review ²	\$2,530
One-time inert waste monofill authorization	\$1,500
One-time asbestos monofill authorization	\$1,500
One-time sewage solids monofill authorization	\$1,500
Solid waste as fill authorization – small ³	\$685
Solid waste as fill authorization – large ³	\$1,595
Upland dredge material disposal – small ³	\$685
Upland dredge material disposal – large ³	\$1,595
Polluted soil disposal or landfarm in a landfill ⁴	\$1,945
Closure plan review, without a permit	\$920
Notes: ¹ Applicable fees must be submitted with the plan or application, prior to department review. ² This fee applies to a solid waste treatment facility covered under 18 AAC 60.200(e). ³ For the purposes of fees, a small project is one that involves 23,000 cubic yards or less, and a large project is one that involves more than 23,000 cubic yards. ⁴ The polluted soil disposal fee applies to a polluted soil disposal plan required under 18 AAC 60.025(d).	

TABLE E-4	
ANNUAL FEES FOR COVERAGE UNDER GENERAL PERMITS	
Type of general permit	Annual fee
Remote camps and lodges with fewer than 50 residents	\$115
United States Air Force long range radar sites (LRRS)	\$220
North Slope drilling waste long-term storage sites	\$1,605
Woodwaste disposal in rock pits in Southeast Alaska	\$665
Regional North Slope Borough Class III landfills	\$250
<p>Note:</p> <p>The first annual fee must be submitted with an application for coverage under a general permit as specified in 18 AAC 60.255(e); subsequent annual fees will be billed each year; a subsequent annual fee must be paid not later than 60 days after the date of billing for coverage under the general permit to remain in effect.</p>	

(b) Before the department will review a plan required under this chapter, an application for a permit, or any other document listed in (a) of this section, the applicant must pay each applicable fee at the time of application. For the purposes of this section, a new permit or authorization includes a permit or authorization that has expired and was not administratively continued under the provisions of 18 AAC 15.110.

(c) Annual fees in Tables E-1, E-2, and E-4 in (a) of this section will be billed at the beginning of each calendar year and must be paid not later than 60 days after the date of billing.

(d) A fee required under (a) of this section is not refundable.

(e) Fees listed in (a) of this section are based on standard designated regulatory services,

as that term is defined in AS 37.10.058. In addition to these fees, the department may charge an hourly fee of \$53 per hour for time spent on the activity if the department determines that

(1) a revised permit application or other revised submittal is substantially incomplete or technically inadequate because the applicant failed to address the deficiencies identified in the department's notification following its review of the original application or submittal; or

(2) a requested activity involves complex or controversial legal, technical, or policy issues that exceed those that meet the definition of a standard designated regulatory service under AS 37.10.058.

(f) The department will notify the applicant in writing before starting hourly billing under (e) of this section, with an explanation of why the requested regulatory service meets one or both of the criteria set out in (e)(1) and (2) of this section.

(g) For a solid waste facility or activity that is not listed in (a) of this section,

(1) the department will

(A) assess an hourly fee based on direct department costs, including

(i) \$60 for each hour of time spent on inactive reserve pit work under 18 AAC 60.440; or

(ii) \$53 for each hour of time spent on activities not included in (i) of this subparagraph; and

(B) recover costs for goods and third-party services; for purposes of this subparagraph, goods and third-party services include travel, if the business has more than 20 employees; or

(2) if the applicant requests, the department will negotiate a fee to cover the costs of issuing the permit or approval sought.

(h) If the department determines that the department lacks the technical expertise to evaluate a portion of a facility plan, application, or waiver request, and that evaluation is necessary in order to protect public health, safety, welfare, or the environment, the department will notify the applicant and, under AS 36.30, enter into a contract with a consultant for the needed expertise to complete the evaluation. The applicant shall pay for the cost of the contract in addition to any other fees in this section.

(i) The permittee shall pay the fee assessed under (e), (g), or (h) of this section not later than 60 days after the date of the billing.

(j) Interest on an overdue payment accrues at the rate prescribed in AS 45.45.010 and begins to accrue when the payment is more than

(1) 60 days past due; or

(2) 90 days past due for a payment for which a review was requested under 18 AAC 60.730, if payment is found to be due. (Eff. 6/28/96, Register 138; am 10/29/98, Register 148; am 6/30/2002, Register 162; 7/11/2002, Register 163; am 9/7/2002, Register 163; am 9/5/2010, Register 195; am 10/27/2017, Register 224)

Authority:	AS 37.10.052	AS 46.03.010	AS 46.03.100
	AS 44.46.020	AS 46.03.020	AS 46.03.110
	AS 44.46.025		

18 AAC 60.990(17) is repealed:

(17) repealed 10/27/2017;

18 AAC 60.990(20) is amended to read:

(20) "biosolids" means sewage solids or septage that is treated to reduce pathogens and vector attraction for application to the land as a fertilizer or soil amendment [SOLID, SEMI-SOLID, OR LIQUID RESIDUE GENERATED DURING TREATMENT OF DOMESTIC SEWAGE IN A TREATMENT WORKS; "BIOSOLIDS" INCLUDES DOMESTIC SEPTAGE; SCUM OR SOLIDS REMOVED IN PRIMARY, SECONDARY, OR ADVANCED WASTEWATER TREATMENT PROCESSES; AND A MATERIAL DERIVED FROM BIOSOLIDS; "BIOSOLIDS" DOES NOT INCLUDE ASH GENERATED DURING THE FIRING OF BIOSOLIDS IN A BIOSOLIDS INCINERATOR OR GRIT AND SCREENINGS GENERATED DURING PRELIMINARY TREATMENT OF DOMESTIC SEWAGE IN A TREATMENT WORKS];

18 AAC 60.990(29) is amended to read:

(29) "containment structure" means a type of waste management area in which an arrangement of dikes, walls, [BARRIER BERMS,] pits, ice storage pits, liners, pads, cover material, and other similar constructs are used to hold solid waste and to prevent the escape, seepage, or discharge of solid waste and leachate from, or infiltration of water or precipitation into, the waste management area;

18 AAC 60.990(63) is amended to read:

(63) "industrial solid waste"

(A) means solid waste generated by a manufacturing or industrial process that is not a hazardous waste regulated under 42 U.S.C. 6921 - 6939g (RCRA, Subtitle C) [42 U.S.C. 6921 - 42 U.S.C. 6939b (RCRA, SUBTITLE C, AS AMENDED THROUGH AUGUST 21,1998)];

(B) ["INDUSTRIAL SOLID WASTE"] includes polluted soil, inorganic chemicals, iron and steel manufacturing waste, leather and leather products, waste from nonferrous metals manufacturing and foundries, [DRILLING WASTE,] organic chemicals, plastic resin waste, sludges and boiler ash from the pulp and paper industry, rubber and miscellaneous plastic products, textile manufacturing waste, and water treatment chemicals;

(C) ["INDUSTRIAL SOLID WASTE"] does not include coal ash, drilling waste, slaughterhouse waste, wood waste, inert waste, or mining waste;

18 AAC 60.990(64) is amended to read:

(64) "inert waste"

(A) means solid waste that has a low potential to pollute air or water, and that does not normally attract wildlife;

(B) ["INERT WASTE"] includes [COAL POWER PLANT ASH,] scrap metal, auto fluff, construction and demolition waste, and pavement rubble;

(C) ["INERT WASTE"] does not include asphalt material that contains asbestos;

18 AAC 60.990(71) is amended to read:

(71) "liner" means a continuous layer of natural or synthetic materials beneath or on the sides of a landfill or solid waste containment structure [, OR A VERTICAL LAYER INSTALLED IN A BARRIER BERM THAT EXTENDS CONTINUOUSLY FROM THE BASE OF THE ACTIVE THAW ZONE TO THE TOP OF THE BARRIER BERM] to prevent solid waste and leachate from escaping from the landfill or the containment structure;

18 AAC 60.990(110) is repealed:

(110) repealed 10/27/2017;

18 AAC 60.990(120) is amended to read:

(120) "sewage solids"

(A) means waste that [PASSES THE PAINT FILTER TEST (EPA TEST METHOD 9095, PUBLISHED IN TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS (SW-846), ADOPTED BY REFERENCE IN 18 AAC 60.365), AND] has been removed from a wastewater treatment system, sewer, septic tank, or other wastewater handling equipment and that has been dewatered to no less than 10 percent solids by weight;

(B) ["SEWAGE SOLIDS"] includes lagoon dredge, sewer cleanout waste, barscreen grit, and wastewater treatment sludge;

18 AAC 60.990 is amended by adding new paragraphs to read:

(167) "coal ash" means the non-hazardous residue that includes fly ash, bottom ash, boiler slag, and flue gas desulfurization materials resulting from the combustion of coal for the purpose of generating electricity, heat, or a combination of electricity and other thermal energy;

(168) "coal ash landfill"

(A) means an area of land or an excavation

(i) other than a municipal solid waste landfill;

(ii) that receives coal ash; and

(iii) that is not a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave;

(B) includes

(i) sand and gravel pits and quarries that receive coal ash; and

(ii) any practice that is not an approved beneficial use under 18 AAC 60.008 or 18 AAC 60.009. (Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am 6/30/2002, Register 162; am 9/7/2002, Register 163; am 9/5/2010, Register 195; am 4/12/2013, Register 206; am 10/27/2017, Register ~~224~~)

Register ~~224~~, January 2018

ENVIRONMENTAL CONSERVATION

Authority:	AS 44.46.020	AS 46.03.100	AS 46.03.810
	AS 46.03.010	AS 46.03.110	AS 46.06.010
	AS 46.03.020	AS 46.03.800	AS 46.06.080

[EDITOR'S NOTE: THE DOCUMENTS REFERRED TO IN THIS SECTION MAY BE REVIEWED AT THE DEPARTMENT'S JUNEAU, ANCHORAGE, AND FAIRBANKS OFFICES.]

MEMORANDUM

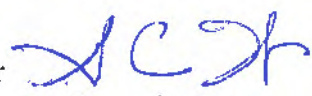
State of Alaska Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: September 25, 2017

File No.: JU2013200245 (Part 1)

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Department of Environmental
Conservation regulations re:
Department of Environmental
Conservation regulations re: solid
waste, particularly oil and gas solid
waste (18 AAC 60.005 - 18 AAC
60.009; 18 AAC 60.010(i); 18 AAC
60.200(a), (e); 18 AAC 210(b), (c);
18 AAC 60.213(c); 18 AAC
60.255(c); 18 AAC 60.265; 18 AAC
60.410(a); 18 AAC 60.430; 18 AAC
60.432; 18 AAC 60.440; 18 AAC
60.490(c); 18 AAC 60.505(a), (b);
18 AAC 60.510(b); 18 AAC 60.700;
18 AAC 60.990)

We have reviewed the attached regulations from the Department of Environmental Conservation against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated September 25, 2017 from the Regulations Attorney. The regulations update requirements and procedures regarding disposal of solid waste, in particular oil and gas solid waste.

We find no legal problems. The department requested that this regulations project be split into two parts, pending additional department work on a Part 2 of this project for proposed amendments to 18 AAC 60.228, dealing with freezeback landfills, and proposed new sections 18 AAC 60.465 - 18 AAC 60.468, dealing with state coal ash programs. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations for Part 1 of this project.

The April 25, 2017 public notice, the May 18, 2017 supplemental public notice, and the September 21, 2017 adoption order all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We note that as a result of the department's amendments to 18 AAC 60, four tables that

were previously part of the regulations no longer exist; as a result, the remaining tables need to be re-lettered. In these regulations, the tables in 18 AAC 60.700 are lettered according to the new sequence of tables, and conforming changes to other provisions of 18 AAC 60 address the new table lettering in 18 AAC 60.700. We will address the re-lettering of other tables and any technical conforming changes elsewhere in 18 AAC 60 by means of a separate revisor's memorandum, to be delivered to your office after these regulations are filed. Please let us know if you have any questions.

Though the attached regulations do not contain any handwritten corrections, we would like to alert you that two provisions of the regulations contain placeholders that tie those provisions to the effective date of the regulations: the introductory language of 18 AAC 60.432(d); and the introductory language of 18 AAC 60.440(b). Once the regulations are filed and the effective date known, please substitute the actual effective date of the regulations for each of the two placeholders.

SCW

cc w/enc: (via email)

Hon. Larry Hartig, Commissioner
Department of Environmental Conservation

Alice Edwards, Deputy Commissioner
Department of Environmental Conservation

Gary Mendivil, Regulations Contact
Department of Environmental Conservation

Christina Carpenter, Director
Division of Environmental Health
Department of Environmental Conservation

Robert J. Blankenburg
Division of Environmental Health
Department of Environmental Conservation

Rebecca Colvin
Division of Environmental Health
Department of Environmental Conservation

Jennifer L. Schorr, Assistant Attorney General
Environmental Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: September 25, 2017

FILE NO.: JU2013200245 (Part 1)

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority regarding regulations review on Department of Environmental Conservation regulations re: solid waste, particularly oil and gas solid waste (18 AAC 60.005 - 18 AAC 60.009; 18 AAC 60.010(i); 18 AAC 60.200(a), (e); 18 AAC 210(b), (c); 18 AAC 60.213(c); 18 AAC 60.255(e); 18 AAC 60.265; 18 AAC 60.410(a); 18 AAC 60.430; 18 AAC 60.432; 18 AAC 60.440; 18 AAC 60.490(c); 18 AAC 60.505(a), (b); 18 AAC 60.510(b); 18 AAC 60.700; 18 AAC 60.990)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Sr. Assistant Attorney General and
Assistant Regulations Attorney
Legislation/Regulations Section

NOTICE OF PROPOSED CHANGES ON MANAGEMENT OF WASTE GENERATED BY
OIL AND GAS EXPLORATION AND COAL COMBUSTION, SOLID WASTE
TREATMENT AND USER FEES IN THE REGULATIONS OF THE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation (ADEC) proposes to amend regulations at Title 18, Chapter 60 (18 AAC 60) regarding storage, treatment, and disposal requirements for oil and gas exploration and production waste, reuse and disposal requirements for coal ash. The amendments also address treatment requirements for small waste treatment facilities for medical waste and biosolids, as well as updating user fees.

The ADEC proposes to adopt regulation changes in Title 18, Chapter 60 of the Alaska Administrative Code, dealing with waste reuse, storage, treatment and disposal, including the following:

- 1) 18 AAC 60.005 is amended to exclude drilling waste treatment facilities, facilities treating sewage solids or septage to create biosolids, and medical waste treatment facilities from the exemption for small treatment facilities.
- 2) 18 AAC 60.007 and 18 AAC 60.008 are repealed and replaced with new sections at 18 AAC 60.007, 18 AAC 60.008, and 18 AAC 60.009 that establish revised standards for beneficial use of solid waste as structural fill material or as an ingredient in a manufactured product.
- 3) 18 AAC 60.200 is amended to clarify small treatment facilities permitting requirements and allow for approval of short-term solid waste treatment facilities via plan approval rather than permit.
- 4) 18 AAC 60.210 is amended to establish standards specific to a coal ash landfill application.
- 5) 18 AAC 60.410 is amended to establish location standards for a coal ash landfill.
- 6) 18 AAC 60.430 is amended to eliminate provisions for drilling waste disposal facilities.
- 7) 18 AAC 60.432 is established to set new standards for drilling waste disposal facilities.
- 8) 18 AAC 60.440 is amended to establish closure standards for inactive reserve pits.
- 9) 18 AAC 60.465 is established to set design criteria for a coal ash landfill.
- 10) 18 AAC 60.466 is established to set monitoring criteria for a coal ash landfill.

- 11) 18 AAC 60.467 is established to set closure standards for a coal ash landfill.
- 12) 18 AAC 60.468 is established to set post-closure care standards for a coal ash landfill.
- 13) 18 AAC 60.490 is amended to reflect revised closure standards established in 18 AAC 60.432 for drilling waste disposal facilities.
- 14) 18 AAC 60.505 is amended to reference more recent revisions of 40 C.F.R. 503.
- 15) 18 AAC 60.510(b) is amended to clarify requirements for biosolids.
- 16) 18 AAC 60.700 is repealed and readopted to update user fees.
- 17) 18 AAC 60.990 is amended to add, modify, and repeal definitions.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Rebecca Colvin, ADEC Division of Environmental Health at 555 Cordova St. Anchorage, AK 99501. Additionally, the ADEC will accept comments by facsimile at (907) 269-7510 and by electronic mail at rebecca.colvin@alaska.gov. The comments must be received not later than 5:00 p.m. on May 26, 2017.

You may submit written questions relevant to the proposed action to Rebecca Colvin by email at rebecca.colvin@alaska.gov or at 555 Cordova St. Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The ADEC will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and at <http://dec.alaska.gov/eh/sw/>.

If you are a person with a disability who may need a special accommodation in order to participate in this process, please contact Natalie Wolfe at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY not later than May 19, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Rebecca Colvin by email at rebecca.colvin@alaska.gov or online at <http://dec.alaska.gov/eh/sw/>.

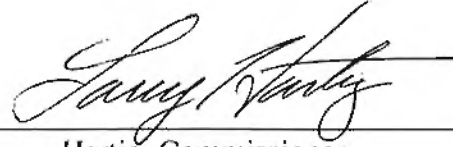
After the public comment period ends, the ADEC will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and subject to public inspection.

Statutory authority: AS 46.03.020; AS 46.03.100, AS 44.46.025

Statutes being implemented, interpreted, or made specific: AS 44.46.020; AS 46.03.100

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: April 21, 2017

A handwritten signature in cursive script, appearing to read "Larry Hartig", written over a horizontal line.

Larry Hartig, Commissioner
Department of Environmental Conservation

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: solid waste reuse, storage, treatment, disposal, and user fees
3. Citation of regulation (may be grouped): 18 AAC 60
4. Department of Law file number, if any: JU201320245

5. Reason for the proposed action:

- (X) Compliance with federal law or action (identify): Regulations specific to coal ash and beneficial use are being revised to align state regulations with the federal regulations in 40 CFR 257 adopted October 19, 2015.
- () Compliance with new or changed state statute
- () Compliance with federal or state court decision (identify): _____
- (X) Development of program standards
- () Other (identify): _____

6. Appropriation/Allocation

The proposed regulation amendments are not expected to require an increased appropriation.

7. Estimated annual cost to comply with the proposed action:

a. Private Persons: The increases in current annual fees for treatment facilities, non-municipal solid waste landfill facilities, biosolids land application, and general permit coverage range from \$15-\$3,526 per year depending on the type of permit. Affected industries, include the Oil and Gas, Mining, Timber, Construction, Agriculture, Medical Waste Treatment, and Remote Fishing/Hunting Lodges.

There is also a potential for additional one-time costs to affected parties due to increases in one-time solid waste facility fees such as, storage plan review, monofill authorizations, and closure plan review. There may also be costs to property developers and owners (including homeowners) that undertake projects requiring a solid waste as fill authorization, due to an increase in fees ranging from \$685-\$1,595.

Medical treatment facilities and facilities that treat sewage solids or septage to create biosolids with small waste streams (less than 5 tons per day or 10 tons per batch) will now be required to obtain a Type Z permit and be subject to an annual fee of \$2,225. The permit application will involve the one-time cost of filling out a form; developing an operation and monitoring plan; and providing proof of treatment efficacy, which is estimated to take about 10-15 hours of time.

b. Another state agency: There is the potential for additional costs to state agencies with projects requiring remote monofill authorization, storage plan review, and project solid waste fill authorizations, including, University of Alaska, Dept. of Transportation and Public Facilities, or other agencies that deal with polluted soil disposal.

c. Municipalities: Municipalities, boroughs, and tribal governments that operate Class I, Class II, Class III solid waste landfills and treatment facilities will experience a direct increase in costs. Annual fees are increased and range from \$69-\$3,526 per year depending on the type of permit. This group may also be affected by the one-time costs outlined in section "a." above. There may be the potential for landfills and waste treatment facilities operated by local governments to pass permitting costs through to individual rate payers, but there is not enough information to evaluate this potential effect.

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2018	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>


9. The name of the contact person for the regulation:

Name: Rebecca Colvin
Title: Program Coordinator
Address: 555 Cordova St, Anchorage, AK 99501
Telephone: 907-269-7802
E-mail address: rebecca.colvin@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency
☐ Federal government
☐ General public
☐ Petition for regulation change
☐ Other (identify): _____

11. Date: 4/21/17

Prepared by: 
Name: Robert J. Blankenburg
Title: Program Manager
Telephone: 907-269-7581

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES ON MANAGEMENT OF WASTE
GENERATED BY OIL AND GAS EXPLORATION AND COAL COMBUSTION, SOLID
WASTE TREATMENT AND USER FEES IN THE REGULATIONS OF THE DEPARTMENT
OF ENVIRONMENTAL CONSERVATION

BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation (ADEC) proposes to amend regulations regarding storage, treatment, and disposal requirements for oil and gas exploration and production waste, reuse and disposal requirements for coal ash. The amendments also address treatment requirements for small waste treatment facilities for medical waste and biosolids, as well as updating user fees.

The ADEC proposes to adopt regulation changes in Title 18, Chapter 60 of the Alaska Administrative Code, dealing with waste reuse, storage, treatment and disposal, including the following:

- 1) 18 AAC 60.005 is amended to exclude drilling waste treatment facilities, facilities treating sewage solids or septage to create biosolids, and medical waste treatment facilities from the exemption for small treatment facilities.
- 2) 18 AAC 60.007 and 18 AAC 60.008 are repealed and replaced with new sections at 18 AAC 60.007, 18 AAC 60.008, and 18 AAC 60.009 that establish revised standards for beneficial use of solid waste as structural fill material or as an ingredient in a manufactured product.
- 3) 18 AAC 60.200 is amended to clarify small treatment facilities permitting requirements and allow for approval of short-term solid waste treatment facilities via plan approval rather than permit.
- 4) 18 AAC 60.210 is amended to establish standards specific to a coal ash landfill application.
- 5) 18 AAC 60.410 is amended to establish location standards for a coal ash landfill.
- 6) 18 AAC 60.430 is amended to eliminate provisions for drilling waste disposal facilities.
- 7) 18 AAC 60.432 is established to set new standards for drilling waste disposal facilities.
- 8) 18 AAC 60.440 is amended to establish closure standards for inactive reserve pits.
- 9) 18 AAC 60.465 is established to set design criteria for a coal ash landfill.
- 10) 18 AAC 60.466 is established to set monitoring criteria for a coal ash landfill.
- 11) 18 AAC 60.467 is established to set closure standards for a coal ash landfill.

- 12) 18 AAC 60.468 is established to set post-closure care standards for a coal ash landfill.
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- 16) 18 AAC 60.700 is repealed and readopted to update user fees.
- 17) 18 AAC 60.990 is amended to add, modify, and repeal definitions.

This is a SUPPLEMENTAL NOTICE adding to the NOTICE OF PROPOSED CHANGES that was issued on April 25, 2017, concerning these proposed regulation revisions contained in the Department of Law file number JU201320245. This SUPPLEMENTAL NOTICE is being issued to extend the public comment period by 30 days to receive additional public comments.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Rebecca Colvin, ADEC Division of Environmental Health at 555 Cordova St. Anchorage, AK 99501. Additionally, the ADEC will accept comments by facsimile at (907) 269-7510 and by electronic mail at rebecca.colvin@alaska.gov. The comments must be received not later than 5:00 p.m. on June 26, 2017.

You may submit written questions relevant to the proposed action to Rebecca Colvin by email at rebecca.colvin@alaska.gov or at 555 Cordova St. Anchorage, AK 99501. The questions must be received at least 10 days before the end of the public comment period. The ADEC will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and at <http://dec.alaska.gov/eh/sw/>.

If you are a person with a disability who may need a special accommodation in order to participate in this process, please contact Natalie Wolfe at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY not later than June 19, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Rebecca Colvin by email at rebecca.colvin@alaska.gov or online at <http://dec.alaska.gov/eh/sw/>.

After the public comment period ends, the ADEC will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.** Written comments received are public records and

subject to public inspection.

Statutory authority: AS 46.03.020; AS 46.03.100, AS 44.46.025

Statutes being implemented, interpreted, or made specific: AS 44.46.020; AS 46.03.100

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

Date: May 16th 2017



Larry Hartig, Commissioner
Department of Environmental Conservation

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION


I, Robert J. Blankenburg, Program Manager, of Department of Environmental Conservation, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 18 AAC 60 on solid waste reuse, storage, treatment, disposal, and user fees has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Resources Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

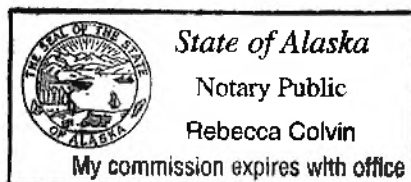
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.


Date: 8/11/17



Robert J. Blankenburg, Program Manager
Solid Waste and Pesticides Programs

Subscribed and sworn to before me at Anchorage, Alaska on August 11, 2017.





Rebecca Colvin
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Robert J. Blankenburg, Program Manager for the Department of Environmental Conservation, being duly sworn, state the following:

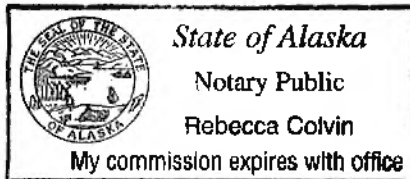
In compliance with AS 44.62.215, the Department of Environmental Conservation has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Environmental Conservation regulation on solid waste reuse, storage, treatment, disposal, and user fees.

Date: 8/11/17

RSJB

Robert J. Blankenburg, Program Manager
Solid Waste and Pesticides Programs

Subscribed and sworn to before me at Anchorage, Alaska on August 11, 2017.



Re Colvin

Rebecca Colvin
Notary Public in and for the State of Alaska

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\$557.78

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

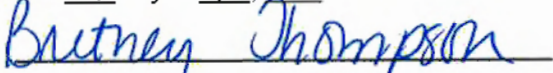
April 25, 2017

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

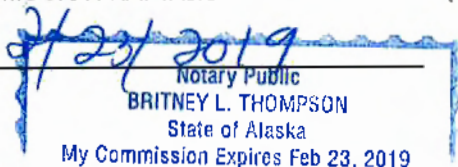
Signed



Subscribed and sworn to before me
this 25th day of April, 2017



Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES



Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

NOTICE OF PROPOSED CHANGES ON MANAGEMENT OF WASTE GENERATED BY OIL AND GAS EXPLORATION AND COAL COMBUSTION, SOLID WASTE TREATMENT AND USER FEES IN THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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AFFIDAVIT OF PUBLICATION

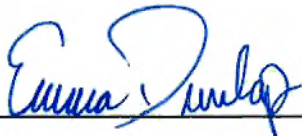
STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap
being first duly sworn on oath deposes and
says that he/she is a representative of the
Alaska Dispatch News, a daily newspaper.
That said newspaper has been approved
by the Third Judicial Court, Anchorage,
Alaska, and it now and has been published
in the English language continually as a
daily newspaper in Anchorage, Alaska, and
it is now and during all said time was
printed in an office maintained at the
aforesaid place of publication of said
newspaper. That the annexed is a copy of
an advertisement as it was published in
regular issues (and not in supplemental
form) of said newspaper on

May 18, 2017

and that such newspaper was regularly
distributed to its subscribers during all of
said period. That the full amount of the fee
charged for the foregoing publication is not
in excess of the rate charged private
individuals.

Signed



Subscribed and sworn to before me
this 18th day of May, 2017

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

4/14/21

ANGELA M SIMMONS
NOTARY PUBLIC
State of Alaska
My Commission Expires Apr. 14, 2021

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES ON MANAGEMENT OF WASTE GENERATED BY OIL AND GAS EXPLORATION AND COAL COMBUSTION, SOLID WASTE TREATMENT AND USER FEES IN THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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