

MEMORANDUM OF AGREEMENT BETWEEN
THE STATE OF ALASKA
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

I. GENERAL

This Memorandum of Agreement (Agreement) establishes policies, responsibilities, and procedures pursuant to 40 C.F.R. § 271.8 for the State of Alaska's Hazardous Waste Program (State) authorized under Section 3006 of the Resource Conservation and Recovery Act (RCRA or the Act) of 1976 (42 USC 6901 et seq.), as amended (Public laws 94-580, 96-482, 98-616), and the United States Environmental Protection Agency (EPA) Regional Office for Region 10. This Agreement further sets forth the manner in which the State of Alaska (State) and the EPA will coordinate in the State's administration and enforcement of the authorized State program. For purposes of this Agreement, references to RCRA include the Hazardous and Solid Waste Amendments of 1984, and other amendments through the effective date of 18 AAC 62, June 1, 2025.

The Commissioner of the Alaska Department of Environmental Conservation (Commissioner or DEC), and the Regional Administrator, EPA Region 10 (Regional Administrator or EPA), enter into this Agreement (collectively referred to as "the parties" or singularly as "party").

Nothing in this Agreement shall be construed to restrict in any way the EPA's oversight and enforcement authority under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 C.F.R. § 271. The Agreement does not restrict the EPA oversight authority for State program activities that are part of the federal program, does not establish privity between EPA and the State, and does not restrict the EPA's independent enforcement authority. No waiver of sovereign immunity is implied or assumed by this Agreement.

The parties will review this Agreement jointly as needed or appropriate during preparation of the biennial State Grant workplan (workplan), in connection with grant funding under Section 3011 of RCRA.

This Agreement may be modified upon the initiative of either party to ensure consistency with State program modifications made or for any other purpose mutually agreed upon. Any revisions or modifications to this Agreement must be in writing and must be signed by the State and the EPA.

This Agreement will remain in effect until such time as modified and authorized pursuant to a State program revision authorization, or until the State program authorization is withdrawn by or is voluntarily transferred to the EPA according to the criteria and procedures established in 40 C.F.R. § 271.22 and 40 C.F.R. § 271.23.

This Agreement is being executed because the State is seeking final authorization for a RCRA Subtitle C state hazardous waste program. The State and the EPA will sign this Agreement, and it shall become effective at the time the State's authorization takes effect, on **(date of the Federal Register notice of the Regional Administrator's decision to grant authorization to the State)**.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting of final authorization by the EPA, the State is authorized to carry out its hazardous waste program in lieu of the federal program consistent with RCRA except in Indian country (as defined by 18 U.S.C. § 1151) and in Denali National Park and Preserve. Within the State of Alaska, the EPA maintains full authority and responsibility for the implementation of RCRA in Indian country and in Denali National Park and Preserve.

The State will conduct its hazardous waste program in accordance with the EPA program policies and guidance.¹ While EPA is responsible for the implementation of those provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State is not authorized, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible. The State and the EPA agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

The EPA will oversee implementation of the authorized State program to ensure full execution of the requirements of RCRA, as amended, to promote national consistency in the hazardous waste program, and to allow the EPA to report to the President and the Congress on the achievements of the hazardous waste program. The EPA will conduct oversight through written reporting requirements, permit overview, compliance and enforcement overview, and periodic review of the State's program.

III. STATE PROGRAM REVIEW

The EPA will assess the State administration and enforcement of the hazardous waste program on a continuing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of enforcement. The EPA will conduct this assessment by reviewing information submitted by the State in accordance with this Agreement and the State grant work program, including but not limited to permit oversight, compliance and enforcement oversight, corrective action oversight, and annual review of State program activities. The EPA may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, Alaska Native tribal governments and Alaska Native Claims Settlement Act (ANCSA) corporations, and Federal, State and local agencies. Copies of any such comments received by the EPA will be provided to the State.

The State agrees to allow the EPA access to all files and other information requested by the Regional Administrator or his or her designee and deemed necessary by the EPA for reviewing State program administration and enforcement. The EPA agrees all such requests for information will be coordinated in advance, when possible, but may be requested at any time.

Program review meetings between the State and the EPA will be scheduled quarterly, to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns. These meetings will be scheduled at least fifteen calendar days in advance unless mutually agreed. A tentative agenda for the meeting will be prepared by the EPA.

The State and the EPA agree to develop, on an annual basis as a part of the State grant workplan, criteria for priority activities, including activities regarding handlers of hazardous waste. These criteria will be based on guidance issued by the EPA in the annual National Program Manager Guidance, other guidance documents as appropriate, State specific concerns, and will serve to identify those activities which should receive the highest priority during the grant period.

IV. INFORMATION SHARING

A. General

During the periodic review of this Agreement, the State and the EPA will carefully examine the information sharing requirements for needed revision.

Information related to Section V. Permit Issuance, Section VI. Permit Administration, Section VII. Compliance Monitoring and Enforcement, and Section IX. Corrective Action will be sent by the State to the EPA, The EPA shall send permit, corrective action, and enforcement related information to the State as specified in the Appendix A, B, and C tables related to Permitting, Corrective Action, and Enforcement.

B. EPA

The EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. The EPA will also provide general technical guidance to the State as resources allow. The EPA will share with the State any reports developed by the EPA from the data submitted through State reporting requirements.

The EPA will make available to the State other relevant information as requested which the State needs to implement its approved program, consistent with federal law. Information provided to the state will be subject to the terms of 40 C.F.R. § 2. "Make Available" may mean temporary access in lieu of actual delivery to the State.

C. State

The State agrees to inform the EPA of any proposed program changes which would affect the State's ability to implement the authorized program with as much advance notice as possible. Program changes of concern include modification of the State's legal authorities (for example, statutes, regulatory authorities and judicial or legislative actions affecting those authorities), modifications of Memoranda of Agreement or Understanding with other agencies, and modifications of resource levels (for example, available or budgeted personnel and funds). Program changes also include legal changes that would affect compliance monitoring and enforcement, such as privileges and immunities laws. The State recognizes that program revisions must be made in accordance with the provisions of 40 C.F.R. § 271.21, and that until approved by the EPA, revisions are not authorized as RCRA Subtitle C requirements. The EPA agrees to support the State with timely review of proposed State legislation that might affect the authorized hazardous waste program.

Except for documents and information protected from disclosure pursuant to AS 40.25, the State agrees to provide any pertinent information requested by the EPA within a mutually agreed timeframe as necessary for the EPA to carry out its oversight responsibilities.

The State agrees to submit the following reports and documents to the EPA within the specified time periods as defined in the attached appendices:

- 1) Quarterly reports on the dates set in the grant workplan, and
- 2) Additional reports and documents as specified in the grant workplan.

The State agrees to provide the EPA with a copy of any decisions regarding requests made by hazardous waste handlers to change their classifications (for example, requests to be deleted as generators but to retain facility status) and facility requests to make on-site changes prior to permit issuance (for example, requests to handle additional wastes not identified on the facility's original notification and RCRA Part A Permit Application) in accordance with the document flow charts of Appendix A, B, and C.

D. RCRA Data Management

The EPA is responsible for maintaining reliable national data on hazardous waste management. RCRAInfo is the national database of record and authorized states are expected to maintain reliable data entry for RCRA activity. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support the EPA's regulatory development efforts. Under most circumstances the EPA will first seek to gain needed information from the States through the EPA Regions. The State agrees to supply the EPA with this information in accordance with Section III. If it is necessary to supplement the State information, the EPA may conduct a special survey or perform information collection site visits after notifying the State (normally with at least seven calendar days advance notice) and inviting the State to participate in the site visit. EPA Region 10 will share with the State any final reports developed by the EPA as a result of such information collection.

RCRA hazardous waste identification numbers will be processed in accordance with the most recent RCRA Data Management Agreement and the grant workplan. The EPA and the State agree that modifications to the RCRA Data Management Agreement can be made without updating the entire MOA.

For the specific EPA and Alaska roles in maintaining data integrity, see the RCRA Data Management Agreement between the State and the EPA Region 10 (Appendix D).

E. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify the DEC Response Team at: 1-800-478-9300. After receiving this notification, either the DEC Response Team or the DEC Hazardous Waste Program shall notify the EPA Region 10 RCRA Program Division Director or his/her delegate of the information within two (2) business days.

F. Confidentiality

Subject to applicable protections including attorney client privilege and attorney work product protection, any information obtained or used in the administration of the State program shall be available to the EPA upon request. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to the EPA when providing information. The EPA agrees to treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law.

The EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. Subject to the requirements of 40 C.F.R. § 2.305(h), the EPA may make available to the State information submitted to the EPA under a claim of confidentiality which the State needs to implement its program. EPA will notify affected businesses when such information is sent to the State. The State will handle such information consistent with its authorized program.

G. Delisting

The State has not adopted or sought authorization for delisting. The EPA will continue to process delisting petitions, and the State will forward any delisting petitions received by the State to the EPA.

H. Notification

The EPA and the State have jointly decided that the State will assign all EPA I.D. numbers and enter all notification data into RCRAInfo, including the assigned EPA I.D. numbers. If the applicant sends a notification form (8700-12 or equivalent) directly to the EPA, the EPA will forward the form to the State for the assignment of an I.D. number within 30 calendar days of

receipt. If the State receives a notification form from the EPA or from the applicant, the State will assign an I.D. number to the applicant and inform the applicant of its number.

I. Variances and Waivers

The State agrees to provide the EPA with a copy of each proposed variance and waiver at the time the application is received. The EPA may review and comment on any proposed variance or waiver. The State agrees to halt any proposed action within the 45-day comment period, if the EPA determines that the proposed variance or waiver is inconsistent with the State's authorized program. The comment period is dependent on the type of waiver or variance and is identified in Appendix A, B, or C.

V. PERMIT ISSUANCE

A. EPA Permitting

Upon authorization of the State program, the EPA will suspend issuance of new Federal permits imposing requirements for hazardous waste treatment, storage, and disposal facilities for which the State is receiving authorization. If the EPA promulgates new standards requiring a permit modification, then the EPA may, pursuant to 40 C.F.R. § 270.42(b)(6)(vii), extend the time period for final approval or denial of a modification request until such time that the State receives authorization for new standards. At the time the State receives authorization for the new standards, the EPA will suspend issuance of new Federal permits imposing those standards in the State. Upon authorization of the State program, the State is authorized to issue RCRA permits at all facilities located in the State of Alaska except in Indian country (as defined by 18 U.S.C. § 1151) and in Denali National Park and Preserve.

The EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program in conformance with the conditions of this Agreement. The EPA does not suspend issuance of new federal permits after authorization until State renewal.

B. EPA Oversight of State Permits

The EPA reserves the right to conduct oversight of any permit application, draft permit, or proposed permit modification. The EPA's oversight function will include but is not limited to an annual review of the State grant workplan. The EPA may comment on any draft permit or proposed permit modification within thirty days of its receipt, or as negotiated, whether or not the EPA commented on the permit application. A copy of any comment shall be sent to the permit applicant by the Regional Administrator. Where the EPA indicates in a comment that issuance, modification, reissuance, termination, or denial of the permit would be inconsistent with the approved State program, the EPA shall include in the comment:

- a) A statement of the reasons for the comment (including the section of the State law or

regulations that supports the comment), and

- b) The actions that should be taken by the State in order to address the comment (including the conditions which the permit would include if it were issued by the EPA).

The State and the EPA will usually reach concurrence on permit conditions prior to issuance of the draft permit or approval of proposed permit modifications. The EPA shall withdraw such comments if satisfied that the State has met or refuted its concerns and shall also provide the permit applicant with a copy of such withdrawal. The permit review timeline is indicated in Appendix A.

Under section 3008(a)(3) of RCRA, the EPA may terminate a State-issued permit in accordance with the procedures of 40 C.F.R. § 124, Subpart E, or bring an enforcement action in accordance with the procedures of 40 C.F.R. § 22 in the case of a violation of a State program requirement. In exercising these authorities, The EPA will observe the conditions established in 40 C.F.R. § 271.19(e) and any other applicable authorities.

Notwithstanding the above, the EPA shall issue permits, or portions of the permits, to facilities in authorized states as necessary to implement any aspects of HSWA that the state has not been delegated.

C. State Permitting

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing and terminating RCRA permits for those hazardous waste treatment, storage and disposal facilities subject to the authorized provisions of the State's program and shall do so in a manner consistent with RCRA as amended, this Agreement, all applicable Federal requirements, and the State's Program Description. The State agrees to issue, modify and reissue all permits subject to the authorized portions of the State's program in accordance with 18 AAC 62.1000 - 1090 and to include as permit conditions all applicable provisions of 18 AAC 62. This agreement also applies to permits issued after final authorization but for which the processing may have begun before final authorization. These procedures will also apply to the 5-year permit review specified in the State's Program Description, including any identified need for modification, revocation, or reissuance of the permit.

The State will carry out permitting procedures analogous to those described at 40 C.F.R. § 270 and § 124.

The State agrees to consider all comments the EPA makes on permit applications and draft permits. The State will satisfy or refute the EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification. The State will notify the EPA before revoking or terminating any permit.

VI. PERMIT ADMINISTRATION

A. EPA

The EPA will administer, pursuant to 40 C.F.R. § 124 and § 270, the RCRA permits or portions of permits it has issued to facilities in Alaska until they expire or are terminated. When the State incorporates the terms and conditions of the Federal permits in State RCRA permits or issues State RCRA permits to those facilities, the EPA will terminate those permits pursuant to 40 C.F.R. § 124 and § 270 and notify the State.

B. State

The State agrees to review any hazardous waste permits which were issued under State law prior to the effective date of this Agreement in accordance with 40 C.F.R. § 271.13(d), and to modify, or revoke and reissue, such permits as necessary to require compliance with the authorized State Program. The State shall notify the EPA of any permits not equivalent to Federal permit requirements, including any permits that have been issued but are pending administrative or judicial appeal. Except for these non-equivalent permits, once the EPA has determined that the State has fulfilled the requirements of 40 C.F.R. § 271.13(d), the EPA will terminate the applicable Federal permit, or Federal portion of the permit, pursuant to the procedures in 40 C.F.R. § 124.5(d), notify the State that the permit is terminated, and no longer administer those permits or portions of permits for which the State is authorized.

Where the State permit is not equivalent to Federal permit requirements, the State may modify, or revoke and reissue the State permit as necessary to require compliance with its authorized program in a manner consistent with RCRA as amended by HSWA. If the State does not modify, or revoke and reissue, a permit equivalent to the Federal permit, the EPA will administer and enforce its permit until it expires or is terminated.

Upon the effective date of an equivalent State permit, the EPA will terminate the Federal permit pursuant to 40 C.F.R. § 271.8(b)(6) and § 124.5 (d). EPA will notify the permittee by electronic mail of its intent to terminate the Federal permit and give the permittee 30 days in which to agree or object to termination of the permit.

The State agrees to resolve all State permit appeals in a manner consistent with its authorized RCRA program.

VII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement restricts the EPA's right to inspect any hazardous waste generator, transporter, hazardous waste management facility, or treatment, storage or disposal facility or bring enforcement action against any person believed to be in violation of the authorized State or Federal hazardous waste program or believed to have a release of hazardous waste or hazardous constituent(s). The EPA will endeavor to keep the State informed and coordinate with the State to the extent reasonably possible. Before conducting an inspection of a generator, transporter or

treatment, storage or disposal facility, the EPA will normally give the State at least seven calendar days' notice of the EPA's intent to inspect in accordance with 40 C.F.R. § 271.8(b)(3)(i) and will invite the State to participate in the inspection. The State agrees not to announce such inspections at the request of EPA. In case of an imminent hazard to human health and the environment, the EPA may shorten or waive the notice period but will inform the State as soon as possible. The EPA agrees to make available to the State copies of reports and data resulting from compliance inspections under the State's jurisdiction as specified in Appendix C from completion of the inspections to the extent provided under applicable statutes and regulations. No such notice is required for criminal enforcement actions undertaken by the EPA.

The frequency of EPA oversight and inspections may be specified in the annual grant workplan. The EPA may negotiate on an annual basis with the State the number or percentage of the State's compliance inspections on which the EPA may accompany the State as well as which inspections the EPA will be the lead agency.

The EPA may take enforcement as provided for under RCRA against any person for any violation of RCRA in accordance with Section 3008(a). Prior to issuing a compliance order under Section 3008(a), the EPA will give notice to the State pursuant to 3008(a)(2). The EPA also maintains its rights to issue orders and bring actions under Sections 3008(h), 3013, and 7003 of RCRA and any other applicable Federal statute. The EPA maintains its right to enforce current orders.

The EPA maintains authority to bring an action under Section 3008(a)(3) of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, the EPA may take action under Section 3008(a) of RCRA (civil or criminal) against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the EPA, in commenting on that permit application or draft permit, stated was necessary to implement the approved State program requirements.

B. State

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and treatment, storage and disposal facilities with applicable program requirements (see 40 C.F.R. § 271.15). As part of this program, the State will conduct compliance inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. The State will conduct groundwater monitoring and sampling inspections (compliance monitoring and evaluation and operations and maintenance). National compliance monitoring activities and priorities will be specified in the Office of Enforcement and Compliance Assurance's annual National Program Manager Guidance, the December 2021 Compliance Monitoring Strategy for the RCRA Subtitle C Program (or updates to the CMS) and must be consistent with all applicable Federal requirements and with the State's Program Description. State specific activities and priorities for compliance monitoring will also be included in the annual grant workplan.

The State agrees to take timely and appropriate enforcement action based on laws and regulations as defined in the December 2003 Hazardous Waste Civil Enforcement Response Policy, as amended, against any person for any violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

The State agrees to provide the EPA with electronic copies of reports resulting from any compliance inspection and subsequent enforcement actions, when the EPA requests such copies. The State agrees to retain all records for at least five years unless there is an enforcement action pending. In that case all records will be retained until such action is resolved.

C. Coordination of Enforcement

The State and the EPA agree to coordinate activities on enforcement actions in cases where both entities share common interest in the enforcement action. Alaska recognizes the common interest privilege for enforcement coordination efforts.

VIII. AVAILABILITY OF INFORMATION

A. General

Section 3006(f) of RCRA requires an authorized State to provide for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste. Such information must be available to the public in substantially the same manner as, and to the same degree as, that is available under federal law.

B. Public Requests for Information

After a determination that this information is available for disclosure under the Alaska Public Records Act (Alaska Statute 40.25.100 – 40.25.350), the State agrees to make certain materials routinely available to the public without a formal public record request. Examples of these materials are final opinions or orders in case adjudication, State regulations, statements of Agency policy, and administrative staff manuals affecting the public. In addition, records prepared for routine public distribution will also be made available. Examples of such records are press releases, copies of speeches, pamphlets, and educational materials. All other documents not routinely available online will need to follow the public request procedure. Records exempt from public disclosure under state law include, but are not limited to, records required to be kept confidential by a federal law or regulation or state law, and certain records or information compiled for law enforcement purposes.

1. The State agrees to make reasonable efforts to assist a requestor in identifying records (including electronic records) being sought, and to help the requestor formulate his or her request.
2. If a request for information is denied, the State agrees to provide the requestor with the basis for the denial and to notify the requestor of any State judicial or administrative procedures, or statutes of limitation.
3. The State agrees to make the fullest possible disclosure of records to the public, except where the record would qualify for any of the exemptions under the Federal Freedom of Information Act, 5 U.S.C. 552(a)(2), if such exemption is recognized by the State.
4. The State follows all state agency policy and state regulation regarding requests for records.
5. A reduction or waiver of fees will be considered in connection with each request from a representative of the press or other communication medium, or from a public interest group. The State agrees to reduce or waive the fee if it determines that a reduction or waiver of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public.

C. Confidentiality of Business Information

The State agrees to manage information submitted under a claim of confidentiality, confidential business information, or trade secret and to determine whether such a record constitutes confidential business information or trade secret in a manner consistent with and pursuant to the Alaska Public Records Act, and the Alaska Uniform Trade Secrets Act (Alaska Statute 45.50.910 – 45.50.945).

If a claim of confidentiality is asserted and cannot be resolved in the time period provided for an agency response to a request, the State agrees to notify the requestor of the confidentiality claim within the maximum relevant time limit provided for an agency response. In addition, the requestor will be told that the request was initially denied in order to resolve the business confidentiality claim.

D. Oversight

1. The State agrees to keep a log of denials of requests for information (or a file containing copies of denial letters sent to requesters) which will be made available to the EPA during the State review.
2. The State agrees to keep the EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to section 3006(f).

IX. CORRECTIVE ACTION

A. State

The State will implement a corrective action program in accordance with 18 AAC 62. The State will conduct the RCRA corrective action program in a manner that promotes rapid achievement of cleanups while protecting human health and the environment. Specifically, the State will, to the extent practicable:

1. Embrace flexible, practical, results-based approaches that focus on control of human exposure and contaminated groundwater migration in the short term, with final cleanup being the long term goal.
2. Provide public access to non-privileged information and meaningful opportunities for public involvement in the cleanup process.

The State will coordinate activities with the EPA on corrective action activities and share documentation as provided in Appendix B.

B. EPA

The EPA retains its corrective action statutory authority under Sections 3007, 3008, 7003 and 3013 of the Solid Waste Disposal Act, and may independently determine a need to exercise its authorities at facilities in Alaska, including its enforcement authorities under existing 3008(h) orders. The EPA may also use its authorities to directly manage corrective action at specific facilities in Alaska when such action is requested by the State. The EPA will consult with the State on these facilities, especially at the following key stages of the corrective action process:

1. Proposal of initial draft order to the facility;
2. Approval of clean up levels; and
3. Remedy selection.

However, whenever the EPA proposes to exercise its corrective action authorities, the EPA will notify the State of its position in writing and will give the State a reasonable opportunity to act prior to the EPA initiating a federal action. If the EPA decides to pursue its own action following or instead of a State action, it shall provide the State with justification of why the EPA is taking action. The EPA will make every effort to notify the State in advance when inspecting EPA-lead facilities for corrective action purposes.

The State retains its authority to inspect any EPA-lead facilities. The State will provide appropriate advance notice to the EPA prior to conducting compliance inspections at EPA-lead facilities, except in cases of imminent hazard to human health or the environment or other exigent circumstances, when the State may shorten or waive the notice period.

X. Disclaimer

This Agreement does not create any right or benefit, substantive or procedural, enforceable by law or equity, against the State or the EPA, their officers or employees, or any other person. This Agreement does not apply to any person other than the State and the EPA.

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

U.S. ENVIRONMENTAL PROTECTION
AGENCY - REGION 10

BY: _____

BY: _____

DATE: _____

DATE: _____

APPENDIX A
BASE PERMITTING DOCUMENT FLOW
BETWEEN EPA AND ALASKA DEC¹
Days are in Calendar Days unless otherwise specified
Reports will be transmitted electronically

Item	Item Description	State Action ²	EPA Action ³
1	New and revised Part A application	Copy to the EPA with monthly submittals	Review and become familiar with document
2	a) LDF <u>Operating</u> Permit Part Bs, and subsequent revisions b) Combustion Operating Permit Part Bs, including trial burn plans, and subsequent revisions, and risk assessment protocols and risk assessments c) Subpart X Part B's, risk assessment protocols, and risk assessments	Copy to the EPA, including the Part B permit or renewal application, within 30 days of receipt.	Review and become familiar with documents. Comment as appropriate
3	Negotiate permitting issues	The State and the EPA coordinate and negotiate permitting issues within 60 days of receipt of EPA comments.	The State and the EPA coordinate and negotiate permitting issues within 60 days of receipt of EPA comments.
4	Copies of warning letter and first Notice of Deficiency (NOD) for all TSDFs	Copy to the EPA with monthly submittals	Review for HSWA applicability, e.g. CC.
5	Copies of 2nd and subsequent NODs/Order for facilities in Item 2.	Send draft 30 days prior to issuance if comments requested; final when issued.	Comments, if any, within 30 days of receipt
6	Completeness determinations for all TSDFs	Send 30 days prior to issuance	Monitor progress. Comments, if any, due within 30 days of receipt.
7	Draft permits and draft modifications for TSDFs in item 2, with fact sheets and public notices	Send to the EPA 30 days before the start of public comment period.	Comment to the State within 30 days of receipt.
8	Draft permits and draft modifications for all other TSDFs, with fact sheets and public notices	Send to the EPA 30 days before the start of public comment period.	Comment to the State within 30 days of receipt.
9	Final permits and final modifications for all TSDFs, and notices of permit denials	Copy to the EPA with monthly submittals	Review if the EPA commented on draft.
10	Class 1 permit modification request (Minor changes to permit that do not require EPA review)	Copy to the EPA within 7 days of receipt, may request EPA review if the State has questions	Review, file
11	Class 2 permit modification request ⁴	Send to the EPA 30 days before the start of public comment period.	Comment to the State within 30 days of receipt, or as negotiated.
12	Class 3 permit modification request ⁴	Send to the EPA 30 days before the start of public comment period.	Comment to the State within 30 days of receipt, or as negotiated.

13	Emergency Permits	Notify the EPA by telephone ASAP, then send a copy of permit with monthly submittal	Monitor situation.
14	a) Clean Closure Plans for LDFs b) Closure Plans for Tank Units	Send to the EPA with monthly submittals	Become familiar with plans, particularly clean closure submittals
15	Closure Plan NODs for item 10 facilities	Copy to the EPA with monthly submittals	Review and provide comments to the State, if requested.
16	Permit Decision Termination/Denial	Copy to the EPA	Review, file
17	Closure Plan public notices, approval letters and closure acceptance letters for all TSDFs	Copy to the EPA with monthly submittals	Comment during public comment period.
18	Closure equivalency petitions and all associated documents	Copy to the EPA with monthly submittals	Review and provide comments to the State during comment period.
19	Other documents at the State's request	Per State schedule	Assist the State to the maximum extent possible.

1 Table applies to all permits and permitted facilities subject to Alaska's authorized hazardous waste program.

2 If the State knows or suspects a controversy or potential precedent-setting issue(s) associated with a permit or other document, the State will inform the EPA as soon as possible. The State and the EPA may consult to inform the EPA's decision regarding whether to conduct a review. The EPA reserves the right to review all permit actions.

3 The State may request an EPA review, or the EPA may choose to conduct a review. Generally, the EPA will make the decision to comment, but may amend its decision based on new information, cursory review of a document, or other circumstance. Should the EPA conduct a review, the State will copy subsequent submittals and correspondence relating to the document (e.g., NODs, *revised* part B, *revised* permit) to the EPA.

4. 40 C.F.R. § 270.42 requires the permittee to notify the public 7 days before or after the date of the submission of a modification request. For both Class 2 and 3 modifications, that notification starts a 60-day public comment period. The EPA would like to provide its comments prior to the start of a public comment period. Therefore, the State will ask for drafts of Class 2 and 3 modifications and ensure they meet the State's information requirements before providing them to the EPA for their 30-day review. The State and the EPA realize that a permittee is not required to provide a draft of a permit modification, but all efforts will be made by the State to receive one.

APPENDIX B
CORRECTIVE ACTION DOCUMENT FLOW
BETWEEN EPA AND ALASKA DEC¹

Days are in Calendar Days
Reports will be transmitted electronically

Item	Item Description	State Action ²	EPA Action ^{3,4}
1	Draft RCRA Facility Assessment (RFA) ⁵ Reports generated by the State	Send to the EPA in draft form when sent to facility for comment	Comments to the State within 30 days of receipt, or as negotiated, or tell the State it will not review.
2	Final RFA Reports sent to facilities	Copy to the EPA with monthly submittals	Review if the EPA commented on draft.
3	Final EI evaluations and NCAPS worksheets	Send to the EPA with monthly submittals	Review if the EPA commented on draft
4	All work plans and reports that address investigation and corrective action requirements for SWMUs at facilities with high NCAPS ranking.	Send to the EPA in draft final form 30 days prior to issuance/public notice	Become familiar with documents.
5	Notices of Deficiency (NODs) and NOV's and Orders on corrective action documents in Item 4	Copy to the EPA	EPA review, if requested.
6	Remedy Selection Documents (Permit mods., Orders, SOBs, etc.)	Copy to the EPA 30 days before issuance of draft copy of final to the EPA upon issuance.	Review and comment w/in 30 days of receipt of draft. Review final for conformity to the EPA comments.
7	Corrective action completion determinations/No Further Action determinations	Copy to the EPA	Review, file.

1 Table applies to all corrective action facilities subject to the authorized hazardous waste program in Alaska.

2 If the State knows or suspects a controversy or potential precedent-setting issue(s) related to an action or document, the State will inform the EPA as soon as possible. The State and the EPA may consult to inform the EPA's decision regarding whether to conduct a review. The EPA reserves the right to request review of any action or document.

3 The State may request an EPA review or the EPA may choose to conduct a review. The EPA may comment on any document reviewed and will inform the State as soon as possible that the EPA will provide comments. Generally, the EPA will make the decision to comment during quarterly meetings, but may amend its decision based on new information, cursory review of a document, or other circumstance. Should the EPA conduct a review, the State will copy subsequent submittals and correspondence relating to the document (e.g., revised EI, revised Order) to the EPA.

4 The State and the EPA may negotiate timing during the quarterly meetings with updates as necessary. Default EPA review time for documents is 30 days from the date of receipt by the EPA.

5 A RCRA Facility Assessment may be completed by the State through preliminary assessment under 18 AAC 75.

APPENDIX C
ENFORCEMENT AND COMPLIANCE DOCUMENT FLOW
BETWEEN EPA AND ALASKA DEC

Days are in Calendar Days
Reports will be transmitted electronically

Item	Item Description	State Action	EPA Action
1	List of TSDs to be inspected will be provided to EPA each year	Selected facilities are included in grant workplan	Review list and notify the State of TSD inspections EPA will lead or accompany, if any
2	Request for EPA Identification Number sent to the EPA	Provide EPA ID Number to requester and the EPA	Send original request received by the EPA to the State within 10 working days
3	Notice of Intent (NOI) to receive hazardous waste from a foreign source pursuant to 40 C.F.R. § 265.12	Send copy of NOI to the EPA within 5 days of receipt	Region reviews and takes action as necessary
4	Notification to the State that the EPA will take enforcement action	Receive notification	Notification 15 days prior to issuing 3008(a) in writing; and make available to the State, to the extent provided under applicable statutes or regulations, reports and data resulting from compliance inspections at facilities under the State's jurisdiction within 30 days of completion of final inspection report.
5	Waiver of Variance requests and response/approval	Send a copy to the EPA within 5 days of receipt	Review and respond to the State within 5 days or as negotiated
6	Citizen concerns referred to the State by the EPA	The State investigates	The EPA refers to the State.

APPENDIX D RCRA DATA MANAGEMENT

Letter of Agreement between
Alaska Department of Environmental Conservation
Environmental Health Division
Hazardous Waste Program
and
US EPA Region 10
Land Chemicals and Redevelopment Division
[date finalized]

This document defines the terms and responsibilities for managing data for both the US Environmental Protection Agency (EPA) and the Alaska Department of Environmental Conservation (State or DEC), under the Resource Conservation and Recovery Act (RCRA) Hazardous Waste Program. The referenced data resides in the RCRA Information System (RCRAInfo).

RCRAInfo is an automated information management system for storage, tracking, and analysis of data relating to state and federal hazardous waste program activities. RCRAInfo is the database of record for the RCRA hazardous waste program. The EPA and the State share access to RCRAInfo with assigned users who can create, access, and modify data.

The exception to this document will be activities in Indian country and Denali National Park and Preserve, which is exclusively under the authority of EPA.

The intent of this document is to:

- Identify the areas of information management associated with maintaining RCRAInfo data;
- Clarify RCRAInfo data management requirements and procedures;
- Improve partnering, information sharing, and the quality of RCRAInfo data;
- Provide a formal procedure for resolving disputes regarding the content of the data.

General Agreements:

1. The EPA and the State agree to share all data within RCRAInfo, including handler, e-manifest, compliance/monitoring/enforcement (CM&E), permitting, corrective action, financial assurance, and biennial report modules.
2. Data will be entered within 30 calendar days of the date the RCRA event takes place.
3. “Nationally-defined” data is defined by the most current version of the RCRAInfo Data Element Dictionary (DED).

DEC Personnel: The State will appoint one individual to be the primary data specialist for RCRAInfo data management with Administrator permissions; the DEC Hazardous Waste Program Manager will also maintain Administrator status in RCRAInfo. The DEC RCRAInfo Data Administrator will serve as the technical contact and data coordinator for RCRAInfo and is responsible for communicating with the EPA regarding data management, analysis, reporting, and technical issues. The DEC RCRAInfo Data Administrator will be responsible for training State staff and assisting RCRAInfo industry users, assuring all data is entered in accordance with specified timeframes, keeping state-specific documentation up to date, providing guidance to State managers on data-related policy issues, and communicating the names of all data-related contacts to the

EPA. Other State users may have add/update permissions and be trained in reviewing and correcting RCRAInfo data and will be responsible for entering accurate data in a timely manner.

EPA RCRAInfo Data Manager The EPA will provide technical assistance and data oversight, including development of policies related to national issues. All policies will aim to provide consistency and equity for Region 10 states.

Communication: The DEC RCRAInfo Data Administrator and the EPA RCRAInfo Data Manager will work together to ensure that RCRAInfo data management is successful. The EPA RCRAInfo Data Manager will assist and support both the State and the EPA staff when problem solving and interpreting RCRAInfo requirements. The DEC RCRAInfo Data Administrator will be responsible for communicating needs and changes to the DEC Hazardous Waste Program Team. The EPA and the State agree to consult with each other about data decisions that are new or unusual.

Nomenclature: The State naming process will be consistent with the EPA's standard nomenclature policies to ensure that data drawn from national systems corresponds with the EPA and the State reporting needs, is used to accurately populate public databases (such as Envirofacts), sorts properly and is easy to access, and to ensure national consistency. The State and the EPA will use the Federal Facility Nomenclature Standard for data entry.

RCRA Identification Number Issuance: The DEC RCRAInfo Data Administrator will be responsible for processing initial site notification data and assigning a RCRA handler identification number (RCRA ID) within 10 days of receiving a new RCRA Site Identification Form (8700-12). The DEC RCRAInfo Data Administrator will also enter data as an implementor record as needed, and issue non-notifier RCRA IDs for sites that are discovered but have failed to notify the State or the EPA.

Data Entry/Review: DEC Hazardous Waste Program staff will establish a RCRAInfo User ID with access to enter, review, and/or edit data in RCRAInfo. Changes to database information will be reported to the DEC RCRAInfo Data Administrator within one working day, and significant changes to data and new sites will be reported to the DEC Hazardous Waste Program Manager at least weekly by the DEC RCRAInfo Data Administrator.

Data Quality: The DEC RCRAInfo Data Administrator will create reports or use existing reports on a scheduled basis, to review data entered by handlers and others to identify data quality errors and direct their correction. They will keep handler universes up to date by identifying inactive sites and requesting update or complete batch deactivations with detailed comments. The EPA will submit data quality errors to the DEC RCRAInfo Data Administrator for confirmation or correction.

Documentation: The State will maintain electronic files of all information for each handler issued a RCRA ID in accordance with the state's record retention requirements, including any original notifications or Cross-Media Electronic Reporting Rule (CROMERR) agreements mailed to the State. Any person performing data review, entry, or acceptance will provide internal RCRAInfo notes, when necessary, for the record.

Modules:

1. Biennial Report – The State will, for the National Biennial Report request submittal, collect, review and analyze all report data, research inconsistencies, direct the required changes to the reports, and approve final reports in accordance with the national biennial reporting schedule. The State will encourage the use of the RCRAInfo Biennial Report Module Industry Application for electronically filing the Biennial Report. The DEC RCRAInfo Data Administrator will enter data from any reports not filed electronically.
2. Compliance, Monitoring and Enforcement – The DEC Hazardous Waste Program staff will enter CM&E data within 30 calendar days of the action taken at their assigned facilities. Data will be reviewed at least quarterly to determine and resolve any data issues. The DEC RCRAInfo Data Administrator will prepare

a quarterly report to identify any site status changes, unresolved violations, and other requested data and submit the report to the DEC Hazardous Waste Program Manager and the DEC Hazardous Waste Program Compliance and Enforcement Lead. Once finalized, the report will be submitted to the EPA. Pre-decision enforcement data will not be released to the public without EPA approval.

3. Corrective Action – The DEC Hazardous Waste Program staff will enter site information within 30 calendar days of an event. The DEC RCRAInfo Data Administrator will prepare quarterly reports on the status of statewide corrective action sites and submit it to the DEC Hazardous Waste Program Manager and DEC Hazardous Waste Program Contaminated Sites Liaison. Once finalized, the report will be submitted to the EPA.
4. E-Manifest – The EPA is responsible for processing e-manifest data and collecting fees. The data will be used by the DEC Hazardous Waste Program for data analysis and reporting. The State may review e-manifest data and request e-manifest corrections.
5. Financial Assurance – Each DEC Hazardous Waste Program staff will enter financial assurance information for assigned facilities. The data will be reviewed and updated at least annually to ensure proper reporting.
6. Geographic Information System (GIS) – The DEC Hazardous Waste Program staff will review and confirm the GIS data for each site for accuracy and correct the information where errors are noted.
7. Handler – The DEC RCRAInfo Data Administrator will be responsible for reviewing and ensuring complete handler information is entered in RCRAInfo and reviewing and confirming annual and out of cycle site identification forms for correct information and working with DEC Hazardous Waste Program staff and the site to implement corrections.
8. Permitting – Documentation submitted on the Hazardous Waste Permit Information Form (EPA 8700-23 Part A) will be processed and entered in RCRAInfo within 30 calendar days of receipt. Permit documents will be submitted to the EPA as denoted in Appendix A of the MOA.

Amendment: Should any significant changes occur in RCRAInfo database structure or policies, the authorization relationship between the State and the EPA, or if the State determines the need to establish a separate database, the State and the EPA agree that this document may be amended to establish provisions that ensure timely management of quality data in RCRAInfo.

Signatures: The individuals signing below agree to ensure the RCRAInfo data management is properly administered by the State and the EPA. This agreement does not affect the legal rights that either party has, nor does it provide any rights to non-signing facilities or persons. Once signed, this document will continue to be in effect until modified by mutual consent. Any issues not covered by this agreement will default to the RCRA Program Memorandum of Agreement.

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

U.S. ENVIRONMENTAL PROTECTION
AGENCY - REGION 10

BY: _____

BY: _____

DATE: _____

DATE: _____