

STATE OF ALASKA
ATTORNEY GENERAL’S STATEMENT OF LEGAL AUTHORITY FOR
THE RESOURCE CONSERVATION AND RECOVERY ACT
SUBTITLE-C PROGRAM

Dated X

I hereby certify, pursuant to my authority as the Attorney General for the State of Alaska, AS 44.34.010, AS 44.23.20 and in accordance with Section 3006(b) of the Solid Waste Disposal Act, as amended, also referred to as the Resource Conservation and Recovery Act, as amended (RCRA) (42 U.S.C. § 6901 *et seq.* and 40 C.F.R. Part 271), that in my opinion the laws of the State of Alaska provide adequate authority to carry out the RCRA Subtitle C program set forth in the “Program Description” submitted by the Alaska Department of Environmental Conservation (ADEC) to the U.S. Environmental Protection Agency (EPA) on **X date** and meet the requirements of 40 CFR 271 Subpart A. It is further my opinion that the program submission describes a state hazardous waste program that can be carried out in lieu of EPA’s program and is equivalent to or more stringent/broader in scope than EPA’s RCRA Subtitle C program. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this statement is signed and which are now in effect. The statutory authorities for the State of Alaska are documented in Alaska’s RCRA Statutory Checklist, dated **DATE** and attached to this Statement (See Attachment A).

The provisions for which the State of Alaska is seeking authorization are documented in the attached Incorporation by Reference (IBR) Checklist (Attachment B) Differences between the State of Alaska’s provisions and the Federal provisions are noted on the IBR Checklist The official state regulations may be found in 18 AAC 62, effective June 1, 2025.

I. Alaska's Authorities in Statute and Regulation

Alaska's hazardous waste statutes were enacted in 1981 in Chapter 46.03 of the Alaska Statutes and have been variously updated since that date. All citations to state statutes, below, refer to the state statutes as they were revised on the date of this Statement. State hazardous waste regulations implementing state hazardous waste statutes, and adopting federal hazardous waste regulations by reference with modifications, became effective June 1, 2025.

Alaska has statutory authority to adopt RCRA federal regulations by reference, as recognized in AS 44.62.245. Alaska's drafting manual for administrative regulations, required by AS 44.62.050, includes a chapter on material adopted by reference and explains that "[a]dopting material by reference in a regulation makes that material itself a regulation." Alaska has adopted the federal RCRA regulations by reference, with modifications. These modifications are discussed further below,

Alaska adopted, almost verbatim, the federal hazardous waste management regulations through incorporation by reference with modifications. Modifications that are more stringent or broader in scope are certain annual reporting requirements, adoption by reference of EPA groundwater monitoring guidance, more detailed corrective action requirements (to reconcile the state hazardous waste program with the state contaminated site program), and allowing electronic waste to be managed as universal waste.

For the sake of efficiency and ease of reference, this Statement's format has been altered from EPA's model format as follows: the Statement's organization is based on the requirements for a state hazardous waste program in 40 C.F.R. Part 271. This format is more straightforward for demonstrating how Alaska law meets federal requirements for program authorization.

Except where noted in Alaska's regulations, Alaska changed federal terms to state terms in adopting the federal regulations by reference. Title 18, Alaska Administrative Code (AAC) Chapter 62, 18 AAC 62.040. The exceptions to this rule were:

18 AAC 62.050(c) as to 40 C.F.R. 260.4 and 260.5 and 40 C.F.R. 260.10;

18 AAC 62.301 as to 40 C.F.R. Part 262, Subpart A;

- 18 AAC 62.311 as to 40 C.F.R. Part 262, Subpart B;
 - 18 AAC 62.321 as to 40 C.F.R. Part 262, Subpart C;
 - 18 AAC 62.330 as to 40 C.F.R. Part 262, Subpart D;
 - 18 AAC 62.340 as to 40 C.F.R. Part 262, Subpart G;
 - 18 AAC 62.350 as to 40 C.F.R. Part 262, Subpart H;
 - 18 AAC 62.360 as to 40 C.F.R. Part 262, Subpart K;
 - 18 AAC 62.370 as to 40 C.F.R. Part 262, Subpart L;
 - 18 AAC 62.380 as to 40 C.F.R. Part 262, Subpart M;
 - 18 AAC 62.411 as to 40 C.F.R. 263.20;
 - 18 AAC 62.505 as to 40 C.F.R. 264.12(a);
 - 18 AAC 62.520 as to 40 C.F.R. 264.71, 264.72 or 264.76;
 - 18 AAC 62.535 as to 40 C.F.R. 264.143(e)(1), 264.145(e)(1), or 264.147(a)(1)(ii),
(b)(1)(ii), or (i)(4);
 - 18 AAC 62.595 as to 40 C.F.R. Part 264, Subpart FF;
 - 18 AAC 62.605 as to 40 C.F.R. 265.12(a);
 - 18 AAC 62.620(a) as to 40 C.F.R. 265.71, 265.72, or 265.76;
 - 18 AAC 62.635 as to 40 C.F.R. 265.143(d)(1), 265.145(d)(1), or 265.147(a)(1)(ii),
(b)(1)(ii), (g)(2), or (i)(4);
 - 18 AAC 62.696 as to 40 C.F.R. Part 265, Subpart FF;
 - 18 AAC 62.840 as to 40 C.F.R. 267.71 or 267.72;
 - 18 AAC 62.870 as to 40 C.F.R. 267.147(g)(2);
 - 18 AAC 62.901 as to 18 AAC 040(c) and (d);
 - 18 AAC 62.930 as to 40 C.F.R. 268.42(b) or 268.44;
 - 18 AAC 62.1000 as to 40 C.F.R. 270.2;
 - 18 AAC 62.1020 as to 40 C.F.R. 124.2(a);
 - 18 AAC 60.1320 as to 40 C.F.R. 260.11; and
 - 18 AAC 62.1390 as to 40 C.F.R. 260.10.
- a. ADEC General Regulatory Authorities

The Alaska Legislature grants ADEC broad authority to protect the environment and public health. See generally AS 46.03.010 and other citations listed below.

In its general powers under AS 46.03.020, ADEC has the power to adopt regulations necessary to carry out the purposes of Chapter 46.03, including regulations providing for the control, prevention, and abatement of air, water, or land or subsurface land pollution, AS 46.03.020(10)(A), and the handling, transportation, treatment, storage, and disposal of hazardous wastes. AS 46.03.020(10)(H). Under AS 46.03.020(10)(G), ADEC may adopt regulations necessary to implement the policy in AS 46.03.010, which includes that “[i]t is the policy of the state to conserve, improve, and protect its natural resources and environment and control water, land, and air pollution, in order to enhance the health, safety, and welfare of the people of the state and their overall economic and social well-being.” AS 46.03.010(a). This includes controlling pollution to enhance the health, safety, and welfare of the people of the state.

In its general duties under AS 44.46.020, ADEC has “primary responsibility for coordination and development of policies, programs, and planning related to the environment of the state and of the various regions of the state.” AS 44.46.020(a)(1). It also has “primary responsibility for the adoption and enforcement of regulations setting standards for the prevention and abatement of all water, land, subsurface land, and air pollution, and other sources or potential sources of pollution of the environment, including by way of example only, petroleum and natural gas pipelines.” AS 44.46.020(a)(2). ADEC has authority to adopt regulations in accordance with AS 44.46.020(a)(5), which includes authority to, among other things, prevent and control public health nuisances and regulate sanitation in the interest of public health.

The statutes cited above give ADEC the overarching authority to adopt and carry out the RCRA Subtitle C program.

b. ADEC Specific Hazardous Waste Authorities

i. Statutory authorities

ADEC’s core hazardous waste statutory authorities are found at AS 46.03.296–AS 46.03.313.

AS 46.03.296 makes it unlawful to dispose of hazardous wastes in the state unless (1) the waste has been treated and disposed of in a manner that maximally reduces its harmful qualities and that the department¹ determines is achievable, and (2) the waste is disposed of in a manner that will ensure the protection of human health, livestock, wildlife, property, and the environment. AS 46.03.296(a). The statute instructs the department to adopt regulations for the treatment, storage, and disposal of hazardous wastes. AS 46.03.296(b).

AS 46.03.299 instructs ADEC to adopt regulations to identify and manage hazardous waste as defined by EPA, as well as hazardous waste that exhibits the characteristic of toxicity, persistence, or carcinogenicity. AS 46.03.299(a). It includes Bevill and Bentsen exemptions, discussed in the Definitions section below. AS 46.03.299(b). The statute instructs ADEC to “take all actions necessary to receive authorization from the administrator of the EPA to administer and enforce a hazardous waste program in accordance with RCRA. It also specifies certain amounts of hazardous waste and acute hazardous waste (as defined by federal regulation) that are subject to ADEC regulation and specifies that the department may extend coverage. AS 46.03.299(d).

Under AS 46.03.302, a person may not treat, transport, store, or dispose of a hazardous waste, as defined in ADEC regulation, unless that person first secures a permit and submits any reports or manifests that ADEC may require. AS 46.03.302(a). A person who generates a hazardous waste is not required to obtain such a permit unless the person also treats, transports, stores, or disposes of the hazardous waste. AS 46.03.302(b).

¹ In this Attorney General’s Statement, the “department” means the Alaska Department of Environmental Conservation.

AS 46.03.305 requires a person² who generates hazardous waste to submit to ADEC reports or manifests that the department may require for handling the hazardous waste.

AS 46.03.308 prohibits the transport of hazardous waste unless it is accompanied by the uniform hazardous waste manifest required under 42 U.S.C. § 6922 – 6923 or other applicable federal law.

Under AS 46.03.311, permits, permit applications, records, reports, and information obtained under AS 46.03.302 – 46.03.308 are available to the public, save for those demonstrated to be confidential trade secrets. Confidential information may be transmitted under a continuing restriction of confidentiality with other representatives of the state or United States if (1) the person responsible for furnishing the record is informed at least two weeks before the transmittal, and (2) the information has been acquired by the department under the provisions of AS 46.03.296 – .311. AS 46.03.311(b).

AS 46.03.250 – .313 are specifically referenced in ADEC’s civil and criminal penalty statutes, discussed further below. AS 46.03.760(e); AS 46.03.790.

Note that AS 46.03.313 instructs ADEC to evaluate and select sites for hazardous waste management facilities in the state, and includes factors to consider when doing so. While the federal program has siting requirements that are adopted by reference in 18 AAC 62.505, 605, and 810, this statute is interpreted in a separate, state-specific regulation chapter outside of the RCRA subtitle C program, contained in 18 AAC 63. This aspect of hazardous waste siting approval is a state-only requirement, and does not conflict with requirements under the RCRA Subtitle C program.

ii. Regulatory authorities

² “[P]erson” is defined as “any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or any other entity whatsoever” AS 46.03.900(18). The Alaska Supreme Court has stated, about this exact definition, that it applies to “virtually any entity - private or public...” *Kodiak Island Borough v. Exxon Corp.*, 991 P.2d, 757, 762 (1999).

Alaska's regulatory authorities with respect to the RCRA C program are listed below:

1. Article 1 – General Standards 18 AAC 62.010-18 AAC 62.050;
2. Article 2 – Identification and Listing of Hazardous Waste 18 AAC 62.201-18 AAC 62.299;
3. Article 3 – Standards Applicable to Generators of Hazardous Waste 18 AAC 62.301-18 AAC 62.380;
4. Article 4 – Standards Applicable to Transporters of Hazardous Waste 18 AAC 62.401-18 AAC 62.430;
5. Article 5 – Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities 18 AAC 62.502-18 AAC 62.599;
6. Article 6 – Interim Status Standards for Owners and Operators of Treatment, Storage, and Disposal Facilities 18 AAC 62.601-18 AAC 62.699;
7. Article 7 – Standards for Management of Specific Hazardous Waste 18 AAC 62.701-18 AAC 62.799;
8. Standards for Owners or Operators of Hazardous Waste Facilities Operating Under a Standardized Permit - 18 AAC 62.800-18 AAC 62.895;
9. Article 9 – Land Disposal Restrictions 18 AAC 62.901-18 AAC 62.999;
10. Article 10 - Hazardous Waste Permits 18 AAC 62.1000-18 AAC 62.1090;
11. Article 11 – Standards for Universal Waste Management 18 AAC 62.1100-18 AAC 62.1160;
12. Article 12 – Standards for Management of Used Oil 18 AAC 62.1210-18 AAC 62.1280; and

13. Article 13 – General Provisions 18 AAC 62.1300-18 AAC 62.1390.

Alaska adopted federal regulations by reference, with modifications. Federal regulations that were adopted by reference, in part, but modified by Alaska are listed above; however, Alaska elected not to adopt 40 CFR 266 Subpart Q, Ignitable Spent Refrigerants Recycled for Reuse, because state regulations were already out for public notice at the time of Subpart Q's adoption.

18 AAC 62.050. General provisions.

(b) The introductory language of 40 C.F.R. 261.6(a)(2), revised as of July 1, 2022, is adopted by reference, but not that language revised as of December 10, 2024. The provisions of 40 C.F.R. 261.6(a)(2)(v) that took effect December 10, 2024 are not adopted by reference.

§ 261.6 Requirements for recyclable materials.

(a)(2) The following recyclable materials are not subject to the requirements of this section but are regulated under subparts C through Q of part 266 of this chapter and all applicable provisions in parts 268, 270, and 124 of this chapter.

(v) Ignitable spent refrigerants recycled for reuse (40 CFR part 266, subpart Q).

18 AAC 62.280. Emergency preparedness and response for management of excluded hazardous secondary materials.

(b) The introductory language of 40 C.F.R. 261.400, revised as of July 1, 2022, is adopted by reference, but not that language revised as of December 10, 2024. The provisions of 40 C.F.R. 261.400(c) that took effect December 10, 2024 are not adopted by reference. The introductory language of 40 C.F.R. 261.420, revised as of July 1, 2022, is adopted by reference, but not that language revised as of December 10, 2024. (Eff. 06/01/2025, Register 254)

§ 261.400 Applicability.

(c) Facilities receiving refrigerant from off-site under 40 CFR part 266, subpart Q that are not transfer facilities that store the refrigerants for less than ten (10) days must comply with §§ 261.410 and 261.420.

18 AAC 62.301. General provisions. (a) The provisions of 40 C.F.R. Part 262, Subpart A (general), revised as of December 7, 2023, are adopted by reference, except that

(1) the provisions of 40 C.F.R. 262.14(a)(5)(vi), revised as of July 1, 2022, are adopted by reference; the amendment of December 10, 2024 is not adopted by reference;

§ 262.14 Conditions for exemption for a very small quantity generator.

(a) Provided that the very small quantity generator meets all the conditions for exemption listed in this section, hazardous waste generated by the very small quantity generator is not subject to the requirements of parts 124, 262 (except §§ 262.10 through 262.14) through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. The conditions for exemption are as follows:

(vi) A facility which:

(A)

(1) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(2) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; and

(B) For ignitable spent refrigerants regulated under 40 CFR part 266 subpart Q, meets the requirements of that subpart.

418 AAC 62.1000. General provisions.

(b) The provisions of 40 C.F.R. 270.1(c)(2)(xi) that took effect December 10, 2024 are not adopted by reference.

§ 270.1 Purpose and scope of the regulations in this part.

(c) *Scope of the RCRA permit requirement.* RCRA requires a permit for the “treatment,” “storage,” and “disposal” of any “hazardous waste” as identified or listed in 40 CFR part 261. The terms “treatment,” “storage,” “disposal,” and “hazardous waste” are defined in § 270.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills, land treatment units, and waste pile units that received waste after July 26, 1982, or that certified closure (according to § 265.115 of this chapter) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under § 270.1(c)(5) and (6), or obtain an enforceable document in lieu of a post-closure permit, as provided under paragraph (c)(7) of this section. If a post-closure permit is required, the permit must address applicable 40 CFR part 264 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of this chapter. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(2) *Specific exclusions and exemptions.* The following persons are among those who are not required to obtain a RCRA permit:

(xi) Recyclers of ignitable spent refrigerants subject to regulation under 40 CFR part 266, subpart Q.

As stated above, these revisions were noticed in the Federal Register October 11, 2024 and effective December 10, 2024. These federal revisions were adopted after Alaska completed its public notice and revisions to the state regulations. To add these revisions to our regulations package would have been a substantive change to the public notice that had already been issued and would have required new notice and comment time. Alaska will adopt the current version of these provisions in the first revision to our state regulations as cited in the Checklist. Until such adoption, Alaska’s regulations are broader in scope than EPA’s program with respect to Subpart Q because state law does not recognize the exemption.

II. Definitions

a. Hazardous Waste

In the federal statute, the definition of hazardous waste begins by stating that a hazardous waste is a solid waste, which then points the reader to the federal statutory definition of solid waste. In Alaska, the solid waste program (SWP) and the HWP are separate and the state’s statutory definition of solid waste applies to the solid waste program, not the HWP. In other words, the term solid waste is used in the statutes in reference to the SWP. As a result, Alaska’s definition of hazardous waste in AS 46.03 generally does not mirror the federal prerequisite that a hazardous waste must first be a solid waste. *Compare* 42 U.S.C. § 6903(5), (27) *with* AS 46.03.900(9), (26). However, this prerequisite (that a hazardous waste must first be a solid waste) is set out in regulation in the HWP.

Alaska statute defines “hazardous waste” to mean:

“a waste or combination of wastes that because of quantity, concentration, or physical, chemical, or infectious characteristics may

- (A) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (B) pose a substantial present or potential hazard to human health or the environment when improperly managed, treated, stored, transported, or disposed of[.]”

AS 46.03.900(9).³ State HWP regulations interpret the hazardous waste statutes. For the HWP specifically, ADEC adopted by reference in regulation definitions, including, in particular, the Code of Federal Regulation definitions of solid waste at 40 C.F.R. 261.2 and hazardous waste at 40 C.F.R. 261.3. 18 AAC 62.201 defines “solid waste” in the same language as 40 CFR 261.2. The term “discarded” is identically defined. The definition of “hazardous waste” in 18 AAC 62.201 is identical to the definition in 40 CFR 261.3, which requires that the waste be a solid waste, and including coverage of mixtures and references to listed wastes and wastes which are hazardous by characteristic.

These definitions apply to the State HWP under 18 AAC 62.010 – 18 AAC 62.1160. ADEC adopted these federal regulations for the HWP because EPA’s regulatory definitions of solid waste and hazardous waste are reasonable interpretations of the state’s statutory definition of hazardous waste, further clarifying and fleshing out the definition of hazardous waste and exemptions to the definitions.⁴ Further, the State legislature specifically intended that the State’s hazardous waste regulations would be consistent with federal regulations with respect to hazardous waste identification. AS 46.03.299(a) states that ADEC shall adopt regulations for the identification and management of hazardous waste as defined by EPA and that exhibit characteristics of toxicity, persistence, or carcinogenicity.

As a result, the process to determine whether a waste is a hazardous waste and therefore regulated by the Alaska HWP is the same as the federal process under EPA – is

³ “Waste” itself is undefined in Alaska statutes and is not interpreted by regulation.

⁴ The State regulations adopting federal definitions of solid and hazardous waste are consistent with the statute, reasonable, reasonably necessary, and have a reasonable relation to the statutory objective. State v. Alyeska Pipeline Serv. Co., 723 P.2d 76, 78 (Alaska 1986). See also Alaska Fish and Wildlife Conservation Fund v. State, 347 P.3d 97 (Alaska 2015)(regulation interpreting statute is reasonable and not arbitrary); State, Board of Marine Pilots v. Renwick, 936 P.2d 526, 531 (Alaska 1997)(Regulations are presumptively valid and will be upheld so long as they are consistent with and reasonably necessary to implement the statutes authorizing their adoption).

it discarded; is it a solid waste; is it excepted out of the definition of solid waste; if not, is it a hazardous waste; is it excepted out of the definition of hazardous waste? If the waste is not excepted, it is regulated by the State HWP.

AS 46.03.299(a) specifically empowers ADEC to “adopt regulations under AS 44.62 (Administrative Procedure Act) for the identification and management of hazardous waste as defined by the Environmental Protection Agency and hazardous waste that exhibits the characteristic of toxicity, persistence, or carcinogenicity.” The first clause enables ADEC to regulate all hazardous wastes regulated by the United States. The second clause enables ADEC to identify and regulate additional, state-only hazardous wastes beyond those identified by EPA. As a result, the state program is broader in scope than the federal program because it potentially expands the scope of what is a hazardous waste under state law.

b. Bevill and Bentsen Amendments

Congress passed RCRA in 1976 to regulate hazardous waste. Through the Solid Waste Disposal Act Amendments of 1980, Congress temporarily excluded some waste from the definition of hazardous waste. The two principal amendments were the Bentsen and Bevill Amendments. The Bentsen Amendment exempted “drilling fluids, produced waters, and other wastes associated with the exploration, development, and production of crude oil or natural gas or geothermal energy.” 42 U.S.C. § 6921(b)(2)(A). The Bevill Amendment exempted waste from fossil fuel combustion, the “extraction, beneficiation, and processing of ores and minerals,” and cement kiln dust. 42 U.S.C. § 6921(b)(3)(A). The exclusions from the definition of hazardous waste were to be in place until the Environmental Protection Agency (EPA) conducted full assessments of the listed waste types and submitted reports to Congress.

The EPA subsequently submitted its reports and promulgated regulations (40 C.F.R. 261.4) determining that most of the types of waste listed in the two Amendments did not require regulation as hazardous waste. It found the management of certain solid waste from exploration and production (drilling fluids, produced waters, and

other wastes associated with the exploration and development of crude oil, natural gas, or geothermal energy) was not warranted under RCRA Subtitle C. 40 C.F.R. 261.4(b)(5). Similarly, cement kiln dust, some products of fossil fuel combustion, and most waste from the “extraction, beneficiation, and processing of ores and minerals” are solid wastes excluded from the regulatory definition of hazardous waste. 40 C.F.R. 261.4(b)(4), 261.4(b)(7), 261.4(b)(8). Generally, with a few exceptions, the EPA found the solid wastes listed in the Amendments did not require regulation as hazardous waste.

AS 46.03.299(b) is Alaska’s version of the Bevill and Bentsen amendments in 42 U.S.C. 6982(f) and (m) (respectively), and is narrower and more stringent than its federal counterparts because AS 46.03.299(b) only exempts from hazardous waste regulation “mining waste and waste associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy until studies required under 42 U.S.C. 6982(f) and (m) are completed. The department, after considering the findings in the reports of these studies, may terminate or amend the exemptions.”

ADEC has adopted by reference 40 C.F.R. 261.4 (Revised as of January 22, 2025) in its entirety so it will regulate these wastes consistent with EPA regulations. Following the publication of the EPA reports, this regulation is a consistent and reasonable interpretation of the statute.⁵

c. Additional Key Terms

Alaska statutes do not themselves define several key terms relevant to RCRA-C implementation, including “management,” generators,” and “transporters.” ADEC defines these and other terms by adopting the definitions of 40 C.F.R. § 260.10 (Revised as of December 7, 2023) by reference in 18 AAC 62.1390. Additionally, ADEC adopts the definitions of 40 C.F.R. 279.1 (Revised as of July 1, 2022) by reference in that same provision.

⁵ See Fn. 4.

III. Identification and Listing of Hazardous Wastes⁶

State law provides authority to regulate all hazardous wastes under 40 C.F.R. Part 261, and to adopt a list of hazardous wastes and set of characteristics for identifying hazardous wastes equivalent to those under 40 C.F.R. Part 261.

Federal Authority: 42 U.S.C. § 6921.

State Authority: AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.900.

Remarks of the Attorney General

Federal regulation requires that a state program have authority to regulate all hazardous wastes under 40 C.F.R. Part 261, and to adopt a list of hazardous wastes and set of characteristics for identifying hazardous wastes equivalent to those under 40 C.F.R. Part 261. 40 C.F.R. 271.9. ADEC adopts 40 C.F.R. Part 261 (Revised as of January 22, 2025) by reference in 18 AAC 62, Article 2. ADEC's authority to do so stems from its general and specific authorities outlined above in Section I, mainly AS 46.03.020, AS 46.03.296, and AS 46.03.299. ADEC's authority for adopting the general provisions of 40 C.F.R. Part 261, Subpart A also stems from its definitions statute at AS 46.03.900.

Alaska includes an option for a generator to manage electronic waste as universal waste. The state defines "electronic waste" as a hazardous waste that is a device that contains one or more circuit boards or other complex circuitry, including computer components, laptops, central processing units, mice, keyboards, monitors, cellular telephones, audio or video devices, and copy machines; electronic waste includes components, subassemblies, or other parts derived from the disassembly of electronic items. It does not include refrigerators, freezers, stoves, dishwashers, washers, or dryers. 18 AAC 62.1390(2). This means that in Alaska, universal electronic waste will be regulated under state authorities.

⁶ Alaska has chosen not to seek delegation of delisting of hazardous wastes.

In addition to the wastes listed under 40 C.F.R. Part 261.9, electronic waste is exempt from 18 AAC 62.300 - 18 AAC 62.970 (i.e. standard hazardous waste requirements) if managed under 18 AAC 62.1100 - 18 AAC 62.1160 (i.e. universal waste). 18 AAC 62.205. This framework is essentially reiterated in 18 AAC 62, Article 11 (Standards for Universal Waste Management) at 18 AAC 62.1110. Electronic waste that is not a characteristic hazardous waste as determined by a toxicity characteristic leaching procedure performed on that specific item or model by the generator or manufacturer, or other documentation provided by the manufacturer and approved by EPA or the department, and may be managed as solid waste as set out under 18 AAC 60. 18 AAC 62.1110(b). Additional requirements for handlers of electronic waste as universal waste, including reporting, are located in 18 AAC 62.1135.

IV. Generators of Hazardous Waste

State law provides authority to:

- a. Regulate all generators covered by 40 C.F.R. Part 262, and require new generators to contact the state and obtain an EPA identification number before performing any activity subject to regulation;
- b. Require all generators to comply with reporting and recordkeeping requirements equivalent to those under 40 C.F.R. 262.40 and 262.41, including record retention for at least 3 years;
- c. Require that generators who accumulate hazardous waste for short periods of time comply with requirements equivalent to 40 C.F.R. § 262.16 or 262.17;
- d. Require that generators comply with requirements equivalent to those for packaging, labeling, marking, and placarding of hazardous waste under 40 C.F.R. § 262.30 to 262.33, and are consistent with relevant U.S. Department of Transportation regulations;
- e. Provide requirements respecting international shipments that are equivalent to those at 40 C.F.R. Part 262, Subpart H, other applicable federal regulations, and exclusion conditions for import or export in

40 C.F.R. Part 261, without replacing EPA or international references with state references;

- f. Require that all generators of hazardous waste who transport (or offer for transport) hazardous waste off-site:
 - i. Use a manifest system with the same form, information, and electronic signature requirements as the federal system;
 - ii. Initiate the manifest and designate the facility to which the waste is to be shipped;
 - iii. Ensure that all wastes offered for transportation are accompanied by a manifest form or tracked with an electronic manifest, except shipments subject to 40 CFR 262.20(e) or (f), and shipments by rail or water, as specified in 40 CFR 262.23(c) and (d);
 - iv. Investigate instances where manifests have not been returned, and report such instances to the state;
- g. Require, in the case of interstate shipments for which the manifest has not been returned, notification to the facility state and the state where the shipment may have been delivered;
- h. Follow the federal manifest format for paper and electronic manifest forms; and
- i. Have standards for generators which are at least as stringent as any amendment to 40 C.F.R. Part 262 promulgated after July 1, 1984.

Federal Authority: 42 U.S.C. § 6921, 6922.

State Authority: AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.305, AS 46.03.311.

Remarks of the Attorney General:

Federal regulation requires that a state program have authority to impose the requirements listed above. 40 C.F.R. 271.10. ADEC fulfills these requirements by adopting 40 C.F.R. Part 262, Subparts A, B, C, D, G, H, K, L, and M by reference in

18 AAC 62, Article 3 pursuant to AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.305, and AS 46.03.311.⁷

As required by 40 C.F.R. 271.10(a), the state program regulates all generators covered by 40 C.F.R. Part 262, and requires new generators to contact the state and obtain an EPA identification number before performing any activity subject to regulation. 40 C.F.R. Part 262, Subpart A (General), adopted by reference (Revised as of December 7, 2023) in 18 AAC 62.301, describes the purpose, scope, and applicability of Part 262.

As required by 40 C.F.R. 271.10(b), the state program requires all generators to comply with reporting and recordkeeping requirements equivalent to those under 40 C.F.R. 262.40 and 262.41, including record retention for at least 3 years. These requirements are found in 40 C.F.R. Part 262, Subpart D, which 18 AAC 62.330 adopts by reference (Revised as of January 22, 2025).

As required by 40 C.F.R. 271.10(c), the state program requires that generators who accumulate hazardous wastes for short periods of time comply with requirements that are equivalent to 40 CFR 262.16 or .17. The state program adopts these provisions by reference in 18 AAC 62.301 as part of 40 C.F.R. Part 262, Subpart A (General) (Revised as of December 7, 2023).

As required by 40 C.F.R. 271.10(d), the state program requires that generators comply with requirements for the packaging, labeling, marking, and placarding of hazardous waste under 40 C.F.R. 262.30 to 262.33. The state adopts these provisions by reference in (Revised as of July 1, 2022) 18 AAC 62.321 as part of 40 C.F.R. Part 262, Subpart C (pre-transport requirements applicable to small and large quantity generators).

As required by 40 C.F.R. 271.10(e), the state program provides requirements respecting international shipments which are equivalent to those at 40 C.F.R. Part 262, Subpart H, other hazardous waste import and export regulations in 40 C.F.R. Parts 260, 262, 263, 264, 265, 266, 267 and 273, and exclusion conditions for export or import in

⁷ These statutes are described above in Section I.

40 C.F.R. Part 261 to the extent that state has adopted such exclusion conditions. The state adopts 40 C.F.R. Part 262, Subpart H by reference at 18 AAC 62.350 (Revised as of January 18, 2025). The state adopts exclusion conditions for export or import from 40 C.F.R. 261.4 in 18 AAC 62.201 (Revised as of January 22, 2025). The state adopts hazardous waste import and export regulations in 40 C.F.R. Parts 260, 262, 263, 264, 265, 266, 267 and 273 in 18 AAC 62. In all of these adoptions by reference, the state does not replace EPA or international references with state references.

As required by 40 C.F.R. 271.10(f), the state program requires all generators of hazardous waste who transport (or offer for transport) such hazardous waste off-site comply with manifest requirements. The state adopts 40 C.F.R. Part 262, Subpart B (manifest requirements applicable to small and large quantity generators) by reference in 18 AAC 62.311 (Revised as of January 22, 2025). In compliance with 40 C.F.R. 271.10(f)(1), the state does not require any manifest forms or signatures other than federal requirements for any hazardous waste shipments.

As required by 40 C.F.R. 271.10(g), in the case of interstate shipments for which the manifest has not been returned, the state program provides for notification to the state in which the facility is located and the state in which the shipment may have been delivered.

As required by 40 C.F.R. 271.10(h), the state program follows the federal manifest format for paper and electronic forms, including the federal electronic manifest form and instructions as obtained from the Electronic Manifest System described in 40 C.F.R. 260.10. The state describes its use of these federal forms in its program description. As described above, the state adopts 40 C.F.R. Part 262, Subpart B (manifest requirements applicable to small and large quantity generators) by reference in 18 AAC 62.311. It also adopts the Electronic Manifest System definition (located in 40 C.F.R. 260.10) by reference in 18 AAC 62.1390 (Revised as of December 7, 2023).

As required by 40 C.F.R. 271.10(i), the state program has standards for generators which are at least as stringent as any amendment to 40 C.F.R. Part 262 promulgated after

July 1, 1984. The state adopts 40 C.F.R. Part 262, Subparts A, B, C, D, G, H, K, L, and M (Revised as of July 12, 2022) by reference in 18 AAC 62, Article 3.

V. Transporters of Hazardous Waste

State law provides authority to:

- a. Regulate all transporters covered by 40 C.F.R. Part 263. New transporters are required to contact the state and obtain an EPA identification number before accepting hazardous waste for transport;
- b. Require all transporters to comply with reporting and recordkeeping requirements equivalent to those under 40 C.F.R. 263.22;
- c. Shipment Requirements:
 - i. Require the transporter to carry manifest forms during transport;
 - ii. Require the transporter deliver hazardous waste only to the facility designated on the manifest;
 - iii. Provide requirements for shipments by rail or water equivalent to those under 40 C.F.R. 263.20(e) and (f);
 - iv. For exports of hazardous waste, require that the transporter refuse acceptance of the hazardous waste for export if the exporter has not provided required documents;
- d. For hazardous wastes that are discharged in transit, require that transporters notify appropriate agencies of such discharges and clean up such wastes, or take action so that such wastes do not present a hazard to human health or the environment; and
- e. Have standards for transporters that are at least as stringent as any amendment to 40 C.F.R. Part 263 which is promulgated after July 1, 1984.

Federal Authority: 42 U.S.C. § 6923.

State Authority: AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.308.

Remarks of the Attorney General:

Federal regulation requires that a state program have authority to impose the requirements listed above. 40 C.F.R. 271.11. The state fulfills these requirements by

adopting 40 C.F.R. Part 263, Subparts A (Revised as of July 1, 2022), B Revised as of January 22, 2025), and C (Revised as of July 1, 2022) by reference in 18 AAC 62, Article 4 pursuant to 46.03.020, AS 46.03.299, AS 46.03.302, and AS 46.03.308.⁸ The state also adopts an annual report requirement for transporters in 18 AAC 62.430, which is more stringent than the federal program.

As required by 40 C.F.R. 271.11(a), the state program regulates all transporters covered by 40 C.F.R. Part 263. The state adopts 40 C.F.R. Part 263 by reference in 18 AAC 62, Article 4. As also required by 40 C.F.R. 271.11(a), new transporters are required to contact the state and obtain an EPA identification number before accepting hazardous waste for transport. Not doing so would be in violation of 18 AAC 62.401, which adopts by reference 40 C.F.R. 263.11⁹ as part of 40 C.F.R. Part 263, Subpart A.

As required by 40 C.F.R. 271.11(b), the state program requires all transporters to comply with reporting and recordkeeping requirements equivalent to those under 40 C.F.R. 263.22. The state adopts this provision by reference as part of 40 C.F.R. Part 263, Subpart B in 18 AAC 62.411. In compliance with 40 C.F.R. 271.11(b), by adopting 40 C.F.R. 263.22, the state requires the transporters keep these records at least three years.

As required by 40 C.F.R. 271.11(c), the state program (1) requires the transporter to carry manifest forms during transport, (2) requires the transporter to deliver hazardous waste only to the facility designated on the manifest, (3) provide requirements for shipments by rail or water equivalent to those under 40 C.F.R. 263.20(e) and (f), and (4) requires the transporter to refuse to accept hazardous waste for export if the exporter has not provided required documents, and to carry a movement document and appropriately report to the manifest system. The state does so by adopting 40 C.F.R. Part 263, Subpart B by reference in 18 AAC 62.411.

⁸ These statutes are described above in Section I.

⁹ “A transporter must not transport hazardous wastes without having received an EPA identification number[.]”

As required by 40 C.F.R. § 271.11(d), for hazardous wastes that are discharged in transit, the state program requires that transporters notify appropriate agencies of such discharges and clean up such wastes, or take action so that such wastes do not present a hazard to human health or the environment. These requirements must be equivalent to those found at 40 C.F.R. § 263.30 and .31. The state adopts these provisions by reference in 18 AAC 62.421.

As required by 40 C.F.R. 271.11(e), the state program has standards for transporters that are at least as stringent as any amendment to 40 C.F.R. Part 263 promulgated after July 1, 1984. The state adopts 40 C.F.R. Part 263, Subparts A, B, and C, revised as of July 1, 2022 by reference in 18 AAC 62, Article 4.

VI. Hazardous Waste Management Facilities

State law provides authority to have standards for hazardous waste management facilities that are equivalent to 40 C.F.R. Parts 264 and 266, including:

- a. Technical standards for tanks, containers, waste piles, incineration, chemical, physical and biological treatment facilities, surface impoundments, landfills, and land treatment facilities;
- b. Financial responsibility (financial assurance) during facility operation;
- c. Preparedness for and prevention of discharges or releases of hazardous waste; contingency plans and emergency procedures to be followed in the event of a discharge or release of hazardous waste;
- d. Closure and post-closure requirements, including financial requirements, to ensure that money will be available for closure and post-closure monitoring, maintenance, and corrective action;
- e. Groundwater monitoring;
- f. Security to prevent unauthorized access to the facility;
- g. Facility personnel training;
- h. Inspections, monitoring, recordkeeping, and reporting;
- i. Compliance with the manifest system;

- j. Other requirements to the extent that they are included in 40 CFR parts 264 and 266; and
- k. Requirements for owners or operators of facilities to pay user fees to EPA to recover EPA's costs related to the development and operation of an electronic hazardous waste manifest system.

Federal Authority: 42 U.S.C. § 6924.

State Authority: AS 44.46.020, AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.710, AS 46.03.830, AS 46.03.833.

Remarks of the Attorney General:

Federal regulation requires that a state program have authority to impose the requirements listed above. 40 C.F.R. 271.12. The state fulfills these requirements by adopting 40 C.F.R. Part 264, Subparts A (Revised as of December 7, 2023), B (Revised as of January 22, 2025), C (Revised as of July 1, 2022), D (Revised as of July 1, 2022), E (Revised as of January 22, 2025), F (Revised as of July 1, 2022), G (Revised as of July 1, 2022), H (Revised as of July 1, 2022), I (Revised as of July 1, 2022), J (Revised as of July 1, 2022), K (Revised as of July 1, 2022), L (Revised as of July 1, 2022), M (Revised as of July 1, 2022), N (Revised as of July 1, 2022), O (Revised as of July 1, 2022), S (Revised as of July 1, 2022), W (Revised as of July 1, 2022), X (Revised as of July 1, 2022), AA (Revised as of December 7, 2023), BB (Revised as of December 7, 2023), CC (Revised as of July 1, 2022), DD (Revised as of July 1, 2022), EE (Revised as of July 1, 2022), FF (Revised as of January 22, 2025), and appendices by reference in 18 AAC 62, Article 5, and by adopting 40 C.F.R. Part 266, Subparts C (Revised as of July 1, 2022), F (Revised as of July 1, 2022), G (Revised as of July 1, 2022), H (Revised as of December 7, 2023), M (Revised as of July 1, 2022), N (Revised as of July 1, 2022), P (Revised as of December 7, 2023) by reference in 18 AAC 62, Article 7.¹⁰

¹⁰ Note that the state also adopts 40 C.F.R. Part 265, Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, W, AA, BB, CC, DD, EE, FF, and appendices by reference in 18 AAC 62, Article 6, and 40 C.F.R. Part 267, Subparts A, B, C, D, E, F, G, H, I, J, and DD in 18 AAC 62, Article 8

The state incorporates these provisions by reference pursuant to AS 44.46.020, AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, which are described above in Section I.

For general management of hazardous wastes, the definition of the term “hazardous waste” from 40 C.F.R. 260.10 applies, including the exclusions from 40 C.F.R. 261, Subpart E, adopted by reference in 18 AAC 62.240 (Revised as of January 22, 2025).

For disposal of hazardous waste, the state also relies in part on AS 46.03.710 for regulations related to releases from solid waste management units, state-specific procedures for corrective action, and closure and post-closure requirements.

AS 46.03.710 states in its entirety:

A person may not pollute or add to the pollution of the air, land, subsurface land, or water of the state.

In AS 46.03, “pollution” means “the contamination or altering of waters, land, or subsurface land of the state in a manner which creates a nuisance or makes waters, land, or subsurface land unclean, or noxious, or impure, or unfit so that they are actually or potentially harmful or detrimental or injurious to public health, safety, or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life.” AS 46.03.900(20). The term “pollution” is quite broad and encompasses hazardous wastes under the federal program, and therefore, for this aspect, is broader in scope than RCRA C.

For adopting by reference regulations related to financial responsibility, discussed below in b., the state relies on the general statutes listed above and specifically on AS 46.03.830 and AS 46.03.833 for authority. Under AS 46.03.830 a person may not operate a “hazardous waste disposal site unless the person has furnished proof to [ADEC] of financial ability to control a hazardous waste that will be used in, produced by, or disposed of at the facility or the site.” AS 46.03.830(a). Such required proof includes “responsibility for the hazardous waste after the facility or site is closed, and may be demonstrated by self-insurance, insurance, surety, or guarantee, under regulations

adopted by the department.” *Id.* State acceptance of proof of financial responsibility expires one year from its issuance for self-insurance, on the effective date of a change, or on the expiration or cancellation date. AS 46.03.830(b). AS 46.03.833 sets forth procedures for compliance with these requirements, including that application for renewal must be filed at least 90 days before the date of expiration, and that ADEC, after notice and hearing, may revoke acceptance. AS 46.03.833.

a. Technical Standards

As required by 40 C.F.R. 271.12(a), the state has technical standards for tanks, containers, waste piles, incineration, chemical, physical and biological treatment facilities, surface impoundments, landfills, and land treatment facilities that are equivalent to 40 C.F.R. Parts 264 and 266. The state adopts technical standards for these units by reference in 18 AAC 62, Articles 5 and 7.

b. Financial Responsibility

As required by 40 C.F.R. 271.12(b), the state has standards for financial responsibility during facility operation that are equivalent to 40 C.F.R. Parts 264 and 266. The state adopts 40 C.F.R. Part 264, Subpart H (financial requirements), revised as of July 1, 2022, by reference in 18 AAC 62.535, which are a consistent and reasonable interpretation of the state statutes.¹¹

c. Preparedness and Prevention; Contingency Plans and Emergency Procedures

As required by 40 C.F.R. 271.12(c), the state has standards for preparedness for and prevention of discharges or releases of hazardous waste, as well as contingency plans and emergency procedures in the event of a discharge or release of hazardous waste. The state adopts 40 C.F.R. Part 265, Subpart C (preparedness and prevention) by reference in 18 AAC 62.512 (Revised as of July 1, 2022), and the state adopts 40 C.F.R. Part 264, Subpart D (contingency plan and emergency procedures), revised as of July 1, 2022, by reference in 18 AAC 62.515.

¹¹ See Fn. 4.

d. Coordination in identification, investigation, and cleanup of releases of hazardous substances/wastes

In ADEC, the Division of Spill Prevention and Response (SPAR) is tasked with the prevention of spills of oil and hazardous substances, preparing for when a spill occurs, and responding to spills (including historic spills) to protect human health and the environment. SPAR is divided into the Contaminated Sites Program (CSP) and the Prevention, Preparedness, and Response Program (PPRP). The CSP is responsible for managing the cleanup of contaminated soil and groundwater at existing sites, while the PPRP is responsible for preventing and mitigating the effects of oil and hazardous substance releases and addressing short-term cleanup. SPAR's definition of hazardous substance includes all RCRA hazardous wastes. AS 46.03.826(5)(c). For RCRA facilities in Alaska, SPAR will assist ADEC with remediation expertise and corrective action cleanup oversight. HWP will ensure that RCRA requirements are met and will coordinate with SPAR to ensure that the state cleanup goals are met.

Corrective action requirements are not being deferred to SPAR; rather, state authority will be used to compel RCRA corrective action with the assistance of SPAR. For example, in order to fulfill the RCRA Section 3004(u) and (v) requirement that all RCRA permits must include corrective action permit conditions, state corrective action orders issued by the HWP will be incorporated into RCRA permits issued pursuant to the authorized state program permitting regulations.

For RCRA facilities, for each step of the RCRA process, the HWP will review all documents submitted by the owner/operator to ADEC and provide comments to the owner/operator related to the RCRA requirements for corrective action and provide an approval, approval with conditions or modifications, or denial. SPAR will also review and comment for steps that coincide with the state cleanup regulations. The HWP will ensure RCRA authorized program requirements are met by regulated entities.

If the facility includes a RCRA unit, HWP will identify an owner/operator under the Hazardous Waste Regulations, and SPAR will identify an RP under their regulations.

From this point forward, representatives of both HWP and SPAR will be included in meetings and substantive discussions with the owner/operator/RP, contractors, or other agencies, unless agreed otherwise in advance. In addition, HWP and SPAR will coordinate on actions proposed for the facility to ensure that they effectively address the cleanup goals of both programs.¹²

e. Closure and Post-Closure Requirements

i. Closure Requirements

As required by 40 C.F.R. 271.12(d), ADEC has standards for closures including financial requirements to ensure that money will be available for closure. The state adopts 40 C.F.R. Part 264, Subpart G (closure and post-closure) by reference in 18 AAC 62.530. As mentioned above, the state also adopts 40 C.F.R. Part 264, Subpart H (financial requirements) by reference in 18 AAC 62.535.

For releases of hazardous wastes, Alaska adds more stringent measures for closure and corrective action to reconcile its hazardous waste regulations with its contaminated sites regulations. When a release from a solid waste management unit is identified, in addition to complying with the requirements of 40 C.F.R. Part 264, Subpart F (releases from solid waste management units), revised as of July 1, 2022, adopted by reference in 18 AAC 62.525, the owner or operator must also comply with the requirements of 18 AAC 75.300 – .396 (discharge reporting, cleanup, and disposal of oil and other hazardous substances). 18 AAC 62.527.

In addition to the closure standards in 40 C.F.R. Part 264, Subpart G (closure and post-closure), revised as of July 1, 2022, adopted by reference in 18 AAC 62.530, where applicable, closure under 18 AAC 75 or 18 AAC 78 must be completed in the corrective action process. 18 AAC 62.527. Where soil or groundwater cleanup standards differ between 18 AAC 62 and 18 AAC 75, the applicable standard is the most stringent of those standards unless otherwise approved by the department according to 18 AAC 75.340 or .345. 18 AAC 62.527.

¹² See PD “Coordination between Hazardous Waste and Contaminated Sites Programs.”

Corrective action requirements will not be deferred to the ADEC Contaminated Sites Program; rather, the Contaminated Sites Program will be used to achieve RCRA/state hazardous waste program corrective action requirements. The ADEC Hazardous Waste Program will issue corrective action orders that will be incorporated into RCRA/state hazardous waste program permits, issued pursuant to authorized state program permitting regulations. The Contaminated Sites Program is authorized to regulate cleanups for a broader category of hazardous substances, which include but are not limited to hazardous waste.

ii. Post-Closure Requirements

As required by 40 C.F.R. 271.12(d), ADEC has standards for post-closure requirements including financial requirements to ensure that money will be available for post-closure monitoring and maintenance. ADEC adopts 40 C.F.R. Part 264, Subpart G (closure and post-closure), revised as of July 1, 2022, by reference in 18 AAC 62.530. As mentioned above, the state also adopts 40 C.F.R. Part 264, Subpart H (financial requirements) by reference in 18 AAC 62.535.

If waste is left in place, requirements will be documented in a RCRA post-closure permit and, for SPAR in environmental covenants under the Uniform Environmental Covenants Act. Both HWP and SPAR will maintain responsibility for monitoring aspects of long-term stewardship or institutional controls and will continue to coordinate to ensure that appropriate conditions are maintained.

f. Groundwater Monitoring

As required by 40 C.F.R. 271.12(e), the state has standards for groundwater monitoring at hazardous waste management facilities. The state adopts 40 C.F.R. Part 264, Subpart F (releases from solid waste management units), revised as of July 1, 2022, which includes provisions for groundwater monitoring, by reference in 18 AAC 62.525.

Alaska adds more stringent requirements for groundwater monitoring analysis than the federal program, and specifically adopts certain EPA groundwater monitoring guidance in regulation by reference. The state specifies that statistical method selected for groundwater analysis must be conducted separately for each constituent in each well, and the statistical analyses under each method must be developed in consideration of EPA's *Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities - Unified Guidance* (EPA 530-F-09-007, March 2009), adopted by reference, unless an alternative approach is approved by the department using the performance standards in 40 C.F.R. 264.97(i). 18 AAC 62.525(b).

g. Security

As required by 40 C.F.R. 271.12(f), the state has standards for security to prevent unauthorized access to a hazardous waste management facility. The state adopts 40 C.F.R. § 264.14 (security) revised as of January 22, 2025, by reference as part of 40 C.F.R. Part 264, Subpart B in 18 AAC 62.505.

h. Facility Personnel Training

As required by 40 C.F.R. 271.12(g), the state has standards for facility personnel training at hazardous waste management facilities. The state adopts 40 C.F.R. 264.16 (personnel training) revised as of January 22, 2025, by reference as part of 40 C.F.R. Part 264, Subpart B in 18 AAC 62.505.

i. Inspections, Recordkeeping, and Reporting

As required by 40 C.F.R. § 271.12(h), the state has standards for inspections, monitoring, recordkeeping, and reporting. It does so with federal requirements adopted by reference throughout 18 AAC 62, Articles 5 and 7. Per its program description, Alaska will receive electronic documents, and therefore includes the substantive requirements of 40 C.F.R. Part 3 (electronic reporting) in its program.

j. Manifest System

As required by 40 C.F.R. 271.12(i), the state requires compliance with the manifest system, including the requirement that facility owners or operators return a signed copy of the manifest (1) to the generator, (2) to EPA's e-manifest system, and (3)

after listing the relevant consent number, matched to the relevant list number, to EPA using allowable methods. The state adopts 40 C.F.R. Part 264, Subpart E (manifest system, recordkeeping, and reporting) revised as of January 22, 2025, by reference in 18 AAC 62.520.

Alaska includes a more stringent reporting requirement. Notwithstanding 40 C.F.R. § 264.75, the owner or operator must complete and submit EPA Form 8700-13 A/B to the department and EPA not later than March 1 of each year. 18 AAC 62.520(b). The form must cover activities during the previous year. *Id.*

k. Other Requirements

As required by 40 C.F.R. 271.12(j), the state has other requirements for hazardous waste management facilities to the extent they are included in 40 C.F.R. Part 264 and 266. The state adopts 40 C.F.R. Part 264, Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, S, W, X, AA, BB, CC, DD, EE, FF, and appendices by reference in 18 AAC 62, Article 5, and by adopting 40 C.F.R. Part 266, Subparts C, F, G, H, M, N, P by reference in 18 AAC 62, Article 7.

l. User Fees to EPA

As required by 40 C.F.R. 271.12(k), the state has requirements for owners or operators of facilities to pay user fees to EPA to recover EPA's costs related to the development and operation of an electronic hazardous waste manifest system, in the amounts specified by the user fee methodology included in subpart FF of 40 CFR parts 264 and 265, for all paper and electronic manifests submitted to the e-Manifest system. The state adopts 40 C.F.R. Part 264, Subpart FF (fees for the electronic hazardous waste manifest program), revised as of January 22, 2025, by reference in 18 AAC 62.595.

m. Land Disposal Restrictions

Alaska has adopted Land Disposal Restrictions in Article 9 of its regulations, adopting by reference 40 C.F.R. Part 268, Subpart A (general), revised as of December 7, 2023, B (schedule for land disposal prohibition and establishment of treatment standards), revised as of July 1, 2022, C (prohibitions on land disposal), revised as of July 1, 2022, D (treatment standards) (Revised as of May 1, 2024), Appendix III

(list of halogenated organic compounds regulated under 40 C.F.R. 268.32), revised as of July 1, 2022, Appendix IV (wastes excluded from lab packs under the alternative treatment standards of 40 C.F.R. 268.42(c)), revised as of July 1, 2022, Appendix VI (recommended technologies to achieve deactivation of characteristics in 40 C.F.R. 268.42), revised as of July 1, 2022, Appendix VII (LDR effective dates of surface disposal prohibited hazardous wastes), revised as of July 1, 2022, Appendix VIII (LDR effective dates of injected prohibited hazardous wastes), revised as of July 1, 2022, Appendix IX (extraction procedure (EP) toxicity test method and structural integrity test (Method 1310(b)), revised as of July 1, 2022, and Appendix XI (metal bearing wastes prohibited from dilution in a combustion unit according to 40 C.F.R. 268.3(c)), revised as of July 1, 2022.

VII. Permits and Permit Applications

State law provides authority to:

- a. Require permits for owners and operators of all hazardous waste management facilities that are required to obtain a permit under 40 C.F.R. Part 270, prohibit the operation of any hazardous waste management facility without such a permit, and authorize interim status with standards at least as stringent as 40 C.F.R. Part 265;
- b. Require all new hazardous waste management facilities to contact the state and obtain an EPA identification number before commencing treatment, storage, or disposal of hazardous waste;
- c. Require compliance in all permits issued with the standards adopted by the state under 40 C.F.R. 271.12; and
- d. Require that all permits issued under state law prior to the date of approval of final authorization be reviewed by the state director and modified or revoked and reissued to require compliance with the requirements of 40 C.F.R. Part 271.

Federal Authority: 42 U.S.C. § 6925, 6974.

State Authority: AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.313, AS 46.03.830.

Remarks of the Attorney General:

Federal regulation requires that a state program have authority to impose the requirements listed above. 40 C.F.R. 271.13. The state fulfills these requirements by adopting 40 C.F.R. Part 270, Subparts A (Revised as of July 1, 2022), B (Revised as of July 1, 2022), C (Revised as of January 22, 2025), D (Revised as of July 1, 2022), E (Revised as of July 1, 2022), F (Revised as of July 1, 2022), G (Revised as of July 1, 2022), H (Revised as of July 1, 2022), I (Revised as of July 1, 2022), and J (Revised as of July 1, 2022) by reference in 18 AAC 62, Article 10. The state also adopts 40 C.F.R. Part 124, Subparts A (Revised as of July 1, 2022), B (Revised as of July 1, 2022), and G (Revised as of July 1, 2022), except for 40 C.F.R. 124.19 and 124.20, by reference in 18 AAC 62.1020. By adopting these federal regulations by reference, the State law is as stringent as the federal law.

Alaska includes a broader in scope facility siting requirement. For new facilities, not less than 365 days before the construction of a facility requiring a permit under this chapter, the owner or operator must initiate the requirements of 18 AAC 63. 18 AAC 62.1010. That chapter, 18 AAC 63, implements the state statutory siting approval requirement in AS 46.03.313. These requirements do not conflict with RCRA Subtitle C program requirements.

Alaska does not assert state hazardous waste program authority over Indian country, as defined in federal statute (18 U.S.C.A. §1151), or areas of exclusive federal jurisdiction.¹³

As required by 40 C.F.R. 271.13(a), the state requires permits for owners and operators of all hazardous waste management facilities that are required to obtain a permit under 40 C.F.R. Part 270, prohibits the operation of any hazardous waste management facility without such a permit, and authorizes interim status with standards at least as stringent as 40 C.F.R. Part 265. The state adopts 40 C.F.R. Part 270, Subpart A

¹³ State authority is excluded from Denali National Park and Preserve pursuant to Alaska Statehood Act §11. That section gives the United States exclusive jurisdiction over the Denali National Park and Preserve.

(general) by reference in 18 AAC 62.1000. It also adopts 40 C.F.R. Part 265, Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, W, AA, BB, CC, DD, EE, FF, and appendices by reference in 18 AAC 62, Article 6.

As required by 40 C.F.R. 271.13(b), the state requires all new hazardous waste management facilities to contact the state and obtain an EPA identification number before commencing treatment, storage, or disposal of hazardous waste. The state adopts 40 C.F.R. Part 270, Subpart A (general) by reference in 18 AAC 62.1000.

As required by 40 C.F.R. 271.13(c), the state requires compliance in all permits issued with the standards adopted by the state under 40 C.F.R. 271.12. The state will do so in each permit, as described in its program description. The state also adopts 40 C.F.R. Part 270, Subpart C (permit conditions) by reference in 18 AAC 62.1040.

40 C.F.R. 271.13(d) requires that all permits issued under state law prior to the date of approval of final authorization be reviewed by the state director and modified or revoked and reissued to require compliance with the requirements of this part. Alaska has no hazardous waste permits issued under state law and will not until it receives final authorization.

VIII. Permitting

As required by 40 C.F.R. 271.14, state law provides authority to implement the following provisions:

- a. Section 270.1(c)(1)—(Specific inclusions) is adopted by reference in 18 AAC 62.1000 as part of 40 C.F.R. Part 270, Subpart A.
- b. Section 270.4—(Effect of permit) is adopted by reference in 18 AAC 62.1000 as part of 40 C.F.R. Part 270, Subpart A.
- c. Section 270.5—(Noncompliance reporting) is adopted by reference in 18 AAC 62.1000 as part of 40 C.F.R. Part 270, Subpart A.
- d. Section 270.10—(Application for a permit) is adopted by reference in 18 AAC 62.1030 as part of 40 C.F.R. Part 270, Subpart B.
- e. Section 270.11—(Signatories) is adopted by reference in 18 AAC 62.1030 as part of 40 C.F.R. Part 270, Subpart B.

- f. Section 270.12—(Confidential information) is adopted by reference in 18 AAC 62.1030 as part of 40 C.F.R. Part 270, Subpart B.
- g. Section 270.13—(Contents of part A) is adopted by reference in 18 AAC 62.1030 as part of 40 C.F.R. Part 270, Subpart B.
- h. Sections 270.14 through 270.29—(Contents of part B) is adopted by reference in 18 AAC 62.1030 as part of 40 C.F.R. Part 270, Subpart B.
- i. Section 270.30—(Applicable permit conditions) is adopted by reference in 18 AAC 62.1040 as part of 40 C.F.R. Part 270, Subpart C.
- j. Section 270.31—(Monitoring requirements) is adopted by reference in 18 AAC 62.1040 as part of 40 C.F.R. Part 270, Subpart C.
- k. Section 270.32—(Establishing permit conditions) is adopted by reference in 18 AAC 62.1040 as part of 40 C.F.R. Part 270, Subpart C.
- l. Section 270.33—(Schedule of compliance) is adopted by reference in 18 AAC 62.1040 as part of 40 C.F.R. Part 270, Subpart C.
- m. Section 270.40—(Permit transfer) is adopted by reference in 18 AAC 62.1050 as part of 40 C.F.R. Part 270, Subpart D.
- n. Section 270.41—(Permit modification) is adopted by reference in 18 AAC 62.1050 as part of 40 C.F.R. Part 270, Subpart D.
- o. Section 270.43—(Permit termination) is adopted by reference in 18 AAC 62.1050 as part of 40 C.F.R. Part 270, Subpart D.
- p. Section 270.50—(Duration) is adopted by reference in 18 AAC 62.1060 as part of 40 C.F.R. Part 270, Subpart E.
- q. Section 270.60—(Permit by rule) is adopted by reference in 18 AAC 62.1070 as part of 40 C.F.R. Part 270, Subpart F.
- r. Section 270.61—(Emergency permits) is adopted by reference in 18 AAC 62.1070 as part of 40 C.F.R. Part 270, Subpart F.
- s. Section 270.64—(Interim permits for UIC wells) is adopted by reference in 18 AAC 62.1070 as part of 40 C.F.R. Part 270, Subpart F.

- t. Section 124.3(a)—(Application for a permit) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.
- u. Section 124.5(a), (c), (d)—(Modification of permits) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.
- v. Section 124.6(a), (d), and (e)—(Draft permit) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.
- w. Section 124.8—(Fact sheets) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.
- x. Section 124.10(a)(1)(ii), (a)(1)(iii), (a)(1)(v), (b), (c), (d), and (e)—(Public notice) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.
- y. Section 124.11—(Public comments and requests for hearings) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.
- z. Section 124.12(a)—(Public hearings) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.
- aa. Section 124.17(a) and (c)—(Response to comments) is adopted by reference in 18 AAC 62.1020 as part of 40 C.F.R. Part 124, Subpart A.

IX. Compliance Evaluation Programs

State law provides authority to:

- a. Receive, evaluate, retain, and investigate for possible enforcement all notices and reports required of permittees and other regulated person (and for investigation for possible enforcement of failure to submit these notices and reports);
- b. Inspect and surveil to determine, independent of information supplied by regulated persons, compliance or noncompliance with program requirements, including:
 - i. Make comprehensive surveys of facilities and activities subject to state authority to identify persons subject to regulation who have failed to comply with program requirements, and make such information available to EPA upon request;

- ii. Periodically inspect facilities and activities subject to regulation to determine compliance or noncompliance, verify the accuracy of information submitted, and verify the accuracy of sampling, monitoring, and other methods;
 - iii. Investigate information obtained regarding violations of program requirements;
 - iv. Receive and ensure proper consideration of information submitted by the public about violations, including making available information on reporting procedures;
- c. Enter any site or premises subject to regulation or in which records relevant to program operation are kept in order to copy any records, inspect, monitor, or otherwise investigate compliance;
- d. Investigate and inspect, take samples, and gather information in a manner that will produce evidence admissible in an enforcement proceeding or in court.

Federal Authority: 42 U.S.C. § 6927.

State Authority: AS 46.03.020(6), (7); AS 46.03.860.

Remarks of the Attorney General:

Federal regulation requires that a state have authority for the elements of a compliance evaluation program listed above, including authority to inspect and investigate facilities and documents to evaluate compliance with the hazardous waste program. 40 C.F.R. 271.15.

Under its general powers, ADEC may at reasonable times, enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with ADEC regulation. AS 46.03.020(6). Additionally, ADEC holds the power to conduct investigations, hold hearings, and compel the attendance of witnesses and the production of accounts, books, and documents by the issuance of a subpoena.¹⁴

¹⁴ Those subpoenas can be enforced in court through contempt proceedings. AS 44.62.590(b); Alaska Civil Rule 45(g).

AS 46.03.020(7). These powers give ADEC the authority needed for the required compliance evaluation tools listed above.

To enter property, Alaska law requires either consent or a warrant. ADEC policy is to attempt to obtain access to a facility or site by consent. If consent cannot be obtained, ADEC can obtain an administrative search warrant under AS 46.03.860 to validate its statutory right to enter. States whose law requires a search warrant before entry sufficiently conform with the requirement that states have authority to enter and investigate compliance. 40 C.F.R. 271.15(c). The Alaska Constitution is more protective of personal privacy than the U.S. Constitution. Its version of the Fourth Amendment protects “other property” in addition to “persons, houses, papers, and effects” from unreasonable searches and seizures.¹⁵ The Alaska Constitution also contains an express right to privacy,¹⁶ unlike the U.S. Constitution.

In ADEC permits, the permittee also agrees to consent to ADEC inspector entry and to inspection, including testing. Thus, if a permittee denies consent to enter, then the permittee has violated their permit, which forms a basis for a warrant application. ADEC’s Enforcement Manual describes ADEC practices and procedures for entry and inspection, which include presenting credentials whether or not identification is requested.¹⁷

X. Enforcement Authority

State law provides authority to:

- a. Abate violations of any aspect of the hazardous waste program;
- b. Apply sanctions to violations, including the following:
 - i. Injunctive relief, without the necessity of a prior revocation of the permit;
 - ii. Civil penalties;

¹⁵ Compare Alaska Const. art 1, § 14, *with* U.S. Const. amend. IV.

¹⁶ Alaska Const. art. 1, § 22.

¹⁷ ADEC Compliance and Enforcement Manual (May 17, 2016), at 3-2.

- iii. Criminal penalties for criminally negligent violations; and
 - iv. Criminal penalties against persons who with criminal negligence makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with laws or regulation applicable to hazardous waste.
- c. Apply maximum civil and criminal penalties, which meet the minimum ceiling required amounts under 40 C.F.R. 271.16, and which represent an actual and substantial economic deterrent to the violations for which they are assessed. Each day of continuing violation is a separate offense for which civil and criminal penalties may be obtained; and
 - d. Imprison violators for up to a year.

Federal Authority: 42 U.S.C. § 6928.

State Authority: Civil: AS 46.03.760(e), AS 46.03.765, AS 46.03.810, AS 46.03.820; | AS 46.03.850.

Criminal: AS 46.03.790, AS 12.55.035, AS 12.55.135.

Remarks of the Attorney General:

As required by 40 C.F.R. 271.16, ADEC holds the authority to enforce an authorized RCRA-C program. Its enforcement authority takes three main forms: criminal enforcement, civil injunctive relief, and civil assessments.

a. Criminal Enforcement

Federal regulation requires that a state have authority to obtain criminal remedies against any person who knowingly transports any hazardous waste to an unpermitted facility; who treats, stores, or disposes of hazardous waste without a permit; who knowingly transports, treats, stores, disposes, recycles, causes to be transported, or otherwise handles any used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as a hazardous waste under the state's hazardous waste program in violation of standards or regulations for management of such used oil; or who makes any false statement or representation in any document filed, maintained, or used for purposes of program compliance (including for used oil). 40 C.F.R. 271.16(a)(3)(ii). Criminal fines

must be recoverable in at least the amount of \$10,000 per day for each violation, and imprisonment for at least six months must be available. *Id.* The maximum criminal fines must be assessable for each instance of violation, and if the violation is continuous, must be assessable to the maximum amount for each day of violation. 40 C.F.R. 271.16(b)(1). The degree of knowledge or intent required under state law for establishing violations cannot be greater than that required when the United States brings an action. 40 C.F.R. 271.16(b)(2). ADEC's criminal authorities exceed these minimum requirements.

Alaska has at least as stringent enforcement authorities for a person who: 1) knowingly transports to unpermitted facility through 40 C.F.R. 263.21(a) adopted by reference in 18 AAC 62.411 (transporters are required to deliver all of their hazardous waste to "designated facilities" (Revised as of January 22, 2025)); 2) treats, stores, or disposes of hazardous waste without a permit through AS § 46.03.302(a); 3) knowingly transports, treats, stores, disposes, recycles, causes to be transported, or otherwise handles any used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as a hazardous waste under the state's hazardous waste program in violation of standards or regulations for management of such used oil through 18 AAC 60.020 (prevents the disposal of used oil outside of an authorized facility) and 18 AAC 62.1210 - 62.1280 (Adopts by reference 40 C.F.R. 279 Subparts B-I (Revised as of July 1, 2022) which deals with regulations for used oil); and 4) makes any false statement, or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of program compliance (including compliance with any standards or regulations for used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as hazardous waste) through AS 46.03.790(a)(3) (text is identical verbatim to 40 C.F.R. 271.16 and is applicable to hazardous waste).

Under AS 46.03.790, a person is guilty of a Class A misdemeanor if, with criminal negligence, they violate ADEC statutes, regulation, orders, permits, approvals, acceptances, or terms or conditions of a permit, approval, or acceptance issued by ADEC under AS Chapter 46.03, which includes the hazardous waste program.

AS 46.03.790(a)(1). It is also a Class A misdemeanor for a person, with criminal

negligence, to make a false statement or representation in any document filed, maintained, or used for purposes of compliance with state hazardous waste statutes or regulations. AS 46.03.790(a)(3).

Each day of a violation is considered a separate violation. AS 46.03.790(c). Upon conviction of a Class A misdemeanor, Alaska law provides for a fine of up to \$25,000 for an individual or \$500,000 for an organization. AS 12.55.035(b)(5), (c)(1)(B). Alaska law permits assessment of criminal fines for each instance of violation, and, if violation is continuous, shall be assessable up to the maximum amount for each day of violation. For an organization, the court may impose a larger fine representing three times the pecuniary gain enjoyed or sought by the defendant, or the loss caused (or sought to be caused) by the defendant to another. AS 12.55.035(c)(2), (3). Upon conviction of a Class A misdemeanor, a person may be sentenced to a definite term of imprisonment of not more than one year. AS 12.55.135(a).

When ADEC pursues criminal penalties under Alaska hazardous waste law, the knowledge or intent required is “criminal negligence,” AS 46.03.790(a), defined as when a person fails to perceive a substantial and unjustifiable risk, AS 11.81.900(a)(4). This is a lower degree of knowledge or intent than the “knowingly” scienter that the United States must provide when it brings a criminal enforcement action, *see* 42 U.S.C. § 6928(d)–(f), and so Alaska law exceeds the minimum requirement and is broader in scope.

b. Civil Injunctive Relief

Federal regulation requires that a state agency administering a program have authority to restrain immediately and effectively any person by order or suit from engaging in unauthorized activity which is endangering or causing damage to public health or the environment. 40 C.F.R. 271.16(a)(1) (noting that examples include an administrative cease and desist order, or the ability to seek a temporary restraining order). It also requires that the state agency have authority to sue to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without needing a prior revocation of the permit. 40 C.F.R. 271.16(a)(2).

ADEC meets these requirements with temporary, preliminary, and permanent injunction authority, nuisance abatement authority, and administrative emergency powers.

Under AS 46.03.765, Alaska courts have jurisdiction to enjoin a violation of Alaska hazardous waste statutes, regulations, orders, permits, approvals, acceptances, or terms or conditions of a permit, approval, or acceptance issued by ADEC under the hazardous waste program. In such an action, ADEC can request temporary or preliminary relief “upon a showing of an imminent threat of continued violation, and probable success on the merits.” *Id.* There is no requirement that ADEC first revoke a permit, or exhaust any other administrative enforcement actions, before seeking civil injunctive relief. This authority also satisfies the requirement that a state have authority to enjoin any threatened or continuing violation of requirements in certain enforceable documents, and compel compliance. 40 C.F.R. 271.16(e)(1). In court, ADEC is represented by its attorneys at the Alaska Department of Law.

Under AS 46.03.810, a person is guilty of creating or maintaining a nuisance if they place anywhere within 200 feet of a public highway, or anywhere under their ownership or control, any matter or thing that would in any way endanger the health of the community. AS 46.03.810. A person who neglects or refuses to abate the nuisance upon order of an ADEC officer is guilty of a misdemeanor and liable for damages for the expense of abating the nuisance.

Under AS 46.03.820, ADEC’s Commissioner can order a person to discontinue activity that presents an imminent or present danger to public health or would be likely to result in irreversible damage to the environment. Upon receipt of such an order, the person must immediately discontinue the activity, even if the person exercises their right to a hearing to challenge the basis for the order. AS 46.03.820(a). The Attorney General can enforce compliance with the order through court action. AS 46.03.820(d).

c. Civil Assessments

Federal regulation requires that a state have authority to access or sue to recover in court civil penalties for any program violation in the amount of at least \$10,000 per day.

40 C.F.R. 271.16(a)(3). The maximum civil penalty must be assessable for each instance of violation, and if the violation is continuous, must be assessable to the maximum amount for each day of violation. 40 C.F.R. 271.16(b)(1). The burden of proof required under state law for establishing violations cannot be greater than that required when the United States brings an action. 40 C.F.R. 271.16(b)(2). At any time after a violation has occurred, ADEC has authority to enter into compliance orders by consent, compliance orders, nuisance orders, emergency orders, and settlement agreements with regulated persons and issue assessments at any time in the process through formal enforcement (discussed below) without court involvement. Alaska affirms its penalty authorities are sufficient for the state to apply EPA’s RCRA Civil Penalty Policy (June 23, 2023). Alaska has determined this framework is equivalent to the federal hazardous waste program and consistent with the requirements of 40 CFR 271.16.¹⁸

Under AS 46.03.760(e), ADEC can bring suit to recover for violations of Alaska hazardous waste statutes, regulations, orders, permits, approvals, acceptances, or terms or conditions of a permit, approval, or acceptance issued by ADEC under the hazardous waste program.¹⁹ An assessment under the statute must be not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$10,000 for each subsequent day of violation. *Id.* Alaska law permits civil assessments for each instance of violation, and, if a violation is continuous, it is assessable up to the maximum amount for each day of violation.

Unlike in the realm of criminal enforcement, ADEC need not prove a particular mental state in order to recover civil assessments. Mental state is not an element of proof for civil violations. Court assessments can reflect several factors: reasonable

¹⁸ For some department programs, “the need for an enhanced civil penalty to deter future noncompliance” is not a factor in the calculation of the assessment. That is not the case for violations of the HWP. The HWP, by statute, will include it in a civil assessment as appropriate.

¹⁹ While AS 46.03.760(a), which authorizes a more narrow range of civil damages, also applies to violations of AS 46.03, the reference in AS 46.03.760(e) to Alaska’s hazardous waste statutes in AS 46.03.250 – AS 46.03.313 is more specific, and hence supersedes the general application of AS 46.03.760(a).

compensation in the nature of liquidated damages for environmental harm; ADEC's response costs; economic savings from the violations; and the need for an enhanced civil penalty to deter future non-compliance. AS 46.03.760(e)(1)-(4). This authority satisfies the requirement that a state have authority to sue to recover civil penalties for violations of requirements in certain enforceable documents. 40 C.F.R. 271.16(e)(2).

AS 46.03.760(e) is consistent with federal RCRA requirements for civil penalties for past or current violations. AS 46.03.760(e) ensures the seriousness of the violation and good faith efforts to comply with applicable requirements are considered in assessment cases.

ADEC also has various other administrative enforcement mechanisms available to it, such as Settlement Agreements, unilateral Compliance Orders, and Compliance Orders by Consent. These are described in the Program Description. ADEC often uses Compliance Letters and Notices of Violation as a first response to certain violations, there is no requirement in state law that ADEC first exhaust Compliance Letters, Notices of Violation, or administrative enforcement mechanisms before seeking civil or criminal penalties or injunctive relief, as described above. Nor is ADEC required to revoke a violator's permit before pursuing civil and criminal remedies.

d. ADEC's enforcement authority includes the power to take legal action against sister state agencies. Alaska Constitution Art. III, Sec. 16; *see, e.g., Legislative Council v. Knowles*, 988 P.2d 604, 609 n. 22 (Alaska 1999).

e. Public Participation

Federal regulation requires that the state enforcement program provide for public participation, which may be through intervention of right in any civil action by any affected citizen, or through a combination of ADEC being responsive to citizen complaints, not opposing permissive intervention efforts, and providing public notice and comment for proposed settlements. 40 C.F.R. 271.16(d)(1)–(2).

Alaska's Rules of Civil Procedure fulfill the requirement in the first option. Under the rules governing Alaska's courts, intervention of right is available when the applicant claims an interest relating to the subject of the action and the applicant is so situated that the disposition of the action may impair or impede the applicant's ability to protect that

interest. Alaska Rule of Civil Procedure 24(a). This meets the first option for the state to allow intervention of right in any civil action by any citizen having an interest which is or may be affected. 40 C.F.R. 271.16(d)(1).

ADEC's program does not meet the second option in 40 C.F.R. 271.16(d)(2), but the Program Description includes more detail on how the enforcement program will be responsive to citizen complaints.

XI. Sharing of Information

As required by 40 C.F.R. 271.17, state law provides ADEC authority to: Provide for the public availability of information obtained by the State regarding facilities and sites for the treatment, storage, and disposal of hazardous waste in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the provisions of Subtitle C of RCRA in the State.

Federal Authority: 5 U.S.C. § 552; 42 U.S.C. § 6927(b); 42 U.S.C. § 6926(f); 40 C.F.R. 271.17(a).

State Authority: AS 40.25.100-.295; AS 46.03.020; AS 46.03.311; AS 46.03.299.

Remarks of the Attorney General:

Federal regulations require the State to have authority to share information obtained or used in the administration of the state program, including information submitted to the State under a claim of confidentiality. 40 C.F.R. 271.17. In addition, the State program must provide for public availability of information obtained by the State regarding facilities and sites for the treatment, storage, and disposal of hazardous waste. This information must be made available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the program.

As required by 40 C.F.R. 271.17, the State Public Records Act and State law setting out the powers of the department provide for information sharing consistent with Federal law. AS 46.03.020(3)(B) allows the department to consult with and cooperate with persons, organizations, or groups concerned with the environment in the State.

AS 46.03.020(9) provides that the department will act as the official agency of the State in all matters affecting the purposes of the department under federal laws now or hereafter enacted. AS 46.03.020(G). These powers would include the possession of and the sharing of information or documents related to the hazardous waste program.

AS 40.25.110(a) sets out what records are open to inspection and states that “[u]nless specifically provided otherwise, the public records of all public agencies are open to inspection by the public...” AS 40.25.120 sets out the exceptions to this broad disclosure requirement, stating that every person has a right to inspect a public record in the state except (relevant to hazardous waste records): 1) records required to be kept confidential by a federal law or regulation or by state law; and 2) records or information compiled for law enforcement purposes (with limitations on this exception). The term “public records” means books, papers, files, accounts, writings, including drafts and memorialization of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency. AS 40.25.220(3). The department is a “public agency” under the Act. AS 40.25.220(2).

Further, AS 46.03.311, entitled “Public records” provides that permits, permit applications, records, reports, and information and documentation obtained under AS 46.03.302-.308 are available to the public for inspection and copying. AS 46.03.311(a) discusses that, upon a showing to the commissioner of DEC that a record, report, permit, application, or information would, if made public, divulge methods or processes entitled to protection as a trade secret, the commissioner shall treat the record, etc. as confidential.

AS 46.03.311(b) governs how confidential information may be transmitted, including under a continuing restriction of confidentiality to other officers, employees, or authorized representatives of the state or of the United States if the person responsible for furnishing the record, etc., to which the information pertains is informed at least two weeks before the transmittal and the information has been acquired by the department

under the provisions of AS 46.03.296-.311. AS 46.03.311(c) states that the section does not limit the department's authority to release confidential information during emergency situations. While AS 46.03.311(b) contains a process to take place before confidential information is transmitted, it does not itself restrict the department's ability to share this information with EPA.

For the sharing of confidential information in an enforcement matter, the department and EPA can also enter into common interest agreements.

XII. HSWA Requirements

As required by 40 C.F.R. 271.25, state law provides authority to:

Have standards at least as stringent as the requirements and prohibitions that have taken effect under the Hazardous and Solid Waste Amendments of 1984 (HSWA), unless otherwise provided under 40 C.F.R. Part 271.

Federal Authority: HSWA.

State Authority: AS 46.03.020; AS 46.03.299; 18 AAC 62, Article 12.

Remarks of the Attorney General: As required by 40 C.F.R. 271.25, state law provides authority to adopt standards at least as stringent as the requirements and prohibitions that have taken effect under the Hazardous and Solid Waste Amendments of 1984 (HSWA). The State has adopted by reference current EPA regulations, which have incorporated all HSWA requirements from 1984, including:

- A. Prohibition against certain land disposal practices in 40 C.F.R. 268 – Adopted by Reference in 18 AAC 62, Article 9;
- B. Placement of liquids in landfills in 40 C.F.R. 262.35 (Revised as of July 1, 2022)– Adopted by Reference in 18 AAC 62.921;
- C. Salt bed formations, underground mines, and caves in 40 C.F.R. 264.18(c) – Adopted by Reference in 18 AAC 62.505;
- D. Use of hazardous waste as a dust suppressant in 40 C.F.R. 266.23 (Revised as of July 1, 2022) – Adopted by Reference in 18 AAC 62.701;
- E. Injection of hazardous waste in 40 C.F.R. 265, Subpart R (Revised as of July 1, 2022) – Adopted by Reference in 18 AAC 62.685;

- F. Minimum technology requirements (for example, installation of double liners, systems for collecting leachate, and ground-water monitoring) generally in 40 C.F.R. 264 and 265 – Adopted by Reference in 18 AAC 62, Article 5 and Article 6;
- G. For hazardous waste landfills in 40 C.F.R. 264/265, Subpart N – Adopted by Reference in 18 AAC 62.555 and .655;
- H. For surface impoundments in 40 C.F.R. 264/265, Subpart K (Revised as of July 1, 2022) – Adopted by Reference in 18 AAC 62.545 and .645;
- I. For incinerators in 40 C.F.R. 264/264, Subpart O (Revised as of July 1, 2022) – Adopted by Reference in 18 AAC 62.560 and .660;
- J. Requirements for retrofitting certain existing surface impoundments with liners in 40 C.F.R. 264.221(c) and 265.221(a) (Revised as of July 1, 2022) – Adopted by Reference in 18 AAC 62.545 and .645;
- K. Expanded requirements for monitoring and cleanup of ground water at facilities holding permits at RCRA-permitted facilities in 40 C.F.R. 264, Subpart F (Revised as of July 1, 2022) – Adopted by Reference in 18 AAC 62.525;
- L. Authority to impose permit conditions beyond the scope of the existing RCRA regulations to protect human health and the environment in 40 C.F.R. 270.32(b)(3) (Revised as of January 22, 2025) – Adopted by Reference in 18 AAC 62.1040;
- M. Requirements to identify additional hazardous wastes in 40 C.F.R. 261, Subpart B (Revised as of December 7, 2023) – Adopted by Reference in 18 AAC 62.211;
- N. Enhanced federal enforcement authorities (including the ability to issue “corrective action orders” to facilities with Interim Status under RCRA) in 3008(h) (42 U.S.C. § 6928(h)) – covered by Alaska Statute 46.03.765;
- O. Requirements for thorough inspections of federal and state hazardous waste facilities under 40 C.F.R. 271.15 and 264.15 – See PD at Compliance Monitoring Evaluations (Inspections);

- P. Specific controls on the burning and blending of hazardous wastes as fuels in 40 C.F.R. 266, Subpart H (Revised as of December 7, 2023) – Adopted by Reference in 18 AAC 62.730;
- Q. Requirements for the regulation of used oil in 40 C.F.R. 279 – Adopted by Reference in 18 AAC 62, Article 12;
- R. Tighter controls on the export of hazardous waste in 40 C.F.R. 262, Subpart H (Revised as of January 22, 2025) – Adopted by Reference in 18 AAC 62.350;
- S. A program for identifying the health risks presented by individual surface impoundments and landfills in 40 C.F.R. 264.117(a)(2) Or Risk Assessment Guidance for Superfund (RAGS) (Revised as of July 1, 2022) – Adopted by Reference in 18 AAC 62.530; and
- T. Citizen rights under RCRA including participation in the permitting process, legal settlements, and involvement in legal actions where past and present hazardous waste management practices pose an “imminent and substantial hazard.” 40 C.F.R. 124 (sections that apply to RCRA) – Adopted by Reference in 18 AAC 62.1020 and .1300.

XIII. Requirements for Used Oil Management

As required by 40 C.F.R. 271.26, state law provides authority to have standards for used oil management which are equivalent to 40 C.F.R. Part 279. These include standards for:

- a. Used oil generators equivalent to those under 40 C.F.R. Part 279, Subpart C;
- b. Used oil collection centers and aggregation points equivalent to those under 40 C.F.R. Part 279, Subpart D;
- c. Used oil transporters and transfer facilities equivalent to those under 40 C.F.R. Part 279, Subpart E;
- d. Used oil processors and re-refiners equivalent to those under 40 C.F.R. Part 279, Subpart F;
- e. Used oil burners who burn off-specification used oil for energy recovery equivalent to those under 40 C.F.R. Part 279, Subpart G;

- f. Used oil fuel marketers equivalent to those under 40 C.F.R. Part 279, Subpart H;
- g. Use as a dust suppressant and disposal of used oil equivalent to those under 40 C.F.R. Part 279, Subpart I;
- h. The marketing and burning of used oil for energy recovery that are at least as stringent as the requirements and prohibitions that EPA adopted on November 29, 1985 in 40 C.F.R. Part 266, Subpart E.

Federal Authority: 42 U.S.C. § 6935.

State Authority: AS 46.03.020; AS 46.03.296; AS 46.03.299; AS 46.03.302; AS 46.03.305; AS 46.03.308; AS 46.03.309; AS 46.03.313.

Remarks of the Attorney General:

As required by 40 C.F.R. 271.26, state law provides authority for used oil management consistent with federal law by adopting by reference in Article 12 of its regulations under the Hazardous Waste Regulations in 18 AAC 62. In Article 12 (entitled Standards for the Management of Used Oil), the State adopts by reference:

- A. 40 C.F.R. Part 279, Subpart A (Definitions) in 18 AAC 62.1390(b);
- B. 40 C.F.R. Part 279, Subpart B (Applicability) in 18 AAC 62.1210;
- C. 40 C.F.R. Part 279, Subpart C (Standards for Used Oil Generators) in 18 AAC 62.1220;
- D. 40 C.F.R. Part 279, Subpart D (Standards for Used Oil Collection Centers and Aggregation Points) in 18 AAC 62.1230;
- E. 40 C.F.R. Part 279, Subpart E (Standards for Used Oil Transporter and Transfer Facilities) in 18 AAC 62.1240;
- F. 40 C.F.R. Part 279, Subpart F (Standards for Used Oil Processors and Re-Refiners) in 18 AAC 62.1250;
- G. 40 C.F.R. Part 279, Subpart G (Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery) in 18 AAC 62.1260;
- H. 40 C.F.R. Part 279, Subpart H (Standards for Used Oil Fuel Marketers) in 18 AAC 62.1270; and

- I. 40 C.F.R. Part 279, Subpart I (Standards for Use as a Dust Suppressant and Disposal of Used Oil) in 18 AAC 62.1280.

XIV. Land Disposal Restrictions

RCRA has restrictions for surface impoundments in existence on November 8, 1984, and qualifying for authorization to operate under interim status. They are not authorized to receive, store, or treat hazardous waste after the date four years after November 8, 1984 unless the surface impoundment is in compliance with the requirements of section 6924(o)(1)(A) (minimum technical requirements) which would apply to such impoundment if it were new. 42 U.S.C. 6925(j)(1). Additionally, RCRA states that in any case in which a surface impoundment becomes subject to paragraph (1) (above) after November 8, 1984, due to the promulgation of additional listings or characteristics for the identification of hazardous waste under section 6921 of this title, the period for compliance in paragraph 910 shall be four years after the date of such promulgation, the period for demonstrations under paragraph (4) and for submission of evidence under paragraph (5) shall be not later than twenty-four months after the date of such promulgation, and the period for the Administrator/State to advise such owners or operators under paragraph (5) shall be not later than thirty-six months after the date of promulgation. 42 U.S.C. 6925(j)(6)(A).

Federal Authority: 42 U.S.C. § 6925(j)(6)(A).

State Authority: AS 46.03.020; AS 46.03.296; AS 46.03.299; AS 46.03.302; 18 AAC 62.1000; 18 AAC 62.545, .555, .650, and .665.

Remarks of the Attorney General:

As required, State law provides authority for the regulation of surface impoundments when they were in existence prior to November 8, 1984 and they qualify for authorization to operate under interim status under 18 AAC 62, Article 5 – Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (Revised as of July 1, 2022). 18 AAC 62.555 adopting 40 C.F.R. Part 264, Subpart N (Landfills) and K (surface impoundments) (Revised as of July 1, 2022). For

those newly discovered facilities or where the closed facility is found to be leaking, 18 AAC 62, Article 6, applies.

XV. Radioactive Mixed Waste

Federal Authority: 42 U.S.C. § 9603(27) and 6921(b).

State Authority: AS 46.03.020; AS 46.03.250; AS 46.03.260; 18 AAC 62.201; 18 AAC 62.750.

Remarks of the Attorney General:

The State has authority to regulate mixed waste. The HWP defines solid waste to include the hazardous components of radioactive mixed wastes. The State has adopted the exclusions from the definition of hazardous waste with respect to the HWP, which includes the exclusion of source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*

AS 46.03.250 authorizes the department to adopt regulations with respect to discharge of low level radioactive materials to the environment, establishing safeguards for radioactive waste materials that do not constitute a threat to public health or safety and that may be stored or disposed of in the state; and establishing procedures for the storage and disposal of radioactive materials used in medicine, education, instruments, industrial testing, or scientific research. AS 46.03.260 specifically addresses low level radioactive materials (LLRM) and states that any person that causes a discharge of these LLRM to the environment must first obtain a permit from the department. The HWP has adopted by reference the federal treatment of mixed waste materials in 40 C.F.R. 261.3(h), 40 C.F.R. 261(a)(4), and 40 C.F.R. part 266, Subpart N (Revised as of July 1, 2022) through 18 AAC 62.201 and 18 AAC 62.750, respectively.

SEAL OF OFFICE

SIGNATURE

NAME (TYPE OR PRINT)

TITLE

DATE

RCRA STATUTORY CHECKLIST

Introduction

To obtain final authorization, a State must have the enabling authority to establish a hazardous waste management program which meets the requirements of 40 CFR Part 271, Subpart A. In addition, as a result of the Hazardous and Solid Waste Amendments of 1984, Pub. L. 98—618 (Nov. 8, 1984) [HSWA] amending the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et. seq., all authorized States and all States seeking authorization must revise their programs to reflect HSWA. Finally, in accordance with 40 CFR Part 271, Subpart A, State statutes must provide, among other things, for the right of inspection of regulated facilities, civil and criminal remedies for violation of program requirements, and availability of information to the public. States may need to provide additional information on statutes that may not be directly associated with the hazardous waste program but have the potential to indirectly impact implementation, administration, and/or enforcement of the authorized program.

What does this checklist include?

The **RCRA Statutory Checklist** which follows includes the statutory provisions listed on the original State Legislation Checklist, which States completed as part of the Base Program authorization, and the HSWA Statutory Checklist. The checklist is provided to aid attorneys and others in reviewing and documenting State hazardous waste enabling authority for authorization under Section 3006(b) of the Resource Conservation and Recovery Act (RCRA), as amended. It is also provided to aid attorneys and others in documenting and reviewing a State's enabling authority as a result of renumbering, restructuring, or changes to the State's statutes that may impact authorization. EPA attorneys are encouraged to involve attorneys in a State's Attorney General's Office or other State legal counsel during such reviews.

Anyone using the checklist should refer to Part 271 (and the regulations in Parts 260-265, 266, 268, 270, 273, 279, and 124 to the extent they are referenced in Part 271) for a full understanding of the regulations for which a State must have enabling authority. Attorneys should look at all relevant State statutory authority, not just a particular statute, when assessing State hazardous waste legislative authority. For example, State administrative procedure acts, self-audit laws, and confidential business information protections are often relevant.

What is it used for?

This statutory checklist is intended for use as an evaluation tool and it provides valuable assistance to EPA reviewers if submitted as part of the application for Final Authorization or authorization update as a result of changes to the State's authority. Also, this checklist should be of use to the State in identifying appropriate citations and comments to aid in developing the Attorney General's Statement which is an essential element of the application.

Authorized States will be able to adopt analogues to many HSWA provisions and subsequent EPA implementing regulations simply by making regulatory changes. For instance, while HSWA requires EPA to list specified wastes, any State with interim or final authorization should already have the statutory authority to list additional wastes. Some provisions are more likely to require State statutory amendments. All such provisions are included in the checklist. However, inclusion of a provision on this checklist does not mean that EPA has concluded that all States, or any particular State will need to amend their statutes. States should carefully review all their existing statutory and regulatory authority before deciding whether statutory or regulatory changes are necessary as a result of HSWA.

The statutory checklist is intended for use as an evaluation tool and to assist EPA to understand the State's enabling authority, as well as providing useful documentation for the State and EPA. The statutory checklist is not intended to identify State statutory provisions that are authorized to operate in lieu of the federal program, nor does it authorize the State statutory provisions listed in the checklist. It should not be referenced in a Federal Register notice authorizing a State's hazardous waste program; nor should it be referenced when the State's program is codified in 40 CFR part 272.

RCRA STATUTORY CHECKLIST¹

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DRAFT ALASKA RCRA STATUTORY CHECKLIST

Title(s) of Legislation: _____

Date Enacted: _____

Title(s) of Legislation: _____

Date Enacted: _____

Title(s) of Legislation: _____

Date Enacted: _____

Date Prepared: _____

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
I. DEFINITIONS			
<i>Note that 40 CFR Part 271 does not specifically address definitions of terms. However, the Federal program relies on various definitions for establishing the applicability and scope of <u>the hazardous waste</u> regulations. If definitions of these terms appear in state statutes, they should be at least as stringent as the analogous Federal statutory or regulatory definition. The State should have the authority to define the following terms in a manner at least as stringent as the Federal program:</i>			
Disposal	N/A	§ 1004(3)	AS 46.03.900(7) See also 18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Generator	N/A	Not in RCRA; see 260.10	18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Hazardous waste ²	N/A	§ 1004(5)	AS 46.03.900(9) See also 18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Manifest	N/A	§ 1004(12)	AS 46.03.900(13) See also 18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Person	N/A	§ 1004(15)	AS 46.03.900(18) See also 18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Storage	N/A	§ 1004(33)	AS 46.03.900(30) See also 18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Transport	N/A	Not in RCRA; see 260.10 definition for transportation	18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Treatment	N/A	§ 1004(34)	AS 46.03.900(32) See also 18 AAC 62.1390(a) (adopting by reference 40 CFR

DRAFT ALASKA RCRA STATUTORY CHECKLIST

			260.10)
Treatment, Storage or Disposal facility	N/A	Not in RCRA; see 260.10 definition for <i>facility</i>	AS 46.03.900(8) <i>See also</i> 18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)
Waste (solid)	N/A	§ 1004(27)	AS 46.03.900(26) <i>See also</i> 18 AAC 62.1390(a) (adopting by reference 40 CFR 260.10)

Remarks of the Attorney General/Independent Counsel:

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
II. HAZARDOUS WASTE IDENTIFICATION AND LISTING [See 40 CFR §271.9]			
The State needs the authority to:			
1. Adopt a set of characteristics for identifying hazardous wastes ³	271.9(a)	§ 3001	AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.900 (See 18 AAC 62, Article 2)
2. Adopt a list of hazardous wastes ⁴	271.9(a)	§ 3001(b)&(e)	AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.900 (See 18 AAC 62, Article 2)
3. Optional: Adopt modified regulations for the generation, transportation, treatment, storage and disposal of hazardous waste produced by generators that generate less than 1000 kg/month	271.9(a)	§ 3001(d)	N/A
4. Optional: Exclude from regulation certain activities related to household waste	271.9(a)	§ 3001(i)	N/A
5. Regulate listed or identified wastes which pass through a sewer system to a publicly owned treatment works (POTW) as necessary to adequately protect human health and environment	271.9(a)	§ 3018(b)	AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.900
6. Optional: Provide a delisting mechanism with regulations that are equivalent to 40 CFR 260.20(b) and 260.22 ⁵	271.9(b)	§ 3001(b)	N/A
7. Required if a State has a delisting mechanism: Consider factors (including additional constituents) other than those for which the waste was listed, if the State has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste	271.9(b)	§ 3001(f)(1)	N/A

ALASKA RCRA STATUTORY CHECKLIST

8. <u>Required if a State has a delisting mechanism:</u> Prohibit new temporary delistings without prior notice and comment, absent good cause, and require that prior temporary delistings lapse if not made final by November 8, 1986	271.9(b)	§ 3001(f)(2)	N/A
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Remarks of the Attorney General/Independent Counsel:

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
III. STANDARDS FOR GENERATORS [See 40 CFR §271.10]			
The State needs the authority to:			
1. Regulate all generators EPA regulates under 40 CFR Part 262 ⁶	271.10	§ 3001 and § 3002	AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.305, AS 46.03.311 (See 18 AAC 62, Article 3)
2. Require use of I.D. numbers	271.10(a)	§ 3002(a)	AS 46.03.020, AS 46.03.299 (See 18 AAC 62.301)
3. Adopt waste determination requirements	271.10(a)	§ 3002(a)	AS 46.03.020, AS 46.03.299 (See 18 AAC 62.301)
4. Adopt recordkeeping requirements	271.10(b)	§ 3002(a)	AS 46.03.020, AS 46.03.299, AS 46.03.311 (See 18 AAC 62.330)
5. Adopt reporting requirements	271.10(b)	§ 3002(a)	AS 46.03.020, AS 46.03.299, AS 46.03.311 (See 18 AAC 62.330)
6. Require generators to submit reports and manifest certifications regarding efforts taken to minimize the amounts and toxicity of wastes generated ⁷	271.10(b)	§ 3002(a)(6) (C)&(D) § 3002(b)	AS 46.03.020, AS 46.03.299, AS 46.03.311 (See 18 AAC 62.330)
7. Regulate accumulation of hazardous waste for short periods of time including use of appropriate containers ⁸	271.10(c)	§ 3002(a)	AS 46.03.020, AS 46.03.299 (See 18 AAC 62.301)
8. Adopt packaging, labeling, marking and placarding standards that are consistent with DOT regulations	271.10(d)	§ 3002(a)	AS 46.03.020, AS 46.03.299 (See 18 AAC 62.321)
9. Regulate international shipments ⁹	271.10(e)	§ 3002(a) and § 3017	AS 46.03.020, AS 46.03.299, AS 46.03.900 (See 18 AAC 62.350, 18 AAC 62.201, and 18 AAC 62 generally)
10. Require the furnishing of information regarding hazardous waste to transporters, and TSD facilities	271.10(f)	§ 3002(a)	AS 46.03.020, AS 46.03.299, AS 46.03.305 (See 18 AAC 62.311)
11. Require the use of manifest system consistent with DOT and EPA requirements	271.10(f) and (h)	§ 3002(a)	AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.305 (See 18 AAC 62.311, 18 AAC 62.1390)
12. Investigate interstate shipments for which the manifest has not been returned	271.10(g)	§ 3002(a)	AS 46.03.020

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13. Require actions to assure that all hazardous waste is designated for treatment, storage, or disposal in permitted facilities	271.10(f)	§ 3002(a)	AS 46.03.020, AS 46.03.299, AS 46.03.305 (See 18 AAC 62.311)
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Remarks of the Attorney General/Independent Counsel:

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
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IV. STANDARDS FOR TRANSPORTERS [See 40 CFR §271.11]

The State needs the authority to:

1. Regulate all transporters EPA regulates under 40 CFR Part 263. ¹⁰	271.11	§ 3001 § 3003	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.308 (See 18 AAC 62, Article 4)
2. Require use of I.D. numbers	271.11(a)	§ 3003(a)	AS 46.03.020, AS 46.03.299, AS 46.03.308 (See 18 AAC 62.401)
3. Adopt recordkeeping requirements	271.11(b)	§ 3003(a)	AS 46.03.020, AS 46.03.302, AS 46.03.308, AS 46.03.299 (See 18 AAC 62.411)
4. Require use of manifest system consistent with DOT and EPA requirements	271.11(c)	§ 3003(a)	AS 46.03.020, AS 46.03.302, AS 46.03.308, AS 46.03.299 (See 18 AAC 62.411)
5. Require actions to assure that all hazardous waste is transported to designated permitted facilities	271.11(c)	§ 3003(a)	AS 46.03.020, AS 46.03.302, AS 46.03.308, AS 46.03.299 (See 18 AAC 62.411)
6. Require notification of discharges	271.11(d)	§ 3003(a)	AS 46.03.020, AS 46.03.299, AS 46.03.308 (See 18 AAC 62.421)
7. Regulate cleanup of discharges	271.11(d)	§ 3003(a)	AS 46.03.020, AS 46.03.299, AS 46.03.308 (See 18 AAC 62.421)
8. Adopt labeling requirements	272.11(e)	§ 3003(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.308 (See 18 AAC 62, Article 4)
9. Regulate transportation in a manner consistent with DOT regulations	271.11(e)	§ 3003(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.308 (See 18 AAC 62, Article 4)
10. Regulate transportation of fuel produced from hazardous waste or from hazardous waste and any other material ¹¹	271.11(e)	§ 3003(c)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.308 (See 18 AAC 62, Article 4)

Remarks of the Attorney General/Independent Counsel:

V. STANDARDS FOR HW STORAGE, TREATMENT, AND DISPOSAL FACILITIES [See 40 CFR 271.12]

The State needs the authority to:

1. Regulate all owners and operators of hazardous waste management facilities that EPA regulates under 40 CFR Parts 264 and 266 ¹²	271.12	§ 3004	AS 44.46.020, AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.710, AS 46.03.830, AS 46.03.833
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ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
2. Adopt technical standards for tanks; containers; waste piles; incineration; chemical, physical and biological treatment; surface impoundments; landfills; land treatment units; drip pads; miscellaneous units; containment buildings; boilers; and industrial furnaces ¹³	271.12(a)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (<i>See</i> 18 AAC 62, Articles 5 and 7)
3. Prohibit landfilling of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste	271.12(a)	§ 3004(c)(1)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
4. Promulgate regulations that minimize the landfilling of containerized liquid hazardous wastes and free liquids in containerized hazardous wastes, and prohibit the landfilling of liquids absorbed in materials that biodegrade or release liquids when compressed	271.12(a)	§ 3004(c)(2)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
5. Prohibit disposal of non-hazardous liquids in Subtitle C landfills unless (1) the only reasonable alternative is disposal in a landfill or unlined impoundment, whether or not subject to Subtitle C, that contains or may contain hazardous waste and (2) disposal will not endanger an underground source of drinking water ¹⁴	271.12(a)	§ 3004(c)(3)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
6. Prohibit the use of material which is contaminated or mixed with dioxin or any other hazardous waste for dust suppression or road treatment	271.12(a)	§ 3004(l)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
7. Require double liners for new landfills and surface impoundments	271.12(a)	§ 3004(o)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
8. Require the attainment of minimum destruction and removal efficiency for incinerators	271.12(a)	§ 3004(o)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
9. Regulate fuel containing hazardous waste and all persons who produce, burn, distribute, and market fuel containing hazardous wastes ¹⁵	271.12(a)	§ 3004(q)-(s)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
10. Optional: Exempt certain petroleum coke containing hazardous waste from petroleum refining from regulation if it is to be burned for energy recovery unless the coke exhibits a characteristic of hazardous waste	271.12(a)	§ 3004(q)(2) (A)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
11. Assure that permitting standards for underground hazardous waste tanks, at a minimum, satisfy Section §9003, Subtitle I of RCRA, 42 U.S.C. 9003	271.12(a)	§ 3004(w)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
12. Adopt modified requirements for solid waste from the extraction, beneficiation or processing of ores and minerals; for fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated from combustion of fossil fuels; and for cement kiln dust waste	271.12(a)	§ 3004(x)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
13. Require a showing of financial responsibility during facility operation	271.12(b)	§ 3004(a)	AS 46.03.020, AS 46.03.299, AS 46.03.830, AS 46.03.296, AS 46.03.302, AS 46.03.833 (<i>See</i> 18 AAC 62.535)
14. Adopt preparedness and prevention measures including contingency plans and emergency procedures to be followed in the event of a discharge or release	271.12(c)	§ 3004(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.512, 18 AAC 62.515)
15. Adopt closure and post-closure requirements including financial assurance for costs involved	271.12(d)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710, AS 46.03.830, AS 46.03.833 (<i>See</i> 18 AAC 62.530, 18 AAC 62.535)
16. Adopt groundwater monitoring standards ¹⁶	271.12(e)	§ 3004(a), (o) & (p)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (<i>See</i> 18 AAC 62.525)
17. Require security to prevent unauthorized access to facilities	271.12(f)	§ 3004(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.505)
18. Adopt standards for personnel training	271.12(g)	§ 3004(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.505)
19. Adopt recordkeeping standards	271.12(h)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (<i>See</i>

ALASKA RCRA STATUTORY CHECKLIST

			18 AAC 62, Articles 5 and 7)
20. Adopt reporting requirements	271.12(h)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (<i>See</i> 18 AAC 62, Articles 5 and 7)
21. Adopt monitoring requirements	271.12(h)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (<i>See</i> 18 AAC 62, Articles 5 and 7)
22. Require inspections	271.12(h)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (<i>See</i> 18 AAC 62, Articles 5 and 7)

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
23. Require compliance with manifest system including that a signed copy of the manifest be returned to the generator	271.12(i)	§ 3004(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.520)
24. Promulgate rules for monitoring and controlling air emissions at treatment, storage, and disposal facilities	271.12(j)	§ 3004(n)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (See 18 AAC 62, Articles 5 and 7)
25. Assure that permits issued after 11/8/84 require corrective action for releases of hazardous waste or constituents from any solid waste management unit at a facility, regardless of when the waste was placed in the unit ¹⁷	N/A	§ 3004(u)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
26. Require corrective action beyond a facility's boundary and to include corrective action as a permit requirement	N/A	§ 3004(v)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
27. Require evidence of financial responsibility for corrective action on and off-site	N/A	§ 3004(a)(6)	AS 46.03.299, AS 46.03.830, AS 46.03.833
28. Identify when military munitions are hazardous waste and adopt provisions for safe transportation and storage of such waste ¹⁸	N/A	§ 3004(y)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710
29. Require use of I.D. numbers	271.13(b)	§ 3004(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000)
30. Adopt location, design, and construction standards ¹⁹	271.12(j)	§ 3004(a) & (b)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (See 18 AAC 62, Articles 5 and 7)
31. Require qualifications as to ownership	271.12(j)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (See 18 AAC 62, Articles 5 and 7)
32. Require qualifications as to continuity of operation	271.12(j)	§ 3004(a)	AS 44.46.020, AS 46.03.296, AS 46.03.302, AS 46.03.020, AS 46.03.299, AS 46.03.710 (See 18 AAC 62, Articles 5 and 7)

Remarks of the Attorney General/Independent Counsel

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
VI. LAND DISPOSAL RESTRICTIONS [See 40 CFR 271.25]			
<i>Note that 40 CFR Part 271 does not specifically address State authority to adopt land disposal restrictions that are no less stringent than those adopted in 40 CFR Part 268. However, 40 CFR 271.25 requires each State program to have standards at least as stringent as the requirements and prohibitions that have taken effect under HSWA. Thus, the State must have authority to:</i>			
1. Prohibit the land disposal of any hazardous waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells, and land treatment facilities; deep injection well means a well used for the underground injection of hazardous wastes other than a well to which §7010(a) of RCRA applies ²⁰	271.25	§ 3004(d)-(g)	AS 46.03.020, AS 46.03.299, AS 46.03.296 (See 18 AAC 62, Article 9)
<i>Item 2 of this Section is to be completed by States that decide not to seek or cannot obtain such broad authority as described in Item 1 of Section VI. The following list in Item 2 breaks down the various HSWA provisions relating to land disposal bans that States will need to adopt authority to:</i>			
2. Prohibit the land disposal, including underground injection into deep injection wells, of the following wastes (including the authority to set more stringent concentration levels for categories A-E): (A) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1000 mg/l.	271.25	§ 3004(d)-(f)	N/A

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
(B) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) at concentrations greater than or equal to those specified below: (i) arsenic and/or compounds (as As) 500 mg/l (ii) cadmium and/or compounds (as Cd) 100 mg/l (iii) chromium VI and/or compounds (as Cr VI) 500 mg/l (iv) lead and/or compounds (as Pb) 500 mg/l (v) mercury and/or compounds (as Hg) 20 mg/l (vi) nickel and/or compounds (as Ni) 134 mg/l (vii) selenium and/or compounds (as Se) 100 mg/l (viii) thallium and/or compounds (as Th) 130 mg/l (C) Liquid hazardous waste having a pH less than or equal to two (2.0) (D) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm (E) Hazardous wastes containing halogenated organic compounds in total concentration greater than or equal to 1000 mg/kg (F) solvents (G) dioxins	271.25	§ 3004(d)-(f)	N/A
3. Prohibit the land disposal of any hazardous waste which is prohibited from land disposal under §3004(g) of RCRA.	271.25	§ 3004(g)	N/A

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
4. Optional: Waive until November 8, 1987, a prohibition on land disposal of certain hazardous wastes (i.e., those designated in Item 2 above) that might otherwise apply to the disposal of contaminated soil or debris from CERCLA §104 or §106 actions or RCRA corrective actions	271.25	§ 3004(d)-(g)	N/A
5. Promulgate standards specifying levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of its migration so as to minimize threats to human health and the environment. Optional for #5: Exempt wastes in compliance with such levels or methods from the land disposal prohibitions.	271.25	§ 3004(m)	N/A
6. Prohibit the storage of hazardous waste prohibited from land disposal	271.25	§ 3004(j)	N/A

Remarks of the Attorney General/Independent Counsel:

VII. PERMITS FOR HW STORAGE, TREATMENT AND DISPOSAL FACILITIES [See 40 CFR 271.13 and 271.14]

The State needs the authority to:

1. Require permits for owners and operators of all TSD facilities	271.13(a)	§ 3005(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)
2. Prohibit operation of facilities without permits	271.13(a)	§ 3005(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)
3. Optional: Authorize owners or operators of TSD facilities to operate under interim status if the facility would qualify for interim status under the Federal program	271.13(a)	§ 3005(e)(1)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
4. Optional: Allow facilities to qualify for interim status if they (1) are in existence on the effective date of statutory or regulatory changes that render the facility subject to the requirement to have a permit and (2) meet notice and permit application requirements ²¹	271.13(a)	§ 3005(e)(1)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)
5. Required for Interim Status: Require that facilities may not qualify for interim status under the State analog to RCRA § 3005(e) if they were previously denied a Section 3005(c) permit or for which authority to operate has been terminated	271.13(a)	§ 3005(c)&(e)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)
6. Required for Interim Status: Require interim status facilities to comply with standards at least as stringent as those in 40 CFR Part 265	271.13(a)	§ 3005(e)(1)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)
7. Required for Interim Status: Determine that interim status terminates (i) for land disposal facilities qualifying for interim status prior to 11/8/84, on 11/8/85 unless, a Part B application and certification of compliance with ground-water monitoring and financial responsibility requirements are submitted (ii) for land disposal facilities in existence on the effective date of statutory or regulatory amendments under HSWA that require a permit, 12 months after the facility is first required to obtain a permit, unless a Part B application and certification of compliance with ground-water monitoring and financial responsibility requirements are submitted (iii) for incinerator facilities, by 11/8/89, unless the owner/operator submits a Part B application by 11/8/86	271.13(a)	§ 3005(e)(2) & (3)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)
(iv) for any facility other than a land disposal or an incineration facility, by 11/8/92, unless the owner/operator submits a Part B application by 11/8/88 ²²	271.13(a)	§ 3005(e)(2) & (3)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1000; 18 AAC 62, Article 6)

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
8. Required for Interim Status: Require landfills, surface impoundments, land treatment units, and piles that received wastes after July 26, 1982 and which qualify for interim status to comply with the groundwater monitoring, unsaturated zone monitoring and corrective action requirements applicable to new units	271.13(a)	§ 3005(i)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1000; 18 AAC 62, Article 6)
9. Required for Interim Status: Require interim status impoundments to comply with the double liner, leachate collection and ground-water monitoring requirements applicable to new units or stop treating, receiving or storing hazardous wastes (SR1) ²³	271.13(a)	§ 3005(j)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1000; 18 AAC 62, Article 6)
10. Required for Interim Status: Impose any necessary requirements (including double liners) on an existing surface impoundment to protect health and the environment after determining that hazardous constituents are likely to migrate into groundwater. (SR1) ²³	271.13(a)	§ 3005(j)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1000; 18 AAC 62, Article 6)
11. Optional - Interim Status: Provide conditional exemptions from the double-liner and leak detection system requirements for surface impoundments, including modification of the double liner, leachate collection and groundwater monitoring requirements for impoundments for impoundments in § 3005(j)(1) if prior to October 1, 1984, the owner/operator has entered into a consent decree, order, agreement with EPA or an authorized State which requires correction and provides protection of health and environment at least equivalent to that in § 3005(j)(1) (SR2) ²³	271.13(a)	§ 3005(j)(2)-(9) and (j)(13)	N/A

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
12. Required for Interim Status: Require new units, expansions and replacements of interim status waste piles to meet the requirements for a single liner and leachate collection system in current regulations applicable to permitted waste piles	271.13(a)	§ 3015(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1000; 18 AAC 62, Article 6)
13. Required for Interim Status: Require new units, expansions and replacement units at interim status landfills and surface impoundments to meet the requirements for double liners and leachate collection systems applicable to new permitted landfills and surface impoundments	271.13(a)	§ 3015(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1000; 18 AAC 62, Article 6)
14. Issue permits containing any conditions necessary to protect human health and environment	271.13(a)	§ 3005(c)(3)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1000; 18 AAC 62, Article 6)
15. Require permits to contain all technical and administrative standards for facilities	271.13(c)	§ 3005(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1000; 18 AAC 62, Article 6)
16. Provide for permit modifications and termination (revocation)	271.13(d) 271.14	§ 3005(c) § 3005(d)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (<i>See</i> 18 AAC 62.1050)
17. Allow public disclosure of name and address of permit applicants and permittees	271.14	§ 3005(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296
18. Review land disposal permits every five years and modify them as necessary to assure compliance with State's analogue to RCRA §§3004 and 3005 and to take into account improvements in technology	271.14	§ 3005(c)(3)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296
19. Impose construction ban	271.14	§ 3005(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296
20. Require permit application information	271.14	§ 3005(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296
21. Require permit applicants for landfills or surface impoundments to submit exposure information	271.14	§ 3019(a)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
22. Require permittee to certify annually that the generator at a TSD facility has a waste minimization program in place and that the method of treatment, storage, or disposal is that practicable, available method which minimizes present and future threat to health and environment	271.14	§ 3005(h)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296
23. Optional: Allow a facility to construct an approved TSCA facility for burning PCBs without first obtaining a RCRA permit. An owner/operator may file for a RCRA permit after construction or operation of such a facility has begun	Not required	§ 3005(a)	N/A
24. Optional: A. Issue a one-year research development, and demonstration permit for a facility that proposes an innovative and experimental treatment technology or process not yet regulated B. Authority to waive or modify general permit application and issuance requirements for R&D permits, except for financial responsibility and public participation requirements C. Authority to terminate experimental activity if necessary to protect health and the environment	Not required	§ 3005(g)	N/A

Remarks of the Attorney General/Independent Counsel:

VIII. PUBLIC PARTICIPATION [See 40 CFR 271.14]

The regulations at 40 CFR 271.14 require that an authorized State program contain certain public participation procedures contained in 40 CFR Part 124. Thus, a State needs the authority to promulgate regulations that require:

1. Draft permit, fact sheet, etc.	271.14(v) & (w)	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1020)
2. Notice of all draft permits by radio broadcasts and notices in newspapers	271.14(x)	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1020)
3. 45-day public comment period on all draft permits	271.14(y)	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See

ALASKA RCRA STATUTORY CHECKLIST

			18 AAC 62.1020)
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ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
4. Informal hearing with written notice of opposition	271.14(z)	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1020)
5. Consideration of and response to public comments	271.14(aa)	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1020)
6. Pre-application public notice and meeting	N/A	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1020)
7. Public notice of application	N/A	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1020)
8. Information repository	N/A	§ 7004(b)	AS 46.03.020, AS 46.03.299, AS 46.03.302, AS 46.03.296 (See 18 AAC 62.1020)

Remarks of the Attorney General/Independent Counsel:

IX. REQUIREMENTS FOR USED OIL MANAGEMENT [See 40 CFR 271.26]

The State needs the authority to:

1. Promulgate regulations establishing such performance standards and other requirements as may be necessary to protect health and the environment from hazards associated with recycled oil, as specified in 40 CFR Part 279 ²⁴	271.26	§ 3014(a)	AS 46.03.020, AS 46.03.299 (See 18 AAC 62, Article 12)
2. Promulgate special generator and transporter standards for recycled hazardous waste used oil	271.26	§ 3014(c)	AS 46.03.020, AS 46.03.299 (See 18 AAC 62, Article 12)
3. <u>Optional:</u> Deem hazardous waste used oil recycling facilities to have a permit if they comply with the State's analogue to the §3004 standards. However, a State must retain the authority to require individual permits if necessary to protect human health and the environment	271.26	§ 3014(d)	N/A

Remarks of the Attorney General/Independent Counsel:

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
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X. INSPECTIONS [See 40 CFR 271.15]

The State needs the authority to:

1. Enter, inspect and obtain samples (at all regulated premises and where records are kept)	271.15(c)	§ 3007	AS 46.03.020(6), (7); AS 46.03.860
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Remarks of the Attorney General/Independent Counsel:

XI. ENFORCEMENT REMEDIES (INCLUDING PUBLIC PARTICIPATION IN ENFORCEMENT) [See 40 CFR 271.16]

The State needs the authority to²⁵:

1. Immediately restrain unauthorized activity	271.16(a) (1)	§ 3006	AS 46.03.765, AS 46.03.810, AS 46.03.820
2. Sue to enjoin any threatened or continuing program violation without prior revocation of permit	271.16(a) (2)	§ 3006	AS 46.03.765
3. Obtain civil penalties for any violation (maximum no less than \$10K per day)	271.16(a) (3)(i), (b), and (c)	§ 3006	AS 46.03.760(e)
4. Obtain criminal penalties for specified maximum violations (no less than \$10K per day and imprisonment with maximum no less than 6 months); burden of proof no greater than under Federal law	271.16(a) (3)(ii) & (b)	§ 3006	AS 46.03.790, AS 12.55.035, AS 12.55.135
5. Allow public intervention	271.16(d)	§ 7004	Alaska Rule of Civil Procedure 24(a)
6. Optional: Require that neither the State nor citizens may bring action against common carriers for imminent hazards arising after delivery of the shipment to the consignee, provided the carrier exercised due care when handling the work.	Not required	§ 7002(g) § 7003(a)	N/A

Remarks of the Attorney General/Independent Counsel:

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
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XII. SHARING OF INFORMATION WITH EPA [See 40 CFR 271.17]

The State needs the authority to:

1. Share all information with EPA	271.17(a)	§ 3007(b)	AS 46.03.020, AS 46.03.299
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Remarks of the Attorney General/Independent Counsel:

XIII. EXPOSURE ASSESSMENTS

The State needs the authority to:

1. Make exposure and health assessment information available to the Agency for Toxic Substances and Disease Registry (See CERCLA § 104(i)) (SI) ²³	Not in 40 CFR Part 271	§ 3019(b)(1)	AS 46.03.020, AS 46.03.299
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Remarks of the Attorney General/Independent Counsel:

XIV. RADIOACTIVE MIXED WASTE

1. Regulate hazardous waste that is radioactive except to the extent that the waste is source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended. (68 Stat. 923) (MW) ^{23,26}	271.9(a)	§ 1004(27)	AS 46.03.020, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.900 (See 18 AAC 62, Article 2)
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Remarks of the Attorney General/Independent Counsel:

XV. AVAILABILITY OF INFORMATION [See 40 CFR 271.17]

The State needs the authority to:

1. Make information obtained on treatment, storage, and disposal facilities available to the public in substantially the same manner and to the same degree as if EPA were running the program. (AI) ²²	271.17(c)	§ 3006(f)	AS 46.03.020, AS 46.03.299 (See also Alaska Public Records Act, AS 40.25.100 - .295)
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Remarks of the Attorney General/Independent Counsel:

XVI. ADDITIONAL MISCELLANEOUS AUTHORITIES

ALASKA RCRA STATUTORY CHECKLIST

Statutory Element	Part 271 Reference	RCRA Cite	State Cite
1. Optional: Authority to grant variances and exemptions that are no less stringent than allowed by Subtitle C of RCRA ²⁷	Not required	N/A	N/A
2. Importation ban ²⁸	Not required	N/A	N/A
3. Siting ²⁹	Not required	N/A	AS 46.03.020, AS 46.03.110, AS 46.03.296, AS 46.03.299, AS 46.03.302, AS 46.03.313 (<i>See</i> 18 AAC 63)
4. Optional: Adopt the Federal regulations by reference	N/A	N/A	Yes, this is ADEC's approach.
5. Optional: Adopt the Federal regulations by reference to include any EPA revisions that may occur in the future (prospective incorporation by reference) ³⁰	N/A	N/A	ADEC does not have this authority.
6. Optional: Limitation on State authority to adopt more stringent or broader in scope provisions	N/A	N/A	No, ADEC does not have this limitation.

Remarks of the Attorney General/Independent Counsel:

ALASKA RCRA STATUTORY CHECKLIST

EXPLANATORY NOTES

1. The statutory checklist is intended for use as an evaluation tool and to assist EPA to understand the State's enabling authority, as well as providing useful documentation for the State and EPA. The statutory checklist is not intended to identify State statutory provisions that are authorized to operate in lieu of the federal program, nor does it authorize the State statutory provisions listed in the checklist. It should not be referenced in a Federal Register notice authorizing a State's hazardous waste program; nor should it be referenced when the State's program is codified in 40 CFR part 272.
2. The State must have authority to regulate the recycling and reuse of hazardous waste in a manner at least as stringent as the Federal program.
3. The general authority for identifying hazardous waste characteristics is non-HSWA. However, the HSWA provisions at RCRA § 3001(c), (g), and (h) modify or clarify EPA's authority for regulating specific hazardous waste characteristics. A State may not need to have additional authority in order to implement the HSWA elements of the regulations authorized by the provisions at RCRA § 3001(c), (g), and (h).
4. The general authority for listing hazardous waste is non-HSWA. However, the HSWA provision at RCRA § 3001(e) addresses specific wastes. A State may not need additional authority in order to implement HSWA elements of the regulations authorized by the provision at RCRA § 3001(e).
5. A State is not required to provide a delisting mechanism as part of its hazardous waste program. However, if a delisting mechanism is included, the State must have adequate authority to adopt regulations that are equivalent to the Federal delisting regulations at 40 CFR 260.20(b) and 260.22. In addition, the HSWA requirements listed in items 8 and 9 are only applicable to States that provide a delisting mechanism.
6. The scope of the generator requirements is linked to the types and quantity of wastes handled by a solid waste generator. Some wastes are listed or identified as hazardous pursuant to HSWA authority. See the section of this checklist that addresses the authority for identification and listing of hazardous wastes for a discussion of HSWA and Non-HSWA authorities.
7. This authority does not only address the requirement to partake in waste minimization activities. The Federal recordkeeping and reporting requirements relative to waste minimization were also adopted pursuant to HSWA authority.
8. The regulations addressing on-site accumulation of hazardous waste implement HSWA authority to the extent that they apply to tank systems owned or operated by small quantity generators or establish leak detection requirements for underground tank systems for which construction commenced after July 14, 1986.
9. The general authority to regulate generators is derived from the Non-HSWA portions of § 3002(a). That section does not specifically address international shipments of hazardous waste. Congress adopted specific authority for regulation of international shipments as part of HSWA. This authority is found at RCRA § 3017. Note that certain aspects of the regulation of international shipments are not delegable to state programs as indicated in 40 CFR 271.10(e).

ALASKA RCRA STATUTORY CHECKLIST

10. The scope of the transporter requirements is linked to the types of wastes handled by a solid waste transporter. Some wastes are listed or identified as hazardous pursuant to HSWA authority. See the section of this checklist that addresses the authority for identification and listing of hazardous wastes for a discussion of HSWA and Non-HSWA authorities.
11. A State may not need separate authority to regulate fuel from hazardous waste as required by HSWA. The general authority to regulate transporters may be broad enough to include this specific authority.
12. The scope of the TSD facility standards is linked to the types of wastes handled by a facility. Some wastes are listed or identified as hazardous pursuant to HSWA authority. See the section of this checklist that addresses the authority for identification and listing of hazardous wastes for a discussion of HSWA and Non-HSWA authorities.
13. The general authority for adopting technical standards for specific units addressed at 40 CFR 271.12(a) covers both non-HSWA and HSWA provisions. For purposes of this checklist, the general non-HSWA authority at RCRA § 3004(a) has been listed separately from the specific HSWA authorities introduced at RCRA §§ 3004(c), (l), (o), (q), (r), (s), (w), and (x). Note that [The provision at 40 CFR 271.12(a) needs to be amended to include references to “drip pads, miscellaneous units, containment buildings; boilers and industrial furnaces.]
14. States should particularly note the RCRA § 3004(c)(3) requirement. Since many States’ statutes pertain only to hazardous waste, States are likely to need new authority to regulate the disposal of non-hazardous waste at Subtitle C facilities.
15. A State may not need separate authority to regulate hazardous waste used as fuel as required by HSWA. However, the State may need additional authority over some of the persons or activities described above.
16. The general authority at § 3004(a) provides coverage for groundwater monitoring standards. In addition, at §§ 3004(o) and (p), HSWA specifically addressed groundwater monitoring standards for new landfills and surface impoundments.
17. States must have authority to require corrective action for all solid waste management units, even though the only unit receiving a permit is a deep injection well. This authority may be under a hazardous waste or underground injection control program, so long as all RCRA requirements are met.
18. The provision at RCRA § 3004(y) was introduced by the Federal Facilities Compliance Act (FFCA) of 1992. Note that a State’s general authorities may be broad enough to encompass this specific authority.
19. At § 3004(b), HSWA introduced a specific prohibition on the placement of any noncontainerized or bulk liquid hazardous wastes in salt dome formations, salt bed formations, underground mines or caves.
20. EPA believes that States already have the authority to prohibit land disposal of hazardous waste through their authority to regulate the treatment, storage and disposal of hazardous waste. However, if a State believes it needs new authority to ban a waste from land disposal, we strongly recommend that the State seek the broad statutory authority described in Item 1 of Section VI.

ALASKA RCRA STATUTORY CHECKLIST

This recommendation is based primarily on §3004(g) of RCRA; Section 3004(g) requires EPA to decide whether to prohibit one or more methods of land disposal for every listed or identified hazardous waste by 1990. Thus, unless a State has statutory authority to ban the land disposal of any such hazardous waste, it may need to amend its statute repeatedly as EPA decides the status of each waste. If a State decides not to seek or cannot obtain such broad authority, the list in Item 2 breaks down the various HSWA provisions relating to land disposal bans for which States will need to adopt authority.

21. States are not required to provide interim status for TSD facilities. However, if a State chooses to provide for interim status, then the State must have authority described in items 5 through 13 of Section VII.
22. A State's analog to interim status must terminate automatically in these cases (whether the state's analog is Part 265 type standards or permits). If a State statute or regulation would require any type of hearing to terminate the facility's operating authority, the State must amend its authority to delete that requirement for these provisions. (Interim status as used here means the state's analog to Federal interim status.)
23. The following items are a part of the "Statutory (Non-Checklisted) Provisions" addressed in Appendix N of the hardcopy version of the State Authorization Manual (SAM) -- Guidance for State Authorization Issues:

AI	-	Availability of Information
MW	-	Mixed Waste
SI	-	Sharing of Information
SR1	-	Surface Impoundment Requirement
SR2	-	Optional: Exemptions from the Surface Impoundment Requirements

Also, see the Availability of Information Checklist for a specific analysis of the manner and degree that EPA provides for availability of information.

24. This used oil management authority originated at RCRA § 3012, but was amended and redesignated as § 3014(a) by HSWA.
25. Note that RCRA contains enforcement provisions that differ from those listed in 40 CFR 271.16. Thus, the enforcement authority of an authorized State program need not be equivalent to the RCRA enforcement provisions. Instead, a State's authority should be adequate to meet the requirements listed in 40 CFR 271.16 which were established pursuant to RCRA §§ 3006 and 7004.
26. EPA has determined that hazardous wastes are subject to RCRA if they are mixed with source, special nuclear or by product material even though source, special nuclear, or byproduct itself is not subject to RCRA. States will need to review their authority to ensure that only source, special nuclear, or byproduct material is excluded from their hazardous waste jurisdiction.
27. Various HSWA provisions amend RCRA to allow EPA – and the States if they wish – to grant variances and exemptions. In addition to those variances specifically authorized by statute, the HSWA allows EPA to develop regulations with variance provisions or to make case-by-case variance decisions. Unless a State is absolutely sure that it will never want to grant a variance or

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exemption, EPA strongly recommend States obtain the above authority. The State's variance procedures and decision criteria must be no less stringent than EPA's.

28. May create problems for a State seeking authorization. States with this authority should ensure that its statutory and regulatory provisions do not conflict with EPA's requirements for imports/exports and transportation.
29. May create problems for a State seeking authorization. States with this authority should ensure that its statutory and regulatory provisions do not conflict with EPA's requirements for permitting.
30. For prospective incorporation of the Federal regulations by reference, the Attorney General or Independent Legal Counsel must cite State authority that enables it both to **promulgate and enforce** regulations in this manner. ***States which incorporate by reference prospectively, should provide a discussion on the constitutionality of the procedure within the State. Appropriate court case citations should also be provided.***

FOR INCORPORATION BY REFERENCE (IBR) WITH STATE MODIFICATIONS**ALASKA PROGRAM AUTHORIZATION PACKAGE****REGULATORY DOCUMENTATION FOR FEDERAL PROVISIONS
FOR WHICH THE ALASKA IS SEEKING AUTHORIZATION****Federal Final Rules Published Through
January 22, 2025****Title of Regulations:** 18 AAC 62: Hazardous Waste Management**Effective Date of Regulations:** June 1, 2025**Statutory Authority:** See Statutory Checklist and Attorney General's Statement.**Date Prepared:** DRAFT for Public Notice**A. STATE ANALOGS TO FEDERAL CITATIONS**

At Title 18, Chapter 62 of the Alaska Administrative Code (18 AAC 62), Alaska has adopted by reference the January 22, 2025 version of the Code of Federal Regulations (CFR), except where other version dates or modifications are noted. Federal regulations not adopted in 18 AAC 62 are also included in the table.

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
18 AAC 62.050	260, Subpart A	x			
18 AAC 62.050(b)	261.6(a)(2)	x			The introductory language of 40 C.F.R. 261.6(a)(2), revised as of July 1, 2022, is adopted by reference, but not that language revised as of December 10, 2024, because the related provisions of 40 C.F.R. 261.6(a)(2)(v) and 40 CFR 266, Subpart Q that took effect December 10, 2024 are not adopted by reference. This is a required section for state adoption and will be addressed with our next regulatory update.
18 AAC 62.050(c)	260.4 and 260.5 40 C.F.R. 260.10	x			(c) The substitution of state terms for the EPA and federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to 40 C.F.R. 260.4 and 260.5. The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to the definitions in 40 C.F.R. 260.10 of "Person," "State," or "United States."
18 AAC 62.1390	260.10, 279.1	x			Adopts definitions in 260.010 to apply to the hazardous waste and the definitions of 279.1 to apply to used oil. Includes additional state specific definitions for "department", "electronic waste", and "EPA". Also, reiterates a short list of definitions adopted from §260.10
18 AAC 60.1320	260.11	x			The substitution of state terms for the EPA or

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
					federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to 40 C.F.R. 260.11.
None	260, Subpart C				Did not adopt Subpart C – Rulemaking Petitions, as we determined that delistings are better addressed by EPA.
18 AAC 62.201	261, Subpart A	x			the substitution of state terms referenced in 18 AAC 62.040(c) and (d) for the EPA or federal officials does not apply to 40 C.F.R. 261.4(a)(25).
Documented in 18 AAC 62.050(b)	261.6(a)(2)(v) excluded				The introductory language of 40 C.F.R. 261.6(a)(2), revised as of July 1, 2022, is adopted by reference, but not that language revised as of December 10, 2024. because the related provisions of 40 C.F.R. 261.6(a)(2)(v) and 40 CFR 266, Subpart Q that took effect December 10, 2024 are not adopted by reference. This is a required section for state adoption and will be addressed with our next regulatory update.
18 AAC 62.205	No equivalent				Electronic waste is included in the list of universal wastes
18 AAC 62.211	261, Subpart B	x			
18 AAC 62.221	261, Subpart C	x			
18 AAC 62.231	261, Subpart D	x			
18 AAC 62.240	261, Subpart E	x			
	261, Subparts F & G				[Reserved]
18 AAC 62.250	261, Subpart H	x			substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. 261.143(d)(1), 261.147(a)(1)(ii),(b)(1)(ii), (g)(2), or (i)(4).
18 AAC 62.260	261, Subpart I	x			
18 AAC 62.270	261, Subpart J	x			
	261, Subparts K & L				[Reserved]
18 AAC 62.280	261, Subpart M	x			
18 AAC 62.280(b)	261.400(c) excluded				The introductory language of 40 C.F.R. 261.400, revised as of July 1, 2022, is adopted by reference, but not that language revised as of December 10, 2024 because Alaska did not adopt 40 CFR, Subpart Q. This is a required section for state adoption and will be addressed with our next regulatory update.
	261, Subparts N - Z				[Reserved]
18 AAC 62.285	261, Subpart AA	x			
18 AAC 62.290	261, Subpart BB	x			
18 AAC 62.295	261, Subpart CC	x			

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
18 AAC 62.299	261, Appendices	x			Adopt I, VII, VIII. Appendices IV, V, and VI are reserved, and Appendix IX is specific to wastes excluded under §260.20 and 260.22, which are not adopted in these regulations.
18 AAC 62.301	262, Subpart A	x			(b) The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart A.
18 AAC 62.301(a)(1)	262.14(a)(5)(vi) excluded	x			The provisions of 40 C.F.R. Part 262, Subpart A (general), revised as of December 7, 2023, are adopted by reference, except that the provisions of 40 C.F.R. 262.14(a)(5)(vi), revised as of July 1, 2022, are adopted by reference; the amendment of December 10, 2024 is not adopted by reference because Alaska did not adopt 40 CFR, Subpart Q. This is a required section for state adoption and will be addressed with our next regulatory update.
18 AAC 62.301(a)(2)	none		x		(a)(2) requires that small and large quantity generators submit notification (EPA form 8700-12) each year. This is more stringent than the federal regulations as notification is required quadrennially and biannually, respectively.
18 AAC 62.311	262, Subpart B	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart B. Manifest requirements are administered by the EPA. Accordingly, the substitution of state terms for the EPA or federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to this section.
18 AAC 62.321	262, Subpart C	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart C.
18 AAC 62.330	262, Subpart D	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart D.
	262, Subparts E & F				[Reserved]
18 AAC 62.340	262, Subpart G	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart G.
18 AAC 62.350	262, Subpart H	x			he substitution of state terms for the EPA or federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to this section. The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
					to 40 C.F.R. Part 262, Subpart H.
	262, Subparts I & J				[Reserved]
18 AAC 62.360	262, Subpart K	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart K.
18 AAC 62.370	262, Subpart L	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart L.
18 AAC 62.380	262, Subpart M	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. Part 262, Subpart M.
18 AAC 62.401	263, Subpart A	x			
18 AAC 62.411	263, Subpart B	x			Manifest requirements are administered by EPA. Accordingly, the substitution of state terms for the EPA as referenced in 18 AAC 62.040(c) does not apply to 40 C.F.R. 263.20.
18 AAC 62.421	263, Subpart C	x			
18 AAC 63.430	No equivalent		x		Requires annual update of notification for transporters
18 AAC 62.502	264, Subpart A	x			
18 AAC 62.505	264, Subpart B	x			For hazardous waste received from a foreign source, the substitution of state terms for the EPA as referenced in 18 AAC 62.040(c) does not apply to 40 C.F.R. 264.12(a).
18 AAC 62.512	264, Subpart C	x			
18 AAC 62.515	264, Subpart D	x			
18 AAC 62.520	264, Subpart E	x			the substitution of state terms for the EPA as referenced in 18 AAC 62.040(c) does not apply to 40 C.F.R. 264.71, 264.72, or 264.76.
18 AAC 62.520(b)	No equivalent, but annual reports required for TSDFs in permit	x			State requires annual notification and submission of hazardous waste activity report by March 1 st of each year for a TSDF.
18 AAC 62.525	264, Subpart F		x		
18 AAC 60.525(b)	Adopts use of Unified Guidance.		x		Adopts the Unified Guidance for statistical analysis. This may be more restrictive by requiring specific statistical methods in some cases.
18 AAC 62.527(a)	No equivalent	x			(a) Corrective action must also meet state standards of 18 AAC 75.300 – 396
18 AAC 62.527(b)	40 CFR 264.94		x		(b) Where cleanup standards differ between 18 AAC 62 and 18 AAC 75, the most stringent of those standards applies.

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
18 AAC 62.527(c)	40 CFR 264.94(b)	x			(c)ADEC may approve alternate cleanup standards
18 AAC 62.530	264, Subpart G	x			
18 AAC 62.535	264, Subpart H	x			Substitution of state terms does not apply to §264.143(e)(1), 264.145(e)(1), or 264.147(a)(1)(ii), (b)(1)(ii), (g)(2), or (i)(4).
18 AAC 62.540	264, Subpart I	x			
18 AAC 62.542	264, Subpart J	x			
18 AAC 62.545	264, Subpart K	x			
18 AAC 62.547	264, Subpart L	x			
18 AAC 62.550	264, Subpart M	x			
18 AAC 62.555	264, Subpart N	x			
18 AAC 62.560	264, Subpart O	x			
	264, Subparts P - R				[Reserved]
18 AAC 62.565	264, Subpart S	x			
	264, Subparts T - V				[Reserved]
18 AAC 62.570	264, Subpart W	x			
18 AAC 62.575	264, Subpart X	x			
	264, Subparts Y & Z				[Reserved]
18 AAC 62.580	264, Subpart AA	x			
18 AAC 62.581	264, Subpart BB	x			
18 AAC 62.582	264, Subpart CC	x			
18 AAC 62.585	264, Subpart DD	x			
18 AAC 62.590	264, Subpart EE	x			
18 AAC 62.595	264, Subpart FF	x			The substitution of state terms for the EPA or federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to this section.
18 AAC 62.599	264, Appendices	x			Adopting I, IV, V, VI, IX; Appendices II, III, VII, & VII are reserved.
18 AAC 62.601	265, Subpart A	x			
18 AAC 62.605	265, Subpart B	x			For hazardous waste received from a foreign source, the substitution of state terms for the EPA as referenced in 18 AAC 62.040(c) does not apply to 40 C.F.R. 265.12(a).
18 AAC 62.611	265, Subpart C	x			
18 AAC 62.615	265, Subpart D	x			
18 AAC 62.620(a)	265, Subpart E				Except 265.70(b) outdated paragraph The substitution of state terms for the EPA or federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to 40 C.F.R. 265.71,

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
					265.72, or 265.76.
18 AAC 62.620(b)	265.74-75	x			Requires annual submission of hazardous waste activity report by March 1 st of each year for a TSDF.
18 AAC 62.625	265, Subpart F	x			
18 AAC 62.630	265, Subpart G		x		(b) Corrective action must also comply with 18 AAC 62.527
18 AAC 62.635	265, Subpart H	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 CFR 265.143(d)(1), 265.145(d)(1), or 265.147(a)(1)(ii), (b)(1)(ii), (g)(2), or (i)(4).
18 AAC 62.640	265, Subpart I	x			
18 AAC 62.645	265, Subpart J	x			
18 AAC 62.650	265, Subpart K	x			
18 AAC 62.655	265, Subpart L	x			
18 AAC 62.660	265, Subpart M	x			
18 AAC 62.665	265, Subpart N	x			
18 AAC 62.670	265, Subpart O	x			
18 AAC 62.675	265, Subpart P	x			
18 AAC 62.680	265, Subpart Q	x			
18 AAC 62.685	265, Subpart R	x			
	265, Subparts S - V				[Reserved]
18 AAC 62.690	265, Subpart W	x			
	265, Subparts X - Z				[Reserved]
18 AAC 62.691	265, Subpart AA	x			
18 AAC 62.692	265, Subpart BB	x			
18 AAC 62.693	265, Subpart CC	x			
18 AAC 62.694	265, Subpart DD	x			
18 AAC 62.695	265, Subpart EE	x			
18 AAC 62.696	265, Subpart FF	x			Manifest requirements are administered by EPA. Accordingly, the substitution of state terms for the EPA or federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to this section.
18 AAC 62.699	265, Appendices	x			Adopting I, III, IV, V, VI; Appendix II reserved.
	266, Subparts A & B				[Reserved]
18 AAC 62.701	266, Subpart C	x			
	266, Subparts D & E				[Reserved]
18 AAC 62.711	266, Subpart F	x			

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
18 AAC 62.720	266, Subpart G	x			
18 AAC 62.730	266, Subpart H	x			
	266, Subparts I - L				[Reserved]
18 AAC 62.740	266, Subpart M	x			
18 AAC 62.750	266, Subpart N	x			
	266, Subpart O				[Reserved]
18 AAC 62.760	266, Subpart P	x			
	266, Subpart Q				Not adopted at this time will add to first regulatory package.
18 AAC 62.799	266, Appendices	x			Adopting I-IX, XI-XIII; Appendix X reserved
18 AAC 62.800	267, Subpart A	x			
18 AAC 62.810	267, Subpart B	x			
18 AAC 62.820	267, Subpart C	x			
18 AAC 62.830	267, Subpart D	x			
18 AAC 62.840(a)	267, Subpart E	x			(a) No substitution of state terms for manifest regulations – EPA administers the e-manifest system.
18 AAC 62.840 (b)	267, Subpart E		x		(b) Requires annual submission of hazardous waste activity report by March 1 st of each year.
18 AAC 62.850	267, Subpart F	x			
18 AAC 62.850(b)	No equivalent		x		Where closure and post-closure requirements in 40 C.F.R. Part 267, Subpart F include corrective action requirements, the owner or operator must also comply with 18 AAC 62.527.
18 AAC 62.860	267, Subpart G	x			
18 AAC 62.870	267, Subpart H	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to 40 C.F.R. 267.147(g)(2).
18 AAC 62.880	267, Subpart I	x			
18 AAC 62.890	267, Subpart J	x			
	267, Subparts K - CC				[Reserved]
18 AAC 62.895	267, Subpart DD	x			
18 AAC 62.901	268, Subpart A	x			The substitution of state terms for the EPA or federal officials referenced in 18 AAC 62.040(c) and (d) does not apply to 40 C.F.R. 268.5 or 268.6.
18 AAC 62.911	268, Subpart B	x			
18 AAC 62.921	268, Subpart C	x			
18 AAC 62.930	268, Subpart D	x			The substitution of state terms for the EPA or federal officials referenced in 18 AAC 62.040(c)

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
					and (d) does not apply to 40 C.F.R. 268.42(b) or 268.44.
18 AAC 62.940	268, Subpart E	x			
18 AAC 62.999	268, Appendices	x			Adopting III, IV, VI-VIII, IX, XI; Appx. I, II, V, & X reserved.
18 AAC 62.1000	270, Subpart A	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to the definitions in 40 C.F.R. 270.2 of "Approved program or approved State", "Director", "Final authorization", "Interim authorization", "Person", or "State".
18 AAC 62.1000(b)	270.1(c)(2)(xi) excluded				(b) The provisions of 40 C.F.R. 270.1(c)(2)(xi) that took effect December 10, 2024, are not adopted by reference because Alaska did not adopt 40 CFR, Subpart Q. This is a required section for state adoption and will be addressed with our next regulatory update.
18 AAC 62.1010	Some location standards			x	Informational statement of requirement and timeline of 18 AAC 63 – state siting requirements separate from the permitting process.
18 AAC 62.1020	124, Subparts A, B, & G, except 124.5(b), 124.16, 124.19, and 124.20	x			The substitution of terms referenced in 18 AAC 62.040(e) for the State of Alaska does not apply to the definitions in 40 C.F.R. 124.2(a) of "Director", "Interstate agency", "Person" or "State." Appeals addressed in 18 AAC 62.1300.
18 AAC 62.1030	270, Subpart B	x			
18 AAC 62.1040	270, Subpart C	x			
18 AAC 62.1050	270, Subpart D	x			
18 AAC 62.1060	270, Subpart E	x			
18 AAC 62.1070	270, Subpart F	x			
18 AAC 62.1075	270, Subpart G	x			
18 AAC 62.1080	270, Subpart H	x			
18 AAC 62.1085	270, Subpart I	x			
18 AAC 62.1090	270, Subpart J	x			
18 AAC 62.1100	273, Subpart A	x			
18 AAC 62.1110(a)	No equivalent				(a) Establishes the option to manage electronic waste as a universal waste.
18 AAC 62.1110(b)	No equivalent				(b) provides conditions for management of electronic waste as a non-hazardous solid waste.
18 AAC 62.1120	273, Subpart B	x			
18 AAC 62.1130	273, Subpart C	x			

STATE CITATION	FEDERAL RCRA CITATION 40 CFR	STATE ANALOG IS:			COMMENT
		EQUIV- ALENT	MORE STRIN- GENT	BROADER IN SCOPE	
18 AAC 62.1135	No equivalent				Establishes standards for managing electronic waste for universal waste handlers.
18 AAC 62.1140	273, Subpart D	x			
18 AAC 62.1150	273, Subpart E	x			
18 AAC 62.1160	273, Subpart F	x			
None	273, Subpart G				Petitions to include other wastes under 40 CFR Part 273. Did not adopt – applies in this case to the state petitioning to adopt other waste as a Universal Waste. Similar to delisting, left this power with EPA.
18 AAC 63.1390(b)	279, Subpart A	x			
18 AAC 62.1210	279, Subpart B	x			
18 AAC 62.1220	279, Subpart C	x			
18 AAC 62.1230	279, Subpart D	x			
18 AAC 62.1240	279, Subpart E	x			
18 AAC 62.1250	279, Subpart F	x			
18 AAC 62.1260	279, Subpart G	x			
18 AAC 62.1270	279, Subpart H	x			
18 AAC 62.1280	279, Subpart I	x			
18 AAC 62.1300	124.19	x			Adopts State appeal process in lieu of 124.19
18 AAC 63	Various location standards			x	<i>Siting of Hazardous Waste Management Facilities</i> includes criteria not addressed in federal regulations for the location of a new TSDF. Facilities must meet both 63 and location requirements adopted in 62 in Alaska.