



ALASKA OIL & GAS ASSOCIATION
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Rebecca Colvin
Alaska Dept. of Environmental Conservation
Division of Environmental Health
555 Cordova St.
Anchorage, AK 99501

Submitted via Electronic Submittal to: Rebecca.Colvin@alaska.gov

**RE: Proposed Regulations for a Hazardous Waste Program
Public Comments from the Alaska Oil & Gas Association**

Dear Ms. Colvin:

The Alaska Oil & Gas Association (AOGA) is a professional trade association whose mission is to foster the long-term viability of the oil and gas industry for the benefit of all Alaskans. We represent the majority of companies that are exploring, developing, producing, transporting, refining, or marketing oil and gas on the North Slope, in the Cook Inlet, and in the offshore areas of Alaska. The hazardous waste regulations being proposed by the Alaska Department of Environmental Conservation (ADEC) will affect our members; therefore, AOGA submits the following comments.

Requirements for Reporting

The proposed regulations contain provisions where a subject owner or operator is required to complete and submit EPA Form 8700-12, site identification form, to both the department [ADEC] and EPA. These provisions are found in 18 AAC 62.301 and 18 AAC 62.430. Likewise, EPA Form 8700-13 A/B are also submitted to both the department and to EPA, found at 18 AAC 62.330, 18 AAC 62.520, 18 AAC 62.620, and 18 AAC 62.840. It seems that submission to EPA, which is by use of EPA's electronic portal, RCRAInfo, should be sufficient to constitute submission to ADEC. That is, we expect that ADEC has access to or will have access to this data when it is on EPA's database.

We would like clarification that submission of EPA Forms 8700-12 and 8700-13 A/B to EPA through the RCRAInfo portal constitutes submission to ADEC. And if this is not yet the case, we respectfully recommend that ADEC arrange to have access to these forms when they have been submitted to EPA's portal. It is also probable that EPA's RCRAInfo portal is not designed to accept annual reports in non-reporting (odd-numbered) biennial years. If EPA does not accept annual reports through its RCRAInfo portal in non-reporting years, there will be chaos and confusion over how to efficiently submit those reports. We believe this uncertainty makes it untenable for ADEC to require annual reporting.

Annual reporting will also create an additional burden for Alaska's oil and gas industry, particularly for large quantity generators with dozens of different waste streams. Annual reporting is expected to require up to 80 hours of additional work each year for some large quantity generators in the Alaska oil and gas industry. ADEC has stated that it prefers annual reporting as a tool to collect baseline data on all generators of waste in Alaska; however, we believe it is unacceptable for ADEC to place a greater burden on Alaska's oil and gas industry than that currently imposed by the federal regulations, especially for only the purpose of supporting an information gathering exercise. We strongly recommend ADEC revise its proposed hazardous waste regulations to adopt the existing federal regulations with biennial reporting due by March 1 of even-numbered years.

It is also not clear to us why Alaska's hazardous waste program should require submittals to EPA, except under certain circumstances (e.g., e-manifest fee system, transboundary movements, biennial reporting through EPA's RCRAInfo portal). It is also not clear why EPA would continue to receive 40 CFR 262.42 exception reports. What will EPA do with the information when it is no longer responsible for the hazardous waste program? Has EPA committed to continue managing this aspect of the program? Exception reports should be submitted to ADEC as this issue is often a problem for shipments from Alaska (40 CFR 262.42(a) and (b), 40 CFR 265.72).

Requirements for Management of Electronic Waste as Universal Waste

There are only five states in the U.S. that manage electronic waste as universal waste. Two of the five include only consumer electronics as universal waste (see [Hazardous Waste Variations by State Matrix \(rila.org\)](#)). Why has Alaska determined that this is necessary when most states do not?

AOGA requests review of the proposed regulations regarding management of electronic waste as universal waste. We support the concept of programs such as E-Cycle Washington (see [Electronics: E-Cycle Washington - Washington State Department of Ecology \(ecology.wa.gov\)](#)). Additionally, we support the concerns and comments submitted by other parties such as Green Star of Interior Alaska related to the management of electronic waste (see comments by Green Star of Interior Alaska submitted on 9/22/23).

If the proposed regulations are adopted, we are concerned that Alaska's management of electronic waste as universal waste will be rejected as such for shipments to Washington like the way aerosol cans must be recategorized as hazardous waste when shipping through Washington. Analytical testing to characterize and show that disposed electronic devices are not RCRA hazardous waste is not a practical solution. Getting analytical results for a representative sample of the article to be disposed of for pieces of equipment is difficult. The labs typically reject any debris, large pieces, or anything that is not easily handled in a test tube and in solvent. A large piece of equipment containing a small mass of a RCRA TC-regulated metal would likely test as non-hazardous but demonstrating that by testing will be a significant challenge.

We presume that ADEC's goal is to make it easier to recycle electronic waste rather than impose more stringent regulations. If so, it should be made clear that electronic devices sent to "resellers" have not been discarded and are not considered to be a solid waste. The State

of Colorado manages electronic waste as a universal waste but also states in its regulations “alternatively, non-residential entities that send their CRTs, desktops, laptops or other electronic devices to a legitimate recycler are not considered to be the generator of a waste.” In this case, electronic equipment destined for recycling is not considered to be a waste until it is determined by the reseller that the unit cannot be resold, repaired, refurbished, or used for parts to repair or refurbish other equipment.

EPA has also clarified that used electronic equipment from a business is not considered solid waste when sent to a reseller and would not be subject to RCRA requirements (see 71 FR 42930, 67 FR 40511, and RO 14668). If the reseller decides after evaluation to send some of the devices for reclamation/disposal, the reseller is the generator of a solid waste and must make a hazardous waste determination for that material. AOGA requests that ADEC add language in the proposed regulations to define “electronic waste” consistent with EPA guidance and interpretation.

More specifically, AOGA recommends ADEC make the following changes to the proposed regulations.

18 AAC 62.205: Make clear in the title that it is “electronic waste” that is regulated. We suggest **“18 AAC 62.205. Requirements for electronic waste as universal waste.”**

18 AAC 62.1100: Make it clear that, as for other universal waste types in the federal regulations, electronics not covered include 1) electronic devices that are not RCRA solid wastes under 40 CFR Part 261 and 2) electronic waste that is not hazardous waste based on a representative sample of the device or disassembled component to be discarded. In addition, make it clear that an electronic device becomes a waste only when it is discarded and that the waste determination may not be made at the originating facility. To avoid confusion, try to mirror the form and substance of other universal waste descriptions shown in 40 CFR 273.

18 AAC 62.1110: Mirror the federal regulations and title this section “Applicability--electronic waste”.

18 AAC 62.1135: Please consider that electronic devices can be large and are often managed onsite as individual components or shrink-wrapped on pallets, as long as they are not leaking. If that does not meet the definition of “structurally sound” or adequate to prevent leakage or breakage, please reconsider the defined standard and adopt the same standard as for universal waste batteries in 40 CFR 273.13 (a)(1). For instance, lead-acid batteries that are managed as universal waste can be labelled and managed individually or shrink-wrapped onto pallets.

18 AAC 62.1135(b): A universal waste handler who is the generator of electronic waste in Alaska is more likely to send universal waste to another universal waste handler and not directly to a recycler. Therefore, this provision will typically be applicable to handlers (collectors) who receive electronic waste from multiple sources. The electronic waste may then be sent to a recycler but could also be sent to another universal waste handler. It seems odd that this is the only universal waste that requires reporting to ADEC and then only for recycled quantities. Since there is no requirement that any universal waste be recycled it is unclear why this reporting will provide meaningful information to ADEC.

18 AAC 62.1390(c)(2): Clarify the definition of “electronic waste) as suggested with the following bold text. The definition: "electronic waste" means a device that **is determined to be a solid waste and** 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 **that are determined to be solid wastes.**

Please make it clear that “electronic waste” is a device that is discarded per 40 CFR 261.2(a)(2) and could be hazardous waste if disposed.

Other Comments

18 AAC 62.250, 18 AAC 62.535, 18 AAC 62.635, 18 AAC 62.870 – ADEC needs to clarify what agency will be named in the financial assurance. Why does EPA require a duplicate “original” if ADEC has program primacy?

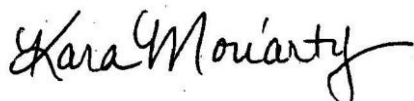
18 AAC 62.330(d) – ADEC should consider that if they require five calendar years of annual reporting followed by biennial reporting, a reporting year is an even-numbered year, which aligns with the EPA’s schedule.

18 AAC 62.370 – ADEC should clarify that episodic generation is to be reported to EPA via submittal of Form 8700-12 through the RCRAInfo portal. How will ADEC be aware of these exceptions? Which agency (EPA or ADEC) will provide any required written approvals?

18 AAC 62.525, 18 AAC 62.527, and 18 AAC 62.565 – While ADEC indicates it will incorporate 40 CFR 264 Subparts F, G and S by reference for corrective actions, it appears that this is for potential future corrective actions, not current corrective action sites. ADEC has not provided its Program Description as required by 40 CFR 271.6; therefore, it is not clear to the regulated community how it intends to incorporate and manage current corrective action orders, while simultaneously introducing potentially more stringent cleanup requirements under 18 AAC 75 and 18 AAC 78. ADEC needs to develop and distribute its Program Description with clear procedures on how or if it intends to assume and manage existing corrective action orders.

AOGA appreciates the opportunity to comment on the proposed regulations. Please feel free to contact me if you have any questions or would like to discuss our comments.

Best regards,



Kara Moriarty
President & CEO