

From: [Lynn Zender](#)
To: [Colvin, Rebecca A \(DEC\)](#)
Subject: Questions submitted for PROPOSED REGULATIONS ON HAZARDOUS WASTE IN THE REGULATIONS OF DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Date: Thursday, August 31, 2023 1:25:49 PM

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Dear Ms. Colvin,

Thank you for the opportunity to ask questions related to the Proposed Regulations for a Hazardous Waste Program. The Public Comments website listed your name and email as the appropriate avenue to submit questions. Our organization works extensively with approximately 180 remote communities, primarily Alaska Native, and primarily off the road system. We focus on solid waste management issues and capacity building related to operations, planning, and administration of waste management in a manner that is most protective of human health. We also administer the Backhaul Alaska Program on behalf of the Solid Waste Alaska Taskforce. This program successfully works with local communities to develop backhaul programs with adequate PPE and equipment, and trained staff. Backhaul Alaska helps to haul out lead acid batteries, electronics, and fluorescent lights. We have gained substantial knowledge on how small, rural communities get these materials out, and the many challenges they face. Because poor economy of scale limits the staff time and operational capacity, backhauling spent products like electronics is challenging. However, the communities we work with spend an extraordinary effort to backhaul because they want those spent wastes out of their community, and shipped to Lower 48 where they can be safely recycled.

We have a number of questions. To note our first question is related to whether an extension for the comment period can be granted. Please let us know if we should send a separate letter of request through any other channel.

- 1. Can the comment period be extended by 120 days? 120 days is needed so that rural communities have time to learn the impacts of the program for their community and to comment in a knowledgeable way.**
 - **Insufficient time** The time currently allowed is insufficient for communities to understand the impact of the regulations on their programs and budget (i.e. staff time, recordkeeping, training, other)? We are not aware of significant outreach to the smaller rural community waste programs (tribe or municipally-governed) for their meaningful engagement or stakeholder input during the drafting of these proposed regulations, and we are not aware of outreach, either verbal or written materials to describe potential impacts of these regulations.

- **Low awareness by stakeholders and public** It is our opinion that the large majority of stakeholders are unaware that the draft rules are out, and that the comment period ends Sept 14th. As a matter of our regular work, we have spoken with several solid waste program managers and planners, both from urban large and rural small communities, who should have been aware of the comment period, but were not.
- **Disadvantageous timing for meaningful public participation** The timing of this proposed rule is heavily disadvantageous for rural communities, if not the rest of Alaska, because it comes during the height of subsistence activities. Much or all of the staff that operate solid waste programs are out or very busy, and do not have the time to read through these regulations.

The timing is additionally unsuitable because this is the exact period when backhaul activities take place with the last summer barge due soon. Thus, the same small community programs that will be most impacted by the proposed regulations are those programs that are busiest.

Finally, the timing is unsuitable also because the rural barge schedule is winding down, with the last barges on their way in, and project construction activities are likewise hurried before winter freezeup and demob time..

- **Inadequate window for questions** The timeframe is practically shorter because the question period ends Sept 4th, which is a holiday. Essentially, Sept 1st then is the last business day to ask questions, and it is unclear when those will be able to be answered. In our case, we needed additional time to ensure all of our questions are asked and to ensure that we didn't ask questions that weren't needed. As is, we are asking a number of wide-ranging questions precisely because of the lack of time to compose our set more succinctly.
- **Reading level of proposed rules is limiting** It is my opinion that The regulations are very difficult to parse out. Rather than including federal regulations within the text, each line item is included by referencing the Subtitle C statute number, without any text descriptor as to its content. As a result, the reader is left to switching back and forth between proposed regulations and federal regulations, without context. It is tedious and well above high school level reading level. As someone with a PhD in Environmental Engineering, who is familiar with Subtitles C and D, I was left with several questions. This seems to be unfair for the Southwest's Yup'ik communities who have been able to retain Yup'ik as a primary language. Other Alaska citizens not in the Industry, but still interested in whether their State should or should not take over a new program from the Federal government, are also left at a major disadvantage. I believe the average reading level is around Grade 8. Even if it were Grade 10, the proposed regulations are too dense for most citizens to digest in the amount of time given, and especially if they have been

trying to get their fish and meat for the winter, or taking a trip outside to some sun. Regardless of whether an extension can be granted, we'd like to ask these preliminary questions and may send more, if we are able to formulate them by the 4th.

1. **What is the impact of these regulations on rural communities?**
2. **Exactly how will the program changes affect them?**
3. **What additional paperwork, reporting, and enforcement measures will impact them?**
4. **How many additional staff hours will they need?**
5. **What will the cost be?**
6. **What portion of electronic waste that is shipped out through discount and space available opportunities now by transporters does the state expect to desist from offering that free shipping? Does the State have research information on this topic – for example were transporters consulted?**
7. **What is the value of the opportunity lost due to the precipitation of transporter liability and insurance concerns in carrying “hazardous waste”? We understand what universal waste is, but it is still then classified as hazardous, regardless of the less stringent transporting rules.**
8. **What enforcement mechanisms will be used for small rural communities?**
9. **What will happen when, as often happens now, if rural communities accumulate more than 11,000 pounds of electronics? This could be because shipping is costly and they need to wait 2 or 3 years to ship out, or because they missed the barge due to any number of reasons.**
10. **Will there be additional site visits by DEC staff, which will require additional staff hours?**
11. **How much money will this cost the state and what will be the benefit of this program to Alaska citizens?**
12. **Did the State seek out and consider rural stakeholder feedback? What feedback did they provide? Same questions related to the Transporter Industry?**
13. **What basis was used for the decision to label electronic waste as universal waste, when doing so increases the paperwork/labelling/reporting requirements? Forty-one states don't consider spent electronics as fitting Subtitle C definitions, at least partly because of the various difficulties in testing and ambiguity of results. Can the state provide the research on which the conclusions are based?**
14. **How does the State define an electronic waste? It appears as written, it will mean any spent material with a cord or circuit board or battery – this would**

include all white goods, peripherals, toasters, etc. What part of the waste will be hazardous? All or part of it?

15. **Can the State provide a lay-person, detailed and comprehensive description of how the proposed regulations will affect not only small communities with Class III landfills, but the hubs with Class II and urban Class 1 landfills and associated hazardous waste programs, as well as any electronics recyclers or other universal or otherwise hazardous waste handlers, including in small communities?** For example, the federal government proposes rules with a section on “How will the proposed rule affect me? This information will be essential for stakeholders and the general public to knowledgeably comment on whether they see positive or negative impacts. Indeed, we have not formulated our own opinion yet of the proposed program and public comments received may be highly positive or negative. But at this point, the comments received may not be reflective of informed responses.
16. **Can the State describe the impact of the regulations on used oil programs in small rural communities and can the State describe impacts to rural small businesses and institutions, households and businesses and local offices changing oil in communities that lack used oil collection, and to fishing vessels regarding used oil management changes?**
17. **How will demobilization of rural construction projects, public and private, be affected? What cost increases does the state estimate for installing infrastructure into our rural regions? How much will the state incur?**

Thank you so much for your time. As you know our staff have worked extensively for some time with DEC solid waste program staff as our mission overlaps with the state. We have seen only great knowledge, professionalism, and dedication to improving Alaska’s health and environment. We understand that it is DEC’s review of comments that will ultimately determine the finalized rules. We therefore hope to submit informed comments that are relevant to the proposed regulations as they are envisioned, and we hope that small communities in the State, with whom we work, are able to do the same.

Thank you again so much for considering our all of our questions. We look forward especially to our question concerning a time extension. If that response is yes, that we will expect responses to our other questions may be delayed as you see fit.

- Lynn

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