



October 30, 2023

Dear Ms. Colvin,

Thank you to ADEC for the opportunity to provide comments pertaining to the *Proposed Regulations for a Hazardous Waste Program*. Our non-profit organization, Zender Environmental Health and Research (Zender Environmental), has been closely following the progress of the proposed regulations.

Zender Environmental administers the Backhaul Alaska Program, a program which provides rural Alaskan communities with training, technical assistance, and funding for the shipping & recycling of end-of-life electronics and other hard to handle materials such as Universal Waste (UW) lamps and batteries. Currently, the Program serves 85 communities and works with regional host organizations in Bethel, Dillingham, Unalaska, Kodiak, and Fairbanks. Separately, our organization carries out solid waste management assistance and training with 45 to 65 communities annually, and operates a rural job training program, RACEJT, for residents from an additional 12 communities.

On behalf of our organization and the Backhaul Alaska Program, we ask that ADEC reconsider designating electronic waste as a state specific UW item. UW regulations were developed to ease regulatory burden, promote recycling, and divert UW materials from landfills. Our concern is that ADEC would require companies and organizations collecting, shipping and/or receiving electronics for the purpose of recycling to be subject to UW regulations. If this is the case, the inclusion of electronics as a UW would increase regulatory burden for these entities, and therefore serve as a disincentive in, and obstacle to, recycling them, especially in rural Alaska.

The regulatory requirements for Universal Waste Handlers were not written in a way that reflects rural Alaska circumstances. The regulations do not take into account small local collection programs with extremely limited budgets, and staff. Nor do they consider the lack of road access and reliance on limited and expensive transportation options.

The current barriers to managing electronics in rural Alaska are not regulatory ones. In general, communities throughout Alaska do not want to dispose of electronics in local landfills and many have collection and backhaul programs. The main obstacle faced by these communities is lack of staff, funding, and resources to properly manage spent electronics. Additionally, the high rate of job turnover in rural Alaska, the limited shipping opportunities, and lack of adequate storage capacity all challenge local community backhaul programs. Adding a layer of regulation will further complicate and hinder the substantial and often herculean backhaul efforts that communities make now.

### **Impact of UW Designation**

Currently, there are little-to-no regulatory burdens when electronics are collected and shipped for recycling. In Alaska a household or business can drop-off or ship any quantity of electronics to a recycler without concern for generator status classification or hazardous waste regulatory compliance. And, provided they are ultimately being recycled, organizations accepting electronics are not burdened with hazardous waste regulatory compliance. While there are 12 states that have added electronics to their Universal Waste programs (of which 3 apply to CRTs only and not all electronics), 37 states do not consider intact electronics to be hazardous waste when managed for recycling.

Thus, the large majority of electronics in the US are collected and recycled in the same relatively burden-free manner. For example, in Alaska and the 37 other states, a company and/or organization wanting to recycle their electronics can simply ship a load of end-of-life-electronics to a recycler, just as those same electronics when new were shipped to stores and consumers. Outside of the business interaction, there are no additional markings, labels, placards, or documentation involved, regardless of the quantity of electronics.



Under the proposed regulations it appears that ADEC would consider the accumulation and subsequent shipment of electronics to be subject to UW regulations. This action would mean the shipper would need to do the following:

- Mark and label each package as described in the proposed regulation.
- Ensure electronics are shipped so they don't accumulate beyond a 1-year time period.
- Comply with UW employee training requirements.

Further, if the shipment is in excess of 11,023 lbs the shipper would be subject to Large Quantity Handler of Universal Waste Requirements, meaning the shipper would need to:

- Ascertain the weight accumulated, not an easy feat in most small communities, which tend to lack adequate space and scales for weighing.
- Send written notice of UW management activities.
- Obtain an EPA ID number.
- Mark and label each package as described in the proposed regulation.
- Maintain 3 years of records of incoming & outgoing shipments of electronics.

If this interpretation is correct, then the proposed regulation makes what currently is a straightforward business transaction into a more burdensome one. Importantly, the risk of non-compliance and threat of enforcement action is also added. Overall, for those choosing to recycle electronics, their management becomes more complicated and legally risky – especially if electronics are stored onsite beyond the 11,023 lbs threshold.

In rural Alaska these complications would be amplified due to more limited transportation opportunities, funds, and resources to manage end-of-life electronics.

### **Potential Impacts to Backhaul and Other Recycling Programs in Rural Alaska**

Many communities in rural Alaska have collection programs (both door-to-door and/or drop-off collection) that routinely collect, store, package, and ship electronics for recycling. It is common practice to store electronics until there is enough material to fill a 20ft container, thus making a recycling shipment more economically feasible. Often it will take a rural recycling program in excess of 1 year to consolidate this volume of electronics. Additionally, electronic recycling shipments often include items such as lead acid batteries and UW lamps.

Currently rural recycling programs collect, store, and ship electronics collected from households, businesses, and other organizations (regardless of quantity received) throughout the community without additional regulatory requirements. Materials backhauled are managed as a simple business transaction similar to the example provided earlier.

Under the proposed regulations a rural community recycling program providing electronic recycling services would have to choose between:

- 1) Only collecting from households, businesses, and organizations that do not exceed VSQG thresholds and manage electronics similar to HHW, thus bypassing the UW regulations, or
- 2) Managing all electronics as UW, from all households, businesses, and organizations so that electronics from the entire community can be kept out of the landfill and recycled.

If a rural recycling program wants to serve their whole community and thus chooses the latter, several burdensome impacts will accrue:

- If storing electronics beyond the 1-year accumulation requirement -- a new need to demonstrate the accumulation is "*necessary to facilitate proper recovery, treatment, or disposal*"



- If accumulations of electronics (in addition to accumulations of other UW items such as UW lamps and lead acid batteries) are in excess 11,023 lbs -- a new need to comply with Large Quantity Handler of Universal Waste Requirements, including:
  - Written notice of Universal Waste management activities
  - Acquisition of an EPA ID number
  - Package marking and labelling in compliance with regulations
  - 3-year record maintenance of incoming & outgoing shipments.

As before, what is currently a fairly simple and straightforward process of recycling electronics under the proposed regulations becomes a more much complex and difficult process now subject to regulatory oversight.

### **Potential Impacts to Regional Backhaul Programs**

There are currently several regional backhaul programs that routinely receive electronics from their surrounding communities. The source of these electronics are from households as well as local businesses/organizations.

To continue serving household and commercial operations, it would be necessary to manage all electronics as UW due to the quantities accumulated prior to shipment. Most regional programs, if not all, would be subject to Large Quantity Handler requirements.

Again, instead of a straightforward and simple process of collecting & shipping electronics, regional backhaul programs would now have additional regulatory and administrative burdens to comply with.

### **Potential Impacts to Electronic Recycling Collection Events**

Many electronic recycling collections events occur statewide in road and off-road system communities annually. In an effort to rid their communities of electronics piled up in closets, garages, and cellars, these events often allow for drop-offs from both household and businesses. Some events direct materials to in-state recyclers while others load containers onsite and ship materials to out-of-state recyclers at the event's conclusion.

The Backhaul Alaska Program conducts multiple collection events in rural communities statewide. Our Program conducts these collection events to provide recycling opportunities for underserved communities. These events allow for the public and local businesses/organizations the opportunity to drop-off electronics, lead acid batteries, and UW lamps for recycling at no cost. Often the Backhaul Alaska collection events are the only opportunity for community members to drop-off these items locally.

Operating these events like HHW collections would exclude many participants, and many electronics would go back to possibly unsafe storage or worse, would be dumped illegally. One photocopier can push a generator above the 220 lbs per month limit for VSGQ, forcing these items to be managed as UW under the proposed regulations. Further, all received electronics are sorted and consolidated to save shipping space and reduce the cost of recycling. Comingling electronics would necessitate managing the entire shipment as UW.

Backhaul Alaska collection events typically receive in excess of 11,023 lbs of electronics in addition to the smaller volume of UW lamps and batteries. Under the proposed regulations our program would be subject to Large Quantity Handler requirements, thus turning a simple recycling collection event into a more complicated situation with the additional risk of regulatory noncompliance. This risk would raise our insurance and it might dissuade our transporter partners from offering discounted shipping rates that we rely on in order to help make backhaul feasible for rural Alaska communities.



As with the previous examples, being subject to Universal Waste regulations when there was little-to-no regulatory burden previously counters efforts to promote recycling. The regulations disincentivize large scale collection events, leading to fewer opportunities for communities to manage electronics affordably.

### **Proposed Definition of Electronic Waste**

In the proposed regulation, "electronic waste" as defined in 18 AAC 62.1390(c)(2) leaves ambiguity regarding what would or would not be considered electronic waste. Though the definition cites examples of smaller devices such as laptops, keyboards, copy machines, etc., the definition also states "*electronic waste' means a device that contains one or more circuit boards or other complex circuitry*". Would this definition also apply to large appliances (stoves, refrigerators, washing machines, etc.) which contain circuit boards? If so, this proposed ruling will have an even greater negative impact on responsible, best practice recycling and rural communities, who can afford the least, will be disserved the greatest in their best attempts to maintain limited landfill space by moving these items out of their communities.

A more refined definition or defining what a "device" is (pertaining to electronics) would help provide clarity regarding the scope of electronic waste covered under these regulations.

### **Conclusion**

We strongly agree that electronics do not belong in landfills and wish to help Alaskan communities manage these items so they can be recycled responsibly. However, designating electronics as UW is not the best method to further the backhaul and recycling of this material. We ask ADEC to reassess how to best divert electronics from landfills and explore alternatives to the UW designation.

Again, thank you for the opportunity to provide comment, and do not hesitate to reach me using the below contact information should you have any questions.

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