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Ahtna Native Corporation is providing comments to the Alaska Department of Environmental Conservation (DEC) proposed 18 AAC 62 Hazardous Waste Regulations, provided for public comment on August 9, 2023, at: <https://eh.alaskadec.commentinput.com/?id=catsHG7Zf>

According to the text on the Proposed Regulations for a Hazardous Waste Program webpage, -1-The purpose of the regulations is to create a hazardous waste program under the Resource Conservation and Recovery Act (RCRA) Subtitle C for the State of Alaska. The program will be delegated to the state from the U.S. Environmental Protection Agency (EPA), and once authorized, will be carried out -1-in lieu of-1- the federal program.-1- The proposed 18 AAC 62 Hazardous Waste Regulations include updates to all of the sections of the previous regulations which includes the adoption of federal standards for identification and listing of hazardous waste; standards for hazardous waste generators; standards hazardous waste transporters; standards for hazardous waste treatment, storage, and disposal facilities; land disposal restrictions; permitting procedures for hazardous waste facilities; air emissions, emergency preparedness, container and tank management, universal waste management standards; and used oil management standards.

However, it is unclear from the proposed regulation how DEC will manage these regulations -1-in lieu of-1- the EPA, as numerous regulations (outlined below) require reporting to both DEC and EPA Region X. It is also unclear who will have primacy, DEC or EPA Region X, e.g., who will perform the permitting, enforcement, and corrective actions associated with these regulations. Ahtna is concerned that there will be duplicative reporting requirements and that it will be unclear who has regulatory authority.

- 18 AAC 62.250 (Financial requirements for management of excluded hazardous secondary materials), 18 AAC 62.535 (Financial requirements), 18 AAC 62.635 (Financial requirements), and 18 AAC 62.870 (Financial requirements) – -1-liability requirements and financial assurance must be submitted to both the department [DEC] and the EPA regional administrator.-1-
- 18 AAC 62.520, 18 AAC 62.620 and 18 AAC 62.840 (Manifest system, recordkeeping, and reporting) – -1-the owner or operator must complete and submit EPA Form 8700–13 A/B to the department and EPA-1-
- 18 AAC 62.301 (General provisions) – -1-small or large quantity generator must complete and submit EPA Form 8700-12 (site identification form) or the equivalent to the department and EPA-1-
- 18 AAC 62.330 (Recordkeeping and reporting applicable to small and large quantity generators) – -1-complete and submit EPA Form 8700– 13 A/B to the department and EPA-1-

In Article 11. Standards for Universal Waste Management, the proposed DEC regulations, adopt by reference applicable Federal provisions. One notable difference is the proposal to manage electronic waste as universal waste. Electronic waste is defined in 18 AAC 62.1390 as 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. Universal waste is allowed to be recycled and is not therefore considered a hazardous waste, but these materials have their own set of storage, shipping,

and tracking requirements which are specific to small quantity generators and large quantity generators which are not presented in the proposed regulation. The EPA does not include electronic equipment as Universal waste, but states may add additional universal wastes to their universal waste program including electronic waste. However, the addition of electronic waste as a Universal waste will provide an undue burden on businesses that produce electronic waste.

The duties of administrating RCRA requirements will require a robust staff well versed in RCRA, to include, but not limited to managing and enforcing permitting, hazardous waste containers, tank systems, emergency preparedness and response, air emissions standards, monitoring, corrective actions, and cleanup. The current DEC Hazardous Waste Program of six staff may prove inadequate for all these responsibilities. The DEC Solid Waste Program in comparison has a staff of thirteen including a Program Manager, two Regional Managers, a Technical Specialist, a Program Coordinator, and eight environmental specialists.

Ahtna is concerned, that during times when the Alaska state government is operating at extreme deficit, relying on the Permanent Fund to run state government, if DEC has the budget to support the numerous programs discussed in the proposed regulation especially in light that no increased appropriation is expected to be required to support it.

DEC's Hazardous Waste Program website indicates the steps in developing the program as including:

1. Hiring and training of program staff
2. Statute and regulation development
3. Application for program approval to EPA, in accordance with 40 CFR 271
4. Public outreach throughout the process

However, there has been no public outreach prior to the public notice of the proposed regulations. A listserv email notification system was established but has not been used to disseminate any information prior to the public notice of the proposed regulations. The current program staff qualifications and their training regimen are not presented. DEC has not identified the specific criteria required for application for program approval by EPA nor how they meet those criteria.