



SOUTH CAROLINA ASSOCIATION OF COUNTIES

Charles T. Jennings, President
McCormick County

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April 11, 2019

REGULATIONS UPDATE

To: County Administrative Officers
From: Susan Turkopuls
Subject: **DHEC: Hazardous Waste Management – Revise Def. of Solid Waste**
DHEC: Hazardous Waste Management Regulations – Def. of Solid Waste Exemptions
DHEC: Hazardous Waste Management Regulations – Imports and Exports (Final Regulation Doc. 4840)

Please take note of the following items of interest from the STATE REGISTER. PLEASE CIRCULATE TO APPROPRIATE STAFF FOR REVIEW AND COMMENT. To view any proposed or final regulation online, go to <http://www.scstatehouse.gov/regnsrch.php>. You can search by document number, subject or agency. If you have any questions or comments, or are interested in obtaining a copy of any regulation, please call the SCAC offices at 1 800 922 6081.

DRAFTING NOTICES

DHEC: Hazardous Waste Management Regulations

DHEC proposes amending R.61-79, Hazardous Waste Management Regulations. Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on April 22, 2019, the close of the draft comment period.

Synopsis: DHEC proposes adopting the “Revisions to the Definition of Solid Waste Rule,” published on January 13, 2015, at 80 FR 1694-1814 and May 30, 2018, at 83 FR 24664-24671. This United States Environmental Protection Agency (“EPA”) rule revised several recycling-related provisions issued under the authority of Subtitle C of the Resource Conservation and Recovery Act. The purpose of these revisions is to encourage reclamation of hazardous secondary materials in an environmentally safe manner.

The federal rule has made the recycling-related provisions less stringent than previous standards. Because the standards are now less stringent than what states have been enforcing, the EPA has made state adoption optional. The proposed amendments are described in EPA Checklist 233D2 (2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule) and Checklist 233E (Remanufacturing Exclusion). These checklists may be found at <https://www.epa.gov/rcra/rule-checklists-applications-state-authorization-underresource-conservation-and-recovery-act>.

DHEC also proposes amending R.61-79 to correct typographical errors, citation errors, and other errors and omissions that have come to the Department's attention, such as correcting form references, updating definitions, adding language that was erroneously omitted during adoption of previous rules, and other such changes. The Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(A), requires General Assembly review of these proposed amendments.

DHEC: Hazardous Waste Management Regulations (Exempt)

DHEC proposes amending R.61-79, Hazardous Waste Management Regulations. Interested persons may submit comment(s) on the proposed amendment to Joe Bowers of the Bureau of Land and Waste Management; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; bowersjb@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on April 22, 2019, the close of the draft comment period.

Synopsis: DHEC proposes amending R.61-79 to adopt three final rules published in the Federal Register by the United States Environmental Protection Agency ("EPA"). The EPA requires state adoption of these rules, as the rules do not revise existing standards to make them less stringent. The three final rules are summarized below.

1. DHEC proposes adopting the "Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," published on May 30, 2018, at 83 FR 24664-24671. This rule revised several recycling-related provisions associated with the definition of solid waste under Subtitle C of the Resource Conservation and Recovery Act ("RCRA"). On July 7, 2017, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated portions of this rule (see *American Petroleum Inst. v. Environmental Prot. Agency*, 883 F.3d 918 (D.C. Cir. 2018)). This ruling affects portions of the Definition of Solid Waste Rule that the Department adopted on May 27, 2016. (see State Register Document No. 4646).

2. DHEC proposes adopting the "Confidentiality Determinations for Hazardous Waste Export and Import Documents," published on December 26, 2017, at 82 FR 60894-60901. This rule amends existing regulations regarding the export and import of hazardous wastes from and into the United States. This rule applies a confidentiality determination such that no person can assert confidential business information claims for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The EPA makes these changes to apply a consistent approach in addressing confidentiality claims for export and import documentation.

3. The Department proposes adopting the "Hazardous Waste Electronic Manifest System User Fee; Final Rule," published on January 3, 2018, at 83 FR 420-462. This rule establishes the methodology the EPA will use to determine and revise user fees applicable to the electronic and paper manifests to be submitted to the national electronic manifest system ("e-Manifest system") in accordance with the Hazardous Waste Electronic Manifest Establishment Act, P.L. 112-195. The Hazardous Waste Electronic Manifest System became operational nationwide on June 30, 2018.

Pursuant to the Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(H)(1), these proposed amendments are exempt from General Assembly review because they are necessary to maintain compliance with federal law.

FINAL REGULATIONS

DHEC: Hazardous Waste Management Regulations – Final Regulation (Doc. 4840)

DHEC amended R.61-79, Hazardous Waste Management Regulations, to adopt the “Imports and Exports of Hazardous Waste Rule” published on November 28, 2016, at 81 FR 85696-85729 and on August 29, 2017, at 82 FR 41015-41016 by the United States Environmental Protection Agency (“EPA”). The amendments support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. The amendments make existing import- and export-related requirements more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development, enable electronic submittal to the EPA of all import and export-related documents (e.g., export notices, export annual reports), and enable electronic validation of consent in the Automated Export System (“AES”) for export shipments subject to the Resource Conservation and Recovery Act (“RCRA”) export consent requirements prior to exit. The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), has exempted these amendments from General Assembly review, as the Department promulgated the amendments for compliance with federal law. The Department had a Notice of Drafting published in the April 27, 2018, South Carolina State Register.61-79. Hazardous Waste Management Regulations.

County Impact: Due to a statewide landfill ban on electronic waste, many counties have been forced to store CRTs (Cathode Ray Tubes) until they are recycled. Therefore, please take notice of the amendments to DHEC Regulation R. 61-79, the South Carolina Hazardous Waste Management Regulation. Specifically note the amendments to section 261.39, dealing with importing and exporting CRTs. In short, the amendments place more requirements on exporters of CRTs, including new reporting and recordkeeping duties. The regulation may be viewed online at <http://www.scstatehouse.gov/regnsrch.php> and retrieving document number 4840.