



South Carolina Association of Counties

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REGULATIONS UPDATE

To: Chief Administrative Officers
From: Susan Turkopuls
Subject: **DHEC: Hazardous Waste Management Regulations (Doc. No. 4643)**
Criminal Justice Academy: Suspension of Certification due to Criminal Charges/Indictements (Doc. No. 4524)
DHEC: Consumer Electronic Equipment Collection and Recovery (Doc. No. 4539)

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.

PROPOSED

DHEC: Hazardous Waste Management Regulations (Doc. No. 4643)

DHEC proposes to amend R.61-79, Hazardous Waste Management Regulations, to adopt four final rules published in the Federal Register by the United States Environmental Protection Agency (EPA). The four final rules are summarized below.

1. DHEC proposes adopting the "Hazardous Waste Electronic Manifest System; Final Rule," which establishes new requirements that will authorize the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. This final rule also implements certain provisions of the Hazardous Waste Electronic Manifest Establishment Act, Pub. L. 112-195, which directs EPA to establish a national electronic manifest system (or e-Manifest system), and to impose reasonable user service fees as a means to fund the development and operation of the e-Manifest system.
2. DHEC proposes adopting the "Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule," which will allow the DHEC to better track exports of CRTs for reuse and recycling in order to ensure safe management of these materials.

3. DHEC proposes adopting the “Revisions to the Definition of Solid Waste, ” which revises several recycling-related provisions associated with the definition of solid waste used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act. The purpose of these revisions is to ensure that the hazardous secondary materials recycling regulations, as implemented, encourage reclamation in a way that does not result in increased risk to human health and the environment from discarded hazardous secondary material.
4. DHEC proposes adopting the “Vacatur of the Comparable Fuels Rule and the Gasification Rule,” which revises regulations associated with the comparable fuels exclusion and the gasification exclusion, originally issued by EPA under RCRA. For states that have previously been authorized for the comparable fuels and gasification rules, the effect of the vacatur is that the previously authorized comparable fuels and gasification exclusion will no longer be in effect.

Interested members of the public and regulated community are invited to make oral and/or written comments on the proposed amendments of R.61-79 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on May 12, 2016 at 10:00 a.m. in the Board Room, Third floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, South Carolina 29201.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to David Scaturo by mail at Bureau of Land and Waste Management, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; by facsimile at (803) 898-0590; or by e-mail at scaturdm@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on April 25, 2016, the close of the public comment period.

Copies of the proposed amendments may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the Land and Waste Management item and scan down to the proposed amendments of R.61-79. A copy can also be obtained by contacting David Scaturo at the above address or by calling (803)898-0290, or by email at scaturdm@dhec.sc.gov.

FINAL

Criminal Justice Academy: Suspension of Certification due to Criminal Charges/Indictments (Doc. No. 4524)

The Law Enforcement Training Council has noted some currently certified law enforcement officers are charged and/or indicted for crimes that, if they resulted in a conviction, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 38-004, and/or S.C. Regulation 38-016. Due to the potential danger posed to the public in allowing these individuals to remain actively engaged in law enforcement duties while such charges are pending, the Training Council believes a permanent regulation is necessary. This regulation was filed as an emergency regulation on August 1, 2014 at 12:30 p.m. and was also refiled as an emergency regulation pursuant to S.C. Code §1-23-130(C). The emergency regulation expired on February 1, 2015 at 1:54 p.m.

The new regulation is as follows:

Article 5

37-100 This section deals with suspending certification when law enforcement officers are charged or indicted for crimes which, if they resulted in a conviction, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026.

Text:

37-100. Suspension of Certification Due to Criminal Charges and/or Indictment.

A. If a law enforcement officer is charged and/or indicted for a crime that could result in disqualification under S.C. Code 23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026, the officer's law enforcement certification may be suspended by the Council until the criminal charge is resolved.

B. Upon receiving notification that a law enforcement officer has been charged and/or indicted for a crime that could result in disqualification under S.C. Code 23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026 and being informed the Council is suspending the law enforcement officer's certification until the criminal charge is resolved, the Academy shall notify the officer and the officer's current law enforcement employer of the suspension of the officer's law enforcement certification. This notification shall be sent by registered mail, to the current address on file at the Academy, return receipt requested, to the officer and to the current law enforcement employer. It is the responsibility of every law enforcement officer to notify the Academy of his or her current address.

C. Once the criminal charge against the law enforcement officer has been resolved, if the officer is still employed by a law enforcement agency at the time of resolution, it shall be the responsibility of the law enforcement employer to notify the Academy of the resolution of the criminal charge(s) by providing the Academy with certified copies of the Court document(s) showing the resolution of the criminal charge(s).

Final regulations may be viewed online at <http://www.scstatehouse.gov/regnsrch.php>.

DHEC: Consumer Electronic Equipment Collection and Recovery (Doc. No. 4539)

To satisfy the requirements of the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act (hereafter referred to as the Act), DHEC is promulgating new Regulation 61-124, Consumer Electronic Equipment Collection and Recovery. The regulation establishes standards for labeling covered devices and for the registration of manufacturers of covered devices. The regulation establishes procedures for banning covered devices from disposal in solid waste landfills and specifies annual registration fees for manufacturers of covered electronic devices. The regulation addresses responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, standards for the safe, environmentally responsible recovery and recycling of devices when no longer wanted by consumers and reporting requirements. The regulation also establishes fines for violations of the Act and the regulation.

The new regulation is as follows:

Text:

61-124. Consumer Electronic Equipment Collection and Recovery.

Statutory Authority: 1976 Code Section 48-60-5 et seq.

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A. Purpose and Scope; Applicability.

1. The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act (hereafter referred to as the Act), S.C. Code Section 48-60-5 et seq., establishes requirements for the sale, management and recovery of covered electronic devices, specifically for household computers, printers, monitors and televisions. The purpose of this regulation is to execute the provisions of the Act.

2. This regulation applies to the proper management of consumer computers, printers, monitors and televisions by the manufacturers, retailers, and recoverers of these devices.

3. A manufacturer of a covered device that sells five hundred or fewer such devices in the State per year is exempt from registration, penalty, or shortfall fees proposed in this chapter. However, should a manufacturer that is exempt from registration choose to be included on the Department's webpage list of manufacturers with compliant consumer electronic device stewardship programs, then the manufacturer shall provide details of their program for the previous year.

B. Definitions.

1. "Act" means the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act of 2010.

2. "Collect" or "collection" means to facilitate the delivery of a covered device to a collection site included in a manufacturer's consumer electronic device stewardship program and to transport the covered device for recovery.

3. "A computer manufacturer" means a person who:

a. Manufactures a covered computer device under its own brand for sale or without affixing a brand;

b. Sells in this State a covered computer device produced by another supplier under its own brand or label;

c. Imports covered computer devices; provided that if a company from which an importer purchases a covered computer device has a presence or assets in the United States, that company must be considered the manufacturer; or

d. Manufactures a covered computer device, supplies a covered computer device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

4. "A computer monitor manufacturer" means a person who:

a. Manufactures a covered computer monitor device under its own brand for sale or without affixing a brand;

b. Sells in this State a covered computer monitor device produced by another supplier under its own brand or label;

c. Imports covered computer monitor devices; provided that if a company from which an importer purchases a covered computer monitor device has a presence or assets in the United States, that company must be considered the manufacturer; or

d. Manufactures a covered computer monitor device, supplies a covered computer monitor device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

5. "Consumer" means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.

6. "Consolidate" means to gather for transport or storage covered devices prior to delivery to a recovery or recycling facility. Consolidation programs may include, but are not limited to, local government programs, private collection networks, and other forms of collection associated with consumer electronic device stewardship programs.

7. "Covered computer device" means a desktop, laptop or notebook computer or a printing device marketed and intended for use by a consumer, but does not include a covered television device. An integrated all-in-one unit, containing both a display greater than thirteen inches, and a computer, is considered a covered computer device for the purposes of this regulation.
8. "Covered computer monitor device" means a display device typically manufactured without an internal tuner that can display pictures and sound and is designed for use with a desktop computer.
9. "Covered devices" means a covered computer device, a covered computer monitor device and a covered television device marketed and intended for use by a consumer. "Covered device," "covered computer device," "covered computer monitor device" and "covered television device" do not include any of the following:
- a. A covered device that is a part of a motor vehicle or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;
 - b. A covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, or emergency services purposes or equipment designed and intended primarily for use by professional users;
 - c. A covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment;
 - d. Telephones of any type, including but not limited to mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand-held gaming device; or
 - e. A plastic, wood or composite case that once held a covered device or was a subassembly of a covered device but is void of any electronics, leaded glass or metal electronic components.
10. "Covered television device" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.
11. "Department" means the South Carolina Department of Health and Environmental Control (DHEC).
12. "Individual Recycling Obligation" means:
- a. The total weight in pounds of covered television and computer monitor devices that a television or computer monitor manufacturer participating in Section I is required to recycle, recover, or pay the cost for recovery, during a program year; or
 - b. The coverage obligation as determined by the representative organization for a member manufacturer pursuant to Section J to recycle, recover, or pay the cost for recovery during a program year.
13. "Manufacturer's brands" means a manufacturer's name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer has legal responsibility.
14. "Market share" means the total weight of a manufacturer's televisions or computer monitors that were sold at retail in the United States to individuals during the previous program year, multiplied by the population fraction of South Carolina to the United States population, based on the most recent United States Census data, divided by the weight of all of the televisions or computer monitors that were sold at retail to individuals in the State during the previous year.
15. "Printing device" means a desktop printer that prints on paper and is designed for use with a desktop or portable computer. The term includes, but is not limited to, a daisy wheel, dot matrix, inkjet or laser printer. The term includes devices that perform other functions in addition to printing

such as copying, scanning or transmitting a facsimile, but does not include free-standing devices that are primarily copiers or facsimile machines used independently of desktop or portable computers. The term does not include floor-standing printers, small household printers such as a calculator with printing capabilities or label makers, or printing devices that are embedded into products that are not covered computer devices.

16. "Program year" means the calendar year.

17. "Person" means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, government entity, public benefit corporation, or public authority.

18. "Recover" means to reuse or recycle.

19. "Recoverer" means a person that reuses or recycles a covered device.

20. "Repairer" means a person or entity that primarily replaces broken or malfunctioning parts or refurbishes and upgrades covered devices primarily for resale or reuse but does not disassemble covered devices beyond their subassembly components for the purpose of recovering metals, glass or plastics.

21. "Representative organization" means an organization created to develop and oversee implementation of a statewide plan consisting of one or more consumer electronic device stewardship programs, both in the State and in other jurisdictions that authorize such a representative organization.

22. "Retail sale" means the sale of a new product through a sales outlet, the Internet, mail order or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.

23. "Retailer" means a person engaged in retail sales.

24. "Sale" or "sell" means a transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not mean leases.

25. "Shortfall fee" means a fee due to the Department from the manufacturer of a covered television device or computer monitor device that fails to achieve its individual recycling obligation for a given program year.

26. "Subassemblies" means pieces of a covered device that have been disconnected by breakage or removed during disassembly of the device. It does not refer to a keyboard, mouse, speaker or other peripheral device or to parts of covered devices that are void of any electronics, leaded glass, or metal electronic components.

27. "Television" means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

28. "Television manufacturer" means a person who:

a. Manufactures covered television devices under a brand that it licenses or owns, for sale in this State;

b. Manufactures covered television devices without affixing a brand for sale in this State;

c. Resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;

d. Imports covered television devices; provided that if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer;

e. Manufactures covered television devices, supplies them to a person or persons within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale in this State of those covered television devices through the distribution network; or

f. Assumes the responsibilities and obligations of a television manufacturer under this chapter. If the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand must not be included in the definition of television manufacturer under items 28 a. or c.

C. Audits, Inspection and Recordkeeping.

1. The Department or its representatives may conduct audits and inspection of covered device manufacturers, retailers and recoverers to determine compliance with State law and this regulation.
2. Records necessary to determine compliance with this regulation must be maintained for a period of not less than three years and made available for inspection by Department personnel upon request.
3. No manufacturer shall report or claim the weight of covered devices collected from consumers outside of the borders of the State for the purposes of meeting recycling obligations within the State.

D. Manufacturer's Labels and Retailer Sale Requirements.

1. A computer, computer monitor, or television manufacturer may not sell or offer to sell a covered device unless a label indicating the computer, computer monitor, or television manufacturer's brand is permanently affixed to the covered device in a readily visible location.
2. A retailer only may sell or offer to sell a covered device that:
 - a. Bears a manufacturer label as provided in Section D. 1; and
 - b. Is manufactured by a manufacturer that offers a consumer electronic device stewardship program as provided in Sections G, I or K of this regulation.
3. The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars.
4. A retailer is not responsible for an unlawful sale if the manufacturer's compliance status expired or was revoked and the retailer took possession of the covered device prior to the expiration or revocation of the manufacturer's compliance status and the unlawful sale occurred within six months after the expiration or revocation.

E. Disposal Prohibition for Covered Devices.

1. A consumer must not knowingly place or discard a covered device or subassemblies of a covered device containing any electronics, leaded glass or metal electronic components in a waste stream that is to be disposed of in a solid waste landfill.
2. An owner or operator of a solid waste landfill must not, at the gate, knowingly accept, for disposal, loads containing more than an incidental amount of covered devices.
3. The owner or operator of a solid waste transfer station or landfill must post, in a conspicuous location, a sign informing the public that covered devices or any components of covered devices containing any electronics, leaded glass or metal electronic components are not accepted for disposal at the landfill.

F. Standards for Management of Covered Devices.

1. Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements.
2. Recovery of covered devices should be performed in a manner that utilizes consolidation and management practices of the industry, to include but not limited to:
 - a. Unattended or unsecured drop-off of covered devices shall be allowed when instruction is provided to the public to prevent mishandling and breakage of covered devices;
 - b. Storage areas or containers utilized for the recovery of covered devices are reasonably protected from weather with tarps or other suitable means to prevent accumulation of water within storage containers during periods of rain;
 - c. Covered devices shall be handled and stored in such a way as to minimize breakage;
 - d. Debris from broken covered devices shall be cleaned up immediately and managed appropriately;
 - e. Covered devices shall be transported in manner that minimizes breakage and prevents contents from being ejected onto roads and highways; and
 - f. Shipping containers shall be labeled clearly to identify the type of material enclosed.
3. Covered devices shall not be disassembled, dismantled, shredded, transformed, or demanufactured, unless the practice provides a safer working environment for employees such as the

removal of power cords and cables to prevent trips and falls, and the practice is communicated to the recoverer in advance, prior to the delivery of all the parts to a certified recoverer.

4. Residential recovery programs of local governments and manufacturer stewardship programs shall assure that all covered devices are transported to recycling or recovery facilities that are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards, or other certification program recognized by the Department or the United States Environmental Protection Agency.

5. Covered television and computer monitor devices, or subassemblies containing any electronics, leaded glass or metal electronic components of such covered devices, collected from residential recovery programs must not knowingly be placed or discarded in a waste stream that is to be disposed of in a solid waste landfill.

6. Repairers and refurbishers of covered devices are exempt from registration, reporting, and recordkeeping requirements so long as all non-reusable parts containing any electronics, leaded glass or metal electronic components are transported to recycling or recovery facilities that are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards, or other certification program recognized by the Department or the United States Environmental Protection Agency.

7. Local governments that receive recycling services from a consumer electronic device stewardship program participating in a representative organization must not charge the representative organization for collection costs and shall offer the representative organization all covered devices consolidated by a participating local government at no cost.

G. Requirements for Manufacturers of Computers, Printers, and other Computer Devices.

1. A manufacturer may not sell or offer to sell in this State a covered computer device unless the manufacturer provides a consumer electronic device stewardship program at no charge or provides a financial incentive of equal or greater value, such as a coupon. A consumer electronic device stewardship program must:

a. Require a computer device manufacturer to offer to collect from a consumer a covered computer device bearing a label as provided in Section D; and

b. Make the collection service as convenient to a consumer as the purchase of a covered computer device from a computer manufacturer as follows:

(1) A computer device manufacturer may utilize a mail-back system in which a consumer can return an end-of-life covered device by mail, including a system in which a consumer can go online, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the manufacturer.

(2) If the computer device manufacturer does not provide a mail-back system, the manufacturer must provide collection sites or collection events, or both, that are centrally located in a county, region, or other locations based on population. Manufacturers of computer devices shall work in coordination with the Department to determine an appropriate number of collection sites or collection events, or both.

2. At the beginning of each program year and no later than February 15 of a program year, a manufacturer of a computer device that sells more than five hundred devices in the State per year, must register with the Department and pay a registration fee in the amount as prescribed by the Act.

3. A consumer electronic device stewardship program may use existing consolidation infrastructure for recovering covered devices, including retailers, recyclers, reuse organizations, private networks and local governments.

4. Manufacturers of computer devices may work collectively and cooperatively with other manufacturers to offer collection services to consumers.

5. A consumer electronic device stewardship program must be described on a computer device manufacturer's Internet website if a manufacturer maintains an Internet website.

6. Collection events under this section must accept any covered computer device regardless of brand.

H. Requirements for Manufacturers of Covered Televisions or Computer Monitors.

1. No television manufacturer or computer monitor manufacturer shall sell or offer for sale a covered television device or covered computer monitor device in this State unless the television manufacturer

or computer monitor manufacturer provides a consumer electronic device stewardship program at no charge or provides a financial incentive of equal or greater value, such as a coupon.

2. A television manufacturer or computer monitor manufacturer may fulfill the requirements of this regulation either individually or in participation with other manufacturers, or through a representative organization. A consumer electronic device stewardship program may use existing consolidation infrastructure for recovering covered television or covered computer monitor devices, including retailers, recyclers, reuse organizations, private networks and local governments.

3. By January 1, 2015, and by February 15, annually thereafter, a television manufacturer or computer monitor manufacturer that sold more than five hundred covered devices in South Carolina during the prior calendar year shall register with the Department. The manufacturer shall:

a. Notify the Department that they intend to participate in a representative organization and identify the representative organization they will join for the program year, or notify the Department of its intent to fulfill its obligations under this chapter by implementing their own consumer electronic device stewardship program that meets the requirements of Section I of this regulation.

b. Provide the Department with contact information for the manufacturer's designated agent or employee whom the Department may contact for information related to the manufacturer's compliance with the requirements of this regulation.

I. Consumer Electronic Device Stewardship Programs for Manufacturers Not Participating in a Representative Organization.

1. If a television or computer monitor manufacturer does not participate in a representative organization, the manufacturer annually shall recycle or arrange for the recycling of covered television devices and covered computer monitor devices in the amount of eighty percent of the weight of the covered devices sold by the manufacturer in the State during the previous program year.

2. A manufacturer shall pay an annual registration fee in the amount as prescribed by the Act. A manufacturer that produces computer monitors, computers, or televisions is required to pay only one annual registration fee, unless exempt from fees as described in Section A.4 of this regulation. Upon registration the manufacturer shall provide the Department with a statement that all recycling or recovery facilities used by their recoverers as part of their South Carolina consumer electronic device stewardship program are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards or other certification program recognized by the Department or the United States Environmental Protection Agency.

3. By February 15 of each program year, a television or computer monitor manufacturer shall submit an annual report to the Department. The annual report shall include:

a. The estimated total weight of the manufacturer's covered television devices or covered computer monitor devices sold at retail in the United States or in this State, if the information is available, for the previous program year;

b. The total weight of covered devices collected and recycled and listed by county of the State during the previous program year;

c. Any recovered weight exceedance credits earned, redeemed, sold or purchased from other manufacturers in the previous year along with the names of those manufacturers, the county of origin for the material, and dates of transactions.

4. Recovery exceedance credits may be earned by exceeding the individual recycling obligation for the program year. A manufacturer may also notify the Department of their intent to sell or transfer exceedance credits of recovery to another manufacturer along with the weight and county of origin from which the covered devices were consolidated. Exceedance credits earned for a program year shall be valid for three years.

5. The year-to-date recovery amounts for material recovered state-wide shall be readily available for Department review during the program year and at most quarterly and within thirty days of request by the Department.

6. A manufacturer of a covered television device or covered computer monitor device with a consumer electronic device stewardship program pursuant to Section I that fails to meet its individual recycling obligation for the previous program year as outlined in this regulation may elect to:

- a. Pay a shortfall fee as determined by the Department; or
 - b. Account for the amount of the shortfall in the following year. A manufacturer electing to account for the amount of a shortfall in the following year only may elect this option once every three years.
7. The shortfall fee for manufacturers not participating in a representative organization is calculated as follows:
- a. If the manufacturer of a covered television or computer monitor device recycles at least ninety percent, but less than one hundred percent of its individual recycling obligation, the shortfall fee is thirty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.
 - b. If the manufacturer of a covered television or computer monitor device recycles at least fifty percent, but less than ninety percent of its individual recycling obligation, the shortfall fee is forty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.
 - c. If the manufacturer of a covered television or computer monitor device recycles less than fifty percent of its individual recycling obligation, the shortfall fee is fifty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

J. Responsibilities of Manufacturers Participating in a Representative Organization.

1. No later than February 15 each program year, a television or computer monitor manufacturer participating in a representative organization shall submit to the Department an annual report unless a representative organization will report on behalf of the manufacturer. The report shall include, but not be limited to, the following:
 - a. The best available market share data for participating manufacturers available on September 1 of the previous year;
 - b. The estimated total weight of the manufacturer's covered television devices or covered computer monitor devices sold at retail in the United States or in this State, if the information is available, for the previous program year;
 - c. The total weight of covered devices collected and recycled, listed by county of origin during the previous program year;
 - d. A statement of assurance that all recycling or recovery facilities used by the manufacturer as part of their consumer electronic device stewardship program are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards or other certification program recognized by the Department or the United States Environmental Protection Agency; and
 - e. A description of any individual recycling obligation for which the participating manufacturer was deficient in the previous year.
2. A manufacturer that participates in an approved representative organization is not required to pay an annual registration fee to the Department for the program year of participation with the representative organization.
3. A manufacturer that fails to meet an individual recycling obligation as assigned by a representative organization shall either submit a plan for increasing the recycling obligation in the coming year by the amount of the deficiency or pay a shortfall fee based on the shortfall as calculated by the representative organization for the previous program year. A manufacturer may elect to account for the shortfall in the next program year but only may elect this option once every three years.
4. The shortfall fee for manufacturers participating in a representative organization is calculated as follows:
 - a. If the manufacturer of a covered television or computer monitor device fulfills at least ninety percent, but less than one hundred percent of its individual recycling obligation, the shortfall fee is thirty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.
 - b. If the manufacturer of a covered television or computer monitor device fulfills at least fifty percent, but less than ninety percent of its individual recycling obligation, the shortfall fee is forty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

c. If the manufacturer of a covered television or computer monitor device fulfills less than fifty percent of its individual recycling obligation, the shortfall fee is fifty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

5. A television manufacturer or computer monitor manufacturer participating in a representative organization with an approved consumer electronic device stewardship program that falls below seventy-five percent of its obligation, as determined by a representative organization at the end of the program year, is ineligible to

participate in the consumer electronic device stewardship program the following year and shall implement a consumer electronic device stewardship program as described in Section I.

6. Any manufacturer that is denied participation in a representative organization shall implement a consumer electronic device stewardship program as described in Section I.

K. Requirements for Representative Organizations.

1. By February 15 of each year, the representative organization shall submit the final roster of manufacturers, local governments, private networks and participating companies for the program year with any deletions, additions, and updates from previously approved plans summarized for Department review.

2. By February 15 of each year, the representative organization shall submit a final report summarizing the activities of the previous program year for all of the manufacturers and private collection networks participating in the representative organization unless the members of the representative organization opt to provide annual reports individually. The report shall include:

a. A description of the methods used to collect, transport, and process covered devices from residential consumers in the State;

b. The results of a survey of county and municipal recycling representatives concerning the availability of opportunities for consumers to recycle covered electronic devices;

c. An accounting of the weight of covered devices collected, reported by county of origin for consolidation, including the weight of covered television and computer monitor devices contributed through all sources, including private collection networks;

d. A description of services provided to each of the local government participants including, but not limited to, collection event services and the number and location of collection locations used during the prior year, and logistical support for preparing the consolidated devices for transportation offsite;

e. A list of manufacturers, as determined by the representative organization, failing to meet their recycling obligation as assigned by the representative organization and any shortfall penalties, pursuant to Section 48-60-160 of the Act. The report shall summarize the contributions of each manufacturer participating in the plan. Any participants that failed to meet their obligations shall be listed in the final report along with any shortfall as calculated by the representative organization, or any expulsions from the plan for manufacturers that contributed less than seventy-five percent of their obligation; and

f. A description of services in counties with three percent or less of the total population of the State. If the services provided within these jurisdictions is disproportionate to the other services provided for counties with populations above three percent of the State's total population, the representative organization must provide the Department an explanation of these differences.

3. Not later than October 1 of each year, a representative organization shall submit an annual plan for a consumer electronic device stewardship program. The plan shall:

a. List the local governments for which ongoing collection services will be provided. In determining the number and composition of local governments to include in the plan, the representative organization shall target a percentage of the State population that is approximately equal to the combined market share percentage of all of the manufacturers participating in the representative organization. The Department may consider a local government's election to either participate or not participate in a consumer electronic device stewardship program, and any other circumstances or factors the representative organization provides regarding their determination of the appropriate State population percentage and counties to be serviced for the program year;

- b. Provide a description of incentives to ensure convenient mechanisms to collect used consumer electronic devices throughout the State. These incentives may include private collection networks and a description of how they lessen the burden and expense for local government collection and increase recycling opportunities by providing additional convenience to consumers across the State. The Department may consider the regional coverage, volume of historical collection from private networks, and the projected success of new private collection networks during plan evaluation;
 - c. Describe projected collection events, if any, that will be used to augment collection in a. or b. above, to increase recycling opportunities and provide additional convenience to consumers in less populated counties;
 - d. Describe specifically the elements of the plan that provide service to counties with less than three percent of the State's population and to counties with less than one percent of the State's population;
 - e. Calculate the sum total of weight from all sources of consumer covered television and computer monitor devices encompassed in the plan for the previous program year and the projected weight from new sources in the plan to illustrate the scale of projected recycling activities anticipated by participating manufacturers in the new program year;
 - f. Address how its members will ensure continuous service to local governments and other sources specified in the annual plan, throughout the program year, to recover all covered television and computer monitor devices of the participants in the plan; and
 - g. Establish fair and reasonable policies for administration of the plan.
4. The plan shall include:
- a. A point of contact for the organization, including email and phone number;
 - b. An identification of each manufacturer participating in the consumer electronic device stewardship program included in the representative organization plan and the brands of consumer electronic devices sold in the State that are covered by the program;
 - c. An identification of each local government participating in the consumer electronic device stewardship program included in the representative organization plan, including a list of projected consolidation locations and projected collection events to be made available to consumers and the phone number and email address for the principal person to contact for the local government;
 - d. An identification of each private collection network participating in the consumer electronic device stewardship program along with the historic data of television devices and monitor devices consolidated by each private network in the previous program year, and a list of projected consolidation locations and projected collection events to be made available to consumers, along with the phone number and email address for the principal person to contact for the private collection network;
 - e. A description of how collection service to be provided to local residents by any private consolidator or private network included in the plan supplement and relieve collection and recycling burden of local governments through a level of service that may approach or be equivalent to service provided by local governments;
 - f. A description of how the organization will provide consumers with information and educational materials regarding the consumer electronic device stewardship program to promote the recycling and reuse of covered television devices and covered computer monitor devices;
 - g. A description of how the organization will achieve environmentally sound management for covered television devices and covered computer monitor devices that are collected for reuse and recycling;
 - h. A description of the participation requirements for manufacturers, and penalties for failure to comply with the plan, including the process for excluding manufacturers from participating in the organization;
 - i. Documentation of how the collection component of the plan was developed with input from local government recycling representatives and other stakeholders;
 - j. A description of incentives and directives to ensure convenient mechanisms to collect covered devices from consumers throughout the state and throughout the program year;
 - k. Provide a statement that all recycling or recovery facilities used by their member manufacturers' recoverers as part of their South Carolina consumer electronic device stewardship program are

currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards or other certification program recognized by the Department or the United States Environmental Protection Agency;

l. An explanation of why a disruption of commercial activity that may arise from implementation of the plan is consistent with fulfilling the intent of this regulation and provide sufficient information to allow the Department to confirm the consistency of the plan with this regulation by review of the plan's financial and operational elements; and, if applicable,

m. A summary of any corrections or additions made to the final report for the previous program year.

5. A representative organization shall be prepared to confer with the Department and local government stakeholders involved in the representative organization plan at least quarterly to address compliance, efficiency, and management practices for implementing the representative organization's plan, and to report year-to-date recovery amounts, at most quarterly, to the Department within thirty days of such request.

L. Representative Organization Plan Approvals and Implementation.

1. Not later than thirty calendar days after submission of the plan pursuant to Section K, the Department shall approve the plan for the establishment of a consumer electronic device stewardship program by the submitting representative organization if it meets the requirements of Section K.

2. If the Department finds activities included in the plan that do not fulfill those requirements, it shall specify in writing what the Department believes to be the plan's deficiencies, promptly meet with the representative organization to discuss the Department's concerns, and allow the representative organization at least thirty days after the denial notice to submit a revised plan. If a revised plan is submitted, the Department shall review and approve or disapprove the plan within thirty calendar days of submission.

3. Upon approval of a representative organization plan by the Department, a representative organization shall pay a registration fee in the amount as prescribed by the Act.

M. Recoverer Requirements.

1. Covered devices must be managed in a manner that complies with all federal, state, and local requirements, and shall not be stored for more than one year at a facility.

2. No recoverer shall accept covered devices unless the recoverer can document they are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards, or other certification program recognized by the Department or the United States Environmental Protection Agency.

3. All recoverers must maintain records of the weight and county of origin of the covered devices they accept for recycling. This information must be provided to the Department in a report no later than February 15 of each program year.

4. All recoverers that store, consolidate or process covered devices in the State, must register with the Department the locations of all storage and processing activities.

5. Recoverers shall comply with the following registration requirements:

a. The registrant must provide the Department with the address of the processing or storage location(s) along with a contact name, phone number, and e-mail address.

b. A recoverer must provide, for each storage, consolidation, or processing location, adequate financial assurance to cover third party removal of all covered devices or waste material from the facility.

c. The financial assurance shall be issued in favor of the Department and shall consist of one or more of the following mechanisms: surety bond, irrevocable letter of credit, insurance, trust fund, corporate financial test, or other evidence of financial responsibility assurance approved by the Department.

d. The financial mechanism(s) and amount must be approved by the Department and the approved financial assurance mechanism submitted prior to beginning storage or processing operations.

e. The registrant shall provide continuous coverage for closure until released from financial assurance requirements by the Department.

f. Upon closing the storage, consolidation, or processing facility, the registrant shall request that the Department inspect the facility to ensure removal of all covered devices and waste. Upon Department approval, the registrant shall be released from financial assurance requirements.

N. Violations and Penalties. Any person who fails to comply with a requirement of S.C. Code Section 48-60-05 et seq. is subject to a civil penalty not to exceed one thousand dollars per violation.

O. Severability. Should any section, paragraph, sentence, word, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

P. Repeal of Regulation. This regulation, except for the provisions of Section E, shall be repealed effective December 31, 2021.