

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

THE SOUTH CAROLINA STATE REGISTER

An official state publication, *The South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action, must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT OF THE SOUTH CAROLINA STATE REGISTER

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2000 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the Standards Manual for Drafting and Filing Regulations.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

| | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|---------------------|------|------|------|------|------|------|------|------|-------|-------|-------|-------|
| Submission Deadline | 1/14 | 2/11 | 3/10 | 4/14 | 5/12 | 6/9 | 7/14 | 8/11 | 9/8 | 10/13 | 11/10 | 12/8 |
| Publishing Date | 1/28 | 2/25 | 3/24 | 4/28 | 5/26 | 6/23 | 7/28 | 8/25 | 9/22 | 10/27 | 11/24 | 12/22 |

REPRODUCING OFFICIAL DOCUMENTS

All documents appearing in the South Carolina *State Register* are prepared and printed at public expense. All media services are especially encouraged to give wide publicity to all documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the Office of the State Register is available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 734-2145.

CERTIFICATE

Pursuant to Section 1-23-20, Code of Laws of South Carolina, 1976, this issue contains all previously unpublished documents required to be published and filed before the closing date of the issue.

Lynn P. Bartlett
Editor

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with Federal Law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be renewable once.

X-----X-----X

SUBSCRIPTIONS

The *State Register* is published on the fourth Friday of each month by the Legislative Council of the General Assembly of the State of South Carolina. Subscription rate is \$95.00 per year postpaid to points in the United States. Partial subscriptions may be ordered at the rate of \$8.00 per issue for the remainder of a subscription term. Subscriptions begin July 1 and end June 30.

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Enclosed is my check or money order for \$_____. Date _____

Name _____

Address _____

Telephone _____

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 South Carolina General Assembly Home Page: www.lpitr.state.sc.us

| DOC NO. | RAT NO. | FINAL SR | SUBJECT | EXP. DATE | AGENCY |
|---------|---------|----------|---|-----------|-------------------------------------|
| 1981 | | | Policy Development | 1-12-01 | Board of Education |
| 1984 | | | Principal Evaluation | 1-12-01 | Board of Education |
| 2360 | | | LIFE Scholarship | 1-19-01 | Commission on Higher Education |
| 2481 | | | School Transportation | 1-24-01 | Board of Education |
| 2504 | | | Environmental Protection Fees | 1 27 01 | Health and Environmental Control |
| 2457 | | | Septic Tank Site Evaluation Fees | 1-28-01 | Dept Health and Envir Control |
| 2502 | | | Public Pupil Transportation Services | 2 04 01 | Board of Education |
| 2485 | | | (Repeal) Credit and Discount Plans | 2 20 01 | Dept of Insurance |
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| 2486 | | | (Repeal) Refusal to Write, Cancellation | 2 20 01 | Dept of Insurance |
| 2511 | | | Hunt Units and WMA's | 2 20 01 | Dept Natural Resources |
| 2503 | | | Optional State Supplementation Prog | 2 27 01 | Health and Human Services |
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| 2514 | | | LIFE, Palmetto Fellows Sch Appeals | 3 12 01 | Commission on Higher Education |
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| 2496 | | | Brucellosis Testing | 4 22-01 | Clemson University |

REQUEST FOR AN ASSESSMENT REPORT (120 DAY REVIEW PERIOD TOLLED)

| DOC NO. | DATE | SUBJECT | AGENCY |
|---------|---------|--|-----------------|
| 2248 | 4 14 99 | Primary and Substantial Portion (Video Game Machines) | Dept of Revenue |

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| DOC NO. | DATE | SUBJECT | AGENCY |
|---------|---------|---------------------------------------|-----------------------------------|
| 2193 | 2 11 98 | Video Poker; Def "Single Place" ... | Dept of Revenue |
| 2433 | 2 23 00 | Hearing Aids; Augmen Comm Devices | LLR: Speech-Language Path & Audio |
| 2469 | 2 23 00 | Volunteer Pharm Tech Free Med Clinics | LLR: Board of Pharmacy |

2 EXECUTIVE ORDERS

No. 2000-22

WHEREAS, Section 53-5-20 of the South Carolina Code of Laws provides:

The Governor may declare Christmas Eve of each year a holiday for state government employees. When Christmas Eve falls on a Saturday or Sunday he may declare the preceding Friday a holiday.

and

WHEREAS, December 24, 2000, will fall on a Sunday; and

WHEREAS, state employees need notice of whether Christmas Eve will be a state holiday in order to make travel plans and other preparations for the Christmas holiday season; and

WHEREAS, in previous years, state government employees have been granted three consecutive days off during the Christmas holiday season.

NOW, THEREFORE, pursuant to Section 53-5-20 of the South Carolina Code of Laws, I hereby declare Friday, December 22, 2000, as the Christmas Eve holiday for state government employees.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 9th DAY OF
AUGUST, 2000.**

**JIM HODGES
Governor**

DEPARTMENT OF EDUCATION

ERRATA

43-300. Accreditation Criteria

The Drafting Notice relating to R.43-300 (1991) published in the *State Register*, Volume 24, Issue No. 7 (July 28, 2000) is corrected so that S.C. Code Ann. Section 59-18-300 (Supp. 1999) referred to in the Synopsis should read S.C. Code Ann. Section 59-18-710.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

CHAPTER 61

Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

South Carolina Air Quality Implementation Plan:

The Department of Health and Environmental Control (Department) proposes to amend the *South Carolina Air Quality Implementation Plan*, also known as the State Implementation Plan, or SIP. Interested persons are invited to present their views in writing to Julie Seel; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, September 25, 2000, the close of the comment period.

Synopsis:

On November 6, 1991, Cherokee County was designated by the United States Environmental Protection Agency (EPA) as a marginal nonattainment area due to exceedances in 1988 of the National Ambient Air Quality Standard for ozone at the air quality monitor located in the Cowpens National Battle Field. After three consecutive years of satisfactory air quality data, Cherokee County was redesignated as attainment for the one hour ozone standard on December 15, 1992.

The Department submitted the original ten year maintenance plan for Cherokee County to EPA on July 20, 1992, which included area, point, and mobile source emissions inventory projections for the year 2002. The on-road mobile source projections for the original submittal were based on MOBILE 4.1 modeling projections. The maintenance plan for Cherokee County was approved and subsequently incorporated into the SIP to help assure continued attainment of the ozone standard. On December 18, 1998 [63 FR 70019], EPA approved several revisions to the emissions inventory and emissions budget established in the original plan for Cherokee County. The revisions were derived from the MOBILE 5a model, which is the latest emission estimation model approved for maintenance areas, and included an emissions safety margin to the on-road source category.

Pursuant to Section 175(A) of the Clean Air Act (CAA), as amended, and the regulations under 40 CFR part 93 subpart A, South Carolina is required to submit a periodic revision to the SIP to update the emissions inventory and emissions budget established in the Cherokee County maintenance plan. Specifically, the Department is required by 40 CFR Part 93.106 to submit a revised maintenance plan to EPA within ten years of the redesignation of Cherokee County as attainment for the one hour ozone standard which occurred in 1992. Therefore, the Department is proposing to amend the SIP to include an update to the 1990 base year emissions inventory and to include a 2012 emissions budget for Cherokee County, SC.

This action is to conform to Federal regulations and the amendments will not require legislative review.

4 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

CHAPTER 61

Statutory Authority: 1976 Code Section 48-1-10, *et seq.*

South Carolina Air Quality Implementation Plan:

The Department of Health and Environmental Control proposes to amend the *South Carolina Air Quality Implementation Plan*, also known as the State Implementation Plan, or SIP. Interested persons are invited to present their views in writing to Dennis Camit; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, September 25, 2000, the close of the comment period.

Synopsis:

Upon publication in the State Register on September 27, 1996, the South Carolina Air Quality Implementation Plan, also referred to as the State Implementation Plan or SIP, was revised to incorporate the applicable provisions of the transportation conformity review process in accordance with the requirements of the Federal Clean Air Act Amendments as promulgated by the United States Environmental Protection Agency (USEPA) on November 24, 1993 (58 FR 62188) in 40 CFR Part 51 Subpart T. Under those authorities, no department, agency, or instrumentality of the Federal government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity that does not conform to the South Carolina SIP. The transportation conformity regulation applies only to areas that are designated nonattainment or maintenance for any of the criteria pollutants (ozone, carbon monoxide, small particulate matter, sulfur dioxide, nitrogen dioxide and lead). The transportation conformity rule requires Federal agencies to determine, prior to taking any action on transportation plans, programs, and projects, that such action will conform to the South Carolina SIP to maintain the National Ambient Air Quality Standards (NAAQS) for the criteria pollutants.

On August 15, 1997 (62 FR 43780), the USEPA promulgated a set of amendments to the Transportation Conformity Rules to streamline and clarify the criteria and procedures for determining the conformity of transportation plans, programs, and projects. The State is required by 40 CFR Part 51 Subpart T §51.390 to amend the South Carolina Air Quality Implementation Plan by specifically removing any previously applicable implementation plan transportation conformity requirements and submitting a revision to the SIP meeting the requirements of 40 CFR Part 93 Subpart A. The Department proposes to adopt the applicable provisions of the Federal regulation as promulgated. This revision to the South Carolina Air Quality Implementation Plan is to comply with Federal regulations and will not require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #00-113-GP-N

August 25, 2000

The South Carolina Department of Health and Environmental Control (DHEC) does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-03) "Hot Mix Asphalt Plants." This general permit was previously opened for a 30 day public comment period on May 2, 1996, with final issuance on August 5, 1996. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), and the 1976 Code of Laws of South Carolina, as amended, Regulation 61-62, Air Pollution Control Regulations and Standards, these sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their "potential to emit" to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours at SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to Mr. Carl W. Richardson, P.E., Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

Charleston County

Banks Construction Company
4991 Banco Road
North Charleston, South Carolina

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section 44-32-20 of the SC Code of Laws, 1976, as amended, requires that the Department of Health and Environmental Control establish standards for persons engaged in the business of body piercing. The Department is in the early stages of drafting a regulation, and in order to obtain information, a meeting will be conducted at 10:00 a.m. on September 12, 2000, in the Second Floor Conference Room of the Heritage Building, 1777 St. Julian Place, off Forest Drive, in the Middleburg Plaza area of Columbia, SC. Interested parties are invited to attend. If there are questions, call 803-737-7370.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication August 25, 2000, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 737-7200.

Affecting Beaufort County

Conversion of 14 nursing home beds to 14 comprehensive rehabilitation beds and de-licensure of 12 nursing home beds for a total of 18 nursing home beds, 14 comprehensive rehabilitation beds, 20 psychiatric beds, and 106 acute-care beds.

6 NOTICES

Beaufort Memorial Hospital
Beaufort, South Carolina
Project Cost: \$ 435,000

Affecting Charleston County

Major renovation and construction to consolidate and upgrade cardiac services in a new six story patient tower, consolidation and upgrade of all surgical and surgical support services (excluding cardiac), expansion of imaging and emergency services, renovation and expansion of support departments, and development of a new patient parking structure, entrance, and reception area.

Roper Hospital, Inc.
Charleston, South Carolina
Project Cost: \$ 75,997,173

Replacement of existing inpatient Magnetic Resonance Imaging (MRI) unit with a 1.5T GE Signa CV/i Scanner.

Trident Medical Center
Charleston, South Carolina
Project Cost: \$ 2,340,168

Affecting Oconee County

Establishment of an ambulatory surgery center with two (2) operating rooms for the single specialty of orthopedic surgery.

Blue Ridge Surgery Center
Seneca, South Carolina
Project Cost: \$ 3,432,100

Affecting Orangeburg County

Renovations to expand the emergency department, relocate business office, expand cardiac/pulmonary rehabilitation unit, and relocate security.

The Regional Medical Center of Orangeburg and Calhoun Counties
Orangeburg, South Carolina
Project Cost: \$ 7,654,119

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning August 25, 2000. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 737-7200.

Affecting Beaufort County

Development of a Magnetic Resonance Imaging (MRI) facility featuring a 1.5 Tesla Scanner.

MRI at Belfair, LLC
Bluffton, South Carolina
Project Cost: \$ 2,986,025

Affecting Horry County

Renovation of the hospital for the addition of 47 general acute care beds to include the closure of the existing 18 bed hospital based skilled nursing home unit with conversion of that space to acute care beds resulting in a total licensed bed capacity of 219 general acute care beds.

Grand Strand Regional Medical Center

Myrtle Beach, South Carolina

Project Cost: \$ 2,010,470

Affecting Lexington County

Addition of one endoscopy suite for a total of four endoscopy suites at the existing ambulatory surgery center which is restricted to endoscopy procedures only.

South Carolina Endoscopy Center

West Columbia, South Carolina

Project Cost: \$ 80,000

Affecting Oconee County

Establishment of an ambulatory surgery center with two (2) operating rooms for the single specialty of orthopedic surgery.

Blue Ridge Surgery Center

Seneca, South Carolina

Project Cost: \$ 3,432,100

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE AND RESCHEDULING OF PUBLIC HEARING

The Department of Health and Environmental Control issued a Notice of Proposed Regulation for an amendment to Regulation 61-93, Standards For Licensing Outpatient Facilities for Chemically Dependent or Addicted Persons in the June 23, 2000, issue of the State Register, identified as Document No. 2531. The Notice scheduled a Staff Informational Forum on August 2, 2000, a write-in comment period, and a public hearing before the Board on September 14, 2000. The public hearing scheduled for September 14, 2000, has been postponed. The proposed regulation is being revised based on comments received. All comments received from the Staff Informational Forum and write-in public comment period that ended August 2, 2000, are being considered. All comments received through August 2, 2000, shall be submitted to the Board for consideration at the public hearing in a Summary of Public Comments and Department Responses.

The public hearing to be conducted by the Board of Health and Environmental control for this proposed amendment to the regulation has been rescheduled. The hearing will be held at the regularly-scheduled Board meeting on October 12, 2000, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearing will be noticed in the Board's agenda to be published by the Department ten (10) days in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the amendment to the regulations.

8 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than September 25, 2000 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Underground Storage Tank Management
Attn: Chris Doll
2600 Bull Street
Columbia, SC 29201

The following companies and individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

Class I

Pinnacle Consulting Group
Gage Group, In.c

Class II

Pinnacle Consulting Group
Gage Group, In.c

CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
 CHAPTER 27
 Statutory Authority: 1976 Code Section 47-4-30 and 47-17-130

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection or meat and meat food products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Charles C. King, Director, State Meat Inspection Program, P. O. Box 102406, Columbia, S. C. 29224-2406. To be considered comments should be received no later than September 30, 2000, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which establishes Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays and other similar requirements.

This regulation will not require legislative action.

CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
 CHAPTER 27
 Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Charles C. King, Director, State Meat Inspection Program, P. O. Box 102406, Columbia, S.C. 29224-2406. To be considered comments should be received no later than September 30, 2000, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Poultry Products Inspection Act (21 USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays, and other similar requirements.

This regulation will not require legislative action.

10 DRAFTING

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority S.C. Code Ann. Sections 59-5-60, 59-43-10 and 59-43-20 (1990) and S.C. Code Ann. Section 59-30-10(f) (1999)

Notice of Drafting:

The State Department of Education proposes to draft amendments to State Board of Education Regulation 43-237.1, Adult Education Program, and proposes the repeal of Regulations 43-237, Adult Education Curriculum, and 43-237.2, State Plan for Adult Education, FY 1989-1998. Interested persons should submit their views in writing to Sam Drew Jr., Director, Office of Adult and Community Education, 902 Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. To be considered, all comments must be received no later than 5:00 p.m. September 25, 2000, the close of the drafting period.

Synopsis:

The U.S. Congress passed new authorizing legislation for adult education in the Workforce Investment Act (WIA) of 1998, U.S. Public Law 105-220. This legislation contains new provisions for Adult Education programs and requires the development of a new State Plan. In order to bring Adult Education into compliance with federal law, state regulations will need to be amended and the previous State Plan must be repealed.

Legislative review of this proposal will be required.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-1, Adjustment of Claims Under Unusual Circumstances. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-1 regarding the Adjustment of Claims Under Unusual Circumstances. The amendment will describe proposed changes in the licensing of non-resident adjusters in the event of a catastrophe. The purpose of this amendment is to modernize and improve the licensure process.

The proposed amendment will require legislative review.

DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-14, Insurance Holding Company Systems. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-14 regarding Insurance Holding Company Systems. The purpose of this amendment is to amend the application review process to be consistent with the requirements of the Gramm-Leach-Bliley Act. The Gramm-Leach-Bliley Act permits banks, insurance companies and securities firms to affiliate. A Financial Holding Company may be the parent or subsidiary of a depository institution. Moreover, the Gramm-Leach-Bliley Act requires applications to be reviewed and acted on within 60 days of notice. Notice and other processes are not defined in the regulation.

The proposed amendment will not require legislative review.

DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-50, Continuing Insurance Education. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-50 regarding the Continuing Insurance Education requirements for licensed insurance agents. The purpose of this amendment is to clarify and improve the current continuing education requirements placed on licensed agents. Amendments include the addition of new definitions, clarification on the approval processes for proctors and instructors, and changes in the penalties for agents who fail to pay their administrative fees in a timely manner.

The proposed amendment will require legislative review.

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DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-37, Annuity Mortality Tables. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-37 regarding Annuity Mortality Tables. The purpose of this amendment is to update the mortality tables to better reflect current experience for all annuity products issued in South Carolina by implementing the Annuity 2000 Mortality Tables.

The proposed amendment will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to draft Regulation 69-57, Valuation of Life Insurance Policies. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The purpose of this Regulation is to provide clarification of the appropriate reserve methodology for life insurance policies. Specifically, this Regulation may affect current reserving practices with respect to term and term-like policies.

The proposed Regulation will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to draft Regulation 69-58, Privacy of Consumer Financial and Health Information. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to draft Regulation 69-58 regarding the Privacy of Consumer Financial and Health Information. The purpose of this Regulation will be to address the new rules regarding privacy established by Title V of the Gramm-Leach-Bliley Act and the federal privacy regulations. Issues that will be addressed include the scope of such privacy requirements (opt-in/opt-out), the institutions to which they apply, the information to which the requirements apply, disclosure and notice requirements and restrictions on the sharing of information. The Gramm-Leach-Bliley Act allows states to provide greater privacy protection. State law is pre-empted to the extent it does not.

The proposed Regulation will not require legislative review.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10; 38-71-2060 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to draft Regulation 69-59, Health Carrier External Review. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to draft Regulation 69-59 regarding Health Carrier External Review. The purpose of this Regulation is to provide additional detail to the requirements of 2000 S.C. Act 380. The purpose of the Regulation will be to prescribe the procedures for a covered person to request an external review and the obligations of a Health Carrier when such an election has been made. The approval criteria for independent review organizations will be set forth in the regulation.

The proposed Regulation will require legislative review.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to draft Regulation 69-60, Captive Insurance Companies. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to draft Regulation 69-60 regarding Captive Insurance Companies. The purpose of this Regulation to provide additional structure to regulatory framework established

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with the passage of 2000 S. C. Act 331. Issues to be addressed in this Regulation will include financial and reporting requirements placed on captive insurers, interpretation of the term “unrelated business,” the procedure for rescission of a captive insurance company license, the procedure for approving captive management companies and other procedures related to effective regulation of the captive industry.

The proposed Regulation will require legislative review.

DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10; 38-78-110 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to draft Regulation 69-61, Service Contracts. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to draft Regulation 69-61 regarding Service Contracts. This Regulation will define financial solvency requirements and service contract providers consumer disclosure requirements.

The proposed Regulation will require legislative review.

DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to draft Regulation 69-62, Financial Services Consumer Protection. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to draft Regulation 69-62 regarding Financial Services Consumer Protection. The purpose of this Regulation is to promulgate by regulation the consumer protection requirements set forth in the Gramm-Leach-Bliley Act.

The proposed Regulation will not require legislative review.

DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10; 38-77-530 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to draft Regulation 69-63, South Carolina Reinsurance Facility Recoupment. Interested persons should submit their views in writing to: Larry W. Higgins, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than September 22, 2000, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to draft Regulation 69-63 regarding South Carolina Reinsurance Facility Recoupment. The purpose of this regulation is to promulgate a plan to recoup any losses remaining in the facility on March 1, 2002 or any losses accruing after March 1, 2002 only from those insureds or policyholders having insurance merit rating points as provided in South Carolina Ann. Code Section 38-77-530.

The proposed Regulation will require legislative review.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF ACCOUNTANCY**

CHAPTER 1

STATUTORY AUTHORITY: 1976 CODE SECTION 40-2-140 AND 380

Notice of Drafting:

The Board of Accountancy is drafting regulations to implement Act 274 (signed by the governor on May 19, 2000) and is reviewing and may clarify existing regulations for forms of practice, contingent fees and commissions, so as to conform with the professional standards of the American Institute of Certified Public Accountants and the National Association of Boards of Accountancy. Interested persons should submit their views in writing to Mr. Robert W. Wilkes, Jr., Administrator, Board of Accountancy, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The proposed regulations will conform the practices of the Board of Accountancy with the provisions of 2000 Act 274, including provisions for use of the abbreviation "EA", acceptance of experience under a public accountant, and provisions concerning forms of practice of public accountants and accounting practitioners. The proposed regulations may clarify the provisions for forms of practice, contingent fees and commissions.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
AUCTIONEERS' COMMISSION**

CHAPTER 14

STATUTORY AUTHORITY: 1976 CODE SECTION 40-6-60

Notice of Drafting:

The Auctioneers' Commission is drafting regulations to implement Act 318 (signed by the governor on May 30, 2000) and is reviewing and may clarify existing regulations codified at South Carolina Regulations 14-1 through 14-27 so as to conform with that Act. Interested persons should submit their views in writing to Lou Ann Pyatt, Administrator, Auctioneers' Commission, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

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The proposed regulations will conform the practices of the Auctioneers' Commission with the provisions of 2000 Act 318, including provisions for examination, renewal of licenses, apprenticeships, advertising, and professional standards as well as provisions for declaratory rulings, changes of address and other procedures before the Commission.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
CHAPTER 49

STATUTORY AUTHORITY: 1976 CODE SECTION 40-22-60, AS AMENDED BY 2000 ACT 311

Notice of Drafting:

The Board of Registration for Professional Engineers and Land Surveyors is drafting regulations to implement Act 311 (signed by the governor on May 26, 2000). Interested persons should submit their views in writing to Mr. Jay Pitts, Administrator, Board of Registration for Professional Engineers and Land Surveyors, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The proposed regulations will conform the practices of the Board of Registration for Professional Engineers and Land Surveyors with the provisions of 2000 Act 311. The proposed regulations will also implement new statutory provisions for the regulation of engineers and land surveyors including cross border engineering.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
CHAPTER 93

Statutory Authority: 1976 Code Section 40-35-240

Notice of Drafting:

The Board of Long Term Health Care Administrators is considering proposing an amendment to Chapter 93 Section 160 relating to the registration of licenses. The amendment would require licensees to notify the Board of changes in address and employment. Written comments can be submitted to Dana Welborn, Board Administrator, at P.O. Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The purpose of the amendment is to require nursing home administrators and community residential care facility administrators to notify the Board within fifteen (15) days of any change of address and employment in a nursing home or community residential care facility. The amendment would enable the Board to maintain up to date licensee records.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS**

CHAPTER 81

Statutory Authority: 1976 Code Sections 40-47-20; 40-1-70

Notice of Drafting:

The Board of Medical Examiners is considering drafting a regulation to define and regulate the initial prescribing of medications by South Carolina licensed physicians including prescribing via the Internet and toll-free telephone prescribing, and to define unprofessional conduct related to initial prescribing. Interested persons should submit their views in writing to Mr. John D. Volmer, Administrator, Board of Medical Examiners, Department of Labor, Licensing and Regulation, Post Office Box 11289, Columbia, South Carolina 29211-1289.

Synopsis:

This regulation will explicitly provide the minimum requirements necessary for South Carolina physicians to initially prescribe medications to patients including prescribing via the Internet and toll-free telephone prescribing. It will define what is considered unprofessional conduct with relation to these prescribing requirements. The regulation will ensure patient safety with regard to receiving initial prescriptions from physicians by explicitly providing minimum requirements in establishing a proper physician-patient relationship.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS**

CHAPTER 81

Statutory Authority: 1976 Code Sections 40-47-20; 40-1-70

Notice of Drafting:

The Board of Medical Examiners is considering amending Regulation 81-110 to permit highly qualified physicians who practice under an academic license to supervise nurse practitioners. Interested persons should submit their views in writing to Mr. John D. Volmer, Administrator, Board of Medical Examiners, Department of Labor, Licensing and Regulation, Post Office Box 11289, Columbia, South Carolina 29211-1289.

Synopsis:

Regulation 81-110 would be amended to provide that a physician supervising a nurse practitioner must hold a permanent, active, unrestricted license or be an Associate Professor at an approved school of medicine with an active unrestricted academic license to practice medicine in this State.

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**DEPARTMENT OF LABOR, LICENSING AND REGULATION
REAL ESTATE APPRAISERS BOARD**

CHAPTER 137

STATUTORY AUTHORITY: 1976 CODE SECTION 40-60-60

Notice of Drafting:

The Real Estate Appraisers Board is drafting regulations to implement Act 335 (signed by the governor on June 6, 2000) so as to conform with that Act. Interested persons should submit their views in writing to Robert L. Selman, Administrator, Real Estate Appraisers Board, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The proposed regulations will conform the practices of the Real Estate Appraisers Board with the provisions of 2000 Act 335, including new provisions for mass appraiser qualifications and licensure as well as revision of current regulations codified at South Carolina Regulations Chapter 137.

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Section 43-1-80

Notice of Drafting:

The South Carolina Department of Social Services, Individual and Provider Rights, Office of Civil Rights proposes to amend Regulation 114-210, "Complaints of Discrimination." Interested persons should submit their views in writing to L. Lynn McLendon, Director, Individual and Provider Rights, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520. To be considered, all comments must be received no later than 5:00 p.m. on September 30, 2000.

Synopsis:

These regulations govern the procedure for handling and resolving complaints of discrimination by the Department of Social Services. The regulation must be updated to include various Federal Civil Rights laws, including the Americans with Disabilities Act. The amended regulation will include: a statement of non-discriminatory practices; procedures for filing complaints of discrimination; procedures to be followed by the Department in investigating complaints and taking corrective action; and termination and suspension of providers upon violations.

Document No. 2545
BUDGET AND CONTROL BOARD
 CHAPTER 19

Article 2. Information Resource Management
 (Statutory Authority: S. C. Code Section 26-5-10, et seq. (1998))

19-205, et seq. Electronic Commerce: South Carolina Access Network (SCAN)

Preamble:

The Budget and Control Board proposes to draft new regulations establishing an electronic portal to government information and services. The South Carolina Electronic Commerce Act, 1998 Act No. 374, became effective in May 1998. Among other things, this law authorizes the Budget and Control Board to promulgate regulations to enhance access to and use of public records and to facilitate, through technology, electronic commerce and to do so through the use of the operation of free market sources rather than prescriptive legislation. The proposed regulations will establish an electronic portal to be called the South Carolina Access Network (SCAN), which will provide access to the information and services of multiple public entities of the state and local political subdivisions. This will be accomplished by the use of current information technology through a common Web site entry point designed for ease of use. The intent of these regulations is to create a means to bring together public entities of the state and local political subdivisions to make their data available in a convenient, efficient and friendly manner to the general population desiring to access that information and to conduct transactions with these governmental bodies. Use of a portal will also allow business to be conducted twenty-four hours a day, seven days a week. It is the intent of these regulations that procedures will be established to determine categories of use, and charges, if any, for conducting transactions via the portal. Charges will apply only in instances where special circumstances exist such as applications where the expense of creation, maintenance or form of the information primarily benefits the commercial users, the State incurs a transactional cost, or established current practices impose charges. Strict care will be taken not to infringe on the privacy of any citizen by revealing personal data. It is expected that approximately 90-95% of all electronic records will be available through the portal without charge. The responsibility for the SCAN will be within the Office of Information Resources of the Budget and Control Board.

A Notice of Drafting was published in Volume 24, Issue No. 2 of the *State Register* on February 25, 2000.

Section by Section Discussion:

19-205 - Definitions: This Section defines terms specific to the proposed regulations.

19-210 – Purposes: This Section sets forth the purposes of SCAN.

19-215 - Approvals/Cooperation By Public Entities of the State: This Section specifies the types of on-line applications that are to be provided through, or linked to, SCAN. It also specifies which of these applications must be approved by the Office of Information Resources, the State Treasurer’s Office and the Comptroller General’s Office.

19-220 – Responsibilities of the Office of Information Resources (OIR): This Section describes the responsibilities of OIR in implementing SCAN.

19-225 – Responsibilities of Participating Local Political Subdivisions: This Section describes the responsibilities of local political subdivisions participating in SCAN.

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19-230 - Responsibilities of All Participants: This Section describes the responsibilities of all participants in SCAN

19-235 – Financial Requirements: This Section describes the funding model for SCAN. It also describes how funds will be disbursed to participating public entities of the state, local political subdivisions, OIR and used to expand/enhance SCAN.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments on the proposed regulations by writing to Chuck Fallaw, Office of Information Resources, 4430 Broad River Road, Columbia South Carolina, 29210. To be considered, comments must be received by no later than 4:00 p.m. on Tuesday, October 31, 2000.

If requested by twenty-five or more persons or an organization representing twenty -five or more persons, a Public Hearing will be held on Wednesday, November 8, 2000 at 10:00 a.m. in the Office of Information Resources, 4430 Broad River Road, Columbia South Carolina, 29210, Conference Room 205. Persons desiring to make oral comments at the hearing are asked, as a courtesy and to facilitate use of their comments, to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATIONS: 19-205, et seq. Electronic Commerce: South Carolina Access Network (SCAN).

Purpose: The regulations will establish an electronic portal to provide more expeditious access to the information and services of multiple public entities of the state and local political subdivisions by bringing together these governmental bodies to make their data and transactions available in a convenient, efficient and useful manner; to allow business to be conducted twenty-four hours a day, seven days a week; and to create procedures for determining categories of uses, and charges, if any, for conducting transactions via the portal in instances where special circumstances exist, such as where the expense of the creation, maintenance or form of the information primarily benefits commercial users, the State incurs a transaction cost, or established current practices impose charges; and to protect against infringing upon privacy by revealing personal data.

Legal Authority: The legal authority for the Regulations 19-205, et seq. is Section 26-5-10, et seq., S.C. Code of Laws (1998).

Plan for Implementation: The proposed regulations will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

DETERMINATION OF COSTS AND BENEFITS: The implementation of these regulations will be funded from monies received from public and private sources and from charges for providing access to public government information, goods and services. The benefits of these regulations will be increased funding for the expeditious delivery of government information and services; increased efficiency in responding to requests for information,

with resulting reduction in administrative, printing, mailing and personnel costs, and increased convenience and expediency for the users of this information and these services.

UNCERTAINTIES OF ESTIMATES: None. However, the numbers of public entities of the state, local political subdivisions, orders and charges are unknown, and thus the costs of the program and the amounts to be collected and expended are also unknown.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: See below.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS IS NOT IMPLEMENTED: The absence of the organization, procedures and charges authorized by these regulations will delay, if not prevent, the implementation of improvements in the delivery of government information and services, the ability to complete transactions with their resulting reductions in costs and delivery time, and their resulting improvements in government responsiveness and efficiency to citizens and businesses.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Fiscal Impact Statement:

The startup costs for SCAN are anticipated to be approximately \$1.7 million. This should result in no increased costs to the State or its political subdivisions, as staff anticipates the recovery of all such cost from monies received from public and private sources and charges for premium services.

Document No. 2537
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 30
Statutory Authority: S.C. Code Section 48-39-50

30-12. Specific Project Standards for Tidelands and Coastal Areas

Preamble:

The Department's Office of Ocean and Coastal Resource Management (OCRM) is proposing to amend R.30-12, *Specific Project Standards for Tidelands and Coastal Areas*, by adding new Section Q, *Maintenance Shelves for Existing Drainage Ditches*. The new section will address recommendations made by an Ad Hoc Committee which was organized to develop regulations which would allow the construction of maintenance shelves in tidal marshes adjacent to existing ditches for the purpose of maintaining these drainage structures. See Discussion below and Statement of Need and Reasonableness herein. A Notice of Drafting for this proposed amendment was published in the State Register on February 25, 2000.

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Discussion of Proposed Revisions:

SECTION

CHANGE

30-12

Add new Subsection 30-12.Q. This section will address maintenance of existing ditches in tidal wetlands by allowing fill in tidal wetlands to create maintenance shelves adjacent to the existing ditches. See Statement of Need and Reasonableness herein.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 3, 2000, at 6:00 p.m. in the 3rd floor conference room at the DHEC office at 1362 McMillan Avenue, Charleston, South Carolina. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed amendment to add Subsection Q to R.30-12. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board's public hearing scheduled pursuant to S.C. Code Section 1-23-110 and -111 as noticed below.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment to the staff forum by writing to Barbara Neale at OCRM, 1362 McMillan Ave., Suite 400, Charleston, South Carolina 29405: Telephone number (843) 744-5838; Fax (843) 744-5847. Written comments must be received no later than 4:00 p.m. on October 3, 2000. Comments received at the forum and by mail by the deadline shall be considered by the staff in formulating the final draft proposed regulation for submission to the Board for public hearing on November 9, 2000. Comments received from the forum and comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the text of the proposed amendment for public notice and comment may be obtained by contacting Barbara Neale at OCRM, S.C. Department of Health and Environmental Control, 1362 McMillan Ave., Suite 400, Charleston, South Carolina 29405: Telephone number (843) 744-5838; Fax (843) 744-5847.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 9, 2000. The public hearing will be held in the Board Room of the Commissioner=s Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting will commence at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Ms. Barbara Neale at SCDHEC OCRM at 1362 McMillan Avenue, Suite 400, Charleston, South Carolina 29405. Written comments must be received no later than 4:00 p.m. on October 3, 2000. Comments received by the deadline shall be considered by staff in formulating the final proposed regulation for public hearing on November 9, 2000, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board=s consideration at the public hearing.

Copies of the final proposed regulation for public hearing before the DHEC Board may be obtained by contacting Barbara Neale at 843-747-4323 Extension 126.

Preliminary Fiscal Impact Statement:

SCDHEC/OCRM estimates no significant economic impacts upon or incurred to the state or its political entities as a result of the promulgation, approval and administration of the proposed Regulations. Existing staff and resources have been utilized in preparation and will further be utilized in additional regulatory administration resulting from the amendments.

Statement of Need and Reasonableness

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-1115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.30-12, Specific Project Standards for Tidelands and Coastal Areas

Purpose: To amend R.30-12 by adding new section 30-12.Q to introduce new regulations concerning stormwater drainage into the saltmarsh critical areas.

Legal Authority: Authorized by 48-39-50(A-V), Coastal Tidelands and Wetlands Act, 1976.

Plan for Implementation: Existing staff and resources will be employed to implement, administer and enforce the proposed amended regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT: The amendments are necessary to enable Department staff to manage drainage issues adjacent to the saltmarsh critical areas and to improve coordination with local governing entities.

DETERMINATION OF COSTS AND BENEFITS: Promulgation and administration of the amendments are estimated to have no significant economic impacts to entities regulated nor cost increases to the general public. Public benefits, however, may be evident in reduced flood damages to properties adjacent to saltmarshes caused by sudden, heavy precipitation.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Increasing development pressures along South Carolina's coastal tidelands and beaches have outstripped local governments' ability to dispose of the resulting stormwater runoff. Approval of the additional regulations will allow SCDHEC/OCRM to properly and consistently manage this need of municipalities to adequately address stormwater drainage from surrounding highlands.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

Continued and elevated stress to the coastal areas is a certainty through further residential and commercial developments. Flooding of coastal areas during periods of prolonged rains or sudden torrential downpours may cause an increase in property damages if these storm generated waters can not be removed from the highlands expeditiously.

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Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2541
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: Sections 44-7-250 and 44-7-260(A),
South Carolina Code of Laws, 1976, as amended.

R.61-84, Standards For Licensing Community Residential Care Facilities

Preamble:

This amendment will extricate applicability to facilities that treat those with chemical dependency and addiction from Regulation 61-84. Concurrently, the Department of Health and Environmental Control (DHEC) has proposed to consolidate the standards for all of the alcohol and drug abuse treatment facilities which DHEC now licenses into one regulation R.61-93; alcohol and drug abuse treatment programs within existing hospitals will continue to be licensed under the hospital regulation (R.61-16). DHEC proposes to amend Regulation 61-84 to update and enhance the regulations. In addition, this amendment will: update and expand definitions/interpretations; clarify licensing change requirements; update licensing fee amounts; describe inspection reporting requirements; add specifics to emergency procedures/disaster preparedness; add reference to DHEC consultations; update and clarify and update classification of standards and enforcement action procedures; update staffing standards; update physical plant/structural requirements; add quality improvement standards; reword sections related to care and services; reword sections regarding resident record content and maintenance; update tuberculosis screening requirements; update medication management requirements; update meal service requirements add reporting requirements; enhance resident rights/assurances requirements; reword sections regarding resident record content and maintenance; expand/update emergency preparedness requirements; enhance fire prevention requirements and add a severability clause. The proposed amendment will rewrite the regulation in its entirety. See Determination of Need and Reasonableness below.

A Notice of Drafting for this proposed amendment of R.61-84 was published in the State Register on February 25, 2000.

Discussion of Proposed Revisions

TITLE: The title is "Standards For Licensing Community Residential Care Facilities."

The revision includes: a reference listing of Departmental and non-Departmental publications; licensing requirements; methods used in enforcing regulations, *i.e.*, investigations, inspections, and consultations; reference to the types of enforcement actions which may be taken by DHEC, the classifications of violations, range of penalty amounts, and the appeal process; includes staff training and qualifications to comply with applicable federal, state, and local laws and in accordance with professional organizational standards; requirement that direct care staff/volunteers to have no record of abuse, neglect, or mistreatment and not have an existing dependency on psychoactive substances; personnel requirements and updated tuberculin screening procedures; reporting requirements to DHEC; resident record content and maintenance; transportation; resident care/treatment/services; treatment of minors; referral services; resident medical and tuberculin screening; medication management; resident rights; meal services; infection control and housekeeping; maintenance; emergency procedures/disaster preparedness; fire prevention; quality improvement; design and construction; physical plant requirements; and a severability clause.

Notice of Staff Informational Forum:

The staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a Staff Informational Forum on September 27, 2000, at 1:30 pm, in the Peoples Auditorium at 2600 Bull St., Columbia, S.C. The purpose of this forum is to receive comments from interested persons regarding the proposed regulation. Comments received shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Public Hearing scheduled pursuant to S.C. Code Section 1-23-110 and - 111 as noticed below.

Interested persons are also provided an opportunity to submit written comments to the forum by writing to Jerry L. Paul, Director, Division of Health Licensing, DHEC, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments for the forum and comment period must be received no later than 4:00 p.m. on September 27, 2000.

Oral and written comments received during the forum comment period shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Public Hearing on December 14, 2000, as noticed below. Comments received by the deadline date shall be submitted to the Board in a Summary of Public Comments and DHEC Responses for consideration at the Public Hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Mr. Jerry L. Paul at the above address.

Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments regarding the proposed regulation at a Public Hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled Board meeting on December 14, 2000. The Public Hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The agenda is published by DHEC ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record.

Interested persons may also submit written comments during the public comment period by writing to Mr. Jerry L. Paul, Director, Division of Health Licensing, DHEC, 2600 Bull St., Columbia, S.C. 29201: Telephone number (803) 737-7370; Fax number (803) 737-7212. To be considered, written comments must be received before 4:00 p.m. on September 27, 2000. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for Public Hearing on December 14, 2000, as noticed above. Comments received shall be submitted in a Summary of Public Comments and DHEC Responses for the Board's consideration at the Public Hearing noticed above.

Copies of the final proposed regulation for consideration at the Public Hearing before the DHEC Board may be obtained by contacting Jerry L. Paul at the above address.

Preliminary Fiscal Impact Statement:

There will be no additional cost to the state and its political subdivisions. Although there will be an increase in licensing fees, costs to the regulated community will still be minimum. See Statement of Need and Reasonableness below.

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Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-84, Standards For Licensing Community Residential Care Facilities

This amendment will extricate applicability to facilities that treat those with chemical dependency and addiction from Regulation 61-84. Concurrently, DHEC has proposed to consolidate the standards for all of the alcohol and drug abuse treatment facilities which DHEC now licenses into one regulation, R.61-93; alcohol and drug abuse treatment programs within existing hospitals will continue to be licensed under the Regulation 61-16, Standards For Licensing Hospitals and Institutional General Infirmaries. DHEC proposes to amend Regulation 61-84 to update and enhance the regulations. In addition, this amendment will: update and expand definitions/interpretations; clarify licensing change requirements; update licensing fee amounts; describe inspection reporting requirements; add specifics to emergency procedures/disaster preparedness; add reference to DHEC consultations; update and clarify and update classification of standards and enforcement action procedures; update staffing standards; update physical plant/structural requirements; add quality improvement standards; reword sections related to care and services; reword sections regarding resident record content and maintenance; update tuberculosis screening requirements; update medication management requirements; update meal service requirements add reporting requirements; enhance resident rights/assurances requirements; reword sections regarding resident record content and maintenance; expand/update emergency preparedness requirements; enhance fire prevention requirements and add a severability clause. The proposed amendment will rewrite the regulation in its entirety. See Determination of Need and Reasonableness below.

Legal Authority: The legal authority for R.61-84 is Sections 44-7-250 and 44-7-260(A), South Carolina Code of Laws, 1976, as amended.

Plan for Implementation: The proposed amendment will take effect upon publication in the *State Register* following approval by the Board of Health and Environmental Control and the S.C. General Assembly. The proposed amendment will be implemented by providing the regulated community with copies of the regulation.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

R.61-84 was last amended in 1991. Section 1-23-120 of the SC Code (Administrative Procedures Act) requires state agencies to perform a review of its regulations every five years and update them if necessary.

The proposed amendment is needed and reasonable because it will extricate those standards within R.61-84 that are applicable to facilities that treat those with a chemical dependency and addiction. This is part of DHEC's plan to ultimately consolidate facilities treating the chemically dependent and addicted into one regulation pursuant to Section 44-7-130(14) of the SC Code as it describes a Facility for chemically dependent or addicted persons. Alcohol and drug abuse treatment programs within existing hospitals will continue to be licensed under the hospital regulation (R.61-16).

The proposed amendment is needed and reasonable because it will bring the regulation into compliance with the legislative proviso to emphasize quality improvement programs within community residential care facilities.

The proposed amendment is needed and reasonable in order to update and improve the overall quality of the regulation.

The proposed amendment is needed and reasonable because it will clarify/add to the current regulation in a manner that will improve individual agency methods to provide quality care/service to residents.

The proposed amendment is needed and reasonable because it will update the current regulation by incorporating certain exceptions/guidances that DHEC has implemented since the last revision.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional cost to the state and its political subdivisions as the facilities consolidated into this regulation are currently already being inspected, investigated, and subsequently licensed. Although there will be an increase in licensing fees, costs to the regulated community will still be minimum.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. The revision will promote public health by encouraging local solutions to local problems (more emphasis on facility policies and procedures/quality improvement) and contribute to the upgrading of care/services within community residential care facilities.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be no significant adverse effect on the public health if the revision is not implemented; however, 24-hour alcohol and drug abuse facilities will continue to be licensed under Regulation 61-84, Standards for Licensing Community Residential Care Facilities, which has limited alcohol and drug abuse treatment-related standards. In addition, failure to implement will deny compliance to the legislative proviso to enhance quality improvement-related standards

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2539
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61
 Statutory Authority: 1976 Code Section 48-1-10 et seq.

R.61-87, Underground Injection Control Regulations

Preamble:

The United States Environmental Protection Agency revised 40 CFR Parts 9, 144, 145 and 146 of the Underground Injection Control Regulations on December 7, 1999 (64 FR 68546). The rule bans motor vehicle waste disposal wells in groundwater protection areas and other sensitive groundwater areas; bans new motor vehicle waste disposal wells and new and existing large capacity cesspools; and adds new or revised definitions to the regulation. The Department is proposing to amend R.61-87 to adopt the federal revisions. Adoption will bring the State Underground Injection Control Regulations into compliance with the federal regulations and will allow the State to maintain its primacy status.

A Notice of Drafting for this amendment was published in the State Register on May 26, 2000. The revision is being promulgated to comply with federal law; neither a fiscal impact statement nor preliminary assessment report is required. See discussion of revisions below and a statement of need and reasonableness provided herein.

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Discussion of Proposed Revisions

| <u>Section</u> | <u>Change</u> |
|--------------------------------|--|
| 61-87.2 | Added new definitions for terms: "Cesspool," "Drywell," "Improved sinkhole," and "Point of injection for Class V wells", "Septic System," and "Subsurface fluid distribution system," Modified existing definitions used in the revised parts: "Waste" and "Well." |
| 61-87.3 | Revised the scope to clearly define when these regulations apply. |
| 61-87.11.A.(1)(c) | New subitem added to include generators, owners, or operators of hazardous waste management facilities to this class of injection well. |
| 61-87.11.B(2) | Revised the name of the agency overseeing petroleum exploration from the South Carolina Water Resource Commission to the Department. Clarified Apermit≡ to Amining permit≡. |
| 61-87.11.C(2) | Revised the name of the agency overseeing mineral exploration from the South Carolina Land Resource Commission to the Department. |
| 61-87.11.D.2 & added a & b. | Revised definition of Class IV injection wells to allow contaminated groundwater remediation systems treating groundwater at CERCLA and RCRA sites, approved by the EPA or the department, to inject the treated groundwater back into the same aquifer from which it was drawn. |
| 61-87.11.E(1)(i) & added j. | Revised definition of Class V.A. wells to include septic systems used to inject waste or effluent from multiple dwellings, business establishments, communities, or regional businesses. |
| 61-87.11.E(1)k | Added to revise definition of Class V.A. wells to include large capacity cesspools. |
| 61-87.11.E(1)l | Added to revise definition of Class V.A. wells to include motor vehicle waste disposal wells. |
| 61-87.11.E(3) & (3)(a) | Added to prohibit the use of large capacity cesspools. |
| 61-87.11.E(3)(b) | Added to prohibit the use of motor vehicle waste disposal wells. |
| 61-87.11.F(4) | Added to prohibit the use of Class V.B. wells that have not complied with the inventory requirements. |
| 61-87.12.B. | Revised introductory paragraph by adding Class IV(2)(a) to the well types, and added to exclude Class IV remediation wells at RCRA and CERCLA facilities and and added to prohibit Class V.A (j), (k), (l) wells. |
| 61-87.13. | Added Class IV(2)(a) to the well types |

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested persons to attend a staff-conducted informational forum on September 27, 2000, at 10:00 a.m. The forum will be held in Peebles

Auditorium at Sims building, 2600 Bull Street, Columbia, SC 29201. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed regulations. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for public hearing as scheduled below.

Interested persons may also submit written comments to the forum by writing Robert Devlin, Manager, Groundwater Management Section at 2600 Bull Street, Columbia, SC 292901. Written comments for the forum must be received before 4:00 p.m. on September 28, 2000. Comments received shall be submitted to the Board for consideration at the public hearing notice below.

Copies of the proposed regulation for public comment may be obtained by contacting Robert Devlin at (803) 898-3798.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Section 1-23-111:

Interested persons are invited to make oral or written comments on the proposed revisions of R.61-87 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled Board meeting on November 9, 2000, in the Board Room of the Commissioner=s Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in order presented. The Board=s agenda will be published by the Department of Health and Environmental Control ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentation for the record.

Interested persons may also submit written comments on the proposed regulations by writing Robert Devlin, Manager, Groundwater Management Section, Bureau of Water, 2600 Bull Street, Columbia, S.C. 29201. Written comments must be received before 4:00 p.m. on September 28, 2000 . Written comments received by the deadline date shall be considered by staff in formulating the final draft of the proposed revisions of R.61-87 for the public hearing before the Board of Health and Environmental Control on November 9, 2000, as noticed above. Public comments received from the staff forum and public comment period shall be submitted in a Summary of Public Comments and Department responses for the Board=s consideration at the public hearing.

Copies of the proposed regulations for public hearing before the Board may be obtained by contacting Mr. Devlin at the above address.

Statement of Need and Reasonableness:

The statement of nee and reasonableness was determined based on staff analysis pursuant to S.C. Code Section 48-1-10 et. seq:

DESCRIPTION OF REGULATION: R.61-87. Underground Injection Control Regulations

Purpose: To amend Regulation 61-87 in accordance with changes to Federal Regulation 40 CFR Parts 9, 144, 145, and 146.

Legal Authority: This change to state law is authorized by Title 48 Chapter 1 of the S.C. Code of Laws and required by Section 1421 of the Safe Drinking Water Act, 42 U.S.C. Section 300h.

Plan for Implementation: Existing staff of the Bureau of Water will implement these changes. The additional requirements are expected to add no additional man days of effort. Impact on other program areas will be slight.

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DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFIT: This regulatory amendment is exempt from requirements of a Preliminary Fiscal Impact Statement and Preliminary Assessment Report because each change is necessary to maintain compatibility with Federal regulations. In amending the federal regulations, the U.S. Environmental Protection Agency found the following:

Amending the regulation will bring the State underground injection control regulations into compliance with the Federal regulations. Adoption of the federal regulations will allow the State to maintain the underground injection control program=s primacy status.

DETERMINATION OF COSTS AND BENEFITS: In amending the Federal regulation, the U.S. Environmental Protection Agency found the following: Amending the regulation will prohibit two categories of Class V wells and ensure protection of underground sources of drinking water. It bans new and existing motor vehicle waste disposal wells and cesspools.

UNCERTAINTIES OF ESTIMATES: The Department does not have sufficient information to enable it to estimate the number of potentially effected Class V injection wells.

EFFECTS ON ENVIRONMENT AND PUBLIC HEALTH: It is necessary to update existing regulations as changes occur at the federal level in order to maintain compatibility with the federal government. This will help protect the State=s underground sources of drinking water from injection of contaminants.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: If not implemented, possible duplicative or redundant requirements with existing federal regulations will not be eliminated.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2540
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 43-5-920 and 43-5-930

R.61-94. WIC Vendors

Preamble:

The United States Department of Agriculture (USDA), Food and Nutrition Services (FNS), continually updates regulations, and state regulations are amended to incorporate federal updates. The USDA has promulgated amendments to 7 CFR 246, Special Supplemental Program for Women, Infants and Children (WIC): WIC/Food Stamp Program (FSP) Vendor Disqualification. The Final Rule was published in the Federal Register on March 18, 1999 (64 FR 13311).

The Department is proposing to amend R.61-94 to adopt the federal regulations. Adoption will ensure consistency with the federal regulations governing the WIC/FSP Program Vendor Disqualification which mandate uniform sanctions across State agencies for the most serious WIC Program vendor violations. The

implementation of these mandatory sanctions is intended to curb vendor related fraud and abuse in the WIC program and to promote WIC and FSP coordination in the disqualification of vendor and retailers who violate program rules.

A Notice of Drafting for this amendment was published in the State Register on June 23, 2000. The revision is being promulgated to comply with federal law; neither a fiscal impact statement nor preliminary assessment report is required. See discussion of revisions and a statement of need and reasonableness provided herein.

Discussion of Proposed Revisions

Section Change

Revised to reflect maximum disqualification period is permanent.

- 901.1 Revised to reflect the number of violations that carry a point value of 15 is now six (reduced from nine).
- 901.2 Revised to reflect the number of violations that carry a point value of 7.5 is now six (increased from four).
- 901.3 Revised to reflect the number of violations that carry a point value of 5 is now nine (increased from eight).
- 901.4 Revised to reflect there are no violations that carry a point value of 2.5, and eighteen (increased from seven) violations which do not have a point value but can lead to or extend a disqualification period.
- 901.4.1 Added statement to specify the disqualification may begin at a later date.
- 901.4.6 Revised to specify mandatory three (3) year disqualification.
- 901.4.7 Revised to specify mandatory one year disqualification for forging signatures on food instruments.
- 901.4.8 Added to specify mandatory one (1) year disqualification for providing unauthorized foods.
- 901.4.9 Added to specify a mandatory three (3) year disqualification for sale of alcoholic beverages or tobacco products in exchange for food instruments.
- 901.4.10 Added to specify a mandatory three (3) year disqualification for claiming reimbursement for the sale of a specific food item which exceeds the stores documented inventory of that food item or failing to supply store records or failing to allow an audit of such records.
- 901.4.11 Added to specify a mandatory three (3) year disqualification for overcharging.
- 901.4.12 Added to specify a mandatory three (3) year disqualification for receiving, transacting and/or redeeming food instruments outside of authorized channels.
- 901.4.13 Added to specify a mandatory three (3) year disqualification for charging for foods not received.
- 901.4.14 Added to specify a mandatory six (6) year disqualification for an administrative finding of buying or selling food instruments for cash or selling firearms, ammunition, explosives or controlled substances in exchange for food instruments.

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- 901.4.15 Added to specify a mandatory permanent disqualification for a conviction for trafficking.
- 901.4.16 Added to specify any vendor who previously has been assessed a sanction for any of the violations listed in items six (6) through fifteen (15), receives another sanction for any of these violations the disqualification period shall double.
- 901.4.17 Added to specify any vendor who previously has been assessed two (2) or more sanctions for any of the violations listed in items six (6) through fifteen (15), receives another sanction for any of these violations, this Agency shall double the third sanction and all subsequent sanctions.
- 901.4.18 Added to specify when the Food Stamp Program disqualify because of a disqualification from the WIC Program, the disqualification is not subject to administrative or judicial review under the Food Stamp Program.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on September 25, 2000 at 10:00 a.m. in Room N-400B, Fourth Floor, Jarrett Building of the Department of Health and Environmental Control at 1751 Calhoun Street, Columbia, SC. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed regulation amendment. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the public hearing scheduled pursuant to S.C. Code Section 1-23-110 and B111 as noticed below.

Interested persons are also provided an opportunity to submit written comments to the staff forum by writing to Joseph J. Pearson, Jr., Director, Vendor Management, Division of WIC, Box 101106, Columbia, SC 29201. Written comments must be received no later than September 22, 2000. Comments received for the forum and comment period by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board=s consideration at the public hearing.

Copies of the text of the proposed regulation for public notice and comment may be obtained by contacting Mr. Pearson at the above address.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested persons are invited to make oral or written comments on the proposed revisions to R.61-94 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on October 12, 2000. The public hearing will be held in the Board Room of the Commissioner=s Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board=s agenda will be published by the Department of Health and Environmental Control ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentation for the record.

Interested persons may also submit written comments by writing to Joseph J. Pearson, Jr., Director, Vendor Management, Division of WIC Services, Bureau of Maternal and Child Health at Box 101106, Columbia, S.C. 29211. Written comments must be received by September 22, 2000. Written comments received by the deadline

date shall be considered by staff in formulating the final draft of the proposed revision of R.61-94 for public hearing before the Board of Health and Environmental Control on October 12, 2000, as noticed above.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C.Code Section 1-23-115(c)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: R.61-94. WIC Vendors

Purpose: To amend Regulation 61-94 in accordance with changes to Federal Regulation 7 CFR Part 246.

Legal Authority: This change to state law is authorized by S.C. Code of Laws Sections 43-5-920 and 43-5-930.

Plan for implementation: Existing staff of the Division of WIC Services will implement these changes. The additional requirements are expected to require 60 man days of effort. Impact on other program areas will be negligible.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFIT BASED ON ALL FACTORS HEREIN: This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement and Preliminary Assessment Report because each change is necessary to maintain compatibility with Federal regulations. In amending the Federal regulations, the U.S. Department of Agriculture, Food and Nutrition Services found the following:

Amending the regulations that governs the Special Supplemental Nutrition Program for Women, Infant and Children (WIC) will mandate uniform sanctions across State agencies for the most serious WIC Program vendor violations. The implementation of these mandatory sanctions is intended to curb vendor related fraud and abuse in the WIC Program and to promote WIC and Food Stamp Program (FSP) coordination in the disqualification of vendors and retailers who violate program rules. This amendment also implements a mandate of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which requires the disqualification of WIC vendors who are disqualified from the FSP. Adoption of these regulations will bring R.61-94 in conformity with the federal regulations.

These regulations have been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612) and have been certified to not have a significant impact on a substantial number of small entities. These regulations will only impact WIC vendors who have committed fraud and abuse against the WIC Program or who have been disqualified from the FSP.

These regulations are intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede full implementation. Prior to any judicial challenge to the application of provisions of these regulations, all applicable administrative procedures must be exhausted.

DETERMINATION OF COSTS AND BENEFITS: Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law (Pub. L.) 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on States, local and tribal governments and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost benefit analysis, for proposed and final regulations with AFederal mandates≡ that may result in expenditures to State, local or tribal governments, in the aggregate, or the private sector, of 100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory

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alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objective or the regulation.

This regulation contains no mandates (under than the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of \$100 million or more in any one year. Thus, this regulation is not subject to the requirements of sections 202 and 205 of the UMRA.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no effect on the environment or public health. However, if these regulations are not adopted, there will be sanctions. South Carolina would lose primacy to administer the regulations and the federal government would enforce them.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2538

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Sections 13-7-10, 13-7-40 and 13-7-45 et seq. and Supplement

R.61-64, X-Rays (Title B)

Preamble:

The Department proposes to substantially revise R.61-64, X-Rays (Title B) in its entirety. The general areas the Department seeks to revise include: ensuring compatibility with Federal regulations; further clarifying and simplifying the regulations; adding new definitions as required; deleting regulations that are no longer applicable or necessary; and, increasing fees. Specifically, the areas the Department seeks to revise include: changing State mammography regulations to be compatible with the Federal mammography requirements; adding regulations to allow South Carolina to become a certifying body for mammography facilities; simplifying the regulations relating to therapeutic equipment; clarifying and strengthening equipment performance standard testing; changing equipment standards to be compatible with Federal equipment standards; adding provisions for bone densitometry units; reorganizing the civil penalty schedule into a matrix system to be more consistent with the rest of the Department; increasing registration fees, which have not been increased since 1993; reorganizing the fee schedule to include requiring an application fee for new facilities and a shielding plan review fee (currently there are no fees); and, increasing instrument calibration fees, which have not been increased since 1993. The fee increases are needed due to the mandate, under the Atomic Energy and Radiation Control Act, to recover the cost of the program through the collection of fees.

A Notice of Drafting was originally published in the State Register on September 24, 1999, and was reissued on May 26, 2000. Comments were considered in formulating the proposed revisions. See Discussion of Proposed Revisions below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions

(1) Add new definitions to incorporate new requirements.

| <u>SECTION</u> | <u>REVISION</u> |
|------------------|--|
| R.61-64, Part IX | Forty-seven definitions are added in alphabetical/numerical order. All of these definitions were added for compatibility purposes with the Federal Mammography requirements. Definitions are added for: “Accreditation body”, “Action limits”, “Adverse Event”, “Air kerma”, “Breast Implant”, “Category I”, “Certification”, “Clinical Image”, “Committed dose equivalent”, “Consumer”, “Continuing education unit or continuing education credit”, “Contact hour”, “Diagnostic mammography”, “Direct instruction”, “Direct supervision”, “Established operating level”, “Facility or mammography installation”, “FDA”, “First allowable time”, “Interim regulations”, “Interpreting physician”, “Lead interpreting physician”, “Mammogram”, “Mammographic modality”, “Mammography”, “Mammography equipment evaluation,” “Mammography medical outcomes audit”, “ Mammography unit or units”, “Mean optical density”, “Medical physicist”, “MQSA”, “Multi-reading”, “Phantom” (Part V) , “Phantom image”, “Physical science”, “Positive mammogram”, “Provisional certificate”, “Qualified instructor”, “Quality control technologist”, “Radiological Technologist”, “Screening mammography”, “Serious adverse event”, “Serious complaint”, “Standard breast”, “Survey”, “Time cycle” and “Traceable to a national standard.” |

(3) Revise existing definitions to further clarify existing requirements.

R.61-64, Part IX Three definitions are revised to include greater detail and descriptions. The revised definitions are: “Calendar quarter”, “Misadministration” and “Phantom” (Part VI).

(4) Clarify and strengthen existing requirements.

| | |
|----------------|--|
| R.61-64.1.5.2 | Revised conditions for exemptions to change wording for further clarification and to reflect previously revised dose limits. |
| R.61-64.1.7 | Revised to indicate notification with respect to action taken or planned to correct violations must be in writing and to specify a description must be provided of actions taken to correct the violations. |
| R.61-64.1.8 | Revised enforcement provisions for further clarification, to specify conditions that warrant the issuance of an administrative order and to add provisions for impounding of radiation sources. |
| R.61-64.1.10 | Revised record keeping requirements to ensure records are readily available and to require an inventory listing of equipment be available to the Department. Revised to include references to Part V, Mammography. |
| R.61-64.1.11 | Revised to add further clarification and strengthening to existing therapy and diagnostic misadministration notification and reporting requirements. |
| R.61-64.1.12.2 | Revised to clarify and strengthen existing prohibition of making a material false statement by listing information that can be potentially falsified. |

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- R.61-64.1.13.2 Severity Level I”, “Severity Level IV” and “Severity Level VI” violations, respectively. Revised to include violations that represent deviation from the requirements. Revised to delete references to Severity Level II, III and V violations. The proposed civil penalty matrix will only have three severity levels, but this will adequately cover all previous severity levels.
- R.61-64.1.13.3 Revised to make reference to the civil penalty matrix.
- R.61-64.2.6.2 Revised to require vendors to submit samples of equipment performance test procedures and forms and a sample of a shielding plan for review.
- R.61-64.2.7.3.4 Revised to require vendors to keep records pertaining to maintenance, repair, alterations, or reassemblies of x-ray equipment.
- R.61-64.2.10.6 Revised schedule of fees to indicate the fee increases for each specific equipment type. The fee increase was needed to recover the cost of implementing the Department’s Division of Electronic Products program.
- R.61-64.3.1.3 Revised to add applicability to persons who install and service x-ray equipment.
- R.61-64.3.12.2 Revised to clarify consideration of monitoring results for the badge worn under the apron as a permanent record when two monitoring devices are worn. Revised to require detailed written procedures for use of monitoring devices worn in this manner.
- R.61-64.3.19 Revised to change retention of records of surveys from 3 to 5 years.
- R.61-64.3.20.6 Revised to change retention of records of surveys from 3 to 5 years.
- R.61-64.4.2.3 Revised to delete the effective date of the regulations.
- R.61-64.4.2.4 Revised to require registrants to adhere to their approved operating procedures and to maintain documentation that operators have read and agree to adhere to the operating procedures.
- R.61-64.4.2.10 Revised to require an annual integrity check of lead aprons and gloves, and to document and keep records of the testing.
- R.61-64.4.2.13 Revised to change “the useful beam” to “electronically produced ionizing radiation” in order to be more concise.
- R.61-64.4.2.13.1 Revised to require proper protection during demonstrations or training, and to require phantoms, not humans, to be used for demonstrations and training.
- R.61-64.4.2.14.7 Revised to require documentation and record retention of lead apron and glove testing.
- R.61-64.4.2.16.1.2 Revised to add a reference to RHB 3.12.2 if more than one monitoring device is worn.
- R.61-64.4.2.17 Revised to indicate dental and veterinary x-ray equipment are exempt from x-ray log requirements. Revised to indicate x-ray log records must be maintained for two years.
- R.61-64.4.2.18.1 Revised to clarify performance testing of x-ray equipment and to specify minimum performance criteria and testing frequency. Revised to indicate which facilities are exempt from testing. Revised refer to Appendix E for specific testing parameters.

- R.61-64.4.2.18.4 Revised to further clarify criteria for conducting a repeat analysis, and to indicate which facilities are exempt from this requirement.
- R.61-64.4.2.19.2.5 Revised to require the specified developer temperature to be immediately available instead of posted.
- R.61-64.4.2.19.3.4 Revised to require film cassettes and intensifying screens to be inspected in accordance with operating procedures instead of “periodically.” Revised to require maintenance of records of inspection and cleaning.
- R.61-64.4.3.11 Revised to indicate use of mechanical timers is prohibited and delete previous reference to having 180 days to achieve compliance.
- R.61-64.4.4.3 Revised to require a facility to maintain a copy of shielding plans and area surveys.
- R.61-64.4.4.4 Revised to require the submission of “as-built” drawings within 30 days after construction and installation are complete, and to further specify what they must include.
- R.61-64.4.5.4.2 Revised to indicate January 1, 1993, the effective date of the last revision, for the purpose of determining operator protection.
- R.61-64.4.5.4.2.6 Revised to add provisions for an audible indication of x-ray production from the operator’s position.
- R.61-64.4.5.11.3 Revised to indicate all pass throughs for dental units shall be securely interlocked.
- R.61-64.4.6.3 Revised to substitute “appropriate and/or proper” for “safe” for further clarity regarding additional requirements.
- R.61-64.4.7 Revised to include the requirements as applicable for mammography.
- R.61-64.4.7.5 Revised for further clarity to indicate exposure reproducibility testing is to be performed on “selectable” technique factors.
- R.61-64.4.7.9.2 Revised to add the Department may grant exemptions upon determination that patient safety and image quality are not compromised.
- R.61-64.4.7.13 Revised to further clarify requirements for systems with Positive Beam Limitation (PBL).
- R.61-64.4.8.1 Revised to indicate an exception to the applicability of the regulations for mobile radiographic equipment.
- R.61-64.4.8.8 Revised to specifically refer to the requirements of RHB 4.4.
- R.61-64.4.9.4.1 Revised to indicate the requirements for fluoroscopic x-ray equipment are applicable to units manufactured prior to May 19, 1995.
- R.61-64.4.9.4.3.6 Revised for further clarification to specify that entrance exposure rate measurements need to be performed in each mode used clinically.

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- R.61-64.4.9.4.3.7 Revised to delete “periodically” since testing frequencies are now specified for the measurement of maximum entrance exposure rate.
- R.61-64.4.9.4.3.8 Revised to delete “periodically” since testing frequencies are now specified for the measurement of typical entrance exposure rate. Text was added for further clarity to specify that measurements need to be performed in each mode used clinically.
- R.6-64.4.12.1 Revised to include correct citation and delete regulations that are not applicable.
- Appendix A Revised for further clarification to indicate the information submitted to perform healing arts screening must be reviewed and approved by the Department.
- Appendix C Revised to specify the exposure switch location for an operator’s barrier.
- R.61-64.6.3.2.1 Revised to delete submission of operating procedures upon request for therapy units since this will become required.
- R.61-64.6.3.2.2 Revised to require documentation that therapy equipment operators have read and agree to adhere to the operating procedures.
- R.61-64.6.4.2.4 Revised to specify requirements for location and functioning parameters for interlocks in therapy treatment rooms.
- R.61-64.6.4.4.1.1 Revised to delete unnecessary yearly area surveys for therapy equipment.
- R.61-64.6.4.4.4 Revised to include prohibited use of therapy equipment until the Department’s requirements have been met.
- R.61-64.6.5.3 Revised for further clarification to reflect that the requirements are for “equipment installed after the effective date of these regulations” and not “new” equipment.
- R.61-64.6.5.5.1 Revised to change “effective date of these regulations” to “January 1, 1994” which is the effective date of the last revision.
- R.61-64.6.5.5.2 Revised to change “effective date of these regulations” to “January 1, 1994” which is the effective date of the last revision.
- R.61-64.6.5.8.3 Revised to change “effective date of these regulations” to “January 1, 1994” which is the effective date of the last revision.
- R.61-64.6.5.8.4 Revised to change “effective date of these regulations” to “January 1, 1994” which is the effective date of the last revision.
- R.61-64.6.5.14 Revised to delete references that the regulations only apply to new equipment.
- R.61-64.6.6.5 Revised to prohibit use of the therapy equipment unless the Department’s regulations have been met.
- R.61-64.7.3.5.5 Revised to change “accidental” to “inadvertent” for further clarification.
- R.61-64.7.3.1 Revised to include applicability to RHB 2.3.
- R.61-64.7.3.6 Revised to change “one hour at any specified tube rating” to “any given hour at any specified tube rating” for further clarification.

- R.61-64.7.3.7 Revised to change “one hour” to “any given hour” for further clarification. Revised to correct “2.5 mSv” to “.0025 mSv.”
- R.61-64.7.6.1 Revised to clarify radiation area requirements for local components of analytical x-ray equipment.
- R.61-64.7.7.1 Revised to delete references to the maximum range of a survey instrument for analytical x-ray equipment since the minimum range of the equipment is more critical in performing surveys.
- R.61-64.7.7.2.4 Revised to require survey instruments for analytical x-ray equipment to be calibrated at energy levels encountered.
- R.61-64.7.8.1 Revised to operators of analytical x-ray equipment to demonstrate competence in use or repair of the equipment.
- R.61-64.8.2 Revised to delete “suitable” from locking device requirements for further clarification.
- R.61-64.8.4.1 Revised to specify radiation survey instruments for industrial x-ray equipment must meet the Department’s requirements, to add a minimum operating range requirement for the instruments and to add specific calibration requirements.
- R.61-64.8.5 Revised to use the more correct term of “kVp” instead of “voltage and kVA.”
- R.61-64.8.6 Revised to include applicability to RHB 2.3.
- R.61-64.8.8.4 Revised for further clarification to specify that operating procedures must address locking and securing industrial x-ray equipment “when not in use or in storage.”
- R.61-64.8.11 Revised for further clarification to specify that training must be in “hazards of exposure to radiation,” not “hazards of excessive exposure to radiation.”
- R.61-64.8.13.1 Revised to indicate cabinet radiography units must be surveyed annually instead of quarterly, which is more reasonable and still ensures adequate radiation safety.
- R.61-64.8.13.1.2 Revised to require at least annual operational tests for high radiation area control devices.
- R.61-64.8.13.2.4 Revised to require a Class IX vendor to review shielding plans and for the registrant to submit these to the Department.
- R.61-64.8.13.2.6 Revised to delete a requirement for “as-built” drawings since areas surveys will be required to be submitted for shielded rooms.
- R.61-64.11.3.1 Revised to indicate fee increases for the calibration of survey instruments.

(4) Add new requirements.

- R.61-64.1.2.8 Text was added to prohibit hand-held imaging devices.
- R.61-64.1.2.9 Text was added to prohibit non-licensed practitioners from performing diagnostic positioning during radiation exposure.

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- R.61-64.1.2.10 Text was added to prohibit persons from using fluoroscopy when not in the presence of a licensed practitioner for uses other than therapy simulations, maintenance activities and training courses.
- R.61-64.1.2.11 Text was added to prohibit use of direct exposure x-ray film for medical purposes.
- R.61-64.1.2.12 Text was added to prohibit use of a mammographic imaging system not specifically designed by the manufacturer for imaging of the breast.
- R.61-64.1.2.13 Text was added to prohibit intentional human exposure except for healing arts purposes.
- R.61-64.1.4.3 Text was added to require the submission of tests and surveys to the Department upon request.
- R.61-64.1.13 Text was added to define the civil penalty matrix and how to calculate the penalties.
- R.61-64.1.13.4.2 Text was added to define violations that constitute an imminent health and safety hazard and indicate the Department could impose civil penalties up to \$25,000 for these violations.
- R.61-64.1.13.4.3 Text was added to indicate Examples of Violations with Potential for Harm.
- R.61-64.1.13.4.4 Text was added to indicate Examples of Violations Categorized by Deviation from the Requirement.
- R.61-64.1.14 Text was added to require registrants to comply with other laws.
- R.61-64.1.15 Text was added to include a provision for severability. This was added as required.
- R.61-64.2.3.1 Text was added to require a non-refundable application fee of \$50 upon submission of a "Facility Registration Approval Request" form. This provision was added to help recover the cost of the application review process.
- R.61-64.2.3.2 Text was added to require a non-refundable shielding plan review fee of \$50 per x-ray control upon submission of a shielding plan. This provision was added to help recover the cost of plan review and to discourage the duplication of submission of shielding plans.
- R.61-64.2.4.1.2 Text was added to refer to the application and shielding plan review fees.
- R.61-64.2.4.2.2 Text was added to refer to the application and shielding plan review fees.
- R.61-64.2.4.3.2 Text was added to refer to the application and shielding plan review fees.
- R.61-64.2.7.3.6 Text was added to require vendors to keep records of x-ray equipment testing and to specify the design and content of the equipment performance test. The text was added to ensure all required parameters are tested and can be reviewed in an understandable and consistent manner.
- R.61-64.2.7.5 Text was added to require vendors to maintain sufficient calibrated and operable survey instruments, to calibrate the instruments at a specified frequency and to maintain records of calibrations.

- R.61-64.3.12.1.1.5 Text was added to require individual personnel monitoring for all individuals who operate mobile or portable x-ray equipment.
- R.61-64.4.2.19.1.5 Text was added to indicate that each darkroom must have a functional safelight.
- R.61-64.4.2.19.2.3.1 Text was added to indicate that each darkroom must have a functional safelight.
- R.61-64.4.2.19.2.7 Text was added to require and specify frequency of densitometric and sensitometric testing, and to retain documentation of such testing.
- R.61-64.4.2.19.2.8 Text was added to require records of processor maintenance to be kept for at least two years or until the next Department inspection.
- R.61-64.4.4.7 Text was added to require a radiation area survey to be performed by a Class IX vendor within thirty days of installation of x-ray equipment if the approved shielding plan indicates ordinary building materials are not sufficient for radiation protection purposes. This will further ensure adequate radiation protection exists.
- R.61-64.4.4.11 Text was added to indicate specific requirements for mobile and portable x-ray units used continually in a single location for a period greater than one week. This is already mentioned under mobile units, but the Department felt it needed to be specified under shielding requirements for further clarification.
- R.61-64.4.5.4.2.3 Text was added to specify patient viewing requirements for systems installed before the effective date of this regulation.
- R.61-64.4.5.4.2.4 Text was added to specify patient viewing requirements for systems installed after the effective date of this regulation.
- R.61-64.4.7.15 Text was added for minimum field size requirements for collimators.
- R.61-64.4.8.12 Text was added to require minimum source-to-skin distances for mobile and portable x-ray units.
- R.61-64.4.9.2.3.2 Text was added for spot film field size limits because it was inadvertently omitted from the last revision. The Department has always tested these parameters and made recommendations.
- R.61-106.4.9.4.2 Text was added for fluoroscopic exposure rate limits for x-ray equipment manufactured after May 19, 1995.
- R.61-64.4.10 Text was added for registration, shielding, location and administrative requirements for bone densitometry systems.
- R.61-64.4.11.2.1 Text was added for computed tomography (CT) units regarding control panel and x-ray control location.
- R.61-64.4.11.2.3 Text was added for CT units regarding radiation protection precautions to be taken for control rooms with open areas leading to the gantry.
- R.61-64.4.11.2.4 Text was added for CT units requiring outside door(s) of the gantry room to be interlocked.

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- R.61-64.4.11.4 Text was added to require the operator's manual, radiation area surveys, x-ray operating procedures and current equipment performance testing to be available at the CT operator's console.
- R.61-64.4.11.5 Text was added for CT units that prohibit unnecessary personnel from being present in the area of the CT unit during exposures.
- R.61-64.4.11.6 Text was added to regulate CT units used in radiation therapy treatment planning. The units are proposed to be exempt from dose measurement requirements, but to comply with all other CT requirements.
- R.61-64.4.12.10.1 Text was added for veterinary units that require means to accurately center the x-ray field. This has been tested in the past, but corrective action was recommended, not required.
- R.61-64.4.12.10.2 Text was added for veterinary units that require collimation of the useful beam to the area of clinical interest. This will further ensure adequate operator protection.
- R.61-64.4.12.10.3 Text was added for veterinary units that require the collimator to be able to be adjusted to a minimum field size.
- R.61-64.4.12.20 Text was added to regulate veterinary CT x-ray systems.
- Appendix E Text was added to specify minimum criteria for performance tests for medical radiographic, fluoroscopic, radiation therapy simulation, CT and dental units.
- Part VI A section was added to specify quality standards and certification requirements for facilities performing mammography. This section was adopted from the Federal requirements and the Suggested State Regulations published by the Conference of Radiation Control Program Directors, Inc.
- R.61-64.6.3.2.1.1 Text was added to require specific therapy equipment operating procedures to be approved by the Department.
- R.61-64.6.3.2.1.2 Text was added to require specific emergency procedures for therapy equipment.
- R.61-64.6.3.5 Text was added to require clearly identifiable technique indicators for therapy equipment.
- R.61-64.6.5.3.4 Text was added to require annual checks for the attenuation of blocks, wedge factors and compensator devices and monthly visual inspections of their mechanical integrity.
- R.61-64.7.7.2.5 Text was added to require radiation survey instruments for analytical x-ray equipment to be checked prior to use.
- R.61-64.8.13.2.7 Text was added to require an area survey to be performed within thirty days of installation of a shielded room radiographic unit.

(5) Delete requirements that are no longer applicable, feasible or necessary.

- R.61-64.1.2.6 Text was deleted referring to "180 days after the effective date of these regulations" since this is no longer applicable.

- R.61-64.1.13.1 Text was deleted to explain the purpose of civil penalties. This deletion was made because it is the Department’s opinion that regulations should state what must and must not be done, not why something must or must not be done.
- R.61-64.1.14 Text was deleted that included the schedule of civil penalties. These deletions were made because of the proposed civil penalty matrix.
- R.61-64.1.15 Text was deleted that referred to the schedule of severity schedules for civil penalties. These deletions were made because of the proposed civil penalty matrix.
- R.61-64.1.16 Text of examples of administrative severity level violations was deleted due to the proposed civil penalty matrix.
- R.61-64.1.17 Text of examples of x-ray equipment operational severity level violations was deleted due to the proposed civil penalty matrix.
- R.61-64.1.18 Text of examples of industrial and analytical x-ray equipment severity level violations was deleted due to the proposed civil penalty matrix.
- R.61-64.4.7.9.2 Text was deleted for testing contrast ratios of collimator lights. This would be very tedious to test and has not been enforced since the current collimator light illuminance requirements are adequate.
- R.61-64.4.10 Text was deleted for “General Requirements for all Mammographic Systems” and replaced with Part V “Quality Standards and Certification Requirements for Facilities Performing Mammography.”
- R.61-64.8.13.2.5 Text was deleted requiring a registrant to use a qualified expert for a shielding plan since this has been revised and added to R.61-64.8.13.2.4.
- R.61-64.8.13.2.7 Text was deleted requiring a registrant to submit “as-built” drawings since area surveys will be required.

(6) Make stylistic or grammatical changes, correct typographical errors, or change numbering.

It is noted that renumbering has taken place in each part of R.61-64, with extensive renumbering occurring in Parts I, II, IV, VI, VII, VIII, IX and X.

- R.61-64.1.2.1 Revised to delete “any device or machine using” since it is not necessary for clarity. Revised to substitute “devices” for “x-ray or radiation principles” since it was stylistically awkward.
- R.61-64.1.12 Revised to delete “its office located at” since the Department’s office is no longer physically at this location.
- R.61-64.3.23.1 Revised to change “See” to “in” for grammatical accuracy.
- R.61-64.3.25.1.3 Revised to replace “rad” with “rem” for technical accuracy.
- R.61-64.4.2.11.2 Revised to replace “personnel” with “persons” to be more grammatically correct.
- R.61-64.4.4.1 Revised to change “and/or” to “and.”

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- R.61-64.4.9.4.3.7.2 Revised to change “and/or” to “and.”
- R.61-64.6.4.2 Revised to delete “therapy” since this was redundant.
- R.61-64.6.4.4 Revised to delete a reference to “Operating Procedures” since this is being covered separately.
- R.61-64.6.5 Revised to delete “medical” since it is redundant.
- R.61-64.7.2 Revised to change “However” to “except that” in order to be more grammatically correct.
- R.61-64.7.3.3.1 Revised to change “a tube” to “an x-ray tube” in order to be more concise.
- R.61-64.7.4.4.1 Revised to change “and/or” to “and.”
- R.61-64.7.8.1.9 Revised to correct “exposure” to “overexposure.”
- R.61-64.8.13.2.3 Revised to change “and/or” to “and.”
- R.61-64.9.87 Revised to change “and/or” to “and.”
- R.61-64.9.150.3 Revised to change “and/or” to “and.”
- R.61-64.9.156 Revised to change “and/or” to “and.”
- R.61-64.9.208 Revised to change “and/or” to “and.”
- R.61-64.9.239 Revised to change “and/or” to “and.”
- R.61-64.9.259 Revised to change “and/or” to “and.”
- R.61-64.266.1 Revised to change “and/or” to “and.”
- R.61-64.10.7.2 Revised to correct “Environmental Quality Control” to “Health Services.”
- R.61-64.10.8.1 Revised to correct “Environmental Quality Control” to “Health Services.”

Notice of Staff Informational Forum

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held October 3, 2000, at 10:00 a.m. in the Peoples Auditorium, third floor of the Sims Building at the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201.

Interested persons are also provided an opportunity to submit written comments to Pamela Dukes at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, S.C. 29201. Written comments must be received no later than 5:00 p.m. on October 3, 2000. Comments received by the deadline will be considered in formulating the final proposed amendment for public hearing before the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Pamela Dukes at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, S.C. 29201, or by calling (803)737-7400.

Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C Code Section 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 9, 2000, to be held in Room 3420 (Board Room) of the Commissioner’s Suite, third floor, Aycock Building, of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board Meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda to be published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statement to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the reord.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Pamela Dukes at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, S.C. 29201, or by calling (803)737-7400. Comments received by the deadline shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

There will be a cost to the state and its political subdivisions with the implementation of the proposed amendments due to the proposed increase in fees. The fees have not been increased since 1993. The 1993 increase in fees was based on costs to the program in 1991. Since 1991, the inflation rate has increased 22.7%. Examples of the increase are from \$40 to \$50 per year for a dental unit and from \$60 to \$80 per year for a medical radiographic unit. However, there will be some relief from fees for the state’s 135 mammography facilities. The Food and Drug Administration currently charges each facility \$1549 per year to inspect mammography units, and the Department is proposing to reduce that fee to \$1000 per year upon approval to become a certifying body.

The Department also proposes to implement a \$50 application fee for new facilities. This type of system is currently in place for the tanning facility regulations and will ensure consistency between the programs. The application review process is time consuming and tedious, and this new fee will help recover the cost of this program. In addition, the Department proposes to implement a \$50 shielding plan review fee for each shielding plan submitted. This fee will be required of the vendors who submit the plans and should reduce the duplication of plans among vendors competing to sell the same registrant x-ray equipment. The shielding review process is also time consuming and tedious, and the new fee will help recover the cost of this program.

The fees for calibration of x-ray equipment, which have not been increased since 1993, will be increased to account for the increased inflation rate. Even with the increase, our fees will remain less than those charged by commercial calibration facilities.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-12-115 (c)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATON: Amendment of Regulation 61-64, X-Rays (Title B).

Purpose: The Department proposes to substantially revise R.61-64, X-Rays (Title B) in its entirety. Title B has not been revised since January 1994. The general areas the Department seeks to revise include: ensuring

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compatibility with Federal regulations; further clarifying and simplifying the regulations; adding new definitions as required; deleting regulations that are no longer applicable or necessary; and, increasing fees. Specifically, the areas the Department seeks to revise include: changing State mammography regulations to be compatible with the Federal mammography requirements; adding regulations to allow South Carolina to become a certifying body for mammography facilities; simplifying the regulations relating to therapeutic equipment; clarifying and strengthening equipment performance standard testing; changing equipment standards to be compatible with Federal equipment standards; adding provisions for bone densitometry units; reorganizing the civil penalty schedule into a matrix system to be more consistent with the rest of the Department; increasing registration fees, which have not been increased since 1993; reorganizing the fee schedule to include requiring an application fee for new facilities and a shielding plan review fee (currently there are no fees); and, increasing instrument calibration fees, which have not been increased since 1993. The fee increases are needed due to the mandate, under the Atomic Energy and Radiation Control Act, to recover the cost of the program through the collection of fees.

LEGAL AUTHORITY: REGULATION 61-64, X-RAYS (TITLE B) IS AUTHORIZED BY THE S.C. CODE SECTION 13-7-45 ET SEQ. AND SUPPLEMENT.

Plan for implementation: The proposed amendments will make changes to and be incorporated into R.61-64 upon approval of the General Assembly and publication in the State Register. The proposed amendments will be implemented by providing the regulated community with copies of the regulation and a detailed explanation of the regulations, to include how the Department will inspect facilities for compliance and enforcement action, if needed.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The changes are needed in order to update existing regulations due to technological advances, incorporate mammography regulations to be compatible with Federal regulations, recover the cost of implementing our program, clarify and strengthen existing requirements, add new requirements that will promote greater health and safety to the public, delete requirements that are no longer applicable, and make stylistic and grammatical changes.

The proposed changes are reasonable because they will be implemented with existing staff, will strengthen and clarify existing regulations, will add requirements that will further protect the health and safety of the public, will increase and add fees in order to recover the cost of implementing our program; will delete regulations that are no longer necessary, and will simplify and clarify existing regulations.

DETERMINATION OF COSTS AND BENEFITS: There will be a cost to the state and its political subdivisions with the implementation of the proposed amendments due to the proposed increase in fees. The fees have not been increased since 1993. The 1993 increase in fees was based on costs to the program in 1991. Since 1991, the inflation rate has increased 22.7%. Examples of the increase are from \$40 to \$50 per year for a dental unit and from \$60 to \$80 per year for a medical radiographic unit. However, there will be some relief from fees for the state's 135 mammography facilities. The Food and Drug Administration currently charges each facility \$1549 per year to inspect mammography units, and the Department is proposing to reduce that fee to \$1000 per year upon approval to become a certifying body.

The Department also proposes to implement a \$50 application fee for new facilities. This type of system is currently in place for the tanning facility regulations and will ensure consistency between the programs. The application review process is time consuming and tedious, and this new fee will help recover the cost of this program. In addition, the Department proposes to implement a \$50 shielding plan review fee for each shielding plan submitted. This fee will be required of the vendors who submit the plans and should reduce the duplication of plans among vendors competing to sell the same registrant x-ray equipment. The shielding review process is also time consuming and tedious, and the new fee will help recover the cost of this program.

The fees for calibration of x-ray equipment, which have not been increased since 1993, will be increased to account for the increased inflation rate. Even with the increase, our fees will remain less than those charged by commercial calibration facilities.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect upon the environment. The amendments will have a positive effect upon the public health of the citizens of the state.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: There will be no detrimental effects on the environment if these changes are not implemented. The public health of the citizens would not be reduced over that which is present with the current regulations, but it would be increased with more stringent requirements.

Text

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

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Document No. 2544
EMERGENCY REGULATIONS
BUDGET AND CONTROL BOARD
CHAPTER 19

Article 2. Information Resource Management
(Statutory Authority: S. C. Code Section 26-5-10, et seq. (1998))

19-205, et seq. Electronic Commerce: South Carolina Access Network (SCAN)

Emergency Situation:

Access and the unrestricted ability to conduct business with government are critical to the political, economic, cultural and educational welfare of the citizens. In recent years, governments at all levels have begun to provide remote, electronic access as a more convenient, expeditious and useful means for the public to obtain information and services, and to transact business. South Carolina, as a whole, must make this capability available quickly and securely, and must create a unified approach to allow maximum, effective use of this technology. Also, South Carolina is not as far along in this endeavor as many states and risks losing new business, and other permanent disadvantages, without prompt action. Further delay will preclude implementation of the South Carolina Citizens Access Network until sometime in 2001. This delay will result in many state agencies individually proceeding with electronic transactions without the benefit of a uniform plan enacted throughout the State. Without a comprehensive, structured electronic commerce framework, electronic transactions are vulnerable to security breaches that have plagued the technology sector recently. To protect the critical interests and welfare of its citizens, the Budget and Control Board has promulgated these emergency regulations to provide secure, electronic delivery of government information and services, to make the same more readily accessible to citizens, to facilitate various kinds of transactions with government, and to unify the methods and means of these activities.

Section by Section Discussion:

19-205 - Definitions: This Section defines terms specific to the proposed regulations.

19-210 – Purposes: This Section sets forth the purposes of SCAN.

19-215 - Approvals/Cooperation By Public Entities of the State: This Section specifies the types of on-line applications that are to be provided through, or linked to, SCAN. It also specifies which of these applications must be approved by the Office of Information Resources, the State Treasurer's Office and the Comptroller General's Office.

19-220 – Responsibilities of the Office of Information Resources (OIR): This Section describes the responsibilities of OIR in implementing SCAN.

19-225 – Responsibilities of Participating Local Political Subdivisions: This Section describes the responsibilities of local political subdivisions participating in SCAN.

19-230 - Responsibilities of All Participants: This Section describes the responsibilities of all participants in SCAN

19-235 – Financial Requirements: This Section describes the funding model for SCAN. It also describes how funds will be disbursed to participating public entities of the state, local political subdivisions, OIR and used to expand/enhance SCAN.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the participating public entities of the State or its local political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATIONS: 19-205, et seq. Electronic Commerce: South Carolina Access Network (SCAN).

Purpose: The regulations will establish an electronic portal to provide more expeditious access to the information and services of multiple State and local government agencies by bringing together participating public bodies to make their data and transactions available in a convenient, efficient and useful manner; to allow business to be conducted twenty-four hours a day, seven days a week; and to create procedures for determining categories of uses, and charges, if any, for conducting transactions via the portal in instances where special circumstances exist, such as where the expense of the creation, maintenance or form of the information primarily benefits commercial users, the State incurs a transaction cost, or established current practices impose charges; and to protect against infringing upon privacy by revealing personal data.

Legal Authority: The legal authority for the Regulations 19-205, et seq. is Section 26-5-10, et seq., S.C. Code of Laws (1998).

Plan for Implementation: These emergency regulations will ultimately be submitted for approval as permanent regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

DETERMINATION OF COSTS AND BENEFITS: The implementation of these regulations will be funded from monies received from public and private sources and from charges for providing access to public government information, goods and services. The benefits of these regulations will be increased funding for the expeditious delivery of government information and services; increased efficiency in responding to requests for information, with resulting reduction in administrative, printing, mailing and personnel costs, and increased convenience and expediency for the users of this information and these services.

UNCERTAINTIES OF ESTIMATES: None. However, the numbers of agencies, public participants, orders and charges are unknown, and thus the costs of the program and the amounts to be collected and expended are also unknown.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: See below.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS IS NOT IMPLEMENTED: The absence of the organization, procedures and charges authorized by these regulations will delay, if not prevent, the implementation of improvements in the delivery of government information and services, the ability to complete transactions with their resulting reductions in costs and delivery time, and their resulting improvements in government responsiveness and efficiency to citizens and businesses.

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Text:

19-205 Definitions.

Terms used in this Chapter shall have the following meaning:

1. "Board" means the South Carolina Budget and Control Board or its designee.
2. "Local political subdivisions" means cities, counties, school districts, public service districts, or any entity composed of such political subdivisions.
3. "Portal" means any centralized electronic information system by which public government information is provided via dial-in modem or continuous link to the public that is organized from a public perspective.
4. "Premium services" means SCAN information, goods and services that are available for a charge.
5. "Public entity of the state" means state agencies, boards, commissions, or institutions.
6. "Public government information" means any information that is stored, gathered or generated in digitized form by public entities of the state and local political subdivisions; and is either:
 - a. A public record pursuant to S.C. Code Section 30-4-20(c); or
 - b. Otherwise expressly authorized to be released as specified by law.
7. "SCAN" means the South Carolina Access Network.

19-210 Purposes.

1. There is hereby established the South Carolina Access Network, referred to as "SCAN," for the following purposes:
 - a. Electronic portal: To serve as a cost-effective electronic portal to provide and enhance access to the State's public government information for individuals, businesses and other entities.
 - b. Standardized, coordinated and comprehensive services: To provide standardized, coordinated and comprehensive services by enabling universal, continuous access to accurate, current public government information that may be searched to suit the user's own purposes. These services include, at a minimum, providing standardized access to customized databases, public government information extracted from the databases of participating public entities of the state and local political subdivisions, and links to other information sources.
 - c. Electronic transactions: To deploy information technology to conduct electronic transactions with participating state and local government units.
 - d. Electronic dissemination of public government information: To assist public entities of the state and local political subdivisions in South Carolina, through the use of information technology, in electronically disseminating public government information in their custody.

e. Constantly improve access and utility: To constantly improve access to, and the utility of, the public government information available through SCAN by exploring and, where appropriate, implementing ways to:

- i. Expand the amount and kind of public government information available free of charge;
 - ii. Increase the utility of the public government information provided and the form in which it is provided;
 - iii. Expand the base of users who access public government information; and
 - iv. Improve individual and business access to public government information through improvements in information technology.
- f. Accuracy of information: To provide opportunities for individuals, businesses and other entities to review public government information for accuracy and to indicate to the data custodian when corrections may be appropriate.
- g. Information conduit: To provide a mechanism for the authorized transfer of nonpublic information, while taking care not to infringe on the privacy of any citizen by revealing personal data.
- h. Private-public partnerships and interagency cooperation: To promote opportunities for private-public partnerships and interagency cooperation.
- i. Innovative uses of information: To provide opportunities for innovative uses of public government information.
- j. Privacy: To facilitate the electronic dissemination of public government information through SCAN, while protecting/maintaining the integrity, confidentiality and privacy of such information.

2. Nothing in these regulations may be construed to affect the rights of persons to inspect or copy public records under Sections 30-4-10 et seq., or the duty of public entities of the state and local political subdivisions to provide for public inspection and copying of those records.

19-215 Approvals/Cooperation By Public Entities of the State

1. In accordance with the South Carolina Electronic Commerce Act of 1998 and its intention to promote online government, the South Carolina Budget and Control Board is authorized "to promulgate regulations to coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic records, electronic signatures and security procedures by and for local political subdivisions, consenting to be governed by such authority, and public entities of the State."

2. Public entities of the state intending to establish online applications having commercial value or involving the electronic exchange of funds for goods and services shall submit such applications to the Office of Information Resources for its review and acceptance. The Office of Information Resources shall evaluate and approve such applications in an effort to further the State's preference for a "single portal" to online government by:

- a. Requiring that such applications become part of the SCAN offering where ever feasible; and
- b. Ensuring that all such applications meet relevant technical standards such as those for data security.

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3. Online applications that require the electronic transfer of funds must also be reviewed and approved by the Comptroller General's Office and the State Treasurer's Office to ensure compliance with the State's accounting and reporting procedures.
4. Public entities of the state shall also attempt to ensure that other Web applications of interest to the public are linked to, or provided through, SCAN.

19-220 Responsibilities of OIR

1. Office of Information Resources: The Director of the Office of Information Resources (OIR), acting on behalf of the Board, shall have the responsibility for the implementation of these Regulations under the requirements of the South Carolina Electronic Commerce Act. In accordance with Section 26-5-50 of the Code, the Office of Information Resources shall have the right to "coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic records, electronic signatures and security procedures by and for local political subdivisions, consenting to be governed by such authority, and public entities of the State." The Director of the Office of Information Resources shall be responsible for developing such organizational structure as is necessary to implement the provisions of the Electronic Commerce Act and these Regulations.

2. The Office of Information Resources shall:

- a. Carry out the purposes of the SCAN;
- b. Establish, if deemed necessary, an advisory board composed of public and private sector users to provide guidance and recommendations in the development, expansion, operations and offerings of SCAN;
- c. Establish SCAN policies and performance criteria, and review and approve strategic plans;
- d. Provide such staff and other assistance as may be necessary to implement the purposes of the SCAN;
- e. Direct and supervise the day-to-day operations and expansion of the SCAN;
- f. Review revenue and expenditures and approve charges for individual applications and transactions in an effort to cover the costs of developing, operating and expanding SCAN;
- g. Develop and implement a mechanism to resolve disputes arising from the operation of SCAN;
- h. Develop and implement appropriate methods and means (e.g. contract provisions) to limit the liability of SCAN, public entities of the state and local political subdivisions with the understanding that the development of online government is a fundamental governmental function and the implementation of SCAN should not in any way be construed to waive or limit the sovereign immunity of the State;
- i. Develop public entity of the state, local political subdivision, user and ongoing subscriber agreements and policies;
- j. Update and revise on a yearly basis the business plan of the SCAN; and
- k. Assess the performance of the network.

19-225 Responsibilities of Participating Local Political Subdivisions.

Local political subdivisions in South Carolina may voluntarily cooperate with OIR in providing public government information, and/or providing links to public government information and assistance, as may be requested for achieving the purposes of SCAN. Such participation shall be upon such terms and conditions as are mutually agreed to by the parties.

19-230 Responsibilities of All Participants.

1. All participating public entities of the State and local political subdivisions shall be responsible for the following:
 - a. Providing public government information which is accurate, complete and current; and
 - b. Updating the source database following verification of suggested corrections by users of SCAN.

19-235 Financial Requirements.

Monies received by SCAN, either from providing access to public government information, goods and services or from grants, goods or in-kind services provided to SCAN by other public and private sources, shall be placed in a revenue account and used as follows:

1. To compensate the public entity of the State or local political subdivision providing the public government information, and
2. To cover the costs of developing, operating and expanding SCAN.

Fiscal Impact Statement:

The startup costs for SCAN are anticipated to be approximately \$1.7 million. This should result in no increased costs to the State or its political subdivisions, as staff anticipates the recovery of all such cost from monies received from public and private sources and charges for premium services.

Filed: August 2, 2000, 4:40 pm.

Document No. 2543
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF NURSING
CHAPTER 91
Statutory Authority: 1976 Code Sections 40-33-10(g), 40-33-220(11) and 40-33-270

Emergency Situation:

The State Board of Nursing have determined that in order to enhance the availability of appropriate drug therapies for all patients of health care providers in this State, it is necessary to allow nurse practitioners with prescriptive authority to provide drug samples to patients when acting within the scope and standards of their practice.

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Text:

91-6(k). Standards for Authorized Prescriptions by the Nurse Practitioner with Prescriptive Authority.

6. The nurse practitioner who holds prescriptive authority may request, receive, and sign for professional samples, except for controlled substances in Schedules II through IV, and may distribute professional samples to patients in compliance with appropriate federal and state regulations.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The purpose of this regulation is to allow nurse practitioners who hold prescriptive authority to provide drug samples to patients when acting within the scope and standards of their practice so that the availability of appropriate drug therapies is enhanced for all patients of health care providers in this State.

Legal Authority: 1976 Code Title 40, Chapter 33, Section 10(g); Title 40, Chapter 33, Section 220(11); Title 40, Chapter 33, Section 270.

Plan for Implementation: Administratively, the Board will notify all licensees through written and oral communication and by the promulgation of a permanent regulation in accordance with the S.C. Administrative Procedures Act.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS THEREIN AND EXPECTED BENEFITS: The need to immediately establish this provision is necessary in order to enhance the availability of appropriate drug therapies for all patients of health care providers in this State.

DETERMINATION OF COSTS AND BENEFITS: No additional costs will be incurred by the State or any political subdivision.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation will have no effect on the environment. The public health of this State will be improved by allowing nurse practitioners who hold prescriptive authority to provide drug samples to patients when acting within the scope and standards of their practice so that the availability of appropriate drug therapies is enhanced for all patients of health care providers in this State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH OF THE REGULATIONS IS NOT IMPLEMENTED: This regulation will have no detrimental effect on the environment. The public health of this State will be adversely affected if the regulation is not implemented due to the inability of nurse practitioners with prescriptive authority to provide appropriate drug therapies for all patients of health care providers in this State.

Filed: July 25, 2000, 3:45 pm

Document No. 2542
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 121
 Statutory Authority: 1976 Code Section 49-23-10 et seq.

Emergency Situation:

This regulation is necessary so that the new provisions of the South Carolina Drought Response Act may be implemented. One new provision requires that the department, through regulation, establish specific numerical values for the indices that define each level of drought. Without implementing emergency regulations to do this, there would be no way to upgrade or downgrade the drought declaration status. These regulations set out new drought management areas which will allow for more effective drought management. The new areas are divided based on river basin and geopolitical boundaries instead of climate divisions and geopolitical boundaries.

Text:

- 121-11.1. Purpose.
- 121-11.2. Definitions.
- 121-11.3. Jurisdiction.
- 121-11.4. Drought Management Areas Established.
- 121-11.5. Drought Response Committee.
- 121-11.6. Responsibilities of the Drought Response Committee.
- 121-11.7. Drought Information Center.
- 121-11.8. Drought Alert Phases.
- 121-11.9. Notification of Drought.
- 121-11.10. Curtailment of Water Use During Droughts.
- 121-11.11. Mediation of Disputes by the South Carolina Department of Natural Resources
- 121-11.12. Development of Drought Response Plans and Ordinances.

121-11.1. Purpose.

Permanent regulations 121-11.1 to 121-11.13 are suspended for the duration of these emergency regulations.

121-11.2. Definitions.

A. "Drought response committee" means the committee composed of state and local representation with the purpose of coordinating drought response within drought management areas and making recommendations for action to the South Carolina Department of Natural Resources and/or the Governor. One drought response committee will be established in each drought management area.

B. "Minimum flow" means the monthly 5 percentile flow

C. "Trigger level" is defined as a water level decline equal to 150 ft. below the predevelopment level of an aquifer except for the Floridan aquifer system in which the trigger level is a decline of 75 ft below the predevelopment level or to mean sea-level, whichever is the least decline.

D. "Drought Emergency" exists as declared by the Governor when the safety, security, health or welfare of the State or any portion of the State is threatened.

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E. "Essential water use" means water used strictly for fire-fighting purposes, health and medical purposes, maintaining minimum streamflow requirements, and minimum water levels in the potable drinking water supplies and the above and below ground water tables, and the use of water to satisfy federal, state, or local public health and safety requirements is considered essential water use.

F. "Non-essential water use" means categories of water use, other than essential water use, which may be curtailed during severe or extreme drought.

G. "7Q10 Flow" is defined as the lowest mean streamflow over seven consecutive days that can be expected to occur once in a ten year period. In any year, there is a 10 percent probability that the average flow for seven consecutive days will be equal to or less than the 7Q10.

121-11.3. Jurisdiction.

These regulations apply to every person using water in this State and to all water resources of the State, but does not authorize any restriction in use of water during an incipient, moderate, and severe drought declaration injected into aquifer storage and recovery facilities, water stored in managed watershed impoundments or water from any pond completely situated on private property and fed only by diffused surface water. During a drought declaration, the use of water from a managed watershed impoundment shall not be restricted as long as minimum streamflow or flow equal to the 7Q10 is maintained, whichever is less.

121-11.4. Drought Management Areas Established.

A. In order to respond to drought conditions, four drought management areas are established as follows:

(1) The West (Savannah) Drought Management Area shall include the following counties:

- (a) Oconee;
- (b) Pickens;
- (c) Anderson;
- (d) Abbeville;
- (e) McCormick;
- (f) Edgefield;
- (g) Aiken;
- (h) Barnwell;
- (i) Allendale;
- (j) Hampton;
- (k) Jasper;
- (l) Beaufort.

(2) The Central (Santee) Drought Management Area shall include the following counties:

- (a) Greenville;
- (b) Spartanburg;
- (c) Cherokee;
- (d) York;
- (e) Laurens;
- (f) Union;
- (g) Chester;
- (h) Greenwood;
- (i) Newberry;
- (j) Fairfield;
- (k) Saluda;
- (l) Lexington;
- (m) Richland;

- (n) Sumter;
- (o) Calhoun;
- (p) Clarendon;
- (q) Williamsburg;
- (r) Georgetown.

(3) The Northeast (Pee Dee) Drought Management Area shall include the following counties:

- (a) Chesterfield;
- (b) Marlboro;
- (c) Darlington;
- (d) Florence;
- (e) Dillon;
- (f) Marion;
- (g) Horry;
- (h) Lancaster;
- (i) Kershaw;
- (j) Lee;

(4) The Southern (ACE) Drought Management Area shall include the following counties:

- (a) Orangeburg;
- (b) Bamberg;
- (c) Colleton;
- (d) Dorchester;
- (e) Charleston;
- (f) Berkeley.

B. Establishment of drought management areas by the department in no way limits the department's or the Drought Response Committee's authority to act in an area smaller than a drought management area, such as a county or watershed. In order to prevent overly broad response to drought conditions, drought response measures shall be considered within individual drought management areas, as applicable. Insofar as practicable, within an individual drought management area, drought response measures shall be considered and administered in individual counties.

121-11.5. Drought Response Committee.

A. The Drought Response Committee shall consist of state representation and local representation for each drought management area as specified in R.121-11.4.

(1) A representative of each of the following State agencies shall represent State interests:

- (a) South Carolina Department of Natural Resources;
- (b) South Carolina Emergency Preparedness Division of the Office of the Adjutant General;
- (c) South Carolina Department of Health and Environmental Control;
- (d) South Carolina Department of Agriculture;
- (e) South Carolina Forestry Commission;

(2) Local representatives for each drought management area as specified in R.121-11.4 shall be appointed by the Governor with the advice and consent of the Senate to represent the following interests:

- (a) Counties;
- (b) Municipalities;
- (c) Public service districts;
- (d) Private water suppliers
- (e) Agriculture;

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- (f) Industry;
- (g) Domestic users;
- (h) Regional councils of governments;
- (i) Commissions of public works;
- (j) Power generation facilities;
- (k) Special purpose districts;
- (l) Soil and Water Conservation Districts.

There may not be more than two members on a local committee from each county within the drought management area.

The statewide committee shall coordinate planning and response only upon consultation with the appropriate local committee in the impacted drought management area during moderate, severe and extreme drought declarations. The Governor shall appoint the chair of the Drought Response Committee. The department shall provide administrative support.

(3) The Governor may appoint additional members as necessary to insure broad based input on the committee and may make interim appointments when the General Assembly is not in session. The statewide committee shall coordinate planning and response only upon consultation with the appropriate local committee in the impacted drought management area during moderate, severe and extreme drought declarations.

(4) Individual members of the Drought Response Committee representing local interests shall serve a term of four (4) years and may be reappointed. Appointments will commence and end as of March 1; however, the appointment will continue after March 1 until a successor is appointed. For additional Drought Response Committee members over and above those identified in Subsection (2) above, the appointment may continue after March 1 until a successor is appointed or notice is given that the additional position will not be reappointed.

B. The Governor shall appoint the chair of the Drought Response Committee. The department shall provide administrative support.

C. The Drought Response Committee for individual drought management areas shall convene upon notice by the South Carolina Department of Natural Resources or at the request of five committee members. A majority of the members is needed for a quorum. Decisions will be made by the majority of members present at the meeting, and voting on any matter before the committee shall be by committee members in person only, not by proxy.

121-11.6. Responsibilities of the Drought Response Committee.

A. Members of the Drought Response Committee shall be notified at the onset of each Drought Alert Phase and provided information by the South Carolina Department of Natural Resources with respect to the Drought Alert Phase in each Drought Management Area as applicable. Notification to Committee members of the onset of each Drought Alert Phase shall be as provided in R.121-11.8 and R. 121-11.9. Following the notice of each Drought Alert Phase, the Drought Response Committee may be convened as provided in R.121-11.5.

B. The Drought Response Committee shall evaluate drought conditions within drought management areas to determine if a need exists for action beyond the scope of local government. The committee shall consider:

- (1) Effectiveness of local drought ordinances and plans in protecting and insuring adequate water supplies;
- (2) Regional impacts of water use on water sources and other water users;
- (3) Short term and extended climatological forecasts;
- (4) Other relevant information.

C. Upon determination that action in addition to local measures is necessary to insure adequate supplies of water in drought management areas, the Drought Response Committee shall

prepare recommendations to reduce or alleviate drought impacts and submit the recommendations to the South Carolina Department of Natural Resources for implementation. If the recommendations involve the curtailment of water use, the committee shall determine which categories of non-essential water use must be curtailed in accordance with R.121-11.10.

D. The Drought Response Committee shall consult with and invite participation by representatives of municipalities, counties, Commissions of public works, public and private water suppliers, public service districts, power generation facilities, industries, special purpose districts and any other water users in the affected drought management area while evaluating drought conditions and in the preparing of recommended actions.

E. Should the drought situation continue to deteriorate to the point that the safety, security, health, or welfare of a drought management area is seriously threatened or impacted, the Drought Response Committee shall immediately notify the Governor and provide a priority list of recommended actions to the Governor.

121-11.7. Drought Information Center.

A. The Office of the State Climatologist, South Carolina Department of Natural Resources, shall maintain a Drought Information Center whenever one or more drought management areas of the State are in a moderate, severe or extreme drought alert phase. Information about the status of drought conditions and impacts on the economy and well-being of the State will be collected and made available to State Agencies, State Officials, the news media, and other concerned interests.

B. The Drought Information Center shall routinely collect, monitor, and evaluate selected climatic, water-supply and water-use data as necessary to identify at an early stage the onset of a drought or potential for drought, geographic extent of the affected area and changes in the drought levels.

C. Drought indices shall be computed on a weekly basis. These computations will be compared with the various similar indices computed by other State, Federal and private agencies.

D. Monitoring shall be accelerated whenever drought conditions approach or enter the moderate drought stage in one or more drought management areas. This may include acquiring additional rainfall, stream flow, water use, and ground water level data; and collecting additional information on the impact of the drought on agriculture, industry, domestic water supplies, and other users.

E. During periods of moderate, severe or extreme drought, available drought related data, as appropriate, will be provided to the Drought Information Center by the South Carolina Department of Agriculture, South Carolina Emergency Preparedness Division, South Carolina Forestry Commission, South Carolina Department of Health and Environmental Control, as well as by any other State Agency that is either impacted by or has information on drought conditions. Various Federal and local agencies may be asked to provide drought information on a voluntary basis.

121-11.8. Drought Alert Phases.

A. Four phases of drought alert are established herein, each identified by drought indices. Drought stage evaluation as indicated by quantified indices includes, but is not limited to:

(1) Incipient drought alert phase

(a) Palmer Drought Index of -0.50 to -1.49;
Crop Moisture Index of 0.00 to -1.49

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Standard Precipitation Index of 0.00 to -1.49

Keetch Byram Drought Index of 300 to 399

U.S. Drought Monitor of D0

Average daily streamflow is 111%-120% of the minimum flow for two consecutive weeks

Static water level in an aquifer is between 11 feet and 20 feet above trigger level for two consecutive months.

(b) The incipient drought may be declared if any of the indices indicate an incipient drought, however, indication by one index alone does not mandate a declaration. The incipient drought phase shall initiate inhouse mobilization by department personnel and the Drought Response Committee. The department shall routinely monitor the climatic variables, streamflow, and water levels in potable drinking water supplies and water levels in the above and below ground water tables and lakes, and shall notify the Drought Response Committee and relevant federal, state, and local agencies that a portion of the State is experiencing an incipient drought condition.

(2) Moderate drought alert phase

(a) Palmer Drought Index of -1.50 to -2.99;

Crop Moisture Index of -1.50 to -2.99

Standard Precipitation Index of -1.50 to -2.99

Keetch Byram Drought Index of 400 to 499

U.S. Drought Monitor of D1

Average daily streamflow is 101%-110% of the minimum flow for two consecutive weeks

Static water level in an aquifer is between 1 feet and 10 feet above trigger level for two consecutive months.

(b) A moderate drought may be declared if any of the indices indicate a moderate drought, however, indication by one index alone does not mandate a declaration. During a moderate drought, statements must be released to the news media by the department, and appropriate agencies must accelerate monitoring activities.

(3) Severe drought alert phase

(a) Palmer Drought Index of -3.00 to -3.99;

Crop Moisture Index of -3.00 to -3.99

Standard Precipitation Index of -3.00 to -3.99

Keetch Byram Drought Index of 500 to 699

U.S. Drought Monitor of D2

Average daily streamflow is between the minimum flow and 90% of the minimum for two consecutive weeks

Static water level in an aquifer is between the trigger level and 10 feet below for two consecutive months.

(b) This phase must be verified utilizing data, forecasts, and outlooks from various agencies. Indication by one index alone does not mandate a declaration. A drought of this severity may require water withdrawal and water use restrictions.

(4) Extreme drought alert phase

(a) Palmer Drought Index of -4.00 and below.

Crop Moisture Index reaches or falls below -4.00

Standard Precipitation Index reaches or falls below -4.00

Keetch Byram Drought Index reaches or exceeds 700

U.S. Drought Monitor of D3 or higher

Average daily streamflow is less than 90% of the minimum for two consecutive weeks

Static water level in an aquifer is more than 10 feet below the trigger level for two consecutive months.

(b) The department shall continue to evaluate information from various sources. Indication by one index alone does not mandate a declaration. Upon confirmation of an Extreme Drought Alert Phase, the Drought Response

Committee may recommend that the Governor issue a public statement that an extreme drought situation exists and that appropriate water-use and withdrawal restrictions be imposed.

B. The need for the declaration of drought alert phases will be verified by other means, including, but not limited to other indices; water supply and demand; stream flow data; rainfall records; agricultural and forestry conditions; and general historical climatological data.

121-11.9. Notification of Drought.

A. Upon the inception of a drought alert phase, the South Carolina Department of Natural Resources will disseminate public information concerning all aspects of the drought. The initial action in responding to drought is public education, providing information as to existing and potential conditions and water conservation measures necessary to meet the demand for water at each drought alert phase.

B. The South Carolina Department of Natural Resources shall provide the following notice of Drought Alert Phases.

(1) The South Carolina Department of Natural Resources shall notify the Drought Response Committee at the beginning of an incipient drought alert phase and each upgrading of the drought alert to a higher phase. Such notice shall be by first class mail.

(2) The South Carolina Department of Natural Resources shall notify by first class mail public water systems in the affected Drought Management Areas and other appropriate agencies and individuals at the inception of a moderate drought alert phase and each upgrading of the drought alert to a higher phase.

(3) The South Carolina Department of Natural Resources shall publish notice at least once in a newspaper of general circulation in the areas affected at the inception of a Moderate Drought Alert Phase and each upgrading of the drought alert to a higher phase.

(4) The South Carolina Department of Natural Resources will take any other action appropriate to announce a drought alert.

121-11.10. Curtailment of Water Use During Droughts.

A. During severe or extreme drought conditions, the South Carolina Department of Natural Resources may require mandatory reduction or curtailment of non-essential water use in affected drought management areas if recommended by the Drought Response Committee in accordance with R.121-11.6. The curtailment of water use may involve adjusting the quantity of water used; adjusting the quality of water to meet the water use; adjusting the time of water use; and/or utilizing different sources of water.

B. The Drought Response Committee shall determine which categories of non-essential water use must be reduced or curtailed after reviewing each category of water use in C. Below by the following standards:

- (1) Purpose of the use;
- (2) Suitability of the use to the watercourse, lake, or aquifer;
- (3) Economic value of the use;
- (4) Social value of the use;
- (5) Extent and amount of the harm it causes;

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- (6) Practicality of avoiding the harm by adjusting the use or method of use of one person or the other;
- (7) Practicality of adjusting the quantity of water used by each person;
- (8) Protection of existing values of water uses, land, investments, and enterprises;
- (9) Consumptive or non-consumptive nature of the use;
- (10) Impacts on essential water uses.

C. Non-essential water uses shall be evaluated in accordance with the following categories:

- (1) Agricultural use;
 - (a) Irrigation;
- (2) Commercial use;
 - (a) Commercial domestic use;
 - (b) Commercial process use;
- (3) Domestic use;
 - (a) Inside use;
 - (b) Outside use;
- (4) Electric Power Generation;
- (5) Industrial use;
 - (a) Industrial domestic use;
 - (b) Once through cooling;
 - (c) Industrial process use;
- (6) Institutional
- (7) Recreational.

D. Following determination of non-essential water use, by the Drought Response Committee, the South Carolina Department of Natural Resources shall issue a declaration specifying the drought management areas affected and identifying the categories of non-essential water use to be reduced or curtailed. The declaration shall be sent to water systems, widely distributed to the news media, and published at least once a week in a newspaper of general circulation in each county affected.

E. Any person adversely affected by mandatory curtailment may, within ten days after such curtailment becomes effective, submit appropriate information to the South Carolina Department of Natural Resources and seek a variance from the curtailment. The following procedures shall apply to request for a variance from the water curtailment declaration:

(1) The request for variance shall include a detailed statement as to how the curtailment declaration adversely affects the person making the request;

(2) The request for variance shall provide information relevant to the water use in response to each of the standards in B.(1), (2), (3), (4), (5), (6), (7), (8), (9), and (10);

(3) Either the South Carolina Department of Natural Resources staff or the person requesting the variance may request a meeting to discuss any matter relevant to the request or to seek additional information. Such meeting shall be conducted as expeditiously as practicable;

(4) Upon receipt of all relevant information (specified in E. (1), (2), and (3) above) from the person requesting the variance, the South Carolina Department of Natural Resources staff shall issue a determination for the request for a variance. Such determination shall be made within five days of receipt of all relevant information from the person requesting the variance or within twenty days of the declaration of the curtailment, whichever comes first.

F. Persons not capable of immediate water use reduction or curtailment because of equipment damage or other extreme circumstances shall commence gradual reduction within twenty-four hours of the declaration of curtailment and shall notify the South Carolina Department of Natural Resources of their proposed reduction schedule by certified mail within three working days of the declaration of curtailment. A variance will be required for the gradual or reduced reduction and a request for a variance must be submitted to the South Carolina Department of Natural Resources as specified in E. above within ten days after such curtailment becomes effective.

G. Any declaration of curtailment shall continue in effect only as long as conditions in any drought management area require it. The declaration shall be terminated by action of either the Drought Response Committee or the South Carolina Department of Natural Resources, and notice of termination of the declaration shall be given as when originally issued.

H. In the event that a declaration issued pursuant to this regulation conflicts with any ordinance or plan adopted pursuant to R.121-11.12, the declaration shall supersede any ordinance or plan.

I. These regulations do not restrict or in any way affect the authority of the commissioner of the Department of Health and Environmental Control with respect to emergency declarations made in the interest of public health.

121-11.11. Mediation of Disputes by the South Carolina Department of Natural Resources.

A. During any drought alert phase, the South Carolina Department of Natural Resources shall offer its services to mediate any dispute arising from competing demands for water. The mediation may be undertaken only upon the request of the parties involved and may not be binding.

B. The Chairman of the South Carolina Department of Natural Resources shall appoint a three person board to mediate each dispute. The board shall meet as necessary to mediate the dispute at a location deemed most appropriate by the board for all persons involved.

C. A written request shall be submitted from each aggrieved person to the South Carolina Department of Natural Resources. The requests will contain the following minimum information:

(1) Statement of the cause for mediation;

(2) Results sought by each person;

(3) Historical water use by each person;

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(4) Description of water sources;

(5) Map of general area showing water sources, water transfers, water use points, and water discharge, as appropriate.

(6) Additional material deemed relative to the dispute by each person.

D. The South Carolina Department of Natural Resources as appropriate may conduct investigations to resolve the dispute.

E. A decision shall be made by the board within ten days of receipt of all necessary information.

F. A permanent record of each mediation process shall be maintained by the South Carolina Department of Natural Resources, and a summary of the request, findings, and conclusions of mediation shall be reported by the board to the South Carolina Department of Natural Resources and incorporated into the minutes of the South Carolina Department of Natural Resources. The South Carolina Department of Natural Resources will entertain requests for confidentiality if sufficient reasons exist to withhold information under the Freedom of Information Act.

G. A party affected by a declaration of the Drought Response Committee has the right to appeal that action to the Administrative Law Judge Division. The appeal must be filed within five days of the declaration. The filing of an appeal operates as an immediate stay of the declaration of the Drought Response Committee as it affects the appellant. A review of the immediate stay must be heard by the Administrative Law Judge Division within five days of the filing of the notice of appeal with the Administrative Law Judge Division. All issues under appeal must be heard as a contested case pursuant to the provisions of the Administrative Procedures Act and the rules of the Administrative Law Judge Division.

H. Any mediation shall not stop or preclude the South Carolina Department of Natural Resources and the Drought Response Committee from taking any other action authorized by the South Carolina Drought Response Act.

121-11.12. Development of Drought Response Plans and Ordinances.

A. The South Carolina Department of Natural Resources, in cooperation with the South Carolina Department of Health and Environmental Control, shall prepare and distribute a model drought response ordinance or ordinances within six months of approval by the General Assembly of these regulations. The model ordinance will be distributed to all entities which must develop ordinances and plans in accordance with B. below.

B. Municipalities, counties, public service districts, and commissions of public works engaged in the business or activity of supplying water for any purpose shall develop and implement local drought response ordinances, or local drought response plans when authority to enact ordinances does not exist.

(1) In so far as possible and practical, local governments will be responsible for alleviating the impacts of drought (See R.121-11.6B). Cooperation among adjacent water suppliers is encouraged to develop alternate water supply sources and back-up systems and to develop compatible plans and ordinances.

(2) Local drought response ordinances and plans shall be consistent with these regulations and shall contain at a minimum the following information:

(a) A description of alternate supply sources, including time, costs, and problems associated with putting alternate sources on-line.

(b) A water use reduction plan and schedule for moderate, severe, and extreme drought for each category, as appropriate, in R.121-11.10.

- (c) An implementation plan and ordinance, as appropriate.
- (3) Proposed ordinances and plans must be submitted to the South Carolina Department of Natural Resources for consistency review within twelve months of the effective date of these regulations.
- (4) Proposed local drought response ordinances and plans must be adopted within eighteen months of the effective date of these regulations.
- (5) Water suppliers as specified in B. above, commencing the business or activity of supplying water, after the effective date of these regulations, shall submit a local drought response ordinance or plan to the South Carolina Department of Natural Resources within six months of the commencement of the business or activity and shall adopt the ordinance or plan within twelve months of the commencement of the business or activity.

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Document No. 2527

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Ann. Section 44-56-30

R. 61-79. Hazardous Waste Management Regulations

Synopsis:

The Department has amended Regulation 61-79 to adopt federal amendments through July 6, 1999. Adoption of federal amendments will ensure federal compliance.

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent federal amendments include the following. (1) Addition of four new petroleum refining process wastes, corresponding treatment standards, and exclusion of certain recycled petroleum materials. (2) Various Land Disposal Restrictions including new standards for spent potliners from primary aluminum reduction, emergency revision of carbamate waste treatment standards, and corrections to treatment standards for wood preserving wastes, some metal wastes, and zinc micronutrient fertilizers. (3) Amends regulations governing closure of certain land-based units to provide regulators the discretion to use alternative protective requirements. Although EPA has adopted a postclosure option to allow a variety of authorities (other than permits) for units requiring postclosure care, the Department does not believe that the Hazardous Waste Management Act fully supports this option, and is therefore not adopting the entire closure/postclosure option. (4) Methods for streamlining permitting requirements for treatment, storage and disposal of remediation wastes managed at cleanup sites. (5) Temporary deferral of landfill leachate and landfill gas condensate derived from previously disposed wastes that now meet the listing descriptions of one or more of the recently added petroleum refinery wastes. (6) Streamlined universal waste management requirements are now applicable to management of spent lamps and will facilitate recycling. Although this particular rule was published July 6, 1999, and would not normally be part of this package, the State is interested in facilitating the recycling of these lamps and has included this rule ahead of schedule for that reason. These rules and other amendments were published in the Federal Register between July 1, 1998, and July 6, 1999. These amendments appeared at 63 FR 42110-42189; 63 FR 54356-54357, August 6, 1998; October 9, 1998; 63 FR 46332-46334, August 31, 1998; 63 FR 47410-47418, September 4, 1998; 63 FR 48124-48127, September 9, 1998; 63 FR 51254-51267, September 24, 1998; 63 FR 56710-56735; October 22, 1998; 63 FR 65874-65947, November 30, 1998; 64 FR 3382; January 21, 1999; 64 FR 6806, February 11, 1999; 64 FR 25408-25417, May 11, 1999; 64 FR 26315-26327, May 14, 1999; 64 FR 36466-36490, July 6, 1999. The Department is also making minor corrections to previous amendments.

These amendments and corrections will maintain conformity with federal requirements and ensure compliance with federal standards. Neither a fiscal impact statement, an assessment report, nor legislative review is required. A Notice of Drafting for the proposed amendments was published in the State Register on August 27, 1999, and a Notice of Proposed Regulation was published May 25, 2000.

Changes were made to conform R. 61-79 with federal amendments to 40 CFR 124 through 273 as of July 6, 1999. Since the Notice of Proposed Regulations, the definitions section of R.61-79.273 has been properly moved from 273.6 to 273.9.

Discussion of Revisions: Changes were made to conform R. 61-79 with federal amendments to 40 CFR 124 through 273 as of July 6, 1999.

| Section Citation | Explanation of Change: |
|------------------|---|
| 124.19(c) | Amend; R.61-79 is expected to be amended this year. |
| 260.10 | Amend leadin and definitions for Corrective action |

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| | management unit or CAMU, facility, miscellaneous unit, remediation waste, and add definition for remediation waste management site, staging pile (HWIR/MEDIA rule). Add definition of lamp and amend definition of universal waste (universal waste rule); |
| 260.11(a)(11), (16) | Amend, add to reflect updates of EPA methods |
| 261.2(c)(3) & table 261.2 & (e)(1)(iii) | Amend to reflect federal corrections to LDR Phase IV |
| 261.3 (a)(2)(iv)(C), (b)(2), (c)(2)(ii)(B) & E | Amend to reflect listings for petroleum refining wastes |
| 261.4(a)(12) | Remove text at (12) and insert (12)(i)&(ii) regarding petroleum refining wastes |
| 261.4(a)(16)&(17)&(17)(iii) | ReNUMBER (17) as (16) and amend former (16) as new (17)& (17)(iii) to facilitate recycling and reflect federal corrections. Omit note. |
| 261.4(a)(17)(v) | Amend to reflect federal correction at renumbered provision |
| 261.4(a)(18), (18)(i)(ii)&(19) | Add provisions regarding petroleum refining wastes |
| 261.4(b)(7)(iii)(A)&(B) | Amend (iii) and add new (A)&(B) to facilitate recycling |
| 261.4(b)(15)&(i) through (v) | Add provision to exempt K169, 170, 171, and 172 |
| 261.4(g), (g)(1), (2)&(2)(i)-(iii) | Add provision to exempt dredged material |
| 261.9(a)(b)(c)(d) | Amend (a)(b)&(c); add (d) to facilitate lamp recycling |
| 261.31 | Amend F037 |
| 261.32 | Add K169, 170, 171 & 172 refining wastes |
| 261 Appendix VII | Add four listings in alphanumeric order |
| 262.34(a)(1)(i)-(ii), (d)(4) | Amend to update cross references |
| 264.1(g)(11)(iii)&(iv) | Amend and add to facilitate lamp recycling |
| 264.1(j) | Add to facilitate cleanup |
| 264.73(b)(17) | Add to facilitate cleanup |
| 264.90(e), (f)(1)&(2) | Add to facilitate cleanup |
| 264.101(d), (e), (f) | Insert a new (d) to clarify corrective action options, renumber former (d)&(e) as (e)&(f) |
| 264.110(c)(1)&(2) | Add to facilitate closure/postclosure options |
| 264.112(b)(8); (c)(2)(iv) | Add to facilitate closure/postclosure options |
| 264.118(b)(4)&(d)(2)(iv) | Add to clarify closure/postclosure options |
| 264.151 Appendix Header at A-1, A-2, B, C, D | Amend "Bureau of Solid and Hazardous Waste Management" to "Bureau of Land and Waste Management" to reflect new name |
| 264.151 Appendix D, Letter of Credit Covering Cost of Closure and/or Postclosure Care, Irrevocable Standby Letter of Credit | " |
| 264.151 Appendix Header at E, F | " |
| 264.151 Appendix F, Financial Test for Liability Coverage, Letter from Chief Financial Officer | " |
| 264.151 Appendix Header at G | " |
| 264.151 Appendix G, Financial Test for Liability Coverage, Letter from Chief Financial Officer | " |
| 264.151 Appendix Headers at H, I, J, K | " |
| 264.151 Appendix K, Irrevocable Standby Letter of Credit | " |

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| 264.151 Appendix Header at L, M-(1)&(2), N-(1)&(2) | " |
| 264.552(a) | Amend to clarify CAMU implementation |
| 264.553(a) | Amend to clarify TU |
| 264.554(a)-(m) | Add new section regarding staging piles to facilitate closure/postclosure |
| 264.1030(c) | Add note to require process vents following (c), before (d), which is reserved |
| 264.1031 Definitions: Open-ended valve or line, Equipment | Amend to reflect federal correction |
| 264.1031 Definitions: Sampling | Add new definition to clarify system |
| 264.1050 (g) | Amend and reserve to remove recycling exemption |
| 264 Subpart CC | Add Subpart Heading after 264.1079 and before 264.1080 |
| 264.1080 (b)(5) | Amend to clarify |
| 264.1083 (a)(1)(i)&(ii) and (b)(1)(i)&(ii) | Add (i)&(ii) to each section to clarify methods for determining VO concentrations |
| 264.1084 (h)(3)(i)&(ii) | Amend (h)(3); add (h)(3)(i)&(ii) to clarify organic air emission standards |
| 264.1086(d)(4)(i)&(e)(6) | Amend to clarify container management standards |
| 264 Appendix V, Group 3-B | Amend PC waste |
| 265.1(b) | Amend to add a cross reference |
| 265.1(c)(14)(ii), (iii)&(iv) | Amend (ii)&(iii), add (iv) to facilitate lamp recycling |
| 265.90(f),(1)&(2) | Add new (f) to facilitate closure/postclosure |
| 265.110(c)&(d) | Add new (c)&(d) to facilitate closure/postclosure |
| 265.112(b)(8), (c)(1)(iv) | Add new (8) and (iv) to facilitate closure/postclosure |
| 265.118(c)(4)&(5), (d)(1)(iii) | Add and reserve new (4); add new (5)&(iii) to facilitate closure/postclosure |
| 265.1033 (a)(2) | Delete text of (2); retain (2) |
| 265.1064 (m) | Amend to cross reference 40 CFR part 61 and 63 |
| 265 Subpart CC | Add Subpart Heading after 265.1079 and before 265.1080 |
| 265.1084(a)(1)(i)&(ii); (a)(3)(ii)(D) | Add to clarify determination of VO concentrations |
| 265.1084 (a)(3)(ii)(B); (a)(3)(iii) | Amend to clarify determination of VO concentrations |
| 265.1084 (b)(1)(i)&(ii) | Add to clarify determinations of VO concentrations |
| 265.1084 (b)(3)(ii)(B) | Amend to clarify determinations of VO concentrations |
| 265.1084(b)(3)(ii)(D) | Add to clarify determinations of VO concentrations |
| 265.1084(b)(3)(iii)&(iv) | Amend to clarify determinations of VO concentrations & correct "n=" |
| 265.1085(h)(3)&(i); (3)(ii) | Amend (3)&(3)(i); add (3)(ii) to control air emission standards |
| 265.1087(e)(6) | Add to control air emission standards |
| 265.1090(f)(2) | Add to establish new recordkeeping requirement |
| 266.20(c) | Amend to correct typographical error |
| 266.80 (a)&(b) | Remove current (a)&(b); amend with new (a), new table, and new (b)(1)&(2) |
| 266.100(b)(3) | Amend to update cross reference to allow for LDR exemption |
| 266.112(b)(2)(i) | Amend to indicate EPA as sole lead |
| 268.1 (f)(2)(3)(4) | Amend (2)&(3); add (4) to facilitate lamp recycling |
| 268.2(c) | Amend to include staging pile |
| 268.2(h)&(k) | Amend to implement new LDR treatment standards |
| 268.7(a)(1)&(2) | Amend to address contaminated soils |

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| 268.7(a)(4)Table | Amend to address contaminated soils |
| 268.7(b)(3)(ii)Table | Amend line 6 to reflect federal clarification |
| 268.7(b)(4)(iv) | Amend cross references regarding new LDR rules |
| 268.9(d)(2)&(2)(i) | Amend cross references regarding new LDR rules |
| 268.33(b)&(c) | Amend cross references regarding new LDR rules |
| 268.34(b)-(f) | Add new (b) regarding LDR compliance date; reletter (b)(c)(d)(e) to (c)(d)(e)(f) |
| 268.35 | Replace 268.35 to address petroleum refining wastes; remove previous (a) and amend with new (a)(b)&(c), adding new listings |
| 268.39(c) | Amend effective date |
| 268.40 | Amend (g); add new (i)&(j) regarding new LDR treatment standards |
| 268.40 Table: Treatment Standards for Hazardous Wastes | Amend K088, K156; add K169, 170, 171, and 172; amend P194, U404, U408; amend footnotes 9 & 10 |
| 268.48(a) Table UTS | Remove eight entries, remove 33 references to footnote 6, and amend footnote 6 to reflect amended effective dates |
| 268.49(c)(3)(A)&(B) | Amend (A)&(B) to clarify LDR rule |
| 268.50(g) | Add new (g) to facilitate HWIR/MEDIA rule |
| 270.1(c) | Amend to facilitate closure/postclosure |
| 270.1(c)(2)(viii)(B-D) | Amend to facilitate lamp recycling |
| 270.2 | Add definition of RAP to facilitate HWIR/MEDIA |
| 270.11(d)(1)&(2) | Amend (d) to be (d)(1); Add (2) & certification to facilitate RAPs. Retain first certification in (d)(6) following colon |
| 270.14(a),(b)(7) | Amend to facilitate closure/postclosure, clarify contingency plan reporting |
| 270.21(c) | Amend to specify Part B landfill provisions |
| 270.28 | Amend to add new provisions to facilitate closure/postclosure |
| 270.42(j) | Add new (j) to facilitate MACT rule |
| Appendix I to 270.42 (D)(3)(g)&(N)(3) | Add new provisions to facilitate HWIR/MEDIA rule |
| 270.62(d) | Amend trial burn procedures |
| 270.68 | Add new provision to define RAPs |
| 270.67 & 270.69 | Add and reserve |
| 270.73(a) | Amend to facilitate RAPs |
| 270 Subpart H, 270.79 through 270.230 | Add new Subpart H to address Remedial Action Plans (RAPs) |
| 273.1(a)(2-4) | Amend (2)&(3); add (4) to facilitate lamp recycling |
| 273.2(a)(1), (b)(2)&(3) | Amend to facilitate lamp recycling |
| 273.3(a) | Amend (a) [only] to facilitate lamp recycling |
| 273.4(a) | Amend to facilitate lamp recycling |
| 273.5(a)(b)&(c) | Amend lead; remove (a)&(b); add new (a)(b)&(c) to facilitate lamp recycling |
| 273.6 | Move entire section previously addressing definitions to 273.9; reserve section |
| 273.7 | Add & reserve |
| 273.8 | Add new section and lead, move text from 273.5 to facilitate lamp recycling; amend citation at (a)(1)&(2) |
| 273.9 | Move Definitions section 273.6 to 273.9. [Battery, Destination Facility, FIFRA, Generator, On-site, Pesticide, Thermostat, Universal Waste Handler, Universal Waste |

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| | Transfer Facility, and Universal Waste Transporter]; add definition of Lamp; amend moved definitions of Large Quantity Handler and Small Quantity Handler and Universal Wastes to facilitate lamp recycling |
| 273.10 | Amend citation in lead |
| 273.13(d) | Add new provisions for lamps |
| 273.14(e) | Add new provision for lamps |
| 273.30 | Amend citation in lead |
| 273.32(b)(4)-(5) | Amend to include lamps |
| 273.33(d)(1)&(2) | Add to include lamps |
| 273.34(e) | Add to include lamps |
| 273.50 | Amend citation in lead |
| 273.60(a) | Amend citation |
| 273.81(a) | Amend citation in lead |

Text of Amendments:

Amend 124.19(c)

124.19 Appeal of Permit [See also R.61-72, Section II; clarification 12/92].

(c) The request, including requirements for filing a petition for administrative review, must comply with R.61-72 as amended(12/93).

Amend 260.10 leadin and definitions for Corrective action management unit or CAMU, facility, miscellaneous unit, remediation waste, and add definition for remediation waste management site, staging pile. Add definition of lamp and amend definition of universal waste.

260.10 Definitions

When used in parts 260 through 273, the following terms have the meanings given below:

Corrective action management unit or "CAMU" means an area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at the facility.

"Facility" means: (1) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them) (12/92). (2) For the purpose of implementing corrective action under 264.101, all contiguous property under the control of the owner or operator seeking a permit under subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA Section 3008(h). (12/93) (3) Notwithstanding paragraph (2) of this definition, a remediation waste management site is not a facility that is subject to 264.101, but is subject to corrective action requirements if the site is located within such a facility.

"Lamp," also referred to as "universal waste lamp," is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator,

boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR part 146, containment building, corrective action management unit, unit eligible for a research, development, and demonstration permit under 270.65 or staging pile. (11/90; 12/92; 12/93).

"Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that contain listed hazardous wastes or that themselves exhibit a hazardous characteristic and are managed for implementing cleanup.

"Remediation waste management site" means a facility where an owner or operator is or will be treating, storing or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under 40 CFR 264.101, but is subject to corrective action requirements if the site is located in such a facility.

"Staging pile" means an accumulation of solid, non-flowing remediation waste (as defined in this section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Department according to the requirements of 264.554.

"Universal Waste" means any of the following hazardous wastes that are managed under the universal waste requirements of 273: (5/96)

- (1) Batteries as described in 273.2;
- (2) Pesticides as described in 273.3;
- (3) Thermostats as described in 273.4; and
- (4) Lamps as described in 273.5 of this chapter.

Amend 260.11(a)(11) & (16)

260.11 References.

(a) (11) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I, (dated July, 1992), II (dated September, 1994), IIA (dated August, 1993), IIB (dated January, 1995) and III] (dated December 1996) and IIIA (dated April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 401 M Street, SW, Washington, DC, 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC. (11/99)

(16) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry. Available at NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal, Springfield, Virginia 22161.

Amend 261.2(c)(3) & table 261.2 & (e)(1)(iii)

261.2 Definition of solid waste

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(c) (3) Reclaimed. Materials noted with an "x " in column 3 of Table 1 are solid wastes when reclaimed (except as provided under 261.4(a)(17)). Materials noted with a " ---- " in column 3 of Table 1 are not solid wastes when reclaimed (except as provided under 261.4(a)(17)). (11/99)

261.2 TABLE 1 - Summary of Definitions of Solid Waste

| 261.2 Table 1 - Summary of Definitions of Solid Waste [Note: The terms "spent materials," "sludges," "by-products," and "scrap metal" are defined in 261.1.] (11/99) | Use Constituting Disposal 261.2(c)(1) (1) | Energy Recovery/ Fuel 261.2(c)(2) (2) | Reclamation 261.2(c)(3) (except as provided in 261.4(a)(17) for mineral processing secondary metals) (3) | Speculative Accumulation 261.2(c)(4) (4) |
|--|---|--|--|--|
| Spent Materials | (x) | (x) | (x) | (x) |
| Sludges (listed in Section 261.31 or .32) | (x) | (x) | (x) | (x) |
| Sludges exhibiting a characteristic of hazardous waste | (x) | (x) | ---- | (x) |
| By-products (listed in Section 261.31 or .32) | (x) | (x) | (x) | (x) |
| By-products exhibiting a characteristic of hazardous waste | (x) | (x) | ---- | (x) |
| Commercial chemical products listed in Section 261.33 | (x) | (x) | ---- | ---- |
| Scrap metal other than excluded scrap metal (see 261.1(c)(9)) | (x) | (x) | (x) | (x) |

[retain note]

(e) Materials that are not solid waste when recycled.

(1) (iii) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land. In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at 261.4(a)(17) apply rather than this paragraph. (5/96, 11/99)

Amend 261.3 (a)(2)(iv)(C), (b)(2), (c)(2)(ii)(B) & E

261.3 Definition of hazardous waste.

(a) (2) (iv) (C) One of the following wastes listed in 261.32, provided that the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050), crude oil storage tank sediment from petroleum refining operations (EPA Hazardous Waste No. K169), clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations (EPA Hazardous Waste No. K170), spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and spent hydrorefining catalyst (EPA Hazardous Waste No. K172); or

(b) (2) In the case of a mixture of solid waste and one or more listed hazardous wastes, when a hazardous waste listed in subpart D is first added to the solid waste.

(c) (2) (ii) (B) Waste from burning any of the materials exempted from regulation by section 261.6(a)(3)(iii) and (iv) (12/92; 5/96).

(E) Catalyst inert support media separated from one of the following wastes listed in 261.32 Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA Hazardous Waste No. K172).

Remove text at 261.4(a)(12) and insert (12)(i)&(ii)

261.4 Exclusions

(a) Materials which are not solid wastes. The following materials are not solid wastes for the purpose of this part:

(12) (i) Oil-bearing hazardous secondary materials (i.e., sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in paragraph (a)(12)(ii) of this section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph (a)(12)(i), where such materials as generated would have otherwise met a listing under subpart D of this part, are designated as F037 listed wastes when disposed of or intended for disposal. (5/96, 9/98)

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in paragraph (a)(12)(i) of this section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172.) Recovered oil does not include oil-bearing hazardous wastes listed in subpart D of this part; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in 40 CFR 279.1.

Renumber 261.4(a)(17) as (16) [omitting note] and amend former (16) as new (17); amend new (17)(iii)

(16) Comparable fuels or comparable syngas fuels (i.e., comparable/syngas fuels) that meet the requirements of 261.38.

(17) Secondary materials (i.e., sludges, by-products, and spent materials as defined in 261.1) (other than hazardous wastes listed in subpart D of this part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water or other values are recovered by mineral processing, or by beneficiation, provided that: (11/99)

(iii) Except as provided in paragraph (a)(15)(iv) of this section, the secondary material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary

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material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 260.10), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent significant releases to the environment of these materials.

Amend renumbered 261.4(a)(17)(v)

(a) (17) (v) The owner or operator provides a notice to the Department, identifying the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in non-landbased units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

Add 261.4(a)(18), (18)(i)(ii)&(19)

(a) (18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in 261.21) and/or toxicity for benzene (261.24, waste code D018); and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, byproducts, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in 261.1(c).

Amend 261.4(b)(7)(iii); add new (A)&(B)

(b) Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous wastes:

(7) (iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under paragraph (b) of this section if the owner or operator: (11/99)

(A) Processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and,

(B) Legitimately reclaims the secondary mineral processing materials.

Add 261.4(b) (15) & (i)-(v)

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, and K172 if these wastes had been generated after the effective date of the listing (February 8, 1999);

(ii) The solid wastes described in paragraph (b)(15)(i) of this section were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) After February 13, 2001, leachate or gas condensate will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

Add 261.4(g), (g)(1), (2)&(2)(i)-(iii)

(g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under 404 of the Federal Water Pollution Control Act (33 U.S.C.1344) or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413) is not a hazardous waste. For this paragraph (g), the following definitions apply:

(1) The term dredged material has the same meaning as defined in 40 CFR 232.2;

(2) The term permit means:

(i) A permit issued by the U.S. Army Corps of Engineers (Corps) or an approved State under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) A permit issued by the Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of Corps civil works projects, the administrative equivalent of the permits referred to in paragraphs (g)(2)(i) and (ii) of this section, as provided for in Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

Amend 261.9(a)(b)&(c); add (d)

261.9 Requirements for Universal Waste.

The wastes listed in this section are exempt from regulation under parts 262 through 270 except as specified in part 273 and, therefore are not fully regulated as hazardous waste. The wastes listed in this section are subject to regulation under 273: (5/96)

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- (a) Batteries as described in 273.2;
- (b) Pesticides as described in 273.3;
- (c) Thermostats as described in 273.4.and
- (d) Lamps as described in 273.5.

Amend 261.31 F037

261.31 Hazardous wastes from non-specific sources.

| | | |
|------|--|-----|
| F037 | Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to: those generated in oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in 261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under 261.4(a)(12)(i), if those residuals are to be disposed of. | (T) |
|------|--|-----|

Add at 261.32 four new waste streams in alphanumeric order

261.32 Hazardous wastes from specific sources - Petroleum refining:

| | | |
|------------|--|-------|
| K169 | Crude oil storage tank sediment from petroleum refining operations | (T) |
| K170 | Clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations | (T) |
| K171 | Spent Hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media) | (I,T) |
| K172 | Spent Hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media.) | (I,T) |

Add at 261 Appendix VII four listings in alphanumeric order

| EPA HW No. | Hazardous constituents for which listed |
|-------------|---|
| K169 | Benzene. |
| K170 | Benzo(a)pyrene, dibenz(a,h)anthracene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, 3-methylcholanthrene, 7,12 dimethylbenz(a)anthracene. |
| K171 | Benzene, arsenic. |
| K172 | Benzene, arsenic. |

Amend 262.34(a)(1)(i)-(ii), (d)(4)

262.34 (a) Except as provided in paragraphs (d), and (f) of this section, a generator may accumulate hazardous waste onsite for 90 days or less without a permit or without having interim status, provided that: (5/93)

(1) The waste is placed:

(i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 265; and/or

(ii) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 265 except 265.197(c) and 265.200; and/or

(d) (4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of subpart C of R.61-79.265, the requirements of 268.7(a)(5); and

Amend 264.1(g)(11)(iii)&(iv); add 264.1(j)

264.1 Purpose, scope and applicability

(g) (11) (iii) Thermostats as described in 273.4. and

(iv) Lamps as described in 273.5.

(j) The requirements of subparts B, C, and D of this part and 264.101 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing or disposing of hazardous wastes that are not remediation wastes. In these cases, Subparts B, C, and D of this part, and 264.101 do apply to the facility subject to the traditional RCRA permit.) Instead of the requirements of subparts B, C, and D of this part, owners or operators of remediation waste management sites must:

(1) Obtain an EPA identification number by applying to the Department using EPA Form 8700-12;

(2) Obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information which must be known to treat, store or dispose of the waste according to this part and part 268 of this chapter, and must be kept accurate and up to date;

(3) Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the Department that:

(i) Physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock who may enter the active portion of the remediation waste management site; and

(ii) Disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site, will not cause a violation of the requirements of this part;

(4) Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the

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environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner/operator must take remedial action immediately;

(5) Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of this part, and on how to respond effectively to emergencies;

(6) Take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and prevent threats to human health and the environment from ignitable, reactive and incompatible waste;

(7) For remediation waste management sites subject to regulation under subparts I through O and subpart X of this part, the owner/operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner/operator can meet the demonstration of 264.18(b);

(8) Not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave;

(9) Develop and maintain a construction quality assurance program for all surface impoundments, waste piles and landfill units that are required to comply with 264.221(c) and (d), 264.251(c) and (d), and 264.301(c) and (d) at the remediation waste management site, according to the requirements of 264.19;

(10) Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment;

(11) Designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

(12) Develop, maintain and implement a plan to meet the requirements in paragraphs (j)(2) through (j)(6) and (j)(9) through (j)(10) of this section; and

(13) Maintain records documenting compliance with paragraphs (j)(1) through (j)(12) of this section.

Add 264.73(b)(17)

264.73 Operating record.

(b) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(17) Any records required under 264.1(j)(13).

Add 264.90(e), (f)(1)&(2)

264.90 Applicability.

(e) [Reserved]

(f) The Department may replace all or part of the requirements of 264.91 through 264.100 applying to a regulated unit with alternative requirements for groundwater monitoring and corrective action for releases to groundwater set out in the permit where the Department determines that:

(1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release; and

(2) It is not necessary to apply the groundwater monitoring and corrective action requirements of 264.91 through 264.100 because alternative requirements will protect human health and the environment.

264.101 Insert a new (d) to clarify corrective action options, renumber former (d)&(e) as (e)&(f)

264.101 Corrective action for solid waste management units(11/90)

(d) This does not apply to remediation waste management sites unless they are part of a facility subject to a permit for treating, storing or disposing of hazardous wastes that are not remediation wastes.

(e) All monitoring wells to be installed pursuant to 264.101 must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater. More sophisticated monitoring well construction may be required if deemed necessary by the Department. All monitoring wells will have a locking cap or other security devices to prevent damage and/or vandalism. Each well will be labeled with an identification plate constructed of a durable material affixed to the casing or surface pad where it is readily visible. The plate will provide monitoring well identification number, date of construction, total well depth, static water level, and driller certification number. [Note: See for guidance EPA's RCRA Ground-Water Monitoring Technical Enforcement Guidance Document, TEGD]. (6/95)

(f) If not otherwise proposed as part of a plan submitted for approval by the Department, the general design, construction, and location of monitoring wells installed for the purpose of investigating groundwater contamination from solid waste management units will be submitted to the Department for approval prior to installation. (6/95)

Add 264.110(c)(1)&(2)

264.110 Applicability

(c) The Department may replace all or part of the requirements of this subpart (and the unit-specific standards referenced in 264.111(c) applying to a regulated unit), where the Department determines that:

(1) The regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release; and

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(2) It is not necessary to apply the closure requirements of this subpart (and those referenced herein) because the alternative requirements will protect human health and the environment and will satisfy the closure performance standard of 264.111(a) and (b).

Add 264.112(b)(8); (c)(2)(iv)

264.112 Closure plan; amendment of plan.

(b) Content of plan. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include, at least:

(8) For facilities where the Department has applied alternative requirements at a regulated unit under 264.90(f), and/or 264.110(c), the alternative requirements applying to the regulated unit.

(c) (2) The owner or operator must submit a written request for a permit modification to authorize a change in the approved closure plan whenever:

(iv) the owner or operator requests the Department to apply alternative requirements to a regulated unit under 264.90(f), and/or 264.110(c),.

Add 264.118(b)(4)&(d)(2)(iv)

264.118 Postclosure plan; amendment of plan.

(b) (4) For facilities where the Department has applied alternative requirements at a regulated unit under 264.90(f), and/or 264.110(c), the alternative requirements that apply to the regulated unit.

(d) (2) (iv) The owner or operator requests the Department to apply alternative requirements to a regulated unit under 264.90(f), and/or 264.110(c).

Amend 264.151 Appendix Header at A-1, A-2, B, C, D

264.151 APPENDIX A - 1(12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX A - (2) (12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX B (12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX C (12/93; 12/94; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX D (12/93; 12/94; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

Amend 264.151 Appendix D, Bureau name, Letter of Credit Covering Cost of Closure and/or Postclosure Care, Irrevocable Standby Letter of Credit

Letter of Credit Covering Cost of Closure and/or Postclosure Care

Irrevocable Standby Letter of Credit

Chief
Bureau of Land and Waste Management
2600 Bull Street
Columbia, SC 29201

Amend 264.151 Appendix Header at E, F

264.151 APPENDIX E (12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX F (12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

Amend 264.151 Appendix F, Bureau name, Financial Test for Liability Coverage, Letter from Chief Financial Officer

Financial Test for Closure and/or Postclosure Care

Letter from Chief Financial Officer

Chief
Bureau of Land and Waste Management
2600 Bull Street
Columbia, SC 29201

Amend 264.151 Appendix Header at G

264.151 APPENDIX G(12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

Amend 264.151 Appendix G, Bureau name, Financial Test for Liability Coverage, Letter from Chief Financial Officer

Financial Test for Liability Coverage

Letter from Chief Financial Officer

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Chief
Bureau of Land and Waste Management
2600 Bull Street
Columbia, SC 29201

Amend 264.151 Appendix Headers at H, I, J, K

264.151 APPENDIX H(12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX I (12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX J

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX K (12/93; 12/94; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

Amend 264.151 Appendix K, Bureau name, Irrevocable Standby Letter of Credit

Irrevocable Standby Letter of Credit

Chief
Bureau of Land and Waste Management
2600 Bull Street
Columbia, SC 29201

Amend 264.151 Appendix Header at L, M-(1)&(2), N-(1)& (2)

264.151 APPENDIX L

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX M - (1) (12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX M - (2)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX N - (1)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

264.151 APPENDIX N - (2) (12/93; 5/96)

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF LAND AND WASTE MANAGEMENT

Amend 264.552(a)

264.552 Corrective Action Management Units (CAMU). (12/93)

(a) To implement remedies under 264.101 or RCRA Section 3008(h), or to implement remedies at a permitted facility that is not subject to 264.101, the owner or operator may designate an area at the facility as a corrective action management unit, as defined in 260.10, under the requirements of this section. A CAMU must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the CAMU originated. This request is subject to approval by the Department. One or more CAMUs may be designated at a facility.

Amend 264.553(a)

264.553 TEMPORARY UNITS (TU)(12/93).

(a) For temporary tanks and container storage areas used for treatment or storage of hazardous remediation wastes, during remedial activities required under 264.101 or RCRA section 3008(h), or at a permitted facility that is not subject to 264.101 the owner or operator may request approval by the Department to designate a unit at the facility as a temporary unit. A temporary unit must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the temporary unit originated. For temporary units, the Department may replace the design, operating, or closure standard applicable to these units under this part 264 or part 265 with alternative requirements which protect human health and the environment.

Add 264.554(a)-(m)

264.554 Staging piles.

This section is written in a special format to make it easier to understand the regulatory requirements. Like other regulations, this establishes enforceable legal requirements. For this "I" and "you" refer to the owner/operator.

(a) What is a staging pile? A staging pile is an accumulation of solid, non-flowing remediation waste (as defined in 260.10 of this chapter) that is not a containment building and is used only during remedial operations for temporary storage at a facility. A staging pile must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the staging pile originated. Staging piles must be designated by the Department in accordance to the requirements in this section.

(b) When may I use a staging pile? You may use a staging pile to store hazardous remediation waste (or remediation waste otherwise subject to land disposal restrictions) only if you follow the standards and design criteria the Department has designated for that staging pile. The Department must designate the staging pile in a permit or, at an interim status facility, in a closure plan or order (consistent with 270.72(a)(5) and (b)(5) of this chapter). The Department must establish conditions in the permit, closure plan, or order that comply with paragraphs (d) through (k) of this section.

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(c) What information must I provide to get a staging pile designated? When seeking a staging pile designation, you must provide:

(1) Sufficient and accurate information to enable the Department to impose standards and design criteria for your staging pile according to paragraphs (d) through (k) of this section;

(2) Certification by an independent, qualified, registered professional engineer for technical data, such as design drawings and specifications, and engineering studies, unless the Department determines, based on information that you provide, that this certification is not necessary to ensure that a staging pile will protect human health and the environment; and

(3) Any additional information the Department determines is necessary to protect human health and the environment.

(d) What performance criteria must a staging pile satisfy? The Department must establish the standards and design criteria for the staging pile in the permit, closure plan, or order.

(1) The standards and design criteria must comply with the following:

(i) The staging pile must facilitate a reliable, effective and protective remedy;

(ii) The staging pile must be designed so as to prevent or minimize releases of hazardous wastes and hazardous constituents into the environment, and minimize or adequately control cross-media transfer, as necessary to protect human health and the environment (for example, through the use of liners, covers, run-off/run-on controls, as appropriate); and

(iii) The staging pile must not operate for more than two years, except when the Department grants an operating term extension under paragraph (i) of this section (entitled "May I receive an operating extension for a staging pile?"). You must measure the two-year limit, or other operating term specified by the Department in the permit, closure plan, or order, from the first time you place remediation waste into a staging pile. You must maintain a record of the date when you first placed remediation waste into the staging pile for the life of the permit, closure plan, or order, or for three years, whichever is longer.

(2) In setting the standards and design criteria, the Department must consider the following factors:

(i) Length of time the pile will be in operation;

(ii) Volumes of wastes you intend to store in the pile;

(iii) Physical and chemical characteristics of the wastes to be stored in the unit;

(iv) Potential for releases from the unit;

(v) Hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and

(vi) Potential for human and environmental exposure to potential releases from the unit;

(e) May a staging pile receive ignitable or reactive remediation waste? You must not place ignitable or reactive remediation waste in a staging pile unless:

(1) You have treated, rendered or mixed the remediation waste before you placed it in the staging pile so that:

(i) The remediation waste no longer meets the definition of ignitable or reactive under 261.21 or 261.23 of this chapter; and

(ii) You have complied with 264.17(b); or

(2) You manage the remediation waste to protect it from exposure to any material or condition that may cause it to ignite or react.

(f) How do I handle incompatible remediation wastes in a staging pile? The term "incompatible waste" is defined in 260.10 of this chapter. You must comply with the following requirements for incompatible wastes in staging piles:

(1) You must not place incompatible remediation wastes in the same staging pile unless you have complied with 264.17(b);

(2) If remediation waste in a staging pile is incompatible with any waste or material stored nearby in containers, other piles, open tanks or land disposal units (for example, surface impoundments), you must separate the incompatible materials, or protect them from one another by using a dike, berm, wall or other device; and

(3) You must not pile remediation waste on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to comply with 264.17(b).

(g) Are staging piles subject to Land Disposal Restrictions (LDR) and Minimum Technological Requirements (MTR)? No. Placing hazardous remediation wastes into a staging pile does not constitute land disposal of hazardous wastes or create a unit that is subject to the minimum technological requirements of RCRA 3004(o).

(h) How long may I operate a staging pile? The Department may allow a staging pile to operate for up to two years after hazardous remediation waste is first placed into the pile. You must use a staging pile no longer than the length of time designated by the Department in the permit, closure plan, or order (the "operating term"), except as provided in paragraph (i) of this section.

(i) May I receive an operating extension for a staging pile?

(1) The Department may grant one operating term extension of up to 180 days beyond the operating term limit contained in the permit, closure plan, or order (see paragraph (l) of this section for modification procedures). To justify to the Department the need for an extension, you must provide sufficient and accurate information to enable the Department to determine that continued operation of the staging pile:

(i) Will not pose a threat to human health and the environment; and

(ii) Is necessary to ensure timely and efficient implementation of remedial actions at the facility.

(2) The Department may, as a condition of the extension, specify further standards and design criteria in the permit, closure plan, or order, as necessary, to ensure protection of human health and the environment.

(j) What is the closure requirement for a staging pile located in a previously contaminated area?

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(1) Within 180 days after the operating term of the staging pile expires, you must close a staging pile located in a previously contaminated area of the site by removing or decontaminating all:

- (i) Remediation waste;
- (ii) Contaminated containment system components; and
- (iii) Structures and equipment contaminated with waste and leachate.

(2) You must also decontaminate contaminated subsoils in a manner and according to a schedule that the Department determines will protect human health and the environment.

(3) The Department must include the above requirements in the permit, closure plan, or order in which the staging pile is designated.

(k) What is the closure requirement for a staging pile located in an uncontaminated area?

(1) Within 180 days after the operating term of the staging pile expires, you must close a staging pile located in an uncontaminated area of the site according to 264.258(a) and 264.111; or according to 265.258(a) and 265.111 of this chapter.

(2) The Department must include the above requirement in the permit, closure plan, or order in which the staging pile is designated.

(l) How may my existing permit (for example, RAP), closure plan, or order be modified to allow me to use a staging pile?

(1) To modify a permit, other than a RAP, to incorporate a staging pile or staging pile operating term extension, either:

(i) The Department must approve the modification under the procedures for Department-initiated permit modifications in 270.41 of this chapter; or

(ii) You must request a Class 2 modification under 270.42 of this chapter.

(2) To modify a RAP to incorporate a staging pile or staging pile operating term extension, you must comply with the RAP modification requirements under 270.170 and

(3) To modify a closure plan to incorporate a staging pile or staging pile operating term extension, you must follow the applicable requirements under 264.112(c) or 265.112(c) of this chapter.

(4) To modify an order to incorporate a staging pile or staging pile operating term extension, you must follow the terms of the order and the applicable provisions of 270.72(a)(5) or (b)(5) of this chapter.

(m) Is information about the staging pile available to the public? The Department must document the rationale for designating a staging pile or staging pile operating term extension and make this documentation available to the public.

Add note after 264.1030(c)

264.1030 following (c)

[NOTE: The requirements of 264.1032 through 264.1036 apply to process vents on hazardous waste recycling units previously exempt under 261.6(c)(1). Other exemptions under 261.4, and 264.1(g) are not affected by these requirements.]

Amend two 264.1031 definitions; add new definition for Sampling

264.1031 Definitions

Equipment means each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, or flange or other connector, and any control devices or systems required by this subpart.

Open-ended valve or line means any valve, except pressure relief valves, having one side of the valve seat in contact with hazardous waste and one side open to the atmosphere, either directly or through open piping.

Sampling connection system means an assembly of equipment within a process or waste management unit used during periods of representative operation to take samples of the process or waste fluid. Equipment used to take non-routine grab samples is not considered a sampling connection system.

Amend 264.1050 (g)

264.1050 Applicability.

(g) [Reserved] (9/98)

Add title for 264 Subpart CC

Subpart CC - Air Emission Standards for Tanks, Surface Impoundments, and Containers (9/98)

Amend 264.1080 (b)(5)

264.1080 Applicability.

(b) (5) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h); CERCLA authorities; or similar Federal or State authorities.

Add 264.1083 (a)(1)(i)&(ii) and (b)(1)(i)&(ii)

264.1083 Waste determination procedures.

(a) (1) (i) An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the hazardous waste stream is placed in a waste management unit exempted under the provisions of 264.1082(c)(1) of this subpart from using air emission controls, and thereafter an initial determination of the average VO concentration of the waste stream shall be made for each averaging period that a hazardous waste is managed in the unit; and

(ii) Perform a new waste determination whenever changes to the source generating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level that is equal to or greater than the applicable VO concentration limits specified in 264.1082 of this subpart.

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(b) (1) (i) An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the treated waste stream is placed in the exempt waste management unit, and thereafter update the information used for the waste determination at least once every 12 months following the date of the initial waste determination; and

(ii) Perform a new waste determination whenever changes to the process generating or treating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level such that the applicable treatment conditions specified in 264.1082(c)(2) of this subpart are not achieved.

Amend 264.1084 (h)(3); add (i)&(ii)

264.1084 Standards: Tanks.

(h) (3) Whenever a hazardous waste is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except under either of the following conditions as specified in paragraph (h)(3)(i) or (h)(3)(ii) of this section.

(i) At those times when opening of a safety device, as defined in 265.1081 of this subpart, is required to avoid an unsafe condition.

(ii) At those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of 264.1087 of this subpart.

Amend 264.1086(d)(4)(i)&(e)(6)

264.1086 Standards: Containers.

(d) (4) (i) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., does not meet the conditions for an empty container as specified in 261.7(b)), the owner or operator shall visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection shall be conducted on or before the date that the container is accepted at the facility (i.e., the date the container becomes subject to the subpart CC container standards). For purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest in the appendix to part 262 (EPA Forms 8700-22 and 8700-22A), as required under subpart E of this part, at 264.71. If a defect is detected, the owner or operator shall repair the defect in accordance with the requirements of paragraph (d)(4)(iii) of this section.

(e) (6) Transfer of hazardous waste in or out of a container using Container Level 3 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the Department considers to meet the requirements of this paragraph include using any one of the following: A submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

Amend 264 Appendix V, Group3-B

264 -APPENDIX V - EXAMPLES OF POTENTIALLY INCOMPATIBLE WASTE

GROUP 3-B

Any concentrated waste in Groups 1-A or 1-B

Calcium

Lithium

Metal hydrides

Potassium

SO₂Cl₂, SOCl₂, PCI₃, CH₃SiCl₃

Amend 265.1(b)

265.1 Purpose, scope, and applicability

(b) Except as provided in 265.1080(b), the standards of this part, and of 264.552, 264.553 and 264.554, apply to owners and operators of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under 44-56-60 and section 3005(e) of RCRA and 270.70 until either a permit is issued under 44-56-60 and section 3005 of RCRA or until applicable part 265 closure and postclosure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required under section 44-56-120 of the 1976 Code of Laws of South Carolina and by section 3010(a) of RCRA, as amended, and/or failed to file part A of the permit application as required by 270.10 (e) and (g). These standards apply to all treatment, storage and disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in this part or part 261. (12/92; 12/93, 9/98)

Amend 265.1(c)(14)(ii), (iii)&(iv)

- (c) (14) (ii) Pesticides as described in 273.3,
- (iii) Thermostats as described in 273.4 and,
- (iv) Lamps as described in 273.5.

Add 265.90(f),(1)&(2)

265.90 Applicability.

(f) The Department may replace all or part of the requirements of this subpart applying to a regulated unit (as defined in 264.90), with alternative requirements developed for groundwater monitoring set out in an approved closure or postclosure plan, where the Department determines that:

(1) A regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release; and

(2) It is not necessary to apply the requirements of this subpart because the alternative requirements will protect human health and the environment. The alternative standards for the regulated unit must meet the requirements of 264.101(a).

Add new 265.110(c)&(d)

265.110Applicability.

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(c) [Reserved]

(d) The Department may replace all or part of the requirements of this subpart (and the unit-specific standards in 265.111(c)) applying to a regulated unit (as defined in 264.90), with alternative requirements for closure set out in an approved closure or post-closure plan, where the Department determines that:

(1) A regulated unit is situated among solid waste management units (or areas of concern), a release has occurred, and both the regulated unit and one or more solid waste management unit(s) (or areas of concern) are likely to have contributed to the release, and

(2) It is not necessary to apply the closure requirements of this subpart (and/or those referenced herein) because the alternative requirements will protect human health and the environment, and will satisfy the closure performance standard of 265.111(a) and (b).

Add new 265.112(b)(8), (c)(1)(iv)

265.112 Closure plan; amendment of plan.

(b) (8) For facilities where the Department has applied alternative requirements at a regulated unit under 265.90(f), and/or 265.110(d), the alternative requirements applying to the regulated unit.

(c) (1) (iv) The owner or operator requests the Department to apply alternative requirements to a regulated unit under 265.90(f), and/or 265.110(d).

Add 265.118(c)(4)&(5), (d)(1)(iii)

265.118 Postclosure plan; amendment of plan.

(c) (4) [Reserved]

(5) For facilities where the Department has applied alternative requirements at a regulated unit under 265.90(f), and/or 265.110(d), the alternative requirements that apply to the regulated unit.

(d) (1) (iii) The owner or operator requests the Department to apply alternative requirements to a regulated unit under 265.90(f), and/or 265.110(d).

Delete text of 265.1033 (a)(2)

265.1033 Standards: Closed-vent systems and control devices

(a) (1) Owners or operators of closed-vent systems and control devices used to comply with provisions of this part shall comply with the provisions of this section.

(2) (i) The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with the provisions of this subpart on the effective date that the facility becomes subject to the requirements of this subpart must prepare an implementation schedule that includes dates by which the closed-vent system and control device will be installed and in operation. The controls must be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to this subpart for installation and startup.

Amend 265.1064 (m)

265.1064 Recordkeeping requirements.

(m) The owner or operator of any facility with equipment that is subject to this subpart and to leak detection, monitoring, and repair requirements under regulations at 40 CFR part 60, part 61, or part 63 may elect to determine compliance with this subpart either by documentation pursuant to 265.1064 of this subpart, or by documentation of compliance with the regulations at 40 CFR part 60, part 61, or part 63 pursuant to the relevant provisions of the regulations at 40 part 60, part 61, or part 63. The documentation of compliance under regulation at 40 CFR part 60, part 61, or part 63 shall be kept with or made readily available with the facility operating record.(11/99)

Add title for 265 Subpart CC

Subpart CC - Air Emission Standards for Tanks, Surface Impoundments, and Containers

Add 265.1084(a)(1)(i)&(ii); (a)(3)(ii)(D); amend 265.1084 (a)(3)(ii)(B); (a)(3)(iii)

265.1084 Waste determination procedures.

(a) (1) (i) An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the hazardous waste stream is placed in a waste management unit exempted under the provisions of 265.1083(c)(1) of this subpart from using air emission controls, and thereafter an initial determination of the average VO concentration of the waste stream shall be made for each averaging period that a hazardous waste is managed in the unit; and

(ii) Perform a new waste determination whenever changes to the source generating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level that is equal to or greater than the VO concentration limit specified in 265.1083(c)(1) of this subpart.

(3) (ii) (B) A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. All of the samples for a given waste determination shall be collected within a one-hour period. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature. (11/99)

(D) Sufficient information, as specified in the "site sampling plan" required under paragraph (a)(3)(ii)(C) of this section, shall be prepared and recorded to document the waste quantity represented by the samples and, as applicable, the operating conditions for the source or process generating the hazardous waste represented by the samples.

(iii) Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in paragraphs (a)(3)(iii)(A) through (a)(3)(iii)(I) of this section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25 degrees Celsius. Each of the analytical methods listed in paragraphs (a)(3)(iii)(B) through (a)(3)(iii)(G) of this section has an associated list of approved chemical compounds, for which EPA considers the method appropriate for measurement. If an owner or operator uses EPA Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, (incorporated by reference - refer to 260.11(a) of this chapter) to analyze one or more compounds that are not on that method's published list,

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the procedures in paragraph (a)(3)(iii)(H) of this section must be followed. At the owner or operator's discretion, the owner or operator may adjust test data measured by a method other than Method 25D to the corresponding average VO concentration value which would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (fm25D). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25 degrees Celsius contained in the waste. Constituent-specific adjustment factors (fm25D) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711.

Add 265.1084 (b)(1)(i)&(ii)

(b) (1) (i) An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the treated waste stream is placed in a waste management unit exempted under the provisions of 265.1083(c)(2), 265.1083(c)(3), or 265.1083(c)(4) of this subpart from using air emission controls, and thereafter update the information used for the waste determination at least once every 12 months following the date of the initial waste determination; and

(ii) Perform a new waste determination whenever changes to the process generating or treating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level such that the applicable treatment conditions specified in 265.1083(c)(2), 265.1083(c)(3), or 265.1083(c)(4) of this subpart are not achieved.

Amend 265.1084 (b)(3)(ii)(B)

(3) (ii) (B) A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. All of the samples for a given waste determination shall be collected within a one-hour period. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the process generating or treating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature. (11/99)

Add 265.1084(b)(3)(ii)(D)

(3) (ii) (D) Sufficient information, as specified in the "site sampling plan" required under paragraph (C) of (b)(3)(ii) this section, 265.1084(b)(3)(ii), shall be prepared and recorded to document the waste quantity represented by the samples and, as applicable, the operating conditions for the process treating the hazardous waste represented by the samples.

Amend 265.1084(b)(3)(iii)&(iv)

(3) (iii) Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in paragraphs (b)(3)(iii)(A) through (b)(3)(iii)(I) of this section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system to determine if the conditions of 264.1082(c)(2)(i) through (c)(2)(vi) or 265.1083(c)(2)(i) through (c)(2)(vi) are met, then the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds

in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25 degrees Celsius. Each of the analytical methods listed in paragraphs (b)(3)(iii)(B) through (b)(3)(iii)(G) of this section has an associated list of approved chemical compounds, for which EPA considers the method appropriate for measurement. If an owner or operator uses EPA Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, (incorporated by reference - refer to 260.11(a) of this chapter) to analyze one or more compounds that are not on that method's published list, the procedures in paragraph (b)(3)(iii)(H) of this section must be followed. At the owner or operator's discretion, the owner or operator may adjust test data measured by a method other than Method 25D to the corresponding average VO concentration value which would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (fm25D). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant equal to or greater than 0.1 Y/X at 25 degrees Celsius contained in the waste. Constituent-specific adjustment factors (fm25D) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. (11/99)

(iv) Calculations. The average VO concentration (C) on a mass-weighted basis shall be calculated by using the results for all waste determinations conducted in accordance with paragraphs (b)(3)(ii) and (iii) of this section and the following equation:

where:

n = Total number of waste determinations of the hazardous waste conducted for the averaging period (not to exceed 1 year). (11/99)

Amend 265.1085(h)(3)&(i); add (3)(ii)

265.1085 Standards: Tanks

(h) (3) Whenever a hazardous waste is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except under either or the following conditions as specified in paragraph (h)(3)(i) or (h)(3)(ii) of this section.

(i) At those times when opening of a safety device, as defined in 265.1081 of this subpart, is required to avoid an unsafe condition.

(ii) At those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of 265.1088 of this subpart.

Add 265.1087(e)(6)

265.1087 Standards: Containers.

(e) (6) Transfer of hazardous waste in or out of a container using Container Level 3 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the Department considers to meet the requirements of this paragraph include

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using any one of the following: A submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

Add 265.1090(f)(2)

265.1090 Recordkeeping requirements

(f) (2) For tanks, surface impoundments, or containers exempted under the provisions of 265.1083(c)(2)(vii) or 265.1083(c)(2)(viii) of this subpart, the owner or operator shall record the identification number for the incinerator, boiler, or industrial furnace in which the hazardous waste is treated.

Amend 266.20(c)

266.20 Applicability

(c) Anti-skid/deicing uses of slags which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in paragraph (b) of this section and remain subject to regulation(9/98).

Remove current 266.80 (a)&(b); amend with new (a)&(b)

266.80 Applicability and requirements

(a) Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the "Universal Waste" rule in part 273.

| If your batteries * * * | And if you * * * | Then you * * * | And you * * * |
|--|--|--|---|
| (1) Will be reclaimed through regeneration (such as by electrolyte replacement). | | are exempt from 262 (except for 262.11), 263, 264, 265, 266, 268, 270, 124, and the notification requirements of South Carolina HWMA 44-56-120 and at section 3010 of RCRA. | are subject to 261 and 262.11. |
| (2) Will be reclaimed other than through regeneration. | generate, collect, and/or transport these batteries. | are exempt from 262 (except for 262.11), 263, 264, 265, 266, 270, 124, and the notification requirements of South Carolina HWMA 44-56-120 and at section 3010 of RCRA. | are subject to 261 and 262.11, and applicable provisions under 268. |
| (3) Will be reclaimed other than through regeneration. | store these batteries but you aren't the reclaimer. | are exempt from 262 (except for 262.11) 263, 264, 265, 266, 270, 124, and the provisions under notification requirements of South Carolina HWMA 44-56-120 and at section 3010 of RCRA. | are subject to 261, 262.11, and applicable 268. |

| | | | |
|--|--|---|--|
| (4) Will be reclaimed other than through regeneration. | store these batteries before you reclaim them. | must comply with 266.80(b) and as appropriate other regulatory provisions described in 266.80(b). | are subject to 261, 262.11, and applicable provisions under 268. |
| (5) Will be reclaimed other than through regeneration. | don't store these batteries before you reclaim them. | are exempt from 262 (except for 262.11) 263, 264, 265, 266, 270, 124, and the notification requirements of South Carolina HWMA 44-56-120 and at section 3010 of RCRA. | are subject to 261, 262.11, and applicable provisions under 268. |

(b) If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of paragraph (b) of this section apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your RCRA permit status.

- (1) For Interim Status Facilities, you must comply with:
 - (i) Notification requirements of South Carolina HWMA 44-56-120 and under section 3010 of RCRA.
 - (ii) All applicable provisions in subpart A of part 265 of this chapter.
 - (iii) All applicable provisions in subpart B of part 265 of this chapter except 265.13 (waste analysis).
 - (iv) All applicable provisions in subparts C and D of part 265 of this chapter.
 - (v) All applicable provisions in subpart E of part 265 of this chapter except 265.71 and 265.72 (dealing with the use of the manifest and manifest discrepancies).
 - (vi) All applicable provisions in subparts F through L of part 265 of this chapter.
 - (vii) All applicable provisions in parts 270 and 124 of this chapter.
- (2) For Permitted Facilities.
 - (i) Notification requirements of South Carolina HWMA 44-56-120 and under section 3010 of RCRA.
 - (ii) All applicable provisions in subpart A of part 264 of this chapter.
 - (iii) All applicable provisions in subpart B of part 264 of this chapter (but not 264.13 (waste analysis)).
 - (iv) All applicable provisions in subparts C and D of part 264 of this chapter.
 - (v) All applicable provisions in subpart E of part 264 of this chapter (but not 264.71 or 264.72 (dealing with the use of the manifest and manifest discrepancies)).
 - (vi) All applicable provisions in subparts F through L of part 264 of this chapter.
 - (vii) All applicable provisions in parts 270 and 124 of this chapter.

Amend 266.100(b)(3)

266.100 Applicability

(b) (3) Hazardous wastes that are exempt from regulation under 261.4 and 261.6(a)(3)(iii) and (vi), and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under 261.5 ; (5/96) and

Amend 266.112(b)(2)(i)

266.112 Regulation of residues

(b) (2) (i) Nonmetal constituents. The concentration of each nonmetal toxic constituent of concern (specified in paragraph (b)(1) of this section) in the waste-derived residue must not exceed the health-

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based level specified in Appendix VII of this part, or the level of detection (using analytical procedures prescribed in SW-846), whichever is higher. If a health-based limit for a constituent of concern is not listed in appendix VII of this part, then a limit of 0.002 micrograms per kilogram or the level of detection (using analytical procedures prescribed in SW-846), whichever is higher, shall be used. The levels specified in appendix VII of this part (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of appendix VII of this part) are administratively stayed under the condition, for those constituents specified in paragraph (b)(1) of this section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in 268.43 for FO39 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts as defined by applicable Department guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by 268.43 for FO39 nonwastewaters. The stay will remain in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations; and (12/93; 12/94)

Amend 268.1 (f)(2)(3); add (4)

268.1 Purpose, scope and applicability.

(f) Universal waste handlers and universal waste transporters (as defined in 260.10) are exempt from 268.7 and 268.50 for the hazardous wastes listed below. These handlers are subject to regulation under part 273. (5/96)

- (1) Batteries as described in 273.2;
- (2) Pesticides as described in 273.3;
- (3) Thermostats as described in 273.4; and
- (4) Lamps as described in 273.5.

Amend 268.2(c), (h) &(k)

268.2 Definitions applicable in this part

(c) "Land disposal" means placement in or on the land, except in a corrective action management unit, or staging pile and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes (11/90; 12/92; 12/93).

(h) "Hazardous debris" means debris that contains a hazardous waste listed in subpart D of part 261, or that exhibits a characteristic of hazardous waste identified in subpart C of part 261. Any deliberate mixing of prohibited hazardous waste with debris that changes its treatment classification (i.e., from waste to hazardous debris) is not allowed under the dilution prohibition in 268.3.(12/93)

(k) Soil means unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Natural Resources Conservation Service, or a mixture of such materials with liquids, sludges or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil by volume based on visual inspection. Any deliberate mixing of prohibited hazardous waste with soil that changes its treatment classification (i.e., from waste to contaminated soil) is not allowed under the dilution prohibition in 268.3. (11/99)

Amend 268.7(a)(1)&(2) and (a)(4) table

268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities (11/90, 5/96, 9/98)

(a) Requirements for generators: (9/98)

(1) A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in 268.40, 268.45, or 268.49. This determination can be made in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as referenced in 260.11 of this chapter, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in 268.40, and are described in detail in 268.42, Table 1. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of 268.9 of this part in addition to any applicable requirements in this section. (11/99)

(2) If the waste or contaminated soil does not meet the treatment standard: With the initial shipment of waste to each treatment or storage facility, the generator must send a onetime written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "268.7(a)(2)" of the Generator Paperwork Requirements Table in 268.7(a)(4). No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file.

| 268.7(a)(4) table - Required information | 268.7 (a)(2) | 268.7 (a)(3) | 268.7 (a)(4) | 268.7 (a)(9) |
|--|-----------------|-----------------|-----------------|-----------------|
| 1. EPA Hazardous Waste and Manifest numbers and Manifest Number of first shipment | x | x | x | x |
| 2. Statement: this waste is not prohibited from land disposal | | | x | |
| 3. The waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice | x | x | | |
| 4. The notice must include the applicable wastewater/nonwastewater category (see 268.2(d) and (f)) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide) | x | x | | |
| 5. Waste analysis data (when available) | x | x | x | |
| 6. Date the waste is subject to the prohibition | | | x | |
| 7. For hazardous debris, when treating with the alternative treatment technologies provided by 268.45: the contaminants subject to treatment, as described in 268.45(b); and an indication that these contaminants are being treated to comply | x | | x | |

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| | | | | |
|---|---|---|--|---|
| with 268.45 | | | | |
| 8. For contaminated soil subject to LDRs as provided in 268.49(a) the constituents subject to treatment as described in 268.49(d) and the following statement: This contaminated soil (does/does not) contain listed hazardous waste and (does/does not) exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by 268.49(c) or the universal treatment standards | x | x | | |
| 9. A certification is needed (see applicable section for exact wording) | | x | | x |

Amend 268.7(b)(3)(ii) Table line 6

268.7 (b)(3)(ii) Treatment Facility Paperwork Requirements Table

TREATMENT FACILITY PAPERWORK REQUIREMENTS TABLE 268.7 (9/98, 11/99)

Required Information 268.7(b)

- 1. EPA Hazardous Waste and Manifest numbers and Manifest Number of first shipment x
- 2. The waste is subject to the LDRs. The constituents of concern for F001-F005 and F039 and underlying constituents in characteristic wastes, unless the wastes will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice
x
- 3. The notice must include the applicable wastewater/nonwastewater category (see 268.2(d) and (f) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide). x
- 4. Waste analysis data (when available) x
- 5. For contaminated soil subject to LDRs as provided in 268.49(a), the constituents subject to treatment as described in 268.49(d) and the following statement: "This contaminated soil [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by 268.49(c) x
- 6. A certification is needed (see applicable section for exact wording)..... x

Amend 268.7(b)(4)(iv)

268.7 Continued

(b) (4) (iv) For characteristic wastes that are subject to the treatment standards in 268.40 (other than those expressed as a method of treatment), or 268.49, and that contain underlying hazardous constituents as defined in 268.2(i); if these wastes are treated on-site to remove the hazardous characteristic; and are then sent off-site for treatment of underlying hazardous constituents, the certification must state the following: (11/99)

"I certify under penalty of law that the waste has been treated in accordance with the requirements of 268.40 or 268.49 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

Amend 268.9(d)(2)&(2)(i)

268.9 Special rules regarding wastes that exhibit a characteristic(12/92, 5/96)

(d) (2) The certification must be signed by an authorized representative and must state the language found in 268.7(b)(4). (12/93)

(i) If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in 268.7 (b)(4)(iv) applies. (5/96)

Amend 268.33(b)&(c)

268.33 Waste-specific prohibitions - organobromine wastes

(b) The requirements of paragraph (a) of this section do not apply if:

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Universal Treatment Standard levels of 268.48 of this part, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

Add new 268.34(b); reletter former (b)-(f)

268.34 Waste specific prohibitions - toxicity characteristic metal wastes

(b) Effective November 26, 1998, the following waste is prohibited from land disposal: Slag from secondary lead smelting which exhibits the Toxicity Characteristic due to the presence of one or more metals.

(c) Effective May 26, 2000, the following wastes are prohibited from land disposal: newly identified characteristic wastes from elemental phosphorus processing; radioactive wastes mixed with EPA Hazardous wastes D004 - D011 that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure); or mixed with newly identified characteristic mineral processing wastes, soil, or debris.

(d) Between May 26, 1998 and May 26, 2000, newly identified characteristic wastes from elemental phosphorus processing, radioactive waste mixed with D004 - D011 wastes that are newly identified (i.e. wastes, soil, or debris identified as hazardous by the Toxic Characteristic Leaching Procedure but not the Extraction Procedure), or mixed with newly identified characteristic mineral processing wastes, soil, or debris may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in 268.5(h)(2) of this part.

(e) The requirements of paragraphs (a) and (b) of this section do not apply if: ***

(f) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents (including underlying hazardous constituents in characteristic wastes) in excess of the applicable Universal Treatment Standard levels of 268.48 of this part, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

Remove and replace 268.35

268.35 Waste specific prohibitions- petroleum refining wastes.

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(a) Effective February 8, 1999, the wastes specified in part 261 as EPA Hazardous Wastes Numbers K169, K170, K171, and K172, soils and debris contaminated with these wastes, radioactive wastes mixed with these hazardous wastes, and soils and debris contaminated with these radioactive mixed wastes, are prohibited from land disposal.

(b) The requirements of paragraph (a) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in Subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable treatment standards established pursuant to a petition granted under 268.44;

(4) Hazardous debris that have met treatment standards in 268.40 or in the alternative treatment standards in 268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to these wastes covered by the extension.

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains constituents in excess of the applicable Universal Treatment Standard levels of 268.48, the waste is prohibited from land disposal, and all requirements of this part are applicable, except as otherwise specified.

Amend 268.39(c)

268.39 Waste specific prohibitions - spent aluminum potliners; reactive; and carbamate wastes.

(c) On September 21, 1998, the wastes specified in 261.32 as EPA Hazardous Waste number K088 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

Amend 268.40 (g); add new (i)&(j)

268.40 Applicability of treatment standards

(g) Between August 26, 1996 and March 4, 1999 the treatment standards for the wastes specified in 261.32 as EPA Hazardous Waste numbers K156-K161; and in 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U277-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U400-U404, U407, and U409-U411; and soil contaminated with these wastes; may be satisfied by either meeting the constituent concentrations presented in the table "Treatment Standards for Hazardous Wastes" in this section, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at 268.42 Table 1, for nonwastewaters; and, biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at 268.42 Table 1, for wastewaters.

(i) Zinc micronutrient fertilizers that are produced for the general public's use and that are produced from or contain recycled characteristic hazardous wastes (D004-D011) are subject to the applicable treatment standards in 268.41 contained in parts 260 to 299, edition revised as of July 1, 1990.

(j) Effective September 4, 1998, the treatment standards for the wastes specified in 261.33 as EPA Hazardous Waste numbers P185, P191, P192, P197, U364, U394, and U395 may be satisfied by either meeting the constituent concentrations presented in the table "Treatment Standards for Hazardous Wastes" in this section, or by treating the waste by the following technologies: combustion, as defined by the technology code CMBST at 268.42 Table 1 of this Part, for nonwastewaters; and, biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at 268.42 Table 1 of this Part, for wastewaters.

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Amend 268.40 Table

TABLE: Treatment Standards for Hazardous Wastes

| TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable | | | | | |
|--|---|---------------------------------|-------------------------|--|--|
| Waste Code | Waste Description and Treatment/Regulatory Subcategory ¹ | REGULATED HAZARDOUS CONSTITUENT | | WASTEWATERS | NON WASTEWATERS |
| | | Common Name | CAS ² Number | Concentration in mg/L ³ ; or Technology Code ⁴ | Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code |
| K088 | Spent potliners from primary aluminum reduction. | Acenaphthalene | 83-32-9 | 0.059 | 3.4 |
| | | Anthracene | 120-12-7 | 0.059 | 3.4 |
| | | Benzo(a)anthracene | 56-55-3 | 0.059 | 3.4 |
| | | Benzo(a)pyrene | 50-32-8 | 0.061 | 3.4 |
| | | Benzo(b)fluoranthene | 205-99-2 | 0.11 | 6.8 |
| | | Benzo(k)fluoranthene | 207-08-9 | 0.11 | 6.8 |
| | | Benzo(g,h,i)perylene | 191-24-2 | 0.0055 | 1.8 |
| | | Chrysene | 218-01-9 | 0.059 | 3.4 |
| | | Dibenz(a,h)anthracene | 53-70-3 | 0.055 | 8.2 |
| | | Fluoranthene | 206-44-0 | 0.068 | 3.4 |
| | | Indeno(1,2,3,-c,d)pyrene | 193-39-5 | 0.0055 | 3.4 |
| | | Phenanthrene | 85-01-8 | 0.059 | 5.6 |
| | | Pyrene | 129-00-0 | 0.067 | 8.2 |
| | | Antimony | 7440-36-0 | 1.9 | 1.15 mg/l TCLP |
| | | Arsenic | 7440-38-2 | 1.4 | 26.1 |
| | | Barium | 7440-39-3 | 1.2 | 21. mg/l TCLP |
| Beryllium | 7440-41-7 | 0.82 | 1.22 mg/l TCLP | | |

| TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable | | | | | |
|--|--|---------------------------------|-------------------------|--|--|
| Waste Code | Waste Description and Treatment/Regulatory Subcategory ¹ | REGULATED HAZARDOUS CONSTITUENT | | WASTEWATERS | NON WASTEWATERS |
| | | Common Name | CAS ² Number | Concentration in mg/L ³ ; or Technology Code ⁴ | Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code |
| | | Cadmium | 7440-43-9 | 0.69 | 0.11 mg/l TCLP |
| | | Chromium (Total) | 7440-47-3 | 2.77 | 0.60 mg/l TCLP |
| | | Lead | 7439-92-1 | 0.69 | 0.75 mg/l TCLP |
| | | Mercury | 7439-97-6 | 0.15 | 0.025 mg/l TCLP |
| | | Nickel | 7440-02-0 | 3.98 | 11. mg/l TCLP |
| | | Selenium | 7782-49-2 | 0.82 | 5.7 mg/l TCLP |
| | | Silver | 7440-22-4 | 0.43 | 0.14 mg/l TCLP |
| | | Cyanide (Total) ⁷ | 57-12-5 | 1.2 | 590. |
| | | Cyanide (Amenable) ⁷ | 57-12-5 | 0.86 | 30. |
| | | Fluoride | 16984-48-8 | 35. | NA |
| K156 | Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. ¹⁰ | Acetonitrile | 75-05-8 | 5.6 | 18. |
| | | Acetophenone | 96-86-2 | 0.010 | 9.7 |
| | | Aniline | 62-53-3 | 0.81 | 14. |
| | | Benomyl | 17804-35-2 | 0.056 | 1.4 |
| | | Benzene | 71-43-2 | 0.14 | 10. |
| | | Carbaryl | 63-25-2 | 0.006 | 0.14 |
| | | Carbenzadim | 10605-21-7 | 0.056 | 1.4 |
| | | Carbofuran | 1563-66-2 | 0.006 | 0.14 |
| | | Carbosulfan | 55285-14-8 | 0.028 | 1.4 |

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| TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable | | | | | |
|--|---|---------------------------------|-------------------------|--|--|
| Waste Code | Waste Description and Treatment/Regulatory Subcategory ¹ | REGULATED HAZARDOUS CONSTITUENT | | WASTEWATERS | NON WASTEWATERS |
| | | Common Name | CAS ² Number | Concentration in mg/L ³ ; or Technology Code ⁴ | Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code |
| | | Chlorobenzene | 108-90-7 | 0.057 | 6.0 |
| | | Chloroform | 67-66-3 | 0.046 | 6.0 |
| | | o-Dichlorobenzene | 95-50-1 | 0.088 | 6.0 |
| | | Methomyl | 16752-77-5 | 0.028 | 0.14 |
| | | Methylene chloride | 75-09-2 | 0.089 | 30. |
| | | Methyl ethyl ketone | 78-93-3 | 0.28 | 36. |
| | | Naphthalene | 91-20-3 | 0.059 | 5.6 |
| | | Phenol | 108-95-2 | 0.039 | 6.2 |
| | | Pyridine | 110-86-1 | 0.014 | 16. |
| | | Toluene | 108-88-3 | 0.080 | 10. |
| | | Triethylamine | 121-44-8 | 0.081 | 1.5 |
| K169 | Crude oil tank sediment from petroleum refining operations. | Benz(a)anthracene | 56-55-3 | 0.059 | 3.4 |
| | | Benzene | 71-43-2 | 0.14 | 10. |
| | | Benzo(g,h,i)perylene | 191-24-2 | 0.0055 | 1.8 |
| | | Chrysene | 218-01-9 | 0.059 | 3.4 |
| | | Ethyl benzene | 100-41-4 | 0.057 | 10. |
| | | Fluorene | 86-73-7 | 0.059 | 3.4 |
| | | Naphthalene | 91-20-3 | 0.059 | 5.6 |

| TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable | | | | | |
|--|---|---------------------------------|-------------------------|--|--|
| Waste Code | Waste Description and Treatment/Regulatory Subcategory ¹ | REGULATED HAZARDOUS CONSTITUENT | | WASTEWATERS | NON WASTEWATERS |
| | | Common Name | CAS ² Number | Concentration in mg/L ³ ; or Technology Code ⁴ | Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code |
| K170 | Clarified slurry oil sediment from petroleum refining operations. | Phenanthrene | 81-05-8 | 0.059 | 5.6 |
| | | Pyrene | 129-00-0 | 0.067 | 8.2 |
| | | Toluene (Methyl Benzene) | 108-88-3 | 0.080 | 10. |
| | | Xylene(s) (Total) | 1330-20-7 | 0.32 | 30. |
| | | Benz(a)anthracene | 56-55-3 | 0.059 | 3.4 |
| | | Benzene | 71-43-2 | 0.14 | 10. |
| | | Benzo(g,h,i)perylene | 191-24-2 | 0.0055 | 1.8 |
| | | Chrysene | 218-01-9 | 0.059 | 3.4 |
| | | Dibenz(a,h)anthracene | 53-70-3 | 0.055 | 8.2 |
| | | Ethyl benzene | 100-41-4 | 0.057 | 10. |
| | | Fluorene | 86-73-7 | 0.059 | 3.4 |
| | | Indeno(1,2,3,-cd)pyrene | 193-39-5 | 0.0055 | 3.4 |
| | | Naphthalene | 91-20-3 | 0.059 | 5.6 |
| | | Phenanthrene | 81-05-8 | 0.059 | 5.6 |
| Pyrene | 129-00-0 | 0.067 | 8.2 | | |
| Toluene (Methyl Benzene) | 108-88-3 | 0.080 | 10. | | |
| Xylene(s) (Total) | 1330-20-7 | 0.32 | 30. | | |

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| TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable | | | | | |
|--|--|---------------------------------|-------------------------|--|--|
| Waste Code | Waste Description and Treatment/Regulatory Subcategory ¹ | REGULATED HAZARDOUS CONSTITUENT | | WASTEWATERS | NON WASTEWATERS |
| | | Common Name | CAS ² Number | Concentration in mg/L ³ ; or Technology Code ⁴ | Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code |
| K171 | Spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media.) | Benz(a)anthracene | 56-55-3 | 0.059 | 3.4 |
| | | Benzene | 71-43-2 | 0.14 | 10. |
| | | Chrysene | 218-01-9 | 0.059 | 3.4 |
| | | Ethyl benzene | 100-41-4 | 0.057 | 10. |
| | | Naphthalene | 91-20-3 | 0.059 | 5.6 |
| | | Phenanthrene | 81-05-8 | 0.059 | 5.6 |
| | | Pyrene | 129-00-0 | 0.067 | 8.2 |
| | | Toluene (Methyl Benzene) | 108-88-3 | 0.080 | 10. |
| | | Xylene(s) (Total) | 1330-20-7 | 0.32 | 30. |
| | | Arsenic | 7740-38-2 | 1.4 | 5. mg/L TCLP |
| | | Nickel | 7440-02-0 | 3.98 | 11.0 mg/L TCLP |
| | | Vanadium | 7440-62-2 | 4.3 | 1.6 mg/L TCLP |
| | | Reactive sulfides | NA | DEACT | DEACT |
| K172 | Spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors | Benzene | 71-43-2 | 0.14 | 10. |
| | | Ethyl benzene | 100-41-4 | 0.057 | 10. |
| | | Toluene (Methyl Benzene) | 108-88-3 | 0.080 | 10. |
| | | Xylene(s) (Total) | 1330-20-7 | 0.32 | 30. |

| TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable | | | | | |
|--|---|---------------------------------|-------------------------|--|--|
| Waste Code | Waste Description and Treatment/Regulatory Subcategory ¹ (this listing does not include inert support media.) | REGULATED HAZARDOUS CONSTITUENT | | WASTEWATERS | NON WASTEWATERS |
| | | Common Name | CAS ² Number | Concentration in mg/L ³ ; or Technology Code ⁴ | Concentration in mg/kg ⁵ unless noted as "mg/L TCLP" or Technology Code |
| | | Antimony | 7740-36-0 | 1.9 | 1.15 mg/L TCLP |
| | | Arsenic | 7740-38-2 | 1.4 | 5. mg/L TCLP |
| | | Nickel | 7440-02-0 | 3.98 | 11.0 mg/L TCLP |
| | | Vanadium | 7440-62-2 | 4.3 | 1.6 mg/L TCLP |
| | | Reactive Sulfides | NA | DEACT | DEACT |
| P194 | Oxamyl | Oxamyl | 23135-22-0 | 0.056 | 0.28 |
| U404 | Triethylamine ¹⁰ | Triethylamine | 121-44-8 | 0.081 | 1.5 |
| U408 | 2,4,6-Tribomophenol | 2,4,6-Tribomophenol | 118-79-6 | 0.035 | 7.4 |

FOOTNOTES TO TREATMENT STANDARD TABLE 268.40

- 1 The waste descriptions provided in this table do not replace waste descriptions in 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.
- 2 CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.
- 3 Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.
- 4 All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 268.42 Table 1--Technology Codes and Descriptions of Technology-Based Standards.
- 5 Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of Part 264 Subpart O or Part 265 Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.
- 6 Where an alternate treatment standard or set of alternate standards has been indicated, a facility may comply with this alternate standard, but only for the Treatment/Regulatory Subcategory or physical form (i.e., wastewater and/or nonwastewater) specified for that alternate standard.

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7 Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

8 These wastes, when rendered nonhazardous and then subsequently managed in CWA, or CWA-equivalent systems, are not subject to treatment standards. (See 268.1(c)(3) and (4)), (See R.61-87.11.D.2).

9 [Reserved]

10 The treatment standard for this waste may be satisfied by either meeting the constituent concentrations in this table or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at 268.42 Table 1 of this Part, for nonwastewaters; and, biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at 268.42 Table 1 of this Part, for wastewaters.

11 For these wastes, the definition of CMBST is limited to: (1) combustion units operating under 266, (2) combustion units permitted under Part 264, Subpart O, or (3) combustion units operating under 265, Subpart O, which have obtained a determination of equivalent treatment under 268.42 (b).

[Note: NA means not applicable]

Amend 268.48(a) Table UTS

268.48 Table UTS: Delete following eight entries remove 33 additional references to footnote 6, and amend footnote 6:

| |
|---|
| UNIVERSAL TREATMENT STANDARDS NOTE: NA means not applicable |
|---|

| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|--------------------------------------|-------------------------|------------------------------------|---|
| | | Concentration in mg/l ² | Concentration in mg/kg ³ unless noted as "mg/l TCLP" |
| Organic Constituents | | | |
| Acenaphthylene | 208-96-8 | 0.059 | 3.4 |
| Acenaphthene | 83-32-9 | 0.059 | 3.4 |
| Acetone | 67-64-1 | 0.28 | 160. |
| Acetonitrile | 75-05-8 | 5.6 | 38. |
| Acetophenone | 96-86-2 | 0.010 | 9.7 |
| 2-Acetylaminofluorene | 53-96-3 | 0.059 | 140. |
| Acrolein | 107-02-8 | 0.29 | NA |
| Acrylamide | 79-06-1 | 19 | 23. |
| Acrylonitrile | 107-13-1 | 0.24 | 84. |
| Aldicarb sulfone | 1646-88-4 | 0.056 | 0.28 |

| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|---|-------------------------|---------------------|------------------------|
| Aldrin | 309-00-2 | 0.021 | 0.066 |
| 4-Aminobiphenyl | 92-67-1 | 0.13 | NA |
| Aniline | 62-53-3 | 0.81 | 14. |
| Anthracene | 120-12-7 | 0.059 | 3.4 |
| Aramite | 140-57-8 | 0.36 | NA |
| alpha-BHC | 319-84-6 | 0.00014 | 0.066 |
| beta-BHC | 319-85-7 | 0.00014 | 0.066 |
| delta-BHC | 319-86-8 | 0.023 | 0.066 |
| gamma-BHC | 58-89-9 | 0.0017 | 0.066 |
| Barban | 101-27-9 | 0.056 | 1.4 |
| Bendiocarb | 22781-23-3 | 0.056 | 1.4 |
| Benomyl | 17804-35-2 | 0.056 | 1.4 |
| Benzene | 71-43-2 | 0.14 | 10. |
| Benz(a)anthracene | 56-55-3 | 0.059 | 3.4 |
| Benzal chloride | 98-87-3 | 0.055 | 6.0 |
| Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene) | 205-99-2 | 0.11 | 6.8 |
| Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene) | 207-08-9 | 0.11 | 6.8 |
| Benzo(g,h,i)perylene | 191-24-2 | 0.0055 | 1.8 |
| Benzo(a)pyrene | 50-32-8 | 0.061 | 3.4 |
| Bromodichloromethane | 75-27-4 | 0.35 | 15. |
| Bromomethane/Methyl bromide | 74-83-9 | 0.11 | 15. |
| 4-Bromophenyl phenyl ether | 101-55-3 | 0.055 | 15. |
| n-Butyl alcohol | 71-36-3 | 5.6 | 2.6 |
| Butylate | 2008-41-5 | 0.042 | 1.4 |
| Butyl benzyl phthalate | 85-68-7 | 0.017 | 28. |
| 2-sec-Butyl-4,6-dinitrophenol/Dinoseb | 88-85-7 | 0.066 | 2.5 |
| Carbaryl | 63-25-2 | 0.006 | 0.14 |
| Carbenzadim | 10605-21-7 | 0.056 | 1.4 |

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| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|---|-------------------------|---------------------|------------------------|
| Carbofuran | 1563-66-2 | 0.006 | 0.14 |
| Carbofuran phenol | 1563-38-8 | 0.056 | 1.4 |
| Carbon disulfide | 75-15-0 | 3.8 | 4.8 mg/l TCLP |
| Carbon tetrachloride | 56-23-5 | 0.057 | 6.0 |
| Carbosulfan | 55285-14-8 | 0.028 | 1.4 |
| Chlordane (alpha and gamma isomers) | 57-74-9 | 0.0033 | 0.26 |
| p-Chloroaniline | 106-47-8 | 0.46 | 16. |
| Chlorobenzene | 108-90-7 | 0.057 | 6.0 |
| Chlorobenzilate | 510-15-6 | 0.10 | NA |
| 2-Chloro-1,3-butadiene | 126-99-8 | 0.057 | 0.28 |
| Chlorodibromomethane | 124-48-1 | 0.057 | 15. |
| Chloroethane | 75-00-3 | 0.27 | 6.0 |
| bis(2-Chloroethoxy)methane | 111-91-1 | 0.036 | 7.2 |
| bis(2-Chloroethyl)ether | 111-44-4 | 0.033 | 6.0 |
| Chloroform | 67-66-3 | 0.046 | 6.0 |
| bis(2-Chloroisopropyl)ether | 39638-32-9 | 0.055 | 7.2 |
| p-Chloro-m-cresol | 59-50-7 | 0.018 | 14. |
| 2-Chloroethyl vinyl ether | 110-75-8 | 0.062 | NA |
| Chloromethane/Methyl chloride | 74-87-3 | 0.19 | 30. |
| 2-Chloronaphthalene | 91-58-7 | 0.055 | 5.6 |
| 2-Chlorophenol | 95-57-8 | 0.044 | 5.7 |
| 3-Chloropropylene | 107-05-1 | 0.036 | 30. |
| Chrysene | 218-01-9 | 0.059 | 3.4 |
| o-Cresol | 95-48-7 | 0.11 | 5.6 |
| m-Cresol (difficult to distinguish from p-cresol) | 108-39-4 | 0.77 | 5.6 |
| p-Cresol (difficult to distinguish from m-cresol) | 106-44-5 | 0.77 | 5.6 |
| m-Cumenyl methylcarbamate | 64-00-6 | 0.056 | 1.4 |
| Cyclohexanone | 108-94-1 | 0.36 | 0.75 mg/l TCLP |
| o,p'-DDD | 53-19-0 | 0.023 | 0.087 |
| p,p'-DDD | 72-54-8 | 0.023 | 0.087 |

| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|--------------------------------------|-------------------------|---------------------|------------------------|
| o,p'-DDE | 3424-82-6 | 0.031 | 0.087 |
| p,p'-DDE | 72-55-9 | 0.031 | 0.087 |
| o,p'-DDT | 789-02-6 | 0.0039 | 0.087 |
| p,p'-DDT | 50-29-3 | 0.0039 | 0.087 |
| Dibenz(a,h)anthracene | 53-70-3 | 0.055 | 8.2 |
| Dibenz(a,e)pyrene | 192-65-4 | 0.061 | NA |
| 1,2-Dibromo-3-chloropropane | 96-12-8 | 0.11 | 15. |
| 1,2-Dibromoethane/Ethylene dibromide | 106-93-4 | 0.028 | 15. |
| Dibromomethane | 74-95-3 | 0.11 | 15. |
| m-Dichlorobenzene | 541-73-1 | 0.036 | 6.0 |
| o-Dichlorobenzene | 95-50-1 | 0.088 | 6.0 |
| p-Dichlorobenzene | 106-46-7 | 0.090 | 6.0 |
| Dichlorodifluoromethane | 75-71-8 | 0.23 | 7.2 |
| 1,1-Dichloroethane | 75-34-3 | 0.059 | 6.0 |
| 1,2-Dichloroethane | 107-06-2 | 0.21 | 6.0 |
| 1,1-Dichloroethylene | 75-35-4 | 0.025 | 6.0 |
| trans-1,2-Dichloroethylene | 156-60-5 | 0.054 | 30. |
| 2,4-Dichlorophenol | 120-83-2 | 0.044 | 14. |
| 2,6-Dichlorophenol | 87-65-0 | 0.044 | 14. |
| 2,4-Dichlorophenoxyacetic acid/2,4-D | 94-75-7 | 0.72 | 10. |
| 1,2-Dichloropropane | 78-87-5 | 0.85 | 18. |
| cis-1,3-Dichloropropylene | 10061-01-5 | 0.036 | 18. |
| trans-1,3-Dichloropropylene | 10061-02-6 | 0.036 | 18. |
| Dieldrin | 60-57-1 | 0.017 | 0.13 |
| Diethyl phthalate | 84-66-2 | 0.20 | 28. |
| p-Dimethylaminoazobenzene | 60-11-7 | 0.13 | NA |
| 2-4-Dimethyl phenol | 105-67-9 | 0.036 | 14. |
| Dimethyl phthalate | 131-11-3 | 0.047 | 28. |
| Dimetilan ⁶ | 644-64-4 | 0.056 | 1.4 |
| Di-n-butyl phthalate | 84-74-2 | 0.057 | 28. |

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| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|---|-------------------------|---------------------|------------------------|
| 1,4-Dinitrobenzene | 100-25-4 | 0.32 | 2.3 |
| 4,6-Dinitro-o-cresol | 534-52-1 | 0.28 | 160. |
| 2,4-Dinitrophenol | 51-28-5 | 0.12 | 160. |
| 2,4-Dinitrotoluene | 121-14-2 | 0.32 | 140. |
| 2,6-Dinitrotoluene | 606-20-2 | 0.55 | 28. |
| Di-n-octyl phthalate | 117-84-0 | 0.017 | 28. |
| Di-n-propylnitrosamine | 621-64-7 | 0.40 | 14. |
| 1,4-Dioxane | 123-91-1 | 12.0 | 170. |
| Diphenylamine (difficult to distinguish from diphenylnitrosamine) | 122-39-4 | 0.92 | 13. |
| Diphenylnitrosamine (difficult to distinguish from diphenylamine) | 86-30-6 | 0.92 | 13. |
| 1,2-Diphenylhydrazine | 122-66-7 | 0.087 | NA |
| Disulfoton | 298-04-4 | 0.017 | 6.2 |
| Dithiocarbamates (total) | NA | 0.028 | 28. |
| Endosulfan I | 959-98-8 | 0.023 | 0.066 |
| Endosulfan II | 33213-65-9 | 0.029 | 0.13 |
| Endosulfan sulfate | 1031-07-8 | 0.029 | 0.13 |
| Endrin | 72-20-8 | 0.0028 | 0.13 |
| Endrin aldehyde | 7421-93-4 | 0.025 | 0.13 |
| EPTC | 759-94-4 | 0.042 | 1.4 |
| Ethyl acetate | 141-78-6 | 0.34 | 33. |
| Ethyl benzene | 100-41-4 | 0.057 | 10. |
| Ethyl cyanide/Propanenitrile | 107-12-0 | 0.24 | 360. |
| Ethyl ether | 60-29-7 | 0.12 | 160. |
| bis(2-Ethylhexyl) phthalate | 117-81-7 | 0.28 | 28. |
| Ethyl methacrylate | 97-63-2 | 0.14 | 160. |
| Ethylene oxide | 75-21-8 | 0.12 | NA |
| Famphur | 52-85-7 | 0.017 | 15. |
| Fluoranthene | 206-44-0 | 0.068 | 3.4 |

| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|--|-------------------------|---------------------|------------------------|
| Fluorene | 86-73-7 | 0.059 | 3.4 |
| Formetanate hydrochloride | 23422-53-9 | 0.056 | 1.4 |
| Heptachlor | 76-44-8 | 0.0012 | 0.066 |
| Heptachlor epoxide | 1024-57-3 | 0.016 | 0.066 |
| Hexachlorobenzene | 118-74-1 | 0.055 | 10. |
| Hexachlorobutadiene | 87-68-3 | 0.055 | 5.6 |
| Hexachlorocyclopentadiene | 77-47-4 | 0.057 | 2.4 |
| HxCDDs (All Hexachlorodibenzo-p-dioxins) | NA | 0.000063 | 0.001 |
| HxCDFs (All Hexachlorodibenzofurans) | NA | 0.000063 | 0.001 |
| Hexachloroethane | 67-72-1 | 0.055 | 30. |
| Hexachloropropylene | 1888-71-7 | 0.035 | 30. |
| Indeno (1,2,3-c,d) pyrene | 193-39-5 | 0.0055 | 3.4 |
| Iodomethane | 74-88-4 | 0.19 | 65. |
| Isobutyl alcohol | 78-83-1 | 5.6 | 170. |
| Isodrin | 465-73-6 | 0.021 | 0.066 |
| Isosafrole | 120-58-1 | 0.081 | 2.6 |
| Kepone | 143-50-0 | 0.0011 | 0.13 |
| Methacrylonitrile | 126-98-7 | 0.24 | 84. |
| Methanol | 67-56-1 | 5.6 | 0.75 mg/l TCLP |
| Methapyrilene | 91-80-5 | 0.081 | 1.5 |
| Methiocarb | 2032-65-7 | 0.056 | 1.4 |
| Methomyl | 16752-77-5 | 0.028 | 0.14 |
| Methoxychlor | 72-43-5 | 0.25 | 0.18 |
| 3-Methylcholanthrene | 56-49-5 | 0.0055 | 15. |
| 4,4-Methylene bis(2-chloroaniline) | 101-14-4 | 0.50 | 30. |
| Methylene chloride | 75-09-2 | 0.089 | 30. |
| Methyl ethyl ketone | 78-93-3 | 0.28 | 36. |
| Methyl isobutyl ketone | 108-10-1 | 0.14 | 33. |
| Methyl methacrylate | 80-62-6 | 0.14 | 160. |
| Methyl methansulfonate | 66-27-3 | 0.018 | NA |

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| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|--|-------------------------|---------------------|------------------------|
| Methyl parathion | 298-00-0 | 0.014 | 4.6 |
| Metolcarb | 1129-41-5 | 0.056 | 1.4 |
| Mexacarbate | 315-18-4 | 0.056 | 1.4 |
| Molinate | 2212-67-1 | 0.042 | 1.4 |
| Naphthalene | 91-20-3 | 0.059 | 5.6 |
| 2-Naphthylamine | 91-59-8 | 0.52 | NA |
| o-Nitroaniline | 88-74-4 | 0.27 | 14. |
| p-Nitroaniline | 100-01-6 | 0.028 | 28. |
| Nitrobenzene | 98-95-3 | 0.068 | 14. |
| 5-Nitro-o-toluidine | 99-55-8 | 0.32 | 28. |
| o-Nitrophenol | 88-75-5 | 0.028 | 13. |
| p-Nitrophenol | 100-02-7 | 0.12 | 29. |
| N-Nitrosodiethylamine | 55-18-5 | 0.40 | 28. |
| N-Nitrosodimethylamine | 62-75-9 | 0.40 | 2.3 |
| N-Nitroso-di-n-butylamine | 924-16-3 | 0.40 | 17. |
| N-Nitrosomethylethylamine | 10595-95-6 | 0.40 | 2.3 |
| N-Nitrosomorpholine | 59-89-2 | 0.40 | 2.3 |
| N-Nitrosopiperidine | 100-75-4 | 0.013 | 35. |
| N-Nitrosopyrrolidine | 930-55-2 | 0.013 | 35. |
| Oxamyl | 23135-22-0 | 0.056 | 0.28 |
| Parathion | 56-38-2 | 0.014 | 4.6 |
| Total PCBs (sum of all PCB isomers, or all Aroclors) | 1336-36-3 | 0.10 | 10. |
| Pebulate | 1114-71-2 | 0.042 | 1.4 |
| Pentachlorobenzene | 608-93-5 | 0.055 | 10. |
| PeCDDs (All Pentachlorodibenzo-p-dioxins) | NA | 0.000063 | 0.001 |
| PeCDFs (All Pentachlorodibenzofurans) | NA | 0.000035 | 0.001 |
| Pentachloroethane | 76-01-7 | 0.055 | 6.0 |
| Pentachloronitrobenzene | 82-68-8 | 0.055 | 4.8 |
| Pentachlorophenol | 87-86-5 | 0.089 | 7.4 |

| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|--|-------------------------|---------------------|------------------------|
| Phenacetin | 62-44-2 | 0.081 | 16. |
| Phenanthrene | 85-01-8 | 0.059 | 5.6 |
| Phenol | 108-95-2 | 0.039 | 6.2 |
| o-Phenylenediamine | 95-54-5 | 0.056 | 5.6 |
| Phorate | 298-02-2 | 0.021 | 4.6 |
| Phthalic acid | 100-21-0 | 0.055 | 28. |
| Phthalic anhydride | 85-44-9 | 0.055 | 28. |
| Physostigmine | 57-47-6 | 0.056 | 1.4 |
| Physostigmine salicylate | 57-64-7 | 0.056 | 1.4 |
| Promecarb | 2631-37-0 | 0.056 | 1.4 |
| Pronamide | 23950-58-5 | 0.093 | 1.5 |
| Propham | 122-42-9 | 0.056 | 1.4 |
| Propoxur | 114-26-1 | 0.056 | 1.4 |
| Prosulfocarb | 52888-80-9 | 0.042 | 1.4 |
| Pyrene | 129-00-0 | 0.067 | 8.2 |
| Pyridine | 110-86-1 | 0.014 | 16. |
| Safrole | 94-59-7 | 0.081 | 22. |
| Silvex/2,4,5-TP | 93-72-1 | 0.72 | 7.9 |
| 1,2,4,5-Tetrachlorobenzene | 95-94-3 | 0.055 | 14. |
| TCDDs (All Tetrachlorodibenzo-p-dioxins) | NA | 0.000063 | 0.001 |
| TCDFs (All Tetrachlorodibenzofurans) | NA | 0.000063 | 0.001 |
| 1,1,1,2-Tetrachloroethane | 630-20-6 | 0.057 | 6.0 |
| 1,1,2,2-Tetrachloroethane | 79-34-5 | 0.057 | 6.0 |
| Tetrachloroethylene | 127-18-4 | 0.056 | 6.0 |
| 2,3,4,6-Tetrachlorophenol | 58-90-2 | 0.030 | 7.4 |
| Thiodicarb | 59669-26-0 | 0.019 | 1.4 |
| Thiophanate-methyl | 23564-05-8 | 0.056 | 1.4 |
| Toluene | 108-88-3 | 0.080 | 10. |
| Toxaphene | 8001-35-2 | 0.0095 | 2.6 |
| Triallate | 2303-17-5 | 0.042 | 1.4 |

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| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|--|-------------------------|---------------------|------------------------|
| Tribromomethane/Bromoform | 75-25-2 | 0.63 | 15. |
| 2,4,6-Tribromophenol | 118-79-6 | 0.035 | 7.4 |
| 1,2,4-Trichlorobenzene | 120-82-1 | 0.055 | 19. |
| 1,1,1-Trichloroethane | 71-55-6 | 0.054 | 6.0 |
| 1,1,2-Trichloroethane | 79-00-5 | 0.054 | 6.0 |
| Trichloroethylene | 79-01-6 | 0.054 | 6.0 |
| Trichloromonofluoromethane | 75-69-4 | 0.020 | 30. |
| 2,4,5-Trichlorophenol | 95-95-4 | 0.18 | 7.4 |
| 2,4,6-Trichlorophenol | 88-06-2 | 0.035 | 7.4 |
| 2,4,5-Trichlorophenoxyacetic acid/2,4,5-T | 93-76-5 | 0.72 | 7.9 |
| 1,2,3-Trichloropropane | 96-18-4 | 0.85 | 30. |
| 1,1,2-Trichloro-1,2,2-trifluoroethane | 76-13-1 | 0.057 | 30. |
| Triethylamine | 101-44-8 | 0.081 | 1.5 |
| tris-(2,3-Dibromopropyl) phosphate | 126-72-7 | 0.11 | 0.10 |
| Vernolate | 1929-77-7 | 0.042 | 1.4 |
| Vinyl chloride | 75-01-4 | 0.27 | 6.0 |
| Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations) | 1330-20-7 | 0.32 | 30. |
| Inorganic Constituents | | | |
| Antimony | 7440-36-0 | 1.9 | 1.15 mg/l TCLP |
| Arsenic | 7440-38-2 | 1.4 | 5.0 mg/l TCLP |
| Barium | 7440-39-3 | 1.2 | 21. mg/l TCLP |
| Beryllium | 7440-41-7 | 0.82 | 1.22 mg/l TCLP |
| Cadmium | 7440-43-9 | 0.69 | 0.11 mg/l TCLP |
| Chromium (Total) | 7440-47-3 | 2.77 | 0.60 mg/l TCLP |
| Cyanides (Total) ⁴ | 57-12-5 | 1.2 | 590. |
| Cyanides (Amenable) ⁴ | 57-12-5 | 0.86 | 30. |
| Fluoride ⁵ | 16984-48-8 | 35 | NA |
| Lead | 7439-92-1 | 0.69 | 0.75 mg/l TCLP |
| Mercury - Nonwastewater from Retort | 7439-97-6 | NA | 0.20 mg/l TCLP |

| REGULATED CONSTITUENT Common Name | CAS ¹ Number | Wastewater Standard | Nonwastewater Standard |
|--------------------------------------|-------------------------|---------------------|------------------------|
| Mercury - All Others | 7439-97-6 | 0.15 | 0.025 mg/l TCLP |
| Nickel | 7440-02-0 | 3.98 | 11. mg/l TCLP |
| Selenium ⁷ | 7782-49-2 | 0.82 | 5.7 mg/l TCLP |
| Silver | 7440-22-4 | 0.43 | 0.14 mg/l TCLP |
| Sulfide ⁵ | 18496-25-8 | 14 | NA |
| Thallium | 7440-28-0 | 1.4 | 0.20 mg/l TCLP |
| Vanadium ⁵ | 7440-62-2 | 4.3 | 1.6 mg/l TCLP |
| Zinc ⁵ | 7440-66-6 | 2.61 | 4.3 mg/l TCLP |

FOOTNOTES TO TABLE UTS

1 CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

2 Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

3 Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of part 264, subpart O or part 265, subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

4 Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,@ EPA Publication SW-846, as incorporated by reference in 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

5 These constituents are not "underlying hazardous constituents" in characteristic wastes, according to the definition at 268.2(i).

6 [Reserved]

7 This constituent is not an underlying hazardous constituent as defined at 268.2(i) of this Part because its UTS level is greater than its TC level, thus a treated selenium waste would always be characteristically hazardous, unless it is treated to below its characteristic level.* Note: N/A means "not applicable"

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Amend 268.49(c)(3)(A)&(B)

268.49 Alternative LDR treatment standards for contaminated soil (11/99)

(c) Treatment standards for contaminated soils. Prior to land disposal, contaminated soil identified by paragraph (a) of this section as needing to comply with LDRs must be treated according to all the standards specified in this paragraph or according to the Universal Treatment Standards specified in 268.48.

(3) Soils that contain nonanalyzable constituents. In addition to the treatment requirements of paragraphs (c)(1) and (2) of this section, prior to land disposal, the following treatment is required for soils that contain nonanalyzable constituents:

(A) For soil that contains only analyzable and nonanalyzable organic constituents, treatment of the analyzable organic constituents to the levels specified in paragraphs (c)(1) and (2) of this section; or,

(B) For soil that contains only nonanalyzable constituents, treatment by the methods specified in 268.42 for the waste contained in the soil.

Amend 268.50(g)

268.50 Prohibitions on storage of restricted wastes.

(g) The prohibition and requirements in this do not apply to hazardous remediation wastes stored in a staging pile approved pursuant to 264.554 of this chapter.

Amend 270.1(c)

270.1 Purpose and scope of these regulations

(c) Scope of the Permit Requirement.

The Department requires a permit under these regulations for the "transportation," "treatment," "storage," or "disposal" of any "hazardous waste" as identified or listed in R.61-79.261. The terms "transportation," "treatment," "storage," "disposal," and "hazardous waste" are defined in R.61-79.260 Subpart B and 270.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to 265.115) after January 26, 1983, must have postclosure permits unless they demonstrate closure by removal or decontamination as provided under 270.1(c) (5) and (6). If a postclosure permit is required, the permit must address applicable part 264 groundwater monitoring, unsaturated zone monitoring, corrective action, and postclosure care requirements of this chapter. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a postclosure permit under this section. (11/90; 12/92; 12/93)

Amend 270.1(c)(2)(viii)(B-D)

(2) (viii) (B) Pesticides as described in 273.3;

(C) Thermostats as described in 273.4 and

(D) Lamps as described in 273.5.

Add new definition at 270.2

270.2 Definitions

Remedial Action Plan (RAP) means a special form of hazardous waste permit that a facility owner or operator may obtain instead of a permit issued under 270.3 through 270.66, to authorize the treatment, storage or disposal of hazardous remediation waste (as defined in 260.10) at a remediation waste management site.

Amend 270.11(d) as (d)(1) & add (2)

270.11 Signatories to permit applications and reports

(d)(1) Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification: ***

(2) For remedial action plans (RAPs) under subpart H of this part, if the operator certifies according to paragraph (d)(1) of this section, then the owner may choose to make the following certification instead of the certification in paragraph (d)(1) of this section:

"Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Amend 270.14(a),(b)(7)

270.14 Contents of Part B: General requirements - Post closure permit issue

(a) Part B of the permit application consists of the general information requirements of this section, and the specific information requirements in 270.14 through 270.29 applicable to the facility. The Part B information requirements presented in 270.14 through 270.29 reflect the standards promulgated in R.61-79.264. These information requirements are necessary in order for the Department to determine compliance with R.61-79.264 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in Part B can not be provided to the extent required, the Department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the Department and signed in accordance with requirements in 270.11. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. For post-closure permits, only the information specified in 270.28 is required in Part B of the permit application. (12/92)

(b) (7) A copy of the contingency plan required by part 264, subpart D. Note: Include, where applicable, as part of the contingency plan, specific requirements in 264.227, 264.255, and 264.200.

Amend 270.21(c)

270.21 Specific Part B information requirements for landfills

(c) A description of how each landfill, including the double liner system, leachate collection and removal system leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 264.303(a), (b), and (c) of this chapter. This information must be included in the inspection plan submitted under 270.14(b)(5);

Amend 270.28

270.28 Part B information requirements for post-closure permits.

For post-closure permits, the owner or operator is required to submit only the information specified in 270.14(b)(1), (4), (5), (6), (11), (13), (14), (16), (18) and (19), (c), and (d), unless the Department determines that additional information from 270.14, 270.16, 270.17, 270.18, 270.20, or 270.21 is necessary.

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Amend 270.42 to add (j)

270.42 Permit modifications at the request of the permittee

(j) Combustion facility changes to meet 40 CFR part 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under Appendix I of this section, section L(9).

(1) Facility owners or operators must comply with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1211 before a permit modification can be requested under this section.

(2) If the Department does not approve or deny the request within 90 days of receiving it, the request shall be deemed approved. The Department may, at its discretion, extend this 90 day deadline one time for up to 30 days by notifying the facility owner or operator.

Add new provisions at Appendix I to 270.42 (D)(3)(g)&(N)(3)

Appendix I to 270.42 - Classification of Permit Modification

D. Closure

3. Addition of the following new units to be used temporarily for closure activities:

(g) Staging piles Class 2

N. Corrective Action

3. Approval of a staging pile or staging pile operating term extension pursuant to 264.554 Class 2

Amend 270.62(d)

270.62 Hazardous waste incinerator permits

(d) For the purpose of determining feasibility of compliance with the performance standards of 264.343 and of determining adequate operating conditions under 264.345, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with 270.19(b) and paragraphs (b)(2) through (b)(5) and (b)(7) through (b)(10) of this section or, instead, submit other information as specified in 270.19(c). The Department must announce its intention to approve the trial burn plan in accordance with the timing and distribution requirements of paragraph (b)(6) of this section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting Department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Department approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under 270.19(a) are exempt from compliance with 264.343 and 264.345 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in paragraph (b)(7) of this section, with part B of the permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant must contact the Department to establish a later date for submission of the part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with part B of the permit application, the Department will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted. (11/90, 12/92, 12/93, 9/98, 11/99)

Add 270.68

270.68 Remedial Action Plans (RAPs).

Remedial Action Plans (RAPs) are special forms of permits that are regulated under subpart H of this part.

Add and reserve new 270.67 and 270.69

270.67 [Reserved]

270.69 [Reserved]

Amend 270.73(a)

270.73 Termination of interim status(11/90)

Interim status terminates when:

(a) Final administrative disposition of a permit application, except an application for a remedial action plan (RAP) under subpart H of this part, is made; or

Add new subpart H at 270.79

Subpart H - Remedial Action Plans (RAPs)

270.79 Why is this subpart written in a special format?

This subpart is written in a special format to make it easier to understand the regulatory requirements. Like other regulations, this establishes enforceable legal requirements. For this Subpart, "I" and "you" refer to the owner/operator.

General Information

270.80 What is a RAP?

(a) A RAP is a special form of RCRA permit that you, as an owner or operator, may obtain, instead of a permit issued under 270.3 through 270.66, to authorize you to treat, store, or dispose of hazardous remediation waste (as defined in 260.10 of this chapter) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under 270.230.

(b) The requirements in 270.3 through 270.66 do not apply to RAPs unless those requirements for traditional RCRA permits are specifically required under 270.80 through 270.230. The definitions in 270.2 apply to RAPs.

(c) Notwithstanding any other provision of this part or part 124 of this chapter, any document that meets the requirements in this section constitutes a RCRA permit under RCRA section 3005(c).

(d) A RAP may be:

(1) A stand-alone document that includes only the information and conditions required by this subpart; or

(2) Part (or parts) of another document that includes information and/or conditions for other activities at the remediation waste management site, in addition to the information and conditions required by this subpart.

(e) If you are treating, storing, or disposing of hazardous remediation wastes as part of a cleanup compelled by Federal or State cleanup authorities, your RAP does not affect your obligations under those authorities in any way.

(f) If you receive a RAP at a facility operating under interim status, the RAP does not terminate your interim status.

270.85 When do I need a RAP?

(a) Whenever you treat, store, or dispose of hazardous remediation wastes in a manner that requires a RCRA permit under 270.1, you must either obtain:

(1) A RCRA permit according to 270.3 through 270.66; or

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(2) A RAP according to this subpart.

(b) Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this Subpart.

(c) You may obtain a RAP for managing hazardous remediation waste at an already permitted RCRA facility. You must have these RAPs approved as a modification to your existing permit according to the requirements of 270.41 or 270.42 instead of the requirements in this Subpart. When you submit an application for such a modification, however, the information requirements in 270.42(a)(1)(i), (b)(1)(iv), and (c)(1)(iv) do not apply; instead, you must submit the information required under 270.110. When your permit is modified the RAP becomes part of the RCRA permit. Therefore when your permit (including the RAP portion) is modified, revoked and reissued, terminated or when it expires, it will be modified according to the applicable requirements in 270.40 through 270.42, revoked and reissued according to the applicable requirements in 270.41 and 270.43, terminated according to the applicable requirements in 270.43, and expire according to the applicable requirements in 270.50 and 270.51.

270.90 Does my RAP grant me any rights or relieve me of any obligations?

The provisions of 270.4 apply to RAPs. (Note: The provisions of 270.4(a) provide you assurance that, as long as you comply with your RAP, the Department will consider you in compliance with Subtitle C of RCRA, and will not take enforcement actions against you. However, you should be aware of four exceptions to this provision that are listed in 270.4.)

Applying for a RAP

270.95 How do I apply for a RAP?

To apply for a RAP, you must complete an application, sign it, and submit it to the Department according to the requirements in this subpart.

270.100 Who must obtain a RAP?

When a facility or remediation waste management site is owned by one person, but the treatment, storage or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

270.105 Who must sign the application and any required reports for a RAP?

Both the owner and the operator must sign the RAP application and any required reports according to 270.11(a), (b), and (c). In the application, both the owner and the operator must also make the certification required under 270.11(d)(1). However, the owner may choose the alternative certification under 270.11(d)(2) if the operator certifies under 270.11(d)(1).

270.110 What must I include in my application for a RAP?

You must include the following information in your application for a RAP:

- (a) The name, address, and EPA identification number of the remediation waste management site;
- (b) The name, address, and telephone number of the owner and operator;
- (c) The latitude and longitude of the site;
- (d) The United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;
- (e) A scaled drawing of the remediation waste management site showing:
 - (1) The remediation waste management site boundaries;
 - (2) Any significant physical structures; and
 - (3) The boundary of all areas on-site where remediation waste is to be treated, stored or disposed;
- (f) A specification of the hazardous remediation waste to be treated, stored or disposed of at the facility or remediation waste management site. This must include information on:
 - (1) Constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated and/or otherwise managed;
 - (2) An estimate of the quantity of these wastes; and

(3) A description of the processes you will use to treat, store, or dispose of this waste including technologies, handling systems, design and operating parameters you will use to treat hazardous remediation wastes before disposing of them according to the LDR standards of part 268 of this chapter, as applicable;

(g) Enough information to demonstrate that operations that follow the provisions in your RAP application will ensure compliance with applicable requirements of parts 264, 266, and 268 of this chapter;

(h) Such information as may be necessary to enable the Department to carry out its duties under other Federal laws as is required for traditional RCRA permits under 270.14(b)(20);

(i) Any other information the Department decides is necessary for demonstrating compliance with this subpart or for determining any additional RAP conditions that are necessary to protect human health and the environment.

270.115 What if I want to keep this information confidential?

The South Carolina Freedom of Information Act may allow you to claim as confidential any or all of the information you submit to the Department under this subpart. You must assert any such claim at the time that you submit your RAP application or other submissions by stamping the words "confidential business information" on each page containing such information. If you do assert a claim at the time you submit the information, the Department will treat the information according to established procedures which will give you an opportunity to demonstrate that the information for which protection is sought falls into one of the exceptions under Code Section 30-4-40. If you do not assert a claim at the time you submit the information, the Department may make the information available to the public without further notice to you. The Department will deny any requests for confidentiality of your name and/or address.

270.120 To whom must I submit my RAP application?

You must submit your application for a RAP to the Department for approval.

270.125 If I submit my RAP application as part of another document, what must I do?

If you submit your application for a RAP as a part of another document, you must clearly identify the components of that document that constitute your RAP application.

Getting a RAP Approved

270.130 What is the process for approving or denying my application for a RAP?

(a) If the Department tentatively finds that your RAP application includes all of the information required by 270.110 and that your proposed remediation waste management activities meet the regulatory standards, the Department will make a tentative decision to approve your RAP application. The Department will then prepare a draft RAP and provide an opportunity for public comment before making a final decision on your RAP application, according to this subpart.

(b) If the Department tentatively finds that your RAP application does not include all of the information required by 270.110 or that your proposed remediation waste management activities do not meet the regulatory standards, the Department may request additional information from you or ask you to correct deficiencies in your application. If you fail or refuse to provide any additional information the Department requests, or to correct any deficiencies in your RAP application, the Department may make a tentative decision to deny your RAP application. After making this tentative decision, the Department will prepare a notice of intent to deny your RAP application ("notice of intent to deny") and provide an opportunity for public comment before making a final decision on your RAP application, according to the requirements in this Subpart. The Department may deny the RAP application either in its entirety or in part.

270.135 What must the Department include in a draft RAP?

If the Department prepares a draft RAP, it must include the:

(a) Information required under 270.110(a) through (f);

(b) The following terms and conditions:

(1) Terms and conditions necessary to ensure that the operating requirements specified in your RAP comply with applicable requirements of parts 264, 266, and 268 of this chapter (including any recordkeeping and reporting requirements). In satisfying this provision, the Department may incorporate, expressly or by reference,

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applicable requirements of parts 264, 266, and 268 of this chapter into the RAP or establish site-specific conditions as required or allowed by parts 264, 266, and 268 of this chapter;

(2) Terms and conditions in 270.30;

(3) Terms and conditions for modifying, revoking and reissuing, and terminating your RAP, as provided in 270.170; and

(4) Any additional terms or conditions that the Department determines are necessary to protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and

(c) If the draft RAP is part of another document, as described in 270.80(d)(2), the Department must clearly identify the components of that document that constitute the draft RAP.

270.140 What else must the Department prepare in addition to the draft RAP or notice of intent to deny?

Once the Department has prepared the draft RAP or notice of intent to deny, it must then:

(a) Prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;

(b) Compile an administrative record, including:

(1) The RAP application, and any supporting data furnished by the applicant;

(2) The draft RAP or notice of intent to deny;

(3) The statement of basis and all documents cited therein (material readily available at the issuing Regional office or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and

(4) Any other documents that support the decision to approve or deny the RAP; and

(c) Make information contained in the administrative record available for review by the public upon request.

270.145 What are the procedures for public comment on the draft RAP or notice of intent to deny?

(a) The Department must:

(1) Send notice to you of its intention to approve or deny your RAP application, and send you a copy of the statement of basis;

(2) Publish a notice of its intention to approve or deny your RAP application in a major local newspaper of general circulation;

(3) Broadcast its intention to approve or deny your RAP application over a local radio station; and

(4) Send a notice of its intention to approve or deny your RAP application to each unit of local government having jurisdiction over the area in which your site is located, and to each State agency having any authority under State law with respect to any construction or operations at the site.

(b) The notice required by paragraph (a) of this section must provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

(c) The notice required by paragraph (a) of this section must include:

(1) The name and address of the office processing the RAP application;

(2) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

(3) A brief description of the activity the RAP will regulate;

(4) The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

(5) A brief description of the comment procedures in this section, and any other procedures by which the public may participate in the RAP decision;

(6) If a hearing is scheduled, the date, time, location and purpose of the hearing;

(7) If a hearing is not scheduled, a statement of procedures to request a hearing;

(8) The location of the administrative record, and times when it will be open for public inspection; and

(9) Any additional information the Department considers necessary or proper.

(d) If, within the comment period, the Department receives written notice of opposition to its intention to approve or deny your RAP application and a request for a hearing, the Department must hold an informal public hearing to discuss issues relating to the approval or denial of your RAP application. The Department may also

determine on its own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the Department must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in paragraph (a) of this section. This notice must, at a minimum, include the information required by paragraph (c) of this section and:

- (1) Reference to the date of any previous public notices relating to the RAP application;
- (2) The date, time and place of the hearing; and
- (3) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

270.150 How will the Department make a final decision on my RAP application?

(a) The Department must consider and respond to any significant comments raised during the public comment period, or during any hearing on the draft RAP or notice of intent to deny, and revise your draft RAP based on those comments, as appropriate.

(b) If the Department determines that your RAP includes the information and terms and conditions required in 270.135, then it will issue a final decision approving your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been approved.

(c) If the Department determines that your RAP does not include the information required in 270.135, then it will issue a final decision denying your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been denied.

(d) If the Department's final decision is that the tentative decision to deny the RAP application was incorrect, it will withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this subpart.

(e) When the Department issues its final RAP decision, it must refer to the procedures for appealing the decision under 270.155.

(f) Before issuing the final RAP decision, the Department must compile an administrative record. Material readily available at the Department or published materials which are generally available and which are included in the administrative record need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the response to comments. The administrative record for the final RAP must include information in the administrative record for the draft RAP (see 270.140(b)) and:

- (1) All comments received during the public comment period;
- (2) Tapes or transcripts of any hearings;
- (3) Any written materials submitted at these hearings;
- (4) The responses to comments;
- (5) Any new material placed in the record since the draft RAP was issued;
- (6) Any other documents supporting the RAP; and
- (7) A copy of the final RAP.

(g) The Department must make information contained in the administrative record available for review by the public upon request.

270.155 May the decision to approve or deny my RAP application be administratively appealed?

(a) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing(s) on the draft RAP, may appeal the Department's decision to approve or deny your RAP application to the Department's Board under 124.19 of this chapter. Any person who did not file comments, or did not participate in any public hearing(s) on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under 124.15 of this chapter (or a decision under 270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit). Instead of the notice required under 124.19(c) and 124.10 of this chapter, the Department will give public notice of any grant of review of RAPs by the Board of Health and Environmental Control through the same means used to provide notice under 270.145. The notice will include:

- (1) The briefing schedule for the appeal as provided by the Board;
- (2) A statement that any interested person may file an amicus brief with the Board; and
- (3) The information specified in 270.145(c), as appropriate.

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(b) This appeal is a prerequisite to seeking judicial review of these actions.

270.160 When does my RAP become effective?

Your RAP becomes effective 15 days after the Department notifies you and all commenters that your RAP is approved unless:

- (a) The Department specifies a later effective date in its decision;
- (b) You or another person has appealed your RAP under 270.155 (if your RAP is appealed, and the request for review is granted under 270.155, conditions of your RAP are stayed according to 124.16 of this chapter); or
- (c) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

270.165 When may I begin physical construction of new units permitted under the RAP?

You must not begin physical construction of new units permitted under the RAP for treating, storing or disposing of hazardous remediation waste before receiving a finally effective RAP.

How May my RAP be Modified, Revoked and Reissued, or Terminated?

270.170 After my RAP is issued, how may it be modified, revoked and reissued, or terminated?

In your RAP, the Department must specify, either directly or by reference, procedures for future modifications, revocations and reissuance, or terminations of your RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change your management of your remediation waste, or that otherwise merits public review and comment. If your RAP has been incorporated into a traditional RCRA permit, as allowed under 270.85(c), then the RAP will be modified according to the applicable requirements in 270.40 through 270.42, revoked and reissued according to the applicable requirements in 270.41 and 270.43, or terminated according to the applicable requirements of 270.43.

270.175 For what reasons may the Department choose to modify my final RAP?

(a) The Department may modify your final RAP on its own initiative only if one or more of the following reasons listed in this section exist(s). If one or more of these reasons do not exist, then the Department will not modify your final RAP, except at your request. Reasons for modification are:

- (1) You made material and substantial alterations or additions to the activity that justify applying different conditions;
- (2) The Department finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;
- (3) The standards or regulations on which the RAP was based have changed because of new or amended statutes, standards or regulations, or by judicial decision after the RAP was issued;
- (4) If your RAP includes any schedules of compliance, the Department may find reasons to modify your compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which you as the owner/operator have little or no control and for which there is no reasonably available remedy;
- (5) You are not in compliance with conditions of your RAP;
- (6) You failed in the application or during the RAP issuance process to disclose fully all relevant facts, or you misrepresented any relevant facts at the time;
- (7) The Department has determined that the activity authorized by your RAP endangers human health or the environment and can only be remedied by modifying; or
- (8) You have notified the Department (as required in the RAP under 270.30(1)(3)) of a proposed transfer of a RAP.

(b) Notwithstanding any other provision in this section, when the Department reviews a RAP for a land disposal facility under 270.195, it may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in parts 124, 260 through 266 and 270 of this chapter.

(c) The Department will not reevaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

270.180 For what reasons may the Department choose to revoke and reissue my final RAP?

(a) The Department may revoke and reissue your final RAP on its own initiative only if one or more reasons for revocation and reissuance exist(s). If one or more reasons do not exist, then the Department will not modify or revoke and reissue your final RAP, except at your request. Reasons for modification or revocation and reissuance are the same as the reasons listed for RAP modifications in 270.175(a)(5) through (8) if the Department determines that revocation and reissuance of your RAP is appropriate.

(b) The Department will not reevaluate the suitability of the facility location at the time of RAP revocation and reissuance, unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

270.185 For what reasons may the Department choose to terminate my final RAP, or deny my renewal application?

The Department may terminate your final RAP on its own initiative, or deny your renewal application for the same reasons as those listed for RAP modifications in 270.175(a)(5) through (7) if the Department determines that termination of your RAP or denial of your RAP renewal application is appropriate.

270.190 May the decision to approve or deny a modification, revocation and reissuance, or termination of my RAP be administratively appealed?

(a) Any commenter on the modification, revocation and reissuance or termination, or any person who participated in any hearing(s) on these actions, may appeal the Department's decision to approve a modification, revocation and reissuance, or termination of your RAP, according to 270.155. Any person who did not file comments or did not participate in any public hearing(s) on the modification, revocation and reissuance or termination, may petition for administrative review only of the changes from the draft to the final RAP decision.

270.195 When will my RAP expire?

RAPs must be issued for a fixed term, not to exceed 10 years, although they may be renewed upon approval by the Department in fixed increments of no more than ten years. In addition, the Department must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance and you or the Department must follow the requirements for modifying your RAP as necessary to assure that you continue to comply with currently applicable requirements in RCRA sections 3004 and 3005.

270.200 How may I renew my RAP if it is expiring?

If you wish to renew your expiring RAP, you must follow the process for application for and issuance of RAPs in this subpart.

270.205 What happens if I have applied correctly for a RAP renewal but have not received approval by the time my old RAP expires?

If you have submitted a timely and complete application for a RAP renewal, but the Department, through no fault of yours, has not issued a new RAP with an effective date on or before the expiration date of your previous RAP, your previous RAP conditions continue in force until the effective date of your new RAP or RAP denial.

Operating Under Your RAP

270.210 What records must I maintain concerning my RAP?

You are required to keep records of:

(a) All data used to complete RAP applications and any supplemental information that you submit for a period of at least 3 years from the date the application is signed; and

(b) Any operating and/or other records the Department requires you to maintain as a condition of your RAP.

270.215 How are time periods in the requirements in this subpart and my RAP computed?

(a) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event. (For example, if your RAP specifies that you must close a staging pile within 180 days after the

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operating term for that staging pile expires, and the operating term expires on June 1, then June 2 counts as day one of your 180 days, and you would have to complete closure by November 28.)

(b) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event. (For example, if you are transferring ownership or operational control of your site, and wish to transfer your RAP, the new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change. Therefore, if you plan to change ownership on January 1, the new owner/operator must submit the revised RAP application no later than October 3, so that the 90th day would be December 31.)

(c) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day. (For example, if you wish to appeal the Department's decision to modify your RAP, then you must petition the Department of Health and Environmental Control within 15 days after the Department has issued the final RAP decision. If the 15th day falls on Sunday, then you may submit your appeal by the Monday after. If the 15th day falls on July 4th, then you may submit your appeal by July 5th.)

(d) Except for filing petitions of final RAP decisions, whenever a party or interested person has the right to or is required to act within a prescribed period after the service of notice or other paper upon him by mail, 3 days must be added to the prescribed term. Petitions of RAP decisions must be received by the Clerk of the Board on or before the fifteenth day after you receive the final decision.

270.220 How may I transfer my RAP to a new owner or operator?

(a) If you wish to transfer your RAP to a new owner or operator, you must follow the requirements specified in your RAP for RAP modification to identify the new owner or operator, and incorporate any other necessary requirements. These modifications do not constitute "significant" modifications for purposes of 270.170. The new owner/operator must submit a revised RAP application no later than 90 days before the scheduled change along with a written agreement containing a specific date for transfer of RAP responsibility between you and the new permittees.

(b) When a transfer of ownership or operational control occurs, you as the old owner or operator must comply with the applicable requirements in part 264, subpart H (Financial Requirements), of this chapter until the new owner or operator has demonstrated that he is complying with the requirements in that subpart. The new owner or operator must demonstrate compliance with part 264, subpart H, of this chapter within six months of the date of the change in ownership or operational control of the facility or remediation waste management site. When the new owner/operator demonstrates compliance with part 264, subpart H, of this chapter to the Department, the Department will notify you that you no longer need to comply with part 264, subpart H, of this chapter as of the date of demonstration.

270.225 What must the State report about noncompliance with RAPs?

The State must report noncompliance with RAPs according to the provisions of 270.5.

Obtaining a RAP for an Off-Site Location

270.230 May I perform remediation waste management activities under a RAP at a location removed from the area where the remediation wastes originated?

(a) You may request a RAP for remediation waste management activities at a location removed from the area where the remediation wastes originated if you believe such a location would be more protective than the contaminated area or areas in close proximity.

(b) If the Department determines that an alternative location, removed from the area where the remediation waste originated, is more protective than managing remediation waste at the area of contamination or areas in close proximity, then the Department may approve a RAP for this alternative location.

(c) You must request the RAP, and the Department will approve or deny the RAP, according to the procedures and requirements in this subpart.

(d) A RAP for an alternative location must also meet the following requirements, which the Department must include in the RAP for such locations:

(1) The RAP for the alternative location must be issued to the person responsible for the cleanup from which the remediation wastes originated;

(2) The RAP is subject to the expanded public participation requirements in 124.31, 124.32, and 124.33 of this chapter;

(3) The RAP is subject to the public notice requirements in 124.10(c) of this chapter;

(4) The site permitted in the RAP may not be located within 61 meters or 200 feet of a fault which has had displacement in the Holocene time (you must demonstrate compliance with this standard through the requirements in 270.14(b)(11)) (See definitions of terms in 264.18(a) of this chapter);

Note to paragraph (d)(4): Sites located in political jurisdictions other than those listed in Appendix VI of Part 264 of this chapter, are assumed to be in compliance with this requirement.

(e) These alternative locations are remediation waste management sites, and retain the following benefits of remediation waste management sites:

(1) Exclusion from facility-wide corrective action under 264.101 of this chapter; and

(2) Application of 264.1(j) of this chapter in lieu of part 264, subparts B, C, and D, of this chapter.

Amend 273.1(a)(2)&(3); add (4)

273.1 Scope.

(a) (2) Pesticides as described in R.61-79.273.3;

(3) Thermostats as described in 273.4; and

(4) Lamps as described in 273.5.

Amend 273.2(a)(1), (b)(2)&(3)

273.2 Applicability - batteries

(a) (1) The requirements of this part apply to persons managing batteries, as described in 273.9, except those listed in paragraph (b) of this section.

(b) (2) Batteries, as described in 273.9, that are not yet wastes under part 261 of this chapter, including those that do not meet the criteria for waste generation in paragraph (c) of this section.

(3) Batteries, as described in 273.9, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in 261 Subpart C.

Amend 273.3(a) [only]

273.3 Applicability - pesticides

(a) Pesticides covered under this part 273. The requirements of this part apply to persons managing pesticides, as described in 273.9, meeting the following conditions, except those listed in paragraph (b) of this section:

Amend 273.4(a)

273.4 Applicability - mercury thermostats.

(a) Thermostats covered under this part 273. The requirements of this part apply to persons managing thermostats, as described in 273.9, except those listed in paragraph (b) of this section.

273.5 amend (a)(b); add (c)

273.5 Applicability - Lamps.

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(a) Lamps covered under this part 273. The requirements of this part apply to persons managing lamps as described in 273.9, except those listed in paragraph (b) of this section.

(b) Lamps not covered under this part 273. The requirements of this part do not apply to persons managing the following lamps:

(1) Lamps that are not yet wastes under part 261 of this chapter as provided in paragraph (c) of this section.

(2) Lamps that are not hazardous waste. A lamp is a hazardous waste if it exhibits one or more of the characteristics identified in part 261, subpart C of this chapter.

(c) Generation of waste lamps.

(1) A used lamp becomes a waste on the date it is discarded.

(2) An unused lamp becomes a waste on the date the handler decides to discard it.

Move entire section previously addressing definitions to 273.9; reserve 273.6

273.6 [Reserved]

Add 273.7

273.7 [Reserved]

Amend 273.8

273.8 Applicability - household and conditionally exempt small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this part:

(1) Household wastes that are exempt under 261.4(b)(1) of this chapter and are also of the same type as the universal wastes defined at 273.9; and/or

(2) Conditionally exempt small quantity generator wastes that are exempt under 261.5 of this chapter and are also of the same type as the universal wastes defined at 273.9.

Move Definitions section 273.6 to new 273.9. Add definition of Lamp; amend definitions of Large Quantity Handler and Small Quantity Handler and Universal Wastes

273.9 DEFINITIONS

Battery means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

Destination facility means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in subparagraphs (a) and (c) of sections 273.13 and 273.33. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

FIFRA means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 - 136y).

Generator means any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

Generator means any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

Lamp, also referred to as "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps. (8/00)

Large Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, or lamps, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated. (8/00)

On-site means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

Pesticide means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- (a) is a new animal drug under FFDC A section 201(w), or
- (b) is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
- (c) is an animal feed under FFDC A section 201(x) that bears or contains any substances described by paragraph (a) or (b) of this section.

Small Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, or lamps, calculated collectively) at any time. (8/00)

Thermostat means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 273.13(c)(2) or 273.33(c)(2).

Universal Waste means any of the following hazardous wastes that are subject to the universal waste requirements of part 273:

- (a) Batteries as described in 273.2;
- (b) Pesticides as described in 273.3; and
- (c) Thermostats as described in 273.4; and (8/00)
- (d) Lamps as described in 273.5. (8/00)

Universal Waste Handler:

- (a) Means:
 - (1) A generator (as defined in this section) of universal waste; or

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(2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(b) Does not mean:

(1) A person who treats (except under the provisions of 273.13(a) or (c), or 273.33(a) or (c)), disposes of, or recycles universal waste; or

(2) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

Universal Waste Transfer Facility means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

Universal Waste Transporter means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Amend 273.10

273.10 Applicability

This subpart applies to small quantity handlers of universal waste (as defined in 273.9).

Add 273.13(d)

273.13 Waste management

(d) Lamps. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

Add 273.14(e)

273.14 Labeling/markings

(e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

Amend 273.30

273.30 Applicability

This subpart applies to large quantity handlers of universal waste as defined in 273.9.

Amend 273.32(b)(4)-(5)

273.32 Notification

(b) This notification must include:

(4) A list of all of the types of universal waste managed by the handler (e.g., batteries, pesticides, thermostats, lamps);

(5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g., batteries, pesticides, thermostats, lamps) the handler is accumulating above this quantity.

Add 273.33(d)(1)&(2)

273.33 Waste management.

(d) Lamps. A large quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

Add 273.34(e)

273.34 Labeling/markings

(e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

Amend 273.50

273.50 Applicability

This subpart applies to universal waste transporters (as defined in 273.9).

Amend 273.60(a)

273.60 Applicability

(a) The owner or operator of a destination facility (as defined in 273.9) is subject to all applicable requirements of parts 264, 265, 266, 268, 270, and 124 of this chapter, and the notification requirement under 44-56-20 of the South Carolina Hazardous Waste Management Act and section 3010 of RCRA.

Amend 273.81(a)

273.81 Factors for petitions to include other wastes under this part 273.

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(a) The waste or category of waste, as generated by a wide variety of generators, is listed in subpart D of part 261 of this chapter, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in subpart C of part 261 of this chapter. (When a characteristic waste is added to the universal waste regulations of this part 273 by using a generic name to identify the waste category (e.g., hazardous waste batteries), the definition of universal waste in 260.10 of this chapter and 273.9 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries.) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this part 273;

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with S. C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11). This amendment facilitates compliance with federal law.

DESCRIPTION OF AMENDMENT TO REGULATION 61-79 Hazardous Waste Management Regulations: The purpose of this amendment is to meet compliance requirements of the United States Environmental Protection Agency (EPA), which promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent federal amendments include the following. (1) Addition of four new petroleum refining process wastes, corresponding treatment standards, and exclusion of certain recycled petroleum materials. (2) Various Land Disposal Restrictions including new standards for spent potliners from primary aluminum reduction, emergency revision of carbamate waste treatment standards, and corrections to treatment standards for wood preserving wastes, some metal wastes, and zinc micronutrient fertilizers. (3) Amends regulations governing closure of certain land-based units to provide regulators the discretion to use alternative protective requirements. Although EPA has adopted a postclosure option to allow a variety of authorities (other than permits) for units requiring postclosure care, the Department does not believe that the Hazardous Waste Management Act fully supports this option, and is therefore not adopting the entire closure/postclosure option. (4) Methods for streamlining permitting requirements for treatment, storage and disposal of remediation wastes managed at cleanup sites. (5) Temporary deferral of landfill leachate and landfill gas condensate derived from previously disposed wastes that now meet the listing descriptions of one or more of the recently added petroleum refinery wastes. (6) Streamlined universal waste management requirements are now applicable to management of spent lamps and will facilitate recycling. Although this particular rule was published July 6, 1999, and would not normally be part of this package, the State is interested in facilitating the recycling of these lamps and has included this rule ahead of schedule for that reason. These rules and other amendments were published in the Federal Register between July 1, 1998, and July 6, 1999.

The Department is also making corrections to previous amendments. These amendments and corrections will maintain conformity with federal requirements and ensure compliance with federal standards. No preliminary assessment report, fiscal impact statement, nor legislative review of this amendment will be required.

Legal Authority for this amendment is S. C. Code Ann. Section 44-56-30, the Hazardous Waste Management Act, to facilitate the Resource Conservation and Recovery Act of 1976 as amended.

Plan for Implementation: Upon publication in the State Register as a final regulation, amended regulations will be provided to the regulated community at cost through the Department's Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The EPA promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent federal amendments include the following. (1) Addition of four new petroleum refining process wastes, corresponding treatment standards, and exclusion of certain recycled petroleum materials. (2) Various Land Disposal Restrictions including new standards for spent potliners from primary aluminum reduction, emergency revision of carbamate waste treatment standards, and

corrections to treatment standards for wood preserving wastes, some metal wastes, and zinc micronutrient fertilizers. (3) Amends the regulations governing closure of certain land-based units to provide regulators the discretion to use corrective action requirements, rather than closure requirements. (4) Methods for streamlining permitting requirements for treatment, storage and disposal of remediation wastes managed at cleanup sites. (5) Temporary deferral of landfill leachate and landfill gas condensate derived from previously disposed wastes that now meet the listing descriptions of one or more of the recently added petroleum refinery wastes. (6) Streamlined universal waste management requirements are now applicable to management of spent lamps and will facilitate recycling. Although this particular rule was published July 6, 1999, and would not normally be part of this package, the State is interested in facilitating the recycling of these lamps and has included this rule ahead of schedule for that reason. These rules and other amendments were published in the Federal Register between July 1, 1998, and July 6, 1999.

The Department is also making corrections to previous amendments. These amendments and corrections will maintain conformity with federal requirements and ensure compliance with federal standards. No preliminary assessment report, fiscal impact statement, nor legislative review of this amendment will be required.

DETERMINATION OF COSTS AND BENEFITS: Each amendment reflects a federal provision. EPA estimated costs and benefits of the various amendments are summarized below. The summaries are taken from the cited Federal Register notices. A significant regulatory action is defined as one that (5/26/98 in 63 FR 28630) "is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements...; or (4) raise novel legal or policy issues arising out of legal mandates..."

(1) Addition of four new petroleum refining process wastes, corresponding treatment standards, and exclusion of certain recycled petroleum materials. The EPA estimates that the listing of the four refinery wastes, including LDR impacts, the oil-bearing hazardous secondary material exclusion (oil-bearing exclusion) and the wastewaters from the headworks exemptions for crude oil storage tank sediment, will result in nationwide annualized compliance costs between \$20 and \$40 million, with an expected value of about \$30 million (\$1997). The variance is due to a high degree of uncertainty in costing and, particularly, in volumes to be processed. Of special note is the relationship of previously listed petroleum refinery wastes to this rulemaking. The ability to recycle wastes through coker processing will enable refineries to process previously listed wastes in a like manner. A conservative estimate of the volume of these wastes that may be processed, yielding oil that may be converted to product, results in feedstock having a value of some \$14 million to \$28 million (\$1997). Clearly, the impact of this Aother benefit as a potential offset to the costs of the rule can be substantial. If the volumes available from previously listed wastes are higher than estimated, the value of oil generated may substantially offset the costs of this rulemaking. Industry pricing and operating impacts are expected to be minimal. This is due both to the size of the industry and the latitude afforded industry in this rulemaking.

(2) Various Land Disposal Restrictions including new standards for spent potliners from primary aluminum reduction, emergency revision of carbamate waste treatment standards, and zinc micronutrient fertilizers. The EPA considered the zinc micronutrient fertilizer rule, carbamate standards, and potliners to not be economically significant.

(3) Amend the regulations governing closure of certain land-based units to provide regulators the discretion to use corrective action requirements rather than closure requirements. EPA estimated that this rule imposes no new requirements on owners and operators, but, rather, allows flexibility to regulators to implement requirements already in place. EPA estimates a cost savings of \$500,000 for the provisions of the final rule.

(4) Methods for streamlining permitting for treatment, storage and disposal of remediation wastes managed at cleanup sites. This "HWIR/Media" rule raises "novel legal or policy issues." The rule addresses three main issues: dredged material exclusion, staging piles, and remedial action plans (RAPs). The rule provides an overall cost

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savings regarding dredged materials: both minor reductions of compliance costs with respect to current practices of dredged material management, and decreased potential for procedural delays (caused by multiple permit applications) that delay timely waste disposal. Because of the narrow scope of the staging pile provisions and their significant overlap with existing CAMU, temporary unit, and AOC provisions, the Agency believes that this portion of the rule will likely have only minor cost savings and economic impacts. In some cases, staging piles may facilitate the short-term accumulation of remediation wastes until a sufficient volume can be shipped to a treatment or disposal facility or accumulated to implement cost-effective on-site management. In these situations, the new provisions will result in modest cost savings. In the case of Remedial Action Plans, EPA estimates a total cost savings of between \$5 million and \$35 million per year. The total number of facilities estimated to shift to use of RAPs is between seven and 66 facilities, all of which currently treat excavated contaminated media offsite. The total cost savings estimated for this group is between \$5 million and \$35 million per year.

(5) Temporary deferral of landfill leachate and landfill gas condensate derived from previously disposed wastes that now meet the listing descriptions of one or more of the recently added petroleum refinery wastes. Incremental compliance costs for the known (58 landfills) and estimated worst case (125 landfills) population of affected landfills that received these four waste streams are estimated to range from \$62 to \$219 million. This range is due to the two different populations of affected landfills used (i.e., known and worst case), and also reflects a 10-year period of leachate generation and a 20-year amortization period. However, the upper bound of this cost range may be considerably lower as the result of possible savings gained through contract negotiations for repeat customers who provide consistent revenue streams to shipping companies through their regularly scheduled shipments of leachate. Incremental costs are estimated to be between \$130,000 and \$280,000 annually for the Clean Water Act Exemption with Two-year Impoundment Replacement Deferral regulatory option, with only 8 to 17 of the affected landfills expected to currently operate a surface impoundment.

(6) Streamlined universal waste management requirements are now applicable to management of spent lamps and will facilitate recycling. This rule is regarded as significant because the rule contains novel policy issues, but is not economically significant. Without recycling markets, increased likelihood of disposal is likely to result in unnecessarily high releases of mercury to the environment. This deregulatory action imposes fewer requirements on generators and transporters of spent lamps than current hazardous waste management standards and should stimulate recycling management practices.

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The overall effects of these rules are expected to be beneficial to the public health and environment and also reflect federal provisions in State law.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's authority to implement federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments are not adopted in South Carolina.