

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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GENERAL ASSEMBLY

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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.

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

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 the 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.

2018 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	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are 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) 212-4500.

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 refiled for one additional ninety-day period.

SUBSCRIPTIONS

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The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4809			Standards for Licensing Crisis Stabilization Unit Facilities	5/08/19	Department of Health and Envir Control
4819			Medical Homebound Instruction	5/08/19	State Board of Education
4816			Palmetto Fellows Scholarship Program	5/08/19	Commission on Higher Education
4834			Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/08/19	Department of Natural Resources
4839			Transportation Project Prioritization	5/08/19	Department of Transportation
4812			Withdrawal of Certification of Law Enforcement Officers	5/08/19	South Carolina Criminal Justice Academy
4813			Denial of Certification for Misconduct	5/08/19	South Carolina Criminal Justice Academy
4835			Annual Audited Financial Reporting Regulation	5/08/19	Department of Insurance
4836			Corporate Governance Annual Disclosure Regulation	5/08/19	Department of Insurance
4828			Notices to be Posted	5/08/19	South Carolina Human Affairs Commission
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4830			Hearing Procedures (Review and Enforcement)	5/08/19	South Carolina Human Affairs Commission

2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
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DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4809	Standards for Licensing Crisis Stabilization Unit Facilities	Regulations and Admin. Procedures	Medical Affairs
4819	Medical Homebound Instruction		
4816	Palmetto Fellows Scholarship Program		
4834	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas		
4839	Transportation Project Prioritization		
4812	Withdrawal of Certification of Law Enforcement		
4813	South Carolina Criminal Justice Academy		
4835	Annual Audited Financial Reporting Regulation		
4836	Corporate Governance Annual Disclosure Regulation		
4828	Notices to be Posted		
4829	Guidelines Established		
4830	Hearing Procedures (Review and Enforcement)		

Executive Order No. 2018-55

WHEREAS, the undersigned has been notified of the passing of Assistant Chief Dennis Straight of the Charlotte Road/Van Wyck Fire Department, who dutifully served as a firefighter in this State and died in the line of duty; and

WHEREAS, Chief Straight dedicated his life to protecting and serving the people of the State of South Carolina and the residents of Lancaster County as a volunteer with the Charlotte Road/Van Wyck Fire Department, and his loss warrants the people of this State appropriately recognizing his distinguished service and honoring his supreme sacrifice; and

WHEREAS, Title 4, Section 7(m) of the United States Code, as amended, provides that “[i]n the event of . . . the death of a first responder working in any State, territory, or possession who dies while serving in the line of duty, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff”; and

WHEREAS, section 1-3-470 of the South Carolina Code of Laws, as amended, authorizes the Governor, on the day of burial or other service for any firefighter in this State who died in the line of duty, to order that all flags on state buildings be lowered to half-staff in tribute to the deceased firefighter and to request that flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby Order that all flags on state buildings be lowered to half-staff from sunrise until sunset on Saturday, November 17, 2018, in tribute to Chief Straight and in honor of his selfless service, remarkable bravery, and supreme sacrifice in the line of duty. I request that all flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 14th DAY OF NOVEMBER, 2018.

HENRY MCMASTER
Governor

Executive Order No. 2018-56

WHEREAS, I have been notified of the passing of Elizabeth Johnston Patterson; and

WHEREAS, Elizabeth Johnston Patterson, daughter of former Governor and United States Senator Olin DeWitt Johnston and the late Gladys Atkinson Johnston, dutifully served the State of South Carolina as a member of the Spartanburg County Council, South Carolina Senate, and United States House of Representatives representing the State’s Fourth Congressional District; and

WHEREAS, Elizabeth Johnston Patterson was known as a dedicated public servant, zealous community advocate, and beloved wife, mother, grandmother, and friend, and her lifetime of service is an inspiration to all South Carolinians; and

WHEREAS, section 10-1-161(B) of the South Carolina Code of Laws, as amended, provides that “the flags which are flown atop the State Capitol Building must be lowered to half-staff on the day on which funeral

4 EXECUTIVE ORDERS

services are conducted” “[t]o honor and pay tribute to . . . current and past members of the United States Congress from the State of South Carolina”; and

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby Order that the flags atop the State Capitol Building be lowered to half-staff on Sunday, November 18, 2018, in honor of Elizabeth Johnston Patterson and in recognition of her extraordinary service to the State of South Carolina. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 14th DAY OF NOVEMBER, 2018.

HENRY MCMASTER
Governor

Executive Order No. 2018-57

WHEREAS, due to the death of Willie R. Davis on July 26, 2018, there presently exists a vacancy on Dorchester County Council in the office and seat representing District One; and

WHEREAS, in the event of a vacancy in a county office, the undersigned is authorized pursuant to sections 1-3-220(2) and 4-11-20(1) of the South Carolina Code of Laws, as amended, to appoint a suitable person, who shall be an elector of the county, to serve in such office until a successor shall qualify; and

WHEREAS, on November 6, 2018, Harriet A. Holman was elected to fill the aforementioned vacancy on Dorchester County Council in accordance with section 4-9-90 of the South Carolina Code of Laws, as amended; and

WHEREAS, Harriet A. Holman, residing at 6188 Badham Drive, Reevesville, South Carolina 29471, is a fit and proper person to serve as a member of Dorchester County Council representing District One.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby appoint Harriet A. Holman to serve as a member of Dorchester County Council representing District One until she shall qualify and assume such office for the term to which she was recently elected. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 15th DAY OF NOVEMBER, 2018.

HENRY MCMASTER
Governor

Executive Order No. 2018-58

WHEREAS, on September 21, 2018, the undersigned issued Executive Order 2018-41, suspending Nicole H. Holland as a member of the South Carolina Educational Television Commission pursuant to article VI, section 8 of the South Carolina Constitution following her indictment by a Grand Jury convened in the Columbia Division of the United States District Court for the District of South Carolina and her subsequent indictment by the State Grand Jury; and

WHEREAS, in accordance with article VI, section 8 of the South Carolina Constitution, Executive Order 2018-41 stated that the undersigned's suspension of Nicole H. Holland was effective immediately and "until such time as she shall be formally acquitted or convicted"; and

WHEREAS, on November 1, 2018, Nicole H. Holland pleaded guilty in the United States District Court for the District of South Carolina to one count of Wire Fraud, in violation of 18 U.S.C. § 1343 and 18 U.S.C. § 2, and one count of Mail Fraud, in violation of 18 U.S.C. § 1341 and 18 U.S.C. § 2, one or both of which charges the "embezzlement or the appropriation of public or trust funds to private use," constitutes "a crime involving moral turpitude," or both, for purposes of article VI, section 8 of the South Carolina Constitution; and

WHEREAS, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that upon indictment by a grand jury of any officer of the State or its political subdivisions who has the custody of public or trust funds with embezzlement or the appropriation of public or trust funds to private use, "the Governor shall suspend such officer and appoint one in his stead, until he shall have been acquitted," and "[i]n case of conviction, the position shall be declared vacant and the vacancy filled as may be provided by law"; and

WHEREAS, article VI, section 8 of the South Carolina Constitution also provides, in relevant part, that upon conviction of an "officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . the office shall be declared vacant and the vacancy filled as may be provided by law"; and

WHEREAS, in addition to the foregoing authorities, section 8-1-110 of the South Carolina Code of Laws, as amended, similarly provides that upon indictment and conviction of any officer who has the custody of public or trust funds on charges of embezzlement or the appropriation of public or trust funds to private use, "the office shall be declared vacant and the vacancy filled as may be provided by law"; and

WHEREAS, as Governor of the State of South Carolina, I am mindful of the duties and responsibilities vested in me by the Constitution and Laws of this State.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby declare vacant the office and seat previously held by Nicole H. Holland on the South Carolina Educational Television Commission. The resulting vacancy shall be filled as provided by law. This Order is effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 19th DAY OF NOVEMBER, 2018.

HENRY MCMASTER
Governor

6 EXECUTIVE ORDERS

Executive Order No. 2018-59

WHEREAS, the State of South Carolina has experienced several disasters in recent years, to include flooding in October of 2015, Hurricane Matthew in 2016, and Hurricane Florence in 2018, leading to widespread damage to homes across the state; and

WHEREAS, after each disaster the State requested assistance to recover from such damage through a variety of private and public sources including insurance proceeds, direct public assistance, and construction performed by charitable organizations has helped many South Carolinians recover from this damage; and

WHEREAS, disaster-related relief available after a disaster can include federal funds appropriated by the United States Congress, as well as grant funds allocated by the United States Department of Housing and Urban Development (HUD) and the Federal Emergency Management Agency (FEMA); and

WHEREAS, Executive Order 2016-13 established the South Carolina Disaster Recovery Office (SC DRO) within the South Carolina Department of Commerce (Commerce) as a temporary grant entity to place disaster-recovery grant funds in a single entity with experience in managing disaster relief; and

WHEREAS, the SC DRO has successfully managed the disaster recovery relief after each of the above-mentioned three disasters, managing federal funds allocated to the States' disaster relief, including the Community Development Block Grant-Disaster Recovery ("CBGD-DR") relief grant and FEMA federal funding, to address unmet needs of the State; and

WHEREAS, the SC DRO utilizes these funds to rebuild houses damaged by severe weather events in the most effective and efficient manner, to include utilization of volunteer groups; and

WHEREAS, Executive Order 2016-13 also established the South Carolina Community Development Block Grant Steering Committee ("Steering Committee") to advise Commerce on the development of the South Carolina State Action Plan (Plan), and set forth that the Steering Committee oversees the implementation and the disbursement of the Community Development Block Grant-Disaster Relief (CDBG-DR); and

WHEREAS, Commerce has developed the SC DRO into a proven vehicle to handle grant management for disaster recovery, and proven the need to maintain a temporary grant entity that can be utilized after an emergency; and

WHEREAS, the recent weather events made clear the continuing need exists to continue operations of the SC DRO temporary entity; and

WHEREAS, the SC DRO purpose fits more properly under the South Carolina Department of Administration (Admin) that houses the state Executive Budget Office and serves as the coordinating state agency for Emergency Support Function (ESF) 18, Donated Goods and Volunteer Services, under the South Carolina Emergency Operations Basic Plan.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I do hereby direct the transfer of the SC DRO, a temporary grant entity, along with its personnel and operating functions, to Admin. I also direct that the South Carolina Community Development Block Grant Steering Committee ("Steering Committee") continue and transfer with the SC DRO. The SC DRO shall be a division of Admin and headed by a Program Management Director who shall report directly to the chief of staff at Admin. Any changes in this title or current structure of the SC DRO must be approved by the Director of Admin as the SC DRO is part of the Admin. However, all decisions on use of the disaster recovery funds shall be made by the Steering Committee.

FURTHER, the transfer of the SC DRO to Admin requires the Executive Budget Office (EBO) transfer all permanent or temporary grant employees currently housed under the temporary grant entity of SC DRO and Palmetto Disaster Recovery (PDR) to Admin. Commerce shall also transfer the equipment, contracts, leases, office furniture, computers, printers, copiers, phones, vehicles technology hardware and software and supplies primarily utilized by the SC DRO to Admin.

FURTHER, the SC DRO audit and financial units that handle grant oversight shall continue this work as a function of the SC DRO, but oversight authority of this program is granted to Admin. The Director of Admin has the discretion to incorporate the audit and financial units into existing Admin functions subject to any grant restrictions.

FURTHER, all grants or accounts which the SC DRO currently operates, as well as present and future disaster-recovery grants such as the HUD CDBG-DR and FEMA disaster case management grants, shall be transferred with the temporary grant entity SC DRO. To ensure there are no problems with the transfer of the current grants with the SC DRO, the following grants the SC DRO is authorized to administer shall transfer with the SC DRO:

October 2015 Severe Storm and Flood Grant B-16-DL-45-0001
Hurricane Matthew 2016 Grant B-16-DH-45-0001

FEMA grant 4286-DR-SC Additionally, the following pending grants or accounts that the SC DRO is authorized to administer shall transfer with the SC DRO:

HUD declared mitigation grant related to preceding disasters which has not yet been published in the Federal Register.

Pending FEMA grant for disaster case management for Hurricane Florence 2018.

All pre-award costs or expenses incurred for pending HUD CDBG-DR or FEMA grants.

The remaining funds appropriated for SC DRO by the General Assembly in 2017-18.

FURTHER, the Steering Committee shall continue with three members, consisting of the Director of Admin and two other persons informed by the Governor's Office that he or she are sitting members. The Steering Committee shall continue to act as set forth in Executive Order 2016-13 for all grants which SC DRO currently operates as well as present and future disaster recovery and case management grants and sets strategic direction related thereto. For ease, the Steering Committee rules are re-listed below and incorporated from the prior Executive Order:

1. The Committee shall convene within 30 days of the issuance of this order to organize and receive a briefing from the SC DRO on the current status of Plan formulation.
2. Prior to the submission of the initial Plan, the SC DRO shall receive advice and consent from the Committee regarding allowable activities, resource allocation, and individual eligibility criteria to be included in the Plan and investment strategies for CDBG-DR funds.
3. Once the initial Plan has been submitted to the United States Department of Housing and Urban Development (HUD), the Department shall not amend the Plan without the advice and consent of the Committee.
4. Following submission of the Plan to HUD, the Committee shall meet as needed, but not less than quarterly, to receive reports on the activities funded by the CDBG-DR program and to advise on policy and Plan amendments.

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This order shall take effect immediately, with the SC DRO reporting immediately to Admin, and Admin and Commerce shall work to complete the transfer operationally as soon as possible.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 4th DAY OF DECEMBER 2018.**

**HENRY MCMASTER
Governor**

Executive Order No. 2018-60

WHEREAS, I have been notified of the passing of former President George Herbert Walker Bush, who served as the forty-first President of the United States of America; and

WHEREAS, President Bush dutifully served the United States of America as a member of the House of Representatives from 1967 to 1971, Ambassador to the United Nations from 1971 to 1973, Chief of the United States Liaison Office in the People's Republic of China from 1974 to 1975, Director of the Central Intelligence Agency from 1976 to 1977, Vice President from 1981 to 1989, and President from 1989 to 1993; and

WHEREAS, prior to his distinguished and patriotic public service, President Bush served honorably and heroically in World War II, having enlisted in the United States Navy on his eighteenth birthday, six months after the attack on Pearl Harbor, before completing flight training and accepting an officer's commission to become the youngest aviator in United States naval history; and

WHEREAS, President Bush flew fifty-eight combat missions in the Pacific Theater during World War II, including a September 2, 1944 attack on Japanese installations on the island of Chichi Jima, during which President Bush's aircraft was hit by antiaircraft fire and engulfed in flames, yet President Bush was able to successfully complete his attack and release bombs over his assigned target before having to eject from the aircraft and evade enemy detection until he was rescued by a United States Navy submarine; and

WHEREAS, in recognition of his extraordinary bravery and courageous military service during World War II, President Bush received numerous decorations and awards, including the Distinguished Flying Cross, three Air Medals, and a Presidential Unit Citation; and

WHEREAS, throughout his lifetime of service to the United States of America, President Bush boldly fought for and effectively advanced the cause of freedom around the world, ultimately leading our nation to the end of the Cold War and helping usher in an era of unprecedented peace and prosperity; and

WHEREAS, as our nation's longest-lived leader and the last World War II veteran to serve as President of the United States of America, President Bush continued to contribute his time and energy in service to this country after leaving public office, championing a variety of civic and charitable causes and consistently demonstrating his characteristic but uncommon combination of compassion, integrity, and humility in all such endeavors; and

WHEREAS, in tribute to the memory of President Bush, and as an expression of public sorrow, the President of the United States of America has issued a Proclamation directing that the flag of the United States be displayed at half-staff at the White House and on all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions for a period of thirty days from the day of President Bush's death and appointing December 5, 2018, as a National Day of Mourning; and

WHEREAS, President Bush was a remarkable individual, dedicated father and family man, decorated World War II veteran, accomplished diplomat, and principled leader who will forever serve as an inspiration to all Americans, and his passing warrants the people of this State further recognizing and appropriately honoring his extraordinary legacy of selfless statesmanship and his lifetime of distinguished and patriotic service to the United States of America; and

WHEREAS, section 10-1-161 of the South Carolina Code of Laws, as amended, authorizes the Governor to order that the flags atop the State Capitol Building be lowered to half-staff for a designated period of time upon the death of a person of extraordinary stature, for a period of thirty days from the date of death of a former President, and for the same designated time when an act of the United States Congress or a presidential order is issued to lower flags to half-staff over federal buildings.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby Order that the flags atop the State Capitol Building and on all state buildings shall be lowered to half-staff until December 30, 2018, consistent with my prior directive, in tribute to President Bush's extraordinary legacy of selfless statesmanship and his lifetime of distinguished and patriotic service to the United States of America. As a mark of respect to President Bush, I further direct that December 5, 2018, shall be a Day of Remembrance throughout the State of South Carolina, and I encourage all South Carolinians to reflect upon and honor the life and legacy of President Bush. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 4th DAY OF DECEMBER, 2018.**

**HENRY MCMASTER
Governor**

Executive Order No. 2018-61

WHEREAS, the Governor of North Carolina has declared that an emergency exists in the State of North Carolina due to the potential impact of a severe winter storm, which threatens the health, safety, and welfare of the people of North Carolina and may seriously disrupt essential utility services; and

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, medicine and medical supplies, livestock and poultry, feed for livestock and poultry, and other agricultural products to residential and commercial establishments is essential before, during, and after the storm, and any interruption in the availability, transportation, or delivery of such commodities and materials does and would threaten the public welfare; and

WHEREAS, the prompt restoration of utility services is essential to the safety and well-being of the people of North Carolina and neighboring states; and

WHEREAS, the Governor of North Carolina has declared that the anticipated winter weather poses an imminent threat of severe economic loss and other dangers to livestock, poultry, or crops ready to be harvested in North Carolina, which may necessitate transportation of the same; and

WHEREAS, federal law limits the hours operators of commercial motor vehicles may drive vehicles transporting materials as stated above pursuant to 49 C.F.R. §§ 390 *et seq.* and establishes certain weight limitations for vehicles on interstate highways pursuant to 23 U.S.C. § 127; and

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WHEREAS, the Governor of a State may suspend certain requirements relating to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles responding to an emergency if the Governor declares a state of emergency pursuant to 23 U.S.C. § 127, 49 C.F.R. § 390.23; and

WHEREAS, by Executive Orders dated December 7, 2018, the Governor of North Carolina has done so, declaring that a state of emergency exists and suspending requirements related to registration, permitting, length, width, weight, load, and hours of service for certain commercial vehicles; and

WHEREAS, whenever a state of emergency is declared in North Carolina that triggers relief under 49 C.F.R. § 390.23, an emergency must be declared in this State pursuant to section 56-5-70(B) of the South Carolina Code of Laws.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, due to the existing emergency in the State of North Carolina, I hereby suspend the federal rules and regulations that restrict certain registration, permitting, length, width, weight, load, and hours of service requirements as fully set forth below in order to ensure the uninterrupted supply of (1) transportation of essential fuels (to include fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum, and gas), food, water, medical supplies, and feed for livestock and poultry; (2) vehicles transporting livestock and poultry and crops (to include timber and wood chips) ready to be harvested; and (3) vehicles used in the restoration of utility services and debris removal. This suspension is valid for vehicles responding to the North Carolina emergency. Also, because we share borders and have fuel supply stations, distribution centers, etc., in both states, this suspension is also valid for vehicles coming to South Carolina to provide fuel, essential materials (food, water, etc.), and utility services that are traversing from a distributor or fuel supply station in North Carolina requiring the transportation over North Carolina roads to South Carolina. This reciprocity is needed to ensure essential services continue throughout both states despite emergency road conditions.

Accordingly, I direct the South Carolina Department of Transportation, the South Carolina Department of Public Safety, and the State Transport Police, as needed, to suspend application and enforcement of federal rules and regulations that restrict certain registration, permitting, length, width, weight, load, and hours of service requirements, in conjunction with S.C. Code Ann. §§ 56-5-4010 *et seq.*, which establish size, weight, and load requirements for South Carolina highways, as set forth below to comply with this Order.

IT IS FURTHER ORDERED that although the federal rules and regulations that restrict registration, permitting length, width, and load requirements are waived, drivers in South Carolina are subject to the following state requirements to ensure safety on the roads:

(a) Weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed for continuous travel on all non-interstates, United States, and South Carolina designated routes maximum dimensions of 12' wide, 13'6" high and weights of 90,000 pounds.

(b) Posted bridges may not be crossed.

(c) All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating it is responding to this emergency.

(d) Any dimensions and/or weight of vehicles that exceed the above must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after regular business hours.

(e) Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversize/overweight loads operating on South Carolina roadways.

FURTHER, this emergency justifies an extension of the suspension of 49 C.F.R. Part 395 (drivers' hour of service). However, nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383 or the financial requirements in 49 C.F.R. § 387.

FURTHER, the Executive Orders issued by the Governor of North Carolina on December 7, 2018, provide that they shall be in effect for thirty (30) days, or until the state of emergency ceases, whichever is less. Accordingly, this Order shall take effect immediately and shall expire when the state of emergency in the State of North Carolina is terminated or on January 7, 2019, at 11:59 p.m., whichever is less, in accordance with section 56-5-70 of the South Carolina Code of Laws.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 8th DAY OF DECEMBER 2018.**

**HENRY MCMASTER
Governor**

Executive Order No. 2018-62

**Amending of Executive Order 2018-50 Authorizing
the South Carolina Floodwater Commission to Remove the Numerical
Limitation on the Number of Commission Members who may Serve**

WHEREAS, South Carolina has experienced numerous episodes of flooding along the coast, rivers, and low-lying interior areas as results of rains, storms, hurricanes and tides that highlight the need for a state-wide plan to accommodate and mitigate flooding impacts in the state; and

WHEREAS, the State will benefit from a coordinated and collaborative effort to identify comprehensive responses and solutions to protect persons, property and enterprises and to fully appreciate the attributes and power of the forces of nature; and

WHEREAS, in these endeavors it is vital that this State work to accommodate and mitigate flooding to lessen the negative impacts to our State's economy to facilitate growth, promote tourism and assist communities and businesses struggling with repeated flooding events; and

WHEREAS, a coordinated national, state, local and community effort is necessary and appropriate to facilitate the interaction between governments at all levels and the private and academic sectors to address these issues.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I do hereby constitute the South Carolina Floodwater Commission ("Commission") for the purpose of creating a state-wide flood accommodation, response and mitigation effort. The Commission shall serve as a vehicle for authorities to research, evaluate share and coordinate measures and ideas being considered.

The Commission shall identify short-term and long-term recommendations to alleviate and mitigate flood impacts to this State, with special emphasis on cities, communities and enterprises located on or near the coast and rivers. The Commission shall consider, in its discretion, any and all relevant studies, data, reports and

12 EXECUTIVE ORDERS

expert and lay opinion on storm water management and use, urbanization impact, coastal shoreline fluctuation, project and operational financing, affordability, available grants, appropriate partnerships, and the impact such decisions have upon neighboring cities, counties and states to ensure that a comprehensive, executable strategy may be adopted.

The Commission shall report to the Governor. The South Carolina Department of Parks, Recreation and Tourism (PRT) shall provide staff support and other resources as necessary. The Governor appoints Tom Mullikin Sr., Esquire, Research Professor at Coastal Carolina University, as Chair of the Commission. The Chair may form subcommittees of the members as deemed necessary. Commission meetings shall be held regularly, broadcast appropriately, and preserved for archival record.

The Commission shall be comprised of the Chair, ten *ex officio* members serving by virtue of office, and additional appointments by the Governor from the following categories:

- South Carolina Adjutant General, *ex officio*, or designee;
- Director of the Emergency Management Division, *ex officio*, or designee;
- Director of the State Disaster Recovery Office, *ex officio*, or designee;
- Director of the Department of Health and Environment Control (DHEC), *ex officio*, or designee;
- Director of the DHEC Office of Ocean and Coastal Resource Management (OCRM), *ex officio*, or designee;
- Director of the Department of Natural Resources (DNR), *ex officio*, or designee;
- Commissioner of Agriculture, *ex officio*, or designee;
- Secretary of the Department of Transportation, *ex officio*, or designee;
- Members of Congress for the 1st and 7th Congressional Districts, *ex officio*, or designees;
- One or more members of the Senate and/or of the House of Representatives;
- Representatives from Chambers of Commerce from coastal counties;
- Mayors from coastal cities and towns;
- Representatives from coastal county councils;
- Commanders of federal military installations located along the coast;
- Individuals who have relevant professional, academic, or research expertise, or experience in relevant areas, including engineering, flood mitigation, public planning, hydrology, marine sciences, environmental protection, or climatology.

The Commission shall call upon federal agencies, including the Federal Emergency Management Agency (FEMA), and the Army Corps of Engineers, US Department of Transportation (USDOT) to assist the Commission. The Commission may call other persons to participate as needed for expertise and relevant information.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 11th DAY OF DECEMBER 2018.**

**HENRY MCMASTER
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication **December 28, 2018** 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 Vonja Szatkowski, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3028.

Affecting Abbeville County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Abbeville County at a total project cost of \$2,000.

Affecting Aiken County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Aiken County at a total project cost of \$2,000.

Affecting Allendale County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Allendale County at a total project cost of \$2,000.

Affecting Anderson County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Anderson County at a total project cost of \$2,000.

Affecting Bamberg County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Bamberg County at a total project cost of \$2,000.

Affecting Barnwell County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Barnwell County at a total project cost of \$2,000.

Affecting Beaufort County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Beaufort County at a total project cost of \$2,000.

Affecting Berkeley County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Berkeley County at a total project cost of \$2,000.

Affecting Calhoun County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Calhoun County at a total project cost of \$2,000.

Affecting Charleston County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Charleston County at a total project cost of \$2,000.

East Cooper Medical Center

Development of a 12-bed Inpatient Rehabilitation Unit at a total project cost of \$3,503,219.

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Affecting Cherokee County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Cherokee County at a total project cost of \$2,000.

Affecting Chester County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Chester County at a total project cost of \$2,000.

Affecting Chesterfield County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Chesterfield County at a total project cost of \$2,000.

Affecting Clarendon County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Clarendon County at a total project cost of \$2,000.

Affecting Colleton County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Colleton County at a total project cost of \$2,000.

Affecting Darlington County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Darlington County at a total project cost of \$2,000.

Affecting Dillon County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Dillon County at a total project cost of \$2,000.

Affecting Dorchester County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Dorchester County at a total project cost of \$2,000.

Affecting Edgefield County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Edgefield County at a total project cost of \$2,000.

Affecting Fairfield County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Fairfield County at a total project cost of \$2,000.

Affecting Florence County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Florence County at a total project cost of \$2,000.

Affecting Greenville County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Greenville County at a total project cost of \$2,000.

Affecting Greenwood County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Greenwood County at a total project cost of \$2,000.

Affecting Hampton County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Hampton County at a total project cost of \$2,000.

Affecting Horry County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Horry County at a total project cost of \$2,000.

Conway Hospital, Inc. d/b/a Conway Medical Center

Development of an Emergent and Elective Percutaneous Coronary Intervention (PCI) Program at a total project cost of \$5,008,937.94.

Myrtle Beach Treatment Specialist

Establishment of an outpatient narcotic treatment program at a total project cost of \$134,100.

Affecting Jasper County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Jasper County at a total project cost of \$2,000.

Affecting Kershaw County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Kershaw County at a total project cost of \$2,000.

Affecting Lancaster County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Lancaster County at a total project cost of \$2,000.

Affecting Laurens County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Laurens County at a total project cost of \$2,000.

Affecting Lee County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Lee County at a total project cost of \$2,000.

Affecting Lexington County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Lexington County at a total project cost of \$2,000.

Lexington County Health Services District, Inc. d/b/a Lexington Medical Center

Addition of a Second da Vinci Xi Single Console Robotic Surgical System at a total project cost of \$2,359,572.67.

Affecting Marion County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Marion County at a total project cost of \$2,000.

Affecting Marlboro County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Marlboro County at a total project cost of \$2,000.

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Affecting McCormick County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in McCormick County at a total project cost of \$2,000.

Affecting Newberry County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Newberry County at a total project cost of \$2,000.

Affecting Oconee County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Oconee County at a total project cost of \$2,000.

Upstate Affiliate Organization d/b/a GHS Oconee Memorial Hospital

Renovation and expansion of the current emergency department with no increase in licensed bed capacity or services at a total project cost of \$12,400,000.

Affecting Orangeburg County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Orangeburg County at a total project cost of \$2,000.

Affecting Pickens County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Pickens County at a total project cost of \$2,000.

Affecting Richland County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Richland County at a total project cost of \$2,000.

Affecting Saluda County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Saluda County at a total project cost of \$2,000.

Affecting Spartanburg County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Spartanburg County at a total project cost of \$2,000.

Affecting Sumter County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Sumter County at a total project cost of \$2,000.

Affecting Union County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Union County at a total project cost of \$2,000.

Affecting Williamsburg County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Williamsburg County at a total project cost of \$2,000.

Affecting York County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in York County at a total project cost of \$2,000.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been **deemed complete**, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from **December 28, 2018**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

Affecting Abbeville County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Abbeville County at a total project cost of \$2,000.

Affecting Aiken County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Aiken County at a total project cost of \$2,000.

Affecting Allendale County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Allendale County at a total project cost of \$2,000.

Affecting Anderson County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Anderson County at a total project cost of \$2,000.

Affecting Bamberg County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Bamberg County at a total project cost of \$2,000.

Affecting Barnwell County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Barnwell County at a total project cost of \$2,000.

Affecting Beaufort County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Beaufort County at a total project cost of \$2,000.

Affecting Berkeley County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Berkeley County at a total project cost of \$2,000.

Affecting Calhoun County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Calhoun County at a total project cost of \$2,000.

Affecting Charleston County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Charleston County at a total project cost of \$2,000.

Medical University Hospital Authority d/b/a MUSC Shawn Jenkins Children's Hospital and Pearl Tourville Women's Pavilion (SJCH)

Level IV Neonatal Intensive Care Unit Designation at a total project cost of \$503.

18 NOTICES

Trident Medical Center, LLC

Addition of a Fourth Robotic Surgical System at a total project cost of \$2,778,150.

Affecting Cherokee County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Cherokee County at a total project cost of \$2,000.

Affecting Chester County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Chester County at a total project cost of \$2,000.

Providence Home Health, LLC

Establishment of a Home Health Agency in Chester County at a total project cost of \$40,184.

Affecting Chesterfield County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Chesterfield County at a total project cost of \$2,000.

Affecting Clarendon County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Clarendon County at a total project cost of \$2,000.

Affecting Colleton County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Colleton County at a total project cost of \$2,000.

Affecting Darlington County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Darlington County at a total project cost of \$2,000.

South Carolina Baptist Ministry for the Aging, Inc. d/b/a Bethea Baptist Health Care Center

Construction of a 44,804 sf building for the replacement of an existing 88-bed skilled nursing facility, with no increase in beds, at a total project cost of \$15,397,458.

Affecting Dillon County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Dillon County at a total project cost of \$2,000.

Affecting Dorchester County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Dorchester County at a total project cost of \$2,000.

Affecting Edgefield County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Edgefield County at a total project cost of \$2,000.

Affecting Fairfield County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Fairfield County at a total project cost of \$2,000.

Affecting Florence County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Florence County at a total project cost of \$2,000.

Affecting Greenville County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Greenville County at a total project cost of \$2,000.

Affecting Greenwood County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Greenwood County at a total project cost of \$2,000.

Affecting Hampton County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Hampton County at a total project cost of \$2,000.

Affecting Horry County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Horry County at a total project cost of \$2,000.

Myrtle Beach Treatment Specialist

Establishment of an outpatient narcotic treatment program at a total project cost of \$134,100.

Strand Gastrointestinal Endoscopy Center, Inc.

Renovation of an existing building for the relocation and expansion of Strand Gastrointestinal Endoscopy Center, Inc. The new facility will consist of 7,200 sf with 3 endoscopy rooms at a total project cost of \$4,399,413.

Affecting Jasper County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Jasper County at a total project cost of \$2,000.

Affecting Kershaw County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Kershaw County at a total project cost of \$2,000.

Affecting Lancaster County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Lancaster County at a total project cost of \$2,000.

Affecting Laurens County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Laurens County at a total project cost of \$2,000.

Affecting Lee County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Lee County at a total project cost of \$2,000.

Affecting Lexington County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Lexington County at a total project cost of \$2,000.

Affecting Marion County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in Marion County at a total project cost of \$2,000.

20 NOTICES

Affecting Marlboro County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Marlboro County at a total project cost of \$2,000.

Affecting McCormick County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in McCormick County at a total project cost of \$2,000.

Affecting Newberry County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Newberry County at a total project cost of \$2,000.

Affecting Oconee County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Oconee County at a total project cost of \$2,000.

Affecting Orangeburg County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Orangeburg County at a total project cost of \$2,000.

Charles P. Thompson d/b/a Grove Park Home Care

Establishment of a Home Health Agency in Orangeburg County at a total project cost of \$6,500.00.

Affecting Pickens County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Pickens County at a total project cost of \$2,000.

Affecting Richland County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Richland County at a total project cost of \$2,000.

Affecting Saluda County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Saluda County at a total project cost of \$2,000.

Affecting Spartanburg County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Spartanburg County at a total project cost of \$2,000.

Affecting Sumter County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Sumter County at a total project cost of \$2,000.

Affecting Union County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Union County at a total project cost of \$2,000.

Affecting Williamsburg County

Palmetto Infusion Services, LLC

Establishment of a Specialty Home Health Agency in Williamsburg County at a total project cost of \$2,000.

Affecting York County**Palmetto Infusion Services, LLC**

Establishment of a Specialty Home Health Agency in York County at a total project cost of \$2,000.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**NOTICE OF GENERAL PUBLIC INTEREST**

DHEC-Bureau of Land and Waste Management, File # 58724
CAP River Site

**NOTICES OF VOLUNTARY CLEANUP CONTRACT,
CONTRIBUTION PROTECTION, AND COMMENT PERIOD**

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (the Department) intends to enter into a Voluntary Cleanup Contract (VCC) with CAP River, LLC (the Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the CAP River facility located in Greenville County at 55 East Camperdown Way, Greenville, South Carolina and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants (the Site).

Response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing a remedial investigation and, if necessary, an evaluation of cleanup alternatives for addressing any contamination. Further, the Responsible Party shall reimburse the Department's future costs of overseeing the work performed by the Responsible Party and other Department response costs pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. Section 44-56-200 (as amended). Notices of contribution protection and comment period will be provided to other known potentially responsible parties. The VCC is available:

- (1) On-line at <http://www.scdhec.gov/PublicNotices>; or
- (2) By contacting Elisa Vincent at 803-898-0882 or vincenef@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than January 28, 2019, and addressed to: Elisa Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the VCC and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved their liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9613(f)(3)(B), and under HWMA, S.C. Code Ann. Section 44-56-200, for the matters addressed in the VCC. Further, to the extent authorized under 42 U.S.C. Section 9613(f)(3)(B), S.C. Code Ann. Section 44-56-200, the Responsible Party may seek contribution from any person who is not a party to this administrative settlement.

22 NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF ACCOUNTANCY

NOTICE OF GENERAL PUBLIC INTEREST

- 1-01. General Requirements for Licensure.
- 1-02. Examinations.
- 1-04. Reciprocity.
- 1-05. Firm registration.
- 1-08. Continuing Professional Education.
- 1-09. Peer Review.
- 1-10. Professional Standards.
- 1-11. Application for Licensure as an Accounting Practitioner.
- 1-12. Safeguarding Client Files When a Licensee is Incapacitated, Disappears, or Dies.

The South Carolina Board of Accountancy elects to terminate the promulgation process on Regulation Document 4845, which proposed amending R.1-01 regarding the general requirements for licensure as a CPA, R.1-02 regarding examinations, R.1-04 regarding reciprocity, R.1-05 regarding firm registration, R.1-08 regarding continuing professional education, R.1-09 regarding peer review, R.1-10 regarding professional standards, R.1-11 regarding licensure for accounting practitioners, and R-1-12 regarding safeguarding client files in the event of a licensee's incapacitation, disappearance or death. The Board intends to publish a revised Drafting Notice and Proposed Regulation hereafter.

DEPARTMENT OF LABOR, LICENSING AND REGULATION STATE BOARD OF DENTISTRY

NOTICE OF GENERAL PUBLIC INTEREST

- 39-8. Laboratory Work Authorization Form.
- 39-9. Use of Lasers in a Dental Setting. (New section)
- 39-10. Sanitary Standards
- 39-11. Ethics
- 39-19. Use of Botox and other Neuromodulators in a Dental Setting. (New section)

The South Carolina Board of Dentistry elects to terminate the promulgation process on Regulation Document 4823, which proposed to: add a regulation regarding the use of Botox and other neuromodulators in a dental setting and a regulation governing the use of lasers in a dental practice, and; amend R.39-8 regarding laboratory work authorization forms, R.39-10 regarding sanitary standards; and R.39-11 regarding ethics.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING OCCUPATIONAL SAFETY AND HEALTH STANDARDS

South Carolina Department of Labor, Licensing and Regulation (SCDLLR) does hereby give notice under Section 41-15-220, SC Code of Laws, 1976, as amended, that a public hearing will be held on February 5, 2019, at 10:00 AM at SCDLLR, 121 Executive Center Dr., Suite 200 Columbia, SC 29211.

The hearing is to determine if the Director of the SCDLLR will promulgate, revoke, or modify rules and regulations pursuant to Section 41-15-210, SC Code of Laws, 1976. OSH rules and regulations being considered at the hearing are 1910.1024 (Beryllium), 1926.1427 (Operator qualification and certification), and 1926.1430 (Training).

Persons desiring either to speak at the hearing or to have their views submitted on the record if they cannot appear must file with the Director of the SCDLLR either a notice of intention to appear or a summary of their views on the matter no later than January 22, 2019.

Emily Farr, Director
SCDLLR
PO Box 11329
Columbia, SC 29211-1329

24 DRAFTING NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF ACCOUNTANCY

CHAPTER 1

Statutory Authority: 1976 Code Sections 40-1-70 and 40-2-70

Notice of Drafting:

The South Carolina Board of Accountancy proposes to amend Chapter 1 of the Code of Regulations regarding requirements for licensure as a CPA, examinations, reciprocity, firm registration, reinstatement, return of certificate, continuing professional education, peer review, professional standards, licensure as an accounting practitioner, and safeguarding client files in the event of a licensee's incapacitation, disappearance or death. Interested persons may submit written comments to Susanna Sharpe, Administrator, Board of Accountancy, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Board of Accountancy proposes to amend Chapter 1 of the Code of Regulations regarding requirements for licensure as a CPA, examinations, reciprocity, firm registration, reinstatement, return of certificate, continuing professional education, peer review, professional standards, licensure as an accounting practitioner, and safeguarding client files in the event of a licensee's incapacitation, disappearance or death.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION STATE BOARD OF COSMETOLOGY

CHAPTER 35

Statutory Authority: 1976 Code Sections 40-1-70 and 40-13-80

Notice of Drafting:

The South Carolina State Board of Cosmetology proposes to make amendments to Chapter 35 of the Code of Regulations. Interested persons may submit comments to Theresa Brown, Administrator, Board of Cosmetology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina State Board of Cosmetology proposes to make amendments to Chapter 35 of the Code of Regulations.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE
AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND
PSYCHO-EDUCATIONAL SPECIALISTS**

CHAPTER 36

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-75-60

Notice of Drafting:

The Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists proposes to amend its regulations to add language stating the requirement for completing a degree program with a minimum of 60 graduate semester hours takes effect two years after the effective date of the regulation and further stating students who have graduated from or are enrolled in a degree program prior to the effective date are licensed pursuant to the 48-hour licensing provisions. Interested parties may submit comments to Marlo Thomas-Koger, Administrator, Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, S.C. Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists proposes to amend regulations to add language stating the requirement for completing a degree program with a minimum of 60 graduate semester hours takes effect two years after the effective date of the regulation and further stating students who have graduated from or are enrolled in a degree program prior to the effective date are licensed pursuant to the 48-hour licensing provisions.

Legislative review of this amendment is required.

SECRETARY OF STATE

CHAPTER 113

Statutory Authority: 1976 Code Sections 30-6-10 et seq.

Notice of Drafting:

The Office of the Secretary of State proposes to amend Regulation 113-325, Electronic Transmissions, last revised on April 23, 2010. Interested persons may submit comments to Ms. Melissa Dunlap, Deputy Secretary of State & Chief Legal Counsel, Office of the Secretary of State, 1205 Pendleton Street, Suite 525, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on January 10, 2019, the close of the drafting comment period.

Synopsis:

The General Assembly passed the Uniform Real Property Electronic Recording Act (Section 30-6-10, et seq.) which became effective May 13, 2008. Pursuant to the authority conferred by the Act, the Office of the Secretary of State promulgated regulations to adopt standards to implement the Act which went into effect on April 23, 2010.

The proposed amendment will replace the language of Regulation 113-325(C) regarding the transmittal sheet requirement for electronic transmissions to make clear that XML data is acceptable to fulfill this requirement.

Legislative review of this proposed amendment is required.

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Filed: November 20, 2018 9:47am

Document No. 4871
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-2200, and 50-11-2210

Emergency Situation:

These emergency regulations establish the dove seasons and dove limits statewide and establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season begins extends through January 15, 2019, it is necessary to refile these regulations as emergency.

Text:

WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2018-19

Dove Management Area Regulations: The following fields are open only during the dates and times indicated below. A Wildlife Management Area permit and a Migratory Bird Permit are required for dove hunting on all fields. Fields denoted by an asterisk (*) require hunters to sign in and sign out on all hunts. No species other than mourning doves and Eurasian collared doves may be hunted during scheduled dove hunts.

Statewide Season Dates:

September 1 - October 13, November 10 - November 24, December 15, 2018 - January 15, 2019.

Bag Limit: Mourning Doves: 15 doves per day. No limit on Eurasian collared doves.

The following special regulations apply to all Wildlife Management Area Public Dove Fields: Hunters are limited to 50 shells per hunt. No entry onto fields before 12:00 noon. No shooting after 6:00 p.m. during the first segment of the season (September 1 – October 13).

ABBEVILLE

U.S. Forest Service – Power of Partnerships Field – Sept. 1 is youth hunt only. Sept. 8 is Wheelin Sportsmen Hunt Only and morning hunting will be allowed for this event. 1st season – Saturdays Only beginning Sept. 15. 2nd and 3rd seasons open Mon. – Sat.

AIKEN

*US Dept of Energy - Crackerneck WMA. 1st season – Sept. 5, 19; Oct. 3.

ANDERSON

Clemson University - Fant's Grove WMA. 1st season - Saturdays only beginning Sept. 1. Field Closed Oct. 6. Open 2nd & 3rd seasons – Saturdays Only.

BERKELEY

*U.S. Army Corps of Engineers - Canal WMA. Sept. 1, 8; Oct. 13; Nov. 17. Sept. 22 is Wounded Warrior Hunt Only -Invitation Only.

*DNR - Bonneau Ferry WMA. Sept. 1, 8, 22. All hunts are Youth Only.

CHARLESTON

DNR Botany Bay Plantation WMA. Sept. 1, 8, Oct. 13, Nov. 10. All hunts are Youth Only.

CHEROKEE

Gaffney Board of Public Works. Open Saturdays only during the statewide dove season beginning Sept. 1. Dove Hunting Only.

CHESTER

U.S. Forest Service - Worthy Bottoms. 1st season - Saturdays Only beginning Sept. 1. 2nd & 3rd seasons - Open Mon. - Sat.

DNR Landsford Canal Forest Legacy Area. 1st season - Saturdays Only beginning Sept. 1. 2nd & 3rd seasons - Open Mon. - Sat.

CHESTERFIELD

SC Forestry Commission – Sand Hills State Forest - Wilkes Chapel Field. 1st season – Saturdays Only beginning Sept. 1. 2nd & 3rd seasons - Open Mon. – Sat.

SC Forestry Commission – Sand Hills State Forest - Davis Field. 1st season – Opening Day Sept. 1, then Wednesdays Only beginning Sept. 12. 2nd & 3rd seasons – Open Mon. – Sat.

CLARENDON

*Santee Cooper - Santee Dam WMA. Sept. 1, 8, 29; Nov. 24; Dec. 29.

*SC Forestry Commission - Oak Lea WMA. Sept. 1, 8, 12, 22, 26; Jan. 2, 9.

COLLETON

DNR - Donnelley WMA. Sept. 1, 8; Oct. 6; Nov. 10.

FLORENCE

Santee Cooper – Pee Dee Station Site WMA. 1st season - Saturdays Only beginning Sept. 1. 2nd & 3rd seasons - Saturdays Only. Dove Hunting Only.

GEORGETOWN

DNR Samworth WMA. Sept. 1, 8, 22; Oct. 6; Nov. 17; Dec. 15.

HAMPTON

*DNR - Webb Wildlife Center. Sept. 1, 8, 29; Oct. 13; Nov. 17.

LAURENS

DNR Gray Court Field. 1st season - Saturdays Only beginning Sept. 1. 2nd & 3rd seasons open Mon. - Sat.

LEXINGTON

Hallman Field. 1st season - Saturdays Only beginning Sept. 1. 2nd & 3rd seasons - Saturdays Only. Dove Hunting Only.

MARLBORO

DNR - Lake Wallace WMA. 1st season - Saturdays Only beginning Sept. 1. 2nd & 3rd seasons - Saturdays Only. Dove Hunting Only.

MCCORMICK

*U.S. Army Corps of Engineers - Bordeaux Field. Sept. 1 & 19; Oct. 3; Nov. 21, Dec. 19; Jan. 9; Dove Hunting Only. Hunters must sign-in & out at 1009 McIntosh Rd.

U.S. Army Corps of Engineers – Parksville Field. 1st season – Saturdays Only beginning Sept. 1. 2nd & 3rd seasons – Open Mon.- Sat.

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US Army Corp of Engineers - Plum Branch Field. 1st season – Saturdays Only beginning Sept. 1. 2nd & 3rd seasons – Open Mon. - Sat.

NEWBERRY

SCDOT McCullough Field. Open Saturdays only during the statewide dove season beginning Sept. 1. Dove Hunting Only.

DNR Belfast WMA. Sept. 1, 8; Nov. 22, 23, 24. 3rd season - Open Mon. - Sat.

OCONEE

S.C. Forestry Commission - Piedmont Forestry Center. 1st and 2nd seasons - Saturdays Only beginning Sept 1. 3rd season – Closed.

U.S. Forest Service – Long Creek Tract. Disability hunters must contact the U.S. Forest Service Andrew Pickens office 864-638-9568 for permit requirements and access. In order to hunt, adults must have 1 or 2 youth age 17 or younger. 1st season – Saturdays Only Beginning Sept. 1. 2nd season – Open November 17 Only. 3rd season – Closed.

U.S. Forest Service - Ross Mtn. Field. Saturdays Only during statewide dove season beginning Sept. 1.

ORANGEBURG

*Santee Cooper - Santee Cooper WMA. Entire WMA under Dove Area Regulations. Sept. 1 is Youth Hunt Only. Sept. 8, 29; Nov. 17; Dec. 29.

PICKENS

DNR Property - Rifle Range. Open Saturdays only during the statewide dove season beginning Sept. 1. Dove Hunting Only.

Clemson University - Gravely WMA - Causey Tract. Saturdays Only during statewide dove season beginning Sept. 1.

DNR Property – Jocassee Gorges – Cane Creek Field. Open Wednesdays only during the statewide dove season beginning Sept. 19.

SALUDA

SCE&G Saluda River Field. 1st season - Saturdays Only beginning Sept 1. 2nd & 3rd seasons - Open Mon. - Sat.

SPARTANBURG

Santee Cooper. 1st season – Sept. 1, 8, 15, 22, 29. 2nd & 3rd seasons – Open Mon. – Sat.

Spartanburg Co Parks Dept - Cherokee Springs Field. Saturdays Only beginning Sept 1. Dove hunting only.

SUMTER

*S.C. Forestry Commission - Manchester State Forest

Bland Field 1. Sept. 1 is Youth Hunt Only. 1st season - Saturdays Only beginning Sept. 8. 2nd & 3rd seasons open Mon. – Sat. (Designated fields and the general forest).

*Tuomey Fields Field A – 1st season – Saturdays Only beginning Sept. 1. 2nd & 3rd seasons open Mon. – Sat. (Designated fields and the general forest).

*Tuomey Fields Field B – 1st season – Saturdays Only beginning Sept 1. 2nd & 3rd seasons open Mon. – Sat. (Designated fields and the general forest).

UNION

DNR Thurmond Tract. 1st season – Saturdays Only beginning Sept. 1. 2nd & 3rd seasons open Mon. – Sat.

U.S. Forest Service - Sedalia. Sept. 1 is Youth Only. 1st season – Saturdays Only beginning Sept. 8. 2nd & 3rd seasons - Open Mon. - Sat.

U.S. Forest Service - Herbert Field. 1st season - Saturdays Only beginning Sept. 1. 2nd & 3rd seasons - Open Mon. - Sat.

YORK

DNR - Draper Tract. 1st season – Saturdays Only beginning Sept. 1. 2nd & 3rd seasons Open Mon. - Sat.

York County – Worth Mountain WMA. 1st season – Saturdays Only beginning Sept. 1. 2nd & 3rd seasons Open Mon. - Sat.

SPECIAL YOUTH DOVE HUNTS:

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 15 years of age and younger. Youths 16 & 17 years of age may participate in the hunt with or without an accompanying adult. The following regulations also apply on Special Youth Dove Hunts: (1) Adults accompanying youth are NOT allowed to shoot at any time during Special Youth Dove Hunts. (2) Adults must remain in the field and closely supervise participating youth at all times. (3) In parties of one adult and 2 youths, only one youth hunter may be handling a loaded firearm at any given time. (4) Bag limit is 15 birds per youth participant. Birds harvested by individual hunters must be kept separate, and in no instance may an individual hunter harvest more than 15 birds. Pre-registration is no longer required for youth only hunts.

ABBEVILLE COUNTY YOUTH HUNT

U.S. Forest Service - Power of Partnerships Field - September 1. No pre-registration required.

BERKELEY COUNTY YOUTH HUNT

Bonneau Ferry WMA - September 1, 8, 22. No pre-registration required.

CHARLESTON COUNTY YOUTH HUNT

Botany Bay Plantation WMA - September 1, 8; Oct. 13; Nov. 10. No pre-registration required.

ORANGEBURG COUNTY YOUTH HUNT

Santee Cooper - Santee Cooper WMA. September 1. No pre-registration required.

SUMTER COUNTY YOUTH HUNT

Manchester State Forest Bland Tract Field 1 near Wedgefield - September 1. No pre-registration required.

UNION COUNTY YOUTH HUNT

U.S. Forest Service Sedalia Field - September 1. No pre-registration required.

YORK COUNTY YOUTH HUNT

DNR Draper WMA - September 1. No pre-registration required.

Statement of Need and Reasonableness:

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates change as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these

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hunts begin continue through January 15, 2019, it is necessary to file these regulations as emergency so they encompass the entirety of dove season.

Fiscal Impact Statement:

This amendment of Regulation 123-40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Document No. 4827
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
 CHAPTER 27
 Statutory Authority: 1976 Code Sections 47-4-30 and 47-17-130

27-1023. State Meat Inspection Regulation.

Synopsis:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which established 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 equal to” those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

Replace Reg.27-1023 with the following amendment.

Text:

27-1023. State Meat Inspection Regulation.

A. Definitions.

1. Commission means the State Livestock-Poultry Health Commission, Clemson University.
2. Director means the Director, Livestock-Poultry Health Programs, Clemson University.
3. Custom Processor means the custom preparation by any person of carcasses, parts thereof, meat or meat food products derived from the slaughter by any individual of cattle, sheep, swine or goats of his own raising or from game animals, delivered by the owner thereof for such custom preparation and transportation in commerce of such custom prepared article, exclusively for the use in the household by the owner and members of the owners household and the owners non-paying guests and employees in an establishment permitted by the State Meat Inspection Department for that purpose.

B. Permit required; fee; application; refusal, revocation or suspension.

1. Custom processors shall secure a permit from the Commission.
2. The permit fee is twenty-five dollars (\$25.00) annually or for part of a year. The permit year is July 1 to June 30. The fee must be retained by the Commission. The Commission by regulation may increase the fee to not more than fifty dollars (\$50.00).
3. The Commission, for cause, may refuse to grant a permit, may revoke or modify a permit, or assess a civil penalty in accordance with Section 47-4-130, South Carolina Code of Laws (1976) as amended.

C. Adoption of Federal Meat Inspection Regulations.

The United States Department of Agriculture, Food Safety and Inspection Service, Meat Inspection Regulations, 9 CFR, Chapter III, Subchapter A, Parts 300-321, 325, 329, 332, 335, 352 and 354, and Subchapter E, Parts 412, 416-418, 424, 430, 441, 442 and 500 and all changes thereto in effect as of January 1, 2019 are hereby adopted as the State Meat Inspection Regulations, with exceptions as noted below.

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D. Exceptions to the Federal Meat Inspection Regulations.

1. Subchapter A, Part 303 – Exemptions, Section 303.1(a)(2). The provisions of this section related to custom slaughter of livestock do not apply. Custom slaughtering is not a specified exemption in the State Meat and Meat Foods Regulations and Inspection Law of 1967.

2. Subchapter A, Part 307, Section 307.5(a) – Overtime Inspection Service. Fees and charges for overtime inspection service will be established, as required, by the Commission.

3. Subchapter A, Part 307, Section 307.5(b) – Holiday Inspection Service. State holidays as designated by the State Budget and Control Board will be utilized by the state inspection program.

4. Subchapter A, Part 312 – Official Marks, Devices and Certificates. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

5. Subchapter A, Part 352, Section 352.5 – Holiday and Overtime Inspection Services. Fees and charges for overtime and state holiday inspection services will be established, as required by the Commission.

6. Subchapter A, Part 352, Section 352.7 – Marking Inspected Products. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

E. In addition to temporary suspension in whole or in part of inspection services, as provided for in this regulation, the Director may, when he determines that the operator of any official establishment or any subsidiary therein, acting within the scope of his office, employment or agency, has threatened to forcibly assault or has forcibly assaulted, intimidated, harassed or interfered with any program employees in or on account of his official duties under the law, assess a civil penalty in accordance with Section 47-4-130(b), S.C. Code of Laws, (1976) as amended.

F. The complete text of these regulations is available for review at the Meat-Poultry Inspection Department, Livestock-Poultry Health Programs, Clemson University.

Document No. 4826
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27

Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

27-1022. State Poultry Products Inspection Regulation.

Synopsis:

These regulations are being promulgated to modernize, clarify and update 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. These updated regulations are necessary to comply with the federal 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 equal to” those adopted by the federal government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 24, 2018.

Instructions:

Replace Reg.27-1022 with the following amendment.

Text:

27-1022. State Poultry Products Inspection Regulation.

A. Definitions.

1. Commission means the State Livestock-Poultry Health Commission, Clemson University.
2. Director means the Director, Livestock-Poultry Health Programs, Clemson University.

B. Adoption of Federal Poultry Products Regulations.

The United States Department of Agriculture, Food Safety and Inspection Service, Poultry Products Inspection Regulations, 9 CFR, Chapter III, Subchapter A, Parts 362 and 381 and Subchapter E. Parts 412, 416-418, 424, 430, 441, 442 and 500 and all changes thereto in effect as of January 1, 2019 are hereby adopted as the State Poultry Inspection Regulations, with exception as noted below.

C. Exceptions to the Federal Poultry Products Inspection Regulations.

(1) Subchapter A, Part 362, Voluntary Poultry Inspection Regulations, Section 362.5. Fees and charges for voluntary inspection services will be established, as required, by the Commission.

(2) Subchapter A, Part 381, Subpart G, Facilities for Inspection, Section 381.38. State holidays as designated by the State Budget and Control Board will be utilized by the state inspection program.

(3) Subchapter A, Part 381, Subpart G, Facilities for Inspection, Section 381.39. Fees and charges for overtime and holiday inspection services will be established, as required, by the Commission.

(4) Subchapter A, Part 381, Subpart M, Official Marks, Devices and Certificates. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

D. The complete text of these regulations is available for review at the Meat-Poultry Inspection Department, Livestock-Poultry Health Programs, Clemson University.

Document No. 4840

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Section 44-56-30

61-79. Hazardous Waste Management Regulations.

Synopsis:

The Department of Health and Environmental Control (“Department”) amends R.61-79, Hazardous Waste Management Regulations, to adopt the “Imports and Exports of Hazardous Waste Rule” published on November 28, 2016, at 81 FR 85696-85729 and on August 29, 2017, at 82 FR 41015-41016 by the United States Environmental Protection Agency (“EPA”). The amendments support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. The amendments make existing import- and export-related requirements more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development, enable electronic submittal to the EPA of all import and export-related documents (e.g., export notices, export annual reports), and enable electronic validation of consent in the Automated Export System (“AES”) for export shipments subject to the Resource Conservation and Recovery Act (“RCRA”) export consent requirements prior to exit.

The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), has exempted these amendments from General Assembly review, as the Department promulgated the amendments for compliance with federal law.

The Department had a Notice of Drafting published in the April 27, 2018, *South Carolina State Register*.

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Section-by-Section Discussion of Amendment:

260.10 Definitions. Add, in alphabetical order, the following new definitions: “AES filing compliance date,” “Electronic import-export reporting compliance date,” and “Recognized trader.”

261.4(d)(1). Revise item to insert “and (4)” after “paragraph (d)(2).”

261.4(d)(4). Add new item (4) to adopt language that describes how, in order to qualify for the exemption in 261.4(d)(1)(i) and (ii), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed twenty-five (25) kilograms.

261.4(e)(1). Revise item to read, “Except as provided in paragraph (e)(2) and (4) of this section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in R.61-79.260.10, are not subject to any requirement of R.61-79.261 through 263 or to the notification requirements of SC Hazardous Waste Management Act 44-56-120 and Section 3010 of RCRA, nor are such samples included in the quantity determinations of R.61-79.262.13 when:.”

261.4(e)(4). Add new item (4) to adopt language that describes how, in order to qualify for the exemption in 261.4(e)(1)(i), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed twenty-five (25) kilograms.

261.6(a)(3)(i). Revise item to replace “, unless provided otherwise in an international agreement as specified in 262.58:” with “exports and imports of such recyclable materials must comply with the requirements of R.61-79.262 subpart H.”

261.6(a)(5). Revise item to read, “Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of R.61-79.262 subpart H.”

261.39(a)(5)(ii). Revise item to read, “Notifications must be submitted electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.”

261.39(a)(5)(v). Revise item to read, “The export of CRTs is prohibited unless all of the following occur:.”

261.39(a)(5)(v)(A). Add new item (5)(v)(A) to adopt language that describes how the receiving country must consent to the intended export.

261.39(a)(5)(v)(B). Add new item (5)(v)(B) to adopt language that introduces the requirements of the exporter or a U.S. authorized agent for the export of CRTs.

261.39(a)(5)(v)(B)(1). Add new item (v)(B)(1) to adopt language that describes how the exporter must submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b).

261.39(a)(5)(v)(B)(2). Add new item (v)(B)(2) and items (v)(B)(2)(i) to (v)(B)(2)(vii) to adopt language that describes how the exporter or U.S. authorized agent must include the following specific items in the EEI, along with the other information required under 15 CFR 30.6: EPA license code; commodity classification code; EPA consent number; country of ultimate destination; date of export; quantity of waste in the shipment; and EPA net quantity reported in kilogram.

261.39(a)(5)(vi). Revise first sentence to read, “When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change using the allowable methods listed in paragraph (a)(5)(ii) of this section, except for changes to the telephone number in paragraph (a)(5)(i)(A)

of this section and decreases in the quantity indicated pursuant to paragraph (a)(5)(i)(C) of this section.” Revise the second sentence to replace “(a)(5)(i)” with “(H).”

261.39(a)(5)(ix). Revise item to add text to specify recordkeeping requirements.

261.39(a)(5)(xi). Revise item to remove the first sentence and adopt new language that describes annual report requirements.

262.10(d). Revise subsection to read, “Any person who exports or imports hazardous wastes must comply with R.61-79.262.18 and R.61-79.262 subpart H.”

262.41(c). Revise last sentence to read, “A separate annual report requirement is set forth at section 262.83(g) for hazardous waste exporters.”

262 Subpart E. Remove and reserve subpart.

262 Subpart F. Remove and reserve subpart.

262 Subpart H. Revise section title to read, “Transboundary Movements of Hazardous Waste for Recovery and Disposal.”

262.80(a). Revise subsection to read, “The requirements of this subpart apply to transboundary movements of hazardous wastes.”

262.80(b). Revise subsection to read, “Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who mixes two or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and the SC Hazardous Waste Management Act and any exporter duties, if applicable, under this subpart.”

262.81 Definitions. Revise section to clarify and revise the following existing definitions: “Competent authority,” “Countries concerned,” “Country of export,” “Country of import,” “Country of transit,” “Exporter,” “Importer,” “OECD area,” “Recovery operations,” and “Transboundary movement.” Add, in alphabetical order, the following definitions: “Disposal operations,” “EPA Acknowledgment of Consent,” “Export,” “Foreign exporter,” “Foreign importer,” “Foreign receiving facility,” “Import,” “OECD Member country,” and “Receiving facility.” Remove the definitions for: “Recognized trader” and “Recovery facility.”

262.82(a). Revise first sentence to replace “by the national procedures of the United States, as defined in 262.80(a)” with “whether the waste is or is not hazardous waste.” Revise the second sentence to replace “262.89(d)” with “in R.61-79.260.11.”

262.82(a)(1). Revise item to describe green list wastes that are subject to the requirements of this subpart.

262.82(a)(2). Revise item to describe amber list wastes that are subject to the requirements of this subpart.

262.82(a)(3). Revise item to describe mixtures of wastes that are subject to the requirements of this subpart.

262.82(a)(4)(i). Revise item to read, “If such wastes are hazardous wastes, such wastes are subject to the requirements of this subpart.”

262.82(a)(4)(ii). Revise item to read, “If such wastes are not hazardous wastes, such wastes are not subject to the requirements of this subpart.”

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262.82(b)(1). Revise item to read, “The hazardous waste must be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the country of import;.”

262.82(b)(2). Revise item to remove the phrase “and the transboundary movement must be in compliance with applicable international transport agreements;.” Add note to paragraph (b)(2) to adopt language that describes how these international agreements include, but are not limited to, the Chicago Convention (1994), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

262.82(b)(3). Revise item to read, “Any transit of hazardous waste through one or more countries must be conducted in compliance with all applicable international and national laws and regulations.”

262.82(c). Revise subsection to describe the duty to return wastes subject to the Amber control procedures during transit through the United States.

262.82(d). Revise subsection to read, “Laboratory analysis exemption. Export or import of a hazardous waste sample is exempt from the requirements of this subpart if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty-five (25) kilograms in quantity, is appropriately packaged and labeled, and complies with the conditions of R.61-79.261.4(d) or (e).”

262.82(e). Revise subsection to read, “EPA Address for submittals by postal mail or hand delivery. Submittals required in this subpart to be made by postal mail or hand delivery should be sent to the following addresses:.”

262.82(e)(1). Revise item to read, “For postal mail delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.”

262.82(e)(2). Revise item to read, “For hand delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch, Environmental Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 1200 Pennsylvania Ave., NW., Washington, DC 20004.”

262.83. Revise title to read, “Exports of hazardous waste.”

262.83(a). Revise subsection to read, “General export requirements. Except as provided in paragraphs (a)(5) and (6) of this section, exporters that have received an AOC from EPA before December 31, 2016 are subject to that approval and the requirements listed in the AOC that existed at the time of that approval until such time the approval period expires. All other exports of hazardous waste are prohibited unless:.” Add new items (1) through (6) to adopt language that describes the general export requirements.

262.83(b). Revise heading to read, “Notifications—.”

262.83(b)(1). Revise item to describe and clarify general notifications of hazardous waste shipments and state what information is required in the notifications.

262.83(b)(2). Revise item to clarify export requirements to pre-consented recovery facilities in OECD Member countries. Remove items (2)(i) and (ii).

262.83(b)(3). Add new item (3) to adopt language that describes how notifications must list interim recycling operations or interim disposal operations.

262.83(b)(4). Add new item (4) to adopt language that describes how when the exporter wishes to change any of the information specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the exporter must submit a renotification of the changes to EPA using the allowable methods in 262.83(b)(1) of this section. Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an EPA AOC letter documenting the countries' consents to the changes.

262.83(b)(5). Add new item (5) to adopt language that describes EPA coordination for countries of import and recovery or disposal operations not covered under the international agreement.

262.83(b)(6). Add new item (6) to adopt language that describes where the countries of import and transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the exporter documenting the countries' consents. Where any of the countries of import and transit objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the exporter.

262.83(b)(7). Add new item (7) to adopt language that describes how U.S. exporters must comply with the export requirements in section 262.83.

262.83(b)(8). Add new item (8) to adopt language that describes how upon request by EPA, the exporter must furnish to EPA any additional information which the country of import requests in order to respond to a notification.

262.83(c). Revise subsection to read, "RCRA manifest instructions for export shipments. The exporter must comply with the manifest requirements of sections 262.20 through 262.23 except that:."

262.83(c)(1). Add new item (1) to adopt language that describes how the exporter must enter the name and site address of the foreign receiving facility in lieu of the name, site address, and EPA number of the designated permitted facility.

262.83(c)(2). Add new item (2) to adopt language that describes how the exporter must check the export box and enter the U.S. port of exit from the United States.

262.83(c)(3). Add new item (3) to adopt language that describes how the exporter must list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use a Continuation Sheet(s) (EPA Form 8700-22A).

262.83(c)(4). Add new item (4) to adopt language that describes how the exporter may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

262.83(d). Revise subsection to read, "Movement document requirements for export shipments:." Remove items (3) through (14) and note to (d)(14).

262.83(d)(1). Revise item to read, "All exporters must ensure that a movement document meeting the conditions of paragraph (d)(2) of this section accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until it reaches the foreign receiving facility, including cases in which the hazardous waste is stored and/or sorted by the foreign importer prior to shipment to the foreign receiving facility, except as provided in paragraphs (d)(1)(i) and (ii) of this section." Add new items (1)(i) and (ii) to adopt language that describes the exceptions of paragraph (d)(1).

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262.83(d)(2). Revise item to read, “The movement document must include the following paragraphs (d)(2)(i) through (xv) of this section:.” Add new items (2)(i) through (xv) to adopt language that describes each requirement in the movement document.

262.83(e). Revise subsection to clarify the duty to return hazardous waste to the United States or re-export hazardous waste to a third country.

262.83(f). Add new subsection (f) titled, “Export contract requirements,” and items (1) through (9) to adopt language that describes the exports of hazardous waste contract requirements.

262.83(g). Add new subsection (g) to adopt language that describes annual reports required by the exporters, and new items (1) through (6) to adopt language that describes the required content within the annual report.

262.83(h). Add new subsection (h) titled, “Exception reports,” and new items (1) and (2) to adopt language that describes the required content within the exception reports.

262.83(i). Add new subsection (i) titled, “Recordkeeping,” and new items (1) through (3) to adopt language that describes the recordkeeping requirements for exporters.

262.84. Revise section title to read, “Imports of hazardous waste.”

262.84(a). Revise subsection heading to read, “General import requirements.”

262.84(a)(1). Revise item to read, “With the exception of paragraph (a)(5) of this section, importers of shipments covered under a consent from EPA to the country of export issued before December 31, 2016, are subject to that approval and the requirements that existed at the time of that approval until such time the approval period expires. Otherwise, any other person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this part and the special requirements of this subpart.”

262.84(a)(2). Revise item to read, “In cases where the country of export does not require the foreign exporter to submit a notification and obtain consent to the export prior to shipment, the importer must submit a notification to EPA in accordance with paragraph (b) of this section.”

262.84(a)(3). Add new item (3) to adopt language that describes how the importer must comply with the contract requirements in 262.84(f).

262.84(a)(4). Add new item (4) to adopt language that describes how the importer must ensure compliance with the movement documents requirements in 262.84(d).

262.84(a)(5). Add new item (5) to adopt language that describes how the importer must ensure compliance with the manifest instructions for import shipments in 262.84(c).

262.84(b). Revise subsection to read, “Notifications. In cases where the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste.”

262.84(b)(1). Revise item to remove “Date movement commenced;” and adopt language that describes how the importer is required to provide notification of the transboundary movement of hazardous waste.

262.84(b)(2). Revise item to read, “Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted

according to paragraph (b)(1) of this section must also include the final recovery or disposal facility name, address, telephone and fax numbers, e-mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in this paragraph are defined in section 262.81.”

262.84(b)(3). Revise item to read, “Renotifications. When the foreign exporter wishes to change any of the conditions specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the importer must submit a renotification of the changes to EPA using the allowable methods in paragraph (b)(1) of this section. Any shipment using the requested changes cannot take place until EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.”

262.84(b)(4). Revise item to read, “A notification is complete when EPA determines the notification satisfies the requirements of paragraph (b)(1)(i) through (xiii) of this section.”

262.84(b)(5). Revise item to read, “Where EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the importer documenting the countries’ consents and EPA’s consent. Where any of the countries of transit or EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the importer.”

262.84(b)(6). Revise item to read, “Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in section 262.83(b)(7).”

262.81(b)(7). Remove item (7).

262.84(c). Revise subsection title to read, “RCRA Manifest instructions for import shipments.” Add new items (1) through (5) to adopt language that describes the importer manifest requirements.

262.84(d). Revise subsection title to read, “Movement document requirements for import shipments.”

262.84(d)(1). Add new item (1) and items (1)(i) and (ii) to adopt language that describes how the importer must ensure that a movement document accompanies each transboundary movement of hazardous wastes.

262.84(d)(2). Add new item (2) and items (2)(i) through (xv) to adopt language that describes the requirements to be included in the movement document.

262.84(e). Revise to read, “Duty to return or export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s), the provisions of paragraph (f)(4) of this section apply. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste must be returned to the country of export or exported to a third country. The provisions of paragraph (b)(6) of this section apply to any hazardous waste shipments to be exported to a third country. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the importer.”

262.84(f). Add new subsection (f) titled, “Import contract requirements.”

262.84(f)(1). Add new item (1) to adopt language that describes how the imports of hazardous waste must occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent

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arrangements must be executed by the foreign exporter, importer, and the owner or operator of the receiving facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

262.84(f)(2). Add new item (2) to adopt language that describes how the contracts or equivalent arrangements must specify the name and EPA ID number, where available, of 262.84(f)(2)(i) through (iv), which include: the foreign company from where each import shipment of hazardous waste is initiated; each person who will have physical custody of the hazardous wastes; each person who will have legal control of the hazardous wastes; and the receiving facility.

262.84(f)(3). Add new item (3) to adopt language that describes how contracts or equivalent arrangements must specify the use of a movement document in accordance with 262.84(d).

262.84(f)(4). Add new item (4) to adopt language that describes how contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes. Add items (4)(i) and (4)(ii) to adopt language that describes what the contracts must specify.

262.84(f)(5). Add new item (5) to adopt language that describes how contracts must specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC15 through DC17, as appropriate, will provide the notification required in section 262.83(b)(7) prior to the re-export of hazardous wastes. The recovery and disposal operations in this paragraph are defined in section 262.81.

262.84(f)(6). Add new item (6) to adopt new language that describes how contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements. Add new note to item (f)(6) that describes why financial guarantees are required.

262.84(f)(7). Add new item (7) to adopt new language that describes how contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of Subpart F 262.

262.84(f)(8). Add new item (8) to adopt new language that describes how importers or disposal or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity).

262.84(g). Add new subsection (g) to read, "Confirmation of recovery or disposal. The receiving facility must do the following:" to introduce receiving facility requirements. Add new items (1) and (2) to adopt language that describe the requirements of the receiving facility.

262.84(h). Add new subsection (h) titled, "Recordkeeping."

262.84(h)(1). Add new item (1) and items (i) and (ii) to adopt language that describes the records the importer must keep and provide upon request.

262.84(h)(2). Add new item (2) and items (i) through (iv) to adopt language that describes the records the receiving facility must keep.

262.84(h)(3). Add new item (3) to adopt language that describes how importers and receiving facilities must satisfy the described recordkeeping requirements.

262.84(h)(4). Add new item (4) to adopt language that describes how the periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department.

262.85. Remove and reserve subpart.

262.86. Remove and reserve subpart.

262.87. Remove and reserve subpart.

262.88. Add and reserve subpart.

262.89. Remove and reserve subpart.

Appendix to Part 262. Revise II Part 262, Item 16, Instructions for International Shipment Block, to remove the last sentence.

263.10(d). Revise subsection to read, “A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to this subpart and to all other relevant requirements of R.61-79.262 subpart H, including, but not limited to, R.61-79.262.83(d) and 262.84(d) for movement documents.”

263.20(a)(2). Revise item to read, “Exports. For exports of hazardous waste subject to the requirements of part 262 subpart H, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by section 262.83(d).”

263.20(c). Revise subsection to clarify manifest transport requirements.

263.20(e)(2). Revise item to read, “A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by sections 262.83(d) or 262.84(d) accompanies the hazardous waste; and.”

263.20(f)(2). Revise item to read, “Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by sections 262.83(d) or 262.84(d) accompanies the hazardous waste at all times..” Revise the note to remove “either” and add “, movement document,” after “manifest.”

263.20(g)(4). Revise item to remove the first sentence and add “For paper manifests only,.” Add new items (g)(4)(i) and (g)(4)(ii) to adopt language that describes how transporters must send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in section 264.71(a)(2)(v), and, for shipments initiated prior to the AES filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

264.12(a). Revise subsection to read, “The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H from a foreign source must submit the following required notices:.”

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264.12(a)(1). Revise item to read, “As per section 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in section 262.84(b)(1) at least sixty (60) days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.”

264.12(a)(2). Revise item to adopt language that describes the requirements of keeping a copy of the movement document.

264.12(a)(3). Add new item (3) to adopt language that describes how, as per section 262.84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in section 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

264.12(a)(4). Add new item (4) to adopt language that describes how, as per section 262.84(g), such owner or operator of a facility to receive hazardous waste from a foreign source must abide by (a)(4)(i) and (a)(4)(ii).

264.12(a)(4)(i). Add new item (4)(i) to adopt language that describes how the owner or operator shall send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using WIETS, or its successor system.

264.12(a)(4)(ii). Add new item (4)(ii) to adopt language that describes how the owner or operator shall send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one (1) year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The recovery and disposal operations in this paragraph are defined in 40 CFR 262.81 if the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17.

264.71(a)(3). Revise item to remove previous language and insert, “The owner or operator of a facility receiving hazardous waste subject to part 262 subpart H, from a foreign source must:.”

264.71(a)(3)(i). Add new item (3)(i) to adopt language that describes how the owner or operator of a facility receiving hazardous waste lists the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700-22A).

264.71(a)(3)(ii). Add new item (3)(ii) to adopt language that describes how the owner or operator of a facility receiving hazardous waste sends a copy of the manifest within thirty (30) days of delivery to EPA using the addresses listed in section 262.82(e) until the facility can submit such a copy to the e-Manifest system per 264.71(a)(2)(v).

264.71(d). Revise subsection to adopt language that describes the requirements of keeping the movement document.

265.12(a). Revise subsection to read, “The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H, from a foreign source must submit the following required notices.”

265.12(a)(1). Revise item to read, “As per section 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in section 262.84(b)(1) at least sixty (60) days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.”

265.12(a)(2). Revise item to read, “As per section 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA’s WIETS, or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.”

265.12(a)(3). Add new item (a)(3) to adopt language that describes how, if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in section 262.84(b)(1) of the need to return or arrange alternate management of the shipment, as per section 262.84(f)(4).

265.12(a)(4). Add new item (a)(4) and items (a)(4)(i) and (ii) to adopt language that describes how the owner or operator of a facility receiving hazardous waste from a foreign source must submit notices of confirmation of recovery or disposal.

265.71(a)(3). Revise item to read, “The owner or operator of a facility that receives hazardous waste subject to part 262 subpart H from a foreign source must.”

265.71(a)(3)(i). Add new item (3)(i) to adopt language that describes how the owner or operator must list the relevant consent number from consent document supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700-22A).

265.71(a)(3)(ii). Add new item (3)(ii) to adopt language that describes how the owner or operator must send a copy of the manifest to EPA using the addresses listed in section 262.82(e) within thirty (30) days of delivery until the facility can submit such a copy to the e-Manifest system per 265.71(a)(2)(v).

265.71(d). Revise subsection to adopt language that describes the requirements of the owner or operator of a facility for the movement document.

266.70(b)(1). Revise item to clarify notification requirements.

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266.70(b)(3). Revise item to read, “For precious metals exported to or imported from other countries for recovery, part 262, subpart H and 265.12.”

266.80(a)(6) Table 1-266.80 Applicability and requirements. Revise item, third column, to read, “are exempt from R.61-79.262 (except for R.61-79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 268, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA.” Revise fourth column to read, “are subject to R.61-79.261, 262.11, 262.18, and R.61-79.262 subpart H.” Remove items (6)(a) through (6)(c).

266.80(a)(7) Table 1-266.80 Applicability and requirements. Revise third column to read, “are exempt from R.61-79.263, 264, 265, 266, 268, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA.” Revise fourth column to read, “must comply with applicable requirements in R.61-79.262, subpart H.” Remove items (7)(a) through (7)(c).

266.80(a)(8) Table 1-266.80 Applicability and requirements. Add new item (8) into Table 1-266.80 Applicability and requirements. Adopt new language in the first column to read, “Will be reclaimed other than through regeneration”; second column to read, “Import these batteries from foreign country and store these batteries but you aren’t the reclaimer”; third column to read, “are exempt from R.61-79.262 (except for R.61-79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA”; and fourth column to read, “are subject to R.61-79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61-79.268.”

266.80(a)(9) Table 1-266.80 Applicability and requirements. Add new item (9) into Table 1-266.80 Applicability and requirements. Adopt new language in the first column to read, “Will be reclaimed other than through regeneration”; second column to read, “Import these batteries from foreign country and store these batteries before you reclaim them”; third column to read, “must comply with 266.80(b) and as appropriate other regulatory provisions described in 266.80(b)”; and fourth column to read, “are subject to parts 261, section 262.11, section 262.18, part 262 subpart H, and applicable provisions under part 268.”

266.80(a)(10) Table 1-266.80 Applicability and requirements. Add new item (10) into Table 1-266.80 Applicability and requirements. Adopt new language in the first column to read, “Will be reclaimed other than through regeneration”; second column to read, “Import these batteries from foreign country and don’t store these batteries before you reclaim them”; third column to read, “are exempt from parts 262 (except for section 262.11, section 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA”; and fourth column to read, “are subject to parts 261, section 262.11, section 262.18, part 262 subpart H, and applicable provisions under part 268.”

273.20. Revise sentence to read, “A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.”

273.39(a). Revise subsection to insert “, movement document” after “manifest, bill of lading.”

273.39(b). Revise subsection to insert “, movement document” after “manifest, bill of lading.”

273.40. Revise sentence to read, “A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.”

273.56. Revise sentence to read, “A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of part 262, subpart H.”

273.62(a). Revise subsection to insert “, movement document” after “manifest, bill of lading.”

273.70. Revise section to insert “the requirements of part 262 subpart H and” after “the United States are subject to.”

Instructions:

Amend R.61-79 with each individual instruction provided with the text of the amendments below:

Text:

61-79. Hazardous Waste Management Regulations.

Statutory Authority: 1976 Code Section 44-56-30

Revise 61-79.260.10 to add the following definitions in alphabetical order within this section:

“AES filing compliance date” means December 31, 2017, which is the date that EPA announced in the Federal Register, on or after which exporters of hazardous waste and exporters of cathode ray tubes for recycling are required to file EPA information in the Automated Export System or its successor system, under the International Trade Data System (ITDS) platform.

“Electronic import-export reporting compliance date” means the date that EPA announces in the Federal Register, on or after which exporters, importers, and receiving facilities are required to submit certain export and import related documents to EPA using EPA’s Waste Import Export Tracking System, or its successor system.

“Recognized trader” means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

Revise 61-79.261.4(d)(1) to read:

(1) Except as provided in paragraph (d)(2) and (4) of this section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this part or parts 262 through 268 or part 270 or part 124 of this chapter or to the notification requirements of section 3010 of RCRA and the South Carolina Hazardous Waste Management Act 44-56-120 when:

Revise 61-79.261.4(d)(4) to read:

(4) In order to qualify for the exemption in paragraphs (d)(1)(i) and (ii) of this section, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed twenty-five (25) kilograms.

Revise 61-79.261.4(e)(1) to read:

(1) Except as provided in paragraph (e)(2) and (4) of this section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in R.61-79.260.10, are not subject to any requirement of R.61-79.261 through 263 or to the notification requirements of SC Hazardous Waste Management Act 44-56-120 and Section 3010 of RCRA, nor are such samples included in the quantity determinations of R.61-79.262.13 when:

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Revise 61-79.261.4(e)(4) to read:

(4) In order to qualify for the exemption in R.61-79.261.4(e)(1)(i), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed twenty-five (25) kilograms.

Revise 61-79.261.6(a)(3)(i) to read:

(i) Industrial ethyl alcohol that is reclaimed except that exports and imports of such recyclable materials must comply with the requirements of R.61-79.262 subpart H.

Revise 61-79.261.6(a)(5) to read:

(5) Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of R.61-79.262 subpart H.

Revise 61-79.261.39(a)(5)(ii) to read:

(ii) Notifications must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

Revise 61-79.261.39(a)(5)(v) to read:

(v) The export of CRTs is prohibited unless all of the following occur:

(A) The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgement of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.

(B) On or after the AES filing compliance date, the exporter or a U.S. authorized agent must:

(1) Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b).

(2) Include the following items in the EEI, along with the other information required under 15 CFR 30.6:

(i) EPA license code;

(ii) Commodity classification code per 15 CFR 30.6(a)(12);

(iii) EPA consent number;

(iv) Country of ultimate destination per 15 CFR 30.6(a)(5);

(v) Date of export per 15 CFR 30.6(a)(2);

(vi) Quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(vii) EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

Revise 61-79.261.39(a)(5)(vi) to read:

(vi) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change using the allowable methods listed in paragraph (a)(5)(ii) of this section, except for changes to the telephone number in paragraph (a)(5)(i)(A) of this section and decreases in the quantity indicated pursuant to paragraph (a)(5)(i)(C) of this section. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to paragraphs (a)(5)(i)(D) and (H) of this section) and the exporter of CRTs receives from EPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.

Revise 61-79.261.39(a)(5)(ix) to read:

(ix) Exporters must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgments in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgment for inspection under this section if the CRT exporter can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with WIETS, or its successor system for which the CRT exporter bears no responsibility.

Revise 61-79.261.39(a)(5)(xi) to read:

(xi) Prior to one (1) year after the AES filing compliance date, annual reports must be sent to the following mailing address: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered annual reports on used CRTs exported during 2016 should be sent to: Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, William Jefferson Clinton South Building, Room 6144, 1200 Pennsylvania Ave. NW, Washington, DC 20004. Subsequently, annual reports must be submitted to the office listed using the allowable methods specified in paragraph (a)(5)(ii) of this section. Exporters must keep copies of each annual report for a period of at least three (3) years from the due date of the report. Exporters may satisfy this recordkeeping requirement by retaining electronically submitted annual reports in the CRT exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that a copy is readily available for viewing and production if requested by any EPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under this section if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with WIETS, or its successor system for which the CRT exporter bears no responsibility.

Revise 61-79.262.10(d) to read:

(d) Any person who exports or imports hazardous wastes must comply with R.61-79.262.18 and R.61-79.262 subpart H.

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Revise 61-79.262.41(b) to read:

(b) Any generator must submit the information required by paragraph (a) on a form designated by the Department and according to the instructions included with such form. Reporting for exports of hazardous waste is not required on the Report form. A separate annual report requirement is set forth at section 262.83(g) for hazardous waste exporters.

Revise 61-79.262 Subpart E to remove and reserve:

SUBPART E: [Reserved]

Revise 61-79.262 Subpart F to remove and reserve:

SUBPART F: [Reserved]

Revise 61-79.262 Subpart H title to read:

Subpart H: Transboundary Movements of Hazardous Waste for Recovery and Disposal

Revise 61-79.262.80(a) to read:

(a) The requirements of this subpart apply to transboundary movements of hazardous wastes.

Revise 61-79.262.80(b) to read:

(b) Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who mixes two or more wastes (including hazardous and nonhazardous wastes) or otherwise subjects two or more wastes (including hazardous and nonhazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and the SC Hazardous Waste Management Act and any exporter duties, if applicable, under this subpart.

Revise 61-79.262.81 to read:

In addition to the definitions set forth at R.61-79.260.10, the following definitions apply to this subpart:

"**Competent authority**" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes.

"**Countries concerned**" means the countries of export or import and any countries of transit.

"**Country of export**" means any country from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

"**Country of import**" means any country to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery or disposal operations therein.

"**Country of transit**" means any country other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

"**Disposal operations**" means activities which do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternate uses, which include:

- (1) D1 Release or Deposit into or onto land, other than by any of operations D2 through D5 or D12.

- (2) D2 Land treatment, such as biodegradation of liquids or sludges in soils.
- (3) D3 Deep injection, such as injection into wells, salt domes or naturally occurring repositories.
- (4) D4 Surface impoundment, such as placing of liquids or sludges into pits, ponds or lagoons.
- (5) D5 Specially engineered landfill, such as placement into lined discrete cells which are capped and isolated from one another and the environment.
- (6) D6 Release into a water body other than a sea or ocean, and other than by operation D4.
- (7) D7 Release into a sea or ocean, including sea-bed insertion, other than by operation D4.
- (8) D8 Biological treatment not specified elsewhere in operations D1 through D12, which results in final compounds or mixtures which are discarded by means of any of operations D1 through D12.
- (9) D9 Physical or chemical treatment not specified elsewhere in operations D1 through D12, such as evaporation, drying, calcination, neutralization, or precipitation, which results in final compounds or mixtures which are discarded by means of any of operations D1 through D12.
- (10) D10 Incineration on land.
- (11) D11 Incineration at sea.
- (12) D12 Permanent storage.
- (13) D13 Blending or mixing, prior to any of operations D1 through D12.
- (14) D14 Repackaging, prior to any of operations D1 through D13.
- (15) D15 (or DC17 for transboundary movements with Canada only) Interim Storage, prior to any of operations D1 through D12.
- (16) DC15 Release, including the venting of compressed or liquified gases, or treatment, other than by any of operations D1 to D12 (for transboundary movements with Canada only).
- (17) DC16 Testing of a new technology to dispose of a hazardous waste (for transboundary movements with Canada only).

“EPA Acknowledgment of Consent” (AOC) means the letter EPA sends to the exporter documenting the specific terms of the country of import’s consent and the country(ies) of transit’s consent(s). The AOC meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

“Export” means the transportation of hazardous waste from a location under the jurisdiction of the United States to a location under the jurisdiction of another country, or a location not under the jurisdiction of any country, for the purposes of recovery or disposal operations therein.

“Exporter”, also known as primary exporter on the RCRA hazardous waste manifest, means the person domiciled in the United States- who is required to originate the movement document in accordance with R.61-79.262.83(d) or the manifest for a shipment of hazardous waste in accordance with R.61-79.262 subpart B of this part, or equivalent state provision, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

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“Foreign exporter” means the person under the jurisdiction of the country of export who has, or will have at the time the planned transboundary movement commences, possession or other forms of legal control of the hazardous wastes and who proposes shipment of the hazardous wastes to the United States for recovery or disposal operations.

“Foreign importer” means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the exported hazardous waste is received in the country of import.

“Foreign receiving facility” means a facility which, under the importing country’s applicable domestic law, is operating or is authorized to operate in the country of import to receive the hazardous wastes and to perform recovery or disposal operations on them.

“Import” means the transportation of hazardous waste from a location under the jurisdiction of another country to a location under the jurisdiction of the United States for the purposes of recovery or disposal operations therein.

“Importer” means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the imported hazardous waste is received in the United States.

“OECD” means the Organization for Economic Cooperation and Development.

“OECD area” means all land or marine areas under the national jurisdiction of any OECD Member country. When the regulations refer to shipments to or from an OECD Member country, this means OECD area.

“OECD Member country” means the countries that are members of the OECD and participate in the Amended 2001 OECD Decision. (EPA provides a list of OECD Member countries at <https://www.epa.gov/hwgenerators/international-agreements-transboundary-shipments-waste>).

“Receiving facility” means a U.S. facility which, under RCRA and other applicable domestic laws, is operating or is authorized to operate to receive hazardous wastes and to perform recovery or disposal operations on them.

“Recovery operations” means activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses, which include:

- (1) R1 Use as a fuel (other than in direct incineration) or other means to generate energy.
- (2) R2 Solvent reclamation/regeneration.
- (3) R3 Recycling/reclamation of organic substances which are not used as solvents.
- (4) R4 Recycling/reclamation of metals and metal compounds.
- (5) R5 Recycling/reclamation of other inorganic materials.
- (6) R6 Regeneration of acids or bases.
- (7) R7 Recovery of components used for pollution abatement.
- (8) R8 Recovery of components used from catalysts.
- (9) R9 Used oil re-refining or other reuses of previously used oil.

(10) R10 Land treatment resulting in benefit to agriculture or ecological improvement.

(11) R11 Uses of residual materials obtained from any of the operations numbered R1 through R10 or RC14 (for transboundary shipments with Canada only).

(12) R12 Exchange of wastes for submission to any of the operations numbered R1 through R11 or RC14 (for transboundary shipments with Canada only).

(13) R13 Accumulation of material intended for any operation numbered R1 through R12 or RC14 (for transboundary shipments with Canada only).

(14) RC14 Recovery or regeneration of a substance or use or re-use of a recyclable material, other than by any of operations R1 through R10 (for transboundary shipments with Canada only).

(15) RC15 Testing of a new technology to recycle a hazardous recyclable material (for transboundary shipments with Canada only).

(16) RC16 Interim storage prior to any of operations R1 through R11 or RC14 (for transboundary shipments with Canada only).

"Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one country to an area under the national jurisdiction of another country.

Revise 61-79.262.82 to read:

(a) Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in R.61-79.260.11.

(1) Green list wastes.

(i) Green wastes that are not hazardous wastes are subject to existing controls normally applied to commercial transactions, and are not subject to the requirements of this subpart.

(ii) Green wastes that are hazardous wastes are subject to the requirements of this subpart.

(2) Amber list wastes.

(i) Amber wastes that are hazardous wastes are subject to the requirements of this subpart, even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export.

(A) For exports, the exporter must comply with R.61-79.262.83.

(B) For imports, the recovery or disposal facility and the importer must comply with section 262.84.

(ii) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of this subpart. All responsibilities of the importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

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Note to paragraph (a)(2): Some Amber list wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of this subpart. Regardless of the status of the waste under RCRA, however, other Federal environmental statutes (e.g., the Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions continue to apply with regard to this subpart.

(3) Mixtures of wastes.

(i) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not hazardous waste is not subject to the requirements of this subpart.

Note to Paragraph (a)(3)(i): The regulated community should note that some countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.

(ii) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is hazardous waste is subject to the requirements of this subpart.

Note to Paragraph (a)(3)(ii): The regulated community should note that some countries may require, by domestic law, that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.

(4) Wastes not yet assigned to an OECD waste list are eligible for transboundary movements, as follows:

(i) If such wastes are hazardous wastes, such wastes are subject to the requirements of this subpart.

(ii) If such wastes are not hazardous wastes, such wastes are not subject to the requirements of this subpart.

(b) General conditions applicable to transboundary movements of hazardous waste.

(1) The hazardous waste must be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the country of import;

(2) The transboundary movement must be in compliance with applicable international transport agreements; and

Note to Paragraph (b)(2): These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

(3) Any transit of hazardous waste through one or more countries must be conducted in compliance with all applicable international and national laws and regulations.

(c) Duty to return wastes subject to the Amber control procedures during transit through the United States. When a transboundary movement of hazardous wastes transiting the United States and subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover or dispose of these wastes in an environmentally sound manner, the waste must be returned to the country of export. The U.S. transporter must inform EPA at the specified mailing address in paragraph (e) of this section of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter must complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned countries.

(d) Laboratory analysis exemption. Export or import of a hazardous waste sample is exempt from the requirements of this subpart if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed twenty-five (25) kilograms in quantity, is appropriately packaged and labeled, and complies with the conditions of R.61-79.261.4(d) or (e).

(e) EPA Address for submittals by postal mail or hand delivery. Submittals required in this subpart to be made by postal mail or hand delivery should be sent to the following addresses:

(1) For postal mail delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch (Mail Code 2255A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

(2) For hand delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch, Environmental Protection Agency, William Jefferson Clinton South Bldg., Room 6144, 1200 Pennsylvania Ave., NW., Washington, DC 20004.”

Revise 61-79.262.83 title to read:

262.83. Exports of hazardous waste.

Revise 61-79.262.83(a) and add items 262.83(a)(1) to 262.83(a)(6) to read:

(a) General export requirements. Except as provided in paragraphs (a)(5) and (6) of this section, exporters that have received an AOC from EPA before December 31, 2016, are subject to that approval and the requirements listed in the AOC that existed at the time of that approval until such time the approval period expires. All other exports of hazardous waste are prohibited unless:

- (1) The exporter complies with the contract requirements in paragraph (f) of this section;
- (2) The exporter complies with the notification requirements in paragraph (b) of this section;
- (3) The exporter receives an AOC from EPA documenting consent from the countries of import and transit (and original country of export if exporting previously imported hazardous waste);
- (4) The exporter ensures compliance with the movement documents requirements in paragraph (d) of this section;
- (5) The exporter ensures compliance with the manifest instructions for export shipments in paragraph (c) of this section; and
- (6) The exporter or a U.S. authorized agent:
 - (i) For shipments initiated prior to the AES filing compliance date, does one of the following:
 - (A) Submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:
 - (1) EPA license code;

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(2) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

(3) EPA consent number for each hazardous waste;

(4) Country of ultimate destination code per 15 CFR 30.6(a)(5);

(5) Date of export per 15 CFR 30.6(a)(2);

(6) RCRA hazardous waste manifest tracking number, if required;

(7) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(8) EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(B) Complies with a paper-based process by:

(1) Attaching paper documentation of consent (i.e., a copy of the EPA Acknowledgment of Consent, international movement document) to the manifest, or shipping papers if a manifest is not required, which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with the paper documentation of consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the paper documentation of consent to the shipping paper.

(2) Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, email or fax to deliver that copy to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with 40 CFR 263.20(g)(4)(ii).

(ii) For shipments initiated on or after the AES filing compliance date, submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

(A) EPA license code;

(B) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

(C) EPA consent number for each hazardous waste;

(D) Country of ultimate destination code per 15 CFR 30.6(a)(5);

(E) Date of export per 15 CFR 30.6(a)(2);

(F) RCRA hazardous waste manifest tracking number, if required;

(G) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(H) EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

Revise 61-79.262.83(b) and add items 262.83(b)(1)(iv) to 262.83(b)(1)(xiii) and remove items 262.83(b)(2)(i) to 262.83(b)(2)(ii) to read:

(b) Notifications—

(1) General notifications. At least sixty (60) days before the first shipment of hazardous waste is expected to leave the United States, the exporter must provide notification in English to EPA of the proposed transboundary movement. Notifications must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one (1) year of shipments of one or more hazardous wastes being sent to the same recovery or disposal facility, and must include all of the following information:

(i) Exporter name and EPA identification number, address, telephone and fax numbers, and e-mail address;

(ii) Foreign receiving facility name, address, telephone and fax numbers, e-mail address, technologies employed, and the applicable recovery or disposal operations as defined in R.61-79.262.81;

(iii) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone and fax numbers, and e-mail address;

(iv) Intended transporter(s) and/or their agent(s); address, telephone and fax numbers, and e-mail address;

(v) "U.S." as the country of export name, "USA01" as the relevant competent authority code, and the intended U.S. port(s) of exit;

(vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

(vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and port of entry for the country of import;

(viii) Statement of whether the notification covers a single shipment or multiple shipments;

(ix) Start and End Dates requested for transboundary movements;

(x) Means of transport planned to be used;

(xi) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR part 273, or the state equivalent, spent lead-acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i), or the state equivalent, estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each waste;

(xii) Specification of the recovery or disposal operation(s) as defined in section 262.81.

(xiii) Certification/Declaration signed by the exporter that states:

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I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement.

Name: _____

Signature: _____

Date: _____

(2) Exports to pre-consented recovery facilities in OECD Member countries. If the recovery facility is located in an OECD Member country and has been pre-consented by the competent authority of the OECD Member country to recover the waste sent by exporters located in other OECD Member countries, the notification may cover up to three (3) years of shipments. Notifications proposing export to a pre-consented facility in an OECD Member country must include all information listed in paragraphs (b)(1)(i) through (b)(1)(xiii) of this section and additionally state that the facility is pre-consented. Exporters must submit the notification to EPA using the allowable methods listed in paragraph (b)(1) of this section at least ten (10) days before the first shipment is expected to leave the United States.

Revise 61-79.262.83(b) to add items 262.83(b)(3) to 262.83(b)(8) to read:

(3) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, or in the case of transboundary movements with Canada, any of the interim recovery operations R12, R13, or RC16, or interim disposal operations D13 to D14, or DC17, the notification submitted according to paragraph (b)(1) of this section must also include the final foreign recovery or disposal facility name, address, telephone and fax numbers, e-mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC14 to RC15, D1 through D12, and DC15 to DC16 will be employed at the final foreign recovery or disposal facility. The recovery and disposal operations in this paragraph are defined in R.61-79.262.81.

(4) Renotifications. When the exporter wishes to change any of the information specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the exporter must submit a renotification of the changes to EPA using the allowable methods in paragraph (b)(1) of this section. Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an EPA AOC letter documenting the countries' consents to the changes.

(5) For cases where the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, EPA will coordinate with the Department of State to provide the complete notification to the country of import and any countries of transit. In all other cases, EPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (b)(1)(i) through (b)(1)(xiii) of this section.

(6) Where the countries of import and transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the exporter documenting the countries' consents. Where any of the countries of import and transit objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the exporter.

(7) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in R.61-79.262.83, including providing notification to EPA in accordance with paragraph (b)(1) of this section. In addition to listing all required information in paragraphs

(b)(1)(i) through (b)(1)(xiii) of this section, the exporter must provide the original consent number issued for the initial import of the wastes in the notification, and receive an AOC from EPA documenting the consent of the competent authorities in the new country of import, the original country of export, and any transit countries prior to re-export.

(8) Upon request by EPA, the exporter must furnish to EPA any additional information which the country of import requests in order to respond to a notification.

Revise 61-79.262.83(c) and add items 262.83(c)(1) to 262.83(c)(4) to read:

(c) RCRA manifest instructions for export shipments. The exporter must comply with the manifest requirements of R.61-79.262.20 through 262.23 except that:

(1) In lieu of the name, site address and EPA identification number of the designated permitted facility, the exporter must enter the name and site address of the foreign receiving facility;

(2) In the International Shipments block, the exporter must check the export box and enter the U.S. port of exit (city and state) from the United States.

(3) The exporter must list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use a Continuation Sheet(s) (EPA Form 8700-22A).

(4) The exporter may obtain the manifest from any source that is registered with the U.S. EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

Revise 61-79.262.83(d) and add items 262.83(d)(1)(i) to 262.83(d)(2)(xv) and remove 262.83(d)(3) through (14) to read:

(d) Movement document requirements for export shipments.

(1) All exporters must ensure that a movement document meeting the conditions of paragraph (d)(2) of this section accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until it reaches the foreign receiving facility, including cases in which the hazardous waste is stored and/or sorted by the foreign importer prior to shipment to the foreign receiving facility, except as provided in paragraphs (d)(1)(i) and (ii) of this section.

(i) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the exporter must forward the movement document to the last water (bulk shipment) transporter to handle the hazardous waste in the United States if exported by water.

(ii) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the exporter must forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if exported by rail.

(2) The movement document must include the following paragraphs (d)(2)(i) through (xv) of this section:

(i) The corresponding consent number(s) and hazardous waste number(s) for the listed hazardous waste from the relevant EPA AOC(s);

(ii) The shipment number and the total number of shipments from the EPA AOC;

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(iii) Exporter name and EPA identification number, address, telephone and fax numbers, and e-mail address;

(iv) Foreign receiving facility name, address, telephone and fax numbers, e-mail address, technologies employed, and the applicable recovery or disposal operations as defined in R.61-79.262.81;

(v) Foreign importer name (if not the owner or operator of the foreign receiving facility), address, telephone and fax numbers, and e-mail address;

(vi) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, applicable OECD waste code for each hazardous waste from the lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(vii) Date movement commenced;

(viii) Name (if not exporter), address, telephone and fax numbers, and e-mail address of company originating the shipment;

(ix) Company name, EPA identification number, address, telephone and fax numbers, and e-mail address of all transporters;

(x) Identification (license, registered name or registration number) of means of transport, including types of packaging;

(xi) Any special precautions to be taken by transporter(s);

(xii) Certification/declaration signed and dated by the exporter that the information in the movement document is complete and correct;

(xiii) Appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the foreign receiving facility);

(xiv) Each U.S. person that has physical custody of the hazardous waste from the time the movement commences until it arrives at the foreign receiving facility must sign the movement document (e.g., transporter, foreign importer, and owner or operator of the foreign receiving facility); and

(xv) As part of the contract requirements per paragraph (f) of this section, the exporter must require that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter, to the competent authorities of the countries of import and transit, and for shipments occurring on or after the electronic import-export reporting compliance date, the exporter must additionally require that the foreign receiving facility send a copy to the EPA at the same time using the allowable methods listed in paragraph (b)(1) of this section.

Revise 61-79.262.83(e) to read:

(e) Duty to return or re-export hazardous waste. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter must ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within ninety (90) days from the time the country of import informs EPA of the need to return the waste or such other

period of time as the concerned countries agree. In all cases, the exporter must submit an exception report to EPA in accordance with paragraph (h) of this section.

Revise 61-79.262.83 to add subsections 262.83(f), 262.83(g), 262.83(h), and 262.83(i) to read:

(f) Export contract requirements.

(1) Exports of hazardous waste are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the exporter, foreign importer (if different from the foreign receiving facility), and the owner or operator of the foreign receiving facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

(2) Contracts or equivalent arrangements must specify the name and EPA identification number, where available, of paragraph (f)(2)(i) through (iv) of this section:

(i) The company from where each export shipment of hazardous waste is initiated;

(ii) Each person who will have physical custody of the hazardous wastes;

(iii) Each person who will have legal control of the hazardous wastes; and

(iv) The foreign receiving facility.

(3) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:

(i) The transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, EPA, and either the competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; and

(ii) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of hazardous wastes and, as the case may be, shall provide the notification for re-export to the competent authority in the country of import and include the equivalent of the information required in paragraph (b)(1) of this section, the original consent number issued for the initial export of the hazardous wastes in the notification, and obtain consent from EPA and the competent authorities in the new country of import and any transit countries prior to re-export.

(4) Contracts must specify that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three (3) working days of shipment delivery to the exporter and to the competent authorities of the countries of import and transit. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in paragraph (b)(1) of this section on or after that date.

(5) Contracts must specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of

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the waste, to the exporter and to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in paragraph (b)(1) of this section on or after that date.

(6) Contracts must specify that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC17, (recovery and disposal operations defined in 40 CFR 262.81), as appropriate, will:

(i) Provide the notification required in paragraph (f)(3)(ii) of this section prior to any re-export of the hazardous wastes to a final foreign recovery or disposal facility in a third country; and

(ii) Promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility within one (1) year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, DC15, or DC16 to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign facility send copies to EPA at the same time using the allowable method listed in paragraph (b)(1) of this section on or after that date.

(7) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of the country of import and any countries of transit, in accordance with applicable national or international law requirements.

Note to Paragraph (f)(7): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, persons or facilities located in those OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(8) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this subpart.

(9) Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity).

(g) Annual reports. The exporter shall file an annual report with EPA no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. Prior to one (1) year after the AES filing compliance date, the exporter must mail or hand-deliver annual reports to EPA using one of the addresses specified in section 262.82(e), or submit to EPA using the allowable methods specified in paragraph (b)(1) of this section if the exporter has electronically filed EPA information in AES, or its successor system, per paragraph (a)(6)(i)(A) of this section for all shipments made the previous calendar year. Subsequently, the exporter must submit annual reports to EPA using the allowable methods specified in paragraph (b)(1) of this section. The annual report must include all of the following paragraphs (g)(1) through (6) of this section specified as follows:

- (1) The EPA identification number, name, and mailing and site address of the exporter filing the report;
- (2) The calendar year covered by the report;

- (3) The name and site address of each foreign receiving facility;
- (4) By foreign receiving facility, for each hazardous waste exported:
 - (i) A description of the hazardous waste;
 - (ii) The applicable EPA hazardous waste code(s) (from R.61-79.261 subpart C or D) for each waste;
 - (iii) The applicable waste code from the appropriate OECD waste list incorporated by reference in 40 CFR 260.11;
 - (iv) The applicable DOT ID number;
 - (v) The name and U.S. EPA identification number (where applicable) for each transporter used over the calendar year covered by the report; and
 - (vi) The consent number(s) under which the hazardous waste was shipped, and for each consent number, the total amount of the hazardous waste and the number of shipments exported during the calendar year covered by the report;
- (5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than one hundred (100) kilograms but less than one thousand (1,000) kilograms in a calendar month, and except for hazardous waste for which information was already provided pursuant to R.61-79.262.41:
 - (i) A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and
 - (ii) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and
- (6) A certification signed by the exporter that states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(h) Exception reports.

- (1) The exporter must file an exception report in lieu of the requirements of section 262.42 (if applicable) with EPA if any of the following occurs:
 - (i) The exporter has not received a copy of the RCRA hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the hazardous waste from the United States, within forty-five (45) days from the date it was accepted by the initial transporter, in which case the exporter must file the exception report within the next thirty (30) days;
 - (ii) The exporter has not received a written confirmation of receipt from the foreign receiving facility in accordance with paragraph (d) of this section within ninety (90) days from the date the waste was accepted by the initial transporter in which case the exporter must file the exception report within the next thirty (30) days; or

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(iii) The foreign receiving facility notifies the exporter, or the country of import notifies EPA, of the need to return the shipment to the U.S. or arrange alternate management, in which case the exporter must file the exception report within thirty (30) days of notification, or one (1) day prior to the date the return shipment commences, whichever is sooner.

(2) Prior to the electronic import-export reporting compliance date, exception reports must be mailed or hand delivered to EPA using the addresses listed in R.61-79.262.82(e). Subsequently, exception reports must be submitted to EPA using the allowable methods listed in paragraph (b)(1) of this section.

(i) Recordkeeping.

(1) The exporter shall keep the following records in paragraphs (i)(1)(i) through (v) of this section and provide them to EPA or authorized state personnel upon request:

(i) A copy of each notification of intent to export and each EPA AOC for a period of at least three (3) years from the date the hazardous waste was accepted by the initial transporter;

(ii) A copy of each annual report for a period of at least three (3) years from the due date of the report;

(iii) A copy of any exception reports and a copy of each confirmation of receipt (i.e., movement document) sent by the foreign receiving facility to the exporter for at least three (3) years from the date the hazardous waste was accepted by the initial transporter; and

(iv) A copy of each confirmation of recovery or disposal sent by the foreign receiving facility to the exporter for at least three (3) years from the date that the foreign receiving facility completed interim or final processing of the hazardous waste shipment.

(v) A copy of each contract or equivalent arrangement established per section 262.85 for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(2) Exporters may satisfy these recordkeeping requirements by retaining electronically submitted documents in the exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No exporter may be held liable for the inability to produce such documents for inspection under this section if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the exporter bears no responsibility.

(3) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department.

Revise 61-79.262.84 title to read:

262.84. Imports of hazardous waste.

Revise 61-79.262.84(a) and add items 262.84(a)(3) to 262.84(a)(5) read:

(a) General import requirements.

(1) With the exception of paragraph (a)(5) of this section, importers of shipments covered under a consent from EPA to the country of export issued before December 31, 2016, are subject to that approval and the requirements that existed at the time of that approval until such time the approval period expires. Otherwise, any

other person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this part and the special requirements of this subpart.

(2) In cases where the country of export does not require the foreign exporter to submit a notification and obtain consent to the export prior to shipment, the importer must submit a notification to EPA in accordance with paragraph (b) of this section.

(3) The importer must comply with the contract requirements in paragraph (f) of this section.

(4) The importer must ensure compliance with the movement documents requirements in paragraph (d) of this section; and

(5) The importer must ensure compliance with the manifest instructions for import shipments in paragraph (c) of this section.

Revise 61-79.262.84(b) to read:

(b) Notifications. In cases where the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste:

Revise 61-79.262.84(b)(1) and add items 262.84(b)(1)(i) to 262.84(b)(1)(xiii) to read:

(1) The importer is required to provide notification in English to EPA of the proposed transboundary movement of hazardous waste at least sixty (60) days before the first shipment is expected to depart the country of export. Notifications submitted prior to the electronic import-export reporting compliance date must be mailed or hand delivered to EPA at the addresses specified in section 262.82(e). Notifications submitted on or after the electronic import-export reporting compliance date must be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one (1) year of shipments of one (1) or more hazardous wastes being sent from the same foreign exporter, and must include all of the following information:

(i) Foreign exporter name, address, telephone and fax numbers, and e-mail address;

(ii) Receiving facility name, EPA identification number, address, telephone and fax numbers, e-mail address, technologies employed, and the applicable recovery or disposal operations as defined in section 262.81;

(iii) Importer name (if not the owner or operator of the receiving facility), EPA identification number, address, telephone and fax numbers, and e-mail address;

(iv) Intended transporter(s) and/or their agent(s); address, telephone and fax numbers, and e-mail address;

(v) "U.S." as the country of import, "USA01" as the relevant competent authority code, and the intended U.S. port(s) of entry;

(vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

(vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and port of exit for the country of export;

(viii) Statement of whether the notification covers a single shipment or multiple shipments;

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(ix) Start and End Dates requested for transboundary movements;

(x) Means of transport planned to be used;

(xi) Description(s) of each hazardous waste, including whether each hazardous waste is regulated universal waste under 40 CFR part 273, or the state equivalent, spent lead-acid batteries being exported for recovery of lead under 40 CFR part 266, subpart G, or the state equivalent, or industrial ethyl alcohol being exported for reclamation under 40 CFR 261.6(a)(3)(i), or the state equivalent, estimated total quantity of each hazardous waste, the applicable RCRA hazardous waste(s) for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(xii) Specification of the recovery or disposal operation(s) as defined in section 262.81; and

(xiii) Certification/Declaration signed by the importer that states:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement.

Name:

Signature:

Date:

Note to Paragraph (b)(1)(xiii): The United States does not currently require financial assurance for these waste shipments.

Revise 61-79.262.84(b)(2) to 262.84(b)(6) and remove 262.84(b)(7) to read:

(2) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in paragraph (b)(1)(ii) of this section will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, the notification submitted according to paragraph (b)(1) of this section must also include the final recovery or disposal facility name, address, telephone and fax numbers, e-mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, will be employed at the final recovery or disposal facility. The recovery and disposal operations in this paragraph are defined in 262.81.

(3) Renotifications. When the foreign exporter wishes to change any of the conditions specified on the original notification (including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters), the importer must submit a renotification of the changes to EPA using the allowable methods in paragraph (b)(1) of this section. Any shipment using the requested changes cannot take place until EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.

(4) A notification is complete when EPA determines the notification satisfies the requirements of paragraph (b)(1)(i) through (xiii) of this section.

(5) Where EPA and the countries of transit consent to the proposed transboundary movement(s) of the hazardous waste(s), EPA will forward an EPA AOC letter to the importer documenting the countries' consents and EPA's consent. Where any of the countries of transit or EPA objects to the proposed transboundary movement(s) of the hazardous waste or withdraws a prior consent, EPA will notify the importer.

(6) Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in section 262.83(b)(7).

Revise 61-79.262.84(c) and add items 262.84(c)(1) to 262.84(c)(5) to read:

(c) RCRA Manifest instructions for import shipments.

(1) When importing hazardous waste, the importer must meet all the requirements of section 262.20 for the manifest except that:

(i) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used.

(ii) In place of the generator's signature on the certification statement, the importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(2) The importer may obtain the manifest form from any source that is registered with the EPA as a supplier of manifests (e.g., states, waste handlers, and/or commercial forms printers).

(3) In the International Shipments block, the importer must check the import box and enter the point of entry (city and state) into the United States.

(4) The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with R.61-79.264.71(a)(3) and 265.71(a)(3).

(5) In lieu of the requirements of R.61-79.262.20(d), where a shipment cannot be delivered for any reason to the receiving facility, the importer must instruct the transporter in writing via fax, e-mail or mail to:

(i) Return the hazardous waste to the foreign exporter or designate another facility within the United States; and

(ii) Revise the manifest in accordance with the importer's instructions.

Revise 61-79.262.84(d) and add items 262.84(d)(1) and 262.84(d)(2) to read:

(d) Movement document requirements for import shipments.

(1) The importer must ensure that a movement document meeting the conditions of paragraph (d)(2) of this section accompanies each transboundary movement of hazardous wastes from the initiation of the shipment in the country of export until it reaches the receiving facility, including cases in which the hazardous waste is stored and/or sorted by the importer prior to shipment to the receiving facility, except as provided in paragraphs (d)(1)(i) and (ii) of this section.

(i) For shipments of hazardous waste within the United States by water (bulk shipments only), the importer must forward the movement document to the last water (bulk shipment) transporter to handle the hazardous waste in the United States if imported by water.

(ii) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the importer must forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if imported by rail.

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(2) The movement document must include the following paragraphs (d)(2)(i) through (xv) of this section:

(i) The corresponding AOC number(s) and waste number(s) for the listed waste;

(ii) The shipment number and the total number of shipments under the AOC number;

(iii) Foreign exporter name, address, telephone and fax numbers, and e-mail address;

(iv) Receiving facility name, EPA identification number, address, telephone and fax numbers, e-mail address, technologies employed, and the applicable recovery or disposal operations as defined in section 262.81;

(v) Importer name (if not the owner or operator of the receiving facility), EPA identification number, address, telephone and fax numbers, and e-mail address;

(vi) Description(s) of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code(s) for each hazardous waste, the applicable OECD waste code for each hazardous waste from the lists incorporated by reference in 40 CFR 260.11, and the United Nations/U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(vii) Date movement commenced;

(viii) Name (if not the foreign exporter), address, telephone and fax numbers, and e-mail of the foreign company originating the shipment;

(ix) Company name, EPA identification number, address, telephone and fax numbers, and e-mail address of all transporters;

(x) Identification (license, registered name or registration number) of means of transport, including types of packaging;

(xi) Any special precautions to be taken by transporter(s);

(xii) Certification/declaration signed and dated by the foreign exporter that the information in the movement document is complete and correct;

(xiii) Appropriate signatures for each custody transfer (e.g., transporter, importer, and owner or operator of the receiving facility);

(xiv) Each person that has physical custody of the waste from the time the movement commences until it arrives at the receiving facility must sign the movement document (e.g., transporter, importer, and owner or operator of the receiving facility); and

(xv) The receiving facility must send a copy of the signed movement document to confirm receipt within three (3) working days of shipment delivery to the foreign exporter, to the competent authorities of the countries of export and transit, and for shipments received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

Revise 61-79.262.84(e) to read:

(e) Duty to return or export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s), the provisions of paragraph (f)(4) of this section apply. If alternative arrangements cannot be made to recover the hazardous waste in an

environmentally sound manner in the United States, the hazardous waste must be returned to the country of export or exported to a third country. The provisions of paragraph (b)(6) of this section apply to any hazardous waste shipments to be exported to a third country. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit and provides a copy of that consent to the importer.

Revise 61-79.262.84 to add subsections 262.84(f), 262.84(g), and 262.84(h) to read:

(f) Import contract requirements.

(1) Imports of hazardous waste must occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the foreign exporter, importer, and the owner or operator of the receiving facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

(2) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of paragraph (f)(2)(i) through (iv) of this section:

(i) The foreign company from where each import shipment of hazardous waste is initiated;

(ii) Each person who will have physical custody of the hazardous wastes;

(iii) Each person who will have legal control of the hazardous wastes; and

(iv) The receiving facility.

(3) Contracts or equivalent arrangements must specify the use of a movement document in accordance with section 262.84(d).

(4) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export submitted by either the foreign exporter or the importer. In such cases, contracts must specify that:

(i) The transporter or receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the foreign exporter and importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; and

(ii) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of the hazardous wastes and, as the case may be, shall provide the notification for re-export required in section 262.83(b)(7).

(5) Contracts must specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC15 through DC17, as appropriate, will provide the notification required in section 262.83(b)(7) prior to the re-export of hazardous wastes. The recovery and disposal operations in this paragraph are defined in section 262.81.

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(6) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements.

Note to paragraph (f)(6): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some OECD Member countries or other foreign countries do. It is the responsibility of the importer to ascertain and comply with such requirements; in some cases, persons or facilities located in those countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(7) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this subpart.

(8) Upon request by EPA, importers or disposal or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity).

(g) Confirmation of recovery or disposal. The receiving facility must do the following:

(1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(2) If the receiving facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, the receiving facility shall promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one (1) year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC14 to RC15, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export, and for confirmations received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this paragraph are defined in R.61-79.262.81.

(h) Recordkeeping.

(1) The importer shall keep the following records and provide them to EPA or authorized state personnel upon request:

(i) A copy of each notification that the importer sends to EPA under paragraph (b)(1) of this section and each EPA AOC it receives in response for a period of at least three (3) years from the date the hazardous waste was accepted by the initial foreign transporter; and

(ii) A copy of each contract or equivalent arrangement established per paragraph (f) of this section for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(2) The receiving facility shall keep the following records:

(i) A copy of each confirmation of receipt (i.e., movement document) that the receiving facility sends to the foreign exporter for at least three (3) years from the date it received the hazardous waste;

(ii) A copy of each confirmation of recovery or disposal that the receiving facility sends to the foreign exporter for at least three (3) years from the date that it completed processing the waste shipment;

(iii) For the receiving facility that performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17 (recovery and disposal operations defined in section 262.81), a copy of each confirmation of recovery or disposal that the final recovery or disposal facility sent to it for at least three (3) years from the date that the final recovery or disposal facility completed processing the waste shipment; and

(iv) A copy of each contract or equivalent arrangement established per paragraph (f) of this section for at least three (3) years from the expiration date of the contract or equivalent arrangement.

(3) Importers and receiving facilities may satisfy these recordkeeping requirements by retaining electronically submitted documents in the importer's or receiving facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No importer or receiving facility may be held liable for the inability to produce such documents for inspection under this section if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system for which the importer or receiving facility bears no responsibility.

(4) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Department.

Revise 61-79.262.85 to remove and reserve:

262.85. [Reserved]

Revise 61-79.262.86 to remove and reserve:

262.86. [Reserved]

Revise 61-79.262.87 to remove and reserve:

262.87. [Reserved]

Add 61-79.262.88 and reserve:

262.88. [Reserved]

Revise 61-79.262.89 to remove and reserve:

262.89. [Reserved]

Revise 61-79.262 Appendix to Part 262 II Item 16 to read:

For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry (city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States.

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Revise 61-79.263.10(d) to read:

(d) A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to this subpart and to all other relevant requirements of R.61-79.262 subpart H, including, but not limited to, R.61-79.262.83(d) and 262.84(d) for movement documents.

Revise 61-79.263.20(a)(2) to read:

(2) Exports. For exports of hazardous waste subject to the requirements of part 262 subpart H, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by section 262.83(d).

Revise 61-79.263.20(c) to read:

(c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by section 262.83(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by section 262.84(d) also accompanies the hazardous waste.

Revise 61-79.263.20(e)(2) to read:

(2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by sections 262.83(d) or 262.84(d) accompanies the hazardous waste; and

Revise 61-79.263.20(f)(2) to read:

(2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by sections 262.83(d) or 262.84(d) accompanies the hazardous waste at all times.

Note: Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.

Revise 61-79.263.20(g)(4) and add items 263.20(g)(4)(i) and 263.20(g)(4)(ii) to read:

(4) For paper manifests only,

(i) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in section 264.71(a)(2)(v); and

(ii) For shipments initiated prior to the AES filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

Revise 61-79.264.12(a) to add items 264.12(a)(3) and 264.12(a)(4) to read:

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H from a foreign source must submit the following required notices:

(1) As per section 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in section 262.84(b)(1) at least sixty (60) days before the first shipment is expected to depart the country of export. The notification may cover up to one (1) year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) As per section 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system for which the owner or operator of a facility bears no responsibility.

(3) As per section 262.84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in section 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) As per section 262.84(g), such owner or operator shall:

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS, or its successor system.

(ii) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS, or its successor system. The recovery and disposal operations in this paragraph are defined in section 262.81.

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Revise 61-79.264.71(a)(3) and add items 264.71(a)(3)(i) and 264.71(a)(3)(ii) to read:

(3) The owner or operator of a facility receiving hazardous waste subject to part 262 subpart H, from a foreign source must:

(i) Additionally, list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700-22A); and

(ii) Send a copy of the manifest within thirty (30) days of delivery to EPA using the addresses listed in section 262.82(e) until the facility can submit such a copy to the e-Manifest system per paragraph (a)(2)(v) of this section.

Revise 61-79.264.71(d) to read:

(d) As per section 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS, or its successor system. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

Revise 61-79.265.12(a) and add items 265.12(a)(3) and 265.12(a)(4) to read:

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to part 262 subpart H from a foreign source must submit the following required notices:

(1) As per section 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in section 262.84(b)(1) at least sixty (60) days before the first shipment is expected to depart the country of export. The notification may cover up to one (1) year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) As per section 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS, or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the

documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

(3) As per section 262.84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in section 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) As per section 262.84(g), such owner or operator shall:

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty (30) days after completing recovery or disposal on the waste in the shipment and no later than one (1) calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS, or its successor system.

(ii) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one (1) year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS, or its successor system. The recovery and disposal operations in this paragraph are defined in section 262.81.

Revise 61-79.265.71(a)(3) and add items 265.71(a)(3)(i) and 265.71(a)(3)(ii) to read:

(3) The owner or operator of a facility that receives hazardous waste subject to part 262, subpart H, from a foreign source must:

(i) Additionally, list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700-22A); and

(ii) Send a copy of the manifest to EPA using the addresses listed in section 262.82(e) within thirty (30) days of delivery until the facility can submit such a copy to the e-Manifest system per paragraph (a)(2)(v) of this section.

Revise 61-79.265.71(d) to read:

(d) As per section 262.84(d)(2)(xv), within three (3) working days of the receipt of a shipment subject to part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's WIETS, or its successor system. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce

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the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

Revise 61-79.266.70(b) to read:

(1) Notification requirements under SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA;

Revise 61-79.266.70(b)(3) to read:

(3) For precious metals exported to or imported from other countries for recovery, part 262 subpart H and 265.12.

Revise 61-79.266.80(a) to read:

Table 1 – 266.80 Applicability and requirements			
If your batteries...	And if you...	Then you...	And you...
(1) Will be reclaimed through regeneration (such as by electrolyte replacement)		are exempt from 40 CFR parts 262 (except for section 262.11), 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA	are subject to 261 and section 262.11.
(2) 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 of this chapter, 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 40 CFR 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
(6) Will be reclaimed through regeneration or any other means	export these batteries for reclamation in a foreign country	are exempt from R.61-79.262 (except for R.61-79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 268, 270, 124, and the notification requirements at the SC Hazardous	are subject to R.61-79.261, 262.11, 262.18, and 262 subpart H.

		Waste Management Act 44-56-120 and section 3010 of RCRA.	
(7) Will be reclaimed through regeneration or any other means	Transport these batteries in the U.S. to export them for reclamation in a foreign country	are exempt from R.61-79.263, 264, 265, 266, 268, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA	must comply with applicable requirements in R.61-79.262, subpart H.
(8) Will be reclaimed other than through regeneration	Import these batteries from foreign country and store these batteries but you aren't the reclaimer	are exempt from R.61-79.262 (except for R.61-79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at the SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA	are subject to R.61-79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61-79.268.
(9) Will be reclaimed other than through regeneration	Import these batteries from foreign country and store these batteries before you reclaim them	must comply with section 266.80(b) and as appropriate other regulatory provisions described in section 266.80(b)	are subject to R.61-79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61-79.268.
(10) Will be reclaimed other than through regeneration	Import these batteries from foreign country and don't store these batteries before you reclaim them	are exempt from R.61-79.262 (except for R.61-79.262.11, 262.18 and subpart H), 263, 264, 265, 266, 270, 124, and the notification requirements at SC Hazardous Waste Management Act 44-56-120 and section 3010 of RCRA	are subject to R.61-79.261, 262.11, 262.18, 262 subpart H, and applicable provisions under R.61-79.268.

Revise 61-79.273.20 to read:

A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.

Revise 61-79.273.39(a) to read:

(a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document or other shipping document. The record for each shipment of universal waste received must include the following information:

Revise 61-79.273.39(b) to read:

(b) Shipments off-site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, movement document or other shipping document. The record for each shipment of universal waste sent must include the following information:

Revise 61-79.273.40 to read:

A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of part 262, subpart H.

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Revise 61-79.273.56 to read:

A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of part 262, subpart H.

Revise 61-79.273.62(a) to read:

(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document or other shipping document. The record for each shipment of universal waste received must include the following information:

Revise 61-79.273.70 to read:

Persons managing universal waste that is imported from a foreign country into the United States are subject to the requirements of part 262, subpart H, and the applicable requirements of this part, immediately after the waste enters the United States, as indicated in paragraphs (a) through (c) of this section:

Statement of Need and Reasonableness

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: 61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of the amendment is to maintain state consistency with regulations of the United States Environmental Protection Agency (EPA), which published the final rule on November 28, 2016, at 81 FR 85696-85729.

Legal Authority: 1976 Code Section 44-56-30.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to this amendment. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

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

The Bureau of Land and Waste Management adopts the Imports and Exports of Hazardous Waste Rule published on November 28, 2016, at 81 FR 85696-85729. The rule amends the existing import and export of hazardous wastes regulations from and into the United States. This rule provides greater protection to human health and the environment by making existing import- and export-related requirements more consistent with the current import-export requirements for shipments between member of the Organization for Economic Cooperation and Development (OECD), enables electronic submittal to EPA of all import- and export-related documents, and enables electronic validation of consent in the Automated Export System (AES) for export shipments subject to RCRA export consent requirements prior to exit. Adoption of this rule is required to comply with federal law and brings R.61-79 into conformity with the federal regulation.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increased cost to the state or its political subdivisions resulting from this revision. There will likely be a slight increase in costs to the regulated community for compliance from this revision.

Amendments to R.61-79 will make existing import- and export-related requirements more consistent with the current import-export requirements for shipments between members of the Organization for Economic Cooperation and Development, enable electronic submittal to the EPA of all import- and export-related

documents, and enable electronic validation of consent in the Automated Export System for export shipments to the RCRA export consent requirements prior to exit.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The revision to R.61-79 will provide continued protection of the environment and human health in accordance with updates to federal law.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

If the regulation is not implemented the EPA's delegation of authority to the state to implement environmental protection programs would be compromised. As a delegated state program, the EPA requires that the state's regulations be at least as stringent as, and equivalent to, the federal regulations. Adoption of these revisions ensure equivalency with federal requirements.