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Document No. 3225

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations

**Synopsis:**

The Department adopted amendments to Regulation 61-79 promulgated by the US Environmental Protection Agency (US EPA) between July 1, 2006 and June 30, 2007. Adoption of federal amendments to 40 CFR 260 and 261 to R.61-79 will conform with the federal equivalent.

The federal regulation amendments affect the recycling of Cathode Ray Tubes. This rule was published at 71 FR 42928 on July 28, 2006. These amendments will be less stringent than the previous federal equivalent and will modify the current state regulations. Adoption by states is optional. Although the changes in the regulations are federal initiatives, legislative review and a fiscal impact statement are required because, while the changes will not make South Carolina less stringent than federal initiatives, the changes will be less stringent than current South Carolina regulations.

A Notice of Drafting and Notice of Proposed Regulation were published in the S.C. State Register providing notice of opportunity for public input. No public comments were received during the public comment periods or at the public hearing conducted by the Board of Health and Environmental Control as a result of these notices.

Discussion of Revisions:

Revisions are made to conform R.61-79 to reflect modified federal amendments.

These revisions provide for modification of the Universal Waste program to streamline the management requirements for recycling of used cathode ray tubes (CRTs) and glass removed from CRTs. The amendments exclude these materials from the RCRA definition of solid waste if certain conditions are met. This rule is intended to encourage handling of CRTs as commodities rather than as wastes and to promote the recycling of CRTs and reuse of used CRT glass.

Section Citation and Explanation of change

260.10 - Add the following definitions which relate to the recycling and handling of Cathode Ray Tubes in alphabetical order.

Add “Cathode Ray Tube”

Add “CRT collector”

Add “CRT glass manufacturer”

Add “CRT processing”

261.4(a)(22) - Remove the reserved status at this citation and replace it with new section changes on the handling of Cathode Ray Tubes.

Before 261.38 add a new subpart: Title E - Exclusions/Exemptions

261.39 - Add new title and text re:Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling, and text.

261.40 - Add new title and introductory paragraph text re:Conditional Exclusion for Used, Intact Cathode Ray Tubes (CRTs) exported for recycling.

261.41 - Add new title and text re:Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) exported for reuse.

**Instructions**: Amend R.61-79 pursuant to each individual instruction provided below with the text of the regulations.

**Text:**

The following sections have been added, deleted, or revised. All other sections of R.61-79 will remain.

**260.10**

**Add the following definitions in alphabetical order:**

“Cathode Ray Tube” or “CRT” means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

“CRT collector” means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

“CRT glass manufacturer” means an operation or part of an operation that uses a furnace to manufacture CRT glass.

“CRT processing” means conducting all of the following activities:

 (1) Receiving broken or intact CRTs; and

 (2) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

 (3) Sorting or otherwise managing glass removed from CRT monitors

**261.4(a)(22) Remove reserved status and add new title and text to read:**

 (22) Used Cathode Ray Tubes (CRTs)

 (i) Used, intact CRTs as defined in Sec. 260.10 of this chapter are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in 261.1(c)(8) by CRT collectors or glass processors.

 (ii) Used, intact CRTs as defined in Sec. 260.10 of this chapter are not solid wastes when exported for recycling provided that they meet the requirements of Sec. 261.40.

 (iii) Used, broken CRTs as defined in Sec. 260.10 of this chapter are not solid wastes provided that they meet the requirements of 261.39.

 (iv) Glass removed from CRTs is not a solid waste provided that it meets the requirements of 261.39(c).

**Before 261.38 add new Subpart E to read:**

Subpart E--Exclusions/Exemptions

**At 261.39 add new title and text to read:**

261.39 Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

261.39 Used, broken CRTs are not solid wastes if they meet the following conditions:

 (a) Prior to processing: These materials are not solid wastes if they are destined for recycling and if they meet the following requirements:

 (1) Storage. The broken CRTs must be either:

 (i) Stored in a building with a roof, floor, and walls, or

 (ii) Placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

 (2) Labeling. Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: “Used Cathode Ray Tube(s)-contains leaded glass” or “Leaded glass from televisions or computers.” It must also be labeled: ``Do not mix with other glass materials.''

 (3) Transportation. The used, broken CRTs must be transported in a container meeting the requirements of paragraphs (a)(1)(ii) and (2) of this section.

 (4) Speculative accumulation and use constituting disposal. The used, broken CRTs are subject to the limitations on speculative accumulation as defined in paragraph (c)(8) of this section. If they are used in a manner constituting disposal, they must comply with the applicable requirements of part 266, subpart C instead of the requirements of this section.

 (5) Exports. In addition to the applicable conditions specified in paragraphs (a)(1)-(4) of this section, exporters of used, broken CRTs must comply with the following requirements:

 (i) Notify EPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve (12) month or lesser period. The notification must be in writing, signed by the exporter, and include the following information:

 (A) Name, mailing address, telephone number and EPA ID number (if applicable) of the exporter of the CRTs.

 (B) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.

 (C) The estimated total quantity of CRTs specified in kilograms.

 (D) All points of entry to and departure from each foreign country through which the CRTs will pass.

 (E) A description of the means by which each shipment of the CRTs will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.)).

 (F) The name and address of the recycler and any alternate recycler.

 (G) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.

 (H) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.

 (ii) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 1200 Pennsylvania Ave., NW., Washington, DC. In both cases, the following shall be prominently displayed on the front of the envelope: ``Attention: Notification of Intent to Export CRTs.''

 (iii) Upon request by EPA, the exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

 (iv) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a)(5)(i) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (a)(5)(i) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

 (v) The export of CRTs is prohibited unless 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 Acknowledgment 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.

 (vi) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change, 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 (a)(5)(i)(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.

 (vii) A copy of the Acknowledgment of Consent to Export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.

 (viii) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with paragraph (a)(5)(vi) of this section and obtain another Acknowledgment of Consent to Export CRTs.

 (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.

 (b) Requirements for used CRT processing: Used, broken CRTs undergoing CRT processing as defined in Sec. 260.10 of this chapter are not solid wastes if they meet the following requirements:

 (1) Storage. Used, broken CRTs undergoing processing are subject to the requirement of paragraph (a)(4) of this section.

 (2) Processing.

 (i) All activities specified in paragraphs (2) and (3) of the definition of ``CRT processing'' in Sec. 260.10 of this chapter must be performed within a building with a roof, floor, and walls; and

 (ii) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

 (c) Processed CRT glass sent to CRT glass making or lead smelting: Glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in Sec. 261.1(c)(8).

 (d) Use constituting disposal: Glass from used CRTs that is used in a manner constituting disposal must comply with the requirements of 40 CFR part 266, subpart C instead of the requirements of this section.

**Add new title and text at 261.40:**

261.40 Conditional Exclusion for Used, Intact Cathode Ray Tubes (CRTs) Exported for Recycling.

Used, intact CRTs exported for recycling are not solid wastes if they meet the notice and consent conditions of Sec. 261.39(a)(5), and if they are not speculatively accumulated as defined in Sec. 261.1(c)(8).

**At 261.41 add new title and text to read:**

261.41 Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) Exported for Reuse.

 (a) Persons who export used, intact CRTs for reuse must send a one-time notification to the Regional Administrator. The notification must include a statement that the notifier plans to export used, intact CRTs for reuse, the notifier's name, address, and EPA ID number (if applicable) and the name and phone number of a contact person.

 (b) Persons who export used, intact CRTs for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported CRTs will be reused. This documentation must be retained for a period of at least three years from the date the CRTs were exported.

**Fiscal Impact Statement:**

There will be minimal cost to the state and its political subdivisions. See Statement of Need and Reasonableness below.

**Statement of Need and Reasonableness:**

This Statement of Need and Reasonableness complies with S. C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendment of R.61-79 Hazardous Waste Management Regulations.

Purpose: The purpose of this amendment is to maintain State consistency with modified regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 260 and 261 by the US EPA at 71 FR 42928 in the July 28, 2006 publication of the *Federal Register*.

Legal Authority: South Carolina Hazardous Waste Management Act, S. C. Code Ann. Section 44-56-10 et seq. (2002 & Supp. 2007).

Plan for Implementation: Upon review by the General Assembly and publication in the *State Register* as a final regulation, amended regulations will be provided in hard copy and electronic formats to the community at cost through the Department's Freedom of Information Office and at the Bureau web site.

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

This rule provides modification of the Universal Waste program to streamline the management requirements for recycling of used Cathode Ray Tubes (CRTs) and glass removed from CRTs. The amendments exclude these materials from the RCRA definition of solid waste if certain conditions are met. This rule is intended to encourage handling of CRTs as commodities rather than as wastes and to promote the recycling of CRTs and reuse of used CRT glass.

DETERMINATION OF COSTS AND BENEFITS:

This regulation excludes previously regulated volumes of CRTs from the federal definition of solid and hazardous waste. The economic analysis calculates administrative, storage, transportation and disposal/recovery costs.

Estimated national volumes of CRTs subject to RCRA regulation are 16,100 tons of monitors under the Subtitle C baseline. Between 3,690 tons of CRTs would be diverted from export or hazardous waste landfill to CRT glass manufacturing under this rule. The estimated average savings for a previously regulated small quantity generator is $755 per year and $1740 per year for a previously regulated large quantity generator under this rule.

The estimated cost/economic impact of this rule could save CRT handlers $3.5 million per year relative to the Subtitle C baseline. This cost savings comes from reduced administrative, transportation and disposal management costs.

Some of the benefits resulting from this rule include conservation of landfill capacity, increase in resource efficiency, growth of a recycling infrastructure for CRTs and possible reduction of lead emissions to the environment from CRT recycling. EPA estimates that nationally, there are approximately 3,690 tons or 545,000 cubic feet of CRTs per year that would be redirected away from landfills towards recycling under the EPA’s proposal. In addition, the use of processed CRT glass benefits the manufacturer in several ways, such as improving heat transfer and melting characteristics in the furnaces, lowering energy consumption, and maintaining or improving the quality of the final product. This rule will facilitate the growth and development of the CRT glass processing industry in the United States by reducing regulatory barriers to new glass processing firms becoming established. Finally, this rule will reduce lead emissions to the environment by diverting CRTs from municipal landfills and waste-to-energy facilities.

For purposes of assessing the impacts of this rule on small entities, the definition of a small entity is: (1) A small business that is defined by the Small Business Administration by category of business using the North American Industrial Classification system (NAICS) and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The small entity analysis conducted by EPA for this proposal indicates that streamlining requirements for CRTs would generally result in savings to affected entities. Under the full compliance scenario, the rule is not expected to result in a net cost to any affected entity. Thus, adverse impacts are not anticipated. This action will not have a significant economic impact on a substantial number of small entities.

See Preliminary Fiscal Impact Statement above for costs to the state and its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The overall effects of this rule are expected to be beneficial to the public health and environment by promoting recycling and minimizing the hazardous waste stream. The adoption of this rule will reflect federal provisions in State law. The regulatory changes contained in the Cathode Ray Tubes final rule will have no negative impact on the many protections that EPA has established over the years for human health and the environment. Cathode Ray Tubes (CRTs) mean a vacuum tube, composed primarily of glass which is the video or visual display component of an electronic device (usually a computer or television monitor). CRTs would be considered commodities and excluded from the RCRA definition of solid waste if they were sent for recycling under certain conditions. Once the decision is made to dispose of them, the CRTs would be subject to requirements of 40 CFR part 262 and applicable land disposal restrictions (LDRs) under RCRA. They are then subject to RCRA hazardous waste determinations.

For CRTs to not be regulated as hazardous waste, certain criteria must be met. Intact CRTs could not be accumulated speculatively for longer than one year, they must be stored in a building with a roof, floor and walls. If they are not stored inside a building, they would have to be packaged and labeled under conditions identical to those proposed for used, broken CRTs prior to processing. EPA determined that intact CRTs are unlikely to release lead to the environment because the lead is contained in the plastic housing and the glass matrix. Other hazardous constituents sometimes present in CRT glass are mercury, cadmium and arsenic but these constituents are found in very low concentrations that are unlikely to exceed the Toxic Characteristic concentration limits. Broken CRTs must be stored in containers and labeled or marked clearly with “Used Cathode Ray Tubes-contains leaded glass” or “leaded glass from televisions or computers.” Processed CRT glass (glass removed from CRTs) that is sent to a CRT glass manufacturer or a lead smelter must be processed in a building and no activities may be performed that uses temperatures high enough to volatilize lead.

Recyclers that intend to export Used CRTs (broken or intact) for recycling must provide a one-time notification of intent to export and requires getting written consent from the country to which the CRTs will be exported.

These requirements do not apply to CRTs generated by households or Conditionally Exempt Small Quantity Generators.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

EPA strongly recommends the adoption of this rule because if the minimum requirements specified under the regulations are not met, neither the facilities nor the Department can ensure that Used CRTs and mercury-containing equipment will be managed in a manner protective of human health and the environment.

**Statement of Rationale:**

Upon review of the final rules published by EPA in this regulation package, an administrative decision to adopt the CRT rule was made based on the assumption that the reduction in stringency would simplify the regulations without compromising human health and the environment.

This amendment reflects a change in current federal requirements, which the EPA encourages states to adopt, although states are not required to do so. This rule amends regulations under the Resource Conservation and Recovery Act (RCRA) to streamline management requirements for recycling of used CRTs and glass removed from CRTs. The amendment excludes the materials from the RCRA definition of solid waste if certain conditions are met. This rule is intended to encourage recycling and reuse of used CRTs and CRT glass. The proposed requirements for used CRTs and processed CRT glass would exclude these materials from the RCRA definition of solid waste if they were sent for recycling under certain conditions. The purpose of the proposed amendments is to encourage increased reuse, recycling, and better management of this growing waste stream, while maintaining necessary environmental protection. The conditions are intended to ensure that the materials are handled as commodities rather than as wastes.