

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL
of the
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.

2007 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.

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Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.net via an access code, or in a printed format. Subscriptions run

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REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: www.scstatehouse.net

DOC No.	RAT FINAL No. ISSUE	SUBJECT	EXP. DATE	AGENCY
3047	SR31-2	Milk Producers Tax Credit	1/15/07	Department of Agriculture
3057	SR31-2	Retail Licenses And Partnerships	2/01/07	Department of Revenue
3002	SR31-2	Shellfish	2/08/07	Department of Health and Envir Control
3059		Highway Advertising Control	3/06/07	Department of Transportation
3042		Practice and Procedures	3/20/07	Public Service Commission
3061		Termination of the SCAAIP Joint Underwriting Association	3/21/07	Department of Insurance
3052		Telecommunications Utilities	4/09/07	Public Service Commission
3055		Public Swimming Pools	5/09/07	Department of Health and Envir Control
3069		Air Pollution Control	5/09/07	Department of Health and Envir Control
3091		Procurement	5/09/07	Budget and Control Board
3092		Licensure CPA's & Practitioners, Registration Accounting Firms	5/09/07	LLR: Board of Accountancy
3073		Farmers Markets	5/09/07	Department of Agriculture
3063		Sewerage and Water Utilities	5/09/07	Public Service Commission
3080		Nursing Programs	5/09/07	LLR: Board of Nursing
3072		Reading, Writing, and Mathematics Objectives Grades 9-12	5/09/07	Department of Education
3090		Charter School Appeals	5/09/07	Department of Education
3089		At-Risk Students	5/09/07	Department of Education
3088		Defined Program, Grades 9-12	5/09/07	Department of Education
3087		Administrative and Professional Personnel	5/09/07	Department of Education
3084		Septic Tank Site Evaluation Fees	5/17/07	Department of Health and Envir Control
3085		Non-Game and Endangered Species	5/17/07	Department of Natural Resources
3086		Hunting in Wildlife Management Areas	5/17/07	Department of Natural Resources
3083		Air Pollution Control	5/22/07	Department of Health and Envir Control
3093		Driver Training Schools	5/25/07	Department of Motor Vehicles
3094		Truck Driver Training Schools	5/25/07	Department of Motor Vehicles
3102		Practice of Psychology	5/30/07	LLR: Board of Examiners in Psychology
3103		Practice of Optometry	5/30/07	LLR: Board of Examiners in Optometry
3104		National Electrical Code	5/30/07	LLR: Building Codes Council
3105		Reporting Fatalities and Hospitalization Incidents to OSHA	5/30/07	LLR: Occupational Safety and Health
3101		Req Protesting Beer /Wine Permits or Alcoholic Liquor Licenses	6/08/07	Department of Revenue
3100		Manufactured Homes and Modular Homes	6/08/07	Department of Revenue
3096		Hazardous Waste Management	6/14/07	Department of Health and Envir Control

Committee Requested Withdrawal:

3056	End-of-Course Tests	Department of Education
2927	The Practice of Selling and Fitting Hearing Aids	Department of Health and Envir Control

Permanently Withdrawn:

3021	Penalties Noncompliance Regulated Child Care Settings	Department of Social Services
3022	Licensing of Residential Group Care Organ for Children	Department of Social Services

Resolution Introduced to Disapprove

2 EXECUTIVE ORDERS

Executive Order No. 2007-02

WHEREAS, a vacancy exists in the office of Oconee County Treasurer as a result of the resignation of Anne C. Dodd on January 19, 2007; and

WHEREAS, the undersigned is authorized to appoint a County Treasurer in the event of a vacancy pursuant to Sections 1-3-220(2), 4-11-20(1) and 12-45-20 of the South Carolina Code of Laws, as amended; and

WHEREAS, Gregorie W. Nowell of 311 Arphenia Drive, West Union, South Carolina 29696, is a fit and proper person to serve as the Treasurer of Oconee County.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Gregorie W. Nowell as Treasurer of Oconee County until the next general election and until his successor shall qualify.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 1st DAY OF FEBRUARY, 2007.**

MARK SANFORD
Governor

Executive Order No. 2007- 03

WHEREAS, on January 31, 2007 the National Weather Service issued a Winter Storm Warning for parts of the State, as temperatures were forecasted to remain below freezing and drop significantly during the night, thereby making road conditions hazardous; and

WHEREAS, in that these conditions posed a threat to the safety of some of the state's citizens, State offices in the counties of Oconee, Pickens, Greenville, Anderson, Spartanburg, Cherokee, York, Chester, Abbeville, Laurens, Greenwood, Union, Fairfield, Lancaster, Kershaw and Chesterfield were closed, either in whole or in part as directed, on February 1, 2007, and the opening of State offices in the following counties was delayed as follows: until 10:00 a.m. Richland and Lexington; and until noon McCormick, Edgefield, Saluda and Newberry.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, all State employees absent from work, in whole or in part as directed, on February 1, 2007, due to this hazardous weather emergency are hereby granted leave with pay.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 1st DAY OF FEBRUARY, 2007.**

MARK SANFORD
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication February 23, 2007, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Aiken County

Replacement of the existing single-slice Computed Tomography (CT) scanner with a sixteen (16) slice CT scanner

Aiken Regional Medical Center

Aiken, South Carolina

Project Cost: \$704,662

Affecting Charleston County

Renovation of space for expansion of the existing Fast Flow Laboratory to include the acquisition of Beckman Coulter automated lab equipment

Medical University of South Carolina

Charleston, South Carolina

Project Cost: \$2,387,210

Affecting Georgetown County

Addition of forty-two (42) general acute care beds and fourteen (14) comprehensive rehabilitation beds for a total of one hundred twenty-four (124) general acute care beds and forty-three (43) comprehensive rehabilitation beds

Waccamaw Community Hospital

Murrells Inlet, South Carolina

Project Cost: \$25,624,755

Affecting Greenville County

Replacement of the existing two-slice (2) Computed Tomography (CT) scanner at Greenville Memorial Hospital MOB with a sixteen-slice (16) CT scanner; the two-slice (2) CT scanner will be subsequently transferred to North Greenville Long Term Acute Care Hospital and will replace an existing single-slice CT scanner

Greenville Hospital System

Greenville, South Carolina

Project Cost: \$1,084,569

Affecting Lexington County

Replacement of the existing four-slice (4) Computed Tomography (CT) scanner at Lexington Medical Center with a sixty-four (64) slice CT scanner; the four-slice (4) CT scanner will be subsequently transferred to Lexington Medical Center-Lexington and will replace an existing two-slice (2) CT, which will be transferred to Lexington Medical Center-Swansea

Lexington Medical Center

West Columbia, South Carolina

Project Cost: \$1,424,055

4 NOTICES

Affecting Spartanburg County

Addition of two (2) operating rooms (ORs) and one (1) endoscopy procedure room restricted to gastroenterology procedures only for a total of nine (9) ORs and three (3) endoscopy rooms restricted to gastroenterology procedures only

Ambulatory Surgery Center of Spartanburg, LLC

Spartanburg, South Carolina

Project Cost: \$2,999,879

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning February 23, 2007. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Aiken County

Construction of a Long Term Acute Care Hospital (LTACH) consisting of thirty-four (34) general acute care beds and six (6) nursing homes beds that do not participate in the Medicaid (Title XIX) Program

Savannah River Specialty Hospital, Inc.

Aiken, South Carolina

Project Cost: \$16,982,988

Affecting Charleston County

Renovation of space for expansion of the existing Fast Flow Laboratory to include the acquisition of Beckman Coulter automated lab equipment

Medical University of South Carolina

Charleston, South Carolina

Project Cost: \$2,387,210

Addition of fifteen (15) comprehensive rehabilitation beds to be located in the 2 Center Main Hospital

Medical University of South Carolina Medical Center

Charleston, South Carolina

Project Cost: \$1,575,700

Affecting Greenville County

Renovation for the fixed installation of an existing 1.5T Magnetic Resonance Imaging (MRI) unit (currently being operated in a mobile capacity four days per week at Patewood Outpatient Center and one day per week at Hillcrest Memorial Hospital) on the first floor of the Patewood Outpatient Center and renovation for the installation of a fixed 1.5T MRI on the first floor of the Hillcrest Medical Office Building; all mobile MRI services at both locations will be discontinued upon the installation and operation of the fixed units

Greenville Hospital System

Greenville, South Carolina

Project Cost: \$3,926,810

Conversion of ten (10) existing hospital based nursing home beds at Allen Bennett Memorial Hospital (ABMH) to general acute care beds for a total of sixty-eight (68) acute care beds at ABMH; these ten (10) acute care beds will subsequently be relocated to Greer Memorial Hospital (GMH) upon the opening of GMH and the closure of ABMH for a total of eighty-two (82) acute care beds at GMH

Greenville Hospital System

Greer, South Carolina
Project Cost: \$0

Affecting Horry County

Conversion of two (2) treatment rooms into two (2) licensed endoscopy rooms restricted to gastroenterology procedures only for a total of three (3) operating rooms (ORs) and two (2) endoscopy rooms
Grand Dunes Surgery Center, LLC
Myrtle Beach, South Carolina
Project Cost: \$0

Public Notice

The Bureau of Health Facilities and Services Development, S.C. Department of Health and Environmental Control, will conduct a Public Hearing regarding competing Certificate of Need applications submitted by Roper Hospital, Inc., Charleston, South Carolina, for the renovation for the addition of thirteen (13) comprehensive rehabilitation beds for a total of fifty two (52) comprehensive rehabilitation beds resulting in a total licensed bed capacity of three hundred sixteen (316) general acute care beds and fifty-two (52) comprehensive rehabilitation beds; and Medical University Hospital Authority, Charleston, South Carolina for the addition of fifteen (15) comprehensive rehabilitation beds to be located in the 2 Center Main Hospital.

The Public Hearing will be held in the North Charleston Council Chambers, located in the North Charleston City Hall, 4900 Lacross Road, North Charleston, South Carolina, on Thursday, March 1, 2007, from 2:00 PM to 4:00 PM or until everyone present is given an opportunity to be heard.

The public is cordially invited to attend, and an opportunity shall be provided for any person to present information. No decision shall be made at the hearing, but the Department shall make decisions on the two competing Certificate of Need applications within 60 days from the date of this Public Hearing.

Comments on the proposal are hereby solicited and may be presented at the Public Hearing or in writing until 5:00 PM on March 2, 2007, to Mr. Joel C. Grice, Director, Bureau of Health Facilities and Services Development, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S. C. 29201. FAX: 803-545-4579

Public Notice

The Bureau of Health Facilities and Services Development, S. C. Department of Health and Environmental Control will conduct a public hearing regarding the Certificate of Need Application for Grand Strand Regional Medical Center in Myrtle Beach, South Carolina. This application is for the construction of a new bed tower to consolidate and enlarge the cardiovascular services areas, addition of 50 general hospital beds for a total of 269 general hospital beds, expansion of the emergency department, and addition of 64-slice CT scanner.

The public hearing will be held on Wednesday, March 7, 2007 at 1:30 p.m. in the Grand Strand Campus Conference Center of Horry-Georgetown Technical College, Room 601, 743 Hemlock Ave, Myrtle Beach, South Carolina.

The public is invited to attend and an opportunity shall be provided for any person to present information. No decision will be made at the hearing, but the Department shall make a decision within 60 days from the date of the public hearing as per regulation.

Comments on this proposal are solicited and may be presented at the public hearing or in writing until 5:00 p.m. on March 7, 2007, to Mr. Joel C. Grice, Director, Bureau of Health Facilities and Services Development,

6 NOTICES

SC Department of Health and Environmental Control, 2600 Bull St., Columbia, SC 29201. FAX: 803-545-4579

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Notice of General Public Interest
Public Notice #07-532-GP-N
February 23, 2007

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-04) "Concrete Batch Plants." This general permit was previously open for a thirty (30) day public comment period on June 9, 2006, with final issuance on July 10, 2006. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), DHEC may now grant coverage to any qualified source seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62.1 "Air Pollution Control Regulations and Standards," the following sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications, and other information submitted by each facility in its General Conditional Major Permit application. Any facility operating under this permit seeks to limit its potential to emit below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

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

Dorchester County

Site Prep, Inc. of NC
654 Judge Street
Harleyville, South Carolina
(Permit No. GCM04-9900-0401)

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Notice of General Public Interest
Public Notice #07-531-GP-N
February 23, 2007

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-03) "Hot Mix Asphalt Plants." This general permit was previously open for a thirty (30) day public comment period on September 1, 2006, with final issuance on February 1, 2007. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), DHEC may now grant coverage to any qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62.1 "Air Pollution Control Regulations and Standards," the following sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications, and other information submitted by each facility in its General Conditional Major Permit application. Any facility operating under this permit seeks to limit its potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in the permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

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

Abbeville County

Satterfield Construction Company, Inc.
3535 South Carolina Highway 72
Abbeville, South Carolina
(Permit No. GCM03-9900-0439)

Aiken County

Satterfield Construction Company, Inc.
275 Johnston Highway
Trenton, South Carolina
(Permit No. GCM03-9900-0046)

Aiken County (Continued)

Satterfield Construction Company, Inc.

8 NOTICES

822 Ascauga Lake Road
Aiken, South Carolina
(Permit No. GCM03-9900-0130)

Anderson County

Ashmore Brothers, Inc.
300 McGee Road
Anderson, South Carolina
(Permit No. GCM03-9900-0045)

Sloan Construction
3417 Belhaven Road
Anderson, South Carolina
(Permit No. GCM03-9900-0113)

F&R Asphalt, Inc.
Highway 88
Pendleton, South Carolina
(Permit No. GCM03-9900-0107)

Pickens Construction, Inc.
415 McGee Road
Anderson, South Carolina
(Permit No. GCM03-9900-0041)

Bamberg County

Rea Contracting, LLC (Ulmers)
8725 Riverbridge Road
Olar, South Carolina
(Permit No. GCM03-9900-0082)

Beaufort County

Rea Contracting, LLC (Grays Hill)
42 Jeter Road
Grays Hill, South Carolina
(Permit No. GCM03-9900-0034)

Berkeley County

Sanders Brothers Construction Company, Inc.
2142 Asphalt Drive
Summerville, South Carolina
(Permit No. GCM03-9900-0227)

Calhoun County

Carben Asphalt, Inc.
155 Industrial Drive
Gaston, South Carolina

(Permit No. GCM03-9900-0447)

Charleston County

Banks Construction Company
4902 Banco Road
North Charleston, South Carolina
(Permit No. GCM03-9900-0322)

Sanders Brothers Construction Company, Inc.
1981 Harley Street
North Charleston, South Carolina
(Permit No. GCM03-9900-0234)

Cherokee County

Sloan Construction
493 Quarry Road
Blacksburg, South Carolina
(Permit No. GCM03-9900-0375)

Chester County

C.R. Jackson, Inc. (Richburg Asphalt Plant)
1547 Mountain Gap Road
Richburg, South Carolina
(Permit No. GCM03-9900-0049)

Chesterfield County

C.R. Jackson, Inc. (Jefferson Asphalt Plant #501)
Ogburn Road
Jefferson, South Carolina
(Permit No. GCM03-9900-0213)

Furr Grading & Paving, Inc.
5817 Highway 52 South
Cheraw, South Carolina
(Permit No. GCM03-9900-0073)

Fairfield County

Satterfield Construction Company, Inc.
SC 20 11
Blair, South Carolina
(Permit No. GCM03-9900-0047)

10 NOTICES

Florence County

C.R. Jackson, Inc. (Florence Plant #418)
1550 East Campground Road
Florence, South Carolina
(Permit No. GCM03-9900-0160)

C.R. Jackson, Inc. (Florence Asphalt Plant #422)
826 West Lucas Street
Florence, South Carolina
(Permit No. GCM03-9900-0217)

Palmetto Paving Corporation
1115 North Williston Road
Florence, South Carolina
(Permit No. GCM03-9900-0337)

Greenville County

Ashmore Brothers, Inc.
1880 South Highway 14
Greer, South Carolina
(Permit No. GCM03-9900-0013)

Ray Walker Trucking Company, Inc.
4 Brown Road
Piedmont, South Carolina
(Permit No. GCM03-9900-0169)

King Asphalt, Inc.
1189 Old Stage Road
Simpsonville, South Carolina
(Permit No. GCM03-9900-0283)

Panagakos Asphalt Paving
30 Greencove Drive
Greenville, South Carolina
(Permit No. GCM03-9900-0362)

Greenwood County

Anderson Asphalt, Inc.
3623 Old Laurens Road
Greenwood, South Carolina
(Permit No. GCM03-9900-0066)

Satterfield Construction Company, Inc.
1903 Highway 246 North

Greenwood, South Carolina
(Permit No. GCM03-9900-0351)

Horry County

Boggs Materials, Inc.
440 Ronald McNair Boulevard
Myrtle Beach, South Carolina
(Permit No. GCM03-9900-0400)

Southern Asphalt
229 Yeager Avenue
Conway, South Carolina
(Permit No. GCM03-9900-0207)

Palmetto Paving Corporation
6184 Godwin Paradise Lane
Conway, South Carolina
(Permit No. GCM03-9900-0197)

C.R. Jackson, Inc. (Conway Asphalt Plant #404)
154 Winyah Road
Conway, South Carolina
(Permit No. GCM03-9900-0171)

Jasper County

APAC-Southeast, Inc. (Hardeeville Asphalt Plant)
S.C. Highway 27 & 413
Hardeeville, South Carolina
(Permit No. GCM03-9900-0271)

Rea Contracting, LLC (Ridgeland)
2701 West Frontage Road
Ridgeland, South Carolina
(Permit No. GCM03-9900-0022)

Laurens County

F&R Asphalt, Inc.
1654 Quarry Road
Gray Court, South Carolina
(Permit No. GCM03-9900-0421)

Lexington County

Lanier Construction Company, LLC
4016 Highway 321 South

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Gaston, South Carolina
(Permit No. GCM03-9900-0035)

Rea Contracting, LLC
3176 Charleston Highway
West Columbia, South Carolina
(Permit No. GCM03-9900-0083)

Sloan Construction Company, Inc.
600 Taylor Street
Cayce, South Carolina
(Permit No. GCM03-9900-0060)

Rea Contracting, LLC (CMI Portable)
980 Neely Wingate Road
Gilbert, South Carolina
(Permit No. GCM03-9900-0339)

Marion County

Weaver Company, Inc.
6916 North Highway 501
Latta, South Carolina
(Permit No. GCM03-9900-0452)

Marlboro County

C.R. Jackson, Inc. (Bennettsville Asphalt Plant #514)
Marlboro Road
Bennettsville, South Carolina
(Permit No. GCM03-9900-0009)

Oconee County

Hubbard Paving & Grading, Inc.
698 Rock Crusher Road
Walhalla, South Carolina
(Permit No. GCM03-9900-0287)

Orangeburg County

Rea Contracting, LLC (Orangeburg)
2585 Kennerly Road
Orangeburg, South Carolina
(Permit No. GCM03-9900-0088)

Pickens County

King Asphalt, Inc.
2127 Greenville Highway
Liberty, South Carolina
(Permit No. GCM03-9900-0370)

Sloan Construction
705 Quarry Road
Liberty, South Carolina
(Permit No. GCM03-9900-0098)

Richland County

C.R. Jackson, Inc. (Columbia Asphalt Plant)
100 Independence Boulevard
Columbia, South Carolina
(Permit No. GCM03-9900-0036)

Rea Contracting, LLC (North Columbia)
300 Monticello Trail
North Columbia, South Carolina
(Permit No. GCM03-9900-0081)

Sloan Construction Company, Inc.
630 Rosewood Drive
Columbia, South Carolina
(Permit No. GCM03-9900-0055)

Spartanburg County

Asphalt Contractors, LLC
300 Half Moon Road
Wellford, South Carolina
(Permit No. GCM03-9900-0152)

Sloan Construction
230 Highway 176 Bypass
Pacolet, South Carolina
(Permit No. GCM03-9900-0091)

Spartanburg County (Continued)

Sloan Construction
235 Plemmons Road
Duncan, South Carolina
(Permit No. GCM03-9900-0115)

King Asphalt, Inc.
599 Lawson Creek Drive
Spartanburg, South Carolina
(Permit No. GCM03-9900-0352)

F & R Asphalt, Inc. (Plant #1)
2550 Ballenger Road
Lyman, South Carolina

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(Permit No. GCM03-9900-0090)

F & R Asphalt
520 Gaffney Ferry Road
Gaffney, South Carolina
(Permit No. GCM03-9900-0373)

Asphalt Associates, Inc.
546 Springfield
Spartanburg, South Carolina
(Permit No. GCM03-9900-0023)

Sumter County

C.R. Jackson, Inc. (Sumter Asphalt Plant #512)
1170 Eagle Road
Sumter, South Carolina
(Permit No. GCM03-9900-0254)

Williamsburg County

C.R. Jackson, Inc. (Andrews Asphalt Plant #510)
U.S. Highway 521 Andrews
Andrews, South Carolina
(Permit No. GCM03-9900-0037)

York County

Boggs Materials, Inc.
751 Porter Road
Rock Hill, South Carolina
(Permit No. GCM03-9900-0338)

York County (Continued)

Rea Contracting, LLC (Rock Hill)
900 Hawkfield Road
Rock Hill, South Carolina
(Permit No. GCM03-9900-0033)

Granite Contracting, LLC
470 True Road
McConnells, South Carolina
(Permit No. GCM03-9900-0300)

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**CHAPTER 61**

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

**NOTICE OF PROPOSED AMENDMENT TO THE
SOUTH CAROLINA AIR QUALITY IMPLEMENTATION PLAN****CHEROKEE COUNTY, SC
8-HOUR OZONE NAAQS MAINTENANCE PLAN****South Carolina Air Quality Implementation Plan:**

The Department of Health and Environmental Control (Department) proposes to amend the South Carolina Air Quality Implementation Plan, also known as the State Implementation Plan, or SIP. Interested persons are invited to present their views in writing to Dennis Camit; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. Comments may also be submitted via email to camitdr@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on Monday, March 26, 2007, the close of the drafting comment period.

Synopsis:

In a Federal Register (FR) notice published on July 18, 1997 (62 FR 38856), the United States Environmental Protection Agency (EPA), promulgated amendments to the National Ambient Air Quality Standards (NAAQS) for ozone. Based on its review of available scientific evidence linking exposures to ambient ozone to adverse health and welfare effects at levels allowed by the 1-hour ozone standards, the EPA replaced the 1-hour primary standard with an 8-hour standard at a level of 0.08 ppm based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The 1-hour secondary standard was also replaced by an 8-hour secondary standard identical to the new primary standard. On April 30, 2004, (69 FR 23858), the EPA designated and classified Cherokee County, South Carolina as an unclassifiable/attainment area for the 8-hour ozone NAAQS. Cherokee County, South Carolina is currently a maintenance area for the 1-hour ozone standard. Phase 1 of the 8-hour ozone implementation rule mandates that the State submit, in accordance with section 110(a)(1) of the CAA, an updated maintenance plan for any area initially designated attainment for the 8-hour NAAQS while subject to a maintenance plan for the 1-hour NAAQS at the time of designation for the 8-hour NAAQS. The maintenance plan must provide for continued maintenance of the 8-hour NAAQS for 10 years following designation and must include contingency measures.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

**NOTICE OF PROPOSED AMENDMENT TO THE
SOUTH CAROLINA AIR QUALITY IMPLEMENTATION PLAN**

**ATTAINMENT PLAN FOR THE ROCK HILL, SC
8-HOUR OZONE NAAQS NONATTAINMENT AREA**

South Carolina Air Quality Implementation Plan:

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DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1. the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than March 9, 2007 to:

Contractor Certification Program
 South Carolina Department of Health and Environmental Control
 Bureau of Land and Waste Management - Underground Storage Tank Program
 Attn: Michelle Dennison
 2600 Bull Street
 Columbia, SC 29201

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

Class I

Class II.

Urban Environmental Solutions, LLC

Attn: Stacy L. Andrews, PE
 1427 Madison Court
 Mt. Pleasant, SC 29466

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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18 NOTICES

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Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management - Underground Storage Tank Program
Attn: Michelle Dennison
2600 Bull Street
Columbia, SC 29201

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

Class I _____ Class II.

Parsons Commercial Technology, Inc.
Attn: James R. Howell
61 Saint Joseph St, Ste 1300
Mobile, AL 36602

EMES-Environmental Management & Eng. Solutions
Attn: Jamie Lynch
PO Box 22245
Charleston, SC 29413

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal intends to adopt the latest edition of the following nationally recognized code.

1. National Fire Protection Association 72, National Fire Alarm Code, 2007 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Code of Laws, Section 23-9-60
South Carolina Rules and Regulations 71-8300.11(A)(1)
South Carolina Rules and Regulations 71-8308.4(A)
South Carolina Rules and Regulations 71-8309.4(A)

The Office of State Fire Marshal specifically requests comments concerning sections of these editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to John Reich at 141 Monticello Trail, Columbia, SC 29203, by FAX at 803-896-9806, or by e-mail to reichj@llr.sc.gov.

If no comments are received within sixty (60) days of publication of this notice, the Office of State Fire Marshal will promulgate this latest edition without amendment.

20 DRAFTING

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Sections 13-7-10 et seq.; 13-7-40

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R. 61-63, Radioactive Materials (Title A). Interested persons may submit comments to Aaron Gantt, Chief, Bureau of Radiological Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received by 5 p.m. on March 26, 2007.

Synopsis:

The Nuclear Regulatory Commission continually updates regulations, and state regulations are amended regularly to incorporate federal updates. The Department plans to adopt into regulation the Nuclear Regulatory Commission updates as an item of compatibility. Section 274 of the Atomic Energy Act of 1954, as amended, requires that the states adopt federal regulations for compatibility. The Department intends to make changes to R. 61-63 to this extent. The intended action revises requirements for general licensees, portable gauge licensees, manufacturers and distributors, and amends the regulations regarding the medical use of radioactive materials (Parts II, III and IV). Proposed regulations will comply with 10 CFR Parts 20, 30, 31, 32, 35, 40, and 70, Final Rules, published in the Federal Register on April, 29 2005, July, 11 2005, and March, 27, 2006. Legislative review will not be required.

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Section 50-11-2200

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulations 123-40 "Hunt Units and Wildlife Management Area Regulations" and 123-205 "Regulations Applicable to Specific Properties". The subject of the proposed action is to amend the regulations to allow additional use and to define the conditions of use on Department of Natural Resources Wildlife Management Areas and Heritage Preserves. Any person interested may submit written comments to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

Since existing regulations prohibit certain uses of Wildlife Management Areas and Heritage Preserves, amended regulations are needed to implement changes in allowable uses and to define the conditions of additional use.

DEPARTMENT OF PUBLIC SAFETY

CHAPTER 38

Statutory Authority: 1976 Code Sections 23-6-30(6)

Notice of Drafting:

The South Carolina Department of Public Safety is proposing to repeal Subarticles 7 & 9 of Article 3 of Chapter 38 of the Department's regulations. These regulations relate to driver training schools and commercial driver training schools. The Department of Motor Vehicles is updating these regulations and will be publishing new regulations under their regulation chapter. Interested parties should submit their comments in

writing to Ms. Rachel Erwin, South Carolina Department of Public Safety, Office of General Counsel, P.O. Box 1993, Blythewood, S.C. 29016.

Synopsis

The proposed changes will repeal regulations relating to driver training school and commercial driver training schools. The language of existing regulations will be revised by DMV and republished under their chapter heading.

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

CHAPTER 103

Statutory Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2006)

Notice of Drafting:

The Public Service Commission of South Carolina (Commission) proposes to issue new regulations governing requirements and standards to be used by the Commission for evaluating applications for designation as an Eligible Telecommunications Carrier (ETC) and making annual certification of ETC compliance to the Federal Communications Commission. Interested persons may submit comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2006-37-C. To be considered, comments must be received no later than 4:45 p.m. on March 30, 2007.

Synopsis:

On January 9, 2006, the Office of Regulatory Staff (ORS) filed a Motion asking the Commission to initiate a rule-making proceeding to determine whether multiple ETCs should be authorized and to develop a single set of eligibility standards for ETC designation. On January 31, 2006, in Order No. 2006-71, the Commission granted the ORS's Motion. The Commission held that a rule-making proceeding should be scheduled to examine the requirements and standards to be used by the Commission when evaluating applications for ETC status and when making annual certification of ETC compliance to the Federal Communications Commission.

Legislative review of this proposal will be required.

22 PROPOSED REGULATIONS

Document No. 3120
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-210, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-500, 50-11-520, 50-11-530, 50-11-2200 and 50-11-2210.

Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations which sets seasons, bag limits and methods of hunting and taking of wildlife. Act No. 289 of 2006 reduced the number of Game Zones from 11 to 6. These regulations will eliminate any references to Game Zones that no longer exist.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on March 23, 2007 at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Fiscal Impact Statement:

This amendment of Regulations 123-40, 123-51 and 123-52 will not change public hunting opportunities or result in changes in the generation of State revenue through license sales.

Statement of Rational:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provide guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Statement of Need and Reasonableness:

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

1. DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-40, 123-51 and 123-52 in order to eliminate references to Game Zones that no longer exist.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to establish open and closed seasons, bag limits, and methods of taking wildlife; special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations in the annual Rules and Regulations Brochure. The public will be notified through this publication and through news releases and other Department media outlets and publications.

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

Since existing regulations reference Game Zones that no longer exist, new regulations must be filed to correct Game Zone references.

3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. There are no significant new costs imposed by the Game Zone changes. Clarification of existing regulations under appropriate authority will improve enforcement ability and therefore reduce staff time in handling prosecution of offenses.

9. UNCERTAINTIES OF ESTIMATES:

Staff does not anticipate any increased costs with the promulgation of this regulation. Accordingly, no costs estimates and the uncertainties associated with them are provided.

10. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health. No environmental impacts will occur since the proposed regulation only changes the Game Zone numbering system.

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

No detrimental impact on public health or the environment will occur if this proposed regulation is not implemented. Failure to implement this regulation will prevent changes to the Game Zone numbering system enacted by Act No. 289.

Summary of Preliminary Assessment Report:

The proposed regulation does not require an assessment report.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

24 FINAL REGULATIONS

Document No. 3047
DEPARTMENT OF AGRICULTURE
CHAPTER 5

Statutory Authority: 1976 Code Section 12-6-3590.

R 5-610 et al. Milk Producer Tax Credit Regulations

Synopsis:

These new regulations clarify and create an administrative process for qualifying for the milk producer tax credit authorized by S.C. Code, Title 12, Chapter 6, as well as determining the production price, annual certification of milk production and sales, and a process for dispute resolution under this program.

Instructions: Add new R.5-610 thru 5-613, Milk Producer Tax Credit Regulations, to Chapter 5 regulations.

Text:

R. 5-610 et seq. Milk Producer Tax Credit Regulations

ARTICLE 17

MILK PRODUCER TAX CREDIT

5-610 Definitions

- a. Class I Price of fluid milk means the Uniform Milk price in South Carolina published by the USDA.
- b. Producer means any individual, farm, corporation or other legal entity that produces and sells milk produced from his own cows.
- c. Department means the S.C. Department of Agriculture.
- d. Commissioner means the S.C. Commissioner of Agriculture.
- e. Cost of Production means the average cost of production in South Carolina. If such information is not readily available, then the Department may use the next best information available, which may include the cost of production in other Southern states.

5-611 Production Price

- a. The average production price shall be posted on the Department's website and will be available in the Commissioner's Office at least annually when all information needed to compute the average production price becomes available. This average production price shall be used by the S.C. Department of Revenue in its determination of tax credit qualification.
- b. The Production Price is equal to the Cost of Production in South Carolina, plus the difference between the average uniform price of milk in the top 5 markets where milk is imported, including transportation costs, and the uniform price of milk in the Appalachian Order.

5-612 Annual Milk Production Certification

The Department shall provide a form to be filled out and signed by all dairy producers filing for the Milk Producer Tax Credit. This form shall certify the amount of milk produced and sold by a specific producer for the entire taxable year in which the credit is being applied for. This form shall be a sworn statement by the producer regarding the accuracy of the information listed on the form. The S.C. Department of Revenue will use this information regarding producer qualification for the tax credit.

5-613 Disputes Regarding Milk Producer Tax Credit Qualification

All disputes regarding the credit or refund under the Milk Producer Tax Credit program shall be in accordance with the regulations and policies of the S.C. Department of Revenue.

Fiscal Impact Statement:

The South Carolina Department of Agriculture estimates that there will be no anticipated additional costs to the State or its political subdivisions for the operation of this program.

Statement of Rationale:

The purpose of this proposal is to implement Regulation 5-610 et seq., concerning the administration of the Milk Producer Tax Credit and to outline the factors used to determine the Production Price. Definitions have been added to more clearly define terms of the statute as they are used within the dairy industry. The provisions explaining the factors used in the figuring the Production Price have been added as required by the statutory language in Code Section 12-6-3590. These definitions, explanation of the Production Price factors and clarification regarding any disputes regarding this tax credit program have been added to provide greater ease in administering the program and to help avoid potential ambiguities regarding certain terms used with the statutory language of Code Section 12-6-3590. This proposal is reasonable in that it is the department's responsibility to maintain and implement regulations that are required by law, and to update them so that they remain consistent with the law.

Document No. 3095

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**CHAPTER 61**

Statutory Authority: S.C. Code Ann. Sections 44-56-10, *et seq.*, 44-56-30

R.61-79 Hazardous Waste Management Regulations**Synopsis:**

The EPA promulgated amendments to 40 CFR 260 through 265, 268, and 270 between July 1, 2004, and June 30, 2005. Regulation 61-79 has been amended to adopt these federal amendments and to correct minor errors to achieve conformity with prior federal amendments. The Department is required by the Resource Conservation and Recovery Act, 42 U.S.C. Section 6929 to achieve minimum federal standards. Adoption of these amendments will maintain conformity with federal requirements and standards.

These federal amendments affect certain wastewater dyes and the new Hazardous Waste Management Manifest Rule. These rules were published at 70 FR 9138 on February 24, 2005; 70 FR 10776 on March 4, 2005; 70 FR 35032 and 70 FR 35034 on June 16, 2005. Past State language stipulated that "owners or operators" were required to have permits; the language is now amended to reflect the federal language "owners and operators" are required to have permits.

Discussion of Revisions:

The following revisions are required to conform R.61-79 to reflect federal amendments to 40 CFR 260 through 270 as of June 30, 2005.

26 FINAL REGULATIONS

Instructions:

SECTION	DESCRIPTION OF REVISIONS
260.10 Definitions	Remove "Manifest document number"; revise "Designated facility" and "Manifest"; add "Manifest tracking number"
261.4(b)(15)	Nonwastewaters from Dyes and Pigments: Revise (b)(15)(i) and (v)
261.7(b)(1)(iii)	Manifest Rule: Revise (b)(1)(iii)(A) and (B)
261.32(a)(b)(c)(d)	Nonwastewaters from Dyes and Pigments: Designate existing text and table as (a); add new entry K181 under heading "Organic Chemicals" in the table; and add new paragraphs (b), (c), and (d); add 7 new listings under (c)
261 Appendix VII	Add new listing K181 in alphanumeric order
261 Appendix VIII	Add 5 new listings in alphanumeric order
262.20(a)	Manifest Rule: Revise text at (a)(1); add new (2)
262.21	Manifest Rule: Revise heading and lead in; retain language in old (a) as lead in; remove language in (a)(1) through (9) and language in (b). Reserve (a) through (f) and add note; add new (g), (g)(1), (g)(2).
262.27	Manifest Rule: Add new Section, (a) and (b)
262.32(b)	Manifest Rule: Revise (b) and marking instructions
262.33	Manifest Rule: Revise paragraph
262.34(m)	Manifest Rule: Add new (m)
262.42(a) and (b)	Manifest Rule: Replace "Department" with "Agency"
262.54(c) and (e)	Manifest Rule: Revise (c) and (e)
262.60	Manifest Rule: Revise (c); add (d) and (e)
262 Appendix	Manifest Rule: Remove old and insert new Manifest forms and instructions as of September 6, 2006
263.20(a) and (g)	Manifest Rule: Revise heading, (a)(1) and (2); new (3); revise (g)
263.21(b)	Manifest Rule: Revise (b)(1); new through (b)(2)(ii)
264.70	Manifest Rule: Convert and Revise (a); add new (b)
264.71(a), (b)(4), new (e)	Manifest Rule: Revise (a), (a)(1) - (a)(3); revise (b)(4); add new (e)
264.72(a) through (g)	Manifest Rule: Revise (a)(1) through (2); new (3); new (b); revise (c); add new (d) through (g)
264.76(a) and (b)	Manifest Rule: Convert lead in to (a) and revise; add and reserve (b)
265.70(a)(b)	Manifest Rule: Revise lead in as (a); add new (b)
265.71(a)(b)	Manifest Rule: Revise (a) and (b); add new (e)
265.72(a) through (g)	Manifest Rule: Revise (a) through (c); add new (d) through (g)
265.76(a) through (b)	Manifest Rule: Revise (a) add and reserve (b); retain comment
268.20(a)(b)(c)	Nonwastewaters from Dyes and Pigments: add new subsection 268.20
268.21 through 268.29	Add and reserve
268.40 Treatment Standards Table	Nonwastewaters from Dyes and Pigments: Add alphanumeric entries for F039 and K181 and revise footnote 7
268.48 Universal Treatment Standards Table	Nonwastewaters from Dyes and Pigments: Add four constituents to table in alphanumeric order
270.1(c)	Correct federal error "Owner and operator".. must have permits

Instructions: Amend R.61-79 pursuant to each individual instruction provided in the text below:

Text:

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

Revise 260.10 definitions to read:

260.10 Definitions:

Designated facility means:

- (1) A hazardous waste treatment, storage, or disposal facility which:
 - (i) has received a permit (or interim status) in accordance with the requirements of parts 270 and 124 of these regulations, or
 - (ii) has received a permit (or interim status) from a state authorized in accordance with part 271 of this chapter; or
 - (iii) is regulated under 261.6(c)(2) or subpart F of part 266 and
 - (iv) that has been designated on the manifest by the generator pursuant to 262.20.
- (2) Designated facility also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with 264.72(f) or 265.72(f) of this chapter.
- (3) If a waste is destined to a facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste. (12/92; 12/93; 12/94; 6/95).

Manifest means: The shipping document EPA Form 8700-22 (and if necessary, EPA Form 8700-22A), originated and signed by the generator or offeror in accordance with the instructions in the Appendix to 262 and the applicable requirements of 262 through 265.-(12/92; 12/93).

Manifest tracking number means: The alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits), which is pre-printed in Item 4 of the Manifest by a registered source.

Revise 261.4(b)(15) to read:

261.4 Exclusions

- (b) Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous wastes:
 - (15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that: (8/00, 6/03)
 - (i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181, if these wastes had been generated after the effective date of the listing; (6/03)
 - (v) As of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 is no longer-exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the

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impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends. (6/03)

Revise 261.7(b)(1)(iii)(A) and (B) to read:

261.7(b)(1)(iii)(A) and (B)

(b) (1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in sections 261.31, 261.32, or 261.33(e) of this regulation, is empty if:

(iii) (A) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

Revise 261.32(a) to read:

261.32 Hazardous wastes from specific sources

(a) The following solid wastes are listed hazardous wastes from specific sources unless they are excluded under 260.20 and 260.22 and listed in Appendix IX. 261.32. Table is now also (a) (12/92, 5/96, 9/98, 9/01)

Add new listing to 261.32 Table (a) sources in alphanumeric order by class to read:

Industry and EPA HW #	Hazardous waste	Hazard code
*	*	*
Organic Chemicals		
*	*	*
K181	Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in paragraph (c) of this section that are equal to or greater than the corresponding paragraph (c) levels, as determined on a calendar year basis. These wastes will not be hazardous if the nonwastewaters are: (i) disposed in a Subtitle D landfill unit subject to the design criteria in R 61-107.258.40, (ii) disposed in a Subtitle C landfill unit subject to either 264.301 or 265.301, (iii) disposed in other Subtitle D landfill units that meet the design criteria in R. 61-107.258.40, 264.301, or 265.301, or (iv) treated in a combustion unit that is permitted under Subtitle C, or an onsite combustion unit that is permitted under the Clean Air Act. For the purposes of this listing, dyes and/or pigments production is defined in paragraph (b)(1) of this section. Paragraph (d) of this section describes the process for demonstrating that a facility's nonwastewaters are not K181. This listing does not apply to wastes that are otherwise identified as hazardous under 261.21-261.24 and 261.31-261.33 at the point of generation. Also, the listing does not apply to wastes generated before any annual mass loading limit is met.	(T)
*	* * *	*

Add new 261.32 (b)(c)(d) to read:**(b) Listing Specific Definitions:**

(1) For the purposes of the K181 listing, dyes and/or pigments production is defined to include manufacture of the following product classes: dyes, pigments, or FDA certified colors that are classified as azo, triarylmethane, perylene or anthraquinone classes. Azo products include azo, monoazo, diazo, triazo, polyazo, azoic, benzidine, and pyrazolone products. Triarylmethane products include both triarylmethane and triphenylmethane products. Wastes that are not generated at a dyes and/or pigments manufacturing site, such as wastes from the offsite use, formulation, and packaging of dyes and/or pigments, are not included in the K181 listing.

(c) K181 Listing Levels. Nonwastewaters containing constituents in amounts equal to or exceeding the following levels during any calendar year are subject to the K181 listing, unless the conditions in the K181 listing are met.

261.32 (c) Constituent	Chemical abstracts No.	Mass levels (kg/yr)
Aniline	62-53-3	9,300
o-Anisidine	90-04-0	110
4-Chloroaniline	106-47-8	4,800
p-Cresidine	120-71-8	660
2,4-Dimethylaniline	95-68-1	100
1,2-Phenylenediamine	95-54-5	710
1,3-Phenylenediamine	108-45-2	1,200

(d) Procedures for demonstrating that dyes and/or pigment nonwastewaters are not K181. The procedures described in paragraphs (d)(1)-(d)(3) and (d)(5) of this section establish when nonwastewaters from the production of dyes/pigments would not be hazardous (these procedures apply to wastes that are not disposed in landfill units or treated in combustion units as specified in paragraph (a) of this section). If the nonwastewaters are disposed in landfill units or treated in combustion units as described in paragraph (a) of this section, then the nonwastewaters are not hazardous. In order to demonstrate that it is meeting the landfill disposal or combustion conditions contained in the K181 listing description, the generator must maintain documentation as described in paragraph (d)(4) of this section.

(1) Determination based on no K181 constituents. Generators that have knowledge (e.g., knowledge of constituents in wastes based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed) that their wastes contain none of the K181 constituents (see paragraph (c) of this section) can use their knowledge to determine that their waste is not K181. The generator must document the basis for all such determinations on an annual basis and keep each annual documentation for three years.

(2) Determination for generated quantities of 1,000 MT/yr or less for wastes that contain K181 constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is 1,000 metric tons or less, the generator can use knowledge of the wastes (e.g., knowledge of constituents in wastes based on prior analytical data and/or information about raw materials used, production processes used, and reaction and degradation products formed) to conclude that annual mass loadings for the K181 constituents are below the listing levels of paragraph (c) of this section. To make this determination, the generator must:

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(i) Each year document the basis for determining that the annual quantity of nonwastewaters expected to be generated will be less than 1,000 metric tons.

(ii) Track the actual quantity of nonwastewaters generated from January 1 through December 31 of each year. If, at any time within the year, the actual waste quantity exceeds 1,000 metric tons, the generator must comply with the requirements of paragraph (d)(3) of this section for the remainder of the year.

(iii) Keep a running total of the K181 constituent mass loadings over the course of the calendar year.

(iv) Keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:

(A) The quantity of dyes and/or pigment nonwastewaters generated.

(B) The relevant process information used.

(C) The calculations performed to determine annual total mass loadings for each K181 constituent in the nonwastewaters during the year.

(3) Determination for generated quantities greater than 1,000 MT/yr for wastes that contain K181 constituents. If the total annual quantity of dyes and/or pigment nonwastewaters generated is greater than 1,000 metric tons, the generator must perform all of the steps described in paragraphs (d)(3)(i)-(d)(3)(xi) of this section in order to make a determination that its waste is not K181.

(i) Determine which K181 constituents (see paragraph (c) of this section) are reasonably expected to be present in the wastes based on knowledge of the wastes (e.g., based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed).

(ii) If 1,2-phenylenediamine is present in the wastes, the generator can use either knowledge or sampling and analysis procedures to determine the level of this constituent in the wastes. For determinations based on use of knowledge, the generator must comply with the procedures for using knowledge described in paragraph (d)(2) of this section and keep the records described in paragraph (d)(2)(iv) of this section. For determinations based on sampling and analysis, the generator must comply with the sampling and analysis and recordkeeping requirements described below in this section.

(iii) Develop a waste sampling and analysis plan (or modify an existing plan) to collect and analyze representative waste samples for the K181 constituents reasonably expected to be present in the wastes. At a minimum, the plan must include:

(A) A discussion of the number of samples needed to characterize the wastes fully;

(B) The planned sample collection method to obtain representative waste samples;

(C) A discussion of how the sampling plan accounts for potential temporal and spatial variability of the wastes.

(D) A detailed description of the test methods to be used, including sample preparation, clean up (if necessary), and determinative methods.

(iv) Collect and analyze samples in accordance with the waste sampling and analysis plan.

(A) The sampling and analysis must be unbiased, precise, and representative of the wastes.

(B) The analytical measurements must be sufficiently sensitive, accurate and precise to support any claim that the constituent mass loadings are below the listing levels of paragraph (c) of this section.

(v) Record the analytical results.

- (vi) Record the waste quantity represented by the sampling and analysis results.
- (vii) Calculate constituent-specific mass loadings (product of concentrations and waste quantity).
- (viii) Keep a running total of the K181 constituent mass loadings over the course of the calendar year.
- (ix) Determine whether the mass of any of the K181 constituents listed in paragraph (c) of this section generated between January 1 and December 31 of any year is below the K181 listing levels.
- (x) Keep the following records on site for the three most recent calendar years in which the hazardous waste determinations are made:
 - (A) The sampling and analysis plan.
 - (B) The sampling and analysis results (including QA/QC data)
 - (C) The quantity of dyes and/or pigment nonwastewaters generated.
 - (D) The calculations performed to determine annual mass loadings.
- (xi) Nonhazardous waste determinations must be conducted annually to verify that the wastes remain nonhazardous.
 - (A) The annual testing requirements are suspended after three consecutive successful annual demonstrations that the wastes are nonhazardous. The generator can then use knowledge of the wastes to support subsequent annual determinations.
 - (B) The annual testing requirements are reinstated if the manufacturing or waste treatment processes generating the wastes are significantly altered, resulting in an increase of the potential for the wastes to exceed the listing levels.
 - (C) If the annual testing requirements are suspended, the generator must keep records of the process knowledge information used to support a nonhazardous determination. If testing is reinstated, a description of the process change must be retained.
- (4) Recordkeeping for the landfill disposal and combustion exemptions. For the purposes of meeting the landfill disposal and combustion condition set out in the K181 listing description, the generator must maintain on site for three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or meets the landfill design standards set out in the listing description, or was treated in combustion units as specified in the listing description.
- (5) Waste holding and handling. During the interim period, from the point of generation to completion of the hazardous waste determination, the generator is responsible for storing the wastes appropriately. If the wastes are determined to be hazardous and the generator has not complied with the subtitle C requirements during the interim period, the generator could be subject to an enforcement action for improper management.

Add new listing at 261 Appendix VII to read:

261 Appendix VII Basis for Listing - Hazardous constituents for which listed

EPA hazardous waste No.	Hazardous constituents for which listed
*	*
K181	Aniline, o-anisidine, 4-chloroaniline, p-cresidine, 2,4-dimethylaniline, 1,2-phenylenediamine, 1,3-phenylenediamine.
*	*

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Add new listings at 261 Appendix VIII in alphanumeric order to read:

Appendix VIII: Hazardous Constituents		
Common name	Chemical abstracts name	CAS #
*	*	*
o-Anisidine (2-methoxyaniline)	Benzenamine, 2-Methoxy-	90-04-0
*	*	*
p-Cresidine	2-Methoxy-5-methylbenzenamine	120-71-8
*	*	*
2,4-Dimethylaniline (2,4-xylydine)	Benzenamine, 2,4-dimethyl-	95-68-1
*	*	*
1,2-Phenylenediamine	1,2-Benzenediamine	95-54-5
*	*	*
1,3-Phenylenediamine	1,3-Benzenediamine	108-45-2
*	*	*

Revise 262.20(a) to read:

262.20 General requirements.

(a) (1) A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in the Appendix to this part.

(2) The revised manifest form and procedures in 260.10, 261.7, 262.20, 262.21, 262.27, 262.32, 262.34, 262.54, 262.60, and the Appendix to 262, shall not apply until September 5, 2006. The manifest form and procedures in 260.10, 261.7, 262.20, 262.21, 262.32, 262.34, 262.54, 262.60, and the Appendix to 262, contained in the parts 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

Revise 262.21 lead in and replace (a) with new (a) through (m)(2) to read:

Manifest tracking numbers, manifest printing, and obtaining manifests.

The manifest shall be on a form designated in 262.20(a), shall be completed as required by the instructions, and must contain all of the following information:

(a) through (f) reserved. 262.21 Note: Generators are required to use EPA forms from a registered source. See *Federal Register Vol. 70 no. 42, Friday March 4, 2005*, page 10815 for details and printing instructions.

(g) (1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of this section. A registered source may be a:

- (i) State agency;
- (ii) Commercial printer;
- (iii) Hazardous waste generator, transporter or TSDF; or
- (iv) Hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.

(2) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

Add new Section 262.27 to read:**262.27 Waste Minimization Certification**

A generator who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or

(b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

Revise 262.32(b) and marking instructions to read:

262.32(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 1190 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304.

HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address _____

Manifest Tracking Number _____

Generator's EPA Identification Number _____

EPA Hazardous Waste Number _____

Revise 262.33 to read:**262.33 Placarding.**

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172, subpart F and the S. C. Public Service Commission. If placards are not required a generator must mark each motor vehicle according to 49 CFR 171.3(b)(1)

Add new 262.34(m) to read:**262.34 Accumulation time.**

(m) A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 264.72 or 265.72 of this chapter may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d), (e) and (f) of this section, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

(1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

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Revise 262.42(a) and (b) to read:

262.42 Exception reporting

(a) (2) A generator of greater than 1000 kilograms of hazardous waste in a calendar month must submit an Exception Report to the Agency if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(b) A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Agency. (12/92)

Note: The submission need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received. (12/92)

Revise 262.54(c) and (e) to read:

262.54 Special Manifest Requirements

(c) In the International Shipments block, the primary exporter must check the export box and enter the point of exit (city and state) from the United States.

(e) The primary 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 262.60(c) and add new (d) and (e) to read:

262.60 Imports of hazardous waste.

(c) A person who imports hazardous waste may obtain the manifest form 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).

(d) 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.

(e) 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 264.71(a)(3) and 265.71(a)(3) of this chapter.

262 Appendix and instructions - remove manifest and instructions; use new federal manifest and instructions per 70 FR 10776 published Friday March 4, 2005 in the *Federal Register*. See also <http://www.scdhec.gov/lwm/pubs/hwmanifest.pdf>, which includes South Carolina codes, or <http://www.epa.gov/epaoswer/hazwaste/gener/manifest/mods.htm> or <http://yosemite.epa.gov/osw/rcra.nsf/topics!OpenView&Start=1&Count=1000&Expand=59#59> for background and printing specifications.

Revise 263.20 heading, (a)(1) and (2); add new (3); revise (g) to read:**263.20 The manifest system**

(a) (1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the provisions of R.61-79.262, subpart B

(2) Exports. In the case of exports other than those subject to subpart H of 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in this section, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for exports by water [bulk shipment]). For exports of hazardous waste subject to the requirements of subpart H of 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 262.84. (12/92, 12/93, 9/98)

(3) Compliance Date for Form Revisions. The revised Manifest form and procedures in 260.10, 261.7, 263.20, and 263.21, shall not apply until September 5, 2006. The Manifest form and procedures in 260.10, 261.7, 263.20, and 263.21, contained in 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

(g) Transporters who transport hazardous waste out of the United States must:

(1) Sign and date the manifest in the International Shipments block to indicate the date that the shipment left the United States;

(2) Retain one copy in accordance with 263.22(d);

(3) Return a signed copy of the manifest to the generator; and

(4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

Revise 263.21(b); add new through (b)(2)(ii) to read:**263.21 Compliance with the manifest.**

(b) (1) If the hazardous waste cannot be delivered in accordance with paragraph (a) of this section because of an emergency condition other than rejection of the waste by the designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

(2) If hazardous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the Manifest Tracking Number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with 263.22, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 264.72(e)(1) through (6) or (f)(1) through (6) or 265.72(e)(1) through (6) or (f)(1) through (6).

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number,

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and Identification Number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with 263.22, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 264.72(e)(1) through (6) or 265.72(e)(1) through (6).

Convert lead in and revise 264.70(a); add new (b) to read:

264.70 Applicability.

(a) The regulations in this subpart apply to owners and operators of both on-site and off-site facilities, except as 264.1 provides otherwise. Sections 264.71, 264.72, and 264.76 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor ~~and~~ to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 266.203(a). Section 264.73(b) only applies to permittees who treat, store, or dispose of hazardous wastes on-site where such wastes were generated.

(b) The revised Manifest form and procedures in 260.10, 261.7, 264.70, 264.71, 264.72, and 264.76, shall not apply until September 5, 2006. The Manifest form and procedures in 260.10, 261.7, 264.70, 264.71, 264.72, and 264.76, contained in parts 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

Revise 264.71(a), (a)(1) through (a)(3); revise (b)(4); add new (e) to read:

264.71 Use of manifest system.

(a) (1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his agent must:

- (i) Sign and date, by hand, each copy of the manifest;
- (ii) Note any discrepancies (as defined in 264.72(a)) on each copy of the manifest;
- (iii) Immediately give the transporter at least one copy of the manifest;
- (iv) Within 30 days of delivery, send a copy of the manifest to the generator; and
- (v) Retain at the facility a copy of each manifest for at least three years from the date of

delivery.

(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest to the following address within 30 days of delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) (4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator; and *** (comment follows)

(e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

Revise 264.72(a)(1) through (3); add new (b); revise (c); add new (d) through (g) to read:**264.72 Manifest discrepancies.****(a) Manifest discrepancies are:**

(1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 261.7(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d) (1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in 261.7(b), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within 60 days of the rejection of the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or, the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under paragraph (e) or (f) of this section.

(e) Except as provided in paragraph (e)(7) of this section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with 262.20(a) of this chapter and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

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(6) Sign the Generator's/Offeree's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (e)(1), (2), (3), (4), (5), and (6) of this section.

(f) Except as provided in paragraph (f)(7) of this section, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with 262.20(a) of this chapter and the following instructions:

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offeree's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), and (6) of this section.

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in 261.7(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

Convert 264.76 lead in to (a) and revise; add and reserve (b)

264.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by 263.20(e) of this chapter, and if the waste is not excluded from the manifest requirement by 261.5 of this chapter, then the owner or operator must prepare and submit a letter to the Agency within 15 days after receiving the waste. The unmanifested waste report must contain the following information:

- (1) The EPA identification number, name and address of the facility;
 - (2) The date the facility received the waste;
 - (3) The EPA identification number, name and address of the generator and the transporter, if available;
 - (4) A description and the quantity of each unmanifested hazardous waste the facility received;
 - (5) The method of treatment, storage, or disposal for each hazardous waste;
 - (6) The certification signed by the owner or operator of the facility or his authorized representative; and,
 - (7) A brief explanation of why the waste was unmanifested, if known.
- (b) Reserved

Revise 265.70 lead in as (a); add new (b) to read:

265.70 Applicability.

(a) The regulations in this subpart apply to owners and operators of both on-site and off-site facilities, except as 265.1 provides otherwise. Sections 265.71, 265.72, and 265.76 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements of 266.203(a).

(b) The revised Manifest form and procedures in 260.10, 261.7, 265.70, 265.71, 265.72, and 265.76, shall not apply until September 5, 2006. The Manifest form and procedures in 260.10, 261.7, 265.70, 265.71, 265.72, and 265.76, contained in previous editions of 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

Revise 265.71(a) and (b); add new (c) to read:

265.71 Use of manifest system.

(a) (1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

- (i) Sign and date, by hand, each copy of the manifest;
 - (ii) Note any discrepancies (as defined in 265.72(a)) on each copy of the manifest;
 - (iii) Immediately give the transporter at least one copy of the manifest;
 - (iv) Within 30 days of delivery, send a copy of the completed manifest to the generator;
- and
- (v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

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(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest to the following address within 30 days of delivery: International Compliance Assurance Division, OFA/OECA (2254A), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) (4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator; and retain comment. ***

(e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

Revise 265.72(a) through (c); add new (d) through (g) to read:

265.72 Manifest discrepancies.

(a) Manifest discrepancies are:

(1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;-

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 261.7(b).

(b) Significant differences in quantity are: For bulk waste, variations greater than 10 percent in weight;

(2) for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.***

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Regional Administrator a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d) (1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in 261.7(b), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under paragraph (e) or (f) of this section.

(e) Except as provided in paragraph (e)(7) of this section, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with 262.20(a) of this chapter and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space in Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offendor's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (e)(1), (2), (3), (4), (5), and (6) of this section.

(f) Except as provided in paragraph (f)(7) of this section, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with 262.20(a) of this chapter and the following instructions:

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block (Item 8) of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment,

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a),

(5) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(6) Sign the Generator's/Offendor's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation,

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with paragraphs (f)(1), (2), (3), (4), (5), and (6) of this section.

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(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in 261.7(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within 30 days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

Revise 265.76; convert lead in to (a) and renumber subitems; add and reserve (b); retain comment, after (4) to read:

265.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described by 263.20(e), and if the waste is not excluded from the manifest requirement by this chapter, then the owner or operator must prepare and submit a letter to the Regional Administrator within fifteen days after receiving the waste. The unmanifested waste report must contain the following information:

- (1) The EPA identification number, name and address of the facility;
- (2) The date the facility received the waste;
- (3) The EPA identification number, name and address of the generator and the transporter, if available;
- (4) A description and the quantity of each unmanifested hazardous waste the facility received;
- (5) The method of treatment, storage, or disposal for each hazardous waste;
- (6) The certification signed by the owner or operator of the facility or his authorized representative; and
- (7) A brief explanation of why the waste was unmanifested, if known.
- (8) [Reserved 12/92]

Comment: Conditionally exempt small quantities of hazardous waste are excluded from this regulation and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the Agency requires that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the Agency requires that the owner or operator file an unmanifested waste report for the hazardous waste movement.]

(b) [Reserved]

Add new section 268.20; add and reserve 268.21 through 29 to read:

268.20 Waste specific prohibitions-Dyes and/or pigments production wastes.

(a) Effective August 23, 2005, the waste specified in part 261 as EPA Hazardous Waste Number K181, and soil and debris contaminated with this waste, radioactive wastes mixed with this waste, and soil and debris contaminated with radioactive wastes mixed with this waste are prohibited from land disposal.

(b) The requirements of paragraph (a) of this section do not apply if:

- (1) The wastes meet the applicable treatment standards specified in subpart D of this Part;
- (2) Persons have been granted an exemption from a prohibition pursuant to a petition under 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable treatment standards established pursuant to a petition granted under 268.44;

(4) Hazardous debris has met the treatment standards in 268.40 or the alternative treatment standards in 268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to 268.5, with respect to these wastes covered by the extension.

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract of the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable subpart D levels, the waste is prohibited from land disposal, and all requirements of 268 are applicable, except as otherwise specified.

268.21 through 268.29 Reserved

Add 268.40 table alphanumeric entries for F039 and K181 to read:

TREATMENT STANDARDS FOR HAZARDOUS WASTES

Note: NA means not applicable

Waste code	Waste description and treatment/regulatory subcategory ¹	Regulated hazardous constituent		Wastewaters Concentration in mg/L ³ or technology code ⁴	Non wastewater Concentration in mg/kg ⁵ unless noted as "mg/L TCLP", or technology code
		Common name	CAS ²		
*	*	*	*	*	*
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA hazardous Wastes and no other Hazardous Waste retains its EPA Hazardous Waste Number(s); F020, F021, F022, F026, F027, and/or F028).	*****			
		o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66

		p-Cresidine	120-71-8	0.010	0.66

		2,4-Dimethylaniline (2,4-xylydine)	95-68-1	0.010	0.66

		1,3-Phenylenediamine	108-45-2	0.010	0.66

*	*	*	*	*	*
K181	Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with	Aniline	62-53-3	0.81	14
		o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
		4-Chloroaniline	106-47-8	0.46	16
		p-Cresidine	120-71-8	0.010	0.66
		2,4-Dimethylaniline (2,4-xylydine)	95-68-1	0.010	0.66

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TREATMENT STANDARDS FOR HAZARDOUS WASTES

Note: NA means not applicable

Waste code	Waste description and treatment/regulatory subcategory ¹	Regulated hazardous constituent		Wastewaters Concentration in mg/L ³ or technology code ⁴	Non wastewater Concentration in mg/kg ⁵ unless noted as "mg/L TCLP", or technology code
		Common name	CAS ²		
*	*	*	*	*	*
	nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in paragraph (c) of section 261.32 that are equal to or greater than the corresponding paragraph (c) levels, as determined on a calendar year basis.	1,2-Phenylenediamine	95-54-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN
		1,3-Phenylenediamine	108-45-2	0.010	0.66
*	*	*	*	*	*

footnote 7: Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010C or 9012B, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846, as incorporated by reference in 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

Revise 268.48 by adding four constituents to table in alphanumeric order to read:

268.48 Universal Treatment Standards Table						
Universal Treatment Standards						
Note: NA means not applicable						
Regulated constituent common name				CAS ¹ number	Wastewater standard Concentration in mg/L ²	Nonwastewater standard " Concentration in mg/kg ³ unless noted as "mg/L TCLP
*	*	*	*	*	*	*
o-Anisidine (2-methoxyaniline)				90-04-0	0.010	0.66
*	*	*	*	*	*	*
p-Cresidine				120-71-8	0.010	0.66
*	*	*	*	*	*	*
2,4-Dimethylaniline (2,4-xylidine)				95-68-1	0.010	0.66
*	*	*	*	*	*	*
1,3-Phenylenediamine				108-45-2	0.010	0.66
*	*	*	*	*	*	*

Revise 270.1(c) to read:**270.1(c) Scope of the Permit Requirement.**

The Department requires a permit under these regulations for the "transportation," "treatment," "storage," or "disposal" of any "hazardous waste" as identified or listed in 261. The terms "transportation," "treatment," "storage," "disposal," and "hazardous waste" are defined in 260 Subpart B and 270.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to 265.115) after January 26, 1983, must have postclosure permits unless they demonstrate closure by removal or decontamination as provided under 270.1(c) (5) and (6). If a postclosure permit is required, the permit must address applicable part 264 groundwater monitoring, unsaturated zone monitoring, corrective action, and postclosure care requirements of this chapter. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a postclosure permit under this section. (11/90; 12/92; 12/93; 8/00)

Statement of Need and Reasonableness: This Statement of Need and Reasonableness complies with S.C. Code Ann. Section 1-23-114(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 meet compliance requirements of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 260 through 265, 268, and 270 between July 1, 2004, and June 30, 2005, by publication in the *Federal Register*. The Department is required by the Resource Conservation and Recovery Act, 42 U.S.C. Section 6929, to achieve minimum federal standards.

Recent federal amendments affect certain wastewater dyes and the new Hazardous Waste Management Manifest Rule. Past State language stipulated that "owners or operators" were required to have permits; the language is now amended to reflect the federal language "owners and operators" are required to have permits. The federal amendments appeared at: 70 FR 9138 on February 24, 2005; 70 FR 10776 on March 4, 2005; 70 FR 35032 and FR 35034 on June 16, 2005.

Legal Authority: South Carolina Hazardous Waste Management Act, S. C. Code Ann. Section 44-56-10 *et seq.* and Section 44-56-30.

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control and publication in the *State Register* as a final regulation, the 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.

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DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: These amendments are needed and reasonable because adoption of the amendments and corrections to R.61-79 will reflect recent federal amendments required for compliance with federal law. The nonwastewater colorant rule will better protect groundwater. The manifest rule is planned to reduce the paperwork costs of tracking hazardous wastes. See Purpose above.

DETERMINATION OF COSTS AND BENEFITS: This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the changes are necessary to maintain compliance with federal regulations.

In amending the federal regulations EPA estimated costs and benefits of the various amendments as summarized below. The summaries are taken from the cited *Federal Register* notices. A significant regulatory action is defined as one that (5/26/98 in 63 FR 28630) "is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements...; or (4) raise novel legal or policy issues arising out of legal mandates..."

The nonwastewater colorant rule, by EPA's estimate, will result in costs to industry ranging from negligible to 0.238 percent, or a range of an estimated \$0.49 million to \$2.38 million a year of gross corporate revenues, and less than \$3 million dollars to government sectors. In turn the rule will improve management of wastes that have the potential to contaminate groundwater, which according to EPA would result in unacceptable risk to human health and the environment. EPA estimates that the new hazardous waste manifest rule will result in a burden reduction of 12 percent in annual hours, or reduction of between \$12 and \$20 million dollars in the public and private sectors. See Purpose above.

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The over-all effects of these rules are expected to be beneficial to the public health and environment, particularly the wastewater colorant rule protection to groundwater contamination, while providing a flexible approach that focuses the regulation on wastes that present a risk to human health and the environment. The manifest rule will result in overall cost savings, and reflect federal provisions in State law.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's ability to implement federal requirements will be affected if these amendments are not adopted. The State is required to adopt, in a timely manner, certain amendments to 40 CFR 260 through 273. The failure to adopt required amendments can result in the loss of state authority to enforce R.61-79 Hazardous Waste Management rules, and in the EPA managing the South Carolina Hazardous Waste Program.

Resubmitted January 11, 2007

Document No. 3002
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61

Statutory Authority: S.C. Code Section 44-1-140 (1976 Code of Laws, as amended).

R.61-47. Shellfish

Synopsis:

The Shellfish Regulation was amended to update the definition of marina to provide consistency with other regulations. Regulation Document 3002 has been revised pursuant to a request from the House Agriculture, Natural Resource, and Environmental Affairs Committee. See Statement of Rationale herein.

Section-by-Section Discussion:

SECTION	CHANGE
CITATION	

A.2.(dd)

"Marina" definition amended for consistency with other State regulations.

Instructions:

Replace Section A.2.(dd) of R.61-47, Shellfish in its entirety by this amendment.

Text:

(dd) Marina means any of the following:

- (1) locked harbor facility;
- (2) any facility which provides fueling, pump-out, maintenance or repair services (regardless of length);
- (3) any facility which has effective docking space of greater than 250 linear feet or provides moorage for more than 10 boats;
- (4) any water area with a structure which is used for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten boats, such as a mooring field; or
- (5) a dry stack facility.

Fiscal Impact Statement:

The amendment will provide a concise definition of facilities and structures considered as marinas thereby limiting economic impact. No fees are associated with these proposed amendments.

Statement of Need and Reasonableness:

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

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DESCRIPTION OF REGULATION: R.61-47, Shellfish

Purpose: The amendment will ensure consistency with other Department regulations

Legal Authority: S.C. Code Section 44-1-140 (1976 Code of Laws, as amended).

Implementation: These amendments will take effect upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the State Register. Existing staff will incorporate the regulation amendment following the effective date.

DETERMINATION OF COSTS AND BENEFITS:

The amendment will provide a concise definition of facilities and structures considered as marinas thereby limiting economic impact. No fees are associated with these proposed amendments.

UNCERTAINTIES OF ESTIMATES:

Because this is an amendment of an existing regulation, the Department can be reasonably certain on the (lack of) associated costs.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The amendments protect the health of consumers of shellfish as well as the health of shellfish resources. Additionally, the regulation functions in concert with other Department environmental and health programs and ensures consistency with Department regulations.

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

Without the amendment, a conflict between two Department regulations will exist.

STATEMENT OF RATIONALE (in accordance with S.C. Code Section 1-23-120:

Department staff determined during its review of R.61-47 that it was appropriate to revise the regulation. R.61-47 was last amended in 2000. Since that time, a regulation change has occurred that creates inconsistency in Department regulations.

Document No. 3057

DEPARTMENT OF REVENUE

CHAPTER 117

Statutory Authority: 1976 Code Section 12-4-320

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 117-300.6 concerning retail licenses and partnerships. Presently, this regulation is out of date since this regulation references an annual license and the retail license is no longer issued on an annual basis. In addition, Federal law states that a partnership is terminated if there is a 50% change in ownership over a 12 month period; however, federal law states that the partnership does not need a new employer identification number ("EIN"). This proposed regulation would not require a new retail license in such cases (similar to the federal law that does not require

a new EIN). The proposed regulation would also not require a new retail license with respect to certain conversions of partnerships to either limited liability partnerships or limited liability companies.

Instructions:

Amend SC Regulation 117-300.6 concerning retail licenses and partnerships. This regulation is out of date since this regulation references an annual license and the retail license is no longer issued on an annual basis.

Text:

(A) A partnership engaged in the business of selling tangible personal property at retail, and therefore required to be licensed under the provisions of Article 5, Chapter 36 of Title 12, must obtain a new retail license, or retail licenses if the partnership has multiple retail locations, if:

1. The partnership incorporates.
2. A single partner takes over the business and operates it as a sole proprietorship.
3. The partnership is terminated (no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership) and a new partnership is begun.
4. The partnership is otherwise required to obtain a new Taxpayer Identification Number ("TIN"). (See SC Regulation 117-201.)

Note: If the retailer moves its retail business to a new location, then the retailer must notify the Department of the move prior to the move. Upon notification, the Department will issue a corrected retail license at no charge for the new location.

(B) A new retail license, or retail licenses if the partnership has multiple retail locations, is not required if:

1. The partnership merely changes its name.
2. The partnership has a change in ownership but is not required to obtain a new Taxpayer Identification Number ("TIN"). (See SC Regulation 117-201.) However, if there is a change of general partners, the Department advises the partnership to either advise the Department of the change in general partners or obtain a new retail license for each retail location. If the Department is not advised of the change in general partners or a new retail license is not obtained, it will be presumed that the persons listed in records of the Department of Revenue as the general partner or partners are liable for any sales or use taxes the partnership fails to pay (unless the retail license of record indicates the partnership is a registered LLP pursuant to Code Section 33-41-1120). Since the partnership is not required to obtain a new retail license under this circumstance, the payment of the application fee for a retail license, as prescribed in Code Section 12-36-510, is not required to be paid for a retail license obtained in order to ensure that only proper persons are listed as the general partner or partners in the records of the Department of Revenue.

(C) The term "partnership" includes a limited liability company ("LLC") that is taxed for South Carolina income tax purposes as a partnership.

Note: Unlike other types of partnerships, a general partner in a limited liability partnership ("LLP") is not liable for debts, obligations and liabilities chargeable to the partnership while the partnership is a registered LLP. (See Code Section 33-41-370.)

A partner in an LLP and a member of an LLC may, however, be individually and personally liable for withholding taxes, state and local sales and use taxes, or both as a "withholding agent" (withholding tax), a

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“responsible person” (state and local sales and use taxes), or both under the provisions of Code Section 12-8-2010 and Code Section 12-54-195.

(D) The conversion of a partnership to a registered LLP pursuant to Article 13 of Chapter 41 of Title 33 is a partnership-to-partnership conversion and the organization is still considered to be the same entity for South Carolina tax purposes and is not required to obtain a new retail license.

However, the Department advises the resulting LLP to either advise the Department of the change in general partners or partners or obtain a new retail license for each retail location. If the Department is not advised of the change in general partners or partners or a new retail license is not obtained, it will be presumed that the general partner or partners are liable for any sales or use taxes the LLP fails to pay. Since the resulting LLP is not required to obtain a new retail license, the payment of the application fee for a retail license, as prescribed in Code Section 12-36-510, is not required to be paid for a retail license obtained as a result of the conversion of a partnership to an LLP.

(E) The conversion of a partnership to an LLC taxed as a partnership pursuant to Code Section 33-44-902 is treated as a partnership-to-partnership conversion and the organization is still considered to be the same entity for South Carolina tax purposes and is not required to obtain a new retail license. See Code Section 33-44-903 which confirms that a partnership that has been converted into an LLC is the same entity that existed before conversion and all property owned by the converting partnership vests in the LLC.

However, the Department advises the resulting LLC to either advise the Department of the change in general partners or partners or obtain a new retail license for each retail location. If the Department is not advised of the change in general partners or partners or a new retail license is not obtained, it will be presumed that the general partner or partners are liable for any sales or use taxes the LLC fails to pay (unless the retail license of record indicates the partnership is a registered LLP pursuant to Code Section 33-41-1120). Since the resulting LLC is not required to obtain a new retail license, the payment of the application fee for a retail license, as prescribed in Code Section 12-36-510, is not required to be paid for a retail license obtained as a result of the conversion of a partnership to an LLC taxed as a partnership.

(F) The provisions of this regulation apply to the retail licensing requirements under the sales and use tax law (Chapter 36 of Title 12) and do not apply to the alcoholic beverage licensing provisions of Title 61. For information as to when a person must obtain a new alcoholic beverage license, see Code Section 61-2-140 and the various other licensing provisions of Title 61.

Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Statement of Rationale:

The purpose of this proposal is to amend SC Regulation 117-300.6 concerning retail licenses and partnerships. Presently, this regulation is out of date since this regulation references an annual license and the retail license is no longer issued on an annual basis. In addition, Federal law states that a partnership is terminated if there is a 50% change in ownership over a 12 month period; however, federal law states that the partnership does not need a new employer identification number (“EIN”). This proposed regulation would not require a new retail license in such cases (similar to the federal law that does not require a new EIN). The proposed regulation would also not require a new retail license with respect to certain conversions of partnerships to either limited liability partnerships or limited liability companies. The proposal to amend this regulation is needed to reduce any taxpayer confusion that may result from having a published regulation that is in conflict with the law. The proposal to amend this regulation is also reasonable in that it is the department’s responsibility to maintain regulations that are up-to date and consistent with the law and the advent of new entities such as limited liability companies and the laws that address such entities.