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# SOUTH CAROLINA STATE REGISTER

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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.

## **2012 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	1/13	2/10	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/27	2/24	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **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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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: <http://www.scstatehouse.gov/regnsrch.php>

<b>DOC. No.</b>	<b>RAT. NO.</b>	<b>FINAL ISSUE</b>	<b>SUBJECT</b>	<b>EXP. DATE</b>	<b>AGENCY</b>
4210			Licensed Midwives	5/08/13	Department of Health and Envir Control
4259			South Carolina Immunization Registry	5/08/13	Department of Health and Envir Control
4261			Graduation Requirements	5/08/13	State Board of Education



## 2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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

<b>DOC. No.</b>	<b>SUBJECT</b>	<b>HOUSE COMMITTEE</b>	<b>SENATE COMMITTEE</b>
4210	Licensed Midwives		
4259	South Carolina Immunization Registry		
4261	Graduation Requirements	Education and Public Works	Education

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication September 28, 2012, 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 Mrs. Paula J. Bracey, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

## Affecting Charleston County

Renovation for the addition of a sixteen (16) slice Computed Tomography (CT) scanner  
Charleston Gastroenterology Specialist, P.A.  
Charleston, South Carolina  
Project Cost: \$1,043,762

Construction of a new freestanding Emergency Department, to include CT, general radiography, and lab in addition to the standard emergency department services. The proposed facility is to be located at the intersection of Firestone Road and Tanger Boulevard  
Trident North Charleston Emergency Department  
Charleston, South Carolina  
Project Cost: \$9,617,681

Construction for the establishment of a sixty (60) bed nursing care facility that does not participate in the Medicaid (Title XIX) Program  
Wellmore of Mt. Pleasant, LLC  
Project Cost: \$14,215,686

## Affecting Horry County

Addition of fourteen (14) rehabilitation beds in the 2 North Unit and the construction of a fourth floor to be added to the South Patient Tower  
Grand Strand Regional Medical Center  
Myrtle Beach, South Carolina  
Project Cost: \$21,437,203

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from September 28, 2012. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

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### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

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 October 22, 2012 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

Martin O. Klein, P.A.  
Attn: Martin O. Klein  
3210 W. Knights Avenue  
Tampa, FL 33611

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## ERRATA

September 28, 2012

The Department of Health and Environmental Control has conducted an audit of Regulation 61-62, Air Pollution Control Regulations and Standards, and is publishing these errata to correct errors in the regulations pertaining to 61-62.1; 62.2; 62.3; 62.4; 62.5, Std. 1, Std. 2, Std 3, Std 5.1, Std 7.1; 62.61; 62.70; 62.72; and 62.96. These corrections do not create new regulatory requirements, the corrections are nonsubstantive, do not change the legal meaning, and are made pursuant to regulation drafting guidelines to improve the overall quality of the Department's regulations.

**R. 61-62.1, Definitions and General Requirements**

State Register Doc. 4130, May 25, 2011

**At R. 61-62.1(I), Introductory Paragraph**, correct the paragraph to make the word "Section" lowercase in the phrase "this Section" for consistency throughout the regulation, and strike the phrase "Section 1 of" which follows the word "augments" in order to properly reference the South Carolina Pollution Control Act which contains no "Section 1" for clarity to read:

The following words and phrases when used in the Regulations and Standards shall, for the purpose of these regulations, have the meanings respectively ascribed to them in this section, unless a different meaning is clearly indicated. This section augments the South Carolina Pollution Control Act.

**At R. 61-62.1(I)(13)(a)**, following the word "one," add the numeral for the word one (1) in parenthesis for number denotation consistency throughout the text of the regulation to read:

a. The combustion chamber and primary energy recovery section shall be of integral design (for example, waste heat recovery boilers attached to incinerators are not boilers). To be of integral design, the combustion chamber and the primary energy recovery sections (such as water walls and super heaters) shall be physically formed into one (1) manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not physically be formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

**At R. 61-62.1(I)(13)(b)**, following the phrase "At least," write out the word "seventy-five" and place parenthesis around the numeral for the word seventy-five (75) to provide number denotation consistency through the text of the regulation to read:

b. At least seventy-five (75) percent of recovered energy shall be "exported," for example, not used for internal uses like preheating of combustion air or fuel, or driving combustion air fans or feedwater pumps.

**At R. 61-62.1(I)(14), Title**, capitalize the word "stack" in the title "Bypass stack" for consistency to read:

14. Bypass Stack – Means a device used for discharging combustion gases to avoid severe damage to the air pollution control device or other equipment.

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**At R. 61-62.1(I)(15)**, reformat the phrase “*et seq.*” to remove italics per regulation drafting guidelines to read:

15. CAA – Means the Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.* Also referred to as “the Act.”

**At R. 61-62.1(I)(16)**, strike citation and succeeding comma, “S.C. Hazardous Waste Management Regulation 61-79.261,” and replace with the proper citation, “Section 261 of Regulation 61-79, Hazardous Waste Management,” for citation consistency throughout the regulation to read:

16. Chemotherapeutic Waste – Means all waste resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. Chemotherapeutic waste shall not include any waste containing antineoplastic agents that are listed as hazardous waste under Section 261 of Regulation 61-79, Hazardous Waste Management.

**At R. 61-62.1(I)(17)**, correct the paragraph to make the word “Section” lowercase for consistency throughout the regulation to read:

17. Clean Wood – Means untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include yard waste, which is defined elsewhere in this section, or construction, renovation, and demolition waste (including but not limited to railroad ties and telephone poles).

**At R. 61-62.1(I)(18)**, write out the phrase “pounds per hour” before the unit abbreviation “lb/hr” for clarity, and add parenthesis around the unit abbreviation “lb/hr” to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency. Write out the word “six” and place parenthesis around the numeral for the word six (6) to provide number denotation consistency through the text of the regulation. Write out the phrase “tons per day” before the unit abbreviation “tons/day” for clarity, and add parenthesis around the unit abbreviation “tons/day” to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

18. Commercial Incinerator – Means an incinerator that burns non-hazardous waste from commercial activities with a design capacity of no more than 1250 pounds per hour (lb/hr) and which burns no more than six (6) tons per day (tons/day). Incinerators of this type not meeting these limits are considered municipal waste combustors. This definition does not include retail and industrial incinerators nor does it include waste from maintenance activities at commercial establishments.

**At R. 61-62.1(27)**, the term “Administrator” is defined at Regulation 61-62.1(I)(3), as such, strike the phrase “of the EPA” to provide consistency to read:

27. Emission Limitation (and Emission Standard) – Means a requirement established by the state or by the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

**At R. 61-62.1(28)**, the term “Administrator” is defined at Regulation 61-62.1(I)(3), as such, strike the phrase “of the EPA” to provide consistency and strike the comma in the citation “40 CFR 51, Subpart I” to provide consistency to read:

28. Federally Enforceable – Means all limitations and conditions which are enforceable by the Administrator and citizens under the Act, including those requirements developed pursuant to 40 CFR 60, 61, 63, and 70; requirements within the South Carolina State Implementation Plan (SIP); and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51 Subpart I, including operating permits issued under an EPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program.

**At R. 61-62.1(I)(33)**, add the abbreviation for the term “Hazardous Air Pollutant” (HAP) in parentheses after the term “Hazardous Air Pollutant” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency. Add the abbreviation for the term “National Emission Standards for Hazardous Air Pollutants” (NESHAP) in parentheses after the term “National Emission Standards for Hazardous Air Pollutants” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency to read:

33. Hazardous Air Pollutant (HAP) – Means a pollutant which is the subject of National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated by the EPA by publication in the Federal Register.

**At R. 61-62.1(I)(34)**, strike the title “South Carolina Hazardous Waste Management” preceding the citation for citation consistency throughout the regulation to read:

34. Hazardous Waste – Means any waste identified as such by Regulation 61-79.

**At R. 61-62.1(I)(35)**, strike the unit abbreviation “BTU/lb” and replace it with the written out phrase and proper unit abbreviation in parenthesis “British thermal unit per pound (Btu/lb)” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency. Strike the title “South Carolina Hazardous Waste Management” preceding the citation “Regulation 61-79” for citation consistency throughout the regulation to read:

35. Hazardous Waste Fuel – Means hazardous waste that has a heat value greater than 5000 British thermal unit per pound (Btu/lb) and is burned in an industrial or utility boiler or industrial furnace for energy recovery, except for hazardous wastes exempted by Section 266.30(b) of Regulation 61-79.

**At R. 61-62.1(I)(36)**, strike the title “South Carolina Hazardous Waste Management” preceding the citation “Regulation 61-79” for citation consistency throughout the regulation to read:

36. Hazardous Waste Incinerator – Means an incinerator whose primary function is to combust hazardous waste, except for devices which have qualified for exemption as provided in Sections 264.340(b) or 265.340(b) of Regulation 61-79.

**At R. 61-62.1(I)(37)**, following the word “six,” add the numeral for the word six (6) in parenthesis for number denotation consistency throughout the text of the regulation. Following the phrase “in excess of,” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) to provide number denotation consistency through the text of the regulation to read:

37. Hospital – Means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

**At R. 61-62.1(I)(42)(I)**, following the word “one” add the numeral for the word one (1) in parenthesis for number denotation consistency throughout the text of the regulation to read:

1. Such other devices as the Department may determine on a case by case basis using one (1) or more of the following factors:

**At R. 61-62.1(I)(49)**, strike the reference “R.61-105, *Infectious Waste Management*” and replace it with “Regulation 61-105, Infectious Waste Management” for citation consistency and to remove italics per the regulation drafting guidelines. Strike the reference title “*Hazardous Waste Management*” and the preceding

## 8 NOTICES

comma for citation consistency and to remove italics per the regulation drafting guidelines. Strike the remaining two abbreviations of the word “Regulation” (R.) and replace with the word “Regulation” for citation consistency and clarity to read:

49. Medical/Infectious Waste – Means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals listed below; and any waste defined as infectious waste in Regulation 61-105, Infectious Waste Management. The definition of medical/infectious waste does not include hazardous waste identified or listed in Regulation 61-79.261; household waste, as defined in Regulation 61-79.261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in Regulation 61-79.261.4(a)(1).

**At R. 61-62.1(I)(50)**, following the word “two,” add the numeral for the word two (2) in parenthesis for number denotation consistency throughout the text of the regulation to read:

50. Multiple-Chamber Incinerator – Means an incinerator consisting of at least two (2) refractory lined combustion chambers (primary and secondary) in series, physically separated by refractory walls, interconnected by gas passage ports or ducts.

**At R. 61-62.1(I)(51)**, properly codify this item by adding the codification denotation “a.” before the word “Means” at the beginning of the definition, replace the codification denotations “a.,” “b.,” and “c.” with the codification denotations “i.,” “ii.,” and “iii” respectively, and add the codification denotation “b.” before the word “Household” for proper codification and ease of use to read:

51. Municipal Solid Waste, MSW, or Municipal-type Solid Waste – a. Means household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include:

- i. Yard waste;
- ii. Refuse-derived fuel; and
- iii. Motor vehicle maintenance materials limited to vehicle batteries and tires.

b. Household, commercial/retail, and institutional waste (MSW) does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes, but is not limited to, railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes (including Type 5 or 6 waste); medical waste; radioactive contaminated waste; hazardous waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

**At R. 61-62.1(I)(52)**, reformat the word “units” in the phrase “recycling units” to remove the bold formatting from the letter “s” per regulation drafting guidelines, and strike the comma in the citation “40 CFR 60, Subpart A” for citation consistency throughout the regulation. Insert the abbreviation “No.” in the reference “Regulation 62.5, Standard 3” for consistency to read:

52. Municipal Waste Combustor, MWC, or Municipal Waste Combustor Unit – Means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to,

field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (for example, steam generating units) and furnaces (whether suspension-fired, grate-fired, mass-fired, or fluidized bed-fired, etc.), air curtain incinerators, and pyrolysis/combustion units. Municipal waste combustors do not include pyrolysis/combustion units located at plastics/rubber recycling units. Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems. For the purpose of determining reconstruction or modification, as defined in 40 CFR 60 Subpart A, or Regulation 62.5, Standard No. 3, to a municipal waste combustor, the following applies:

**At R. 61-62.1(I)(58)**, strike the unnecessary abbreviation “S.C.” from the citation “S.C. Regulation 61-62.70” for citation consistency throughout the regulation to read:

58. Part 70 Permit – Means any permit or group of permits covering a source subject to the permitting requirements of Regulation 61-62.70. The use of the term “Title V Permit” shall be construed to mean “Part 70 Permit.”

**At R. 61-62.1(I)(62)**, following the word “one,” add the numeral for the word one (1) in parenthesis for number denotation consistency throughout the text of the regulation to read:

62. Plant – Means, except as otherwise provided, any stationary source or combination of stationary sources, which is located on one (1) or more contiguous or adjacent properties and owned or operated by the same person(s) under common control.

**At R. 61-62.1(I)(63)**, following the phrase “shall be more than” write out the word “seventy” and place parenthesis around the numeral for the word seventy (70) to provide number denotation consistency throughout the text of the regulation to read:

63. Plastics/Rubber Recycling Unit – Means an integrated processing unit where plastics, rubber, and/or rubber tires are the only feed materials (incidental contaminants may be included in the feed materials) and they are processed into a chemical plant feedstock or petroleum refinery feedstock where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The combined weight of the chemical plant feedstock and petroleum refinery feedstock produced by the plastics/rubber recycling unit on a calendar quarter basis shall be more than seventy (70) percent of the combined weight of the plastics, rubber, and rubber tires processed by the plastics/rubber recycling unit on a calendar quarter basis. The plastics, rubber, and/or rubber tire feed materials to the plastics/rubber recycling unit may originate from the separation or diversion of plastics, rubber, or rubber tires from MSW or industrial solid waste; and may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards. The plastics, rubber, and rubber tire feed materials to the plastics/rubber recycling unit may contain incidental contaminants (for example, paper labels on plastic bottles, metal rings on plastic bottle caps, etc.).

**At R. 61-62.1(I)(71)**, properly codify this item by adding the codification denotation “a.” before the word “Means” at the beginning of the definition, replace the codification denotations “a.” and “b.” with the codification denotations “i.” and “ii.” respectively, and add the codification denotation “b.” before the word “Where” for proper codification and ease of use to read:

71. Process Weight Rate – a. Means a rate established as follows:

i. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.



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ii. For cyclical or batch unit operations or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

b. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

**At R. 61-62.1(I)(79)**, following the phrase “wastes containing more than” write out the word “ten” and place parenthesis around the numeral for the word ten (10) to provide number denotation consistency throughout the text of the regulation. Write out the phrase “pounds per day” before the unit abbreviation “lb/day” for clarity, and add parenthesis around the unit abbreviation “lb/day” to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

79. Sludge Incinerator – Means an incinerator that combusts wastes containing more than ten (10) percent (dry weight basis) sludge produced by municipal or industrial waste water treatment plants or each incinerator that charges more than 2205 pounds per day (lb/day) (dry weight basis) of sludge produced by municipal or industrial wastewater treatment plants.

**At R. 61-62.1(I)(85)**, add the abbreviation for the term “millimeters of mercury” (mmHg) in parentheses after the term “millimeters of mercury” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency. Following the word “at,” write out the word twenty-five and place parenthesis around the numeral for the word twenty-five (25) to provide number denotation consistency throughout the text of the regulation. Add the abbreviation for the unit of measure “Centigrade” (C) in parentheses after the term “Centigrade” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency to read:

85. Standard Conditions – Means 760 millimeters of mercury (mmHg) at twenty-five (25) degrees Centigrade (C).

**At R. 61-62.1(I)(87)**, following the phrase “equal or exceed” write out the word “ten” and place parenthesis around the numeral for the word ten (10) to provide number denotation consistency throughout the text of the regulation to read:

87. Substantial Loss – Means, generally, a loss which would equal or exceed ten (10) percent of the total initial project cost.

**At R. 61-62.1(I)(93)**, following the word “two,” add the numeral for the word two (2) in parenthesis for number denotation consistency throughout the text of the regulation to read:

93. Used Oil – Means any oil that has been refined from crude or synthetic oil and as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and may be economically recyclable. This also includes absorbent material contaminated with used oil such as oily rags or absorbent blankets. Two (2) types of used oil are defined as follows:

**At R. 61-62.1(I)(93)(a)(i)**, write out the phrase “pounds per million” before the unit abbreviation “ppm” for clarity, and add parenthesis around the unit abbreviation “ppm” to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

i. Arsenic – 5 parts per million (ppm) maximum;

**At R. 61-62.1(I)(93)(a)(vii)**, write out the unit of measure “Fahrenheit” before the unit abbreviation “F” for clarity, and add parenthesis around the unit abbreviation “F” to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

vii. Flash Point – 100 degrees Fahrenheit (F) (37.8 degrees C) minimum.

**At R. 61-62.1(I)(96)**, codify this item by adding the codification denotation “a.” before the word “Means” at the beginning of the definition, adding the codification denotation “b.” before the word “These,” and the codification denotation “c.” before the word “The” to codify the two final paragraphs of this definition for proper codification and ease of use. In the newly codified paragraph (b), make the abbreviation VOC plural for grammatical correctness in the one instance it appears. In the newly codified paragraph (c), make the abbreviation VOC plural for grammatical correctness in three instances to read:

96. Volatile Organic Compound (VOC) – a. Means any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method (as specified in 40 CFR 60, as of July 1, 1990), an equivalent method, an alternative method, or which is determined by procedures specified under any subpart of 40 CFR 60. This includes compounds other than the following compounds:

acetone;  
 $(CF_3)_2CFCF_2OC_2H_5$  (2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane);  
 $(CF_3)_2CFCF_2OCH_3$  (2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane);  
 CFC-11 (trichlorofluoromethane);  
 CFC-12 (dichlorodifluoromethane);  
 CFC-113 (1,1,2-trichloro-1,2,2-trifluoroethane);  
 CFC-114 (1,2-dichloro 1,1,2,2-tetrafluoroethane);  
 CFC-115 (chloropentafluoroethane);  
 dimethyl carbonate;  
 ethane;  
 HCFC-22 (chlorodifluoromethane);  
 HCFC-31 (chlorofluoromethane);  
 HCFC-123 (1,1,1-trifluoro 2,2-dichloroethane);  
 HCFC-123a (1,2-dichloro-1,1,2-trifluoroethane);  
 HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane);  
 HCFC-134a (1,1,1,2-tetrafluoroethane);  
 HCFC-141b (1,1-dichloro 1-fluoroethane);  
 HCFC-142b (1-chloro 1,1-difluoroethane);  
 HCFC-151a (1-chloro-1-fluoroethane);  
 HCFC-225ca (3,3-dichloro-1,1,1,2,2-pentafluoropropane);  
 HCFC-225cb (1,3-dichloro-1,1,2,2,3-pentafluoropropane);  
 HFC-23 (trifluoromethane);  
 HFC-32 (difluoromethane);  
 HFC 43-10mee (1,1,1,2,3,4,4,5,5,5-decafluoropentane);  
 HFC-125 (pentafluoroethane);  
 HFC-134 (1,1,2,2-tetrafluoroethane);  
 HFC-143a (1,1,1-trifluoroethane);  
 HFC-152a (1,1-difluoroethane);  
 HFC-161 (ethylfluoride);  
 HFC 227ea (1,1,1,2,3,3,3-heptafluoropropane);  
 HFC-236ea (1,1,1,2,3,3-hexafluoropropane);  
 HFC-236fa (1,1,1,3,3,3-hexafluoropropane);  
 HFC-245ca (1,1,2,2,3-pentafluoropropane);  
 HFC-245ea (1,1,2,3,3-pentafluoropropane);  
 HFC-245eb (1,1,1,2,3-pentafluoropropane);

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HFC-245fa (1,1,1,3,3-pentafluoropropane);  
HFC-365mfc (1,1,1,3,3-pentafluorobutane);  
HFE-7000 (1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane) or (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>);  
HFE-7100 (1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane) or (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>);  
HFE-7200 (1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane) or (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>);  
HFE-7300 ((1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane);  
HFE-7500 (3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane);  
methane;

methyl acetate;

methyl chloroform (1,1,1-trichloroethane);

methylene chloride (dichloromethane);

methyl formate (HCOOCH<sub>3</sub>);

parachlorobenzotrifluoride (PCBTF);

perchloroethylene (tetrachloroethylene);

perfluorocarbon compounds that fall into these classes:

i. cyclic, branched, or linear, completely fluorinated alkanes;

ii. cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

iii. cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations;

iv. sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and

fluorine;

propylene carbonate; and

volatile methyl siloxanes (cyclic, branched, or linear completely methylated siloxanes) (VMS).

b. These compounds have been determined to have negligible photochemical reactivity. For purposes of determining compliance with emission limits, VOCs will be measured by the approved test methods. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

c. The following compound(s) are VOCs for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements which apply to VOCs and shall be uniquely identified in emission reports, but are not VOCs for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate (TBAC or TBAc).

**At R. 61-62.1(I)(97)**, add the abbreviation for the term “municipal solid waste” (MSW) in parenthesis after the term “municipal solid waste” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency to read:

97. Waste – Means any discarded material including, but not limited to, used oil, hazardous waste fuel, hazardous waste, medical waste, municipal solid waste (MSW), sludge, waste fuel, and waste classification Types 0 through 6 or any material which as a result of use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

**At R. 61-62.1(I)(97)(a)**, following the phrases “up to” and “Typical composition:” write out the word “ten” and place parenthesis around the numeral for the word ten (10) to provide number denotation consistency throughout the text of the regulation. Following the phrase “percent moisture,” write out the word “five” and place parenthesis around the numeral for the word five (5) to provide number denotation consistency throughout the text of the regulation. Strike the phrase “BTU per pound” and replace with the previously established unit abbreviation “Btu/lb” for consistency and clarity to read:

a. Type 0 – Trash, a mixture of highly combustible waste such as paper, cardboard, wood boxes, and combustible floor sweepings from commercial and industrial activities. The mixture contains up to ten (10)

percent by weight of plastic bags, coated paper, laminated paper, treated corrugated cardboard, oily rags, and plastic or rubber scraps.

Typical composition: ten (10) percent moisture, five (5) percent incombustible solids, and has a heating value of approximately 8500 Btu/lb as fired.

**At R. 61-62.1(I)(97)(b)**, following the phrase “up to” write out the word “twenty” and place parenthesis around the numeral for the word twenty (20) to provide number denotation consistency throughout the text of the regulation. Following the phrase “Typical composition:,” write out the word “twenty-five” and place parenthesis around the numeral for the word twenty-five (25) to provide number denotation consistency throughout the text of the regulation. Following the phrase “percent moisture,” write out the word “ten” and place parenthesis around the numeral for the word ten (10) to provide number denotation consistency throughout the text of the regulation. Strike the phrase “BTU per pound” and replace it with the previously established unit abbreviation “Btu/lb” for consistency and clarity to read:

b. Type 1 – Rubbish, a mixture of combustible waste such as paper, cardboard cartons, wood scrap, foliage, and combustible floor sweepings from domestic, commercial, and industrial activities. The mixture contains up to twenty (20) percent by weight of restaurant or cafeteria waste, but contains little or no treated papers, plastic, or rubber wastes.

Typical composition: twenty-five (25) percent moisture, ten (10) percent incombustible solids, and has a heating value of approximately 6500 Btu/lb as fired.

**At R. 61-62.1(I)(97)(c)**, following the phrase “up to” write out the word “fifty” and place parenthesis around the numeral for the word fifty (50) to provide number denotation consistency throughout the text of the regulation. Following the phrase “percent moisture,” write out the word “seven” and place parenthesis around the numeral for the word seven (7) to provide number denotation consistency throughout the text of the regulation. Strike the phrase “BTU per pound” and replace it with the previously established unit abbreviation “Btu/lb” for consistency and clarity to read:

c. Type 2 – Refuse, consisting of an approximately even mixture of rubbish and garbage by weight. This type of waste is common to apartment and residential occupancy.

Typical composition: up to fifty (50) percent moisture, seven (7) percent incombustible solids, and has a heating value of approximately 4300 Btu/lb as fired.

**At R. 61-62.1(I)(97)(d)**, following the phrase “Typical composition: up to” write out the word “seventy” and place parenthesis around the numeral for the word seventy (70) to provide number denotation consistency throughout the text of the regulation. Following the phrase “percent moisture, up to,” write out the word “five” and place parenthesis around the numeral for the word five (5) to provide number denotation consistency throughout the text of the regulation. Strike the phrase “BTU per pound” and replace it with the previously established unit abbreviation “Btu/lb” for consistency and clarity to read:

d. Type 3 – Garbage, consisting of animal and vegetable wastes from restaurants, cafeterias, hotels, hospitals, markets, and like installations.

Typical composition: up to seventy (70) percent moisture, up to five (5) percent incombustible solids, and has a heating value of approximately 2500 Btu/lb as fired.

**At R. 61-62.1(I)(97)(e)**, following the phrase “up to” write out the word “eighty-five” and place parenthesis around the numeral for the word eighty-five (85) to provide number denotation consistency throughout the text of the regulation. Following the phrase “percent moisture,” write out the word “five” and place parenthesis around the numeral for the word five (5) to provide number denotation consistency throughout the text of the

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regulation. Strike the phrase “BTU per pound” and replace it with the previously established unit abbreviation “Btu/lb” for consistency and clarity to read:

e. Type 4 – Human and animal remains, consisting of carcasses, organs, and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds, and similar sources.

Typical composition: up to eighty-five (85) percent moisture, five (5) percent incombustible solids, and having a heating value of approximately 1000 Btu/lb as fired.

**At R. 61-62.1(I)(97)(f)**, strike the incorrect abbreviation “BTU” and replace with the proper abbreviation “Btu” for unit abbreviation consistency throughout the text of the regulation to read:

f. Type 5 – By-product waste, gaseous, liquid, or semi-liquid, such as tar, paints, solvents, sludge, fumes, etc., from industrial operations. Btu values shall be determined by the individual materials to be destroyed.

**At R. 61-62.1(I)(97)(g)**, strike the incorrect abbreviation “BTU” and replace with the proper abbreviation “Btu” for unit abbreviation consistency throughout the text of the regulation to read:

g. Type 6 – Solid by-product waste, such as rubber, plastics, wood waste, etc., from industrial operations. Btu values shall be determined by the individual materials to be destroyed.

**At R. 61-62.1(I)(98)**, strike the incorrect abbreviation “BTU” and replace with the proper abbreviation “Btu” for unit abbreviation consistency throughout the text of the regulation to read:

98. Waste Fuel – Means waste that does not meet hazardous waste criteria but has a heat value greater than 5000 Btu /lb.

**At R. 61-62.1(I)(99)**, strike the previously abbreviated term “municipal solid waste” and replace with the established abbreviation “MSW” throughout this item for consistency throughout the text of the regulation. Make the word “Section” lowercase throughout this item for consistency throughout the text of the regulation to read:

99. Yard Waste – Means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that are generated by residential, commercial/retail, institutional, and/or industrial sources as part of maintenance activities associated with yards or other private or public lands. Yard waste does not include construction, renovation, and demolition wastes, which are exempt from the definition of MSW in this section. Yard waste does not include clean wood, which is also exempt from the definition of MSW in this section.

**At R. 61-62.1(II)(A)(3)**, following the phrase “no later than,” write out the word “thirty” and place parenthesis around the numeral for the word thirty (30) to provide number denotation consistency throughout the text of the regulation. Following the phrase “postmarked within,” write out the word “fifteen” and place parenthesis around the numeral for the word fifteen (15) to provide number denotation consistency throughout the text of the regulation to read:

3. The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked no later than thirty (30) days after such date, and written notification of the actual date of initial startup of each new or altered source, postmarked within fifteen (15) days after such date.

**At R. 61-62.1(II)(A)(4)(a) and (b)**, following the phrases “within” and “period of” write out the word “eighteen” and place parenthesis around the numeral for the word eighteen (18) to provide number denotation consistency throughout the text of the regulation to read:

a. Is not commenced within eighteen (18) months after receipt of such approval;

b. Is discontinued for a period of eighteen (18) months or more; or

**At R. 61-62.1(II)(A)(5)**, following the phrase “within” write out the word “eighteen” and place parenthesis around the numeral for the word eighteen (18) to provide number denotation consistency throughout the text of the regulation to read:

5. The Department may extend the construction permit for an additional 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

**At R. 61-62.1(II)(B)(1)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

1. No construction permits shall be required for the sources listed in Section II (B)(1)(a) through (c) below, which burn virgin fuel and which were constructed prior to February 11, 1971, and which are not located at a facility that meets the definition of a major source as defined in Regulation 61-62.70.2(r); however, modifications at these facilities may trigger the requirement to obtain a construction permit.

**At R. 61-62.1(II)(B)(2)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

2. No construction permits shall be required for the sources listed in Section II (B)(2)(a) through (h) below, unless otherwise specified by Regulation 61-62.70 or any other state or federal requirement. A source's exemption status may change upon the promulgation of new regulatory requirements applicable to any of the sources listed in Section II (B)(2)(a) through (g), or to any other sources that have been determined to have total uncontrolled emissions less than the thresholds in Section II (B)(2)(h), or to any similar sources that have been granted an exemption by the Department.

**At R. 61-62.1(II)(B)(2)(a)**, strike the incorrect abbreviation “BTU/HR” and write out the unit “British thermal unit per hour” for clarity. Add the proper abbreviation for the term “Btu/Hr” in parenthesis to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

a. Boilers and space heaters of less than  $1.5 \times 10^6$  British thermal unit per hour (Btu/hr) rated input capacity which burn only virgin liquid fuels or virgin solid fuels.

**At R. 61-62.1(II)(B)(2)(b)**, strike the incorrect abbreviation “BTU/HR” and replace with the proper abbreviation “Btu/hr” for unit abbreviation consistency throughout the text of the regulation to read:

b. Boilers and space heaters of less than  $10 \times 10^6$  Btu/hr rated input capacity which burn only virgin gas fuels.

**At R. 61-62.1(II)(B)(2)(f)(i)**, strike the incorrect abbreviation “KW” and write out the unit “kilowatt” for clarity. Add the proper abbreviation for the term “kW” in parenthesis to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

i. Generators of less than or equal to 150 kilowatt (kW) rated capacity.

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**At R. 61-62.1(II)(B)(2)(f)(ii)**, strike the incorrect abbreviation “KW” and replace with the proper abbreviation “kW” for unit abbreviation consistency throughout the text of the regulation to read:

ii. Generators of greater than 150 kW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

**At R. 61-62.1(II)(B)(2)(h)**, following the phrase “emission rate of less than” write out the word “one” and place parenthesis around the numeral for the word one (1) to provide number denotation consistency throughout the text of the regulation. Write out the phrase “pounds per month” before the unit abbreviation “lbs/month” for clarity, and add parenthesis around the unit abbreviation “lbs/month” to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency. Make the abbreviation “VOC” plural for grammatical correctness. Strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

h. Sources with a total uncontrolled emission rate of less than one (1) lb/hr each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; and a total uncontrolled emission rate of less than 1000 pounds per month (lbs/month) of VOCs will not require construction permits. However, these sources may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit. For toxic air pollutant exemptions, refer to Regulation 61-62.5, Standard No. 8. Emissions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to the Department upon request.

**At R. 61-62.1(II)(B)(5)(c)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

c. Any ambient air quality demonstrations needed for Regulation 61-62.5, Standards No. 2, No. 7, and No. 8; and

**At R. 61-62.1(II)(B)(5)(d)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

d. A regulatory review to demonstrate the project is not a CAA Title I modification nor subject to Regulation 61-62.5, Standards No. 7 and 7.1.

**At R. 61-62.1(II)(C)(2)(a)**, strike the incorrect abbreviation “pounds/hr” and replace it with the previously established unit abbreviation “lb/hr” for consistency and clarity to read:

a. Package-type incinerators of 750 lb/hr rated capacity or smaller which burn Types 0 and 1 wastes as defined by the Incinerator Institute of America;

**At R. 61-62.1(II)(C)(2)(b)**, strike the incorrect abbreviation “pounds/hr” and replace it with the previously established unit abbreviation “lb/hr” for consistency and clarity to read:

b. Package-type incinerators of 500 lb/hr rated capacity or smaller which burn animal remains excluding those remains that are considered infectious waste; and

**At R. 61-62.1(II)(C)(2)(c)**, strike the incorrect abbreviation “BTU/HR” and replace with the proper abbreviation “Btu/hr” for unit abbreviation consistency throughout the text of the regulation to read:

c. Package-type boilers of 100 x 10<sup>6</sup> Btu/hr input capacity or smaller which burn natural gas or virgin oil as fuel.

**At R. 61-62.1(II)(C)(3)(i)**, strike the phrase “volatile organic compounds (VOC)” and replace it with the previously established abbreviation “VOCs” for consistency and clarity. Make the abbreviation “TAP” plural for grammatical correctness. Strike the phrase “hazardous air pollutants (HAP)” and replace it with the previously established abbreviation “HAPs” for consistency and clarity to read:

i. A description, including physical and chemical properties and the Chemical Abstract Service (CAS) number (if applicable), of all emissions from each proposed source or existing source that is being altered. Mass emission data and emission calculations, including the potential uncontrolled and controlled mass emission rate of each criteria pollutant and other air contaminants such as VOCs, toxic air pollutants (TAPs), and HAPs, that will be emitted from each source covered by the application. Emission calculations must be based on proper documentation that supports the basis of the emission rates such as stack test data, AP-42 emission factors, material balance, and/or engineering estimates. All assumptions used in the emission calculations must be provided. Fugitive emissions (for example, emissions from filling operations, pumps, valves, flanges, etc.) must be included in the emission calculations;

**At R. 61-62.1(II)(E)(1)(e)**, following the phrase “noted by the Department within” write out the word “sixty” and place parenthesis around the numeral for the word sixty (60) to provide number denotation consistency throughout the text of the regulation to read:

e. In the event of a denial of a synthetic minor construction permit application, the Department shall notify the applicant in writing of the reasons for the denial. The Department shall not accept a subsequent synthetic minor construction permit application until the applicant has addressed the concerns specified by the Department which caused the denial. The source shall correct all deficiencies noted by the Department within sixty (60) calendar days of receiving notice of the denial, or submit a complete major source construction permit application, as prescribed by Section II (C) above, if the source desires to proceed with the project.

**At R. 61-62.1(II)(E)(2)(b)**, following the phrase “postmarked no later than” write out the word “thirty” and place parenthesis around the numeral for the word thirty (30) to provide number denotation consistency throughout the text of the regulation. Following the phrase “postmarked within” write out the word “fifteen” and place parenthesis around the numeral for the word thirty (15) to provide number denotation consistency throughout the text of the regulation to read:

b. The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked no later than thirty (30) days after such date, and written notification of the actual date of initial startup of each new or altered source, postmarked within fifteen (15) days after such date. A written request to obtain an operating permit shall be submitted to the Department no later than fifteen (15) days after the actual date of initial startup of each new or altered source in accordance with Section II (F) below. A satisfactory compliance inspection by a Department representative may precede the issuance of an operating permit for any newly constructed or modified source.

**At R. 61-62.1(II)(F)(1)**, following the phrase “postmarked within” write out the word “fifteen” and place parenthesis around the numeral for the word thirty (15) to provide number denotation consistency throughout the text of the regulation. Make the word “Section” lowercase for consistency throughout the regulation to read:

1. The owner or operator shall submit written notification to the Department of the actual date of initial startup of each new or altered source, postmarked within fifteen (15) days after such date. Any source that is required to obtain an air quality construction permit issued by the Department must obtain an operating permit when the new or altered source is placed into operation and shall comply with the requirements of this section.



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**At R. 61-62.1(II)(F)(2)**, add a comma after the phrase “If construction is certified as provided above” for clarity and grammatical correctness to read:

2. The owner/operator or professional engineer in charge of the project shall certify that, to the best of his/her knowledge and belief and as a result of periodic observation during construction, the construction under application has been completed in accordance with the specifications agreed upon in the construction permit issued by the Department. If construction is certified as provided above, the permittee may operate the source in compliance with the terms and conditions of the construction permit until the operating permit is issued by the Department. If construction is not built as specified in the permit application and associated construction permit(s), the owner/operator must submit to the Department a complete description of modifications that are at variance with the documentation of the construction permitting determination prior to commencing operation. Construction variances that would trigger additional requirements that have not been addressed prior to start of operation shall be considered construction without a permit.

**At R. 61-62.1(II)(F)(3)(a)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

a. For sources covered by an effective Title V operating permit, the modification request required by Regulation 61-62.70 shall serve as the request to operate for the purposes of this regulation.

**At R. 61-62.1(II)(F)(3)(b)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

b. For sources not subject to Regulation 61-62.70, or not yet covered by an effective Title V operating permit, the permittee shall submit a written request for a new or revised operating permit to cover any new, or altered source, postmarked no later than fifteen (15) days after the actual date of initial startup of each new or altered source.

**At R. 61-62.1(II)(G)(2)(e)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

e. In the event of a denial of a conditional major operating permit request, the Department shall notify the source in writing of the reasons for the denial. The Department shall not accept a subsequent conditional major operating permit request until the source has addressed the concerns specified by the Department which caused the original denial. The source shall correct all deficiencies noted by the Department or submit a complete permit application in accordance with Regulation 61-62.70 in order to receive a Title V operating permit.

**At R. 61-62.1(II)(G)(5)(c)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

c. All conditional major operating permit conditions that constrain the operation of a source in an effort to limit potential to emit below major source threshold levels as defined in Regulation 61-62.70 shall be federally enforceable. Unless otherwise agreed by the Department and EPA, the Department shall provide to EPA on a timely basis a copy of each proposed (or draft) and final permit intended to be federally enforceable.

**At R. 61-62.1(II)(H)(2)**, strike the unnecessary abbreviations of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

2. The provisions of Section II (H) shall apply only to those sources not subject to Regulation 61-62.70. For sources covered by an effective Title V operating permit, the operating permit renewal request required by Regulation 61-62.70 shall serve as the request to operate for the purposes of this regulation.

**At R. 61-62.1(II)(H)(3)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation. Following the phrase “no later than” write out the word “ninety” and place parenthesis around the numeral for the word ninety (90) to provide number denotation consistency throughout the text of the regulation to read:

3. For sources not subject to Regulation 61-62.70, the permittee shall submit an operating permit renewal request to the Department no later than ninety (90) days prior to the operating permit expiration date. The source may be inspected by the Department in order to decide whether to renew the permit. Past records of compliance and future probability of compliance will be considered in making the decision regarding renewal.

**At R. 61-62.1(II)(H)(4)(d)**, strike the phrase “U.S. Standard Industrial Classification (SIC)” and replace it with the previously established abbreviation “SIC” for consistency and clarity. Strike the phrase “North American Industry Classification System (NAICS)” and replace it with the previously established abbreviation “NAICS” for consistency and clarity to read:

d. Any change to the SIC Code or NAICS Codes of the products or product lines;

**At R. 61-62.1 (II)(H)(4)(f)**, strike the phrase “pounds per hour” and replace with the previously established unit abbreviation “lb/hr” for consistency and clarity to read:

f. Any change to the facility's planned operating schedules or description of the facility's current and/or proposed processes, including the physical and chemical properties and feed rate of the materials used and produced (in lb/hr) from which the facility determined actual and potential emissions;

**At R. 61-62.1(II)(H)(4)(h)**, strike the phrase “Chemical Abstract Service (CAS)” and replace it with the previously established abbreviation “CAS” for consistency and clarity. Strike the phrase “volatile organic compounds (VOC)” and replace it with the previously established abbreviation “VOCs” for consistency and clarity. Strike the phrase “toxic air pollutants (TAP)” and replace it with the previously established abbreviation “TAPs” for consistency and clarity. Strike the phrase “hazardous air pollutants (HAP)” and replace it with the previously established abbreviation “HAPs” for consistency and clarity to read:

h. A description, including the CAS number (if applicable), of all emissions from each source. Mass emission data and emission calculations, including the potential uncontrolled and controlled mass emission rate of each criteria pollutant and other air contaminants such as VOCs, TAPs, and HAPs emitted from each source. Emission calculations must be based on proper documentation that supports the basis of the emission rates such as stack test data, AP-42 emission factors, material balance, and/or engineering estimates. All assumptions used in the emission calculations must be provided. Fugitive emissions (for example, emissions from filling operations, pumps, valves, flanges, etc.) must be included in the emission calculations. A summary of facility-wide potential uncontrolled and controlled emissions with a regulatory applicability determination. If existing data supplied to the Bureau remains correct, identify documents referenced to comply with this requirement;

**At R. 61-62.1(II)(I)(1)(b)**, strike the unnecessary abbreviations of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

b. Registration permits will be developed only for specific stationary source groups with uncontrolled potential to emit less than the threshold for major source groups, in accordance with Regulation 61-62.70, Title V Operating Permit Program; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review; and where equipment similarities and simplicity remove the need for in depth site-specific review.

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**At R. 61-62.1(II)(J)(1)(c)**, following the word “one,” add the numeral for the word one (1) in parenthesis for number denotation consistency throughout the text of the regulation. Following the word “twenty-four,” add the numeral for the word twenty-four (24) in parenthesis for number denotation consistency throughout the text of the regulation to read:

c. For sources not required to have continuous emission monitors, any malfunction of air pollution control equipment or system, process upset, or other equipment failure which results in discharges of air contaminants lasting for one (1) hour or more and which are greater than those discharges described for normal operation in the permit application, shall be reported to the Department within twenty-four (24) hours after the beginning of the occurrence and a written report shall be submitted to the Department within thirty (30) days. The written report shall include, at a minimum, the following:

**At R. 61-62.1(II)(J)(1)(f)**, following the phrases “commenced within,” “period of,” and “construction within” write out the word “eighteen” and place parenthesis around the numeral for the word eighteen (18) to provide number denotation consistency throughout the text of the regulation to read:

f. Approval to construct shall become invalid if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

**At R. 61-62.1(II)(J)(2)(c)**, following the word “one,” add the numeral for the word one (1) in parenthesis for number denotation consistency throughout the text of the regulation to read:

c. The time period over which a permit limitation on production or operation extends will be as short as possible. For the purpose of determining compliance, permit limitations will, in general, not exceed one (1) month and shall not exceed an annual limit with a rolling monthly average or sum.

**At R. 61-62.1(II)(J)(2)(d)**, strike the unnecessary abbreviation of “South Carolina” (S.C.) to ensure consistent citation throughout the text of the regulation to read:

d. An owner or operator of stationary sources that desires or is required to conduct performance tests to verify emissions limitations shall ensure that source tests are conducted in accordance with the provisions of Regulation 61-62.1, Section IV, Source Tests.

**At R. 61-62.1(II)(j)(2)(e)**, strike the phrase “continuous emission monitor (CEM) system” and replace it with the previously established abbreviation “CEMS” for consistency and clarity.

e. An hourly emission limit shall be sufficient only if the permit condition(s) require the installation, calibration, maintenance, and operation of a CEMS or any other monitoring approved by the Department. All monitoring data shall be defined and recorded for showing compliance with the emission limit(s).

**At R. 61-62.1(II)(K)(2)(a)**, add the abbreviation for the term “New Source Performance Standards” (NSPS) in parentheses after the term “New Source Performance Standards” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency to read:

a. Federal New Source Performance Standards (NSPS);

**At R. 61-62.1(II)(K)(2)(b)**, add the abbreviation for the term “National Emission Standards for Hazardous Air Pollutants” (NESHAP) in parentheses after the term “National Emission Standards for Hazardous Air Pollutants” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency to read:

b. National Emission Standards for Hazardous Air Pollutants (NESHAP);

**At R. 61-62.1(II)(K)(2)(c)**, add the abbreviation for the term “Prevention of Significant Deterioration” (PSD) in parentheses after the term “Prevention of Significant Deterioration” to properly set off the abbreviation. Use this abbreviation hereafter for clarity and consistency to read:

c. Federal or State Prevention of Significant Deterioration (PSD) Regulations; or

**At R. 61-62.1(II)(K)(5)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation, and strike the unnecessary phrase “of the EPA” for consistency as the term “Administrator” had been previously defined in Section (I)(3) to read:

5. Any request under this section will be subjected to public notice and opportunity for a public hearing. Upon approval by the Board, the recommendations of this Department shall be sent to the Administrator, or his designated representative, for approval or disapproval.

**At R. 61-62.1(II)(K)(6)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation to read:

6. Where alternative compliance schedule provisions are contained elsewhere in the air pollution control regulations, those provisions shall supersede the requirements in this section.

**At R. 61-62.1(II)(L)(3)(d)**, following the phrase “to the Department within,” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) to provide number denotation consistency throughout the text of the regulation to read:

d. The permittee gave a verbal notification of the emergency to the Department within twenty-four (24) hours of the time when emission limitations were exceeded, followed by a written report within thirty (30) days. The written report shall include, at a minimum, the information required by Section II (J)(1)(c)(i) through (viii) above. The written report shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

**At R. 61-62.1(II)(N)(3)**, following both instances of the phrase “at least,” write out the word “thirty” and place parenthesis around the numeral for the word thirty (30) to provide number denotation consistency throughout the text of the regulation to read:

3. The Department shall provide at least thirty (30) days for public and EPA comment and shall give notice of any public hearing at least thirty (30) days in advance of the hearing. The Department shall keep a record of the commenters and also of the issues raised during the public participation process. The Department shall consider and provide a written response to all written comments received by mail and at the public hearing, within the time specified for the public notice, in making a final decision on the application.

**At R. 61-62.1(II)(N)(5)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation to read:

5. Any proposed new or modified stationary source required to undergo a public comment period shall not commence any construction until all public participation procedures of this section are completed, and the source has received an effective construction permit from the Department.

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**At R. 61-62.1(II)(O)(4)**, strike the abbreviation “SC” and replace with the name “South Carolina” for reference consistency to read:

4. As authorized by the Clean Air Act and/or the South Carolina Pollution Control Act, sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

**At R. 61-62.1(III)(A)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation to read:

### A. General

Emissions inventory is a study or compilation of pollutant emissions. The purposes of emissions inventories are to locate air pollution sources, to define the type and size of sources, to define the type and amount of emissions from each source, to determine pollutant frequency and duration, to determine the relative contributions to air pollution from classes of sources and of individual sources, to provide a basis for air permit fees, and to determine the adequacy of regulations and standards. The requirements of this section notwithstanding, an emissions inventory may be required from any source at any time.

**At R. 61-62.1(III)(B)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation to read:

### B. Applicability

The provisions of this section shall apply to all stationary sources:

**At R. 61-62.1(III)(C)(1)(a)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation to read:

a. Type A Sources - Title V sources with potential annual emissions greater than or equal to any of the emission thresholds listed for Type A Sources in Table 1 of this section. Beginning with the effective date of this regulation, these sources will submit an emissions inventory by March 31 of every year for the previous calendar year. Beginning on March 31, 2012 (with 2011 calendar year data), these sources will submit TAP and HAP data with their annual emissions inventory every third year for the previous calendar year.

**At R. 61-62.1(III)(C)(1)(b)**, following the word “three,” add the numeral for the word three (3) in parenthesis for number denotation consistency throughout the text of the regulation. Correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation. Following the phrase “submit emissions inventories every,” write out the word “three” and place parenthesis around the numeral for the word three (3) to provide number denotation consistency throughout the text of the regulation to read:

b. Type B Sources - Title V sources with potential annual emissions during any year of the three (3) year cycle greater than or equal to any of the emission thresholds listed for Type B Sources in Table 1 of this section. Beginning on March 31, 2012 (with calendar year 2011 data), these sources will submit emissions inventories every three (3) years for the previous calendar year.

**At R. 61-62.1(III)(C)(1)(c)**, write out the phrase “Nonattainment area” before the abbreviation “NAA” for clarity, and add parenthesis around the abbreviation “NAA” to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency. Following the word “three,” add the numeral for the word three (3) in parenthesis for number denotation consistency throughout the text of the regulation. Correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation. Following the phrase “submit emissions inventories every,” write out the word “three” and place

parenthesis around the numeral for the word three (3) to provide number denotation consistency throughout the text of the regulation to read:

c. Nonattainment area (NAA) Sources - Sources located in a nonattainment area with actual annual emissions during any year of the three (3) year cycle greater than or equal to any of the emission thresholds listed for NAA Sources in Table 1 of this section. Beginning on March 31, 2012 (with calendar year 2011 data), these sources that are not also Type A Sources will submit emissions inventories every three (3) years for the previous calendar year.

**At R. 61-62.1(III)(C)(2)(b)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation to read:

b. All newly permitted and constructed Title V sources and/or NAA Sources will complete and submit to the Department initial emissions inventories including the partial year when operation first began and the first full calendar year of operation. These sources shall then submit future emissions inventories on the schedule as described in Table 1 of this section.

**At R. 61-62.1(III)(C)(2)(c)**, following the phrase “previous calendar year within,” write out the word “ninety” and place parenthesis around the numeral for the word ninety (90) to provide number denotation consistency throughout the text of the regulation. Correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation to read:

c. Any existing sources that are newly identified as Title V sources and/or NAA Sources will complete and submit to the Department an emissions inventory for the previous calendar year within ninety (90) days of learning of applicability. These sources shall then submit future emissions inventories on the schedule as described in Table 1 of this section.

**At R. 61-62.1(III)(C)(2)(d)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” throughout the paragraph for consistency throughout the regulation to read:

d. Submittal of emissions inventories outside of the schedules in this section will be accepted and reviewed only if a modification has occurred that required issuance of an air quality permit since the last emissions inventory submittal by the source. This modification must alter the quantity or character of the source’s emissions. These sources may submit a new emissions inventory following the first full calendar year of operation after the modification. These sources shall then submit future emissions inventories on the schedule described in Table 1 of this section.

**At R. 61-62.1(III)(C)(2)(e)(x)**, strike the comma in the citation “40 CFR 51, Subpart A” for citation consistency throughout the text of the regulation to read:

x. Any desired information listed in 40 CFR 51 Subpart A (December 17, 2008), that is requested by the Department;

**At R. 61-62.1(III)(C)(2)(h)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the regulation. Following the word “five,” add the numeral for the word five (5) in parenthesis for number denotation consistency throughout the text of the regulation to read:

h. Copies of all records and reports relating to emissions inventories as required in this section shall be retained by the owner/operator at the source for a minimum of five (5) years.

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**At R. 61-62.1(IV)(A)(1)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the text of the regulation to read:

1. This section shall apply to the owner or operator of any source which conducts:

**At R. 61-62.1(IV)(A)(2)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the text of the regulation to read:

2. The Department may, on a case-by-case basis, exempt from the requirements of this section source tests which are performed for development of emission factors or for determination of applicability of regulations.

**At R. 61-62.1(IV)(B)(1)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the text of the regulation to read:

1. Prior to conducting a source test subject to this section, the owner or operator shall ensure that:

**At R. 61-62.1(IV)(B)(2)**, strike the word “Part” from all four “40 CFR” references to ensure citation consistency throughout the text of the regulation to read:

2. All test methods included in the site-specific test plan must be either EPA Reference Methods described in 40 CFR 51, Appendix M; or 40 CFR 60, Appendix A; or 40 CFR 61, Appendix B; or 40 CFR 63, Appendix A. If an applicable air regulation or permit provides for a choice of test methods, the selected method must be approved by the Department. If an applicable air regulation or permit does not specify use of an EPA standard reference method, the alternative test method to be used must be approved by the Department.

**At R. 61-62.1(IV)(B)(3)(a)**, strike the word “Part” from the reference “40 CFR Part 63” to ensure citation consistency throughout the text of the regulation to read:

3. a. The owner or operator of a source proposing to use alternative source test methods shall ensure that the alternative source test method is either validated according to EPA Reference Method 301 (40 CFR 63, Appendix A, December 29, 1992), and any subsequent amendments or editions, or approved by the Department.

**At R. 61-62.1(IV)(B)(5)(a)**, following the first instance of the phrase “previously approved test plan at least,” write out the word “forty-five” and place parenthesis around the numeral for the word forty-five (45) to provide number denotation consistency throughout the text of the regulation. Following the second instance of the phrase “previously approved test plan at least,” write out the word “sixty” and place parenthesis around the numeral for the word sixty (60) to provide number denotation consistency throughout the text of the regulation. to read:

5. a. The owner or operator shall submit site-specific test plans or a letter which amends a previously approved test plan at least forty-five (45) days prior to the proposed test date. Sources conducting tests for substances listed in Regulation 61-62.5, Standard No. 8, shall submit site-specific test plans or a letter which amends a previously approved test plan at least sixty (60) days prior to the proposed test date.

**At R. 61-62.1(IV)(B)(5)(b)**, following the word “two,” add the numeral for the word two (2) in parenthesis for number denotation consistency throughout the text of the regulation to read:

- b. If the only amendments to a previously approved test plan are to facility information included in Section IV (C)(1) below, the requirement in Section IV (B)(5)(a) above will not apply. The owner or operator, however, shall submit the amendments at least two (2) weeks prior to the proposed test date.

**At R. 61-62.1(IV)(B)(6)**, following the word “within,” write out the word “thirty” and place parenthesis around the numeral for the word thirty (30) to provide number denotation consistency throughout the text of the regulation to read:

6. Within thirty (30) days of site-specific test plan receipt, the Department will notify the owner or operator of site-specific test plan approval or denial or will request additional information.

**At R. 61-62.1(IV)(B)(9)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” throughout the paragraph for consistency throughout the text of the regulation to read:

9. Neither the submission of a site-specific test plan, nor the Department’s approval or disapproval of a plan, nor the Department’s failure to approve or disapprove a plan in a timely manner shall relieve an owner or operator of legal responsibility to comply with any applicable provisions of this section or with any other applicable federal, state, or local requirement; or prevent the Department from enforcing this section.

**At R. 61-62.1(IV)(C)(8)(c)**, following the phrase “if more than,” write out the word “thirty” and place parenthesis around the numeral for the word thirty (30) to provide number denotation consistency throughout the text of the regulation to read:

c. Proposed report submission date if more than thirty (30) days after the source test will be needed to complete the report.

**At R. 61-62.1(IV)(D)(1)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the text of the regulation. Following the word “two,” add the numeral for the word two (2) in parenthesis for number denotation consistency throughout the text of the regulation to read:

1. Prior to conducting a source test subject to this section, the owner or operator shall ensure that written notification is submitted to the Department at least two (2) weeks prior to the test date. Submission of a site-specific test plan or amendments to a previously approved test plan does not constitute notification.

**At R. 61-62.1(IV)(D)(2)**, following the phrase “in writing within,” write out the word “thirty” and place parenthesis around the numeral for the word thirty (30) to provide number denotation consistency throughout the text of the regulation to read:

2. In the event the owner or operator is unable to conduct the source test on the date specified in the notification, the owner or operator shall notify the Department as soon as practical by telephone and follow up in writing within thirty (30) days. Telephone notification shall include a description of the circumstance(s) causing the cancellation of the test, and a projected retest date. The written follow-up report shall include a description of the condition(s) which prevented the source test from being conducted, and when applicable, what corrective action was performed, or what equipment repairs were required.

**At R. 61-62.1(IV)(D)(6)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the text of the regulation to read:

6. When conducting a source test subject to this section, the owner or operator of a source shall provide the following:

**At R. 61-62.1(IV)(F)(1)**, correct the paragraph to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the text of the regulation to read:

1. The owner or operator of a source subject to this section shall submit a written report of the final source test results to the Department by the close of business on the 30th day following the completion of the test,



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unless an alternative date has been requested in and approved with the site-specific test plan prior to testing or is otherwise specified in a relevant federal or state standard.

**At R. 61-62.1(IV)(G), Title**, strike the hyphen in the word “Non-Compliant” and make the “C” lowercase for consistency and grammatical correctness to read:

### G. Noncompliant Results

**At R. 61-62.1(IV)(G)**, following the word “fifteen,” add the numeral for the word fifteen (15) in parenthesis for number denotation consistency throughout the text of the regulation. Strike the hyphen in the word “non-compliance” for consistency and grammatical correctness throughout the text of the regulation to read:

Within fifteen (15) days of submission of a test report indicating noncompliance, the owner or operator shall submit to the Department a written plan which includes at a minimum:

**At R. 61-62.1(V)(B)**, correct the item to make the word “Section” lowercase in the phrase “this Section” for consistency throughout the text of the regulation to read:

B. The purpose of this section is:

**At R. 61-62.1(V)(C)**, strike the hyphen in the word “non-compliance” for consistency and grammatical correctness to read:

C. The following are applicable in the determination of noncompliance by the Department or for compliance certification by the owners or operators of stationary sources:

### **R. 61-62.2, Prohibition of Open Burning**

State Register Doc. 2873, June 25, 2004

**At R. 61-62.2(I)(E)(1)**, following the phrase “but not less than” write out the word “one-thousand” and place parenthesis around the numeral for the word one-thousand (1000) to provide number denotation consistency throughout the text of the regulation to read:

1. The location of the burning must be a sufficient distance but not less than one-thousand (1000) feet from public roadways and all residential, commercial, and industrial sites not a part of the contiguous property on which the burning is conducted;

**At R. 61-62.2(I)(E)(7)**, following the phrases “no more than” add the numeral for the word two (2) in parentheses to provide number denotation consistency throughout the text of the regulation. Following the phrases “two piles” and “feet by” write out the words “thirty” and place parenthesis around the numeral for the words thirty (30) to provide number denotation consistency throughout the text of the regulation. Following the word “six” add the numeral for the word six (6) in parenthesis for number denotation consistency throughout the text of the regulation to read:

7. No more than two (2) piles thirty (30) feet by thirty (30) feet or equivalent may be burned within a six (6)-acre area at one time; and

**At R. 61-62.2(I)(G)(2)**, hyphenate “five hundred” for consistency throughout the regulation to read:

2. The location of the burning is at least five-hundred (500) feet from any occupied structure other than a dwelling or structure located on the property on which the burning is conducted;

**R. 61-62.3, Air Pollution Episodes**

State Register Doc. 4130, May 27, 2011

**At R. 61-62.3(I)(2)**, write out the phrase “micrograms per cubic meter” before the first unit abbreviation “ $\mu\text{g}/\text{m}^3$ ” for clarity, and add parenthesis around the unit abbreviation “ $\mu\text{g}/\text{m}^3$ ” to properly set off the abbreviation. Following the term “350 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ),” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) to provide number denotation consistency throughout the text of the regulation. Strike the phrase “p.p.m.” after the number “0.15” and write out the term “parts per million (ppm)” to properly set off the abbreviation. Use these abbreviations hereafter for clarity and consistency. Following the term “(0.15 parts per million (ppm)),” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24). After the number “0.2,” strike the term “p.p.m.” and replace with “ppm.” Following the term “(0.2 ppm),” write out the word “one” and place parenthesis around the numeral for the word one (1) to provide number denotation consistency throughout the text of the regulation. Following the term “within the next” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) for number denotation consistency to read:

2. WATCH - This level will be activated when continuous air quality monitoring indicates that one of the following pollutant concentrations has been reached:

PM<sub>10</sub> - 350 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), twenty-four (24)-hour average;

SO<sub>2</sub> - 400  $\mu\text{g}/\text{m}^3$  (0.15 parts per million (ppm)), twenty-four (24)-hour average; or

O<sub>3</sub> (Ozone) - 400  $\mu\text{g}/\text{m}^3$  (0.2 ppm), one (1)-hour average;

and meteorological conditions are such that the pollutant concentrations can be expected to remain at the above levels for twelve (12) hours or more, or increase, or in the case of ozone, the situation is likely to recur within the next twenty-four (24) hours unless control actions are taken.

**At R. 61-62.3(I)(3)**, Following the term “420 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ),” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) to provide number denotation consistency throughout the text of the regulation. Strike the phrase “p.p.m.” after the number “0.3” and replace with the term ppm for consistency throughout the regulation. Following the term “(0.3 parts per million (ppm)),” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24). After the number “0.4,” strike the term “p.p.m.” and replace with “ppm.” Following the term “(0.4 ppm),” write out the word “one” and place parenthesis around the numeral for the word one (1) to provide number denotation consistency throughout the text of the regulation. Following the term “within the next” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) for number denotation consistency to read:

3. ALERT - This level indicates that air quality is continuing to deteriorate and that additional control actions are necessary. An alert will be declared when monitoring indicates that one of the following pollutant concentrations has been reached:

PM<sub>10</sub> - 420  $\mu\text{g}/\text{m}^3$ , twenty-four (24)-hour average;

SO<sub>2</sub> - 800  $\mu\text{g}/\text{m}^3$  (0.3 ppm), twenty-four (24)-hour average; or

O<sub>3</sub> (Ozone) - 800  $\mu\text{g}/\text{m}^3$  (0.4 ppm), one (1)-hour average;

and meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) hours or more, or increase, or in the case of ozone, the situation is likely to recur within the next twenty-four (24) hours unless control actions are taken.

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**At R. 61-62.3(I)(4)**, Following the term “500 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ),” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) to provide number denotation consistency throughout the text of the regulation. Strike the phrase “p.p.m.” after the number “0.6” and replace with the term ppm for consistency throughout the regulation. Following the term “(0.6 parts per million (ppm)),” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24). After the number “0.5,” strike the term “p.p.m” and replace with “ppm.” Following the term “(0.5 ppm),” write out the word “one” and place parenthesis around the numeral for the word one (1) to provide number denotation consistency throughout the text of the regulation. Following the term “within the next” write out the word “twenty-four” and place parenthesis around the numeral for the word twenty-four (24) for number denotation consistency to read:

4. EMERGENCY - The primary objective of this plan is to prevent this level from ever being reached; however, should this level be reached the most stringent control actions are necessary. An emergency will be declared when monitoring indicates that one of the following pollutant concentrations has been reached:

PM<sub>10</sub> - 500  $\mu\text{g}/\text{m}^3$ , twenty-four (24)-hour average;

SO<sub>2</sub> - 1600  $\mu\text{g}/\text{m}^3$  (0.6 ppm), twenty-four (24)-hour average; or

O<sub>3</sub> (Ozone) - 1000  $\mu\text{g}/\text{m}^3$  (0.5 ppm), one (1)-hour average;

and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more, or increase, or in the case of ozone, the situation is likely to recur within the next twenty-four (24) hours unless control actions are taken.

**At R. 61-62.3(II), Introductory Paragraph**, following the term “Operators of plants emitting” write out the word “one-hundred” and place parenthesis around the numeral for the word one-hundred (100) to provide number denotation consistency throughout the text of the regulation to read:

### SECTION II. - EMISSION REDUCTION REQUIREMENTS

Operators of plants emitting one-hundred (100) tons per year or more of a single pollutant, and located in a nonattainment county or a county with a nonattainment area, are required to submit written plans for meeting the required reductions of pollutants for which the county is in nonattainment. These plans must identify the air pollutant source, the approximate amount of reduction of pollutants and a brief description of the manner in which the reduction will be achieved during each level. Sources of particulate matter and sulfur dioxide have been subject to this requirement since 1972 and sources of volatile organic compounds since July 1, 1980.

**At R. 61-62.3(II)(Table 1)(A)(2)**, after the term “limited to the hours between” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

2. The use of incinerators for the disposal of any form of solid waste should be limited to the hours between 12:00 p.m. (noon) and 4:00 p.m.

**At R. 61-62.3(II)(Table 1)(A)(3)**, after the term “between the hours of” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing should perform such operations between the hours of 12:00 p.m. (noon) and 4:00 p.m.

**At R. 61-62.3(II)(Table 2)(A)(3)**, after the term “between the hours of” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 p.m. (noon) and 4:00 p.m.

**At R. 61-62.3(II)(Table 2)(B)(1)(b)**, after the term “utilization of mid-day” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

b. Maximum utilization of mid-day (12:00 p.m. (noon) to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

**At R. 61-62.3(II)(Table 2)(B)(2)(b)**, after the term “utilization of mid-day” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

b. Maximum utilization of mid-day (12:00 p.m. (noon) to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

**At R. 61-62.3(II)(Table 2)(B)(3)(d)**, after the term “utilization of mid-day” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

d. Maximum utilization of mid-day (12:00 p.m. (noon) to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

**At R. 61-62.3(II)(Table 2)(B)(4)(d)**, after the term “utilization of mid-day” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

d. Maximum utilization of mid-day (12:00 p.m. (noon) to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

**At R. 61-62.3(II)(Table 3)(B)(1)(b)**, after the term “utilization of mid-day” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

b. Maximum utilization of mid-day (12:00 p.m. (noon) to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

**At R. 61-62.3(II)(Table 3)(B)(2)(b)**, after the term “utilization of mid-day” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

b. Maximum utilization of mid-day (12:00 p.m. (noon) to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

**At R. 61-62.3(II)(Table 3)(B)(3)(d)**, after the term “utilization of mid-day” write out the term 12:00 p.m., put the term “noon” in parenthesis, and write out the term 4:00 for clarity and consistency throughout the regulation to read:

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d. Maximum utilization of mid-day (12:00 p.m. (noon) to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

### **R. 61-62.4, Hazardous Air Pollution Conditions**

State Register Doc. 457, May 24, 1985

At **R. 61-62.4(A)(1)**, following the term “discharge into the ambient air” write out the word “one” and place parenthesis around the numeral for the word one (1) to provide number denotation consistency throughout the text of the regulation to read:

1. Hazardous Conditions (or hazardous levels) -- Conditions created by the release or discharge into the ambient air of one (1) or more air contaminants which because of the characteristics and/or quantity of material involved may pose an imminent threat to the health of anyone who might come in contact with the material through this release as well as involving substantial risk of injury, to include injury to property or plant and animal life. This includes the indirect threat to human life and property by the creation of traffic hazards.

### **R. 61-62.5, Standard 1, Emissions from Fuel Burning Operations**

State Register Doc. 4130, May 27, 2011

At **R. 61-62.5, Standard 1, (I)(D)**, write out the abbreviation “Code of Federal Regulations” and put the term “CFR” in parentheses to properly set it off. Use this abbreviation hereafter for clarity and consistency to read:

#### D. Test Method

The method which is approved by the Department for determining compliance with opacity limitations under this Standard is EPA Reference Method 9 (40 Code of Federal Regulations (CFR) 60, Appendix A, as revised July 1, 1986). Alternate methods may be utilized only if approved in advance by the Department and by the Environmental Protection Agency.

At **R. 61-62.5, Standard 1, (II)(A)**, strike the term “BTU” and replace with “Btu” for clarity and consistency and use this abbreviation throughout the regulation. Write out the phrase “British thermal units” before the first instance of the unit abbreviation “Btu” for clarity, add parenthesis around the unit abbreviation “Btu” and add the completed unit abbreviation in parenthesis “(Btu/hr)” to properly set off these abbreviations. Use these abbreviations hereafter for clarity and consistency. Strike the phrase “BTU per hour” from the equation “P = million BTU heat input per hour” and replace with the previously established unit abbreviation “Btu/hr” for consistency and clarity to read:

#### A. Allowable Discharge

The allowable discharge of particulate matter resulting from fuel burning operations shall be limited to the values obtained by use of Figure 1 and/or Part B. (For the purpose of determining heat input, total equipment capacity refers to total equipment capacity discharging through each stack. If a boiler has more than one (1) stack the total rated capacity will be the boiler rated capacity discharging to these stacks). Interpolation of Figure 1 for fuel burning operations of 1300 million British thermal units (Btu) per hour (Btu/hr) heat input and larger shall be accomplished by use of the equation:

$$E = 57.84 P^{-0.637}$$

where E = the allowable emission rate in pounds per million Btu heat input,  
and P = million Btu/hr heat input

**At R. 61-62.5, Standard 1, (II)(B)**, strike the phrase “BTU per hour” and replace with the previously established unit abbreviation “Btu/hr” for consistency and clarity. Add the abbreviation “(lb)” after the word “pounds” to properly set it off. Replace all instances of “BTU” with “Btu” for consistency to read:

#### B. Special Provisions

All fuel burning operations of 10 million Btu/hr heat input and smaller constructed prior to February 11, 1971, shall be allowed 0.8 pounds (lb) per million Btu input.

**At R. 61-62.5, Standard 1, (III)(B)(2)**, following the phrase “not to exceed three” add the numeral for the word three (3) in parentheses to provide number denotation consistency throughout the text of the regulation to read:

2. The assigned classifications will be reviewed periodically at intervals not to exceed three (3) years, and changes will be made as required. When a county is assigned to a more restrictive class, individual compliance schedules will be established in such a way that reasonable time will be allowed for the sources to make necessary changes in equipment and/or fuel contracts.

**At R. 61-62.5, Standard 1, (III)(C)**, replace all instances of “BTU” with “Btu” for consistency to read:

#### C. Allowable Discharges

Sulfur dioxide emissions from fuel burning sources located in various counties will not exceed the following limits:

##### 1. Counties in Class I

<u>Rated Source Size</u>	<u>Maximum Allowable Emissions (lb SO<sub>2</sub>/million Btu input)</u>
Up to and including 10 million Btu/hr	3.5
Greater than 10 million Btu/hr	2.3

##### 2. Counties in Class II

<u>Rated Source Size</u>	<u>Maximum Allowable Emissions (lb SO<sub>2</sub>/million Btu input)</u>
Up to 1000 million Btu/hr	3.5
1000 million Btu/hr and larger	2.3

##### 3. Counties in Class III

<u>Rated Source Size</u>	<u>Maximum Allowable Emissions (lb SO<sub>2</sub>/million Btu input)</u>
All	3.5

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**At R. 61-62.5, Standard 1, (IV)(A)(1),** strike the term “BTU per hour” and replace with the previously established unit abbreviation, “Btu/hr,” for consistency throughout the regulation to read:

### 1. Fossil Fuel Fired Boilers

The owner or operator of any fossil fuel-fired steam generator of more than 250 million Btu/hr heat input capacity shall install, calibrate, operate, and maintain no later than June 14, 1978, continuous monitoring system(s) for the measurement of opacity which meets the performance specifications of Section (IV)(D) except where:

**At R. 61-62.5, Standard 1, (IV)(A)(1)(b),** strike both instances of the word “Standard” and replace with the lowercase word “standard” for consistency throughout the regulation to read:

b. Oil or a mixture of gas and oil are the only fuels burned and the steam generator is able to comply with the provisions of Sections (I) and (II) of this standard without utilization of particulate matter collection equipment, and where the steam generator has never been found, through any administrative or judicial proceedings, to be in violation of Section (I) of this standard.

**At R. 61-62.5, Standard 1, (IV)(A)(1)(c),** following the terms “factor of” and “more than” write out the word “thirty” and place parenthesis around the numerals for the words thirty (30) to provide number denotation consistency throughout the text of the regulation to read:

c. The steam generator operates with an annual average capacity factor of thirty (30) percent or less, as reported to the Federal Power Commission for calendar year 1974 or otherwise adequately demonstrated to the Department; and has not subsequently increased this factor to more than thirty (30) percent.

**At R. 61-62.5, Standard 1, (IV)(A)(2)(a),** replace “BTU” with “Btu” for consistency to read to read:

a. Any woodwaste boiler of at least  $100 \times 10^6$  Btu/hr rated heat input.

**At R. 61-62.5, Standard 1, (IV)(B)(1)(a),** following the phrase “All integrated six” add the numeral for the word six (6) in parentheses to provide number denotation consistency throughout the text of the regulation to read:

a. All integrated six (6) minute opacity measurements for periods during which the applicable provisions of Section (I) have been exceeded, together with their nature and cause.

**At R. 61-62.5, Standard 1, (IV)(B)(3),** following the phrase “minimum of two” add the numeral for the word two (2) in parentheses to provide number denotation consistency throughout the text of the regulation to read:

3. The owner or operator shall maintain a file of all information contained in the quarterly reports, calibration data for the opacity monitoring system(s), relevant records of adjustments and maintenance performed on such system(s), and all other data generated by the continuous opacity monitoring system(s), for a minimum of two (2) years from the date of submission of such reports or collection of such data. The information contained on file must be made available for review by Department personnel upon request.

**At R. 61-62.5, Standard 1, (IV)(D)(1),** strike the word “Standard” and replace with the lowercase word “standard” for consistency. Following the term “for each successive” write out the word “ten” and place parenthesis around the numeral for the word ten (10). Following the term “span of approximately” write out the word “eighty” and place parenthesis around the numeral for the word eighty (80) to provide number denotation consistency throughout the text of the regulation to read:

1. The continuous opacity monitoring system(s) required by Section (IV)(A)(1) (for fossil fuel fired steam generators) shall conform with the performance specifications set forth in 40 CFR, Part 60, Appendix B, Performance Specification 1 as revised July 1, 1986, which is incorporated by reference as a part of this standard except that where the term “Administrator” is used the term “Department” shall be substituted. In addition, the opacity monitoring system(s) shall complete a minimum of one cycle of operation for each successive ten (10)-second period; be installed such that representative measurements of opacity from the affected steam generator are obtained; and have an instrument span of approximately eighty (80) percent opacity.

**At R. 61-62.5, Standard 1, (IV)(D)(2)**, following the terms “span whenever the” and “zero drift or” write out the words “twenty-four” and place parenthesis around the numerals for the words twenty-four (24). Following the term “calibration drift exceeds” write out the word “four” and place parenthesis around the numeral for the word four (4). Following the term “prior to February 11, 1971, and” write out the word “two” and place parenthesis around the numeral for the word two (2) to provide number denotation consistency throughout the text of the regulation to read:

2. The owner or operator shall record the zero and span drift in accordance with method prescribed by the manufacturer of such opacity monitoring system(s); subject the system(s) to the manufacturer’s recommended zero and span check at least once daily unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; adjust the zero and span whenever the twenty-four (24)-hour zero drift or twenty-four (24)-hour calibration drift limits of 40 CFR, Part 60, Appendix B, Performance Specification 1 as revised July 1, 1986, are exceeded; adjust the opacity monitoring system(s) purchased prior to September 11, 1974, whenever the 24-hour zero drift or 24-hour calibration drift exceeds four (4) percent opacity for those generators constructed prior to February 11, 1971, and two (2) percent opacity for those generators constructed after February 11, 1971.

**At R. 61-62.5, Standard 1, (IV)(E)**, following the phrase “effluents from two” add the numeral for the word two (2) in parentheses. Following the phrase “effluent from one” add the numeral for the word one (1) in parentheses to provide number denotation consistency throughout the text of the regulation to read:

#### E. Monitor Location

When the effluents from two (2) or more affected steam generators of similar design and operating characteristics are combined before released to the atmosphere, the opacity monitoring system(s) shall be installed on the combined effluent. When the affected steam generators are not of similar design and operating characteristics, or when the effluent from one (1) affected steam generator is released to the atmosphere through more than one point, the owner or operator shall apply for an alternate procedure to comply with the requirements Section (IV).

**At R. 61-62.5, Standard 1, (IV)(F)**, following the term “operation of less than” write out the word “thirty” and place parenthesis around the numeral for the word thirty (30) to provide number denotation consistency throughout the text of the regulation to read:

#### F. Exemptions from Monitoring Requirements

Whenever the requirements for continuous opacity monitoring cannot be implemented by the owner or operator due to physical plant limitations, extreme economic burden, or infrequent steam generator operation of less than thirty (30) days per year, or when the specified monitoring procedure would not provide accurate opacity determinations, alternate monitoring and reporting requirements may be approved on a case by case basis provided the owner or operator submits a written request to the Department which includes, but is not limited to:



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**At R. 61-62.5, Standard 1, (V)(A)**, following the term “Residences of four” add the numeral for the word four (4) to provide number denotation consistency throughout the text of the regulation to read:

A. Residences of four (4) families or less.

**At R. 61-62.5, Standard 1, (VI) Introductory paragraph**, following the term “conducted every two” add the numeral for the word two (2) in parentheses to provide number denotation consistency throughout the text of the regulation to read:

### SECTION VI - PERIODIC TESTING

An owner or operator of any source listed below shall ensure that scheduled periodic tests for particulate matter emissions are conducted every two (2) years or as required by permit conditions and are performed in accordance with the provisions of Regulation 61-62.1, Section IV, Source Tests. An owner or operator shall demonstrate compliance with sulfur dioxide emissions by source testing, continuous monitoring, or fuel analysis as required by permit conditions.

**At R. 61-62.5, Standard 1, (VI)(A)**, replace “BTU” with “Btu” and strike the period after “Btu/hr” for clarity and consistency to read:

A. Oil-fired boilers greater than  $250 \times 10^6$  Btu/hr rated input.

**At R. 61-62.5, Standard 1, (VI)(B)**, replace “BTU” with “Btu” and strike the period after “Btu/hr” for clarity and consistency to read:

B. Coal-fired boilers greater than  $50 \times 10^6$  Btu/hr rated input.

**At R. 61-62.5, Standard 1, (VI)(C)**, replace “BTU” with “Btu” and strike the period after “Btu/hr” for clarity and consistency to read:

C. Woodwaste, or combination woodwaste boilers greater than  $20 \times 10^6$  Btu/hr rated input.

### **R. 61-62.5, Standard 2, Ambient Air Quality Standards**

State Register Doc. 4280, April 27, 2012

**At R. 61-62.5, Standard 2, Introductory Text**, after the phrase “Appendices to 40,” write out the term “Code of Federal Regulations” and put the abbreviation “CFR” in parentheses to properly set it off. Use this abbreviation hereafter for clarity and consistency to read:

The following table, unless otherwise noted, constitutes the primary and secondary ambient air quality standards for the State of South Carolina. The computations for determining if the applicable standard is met, along with the analytical methods to be used, will be those applicable Federal Reference Methods and Interpretations published in the Appendices to 40 Code of Federal Regulations (CFR) 50, or those methods designated as Federal Equivalent Methods (FEM) in accordance with 40 CFR 53. In the case of Gaseous Fluorides, either the double paper tape sampler method (ASTM D-3266-91 or later), the sodium bicarbonate-coated glass tube and particulate filter method (ASTM D-3268-91 or later), or an approved method may be used.

**R.61-62.5, Standard No. 3, Waste Combustion and Reduction**

State Register Doc. No. 3224, October 24, 2008

**At R.61-62.5, Standard No. 3, Section I.A,** change the word “Section” from uppercase to lowercase for consistency throughout the regulation; and change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

A. Except as provided for in paragraphs J and K of this section, this standard applies to any source, regardless of type or construction date, which burns any waste other than virgin fuel for any purpose.

**At R.61-62.5, Standard No. 3, Section I.B,** add the text “(MSW)” after the phrase “Municipal Solid Waste” for clarity and to establish hereafter as the acronym for “Municipal Solid Waste”; add the phrase “Code of Federal Regulations” (hereafter will be abbreviated as CFR) after the text “subject to 40” in the first sentence for clarity; add parentheses to the acronym “CFR” in the first sentence for consistency; strike the word “Part” between the acronym “CFR” and the text “60, Subpart Cb” for consistency; add the phrase “Federal Register” before the first instance of the abbreviation “FR” for clarity and consistency; add parentheses around the first instance of the abbreviation “FR” for consistency; strike the word “Part” in the text “40 CFR Part 60”, in all instances in the last sentence, for consistency; and change the word “Standard”, in all instances, from uppercase to lowercase for consistency throughout the regulation to read:

B. Municipal Waste Combustion facilities constructed, reconstructed or modified on or before September 20, 1994, with a unit capacity greater than 250 tons per day of Municipal Solid Waste (MSW) shall be subject to 40 Code of Federal Regulations (CFR) 60, Subpart Cb, Emission Guidelines and Compliance Schedules for Municipal Waste Combustors, promulgated December 19, 1995, 60 Federal Register (FR) 65415, and amended August 25, 1997, 62 FR 45119 and 45125 and the South Carolina Air Quality Implementation Plan. For the purposes of this standard, the definitions contained in the various provisions of 40 CFR 60, adopted herein, shall apply except that the term “Administrator,” when used in 40 CFR 60, shall mean the Department. These Municipal Waste Combustors shall also be subject to any provision of this standard that would impose a more restrictive emission limit or requirement.

**At R.61-62.5, Standard No. 3, Section I.C,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

C. Sources burning more than one type of waste are subject to the most restrictive requirements of this standard for the wastes being burned.

**At R.61-62.5, Standard No. 3, Section I.E,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation; and strike the word “Number” and replace with the text “No.” for consistency throughout the regulation to read:

E. Hospital/medical/infectious waste incinerators burning other waste in addition to medical waste are subject to the requirements of this standard that are more restrictive than those found in Standard No. 3.1 for the waste being burned.

**At R.61-62.5, Standard No. 3, Section I.F,** strike the word “Part” after each instance of the acronym “CFR” for consistency throughout the regulation; and change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

F. Municipal waste combustors subject to 40 CFR 60, Subpart Ea; 40 CFR 60, Subpart Eb; or 40 CFR 60, Subpart Cb are subject to more restrictive requirements of this standard applicable to the waste being burned.

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**At R.61-62.5, Standard No. 3, Section I.G,** change the word “Standard,” in all instances, from uppercase to lowercase for consistency throughout the regulation to read:

G. Municipal waste combustors, excluding air curtain incinerators, subject to this standard that meet the definition of retail business incinerators or commercial incinerators are subject only to the requirements of this standard applicable to those units.

**At R.61-62.5, Standard No. 3, Section I.H,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

H. Any unit that burns tires as its only MSW is not subject to the portions of this standard applicable to Municipal Waste Combustors if the owner or operator of the unit:

**At R.61-62.5, Standard No. 3, Section I.I,** change the word “Standard,” in all instances, from uppercase to lowercase for consistency throughout the regulation to read:

I. Air curtain incinerators subject to this standard whose only municipal solid waste being burned is yard waste are subject only to those requirements of this standard applicable to air curtain incinerators. Air curtain incinerators subject to this standard that burn any other municipal solid waste other than yard waste are subject only to the requirement of having refractory lined pits that is applicable to air curtain incinerators and to all the requirements of this standard applicable to municipal waste combustors.

**At R.61-62.5, Standard No. 3, Section I.J.1,** add the text “(TRS)” after the words “total reduced sulfur” for clarity; strike the text “(TRS)” following the word “compounds” for clarity and consistency; change the word “Compounds,” in both instances, from uppercase to lowercase for consistency; change the word “Standard,” in all instances, from uppercase to lowercase for consistency throughout the regulation; change the word “regulation” from lowercase to uppercase for consistency; add the text “No.” between the word “Standard” and the number “4” for consistency and to correct omission; add a comma after the phrase “Emissions from Process Industries” for grammatical correctness; and strike the word “Part” in the text “40 CFR Part 60” for consistency to read:

1. Industrial furnaces and boilers at pulp and paper facilities burning only black liquor, only total reduced sulfur (TRS) compounds, or only black liquor and/or TRS compounds and/or virgin fuel are not subject to this standard. Also, total reduced sulfur control devices burning only gaseous TRS and virgin fuel are not subject to this standard. Gaseous process streams containing TRS compounds that are regulated in accordance with Section XI of Regulation 61-62.5, Standard No. 4, Emissions from Process Industries, and/or 40 CFR 60, Subpart BB, Standards of Performance for Kraft Pulp Mills, are also not subject to this standard. Exemptions for additional process streams will be considered on a case-by-case basis. Additions to black liquor for the purpose of waste disposal shall not be exempt from this standard.

**At R.61-62.5, Standard No. 3, Section I.J.2,** change the word “Standard” in the first sentence from uppercase to lowercase for consistency throughout the regulation; add the text “No.” between the word “Standard” and the number “3” for consistency and to correct omission to read:

2. Facilities utilizing a renewable energy resource burned for energy recovery may request an exemption from this standard by: 1) submitting a site-specific chemical analysis of the renewable energy resource and/or source testing results to the Department for review, and 2) providing additional documentation as necessary so that the Department can confirm that the exemption will be protective of human health and the environment. The Department reserves the right to deny a request for an exemption to Standard No. 3 for any renewable energy resource(s) that does not satisfy the above conditions.

**At R.61-62.5, Standard No. 3, Section I.J.3,** strike the word “Part” in the text “40 CFR Part 63” for consistency throughout the regulation; and change the word “Standard,” in all instances, from uppercase to lowercase for consistency throughout the regulation to read:

3. A facility with an emission unit and/or control device that complies with all the requirements of an applicable Maximum Achievable Control Technology (MACT) Standard under 40 CFR 63, including the testing and reporting requirements, may request an exemption from this standard. Facilities requesting such an exemption shall provide any documentation as necessary in order for the Department to make a determination. Upon review of such a request, the Department may grant an exemption from this standard if it determines that compliance with the applicable MACT Standard(s) would be as protective of human health and the environment as the requirements of this standard. Any new waste and/or process stream must be evaluated by the Department in order to maintain this exemption. Also, any operational change that may impact emissions from the waste must be evaluated by the Department in order to maintain this exemption.

**At R.61-62.5, Standard No. 3, Section I.K,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation; add the text “British thermal unit per hour” after the number “ $0.5 \times 10^6$ ” for clarity; change the acronym “BTU” to “Btu” (hereafter the abbreviation for British thermal unit) for abbreviation consistency; and place parenthesis before and after the unit abbreviation “Btu/hr” for consistency to read:

K. Space heaters engineered to burn used oil will be exempt from this standard provided the used oil is generated on-site or originates from “do-it-yourself” oil changes and provided also that the burners are rated at no more than  $0.5 \times 10^6$  British thermal unit per hour (Btu/hr) heat input and the exhaust is vented to the ambient air. No construction or operating permit will be required.

**At R.61-62.5, Standard No. 3, Section I.L,** change the word “Standard” in both instances, from uppercase to lowercase for consistency throughout the regulation to read:

L. This standard was effective on the date of publication in the State Register, which was originally February 26, 1988. Subsequent dates of effective revisions published in the State Register will be indicated at appropriate places as necessary in this standard.

**At R.61-62.5, Standard No. 3, Section I.M,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

M. For the purpose of this standard, existing sources are sources that are “in existence” on February 26, 1988, unless otherwise noted herein.

**At R.61-62.5, Standard No. 3, Section II,** change the word “Standard,” in both instances, from uppercase to lowercase for consistency throughout the regulation; and change the word “Federal” from uppercase to lowercase for consistency and grammatical correctness to read:

This standard will not supersede any other state or federal requirements including but not limited to federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), state or federal Prevention of Significant Deterioration (PSD) Regulations, Hazardous Waste Management Regulations, nor special permit conditions, unless a more restrictive emission limit or requirement is imposed by this standard.

**At R.61-62.5, Standard No. 3, Section III.B.2,** write out the term “Particulate Matter” and place the abbreviation “PM” in parenthesis to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

2. Particulate Matter (PM) - No established limit.

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At **R.61-62.5, Standard No. 3, Section III.D.2**, write out the term “pounds per ton” after the value “1.3” and place the abbreviation “lb/ton” in parenthesis to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

2. Particulate matter emissions shall not exceed 1.3 pounds per ton (lb/ton) of dry sludge.

At **R.61-62.5, Standard No. 3, Section III.E.2**, write out the term “pounds per hour” after the value “4” and place the abbreviation “lb/hr” in parenthesis to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency to read:

2. Hydrochloric acid (HCl) emissions may exceed 4 pounds per hour (lb/hr) only if they are controlled with an efficiency of at least 99 percent.

**Regulation 61-62.5, Standard No. 3, Section III.E.3**, shall be revised as follows:

3. Particulate matter emissions shall not exceed 0.08 grains/Dry Standard Cubic Feet (DSCF) corrected to 7 percent oxygen (O<sub>2</sub>) measured on a dry basis.

At **R.61-62.5, Standard No. 3, Section III.E.4 (Table I and footnote a)**, change the acronym “BTU”, in all instances in Table I and footnote “a,” to “Btu” for abbreviation consistency to read:

4. Other emission limits are as follows:

**TABLE I**

Material	Emission Limit <sup>a</sup>
Nickel (Ni)	$6.0 \times 10^{-3}$ lb / $10^6$ Btu total heat input
Cadmium (Cd)	$1.0 \times 10^{-4}$ lb / $10^6$ Btu total heat input
Chromium (Cr)	$5.0 \times 10^{-4}$ lb / $10^6$ Btu total heat input
Arsenic (As)	$2.5 \times 10^{-4}$ lb / $10^6$ Btu total heat input
Lead (Pb)	$5.0 \times 10^{-3}$ lb / $10^6$ Btu total heat input

<sup>a</sup>. The total heat input value shall include the Btu from the waste and virgin fuel used for production. Furthermore, the total heat input value shall not exceed the Btu used to affect the combustion of the waste and shall not include any Btu input from auxiliary burners located outside of the primary combustion chamber such as those found in secondary combustion chambers, tertiary combustion chambers or afterburners unless those auxiliary burners are fired with waste. In the case where waste is fired in the auxiliary burners located outside of the primary combustion chamber, only the Btu value of the fuel for the auxiliary burner which is from waste shall be added to the total heat input value.

At **R.61-62.5, Standard No. 3, Section III.F.3, Table II, Footnote<sup>a</sup>**, strike the word “Part” for consistency throughout the regulation to read:

- <sup>a</sup> As defined in 40 CFR 60 Subpart Eb.

At **R.61-62.5, Standard No. 3, Section III.F.4**, write out the term “parts per million by volume” and place the abbreviation “ppmv” in parenthesis to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency; write out the term “Environmental Protection Agency” and place the abbreviation “EPA” in parenthesis to properly set off the abbreviation. Use the abbreviation hereafter for clarity and consistency. Strike the word “Part” after the acronym “CFR” for consistency throughout the regulation; and add a comma after the number “266” for consistency throughout the regulation to read:

4. Cement kilns burning municipal solid waste may exceed the values listed in Table II provided they do not exceed 20 parts per million by volume (ppmv) total hydrocarbons (THC) hourly average, as propane (as

determined by Environmental Protection Agency (EPA) reference method 25A or from Continuous Emission Monitors (CEMs) meeting Performance Specification 2.2 of 40 CFR 266, Appendix IX), measured at the kiln outlet corrected to 7 percent O<sub>2</sub>, both measured on a dry basis.

**At R.61-62.5, Standard No. 3, Section III.F.13**, change the word “Section” in the text “of this Section” from uppercase to lowercase for consistency throughout the regulation to read:

13. The source owner or operator shall prepare and submit for Department approval an inspection and maintenance plan and a plan of action for the facility prior to startup. The inspection and maintenance plan shall include calibration, inspection and maintenance schedules along with operating and monitoring parameters for the combustor, associated control equipment and monitoring devices. The plan of action shall identify the steps and procedures the operator will follow to avoid exceedances of the emission limits and operating conditions specified in paragraphs F.1 thru F.7 and F.12 of this section. The plan shall include descriptions of startup and shutdown procedures, actions to be taken to correct anomalous operating conditions and training of plant operators.

**At R.61-62.5, Standard No. 3, Section III.F.15.e**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

e. The monitoring equipment required by Section VI.A.2.e of this standard is not functioning.

**At R.61-62.5, Standard No. 3, Section III.H.7.c**, strike the hyphenated word “start-up” and replace with the unhyphenated word “startup” for consistency throughout the regulation; strike the hyphenated word “shut-down” and replace with the unhyphenated word “shutdown” for consistency throughout the regulation; and strike the hyphenated word “burn-out” and replace with the unhyphenated word “burnout” for consistency throughout the regulation to read:

c. A detailed procedure for normal system startup and shutdown shall be submitted as a part of the application for approval including the duration of preheat and burnout cycles.

**At R.61-62.5, Standard No. 3, Section III.I.2**, change the acronym “BTU,” in all instances, to “Btu” for abbreviation consistency to read:

2. Particulate matter emissions shall not exceed 0.5 lbs/10<sup>6</sup> Btu total heat input. The total heat input value from waste and virgin fuel used for production shall not exceed the Btus used to affect the combustion of the waste and shall not include any Btu input from auxiliary burners located outside of the primary combustion chamber such as those found in secondary combustion chambers, tertiary combustion chambers or afterburners unless those auxiliary burners are fired with waste. In the case where waste is fired in the auxiliary burners located outside of the primary combustion chamber, only the Btu value of the fuel for the auxiliary burner which is from waste shall be added to the total heat input value.

**At R.61-62.5, Standard No. 3, Section III.I.3**, change the acronym “BTU” to “Btu” for abbreviation consistency; and change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

3. Industrial incinerators with a total design capacity of less than 1x10<sup>6</sup> Btu/hr including auxiliary devices used to recondition parts shall be exempt from all requirements of this standard except for the following:

**At R.61-62.5, Standard No. 3, Section III.J.1 (Table III and footnotes)**, change the acronym “BTU,” in all instances in Table III and footnote “a” to “Btu” for abbreviation consistency; in footnote “b,” strike the text “R.” from the text “R.61-62.5” and replace with the word “Regulation” for clarity and consistency; and add the text “No.” after the word “Standard” for consistency to read:

**TABLE III<sup>b</sup>**

Material	Emission Limit <sup>a</sup>
Nickel (Ni)	$6.0 \times 10^{-3}$ lb / $10^6$ Btu total heat input
Cadmium (Cd)	$1.0 \times 10^{-4}$ lb / $10^6$ Btu total heat input
Chromium (Cr)	$7.4 \times 10^{-4}$ lb / $10^6$ Btu total heat input
Arsenic (As)	$1.7 \times 10^{-3}$ lb / $10^6$ Btu total heat input
Lead (Pb)	$5.0 \times 10^{-3}$ lb / $10^6$ Btu total heat input
Hydrochloric Acid (HCl)	0.45 lb / $10^6$ Btu total heat input

<sup>a</sup> The total heat input value shall include the Btu from the waste and virgin fuel used for production. Furthermore, the maximum total heat input value to be used in determining the emission limitations shall be limited to the Btus necessary to maintain production. The Btu from other sources such as afterburners shall not be considered in determining this total heat input value unless those auxiliary burners are fired with waste. In the case where waste is fired in the auxiliary burners located outside of the primary combustion chamber, only the Btu value of the fuel for the auxiliary burner which is from waste shall be added to the total heat input value.

<sup>b</sup> Source testing for metals or HCl will not be required at facilities burning waste with no metals or chlorine in the waste. Analysis showing these constituents to be nondetectable by reference method in the waste would be an alternative method for determining compliance with emission limits as allowed by Regulation 61-62.5, Standard No. 3, Section VIII(A).

At **R.61-62.5, Standard No. 3, Section III.J.2**, change the acronym “BTU” to “Btu” for abbreviation consistency to read:

2. HCl emissions may exceed 0.45 lb/ $10^6$  Btu total heat input only if the HCl emissions are controlled with an efficiency of at least 99 percent.

At **R.61-62.5, Standard No. 3, Section III.J.5**, change the acronym “BTU” to “Btu” for abbreviation consistency; and strike the word “hour” and replace with the text “hr” for consistency throughout the regulation to read:

5. Any boiler less than  $10 \times 10^6$  Btu/hr rated heat input will be restricted to the use of virgin fuel and/or spec. oil.

At **R.61-62.5, Standard No. 3, Section III.J.6**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

6. Sources burning small quantities of waste that is generated by the owner/operator and is burned as described in Table IV below, are exempt from the requirements of this standard except as follows:

At **R.61-62.5, Standard No. 3, Section III.J.6.c (Table IV)**, change the acronym “BTU” to “Btu” for abbreviation consistency to read:

c. Records of the material being burned (that is, gallons per month or tons per month) and its firing rate must be kept and made available to the Department upon request.

**TABLE IV**

Boiler Size ( $1 \times 10^6$ Btu/hr)	Waste Firing Rate (heat input of waste/ design heat input of unit)
>10 - 50	0.1
>50	0.06

**At R.61-62.5, Standard No. 3, Section III.L.4**, change the acronym “BTU” to “Btu” for abbreviation consistency; and strike the word “hour” and replace with the text “hr” for consistency to read:

4. Any furnace less than  $10 \times 10^6$  Btu/hr rated heat input will be restricted to the use of virgin fuel and/or spec. oil.

**At R.61-62.5, Standard No. 3, Section III.L.5**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

5. Sources burning small quantities of waste that is generated by the owner/operator and is burned as described in Table V below, are exempt from the requirements of this standard except as follows:

**At R.61-62.5, Standard No. 3, Section III.L.5.c (Table V)**, change the acronym “BTU” to “Btu” for abbreviation consistency to read:

c. Records of the material being burned (that is, gallons per month or tons per month) and its firing rate must be kept and made available to the Department upon request.

**TABLE V**

Furnace Size ( $1 \times 10^6$ Btu/hr)	Waste Firing Rate (heat input of waste/ design heat input of unit)
>10 - 50	0.1
>50	0.06

**At R.61-62.5, Standard No. 3, Section III.L.7**, change the acronym “BTU” to “Btu” for abbreviation consistency to read:

7. HCl emissions may exceed  $0.45 \text{ lb}/10^6$  Btu total heat input only if the HCl emissions are controlled with an efficiency of at least 99 percent.

**At R.61-62.5, Standard No. 3, Section IV.A.1**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

1. All sources subject to source testing must be in compliance within one year of February 26, 1988, unless otherwise stated in this standard. Other requirements for specific source types are listed below.

**At R.61-62.5, Standard No. 3, Section IV.A.2.d(i)**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

(i) All hazardous waste incinerators must notify the Department in writing of their intent to operate, including information regarding the fuel and waste (amount, type(s), specification/analyses) and method of operation within 60 days of February 26, 1988, unless otherwise stated in this standard. The Department will notify the source within 30 days of receipt of this information if a formal permit application is needed.

**At R.61-62.5, Standard No. 3, Section IV.A.2.e(i)**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

(i) All municipal waste combustors must notify the Department in writing of their intent to operate, including information regarding the fuel and waste (amount, type(s), specification/analyses) and method of operation within 60 days of [DATE PUBLISHED IN THE STATE REGISTER] unless otherwise stated in this standard. The Department will notify the source within 30 days of receipt of this information if a formal permit application is needed.



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**At R.61-62.5, Standard No. 3, Section IV.A.2.f(iii)**, strike the number “6” before the word “months” and replace with the word “six” for consistency throughout the regulation; and strike the number “3” before the word “years” and replace with the word “three” for consistency throughout the regulation to read:

(iii) Compliance with Section III.G.3. shall be required within 180 days of May 25, 1990, for all permanent sites (that is, sites used more than six months) and within three years of May 25, 1990, for all portable air curtain incinerators used at temporary sites.

**At R.61-62.5, Standard No. 3, Section IV.A.2.g(i)**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

(i) All commercial incinerators must notify the Department in writing of their intent to operate, including information regarding the fuel and waste (amount, type(s), specification/analysis) and method of operation within 60 days of [DATE PUBLISHED IN THE STATE REGISTER] unless otherwise stated in this standard. The Department will notify the source within 30 days of receipt of this information if a formal permit application is needed.

**At R.61-62.5, Standard No. 3, Section IV.A.2.h(i)**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

(i) All industrial incinerators must notify the Department in writing of their intent to operate, including information regarding the fuel and waste (amount, type(s), specification/analyses) and method of operation within 60 days of February 26, 1988, unless otherwise stated in this standard. The Department will notify the source within 30 days of receipt of this information if a formal permit application is needed.

**At R.61-62.5, Standard No. 3, Section IV.A.2.i(i)**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

(i) All industrial boilers and utility boilers must notify the Department in writing of their intent to operate, including information regarding the fuel and waste (amount, type(s), specification/analyses) and method of operation within 60 days of February 26, 1988, unless otherwise stated in this standard. The Department will notify the source within 30 days of receipt of this information if a formal permit application is needed.

**At R.61-62.5, Standard No. 3, Section IV.A.2.k(i)**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

(i) All industrial furnaces must notify the Department in writing of their intent to operate, including information regarding the fuel and waste (amount, type(s), specification/analyses) and method of operation within 60 days of February 26, 1988, unless otherwise stated in this standard. The Department will notify the source within 30 days of receipt of this information if a formal permit application is needed.

**At R.61-62.5, Standard No. 3, Section IV.B**, change the word “Standard,” in all instances, from uppercase to lowercase for consistency throughout the regulation to read:

B. New Sources - Any source to which this standard is applicable and which is not in existence on the effective dates of this standard must be in compliance with the applicable portions of this standard on the date operation of the source begins.

**At R.61-62.5, Standard No. 3, Section V.B**, change the acronym “BTU” to “Btu,” in both instances, for abbreviation consistency; add parenthesis before and after the unit abbreviation “Btu/gal” for consistency; add the text “British thermal unit per gallon” before the unit abbreviation “(Btu/gal)” for clarity; add parenthesis

before the unit abbreviation “Btu/lb)” for consistency; and add the text “British thermal unit per pound” before the unit abbreviation “(Btu/lb)” for clarity to read:

B. Regardless of the type of source involved, with the exception of crematory and air curtain incinerators, each waste stream (if the waste is deemed to be consistent in composition) or each waste batch/shipment (if the waste is deemed inconsistent in composition) that is to be burned shall be analyzed for heat value (British thermal unit per gallon (Btu/gal) and/or British thermal unit per pound (Btu/lb), total halogen, percent nitrogen and percent sulfur.

**At R.61-62.5, Standard No. 3, Section V.E,** add the words “nitrogen oxides” after the text “particulate matter,” for clarity and consistency; add parenthesis before and after the symbol “NO<sub>x</sub>” for consistency; add the words “sulfur dioxide” before the symbol “SO<sub>2</sub>” for clarity and consistency; and add parenthesis before and after the symbol “SO<sub>2</sub>” for consistency to read:

E. If a source has an air pollutant emission rate established in a permit other than opacity, particulate matter, nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), and/or carbon monoxide, each waste stream (if the waste is deemed to be consistent in composition) or each waste batch/shipment (if the waste is deemed inconsistent in composition) that is to be burned shall be analyzed for those pollutants for which the emission rate was established that may reasonably be expected to be in the waste. When an HCl emission rate is set, HCl testing shall be required. Total halogens analysis may be performed as an alternative to HCl testing although this method will yield a high HCl bias.

**At R.61-62.5, Standard No. 3, Section V.G.4,** add a comma after the text “Regulation 61-62.5” for consistency and grammatical correctness; and change the word “Standard” after the word “applicable” from uppercase to lowercase for consistency throughout the regulation to read:

4. Ambient air modeling for compliance with Regulation 61-62.5, Standards No. 2 and No. 8 indicates that at the maximum waste firing rate and storage volume a particular constituent at its maximum potential concentration will be in compliance with the applicable standard; or

**At R.61-62.5, Standard No. 3, Section V.J,** change the word “Section” from uppercase to lowercase and strike the text “(5)” for consistency throughout the regulation to read:

J. All information used to determine compliance with this section (that is, MSDS, waste manifests, waste analyses) must be kept on site for a period of five years and made available to the Department upon request.

**At R.61-62.5, Standard No. 3, Section VI.A.1,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

1. The owner/operator shall install, calibrate, maintain and operate monitoring devices as indicated below within one year from February 26, 1988. Required monitoring devices must meet the specifications of Section VII of this standard. Alternative site-specific methods of monitoring, other than those cited below, may be used provided prior approval from the Department is obtained. Other monitors may be required by permits as conditions warrant.

**At R.61-62.5, Standard No. 3, Section VI.A.2.c,** strike the word “Part” after the acronym “CFR” for consistency throughout the regulation to read:

c. Sludge Incinerator (effective [DATE PUBLISHED IN THE STATE REGISTER]) - Monitoring devices if required by 40 CFR 60 Subpart O.

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At **R.61-62.5, Standard No. 3, Section VI.B.5**, strike the abbreviation “PPM” and replace with the abbreviation “ppm” for proper unit citation to read:

### 5. CO Monitor:

Monitors subject to this requirement shall take a minimum of one measurement every 15 minutes with this data recorded at least every successive 15 minutes. The minimum data recorder resolution shall be 5 parts per million (ppm).

At **R.61-62.5, Standard No. 3, Section VI.B.7**, strike the abbreviation “PPM” and replace with the abbreviation “ppm” for proper unit citation to read:

### 7. HCl Monitor:

Monitors subject to this requirement shall take a minimum of one measurement every 15 minutes with this data recorded at least every successive 15 minutes. The minimum data recorder resolution shall be 5 ppm.

At **R.61-62.5, Standard No. 3, Section VI.B.9**, strike the abbreviation “PPM” and replace with the abbreviation “ppm” for proper unit citation to read:

### 9. THC Monitor:

Monitors subject to this requirement shall take a minimum of one measurement every 15 minutes with the data recorded at least every successive 15 minutes. The minimum data recorder resolution shall be 1 ppm.

At **R.61-62.5, Standard No. 3, Section VI.C.1**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

1. Any owner or operator subject to any of the provisions of this standard shall maintain a file of all measurements, data and correspondence relating to continuous monitoring systems, other monitoring devices, performance testing measurements, all continuous monitoring system performance evaluations, all continuous monitoring system or monitoring device calibration checks, and adjustments and maintenance performed on these systems or devices.

At **R.61-62.5, Standard No. 3, Section VI.C.2**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation; and strike the period after the word “operation” and place a period after the date in parentheses to read:

2. The owner or operator of any source subject to any of the provisions of this standard shall record the daily waste(s) charge rates and hours of operation (effective [DATE PUBLISHED IN THE STATE REGISTER]).

At **R.61-62.5, Standard No. 3, Section VI.C.3**, change the word “Section” from uppercase to lowercase for consistency throughout the regulation to read:

3. Copies of all records and reports required under this section shall be available for inspection during normal working hours and copies shall be furnished within 10-working days after receipt of a written request from the Department.

At **R.61-62.5, Standard No. 3, Section VI.C.4**, change the word “Section” from uppercase to lowercase for consistency throughout the regulation to read:

4. Copies of all records and reports required under this section shall be retained by the owner/operator for five years after the date on which the record was made or the report submitted.

**At R.61-62.5, Standard No. 3, Section VI.D.1,** change the word “Section” from uppercase to lowercase for consistency throughout the regulation; and change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

1. All sources subject to the monitoring provisions of this section will be required to report quarterly all exceedances of limits specified in the source's permit and this standard. All quarterly reports must be postmarked by the 30th day following the end of each calendar quarter.

**At R.61-62.5, Standard No. 3, Section VI.D.2,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

2. Any source subject to this standard must report any changes in operating or monitoring parameters and/or any equipment malfunctions which result in exceedances of the emissions limitations herein, within 24 hours after the occurrence unless otherwise approved in a Department approved malfunction plan. This report shall be made to the appropriate District Environmental Quality Control Office. In addition, the flow of hazardous waste fed to the combustion source must be stopped until proper operating conditions are restored.

**At R.61-62.5, Standard No. 3, Section VI.D.3,** change the word “Standard” from uppercase to lowercase for consistency throughout the regulation; and add a comma after the text “Regulation 61-62.1” for consistency and grammatical correctness to read:

3. For those sources not required to have a continuous emission monitor for the specified pollutant, a detailed report shall be submitted to the Department within 30 days following any exceedance of limits specified in the sources permit and/or this standard unless otherwise approved in a Department approved malfunction plan. The report shall include at a minimum all of the elements listed in Regulation 61-62.1, Section II.J.1.c.

**At R.61-62.5, Standard No. 3, Section VII.A,** change the word “Section,” after the phrase “Provisions of this,” from uppercase to lowercase for consistency throughout the regulation; change the word “Standard” from uppercase to lowercase for consistency throughout the regulation; and strike the word “Part” after the acronym “CFR” for consistency throughout the regulation to read:

A. Provisions of this section or other procedures approved by the Department, unless superseded by federal air regulations, are applicable to monitoring devices required under Section VI or required by permit conditions to establish compliance with this standard. The daily zero and span calibrations for all categories of continuous emission monitors shall comply with the requirements of 40 CFR 60.13(d)(1) and (d)(2) unless superseded by federal air regulations.

**At R.61-62.5, Standard No. 3, Section VII.B.1.a(ii),** add the phrase “plus or minus” in front of the abbreviation “±” and add parenthesis to set off the abbreviation “(±)” for term fluidity and clarity to read:

(ii) Accuracy: plus or minus (±) 2.5 percent.

**At R.61-62.5, Standard No. 3, Section VII.B.4.a,** strike the word “Part” after the acronym “CFR,” in all instances, for consistency throughout the regulation; and add a serial comma after the text “(e)(2)” for grammatical correctness to read:

a. Initial Calibration:

The O<sub>2</sub> monitor must meet Performance Specifications 3, in 40 CFR 60, Appendix B and 40 CFR 60.13 (c), (d)(1), (e), (e)(2), and (f).

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**At R.61-62.5, Standard No. 3, Section VII.B.4.b,** strike the word “Part” after the acronym “CFR” for consistency throughout the regulation to read:

b. Quality Assurance (To Be Done Quarterly):

Challenge the monitor with low (25 percent of instrument span) and mid (50 percent of instrument span) EPA Protocol Number 1 or NBS traceable audit gases or challenge the monitor as prescribed in 40 CFR 60, Appendix F, Section 5.1.2. Recalibration according to paragraph B.4.a. above is required if the quarterly audit deviates by more than  $\pm 15$  percent from the audit gas concentrations. **NOTE:** Sufficient time for instrument stabilization must be allowed when challenging the monitor with audit gases.

**At R.61-62.5, Standard No. 3, Section VII.B.5.a,** strike the word “Part” after the acronym “CFR,” in both instances, for consistency throughout the regulation; and add a serial comma after the text “(e)(2)” for grammatical correctness to read:

a. Initial Calibration:

The CO monitor must meet Performance Specification 4 or 4A if applicable, in 40 CFR 60, Appendix B, and 40 CFR 60.13 (c), (d)(1), (e), (e)(2), and (f).

**At R.61-62.5, Standard No. 3, Section VII.B.5.b,** strike the word “Part” after the acronym “CFR” for consistency throughout the regulation to read:

b. Quality Assurance (To Be Done Quarterly):

Challenge the monitor with low (25 percent of instrument span) and mid (50 percent of instrument span) EPA Protocol Number 1 or NBS traceable audit gases or challenge the monitor as prescribed in 40 CFR 60, Appendix F, Section 5.1.2. Recalibration according to paragraph B.5.a. above is required if the quarterly audit deviates by more than  $\pm 15$  percent from the audit gas concentrations. **NOTE:** Sufficient time for instrument stabilization must be allowed when challenging the monitor with audit gases.

**At R.61-62.5, Standard No. 3, Section VII.B.6.a,** strike the word “Part” after the acronym “CFR,” in all instances, for consistency throughout the regulation; and add a serial comma after the text “(e)(2)” for grammatical correctness to read:

a. Initial Calibration:

The CO<sub>2</sub> monitor must meet Performance Specifications 3, in 40 CFR 60, Appendix B, and 40 CFR 60.13 (c), (d)(1), (e), (e)(2), and (f).

**At R.61-62.5, Standard No. 3, Section VII.B.6.b,** strike the word “Part” after the acronym “CFR” for consistency throughout the regulation to read:

b. Quality Assurance (To Be Done Quarterly):

Challenge the monitor with low (25 percent of instrument span) and mid (50 percent of instrument span) EPA Protocol Number 1 or NBS traceable audit gases or challenge the monitor as prescribed in 40 CFR 60, Appendix F, Section 5.1.2. Recalibration according to paragraph B.6.a. above is required if the quarterly audit deviates by more than  $\pm 15$  percent from the audit gas concentrations. **NOTE:** Sufficient time for instrument stabilization must be allowed when challenging the monitor with audit gases.

**At R.61-62.5, Standard No. 3, Section VII.B.8.a**, strike the word “Part,” in all instances, after the acronym “CFR” for consistency throughout the regulation; and add a serial comma after the text “(e)(1)” for grammatical correctness to read:

a. Initial Calibration:

The opacity monitor must meet Performance Specification 1, in 40 CFR 60, Appendix B and 40 CFR 60.13 (c), (d)(1), (d)(2), (e), (e)(1), and (f).

**At R.61-62.5, Standard No. 3, Section VII.B.9.a**, strike the word “Part” after the acronym “CFR” for consistency throughout the regulation to read:

a. Initial Calibration:

The THC monitor must meet the Performance Specification 2.2 in 40 CFR 266, Appendix IX.

**At R.61-62.5, Standard No. 3, Section VII.B.9.b**, strike the word “Part” after the acronym “CFR” for consistency throughout the regulation to read:

b. Quality Assurance and Recalibration:

As specified in Performance Specification 2.2 in 40 CFR 266, Appendix IX.

**At R.61-62.5, Standard No. 3, Section VIII.B**, change the word “Section” in the phrase “required by this Section” from uppercase to lowercase for consistency throughout the regulation to read:

B. Unless more frequent testing is required by an applicable federal requirement, sources subject to a more restrictive requirement in Resource Conservation and Recovery Act (RCRA) or a promulgated Maximum Achievable Control Technology (MACT) Standard shall be excluded from the testing frequency requirements of Section VIII provided any additional parameters required by this section (for example, nickel) are tested and compliance demonstrations are performed at least every three years. Compliance demonstrations must be performed with a maximum frequency of three years for all pollutants listed in Section VIII, as applicable. Spiking for metals and HCl are not required for these periodic retests, but sources must conduct these tests on their normal highest metals and HCl containing waste streams.

**At R.61-62.5, Standard No. 3, Section VIII.E.2**, change the acronym “BTU” to “Btu” for abbreviation consistency to read:

2. Minimum waste heat value of 8000 Btu/lb;

**At R.61-62.5, Standard No. 3, Section IX.A**, strike the number “1” before the word “year” and replace with the word “one” for consistency throughout the regulation to read:

A. Prior to the startup for new facilities and within one year of May 25, 1990, for existing facilities, all incinerator operators shall be trained by the equipment manufacturers’ representatives and/or other Department approved qualified individuals and/or organizations as to proper operating practices and procedures. The content of the training program shall be submitted to the Department for approval. The applicant shall submit certification verifying the satisfactory completion of a training program prior to issuance of the operating permit. The applicant shall not operate the incinerator without an operator on site who has satisfactorily completed the training program.

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**At R.61-62.5, Standard No. 3, Section IX.C.1**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

1. A summary of the applicable standards under this standard;

**At R.61-62.5, Standard No. 3, Section IX.C.6**, change the word “Standard” from uppercase to lowercase for consistency throughout the regulation to read:

6. Procedures for operating the incinerator within the standards established under this standard;

### **Regulation 61-62.5, Standard 5.1, Best Available Control Technology (BACT)/Lowest Achievable Emission Rate (“LAER”) Applicable to Volatile Organic Compounds**

State Register Doc. 2872, June 25, 2004.

**At R.61-62.5, Standard 5.1, Section I(A)**, before “VOC” write out the phrase “Volatile Organic Compound” and set off the abbreviation “VOC” with parentheses “(VOC)” for term fluidity throughout the regulation to read:

A. “Net Volatile Organic Compound (VOC) Emissions Increase” means the amount by which the sum of the following exceeds zero:

**At R.61-62.5, Standard 5.1, Section I(A)(2)**, strike the upper case “S” in “Standard” and replace with a lowercase “s” for consistency to read:

2. Any other increases and decreases in the actual VOC emissions at the plant that occurred at the plant since July 1, 1979, and are otherwise creditable. An increase or decrease is creditable only if the Department has not relied on it in issuing a permit for the plant under this standard, which permit is in effect when the increase from the particular change occurs.

**At R.61-62.5, Standard 5.1, Section I(A)(3)(a)**, add the abbreviation for the unit tons per year “tpy” in parentheses after the phrase “tons per year” and use this abbreviation hereafter for clarity and consistency to read:

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year (tpy), at which the unit actually emitted the pollutant during a two-year period which preceded the particular date and which is representative of normal source operation. The Department may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

**At R.61-62.5, Standard 5.1, Section I(B)**, add quotation marks around the phrase “Lowest Achievable Emission Rate (LAER)” for consistency to read:

B. “Lowest Achievable Emission Rate (LAER)” means that rate of emissions based on the following, whichever is more stringent:

**At R.61-62.5, Standard 5.1, Section I(C)**, add quotation marks around the phrase “Best Available Control Technology (BACT)” for consistency. Strike the words “Best Available Control Technology” in the second and third instances and replace with the abbreviation “BACT” for consistency. Add the words “Code of Federal Regulations” before the abbreviation “CFR” and add parentheses around the abbreviation “(CFR)” to use hereafter for clarity and consistency. Strike the word “parts” after “CFR” for consistency to read:

C. “Best Available Control Technology (BACT)” means an emissions limitation based on the maximum degree of reduction for VOC which would be emitted from any proposed physical change or change in method of operation which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 Code of Federal Regulations (CFR) 60 and 61. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the impositions of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means, which achieve equivalent results.

**At R.61-62.5, Standard 5.1, Section II(A)**, strike the words “Volatile Organic Compounds” along with the parentheses around “VOC” for consistency. Strike the words “Lowest Achievable Emission Rate” and replace with the abbreviation “LAER” for consistency. Reformat the words “State Register” to remove italics per regulation drafting guidelines. Strike the words “Best Available Control Technology” and replace with the abbreviation “BACT” for consistency. Strike the phrase “tons per year” in both instances and replace with the abbreviation “tpy” for consistency to read:

A. This standard shall apply to all new, modified, or altered sources that would increase emissions of VOC. LAER shall be applied to construction or modifications permitted before (effective date published in the State Register), when the net VOC emissions increase exceeds 100 tpy. BACT shall be applied to any new construction permit issued on or after (effective date published in the State Register), when the net VOC emissions increase exceeds 100 tpy.

**At R.61-62.5, Standard 5.1, Section II(B)**, strike the upper case “S” in “State” and replace with a lowercase “s” for consistency. Strike the upper case “F” in “Federal” and replace with a lowercase “f” for consistency to read:

B. The Department may allow a lesser degree of control, provided that such a determination does not supersede any other state or federal requirements, if the Department determines that the application of BACT/LAER controls would result in the emission of pollutants which might cause or significantly contribute to an exceedance of an ambient air quality standard.

**At R.61-62.5, Standard 5.1, Section III, Introductory text**, strike the words “Volatile Organic Compounds” after the word “any” and replace with the abbreviation “VOC” for consistency. Strike the upper case “S” in “Standard” and replace with a lowercase “s” for consistency. Strike the “R.” before the citation “61-62.1” and replace with the word “Regulation” for clarity and consistency. Strike the hard return before the word “If” in the second paragraph to combine into one paragraph for proper codification.

The owner or operator of any VOC source required to comply with this standard shall, at his own expense, conduct source tests in accordance with the provisions of Regulation 61-62.1, Section IV, Source Tests, to demonstrate compliance unless the Department determines that the compliance status of the source can be monitored as described in Section IV, below. If tests are required, the following conditions shall apply:

**At R.61-62.5, Standard 5.1, Section III(A)(1)**, capitalize the “E” in “every” at the beginning of the item for consistency. Replace the abbreviation “e.g.” which stands for the phrase “for example” with the words “for example,” in order to avoid confusion and provide clarity to read:



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1. Every four (4) years for sources utilizing solvent recovery emission control devices (for example, carbon adsorption, refrigeration). However, if fouling of the carbon bed is suspected in the case of carbon adsorption, more frequent test schedules can be required.

**At R.61-62.5, Standard 5.1, Section III(A)(2) and (3),** capitalize the first letter of the first word at the beginning of each item for consistency to read:

2. Every two (2) years for sources utilizing catalytic incineration/destruction.

3. Every four (4) years for sources utilizing flame incineration provided the source operates, calibrates, and maintains a recorder for each incinerator which continuously records the combustion zone temperature and such temperature is maintained at a value no less than that recorded during the last source test during which compliance was verified.

**At R.61-62.5, Standard 5.1, Section III(B)(1),** capitalize the “C” in “capture” at the beginning of the item for consistency. Replace the abbreviation “e.g.” which stands for the phrase “for example” with the words “for example,” in order to avoid confusion and provide clarity. Strike the comma and replace with a semicolon before the second instance of “and” for grammatical correctness to read:

1. Capture system flow rate indicators (for example, magnehelic gauges, manometers) are operated, calibrated, and maintained; and

**At R.61-62.5, Standard 5.1, Section III(B)(2) and (3),** capitalize the first word in each item for consistency. Strike the comma and replace with a semicolon before each word “and” in each item for grammatical correctness to read:

2. The indicated values are maintained at a level no less than that recorded during the last source test during which compliance was verified; and

3. The type and location of the flow rate indicators are approved by this Department; and

**At R.61-62.5, Standard 5.1, Section III(B)(4),** capitalize the first word in the item for consistency to read:

4. No process, capture system, or VOC abatement equipment modifications have been made.

**At R.61-62.5, Standard 5.1, Section IV(B),** strike the abbreviation “U.S. EPA” and replace with the text “Environmental Protection Agency” in order to avoid confusion and provide clarity to read:

B. The owner or operator of any applicable VOC emission source or control equipment shall, on request, make available to the Department, or Environmental Protection Agency, reports detailing the nature, specific sources, and total quantities of all VOC emissions for any specified period. Records must be kept which are consistent with the compliance time frames for each source subject to this standard.

**At R.61-62.5, Standard 5.1, Section IV(C)(1) and (2),** capitalize the first word in each item for consistency. Add a serial comma after the word “calibrate” in item 1 for grammatical consistency to read:

1. Install, operate, calibrate, and maintain process and/or control equipment, monitoring instruments, or procedures as required to comply with paragraphs A. and B. above; and

2. Maintain, in writing, data and/or reports relating to monitoring instruments or procedures which shall, upon review, document the compliance status of the VOC emission source or control equipment to the satisfaction of the Department.

**At R.61-62.5, Standard 5.1, Section IV(E)**, strike the capital “S” in section and replace with a lower case “s” for consistency and grammatical correctness. Set off the word “ten” by adding the number in parentheses “(10)” for consistency to read:

E. Copies of all records and reports required under this section shall be available for inspection during normal working hours and furthermore, copies of the required records and reports shall be furnished within ten (10) working days after receipt of a written request from the Department.

**R.61-62.5, Air Pollution Control Standards, Standard 7.1, Nonattainment New Source Review**

State Register Doc. 4130, May 27, 2011

**At R. 61-62.5, Standard 7.1, (a)(1)**, write out the phrase “Code of Federal Regulations” and put the term “CFR” in parentheses to properly set it off. Use this abbreviation hereafter for clarity and consistency to read:

(1) This rule applies to all major stationary sources constructed or modified in any nonattainment area as designated in 40 Code of Federal Regulations (CFR) 81.341 ("nonattainment area") if the emissions from such facility will cause or contribute to concentrations of a regulated NSR pollutant (as defined in paragraph (c)(13)) for which the nonattainment area was designated as nonattainment. Applicability to this regulation shall be based on the pollutant emission rate set out in paragraph (c)(14) for only those pollutants for which the area’s designation is based.

**At R.61-62.5, Standard 7.1, (c)**, reformat the phrase “Prevention of Significant Deterioration” to remove italics per regulation drafting guidelines. Strike the quotation marks around the phrase “Prevention of Significant Deterioration” for consistency to read:

(c) **Definitions.** The following definitions apply to this Standard only. Any other term contained within this Standard is as defined where indicated in Regulation 61-62.5, Standard 7, Prevention of Significant Deterioration.

**At R. 61-62.5, Standard 7.1, (c)(1)(B)**, after the phrase “tons per year,” add the abbreviation “tpy” with parentheses “(tpy)” for term fluidity. Use this abbreviation hereafter for clarity and consistency to read:

(B) In general, actual emissions as of a particular date shall equal the average rate, in tons per year (tpy), at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

**At R. 61-62.5, Standard 7.1, (c)(2)**, strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(2) **“Baseline actual emissions”** means the rate of emissions, in tpy, of a regulated NSR pollutant, as determined in accordance with paragraphs (c)(2)(A) through (D).

**At R. 61-62.5, Standard 7.1, (c)(2)(A)**, strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(A) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

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**At R. 61-62.5, Standard 7.1, (c)(2)(A)(iv),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraph (c)(2)(A)(ii).

**At R. 61-62.5, Standard 7.1, (c)(2)(B),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(B) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required either under this section or under a plan approved by the Administrator whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990. The Department reserves the right to determine if the 24-month period selected is appropriate.

**At R. 61-62.5, Standard 7.1, (c)(2)(B)(v),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraphs (c)(2)(B)(ii) and (iii).

**At R. 61-62.5, Standard 7.1, (c)(6)(C)(ix)(b),** capitalize the phrase “national ambient air quality standard” and make the phrase plural for consistency and grammatical correctness throughout the regulation. After the phrase “national ambient air quality standard” add the abbreviation “NAAQS” with parenthesis “(NAAQS)” for term fluidity to read:

(b) Other requirements necessary to attain and maintain the National Ambient Air Quality Standard (NAAQS) during the project and after it is terminated.

**At R. 61-62.5, Standard 7.1, (c)(7)(A)(i),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity. Capitalize the words “subpart,” “part,” and “title” for consistency to read:

(i) Any stationary source of air pollutants which emits, or has the potential to emit 100 tpy or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to Subpart 2, Subpart 3, or Subpart 4 of Part D, Title I of the Act, according to paragraphs (c)(7)(A)(i)(a) through (e) of this section.

**At R. 61-62.5, Standard 7.1, (c)(7)(A)(i)(a),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(a) 50 tpy of volatile organic compounds or oxides of nitrogen in any serious ozone nonattainment area.

**At R. 61-62.5, Standard 7.1, (c)(7)(A)(i)(b),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(b) 50 tpy of volatile organic compounds or oxides of nitrogen in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area.

**At R. 61-62.5, Standard 7.1, (c)(7)(A)(i)(c),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(c) 25 tpy of volatile organic compounds or oxides of nitrogen in any severe ozone nonattainment area.

**At R. 61-62.5, Standard 7.1, (c)(7)(A)(i)(d),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(d) 10 tpy of volatile organic compounds or oxides of nitrogen in any extreme ozone nonattainment area. or

**At R. 61-62.5, Standard 7.1, (c)(11)(A),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(11)(A) **“Projected actual emissions”** means, the maximum annual rate, in tpy, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

**At R. 61-62.5, Standard 7.1, (c)(11)(B)(iv),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(iv) In lieu of using the method set out in paragraphs (c)(11)(B)(i) through (iii) may elect to use the emissions unit's potential to emit, in tpy, as defined under paragraph (b)(37) of Standard 7.

**At R. 61-62.5, Standard 7.1, (c)(13)(C)(c),** before the abbreviation “EPA” add the phrase “ the Environmental Protection Agency” and add parenthesis around the abbreviation “(EPA)” for term fluidity. Use this abbreviation hereafter for clarity and consistency to read:

(c) Nitrogen oxides are presumed to be precursors to PM<sub>2.5</sub> in all PM<sub>2.5</sub> nonattainment areas, unless the state demonstrates to the Administrator's satisfaction or the Environmental Protection Agency (EPA) demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations;

**At R. 61-62.5, Standard 7.1, (c)(14),** reformat the phrase “Pollutant Emission Rate” to remove italics per regulation drafting guidelines. Strike the phrase “tons per year” and strike the parentheses around the previously established abbreviation “tpy” for term fluidity to read:

Pollution Emission Rate

Carbon monoxide: 100 tpy

**At R. 61-62.5, Standard 7.1, (d)(1)(A),** strike the phrase “lowest achievable emission rate” and the parentheses around the previously established abbreviation “LAER,” for term fluidity to read:

(A) The major stationary source or major modification is required to meet an emission limitation which specifies the LAER for such source.

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**At R. 61-62.5, Standard 7.1, (d)(1)(C)(v)(a),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(a) **Eligibility as Emission Offsets.** Any facility that has the potential to emit any NAAQS pollutant in an amount greater than 5 tpy and that is located in a federally-designated nonattainment area shall be eligible to create emission offsets.

**At R. 61-62.5, Standard 7.1, (d)(1)(C)(v)(b)(1)(A),** strike the phrase “tons per year,” and add previously established the abbreviation “tpy” for term fluidity to read:

(A) The source shall calculate average annual actual emissions, in tpy, before the emission reduction using data from the 24-month period immediately preceding the reduction in emissions. With the Department’s approval, the use of a different time period, not to exceed 10 years immediately preceding the reduction in emissions, may be allowed if the owner or operator of the source documents that such period is more representative of normal source operation, but not prior to the base year inventory date, which is the last day of the two years preceding the date of nonattainment designation; and

**At R. 61-62.5, Standard 7.1, (d)(1)(C)(vii)(b), Introductory Text, Table Remains the Same,** strike the phrase “nitrogen oxides” and the parentheses around the previously established abbreviation “NO<sub>x</sub>” for term fluidity to read:

(b) Emissions for ozone nonattainment areas shall be offset for volatile organic compounds (VOCs) and NO<sub>x</sub> in accordance with the following table:

**At R. 61-62.5, Standard 7.1, (d)(1)(C)(xi),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity. Capitalize the word “Section” for consistency to read:

(xi) The total tonnage of increased emissions, in tpy, resulting from a major modification that must be offset in accordance with Section 173 of the Clean Air Act shall be determined by summing the difference between the allowable emissions after the modification (as defined by paragraph (b)(3) of Standard 7) and the actual emissions before the modification (as defined in paragraph (c)(1)) for each emissions unit.

**At R. 61-62.5, Standard 7.1, (d)(3)(C),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(C) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph (d)(3)(B)(ii); and calculate and maintain a record of the annual emissions, in tpy on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

**At R. 61-62.5, Standard 7.1, (d)(3)(E),** strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(E) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions, in tpy, from the project identified in paragraph (d)(3)(B), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph (d)(3)(B)(iii)), by a significant amount (as defined in paragraph (c)(14)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph (d)(3)(B)(iii). Such report shall be submitted to the Department within 60 days after the end of such year. The report shall contain the following:

**At R. 61-62.5, Standard 7.1, (i)(2)(iv)(A)**, strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(A) Any emissions unit that emits or has the potential to emit 100 tpy or more of the PAL pollutant in an attainment area; or

**At R. 61-62.5, Standard 7.1, (i)(2)(v)**, strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(v) **Plantwide applicability limitation (PAL)** means an emission limitation expressed in tpy, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with paragraphs (i)(1) through (i)(15).

**At R. 61-62.5, Standard 7.1, (i)(2)(ix)**, strike the lower case “t” in “title V” and replace with a capital “T” in “Title” for consistency to read:

(ix) **PAL permit** means the major NSR permit, the minor NSR permit, or the State operating permit under Regulation 61-62.1 Section II G, or the Title V permit issued by the Department that establishes a PAL for a major stationary source.

**At R. 61-62.5, Standard 7.1, (i)(4)(i)(A)**, strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(A) The PAL shall impose an annual emission limitation in tpy that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

**At R. 61-62.5, Standard 7.1, (i)(7)(i)**, strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(i) The PAL pollutant and the applicable source-wide emission limitation in tpy.

**At R. 61-62.5, Standard 7.1, (i)(9)(ii)**, before the abbreviation “CEMS” add the phrase “Continuous Emissions Monitoring System” and add parentheses around the abbreviation “CEMS” for term fluidity. Before the abbreviation “CERMS” add the phrase “Continuous Emissions Rate Monitoring System” and add parentheses around the term “CERMS” for term fluidity. Before the abbreviation “PEMS” add the phrase “Predictive Emissions Monitoring System” and add parentheses around the term “PEMS” for term fluidity. Before the abbreviation “CPMS” add the phrase “Continuous Parameter Monitoring System” and add parentheses around the abbreviation “CPMS” for term fluidity. Use these abbreviations hereafter for clarity and consistency. Add a serial comma after the abbreviation “(PEMS)” to read:

(ii) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Department may approve the use of monitoring systems (source testing, emission factors, etc.) other than Continuous Emissions Monitoring System (CEMS), Continuous Emissions Rate Monitoring System (CERMS), Predictive Emissions Monitoring System (PEMS), or Continuous Parameter Monitoring System (CPMS) to demonstrate compliance with the allowable emission limitation.

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**At R. 61-62.5, Standard 7.1, (i)(12)(iv)(A)**, make the words “Part” and “Appendix” uppercase for consistency to read:

(A) CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B; and

**At R. 61-62.5, Standard 7.1, (i)(14)**, strike the lower case “t” in “title V” and replace with an uppercase “T” in “Title” for consistency to read:

(14) **Reporting and notification requirements.** The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Department in accordance with the applicable Title V operating permit program. The reports shall meet the requirements in paragraphs (i)(14)(i) through (iii).

**At R. 61-62.5, Standard 7.1, (i)(14)(i)(G)**, reformat the phrase “*Title V Operating Permit Program*” to remove italics per regulation drafting guidelines to read:

(G) A signed statement by the responsible official (as defined by Regulation 61-62.70, Title V Operating Permit Program) certifying the truth, accuracy, and completeness of the information provided in the report.

**At R. 61-62.5, Standard 7.1, (i)(14)(ii)(D)**, strike the lower case “t” in “title V” and replace with a capital “T” in “Title” for consistency to read:

(D) A signed statement by the responsible official (as defined by the applicable Title V operating permit program) certifying the truth, accuracy, and completeness of the information provided in the report.

### **R. 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)**

State Register Doc. 4280, April 27, 2012

**At Regulation 61-62.61, Subpart A, Introductory Text, Table Remains the Same**, in the introductory text, add the phrase “Code of Federal Regulations” in the reference “40 CFR Part 61” and add parentheses around the abbreviation “CFR.” Use this abbreviation hereafter for clarity and consistency.

#### **Subpart A - “General Provisions”**

The provisions of 40 Code of Federal Regulations (CFR) Part 61 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

**At Regulation 61-62.61, Subpart B, Title**, make the word “From” lowercase for consistency to read:

#### **Subpart B - “National Emission Standards for Radon Emissions from Underground Uranium Mines”**

**At Regulation 61-62.61, Subpart H, Title**, make the word “From” lowercase for consistency to read:

#### **Subpart H - “National Emission Standards for Emissions of Radionuclides Other Than Radon from Department of Energy Facilities”**

**At Regulation 61-62.61, Subpart I, Title**, make the word “From” lowercase for consistency to read:

#### **Subpart I - “National Emission Standards for Radionuclide Emissions from Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H”**

At Regulation 61-62.61, Subpart K, Title, make the word “From” lowercase for consistency to read:

**Subpart K - “National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants”**

At Regulation 61-62.61, Subpart L, Title, make the word “From” lowercase for consistency to read:

**Subpart L - “National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants”**

At R.61-62.61 Subpart M, in the subpart title, make the word “For” lowercase for consistency. In the introductory text, strike the word “Title” and the comma after “61,” and make the word “subpart” uppercase for consistency. Reformat the words “Federal Register” throughout the text to remove italics per regulation drafting guidelines. Make the word “subpart” uppercase in the table header for consistency to read:

**Subpart M - “National Emission Standard for Asbestos”**

The provisions of 40 CFR Part 61 Subpart M, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 61 Subpart M</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 49	April 5, 1984	[49 FR 13661]
Revision	Vol. 49	June 21, 1984	[49 FR 25453]
Revision	Vol. 51	March 10, 1986	[51 FR 8199]
Revision	Vol. 53	September 23, 1988	[53 FR 36972]
Revision	Vol. 55	November 20, 1990	[55 FR 48414]
Revision	Vol. 56	January 16, 1991	[56 FR 1669]
Revision	Vol. 59	June 17, 1994	[59 FR 31157]
Revision	Vol. 64	February 12, 1999	[64 FR 7458]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 68	September 18, 2003	[68 FR 54790]
Revision	Vol. 69	July 20, 2004	[69 FR 43322]

At Regulation 61-62.61, Subpart N, Title, make the word “From” lowercase for consistency to read:

**Subpart N - “National Emission Standard for Inorganic Arsenic Emissions from Gas Manufacturing Plants”**

At Regulation 61-62.61, Subpart O, Title, make the word “From” lowercase for consistency to read:

**Subpart O - “National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters”**

At Regulation 61-62.61, Subpart P, Title, make the word “From” lowercase for consistency to read:

**Subpart P - “National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities”**



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At Regulation 61-62.61, Subpart Q, Title, make the word “From” lowercase for consistency to read:

**Subpart Q - “National Emission Standards for Radon Emissions from Department of Energy Facilities”**

At Regulation 61-62.61, Subpart R, Title, make the word “From” lowercase for consistency to read:

**Subpart R - “National Emission Standards for Radon Emissions from Phosphogypsum Stacks”**

At Regulation 61-62.61, Subpart T, Title, make the word “From” lowercase for consistency to read:

**Subpart T - “National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings”**

At Regulation 61-62.61, Subpart W, Title, make the word “From” lowercase for consistency to read:

**Subpart W - “National Emission Standards for Radon Emissions from Operating Mill Tailings”**

At Regulation 61-62.61, Subpart Y, Title, make the word “From” lowercase for consistency to read:

**Subpart Y - “National Emission Standard for Benzene Emissions from Benzene Storage Vessels”**

At Regulation 61-62.61, Subpart BB, Title, make the word “From” lowercase for consistency to read:

**Subpart BB - “National Emission Standard for Benzene Emissions from Benzene Transfer Operations”**

### **R.61-62.70, Title V Operating Permit Program**

State Register Doc. 3224, October 24, 2008

At R. 61-62.70.2, (f)(1), strike the word “Part” for consistency to read:

(1) Any standard or other requirement provided for in the South Carolina Implementation Plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the pertinent requirements of the Act, including any revisions to that plan promulgated in 40 Code of Federal Regulations (CFR) 52;

At R. 61-62.70.2, (r)(2)(xx), before the abbreviation “NAICS” add the phrase “North American Industrial Classification System” and add parentheses around the abbreviation “NAICS” for term fluidity. Use this abbreviation hereafter for clarity and consistency to read:

(xx) Chemical process plants - The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industrial Classification System (NAICS) codes 325193 or 312140;

At R. 61-62.70.5, (c), after the numeral “5,” strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity. Strike the hyphen “-” between “8” and “Toxic” and add a comma for consistency to read:

(c) Standard application form and required information. Information as described below for each emissions unit at a Part 70 source shall be included in a Department approved application. Air emissions or air emission units that are insignificant are exempted. However, for these emission units which are exempted, a list of the emission units must be included in the application. “Insignificant Activity” generally means any air emissions or air emissions unit at a plant that has the potential to emit less than 5 tpy of any criteria pollutant or less than 1000 pounds per year of any compound listed in Regulation 61-62.5, Standard No. 8, Toxic Air Pollutants. The Department may determine that certain types or classes of units may be considered insignificant at higher

emission levels, or that, due to the nature of the pollutant(s) emitted, a unit may be considered significant at a lower emission rate. The Department shall maintain a list subject to EPA approval of air emissions or air emission units which are considered to be insignificant. No emission or activity can be excluded from a Title V operating permit to the extent it is needed to determine compliance with an applicable requirement, as defined under Section 70.2(f). An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule approved pursuant to Section 70.9. The Department approved forms and attachments shall include the elements specified below:

**At R. 61-62.70.5, (c)(3)(vii)**, strike the phrase “South Carolina Code of Laws” before the word “Regulation” for term consistency to read:

(vii) Other information required by any applicable requirement (including information related to stack height limitations in Regulation 61-62.7).

**At R. 61-62.70.6, (a)(3)(i)(A)**, strike the word “Part” after the abbreviation “CFR” for consistency to read:

(A) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including 40 CFR 64, Compliance Assurance Monitoring (October 22, 1997, [64 FR 54900]), and any other procedures and methods that may be promulgated pursuant to Sections 114(a)(3) or 504(b) of the Clean Air Act Amendments of 1990. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

**At R. 61-62.70.7, (a)(2)**, strike the phrase “Code of Federal Regulations” after the numeral “40” and replace it with the previously established abbreviation “CFR.” Strike the word “Part” for consistency to read:

(2) The Department shall take final action on each permit application (including a request for permit modification or renewal) within 18 months, after receiving a complete application. Exceptions to this schedule are provided in the initial transition plan required under 40 CFR 70.4(b)(11) or under regulations promulgated under Title IV or Title V of the Clean Air Act for the permitting of affected sources under the acid rain program.

**At R. 61-62.70.7, (d)(3)(iii)**, strike the phrase “South Carolina Code of Laws” before the word “Regulation” for term consistency to read:

(iii) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request, except transfer/ownership which must comply with Regulation 61-62.1 Section II.M.

**At R. 61-62.70.7, (e)(3)(i)(B)**, strike the phrase “tons per year,” and add the previously established abbreviation “tpy” for term fluidity to read:

(B) That collectively are below the threshold level approved by the Administrator as part of the Department’s approved program. This threshold shall be 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in Section 70.2, or 5 tpy, whichever is least.

### **R.61-62.72, Acid Rain**

State Register Doc. 4122, May 28, 2010

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At **R.61-62.72, Subpart A**, in the introductory text, strike the word “Title” for consistency. Add the phrase “Code of Federal Regulations” and add parentheses around the abbreviation “CFR.” Use this abbreviation hereafter for clarity and consistency. Strike the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

### Subpart A - “General Provisions”

The provisions of 40 (Code of Federal Regulations) (CFR) Part 72 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 72 Subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 58	March 23, 1993	[58 FR 15634]
Revision	Vol. 58	June 21, 1993	[58 FR 33769]
Revision	Vol. 58	July 30, 1993	[58 FR 40746]
Revision	Vol. 59	November 22, 1994	[59 FR 60218]
Revision	Vol. 60	April 4, 1995	[60 FR 17100]
Revision	Vol. 60	April 11, 1995	[60 FR 18462]
Revision	Vol. 60	May 17, 1995	[60 FR 26510]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]
Revision	Vol. 62	December 18, 1997	[62 FR 66278]
Revision	Vol. 63	October 27, 1998	[63 FR 57356]
Revision	Vol. 63	December 11, 1998	[63 FR 68400]
Revision	Vol. 64	May 13, 1999	[64 FR 25834]
Revision	Vol. 64	May 26, 1999	[64 FR 28564]
Revision	Vol. 66	March 1, 2001	[66 FR 12974]
Revision	Vol. 67	June 12, 2002	[67 FR 40394]
Revision	Vol. 67	August 16, 2002	[67 FR 53503]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25328]
Revision	Vol. 73	January 24, 2008	[73 FR 4312]
Revision	Vol. 74	June 12, 2009	[74 FR 27940]

At **R.61-62.72, Subpart B**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

### Subpart B - “Designated Representative”

The provisions of 40 CFR Part 72 Subpart B, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart B</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 60	April 4, 1995	[60 FR 17100]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]
Revision	Vol. 70	May 12, 2005	[70 FR 25162]
Revision	Vol. 71	April 28, 2006	[71 FR 25328]
Revision	Vol. 72	October 19, 2007	[72 FR 59190]

At **R.61-62.72, Subpart C**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

#### **Subpart C - “Acid Rain Permit Applications”**

The provisions of 40 CFR Part 72 Subpart C, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart C</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 58	March 23, 1993	[58 FR 15634]
Revision	Vol. 60	April 4, 1995	[60 FR 17100]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]
Revision	Vol. 70	May 12, 2005	[70 FR 25162]

At **R.61-62.72, Subpart D**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

#### **Subpart D - “Acid Rain Compliance Plan And Compliance Options”**

The provisions of 40 CFR Part 72 Subpart D, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart D</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 58	March 23, 1993	[58 FR 15634]
Revision	Vol. 58	July 30, 1993	[58 FR 40746]
Revision	Vol. 59	November 22, 1994	[59 FR 60218, 60234]
Revision	Vol. 60	April 4, 1995	[60 FR 17100]
Revision	Vol. 60	April 11, 1995	[60 FR 18462]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]
Revision	Vol. 64	May 13, 1999	[64 FR 25834]
Revision	Vol. 70	May 12, 2005	[70 FR 25162]

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At **R.61-62.72, Subpart E**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

The provisions of 40 CFR Part 72 Subpart E, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart E</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]

At **R.61-62.72, Subpart F**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

The provisions of 40 CFR Part 72 Subpart F, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart F</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]

At **R.61-62.72, Subpart G**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

### **Subpart G - “Acid Rain Phase II Implementation”**

The provisions of 40 CFR Part 72 Subpart G, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart G</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 58	July 30, 1993	[58 FR 40746]
Revision	Vol. 60	April 4, 1995	[60 FR 17100]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]
Revision	Vol. 66	March 1, 2001	[66 FR 12974]
Revision	Vol. 70	May 12, 2005	[70 FR 25162]

At **R.61-62.72, Subpart H**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

**Subpart H - “Permit Revisions”**

The provisions of 40 CFR Part 72 Subpart H, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart H</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 60	April 4, 1995	[60 FR 17100]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]
Revision	Vol. 66	March 1, 2001	[66 FR 12974]

At **R.61-62.72, Subpart I**, in the introductory text, strike the word “Title” and the comma after “72,” and make the word “subpart” uppercase for consistency. Make the word “subpart” uppercase in the table header for consistency (the remainder of the table remains the same) to read:

**Subpart I - “Compliance Certification”**

The provisions of 40 CFR Part 72 Subpart I, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 72 Subpart I</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 58	January 11, 1993	[58 FR 3650]
Revision	Vol. 58	July 30, 1993	[58 FR 40746]
Revision	Vol. 59	November 22, 1994	[59 FR 60218]
Revision	Vol. 60	April 4, 1995	[60 FR 17100]
Revision	Vol. 60	April 11, 1995	[60 FR 18462]
Revision	Vol. 62	October 24, 1997	[62 FR 55460]
Revision	Vol. 64	May 26, 1999	[64 FR 28564]
Revision	Vol. 70	May 12, 2005	[70 FR 25162]

**R.61-62.96, Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program**

State Register Doc. 4122, May 28, 2010

At **R. 61-62.96, Subpart AA, Introductory Text, Table Remains the Same**, before the abbreviation “CFR” add the phrase “Code of Federal Regulation,” and add parentheses around the abbreviation “CFR” for term fluidity. Use this abbreviation hereafter for clarity and consistency to read:

**Subpart AA - “South Carolina CAIR NO<sub>x</sub> Annual Trading Program General Provisions”**

The provisions of 40 Code of Federal Regulations (CFR) Part 96 Subpart AA, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At **R.61-62.96.142(a)(1)**, add the phrase “million metric British thermal units” before the abbreviation “mmBtu,” and place the abbreviation “mmBtu” in parentheses to properly set it off. Use this abbreviation hereafter for clarity and consistency to read:

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(a) (1) The baseline heat input (in million metric British thermal units (mmBtu)) used with respect to CAIR NO<sub>x</sub> allowance allocations for each CAIR NO<sub>x</sub> unit will be:

At **R.61-62.96.142(a)(2)**, strike the word “Part” following the abbreviation “CFR” for consistency to read:

(2) A unit’s control period heat input, and a unit’s status as coal-fired, for a calendar year under paragraph (a)(1)(i) of this section, and a unit’s total tons of NO<sub>x</sub> emissions during a calendar year under paragraph (c)(3) of this section, will be determined in accordance with 40 CFR 75, to the extent the unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75 for the year. Heat input data under 40 CFR 75 will be obtained from the Administrator.

At **R.61-62.96.302 “commence operation” (b)(2)**, replace the abbreviation “e.g.” which stands for the phrase “for example” with the phrase “for example,” in order to provide clarity to read:

(2) For a unit with a date of commencement of operation as defined in paragraph (b) of this definition and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit’s date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in paragraph (a) or (b) of this definition as appropriate.

At **R.61-62.96.304(a)(1)(i)**, add the phrase “megawatts electric” before the abbreviation “MWe,” and place the abbreviation “MWe” in parentheses to properly set it off. Use this abbreviation hereafter for clarity and consistency to read:

(i) **EGU Applicability:** Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 megawatts electric (MWe) producing electricity for sale.

At **R.61-62.96.304(b)(1)(i)(B)**, add the phrase “megawatt hours” before the abbreviation “MWh,” and place the abbreviation “MWh” in parentheses to properly set it off. Use this abbreviation hereafter for clarity and consistency to read:

(B) Not serving at any time, since the later of November 15, 1990, or the startup of the unit’s combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit’s potential electric output capacity or 219,000 megawatt hours (MWh), whichever is greater, to any utility power distribution system for sale.

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

**NOTICE OF GENERAL PUBLIC INTEREST**

**NOTICE OF PUBLIC HEARING**

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

The South Carolina Department of Labor, Licensing, and Regulation (LLR) does hereby give notice under Section 41-15-220, S.C. Code of Laws, 1976, as amended, that a public hearing will be held on October 3, 2012 at 10:00 a.m. at the S.C. Department of LLR, 1st floor, room 105, 110 Centerview Drive, Columbia, S.C., at which time interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption.

The hearing is to determine if the Director of the South Carolina Department of Labor, Licensing and Regulation will promulgate, revoke or modify Rules and Regulations pursuant to Section 41-15-210, South Carolina Code of Laws, 1976. The parts of the Occupational Safety and Health Rules and Regulations to be considered at the hearing are as follows:

In Subarticle 6 (General Industry and Public Sector Marine Terminals):

Revisions to Sections: 1910.6, 1910.134, 1910.135, 1910.217, 1917.3, and 1917.93.

In Subarticle 7 (Construction)

Revisions to Sections: 1926.6, 1926.100, 1926.251, 1926.800, 1926.856, 1926.858, and paragraphs (z)(3) and (z)(5) of Appendix A to Subpart L and Removal of Subpart DD.

Summary of changes: Corrections are being made to the medical evaluation questionnaire in Appendix C of its Respiratory Protection standard by removing the term “fits” and correcting the Mechanical Power Presses standard for general industry by restoring requirements that were removed inadvertently. OSHA is also revising the personal protective equipment sections of its general and construction industry, shipyard employment, and marine terminals standards regarding requirements for head protection and updating references in the standards to recognize the 2009 edition of the American National Standards for Industrial Head Protection.

Within the construction industry, OSHA is correcting its sling standard titled “Rigging Equipment for Material Handling” by removing the rated capacity tables, correcting a direct final rule regarding the head protection standard, and correcting a cross reference made in two paragraphs of Appendix A to Subpart L of the scaffold standard. OSHA also is updating the requirements for cranes and derricks used in construction demolition and underground construction.

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the S.C. Department of LLR during normal business hours by contacting the Occupational Safety and Health Administration office at (803) 896-5811.



## 66 NOTICES

Persons desiring to speak at the hearing shall file with the Director of LLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than October 1, 2012. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views to the undersigned in writing on or before October 1, 2012.

Holly Pisarik  
Director  
SC Department of LLR  
Post Office Box 11329  
Columbia, SC 29211-1329

**STATE BUDGET AND CONTROL BOARD**  
**CHAPTER 19**  
 Statutory Authority: 1976 Code Section 10-1-30

**Notice of Drafting:**

The State Budget and Control Board, Division of General Services, proposes to draft new regulations concerning the use of the State House, State House Grounds and other public buildings and grounds. Interested persons may submit written comments to Carla Griffin, Deputy Director, Division of General Services, State Budget and Control Board, 1200 Senate Street, Suite 460, Wade Hampton Building, Columbia, South Carolina 29201.

**Synopsis:**

Section 10-1-30 of the South Carolina Code of Laws authorizes the State Budget and Control Board to promulgate regulations concerning the use of the State House lobbies, the State House steps and grounds, and other public buildings and grounds. The State Budget and Control Board and its Division of General Services proposes to draft regulations addressing the use of these areas.

Legislative review of the regulation is required.

**BUILDING CODES COUNCIL**  
**CHAPTER 8**  
 Statutory Authority: 1976 Code Sections 6-9-40 and 6-9-63(E)

**Notice of Drafting:**

The South Carolina Building Codes Council proposes to add Article 8, based upon the International Building Code, 2012 Edition; by adding Article 9, based upon the International Fire Code, 2012 Edition; by adding Article 10, based upon the International Fuel Gas Code, 2012 Edition; and by adding Article 11, based upon the National Electrical Code, 2011 Edition; in accordance with the statutory amendments to acts governing the Building Codes Council. Interested persons may submit comments to Gary Wiggins, Administrator, State Building Codes Council, Post Office Box 11329, Columbia, S.C. 29211-1329.

**Synopsis:**

The South Carolina Building Codes Council proposes to add regulations in conformance with the statutory amendments to acts governing the Building Codes Council.

Legislative review of these amendments is required.

**BUILDING CODES COUNCIL**  
**CHAPTER 8**  
 Statutory Authority: 1976 Code Sections 6-9-40 and 6-9-63(E)

**Notice of Drafting:**

The South Carolina Building Codes Council proposes to add Article 12, based upon the International Residential Code, 2012 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council. Interested persons may submit comments to Gary Wiggins, Administrator, State Building Codes Council, Post Office Box 11329, Columbia, S.C. 29211-1329.

## 68 DRAFTING NOTICES

### Synopsis:

The South Carolina Building Codes Council proposes to add regulations in conformance with the statutory amendments to acts governing the Building Codes Council.

Legislative review of this amendment is required.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

### Notice of Drafting:

The Department of Health and Environmental Control (Department) is proposing to amend Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP). Interested persons are invited to present their views concerning these amendments in writing to Alan M. Hancock, Division of Air Innovations, Assessment, and Regulation, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via electronic mail at hancockam@dhec.sc.gov. To be considered, the Department must receive comments by 5:00 p.m. on October 29, 2012, the close of the drafting comment period.

### Synopsis:

The Department is proposing to make the following four categories of revisions to Regulation 61-62.

1) The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60, 63, and 72 throughout each calendar year. Federal amendments in 2011 included new and revised New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Acid Rain Program provisions. The Department proposes to amend Regulations 61-62.60, 61-62.63, and 61-62.72 to incorporate by reference the federal amendments published from January 1, 2011, through December 31, 2011. One of the NSPS rules that the Department proposes to adopt is the rule entitled "Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units" (SSI Rule) (76 FR 15372, March 21, 2011). Section 129 of the Clean Air Act requires that states develop plans, called "Section 129 Plans," to implement and enforce incinerator rules, including the SSI Rule. As a part of these regulatory revisions, the Department may revise state regulations to include the SSI Rule, which, along with a certification letter to EPA, would constitute the Section 129 Plan for the SSI Rule.

2) The Department proposes to make revisions that correct errors in earlier amendments required to maintain compliance with federal law. First, the Department proposes to amend Regulation 61-62.5, Standard 7.1, Nonattainment New Source Review (NSR), to incorporate a federally required provision on emissions offsets, as required by the federal rule entitled "Approval and Promulgation of Implementation Plans; South Carolina; Prevention of Significant Deterioration and Nonattainment New Source Review Rules" (73 FR 31369, June 2, 2008). Second, the Department proposes to amend Regulation 61-62.96, Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program, to incorporate a provision in the definition of "commence operation," as required by the federal rule entitled "Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Clean Air Interstate Rule" (74 FR 53167, October 16, 2009).

3) The Department is also conducting the five-year regulatory audit required by the South Carolina Administrative Procedures Act. As a part of this audit, the Department is making revisions to enhance the clarity and usability of Regulation 61-62. The Department may revise Regulation 61-62 to address this audit.

4) The Department may also propose other changes to Regulation 61-62 that may include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

Pursuant to S.C. Code Section 1-23-120(H)(1), the proposed amendments in this Notice will not be more stringent than current federal requirements and thus do not require legislative review.

**DEPARTMENT OF TRANSPORTATION**  
**CHAPTER 63**  
Statutory Authority: 1976 Code Section 57-9-10

**Notice of Drafting:**

The South Carolina Department of Transportation proposes to promulgate Regulation 63-1000 et seq., Sign Requirements for Petitions to Close Road. Interested persons may submit comments to Natalie Moore, Assistant Chief Counsel, South Carolina Department of Transportation, P.O. Box 191, Columbia, South Carolina 29202. To be considered, all comments must be received no later than 5:00 p.m., October 10, 2012.

**Synopsis:**

1976 Code Section 57-9-10 was amended effective June 7, 2012, to require a party petitioning a court to abandon or close any street, road or highway, to post a sign along such street, road or highway, in accordance with regulations to be promulgated by the Department establishing the minimum mandatory size, language and specific positioning. The Department intends to draft the regulations to comply with the general requirements for signs contained in the Federal Highway Administration's Manual on Uniform Traffic Control Devices, generally known as MUTCD.

Legislative review is required.

**DEPARTMENT OF TRANSPORTATION**  
**CHAPTER 63**  
Statutory Authority: 1976 Code Section 57-25-170

**Notice of Drafting:**

The South Carolina Department of Transportation proposes to amend Regulation 63-338, Specific Information Service Signing. Interested persons may submit written comments to Barbara M. Wessinger, Legal Office, 955 Park Street, Columbia, South Carolina, 29202. To be considered, all comments must be received no later than 5:00 p.m., October 10, 2012, the close of the drafting comment period.

**Synopsis:**

The Department is proposing to amend Regulation 63-338 to revise the terms to be consistent with the Manual on Uniform Traffic Control Devices (MUTCD) and to clarify the criteria for the display of specific services signs and logo sign panels under the program.

Legislative review of this amendment is required.

## 70 PROPOSED REGULATIONS

Document No. 4295

### DEPARTMENT OF AGRICULTURE

#### CHAPTER 5

Statutory Authority: 1976 Code Section 39-25-180

Article 18, 5-614 through 5-626. Cheese

#### **Preamble:**

The Department of Agriculture proposes these amendments to clarify and to provide definitions, sanitation standards and labeling requirements for cheese being manufactured, packaged and sold in South Carolina as a food product, as authorized by S.C. Code, Title 39 Chapter 25. The proposed regulations will set forth the regulations and guidance for cheese manufacturing in South Carolina. Notice of Drafting for the proposed amendments was published in the *State Register* in April 27, 2012.

#### Section-by-Section Discussion:

5-614	Definitions; adds new section
5-615	Grounds; adds new section
5-616	Building and Facilities; adds new section
5-617	Equipment and Utensils; adds new section
5-618	Sanitary Operations; adds new section
5-619	Processes and Controls; adds new section
5-620	Records; adds new section
5-621	Personnel; adds new section
5-622	Standardized Cheeses and Related Products; adds new section
5-623	Non-standardized Cheese and Related Products; adds new section
5-624	Adulterated or Misbranded Milk or Dairy Products; adds new section
5-625	Permits; adds new section
5-626	Inspection of Dairy Farms and Dairy Plants; adds new section

#### **Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S.C. Code, as amended, such hearing will be held on October 30, at 10:00 a.m. at the Phillips Market Center, 3483 Charleston Hwy, West Columbia SC 29172. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If no request for a hearing is received by October 29, 2012, the hearing will be canceled.

In addition, written comments may also be submitted. All written comments and requests for a public hearing should be directed to Ms. Beth Crocker, General Counsel, S.C. Department of Agriculture, P.O. Box 11280, Columbia, SC 29211-1280 no later than October 30, 2012.

#### **Preliminary Fiscal Impact Statement:**

No additional state funding is requested to implement these proposed regulations.

#### **Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 5-614 through 5-626. Cheese.

Purpose: to clarify and to provide definitions, sanitation standards and labeling requirements for cheese being manufactured, packaged and sold in South Carolina as a food product.

Legal Authority: The legal authority for Regulations 5-614 et seq. is Section 39-25-180, S.C. Code of Laws.

Plan for Implementation: The proposed regulations will take effect upon publication in the *State Register* and may be implemented by providing copies of the regulation upon request.

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

The proposed regulations will provide clarification, definitions, sanitation standards and labeling requirements for cheese being manufactured, packaged and sold in South Carolina as a food product

**DETERMINATION OF COSTS AND BENEFITS:**

There will be a benefit to citizens, producers and consumers purchasing, manufacturing and consuming cheese products manufactured in South Carolina by providing uniform guidance based on best management and sanitation practices as recommended by the USDA.

**UNCERTAINTIES OF ESTIMATES:**

None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The proposed regulations help to clarify and provide uniform standards used by this Department and cheese producers to ensure that highest quality and good sanitation practices related to manufacturing and packaging cheese products in South Carolina.

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

There is a chance that without this type of guidance and requirements for sanitation practices related to manufacturing cheese products, a detrimental effect upon the environment or the public health could result if these regulations are not implemented.

**Statement of Rationale:**

These proposed amendments are primarily based upon cheese standards and recommendations from the USDA related to the proper standards and techniques for creating a safe, sanitary cheese product that is to be manufactured, packaged and sold to the general public.

**Text:**

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

## 72 PROPOSED REGULATIONS

Document No 4294

### STATE BOARD OF EDUCATION

#### CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2011), 59-29-10 et seq. (2004), 59-29-200 (2004), 59-33-30 (2004), 59-53-1810 (Supp. 2011), 20 U.S.C. 1232(g), and 20 U.S.C. 6301 et seq.

43-234. Defined Program, Grades 9–12

#### **Preamble:**

Section 59-5-60 of the Code of Laws of South Carolina delineates the general powers of the State Board of Education which includes the ability to promulgate regulations governing the operation of the public school system in the state. The proposed Regulation 43-234 regarding science end-of-course examination needs clarification. Proficiency-based systems need to be clarified. Changes to language referring to the department as the Department of Education will be clarified to reflect the South Carolina Department of Education (SCDE). Several classes which are referenced that are no longer in the standards will be removed. Graduation Requirements will be added to the name of the regulation to clarify that all graduation requirements that were eliminated from Regulation 43-259 are included within the proposed Regulation 43-234. The academic standards and the individual learning needs of the students are addressed and other language is clarified.

Notice of Drafting for the proposed amendments was published in the *State Register* on July 27, 2012.

#### Section-by-Section Discussion

Title	Adds Graduation Requirements
I.C.	Deletes language concerning which science is the end-of-course exam
II.C.	Changes Department of Education to the South Carolina Department of Education (SCDE) and clarifies the use of proficiency-based systems.
II.H.3.	Changes State Department of Education to the SCDE
II.K.	Deletes (beginning in the 2008-09 school year)
V.A.	Deletes Global Studies
V.C.10.	Adds (The South Carolina Commission on Higher Education requires one unit in appreciation of, history of, or performance in one of the fine arts for college entrance.)
VI.E.1.	Deletes language referencing No Child Left Behind and end-of-course exam and adds due to federal requirements and an assessment is given
VI.E.2.	Inserted new number 2. Adds language to determine which science end-of-course exam must be given to all students
VI.E.3.	Changes from number two to three. Changes State Department of Education to the SCDE
VII.B.	Changes State Department of Education to the SCDE
VII.C.2.	Changes State Department of Education to the SCDE
VII.C.4.	Changes State Department of Education's to the SCDE's
VII.D.2.	Deletes (SASI™)
VIII.	Changes State Department of Education to the SCDE and the Office of School Quality to the Office of Federal and State Accountability

#### **Notice of Public Hearing and Opportunity for Public Comment:**

A hearing pursuant to South Carolina Code Ann. Section 1-23-110(A)(3), as amended, will be held on November 14, 2012, at 1:00 p.m. in the SCDE Rutledge Conference Center, Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. Persons desiring to make oral comments at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not received in a timely manner, the hearing will be canceled.

Written comments, requests for the text of the proposed amendments or any other information, and any requests for a public hearing should be submitted to the Division of Accountability, Attn: Darlene Prevatt, South Carolina Department of Education, Rutledge Building, Room 501-A, 1429 Senate Street, Columbia, South Carolina 29201, or [dprevatt@ed.sc.gov](mailto:dprevatt@ed.sc.gov) on or before 5:00 p.m. on October 29, 2012. Copies of the text of the proposed amendments for public notice and comment are available at <http://www.ed.sc.gov/agency/stateboard>.

**Preliminary Fiscal Impact Statement:**

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the state and its political subdivisions in complying with the proposed revisions to Regulation 43-234.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: Defined Program, Grades 9–12.

Purpose: The regulation is proposed to clarify the regulation for high school graduation in public schools in the state. The regulation also will clarify the correct end-of-course examination for science, the department as the South Carolina Department of Education, and other clarifying language.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2011), 59-29-10 et seq. (2004), 59-29-200 (2004), 59-33-30 (2004), 59-53-1810 (Supp. 2011), 20 U.S.C. 1232(g), and 20 U.S.C. 6301 et seq.

Plan for implementation: The proposed amendments will be incorporated within 43-234 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. School and district personnel will be informed of the new procedures through electronic correspondence.

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

As reflected in 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2010), 59-29-10 et seq. (2004), 59-29-200 (2004), 59-33-30 (2004), 59-53-1810 (Supp. 2010), 20 U.S.C. 1232(g), and 20 U.S.C. 6301 et seq., each school district board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students. Presently, students take an end-of-course examination in physical science. The proposed change will be for students to take an end-of-course examination in biology. The title of the State Department of Education will be changed to the South Carolina Department of Education for clarification. Also, Global Studies will be stricken as a course recommended because the standards are no longer in the new adoption. The name of the regulation will also include Graduation Requirements. Any current graduation requirements eliminated from Regulation 43-259 will be clarified within this regulation, if not already present. There is other language that needs to be clarified.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.



## 74 PROPOSED REGULATIONS

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulations are not implemented.

### Statement of Rationale:

The changes herein related to the science end-of-course examination and striking of the global studies course in the regulation will clarify the new examination the students are to take and eliminate a course. These changes will help districts ensure that the academic standards and the individual learning needs of the students are addressed. The regulation will also include Graduation Requirements in the title to clarify that this is the regulation to refer to when looking for the requirements for high school graduation. The department's name will be properly changed to the South Carolina Department of Education. Proficiency-based systems need to be clarified.

### Text:

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

Document No. 4296

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-53-10 et seq.

### 61-4. Controlled Substances

#### Preamble:

Regulation 61-4 was last amended in 2003. The purpose of this amendment is to remove obsolete language and provide for consistency with state and federal laws. These amendments will also clarify the procedures for reporting the theft or loss of controlled substances, inventory requirements, and the method for recording refills of schedules III, IV and V controlled substances. The proposed revisions will clarify who may dispense controlled substances, the quantity limitations for controlled substances prescriptions, the partial fill of schedule II controlled substances prescriptions for terminally ill patients or patients in long term care facilities, and how long a schedule II controlled substance prescription is valid. In addition, the Department will provide for registration, installation, and operation of automated dispensing systems at long term care facilities. The proposed revisions will address the method of payment of registration fees and provide for certain fee exemptions. Furthermore, the proposed amendments will provide for electronic prescriptions for controlled substances in accordance with current U.S. Drug Enforcement Administration (DEA) regulations at 21 C.F.R. § 1311, and permit the faxing of schedule III, IV and V controlled substances prescriptions to pharmacies. The proposed revisions will also clarify the definition of Long Term Care Facility and update references to the title of Commissioner.

Staff initiated the statutory process for the amendment of R.61-4 by publication of a Notice of Drafting in the *State Register* on June 22, 2012. The drafting comment period ended on July 23, 2012; one comment was

received, which was favorable. See the Section-by-Section Discussion below and Statements of Need and Reasonableness and Rationale herein.

Section-by-Section Discussion of Proposed Amendments:

The table of contents for this regulation was revised to be more user friendly in locating subject matter consistent with the text of the regulation. Also, grammatical, capitalization, punctuation, references, outlining/codification corrections and language changes for consistency were made throughout the regulation to improve the overall quality of the regulation in meeting standards for drafting regulations.

Table of Contents was renumbered for ease of use.

Section 101 - Purpose and Scope added for consistency with other regulations.

Old Section 101(a)-(ac) was renumbered to Section 102(a)-(ee) and definitions were reorganized alphabetically.

Old Section 101(d) was deleted; it refers to a position no longer in existence.

Old Section 101(e) was deleted; it refers to a position no longer in existence.

Old Section 101(h) was renumbered to Section 102(k) and clarifies references to the Director of DHEC.

Old Section 101(y) was renumbered to Section 102(u) and clarifies definition of Long Term Care Facility.

Section 102(c) defines automated dispensing systems.

Section 102(d) defines Bureau Director.

Section 102(i) defines controlled substance.

Section 102(dd) defines scheduling of a controlled substance.

Old Section 103 was deleted.

Section 104 clarifies method of payment of registration fees.

Sections 107 and 151 were renumbered to Sections 107 and 412 and provide for separate registration of automated dispensing systems.

Section 110 provides fee exemption for certain military and other personnel.

Section 114 clarifies requirements for filling out-of-state prescriptions.

Section 115 was renumbered to Section 201 and clarifies Bureau Director.

Section 116 was renumbered to Section 202 and clarifies reference to application forms.

Sections 118 and 119 deleted obsolete references to filing of applications.

Sections 120-129 were renumbered to Sections 204-309 to clarify Directors and delete obsolete language.

Section 125 was renumbered to Section 305 and deletes obsolete reference to the Certificate of Registration.

## **76 PROPOSED REGULATIONS**

Sections 132 and 133 were renumbered to Sections 312 and 313 to clarify Director and to remove obsolete language.

Section 136 was renumbered to Section 316 and provides for appeals, clarifies Director, and removes obsolete language.

Section 137 was renumbered to Section 317; clarifies Director and deletes form reference.

Section 138 was renumbered to Section 318 and clarifies Bureau Director.

Sections 139-141 were renumbered to Sections 320-402 to clarify Bureau Director.

Sections 143-150 were renumbered to Sections 404-411; clarify language regarding theft or loss of controlled substances; clarify employee screening, responsibility and illicit activities.

Section 412 provides for installation and operation of automated dispensing systems at Long Term Care Facilities.

Section 202 was renumbered to Section 501 and deletes obsolete language.

Sections 204 and 205 were renumbered to Sections 503 and 504 and clarify Bureau Director.

Section 207 was renumbered to Section 506 and clarifies labeling requirements.

Section 303(b) was renumbered to Section 602(b) and clarifies documentation for prescriptions for controlled substances.

Section 304 was renumbered to Section 603 and clarifies Bureau Director.

Sections 305-307, 310, and 312 were renumbered to Sections 701-703, 706, and 708 to clarify inventory requirements and Bureau Director.

Section 316(d) was renumbered to Section 804(d) and clarifies conflict with Section 207( now 506) as to who may dispense a controlled substance.

Section 402 was renumbered to Section 902 and provides for handling of electronic orders for controlled substances.

Sections 505 and 513 were renumbered to Sections 1003 and 1201 and provide option for issuing electronic prescriptions for a controlled substance.

Sections 507.1, 507.2, and 507.4 were renumbered to Sections 1008, 1009, and 1011, and clarify federal agencies approval prior to registration of maintenance programs by DHEC; clarify Director and remove obsolete language.

Section 508 was renumbered to Section 1101 and provides an option for issuing electronic prescriptions for a controlled substance; clarifies Bureau Director and reference to the Social Security Act.

Section 508.1 was renumbered to Section 1102 and provides for expiration date for schedule II prescriptions consistent with SC Code § 44-53-360.

Section 510 was renumbered to Section 1105 and clarifies partial filling of schedule II prescriptions consistent with federal regulations.

Section 511 was renumbered to Section 1106 and clarifies labeling requirements.

Section 513(a) was renumbered to Section 1201(a) and permits faxing of schedules III, IV and V prescriptions consistent with SC Code § 44-53-360.

Section 514 was renumbered to Section 1202 and clarifies documentation of refills for schedules III, IV and V prescriptions.

Section 514.1 was renumbered to Section 1203 and provides for quantity limitations for schedule III, IV and V prescriptions, consistent with SC Code § 44-53-360.

Section 515 was renumbered to Section 1206 and clarifies labeling requirements.

Sections 517-517.1 were deleted. Provisions are addressed in Sections 1201 and 1203.

Section 518 was renumbered to Section 1208 and clarifies dispensing without a prescription.

Section 603 was renumbered to Section 1303 and clarifies Bureau Director.

Section 607 was renumbered to Section 1404, clarifies procedure for distribution of controlled substances upon discontinuance or transfer of business; and clarifies Bureau Director.

Section 608 was deleted. Procedure is addressed in Federal Regulation at 21 CFR 1307.13.

Section 609 was renumbered to Section 1501 and clarifies procedure for disposal of controlled Substances and clarifies Bureau Director.

Sections 701-709 were deleted. Scheduling of controlled substances is addressed in SC Code §§ 44-53-160 through 290. Excluded substances and excepted compounds are addressed in federal regulations.

Section 801 was deleted. Procedure is addressed in Part 300.

Section 803 was renumbered to Section 1601 and clarifies Bureau Director.

Section 812 was renumbered to Section 1609 and clarifies language.

Sections 814-815 were renumbered to Sections 1701-1702 and clarify Directors.

Sections 816-818 were renumbered to Sections 1801-1803 and clarify administrative conferences and Bureau Director.

Section 903 was renumbered to Section 1903 and clarifies resident registration.

Section 904 deletes reference to a function that is no longer performed by the Bureau of Drug Control.

Section 906(d) and (e) were renumbered to Section 1905(d) and (e) and clarify procedures with regard to electronic orders.

Section 910 was renumbered to Section 1909 and permits electronic systems for orders and records of controlled substances.

## **78 PROPOSED REGULATIONS**

Section 911 was renumbered to Section 1910 and clarifies procedure in case of waste, destruction, contamination, etc., and deleted reference to a function that is no longer performed by the Bureau of Drug Control.

### **Notice of Staff Informational Forum and Public Comment Period:**

The Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum on October 29, 2012, at 10 a.m. at the Bureau of Drug Control, 8500 Farrow Road, Building 12, Room 218, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify any issues, and receive oral or written public comments from interested persons on the proposed amendment to the regulation. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations during a public comment period by writing to Regina T. Erving, Bureau of Drug Control, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 p.m. on October 30, 2012, the close of the public comment period.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Regina T. Erving at the above address. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/administration/regs/> in its DHEC Regulation Development Update. To access this document, click on the Drug Control category, then scan down for these proposed amendments.

Comments received at the forum or during the write-in public comment period above-noticed shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

### **Notice of Public Hearing and Opportunity for Public Comment:**

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 13, 2012. The public hearing is to be held in Room 3420 (Board Room), Third Floor, Aycock Building of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and, as a courtesy, are asked to provide written copies of their presentation for the record.

### **Preliminary Fiscal Impact Statement:**

There will be no additional costs to the state and its political subdivisions.

### **Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION: Proposed amendment of R.61-4, Controlled Substances.

Purpose: The purpose of this amendment is to remove obsolete language and provide for consistency with state and federal laws. These amendments will also clarify the procedures for reporting the theft or loss of

controlled substances, inventory requirements, and the method for recording refills of schedules III, IV and V controlled substances. The proposed revisions will clarify who may dispense controlled substances, the quantity limitations for controlled substances prescriptions, the partial fill of schedule II controlled substances prescriptions for terminally ill patients or patients in long term care facilities, and how long a schedule II controlled substance prescription is valid. In addition, the Department will provide for registration, installation, and operation of automated dispensing systems at long term care facilities. The proposed revisions will address the method of payment of registration fees and provide for certain fee exemptions. Furthermore, the proposed amendments will provide for electronic prescriptions for controlled substances in accordance with current Drug Enforcement Administration (DEA) regulations and permit the faxing of schedule III, IV and V controlled substances prescriptions to pharmacies. The proposed revisions will also clarify the definition of Long Term Care Facility and amend references to the title of Commissioner throughout the regulation.

Legal Authority: S.C. Code Ann. Sections 44-53-10 et seq.

Plan for Implementation: The proposed amendments will make changes to be incorporated into R. 61-4 upon approval by the Board of Health and Environmental Control and the S.C. General Assembly and publication in the State Register. The amended regulations will be provided in hard copy, at cost, and electronic formats to the community through the Department's Freedom of Information Office and at the Bureau web site.

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

The proposed amendments to R. 61-4 are needed to provide consistency with federal regulations at 21 C.F.R. §1300, et seq.; to clarify procedures in the current regulation regarding documentation, fees, and dispensing requirements; to provide for automated dispensing systems in long term care facilities; and to permit faxing and electronic prescriptions. See Purpose above. The amendments are reasonable since they accomplish their intended purpose while placing no significant burden or financial hardship upon the regulated community.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no additional costs to the state or its political subdivisions or to the regulated community.

**UNCERTAINTIES OF ESTIMATES:**

There are no known or identifiable uncertainties.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

Implementation of the proposed amendments will not compromise the protection of the environment or the public health. The effect should be beneficial because the amendments will provide easier compliance for the regulated community.

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

There will be no adverse effect on the environment if the amendments are not implemented. Failure to amend the regulation would deny the regulated community the benefits of clarification and simplification of procedures for prescribing and dispensing controlled substances.

## **80 PROPOSED REGULATIONS**

### **Statement of Rationale:**

The proposed amendments to R. 61-4 are needed to provide clarification and consistency with current state and federal regulations pertaining to controlled substances in South Carolina. See Statement of Need and Reasonableness above.

### **Text:**

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

**Filed: August 30, 2012 9:24am**

Document No. 4292  
**DEPARTMENT OF NATURAL RESOURCES**  
 CHAPTER 123

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

**Emergency Situation:**

These emergency regulations establish the dove seasons and dove limits statewide and establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season begins September 1, it is necessary to file these regulations as emergency.

**Text:**

**WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2012-13**

Dove Management Area Regulations: The following fields are open on a first-come basis, unless otherwise stated below. The number of hunters may be restricted on some fields. A Wildlife Management Area permit is required for all fields. Fields are open only as shown below. Please consider the other hunters as well as the landowners whose cooperation makes these fields possible. Signs will be placed along roads directing hunters to the fields. All federal and state laws apply. Fields are open only on days and times indicated. Fields denoted by an asterisk (\*) require hunters to sign in (not before 12:00 noon) and sign out on ALL hunts. No species other than mourning doves and Eurasian collared doves may be hunted during scheduled dove hunts. Please remove all litter, including spent shell hulls, from fields when leaving! Migratory Bird Permit Required.

Statewide Season Dates:

September 1 - October 6 (Sept 1-3 Afternoons only); November 17 - November 24; December 21 - January 15  
 Bag Limit: Mourning Doves: 15 doves per day. No limit on Eurasian collared doves.

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

**ABBEVILLE**

U.S. Forest Service – Power of Partnerships Field - 5 mi. east of Abbeville on SC-72, ¼ mile south on Bass Rd., 60 acres. 1<sup>st</sup> season – Saturdays Only beginning Sept. 15. \*\*Sept. 1 is Youth Hunt Only – Pre-registration required. Sept 8 is Wheelin Sportsmen hunt and morning hunting will be allowed for this event only. 2<sup>nd</sup> and 3<sup>rd</sup> season – Open Mon. – Sat.

**AIKEN**

US Dept of Energy - Crackerneck WMA 40 acres.

1<sup>st</sup> season – Sept. 5 & 19; 2<sup>nd</sup> & 3<sup>rd</sup> season – Fridays, Saturdays & Thanksgiving Day ONLY.

**ANDERSON**

Clemson University - Fant's Grove WMA 45 acres.

1<sup>st</sup> season, Saturdays – FIELD CLOSED OCT. 6. Open 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Saturdays Only

**\*BERKELEY**

U.S. Army Corps of Engineers - Canal WMA (Above Powerhouse) 60 acres.

Sept. 1, 8; Oct. 6; Nov. 17



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U.S. Army Corps of Engineers - Canal WMA (Below Powerhouse) 40 acres  
Dove Hunting Only - Sept. 1, 8; Oct. 6; Nov. 17.

### **CHARLESTON**

Botany Bay Plantation WMA  
Located on Edisto Island south of Charleston. 70 acres.  
(All hunts are Youth Only see Youth Hunt List for details)

### **CHEROKEE**

Gaffney Board of Public Works 20 acres.  
Saturdays Only. Dove Hunting Only

### **CHESTER**

U.S. Forest Service - Worthy Bottoms 30 acres  
1st season - Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon. – Sat. Afternoons Only

### **CHESTERFIELD**

SC Forestry Commission – Sand Hills State Forest  
Wilkes Chapel Field 54 acres. 1st season –Saturdays Only, 2nd & 3rd seasons - Open Mon. - Sat.

SC Forestry Commission – Sand Hills State Forest  
Davis Field 30 acres.

1<sup>st</sup> season – Sept. 1 and Wednesdays Only, beginning Sept. 12. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

### **\*CLARENDON**

Santee Cooper – Santee Dam WMA 90 acres.  
Sept. 1, 15; Oct. 6; Nov. 24, Jan. 5.

SC Forestry Commission - Oak Lea WMA. 102 ac.  
Sept. 1, 22; Jan. 5 & 12. \*\*Opening day participants selected by drawing.

### **\*COLLETON**

DNR - Bear Island WMA closed

DNR - Donnelley WMA 80 acres  
Sept. 1, 8, 15; Nov. 24

### **DARLINGTON**

DeWitt Property 50 acres.  
1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Seasons – Saturdays Only, Dove Hunting Only

### **FLORENCE**

Santee Cooper – Pee Dee Station Site WMA 60 acres  
1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Seasons. Saturdays Only – Dove Hunting Only. \*\*Opening day participants selected by drawing

### **GEORGETOWN**

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

### **\*HAMPTON**

DNR - Webb Wildlife Center 30 acres  
Sept. 1 & 8; Oct. 6; Nov. 17. (803) 625-3569

LEXINGTON

Hallman Field 47 acres

1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> seasons -Saturdays Only, Dove Hunting Only

MARLBORO

DNR - Lake Wallace WMA 50 acres

1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> seasons. Saturdays Only - Dove Hunting Only

MCCORMICK

\*U.S. Army Corps of Engineers - Bordeaux Work Center Field 40 acres.

Sept. 1 & 12; Oct. 3; Nov. 21, Jan. 2 & 12 only. Dove Hunting Only. Must sign-in & out @ 1009 McIntosh Rd.

U.S. Army Corps of Engineers – Parksville Field 22 acres

1<sup>st</sup> season – Saturdays Only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. - Sat.

US Army Corp of Engineers - Plum Branch Saddle Club Fields 30 acres.

1<sup>st</sup> season – Saturdays Only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. - Sat.

U.S Forest Service - McCombs Tract Field 60 acres.

1<sup>st</sup> season – Saturdays Only, 2<sup>nd</sup> and 3<sup>rd</sup> season – Open Mon. - Sat.

U.S. Forest Service - Price Mill Field 60 acres.

1<sup>st</sup> season – Saturdays Only, 2<sup>nd</sup> and 3<sup>rd</sup> season – Open Mon. - Sat.

NEWBERRY

SCDOT McCullough Field 30 acres.

Saturdays Only Beginning Sept. 8, Dove Hunting Only \*\*Sept. 1 is Youth Hunt Only – Pre-registration required.

OCONEE

S.C. Forestry Commission - Piedmont Forestry Center 18 acres

Beginning Sept. 1 - Saturdays Only, Dove hunting only. 3rd season – Closed.

U.S. Forest Service – Long Creek Tract

In order to hunt, adults must have 1 or 2 youth age 17 or younger. Disability hunters must contact the U.S. Forest Service Andrew Pickens office 864-638-9568 for permit requirements and access. 20 acres. \*\*Sept. 1 is Youth Hunt Only – Pre-registration required.

1<sup>st</sup> season – Saturdays only beginning Sept. 15, 2<sup>nd</sup> season – Open November 17 Only – 3<sup>rd</sup> season – Closed.

U.S. Forest Service - Ross Mtn. Field 35 acres

Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 1

\*ORANGEBURG

Santee Cooper - Santee Cooper WMA 45 acres

Entire WMA under Dove Area Regulations. \*\*Sept. 1 is Youth Hunt Only – Pre-registration required. Sept. 15; Oct. 6; Nov. 24; Jan. 5.

PICKENS

DNR Property 40 acres

Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 1. Dove Hunting Only

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Clemson University - Gravely WMA - Causey Tract 25 acres  
Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 1.

DNR Property – Jocassee Gorges – Cane Creek Field  
Wednesday Only, Beginning Sept. 19

### SPARTANBURG

Santee Cooper 15 acres.

1<sup>st</sup> season – Saturdays only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

### SUMTER

S.C. Forestry Commission - Manchester State Forest

Bland Field 1 50 ac. \*\*Sept. 1 is Youth Hunt Only – Pre-registration required. 1st season – Saturdays Only.  
2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Bland Field 2 50 acres

1st season – Saturdays Only. 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Bird Haven Field 25 acres

1st season – Saturdays Only. 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Tuomey Field A 50 acres. \*\*Opening day participants selected by drawing. 1st season – Saturdays Only. 2nd  
& 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

Tuomey Field B 20 acres. \*\*Opening day participants selected by drawing. 1st season – Saturdays Only. 2nd  
& 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

### UNION

DNR Thurmond 15 acres.

1<sup>st</sup> season – Saturdays Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat.

Sedalia (U.S. Forest Service) 15 acres

1st season – Saturdays – Beginning Sept. 8. \*\*Sept. 1 is Youth Hunt Only – Pre-registration required. 2nd &  
3rd seasons - Open Mon. - Sat.

### YORK

DNR - Draper Tract 45 acres (two fields).

1st season – Saturdays Only, 2nd & 3rd seasons Open Mon. - Sat. \*\*Opening day participants selected by  
drawing.

York County – Worth Mountain WMA 40 acres planted.

1<sup>st</sup> season – Saturdays only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons Open Mon. - Sat.

### SPECIAL YOUTH DOVE HUNTS:

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 17 years of age and younger. The following regulations also apply on Special Youth Dove Hunts: (1) Adults accompanying youth are NOT allowed to shoot at any time during Special Youth Dove Hunts. (2) Adults must remain in the field and closely supervise participating youth at all times. (3) In parties of one adult and 2 youths, only one youth hunter may be handling a loaded firearm at any given time. (4) Bag limit is 15 birds per youth participant. Birds harvested by individual hunters must be kept separate and in no instance may an individual hunter harvest more than 15 birds.

**ABBEVILLE COUNTY YOUTH HUNT**

U.S. Forest Service – Power of Partnerships Field, September 1 - Participants selected by drawing.

**ANDERSON COUNTY YOUTH HUNT**

Simpson Agriculture Station, September 1 - Participants selected by drawing.

**CHARLESTON COUNTY YOUTH HUNT**

Botany Bay Plantation WMA Sept. 1, 15; Nov. 17; Dec. 22; Jan. 12 No pre-registration required.

**NEWBERRY COUNTY YOUTH HUNT**

SCDOT – McCullough Field, September 1 - Participants selected by drawing

**OCONEE COUNTY YOUTH HUNT**

U.S. Forest Service – Long Creek Tract, September 1 - Participants selected by drawing.

**ORANGEBURG COUNTY YOUTH HUNT**

Santee Cooper – Santee Cooper WMA, September 1 - Participants selected by drawing.

**SUMTER COUNTY YOUTH HUNT**

Manchester State Forest near Wedgefield Bland Tract – Field 1. September 1 - Participants selected by drawing.

**UNION COUNTY YOUTH HUNT**

U.S. Forest Service near Sedalia. September 1 - Participants selected by drawing.

**YORK COUNTY YOUTH HUNT**

DNR Draper WMA, September 1 - Participants selected by drawing.

**Statement of Need and Reasonableness:**

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates change as allowed by Federal Regulation, it is necessary to file Dove Field regulations annually. Because these hunts begin on September 1, it is necessary to file these regulations as emergency so they take effect immediately.

**Fiscal Impact Statement:**

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

## 86 EMERGENCY REGULATIONS

Filed: August 30, 2012 9:23am

Document No. 4293

### DEPARTMENT OF NATURAL RESOURCES

#### CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

#### Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Number 123-40 and 123-52. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Wildlife Management Areas. Because the hunting seasons on many of these areas begin September 1, it is necessary to file these regulations as emergency.

#### Text:

#### HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40 and 123-52.

1.2. The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

#### (B) Game Zone 2

#### Fants Grove WMA

Archery Only (No dogs)	October 15 - December 22	Total of 3 deer, 2 per day, either-sex. Not to include more than 1 buck.
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#### (F) Samworth WMA

Deer

Archery only hunts For deer (no dogs) (impoundments only)	1st Sat. in Oct. - last Sat. in Oct.	2 deer per day, either-sex Hogs no limit.
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Special hog hunt Archery only. (impoundments only).	1 <sup>st</sup> Sat. in Mar. – last Sat. in Mar.	Hogs only, no limit, no live hogs to be removed from WMA.
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Special hog hunts with dogs (impoundments only)	Mon. following the last Sat. in Mar. through the following Sat.	Hogs only, no limit, handguns only, limit 4 bay or catch dogs per party. No live hogs removed from WMA.
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**(G) Francis Marion National Forest**

Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mon. after 1 <sup>st</sup> Sat. in Mar. - Mar. 20	Hogs only, no limit.
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**Hellhole WMA**

Deer

Archery	Sept. 1 - Oct. 31	2 deer per day, either-sex Sept. 15- Oct. 31 Hogs - no limit.
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Still Gun Hunts	Nov. 1 – Jan. 1 except during scheduled dog drive hunts.	2 deer per day, either-sex. Hogs no limit.
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Dog Hunts (Shotguns only, no still gun hunting)	1 <sup>st</sup> Sat in Nov. 1 <sup>st</sup> Sat in December	2 deer per day, buck only, hogs no limit.
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~~On the either sex deer hunt with dogs (except youth only hunts) all deer must be checked in at Hellhole Check Station, Bonneau Ferry entrance or M&B Alvin Community Mart.~~

Small Game No open season for fox hunting	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.	Game Zone 6 bag limits except Quail - 8 per day.
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Hog hunts with dogs	Every other Fri. and Sat. in Feb. beginning with the 2 <sup>nd</sup> Fri. in Feb.	No limit.
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buck shot only). Pistols allowed. Hogs may not be transported alive. Hunting allowed from legal sunrise to legal sunset.

**Waterhorn WMA**

Hog Hunts with dogs	Every other Fri. & Sat. in Feb. beginning with the 1 <sup>st</sup> Fri. in Feb. and ending on the 1 <sup>st</sup> Sat. in Mar.	No limit.
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hunting allowed from legal sunrise to legal sunset.

~~Hog hunters must sign a register at Elmwood Check Station upon entering and leaving Waterhorn WMA.~~

Small Game No open season for fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed to small game and waterfowl hunting during scheduled deer hunt periods.	Game Zone 6 bag limits except Quail - 8 per day.
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### Wambaw WMA

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Awendaw check station on Hwy 17 ~~or~~ Honey Hill Lookout Tower, P&C Grocery, Alvin One Stop or Kangaroo in Jamestown.

Hog Hunts with dogs	Every other Fri. & Sat. beginning with the 1 <sup>st</sup> Fri. in Feb. and ending on 1 <sup>st</sup> Sat. in March.	No limit.
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hunting allowed from legal sunrise to legal sunset.

Small Game No open season for fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.	Game Zone 6 bag limits except Quail - 8 per day.
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### Northampton WMA

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at P&C Grocery, Kangaroo in Jamestown, Awendaw check station on Hwy 17, Alvin One Stop or Honey Hill Lookout Tower.

Small Game No open season on fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.	Game Zone 6 bag limits except Quail - 8 per day.
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Hog hunts with dogs	Every other Fri. and Sat. beginning with the 1 <sup>st</sup> Fri. in Feb. and ending on the 1 <sup>st</sup> Sat. in Mar.	No limit.
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buck shot only). Pistols allowed. Hogs may not be transported alive. Hunting allowed from legal sunrise to legal sunset.

**Santee WMA**

Deer

Dog Drive Hunts (Shotguns only)	2 <sup>nd</sup> Fri. & Sat. in Sept. Wed & Thur before the 4 <sup>th</sup> Sat in Oct. & 1 <sup>st</sup> Friday in Dec.  <u>2<sup>nd</sup> Sat. in Dec.</u>	2 deer per day, buck only Hogs no limit.  2 deer per day, either-sex Hogs no limit.
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On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at P & C Grocery, Kangaroo in Jamestown, Awendaw check station on Hwy 17, Honey Hill Lookout Tower or Alvin One Stop.

Small Game No open season for fox hunting.	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply. Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.	Game Zone 6 bag limits. except Quail - 8 per day.
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Hog hunts with dogs	Every other Fri. and Sat. in Feb. beginning with the 2 <sup>nd</sup> Fri. in Feb.	No limit.
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buck shot only). Pistols allowed. Hogs may not be transported alive. Hunting allowed from legal sunrise to legal sunset.

**(H) Moultrie**

Deer	Total of 8 deer per season.
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There shall be no hunting or shooting within fifty (50) feet of the center of any road during gun hunts for deer except for SCDNR draw youth hunts. Hogs may be harvested during any scheduled hunt, no limit.

**(I) Santee Cooper WMA**

Hogs and Coyotes

Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.



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### (J) Webb WMA

Still Hog Hunts (no dogs)	4 <sup>th</sup> Thurs. – Sat. in Feb.	No limit.
Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only. No stalking or man drives allowed.	2 <sup>nd</sup> and 3 <sup>rd</sup> Thurs. – Sat. in May 1 <sup>st</sup> Thurs. – Sat. in Sept.	

Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. Hunters must sign register upon entering and leaving the Webb WMA. No hogs may be taken alive from Webb WMA. Hog hunters are permitted to camp at Bluff Lake on Webb WMA on nights prior to and during scheduled hog hunts only.

### (L) Santee Delta WMA

~~Deer and hog hunters must sign in and out and complete a data card on harvested animals at the check Station on the East Side of the Delta.~~

Deer

Archery only hunts For deer (no dogs)	1st Sat. in Oct. - last Sat. in Oct.	2 deer per day, either-sex Hogs no limit.
Special hog hunt Archery Only.	1 <sup>st</sup> Sat. in Mar. – last Sat. in Mar. (impoundments only)	Hogs only, no limit, no live hogs to be removed from WMA.
Special hog hunt with dogs	Mon. following the last Sat. in Mar. – the following Sat. (impoundments only)	Hogs only, no limit, handguns only, limit 4 bay or catch dogs per party. No live hogs removed from WMA.

### (N) Bear Island WMA

Alligator Hunts Bear Island East and West Units only.	Hunters selected by drawing only. Limited season with restricted access.	Limit and size restrictions as prescribed.
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### (O) Lewis Ocean Bay WMA

Deer

Still Gun Hunts	Fri. after Thanksgiving – last day of Nov., Dec. 16 – 31.	1 deer per day, buck only.
Small Game No Fox Squirrels	Jan. 1-Mar.1	Game Zone 5 bag limits.

**(R) Santee Coastal Reserve WMA**

## Deer Hunts

(No dogs)

## Archery

2<sup>nd</sup> Sat. in Oct. -Last Sat.  
in Nov.2 deer per day, either-sex.  
Hunting on mainland only.  
Hogs no limit. No possession  
of handguns or sidearms during  
archery only hunts.

## Quail

~~Wed. and Sat. only, 1<sup>st</sup> Wed.  
after Jan. 20 through Mar. 1.~~~~Limit 8 per day.~~

## Small Game

No open season on  
fox squirrelsWed. and Sat. only, Wed.  
following the 1<sup>st</sup> Thur. – Sat.  
in Dec. – Mar. 1Game Zone 6 bag limits.  
Except quail limit 8/day.

## Raccoon/Opossum

Tues. and Fri. nights, Tues.  
following the 1<sup>st</sup> Thurs. – Sat.  
in Dec. – Mar. 1

Game Zone 6 bag limits.

Alligator Hunts  
Cape Unit only.Hunters selected by drawing only.  
Limited season with restricted access.Limit and size restrictions  
as prescribed.**(U) Manchester State Forest WMA**

Deer must be checked at check station. No man-drives during either-sex still gun hunts for deer.

## Hogs and Coyotes

Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

**(W) Marsh WMA**

## Deer

## Still Gun Hunts

4<sup>th</sup> Mon. in Oct. –Sat.  
before the 1<sup>st</sup> Mon. in Nov.  
1<sup>st</sup> Mon. in Nov. – following Sat.  
2<sup>nd</sup> Mon. in Nov. – following Sat.1 deer per day, buck only  
Hogs no limit.**(X) Hamilton Ridge WMA**

## Still Hog Hunts (no dogs)

Archery, crossbows,  
centerfire rifles, muzzleloading  
rifles, centerfire handguns and  
shotguns with slugs only.  
No stalking or man drives  
allowed.4<sup>th</sup> Thurs. – Sat. in Feb.  
2<sup>nd</sup> and 3<sup>rd</sup>, Thurs. – Sat. in May  
1<sup>st</sup> Thurs. – Sat. in Sept.

No limit.

## 92 EMERGENCY REGULATIONS

### (AA) Little Pee Dee River Complex WMA

#### Deer

Archery	Oct. 1 - 3 <sup>rd</sup> Sat. in Oct. Mon. after Dec. 15 – Jan. 1	1 deer per day, either-sex.
Small Game	Thanksgiving Day - Mar. 1 No open season for fox squirrels.	Game Zone 5 Bag limits.
Special Hog Hunt With Dogs	Mar. 21 – Fri. before the last Sat. in Mar.	No limit, handguns only, no more than 4 bay or catch dogs per party. No live hogs removed from WMA. Buckshot and rimfire firearms not permitted.

### (CC) Hickory Top WMA

Data cards required for hunter access. Completed data cards must be returned daily upon leaving Hickory Top WMA. The Greentree Reservoir is open to hunting during the regular Hickory Top seasons during years when the Greentree Reservoir remains unflooded.

#### Hogs and Coyotes

Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	1 <sup>st</sup> two full weeks in Mar.	Hogs only, no limit, no bay or catch dogs.
Hog Hunt With Dogs	Last two full weeks in Mar.	No limit, sidearms only, no More than 4 bay or catch dogs per party, no live hogs removed from WMA.

### (DD) Palachucola WMA

Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only. No stalking or man drives allowed.	4 <sup>th</sup> Thurs. – Sat. in Feb. 2 <sup>nd</sup> and 3 <sup>rd</sup> , Thurs. – Sat. in May 1 <sup>st</sup> Thurs. – Sat. in Sept.	No limit.
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**(FF) Waccamaw River Heritage Preserve WMA**

Small Game Seasons: Thanksgiving Day - Mar. 1 Game Zone 5 bag limits.  
Season open only for Woodcock during Fed. Season  
Gray squirrel and woodcock.

Hog Hunt With Dogs Mar. 21 – Fri. before last No limit, sidearms only, no  
Sat. in Mar. More than 4 bay or catch dogs  
per party, no live hogs removed  
from WMA.

**(HH) Canal WMA**

~~Hunters must pick up and return data cards at access points. Shotguns must be plugged so as not to hold more than 3 shells.~~

**(II) Cartwheel Bay HP WMA**

Small Game No hunting before Nov. 1 Game Zone 5 bag limits.  
(No small game, or after Mar. 1; otherwise  
hunting during Game Zone 4 bag limits.  
Scheduled deer  
hunt periods.)  
No open season on  
fox squirrels.

**(OO) Santee Dam WMA**

Hog Hunt With Dogs 1<sup>st</sup> two full weeks in Mar. No limit, sidearms only, no  
Daylight hours only. More than 4 bay or catch dogs  
per party, no live hogs removed  
from WMA.

**(QQ) Oak Lea WMA**

Hogs and Coyotes  
Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

**(SS) Edisto River WMA**

Deer

Still Gun Hunts Monday following the closing 1 per day, either-sex  
of muzzleloader season each Fri. & Sat. in Nov.  
through Jan. 1. Hogs, no limit.

Small Game Jan. 2 – Mar. 1 Game Zone 6 bag limits  
except Quail - 8 per day.

## 94 EMERGENCY REGULATIONS

### (VV) Bonneau Ferry WMA

Draw deer hunts are for two and one half days (afternoon on the first day and 2 full days). Hunt periods begin in September and continue until early December. Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day). Hunted areas are closed to the general public access during scheduled deer, turkey and waterfowl hunts.

Quail (Side B)                      Open every other Sat. beginning                      Limit 8 per day.  
Shotguns must be plugged to      Feb. 1 through Mar. 1.  
hold no more than 3 shells.

~~Hunters must pick up, accurately fill out and return data card at the main entrance.~~

Other Small Game                      Jan. 2 – Mar. 1                      Game Zone 6 bag limits.  
No open season for fox  
squirrels or fox. Dogs  
allowed during gun seasons  
only.

### (WW) Ditch Pond HP WMA

~~During still gun hunts for deer, there shall be no hunting or shooting from, on or across any road open to vehicular traffic.~~ Individual antlerless deer tags valid on days not designated as either-sex after Oct. 1.

#### Hogs and Coyotes

Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

### (XX) Henderson HP WMA

~~During still gun hunts for deer, there shall be no hunting or shooting from, on or across any road open to vehicular traffic.~~ Individual antlerless deer tags valid on days not designated as either-sex after Oct. 1.

#### Hogs and Coyotes

Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

### (AAA) Belfast WMA

#### Hogs and Coyotes

Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

Small Game                      Dec. 10 – March 1                      Game Zone 2 bag limits.  
(No open season for  
fox squirrels, fox or bobcats)

**(BBB) Congaree Bluffs HP WMA**

## Deer

Still Gun Hunts (No dogs, no buckshot)	No open season except for hunters selected by drawing.	2 per day, either-sex.
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## Hogs and Coyotes

Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for the current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

2.7 On WMA lands construction or use of tree stands is prohibited if the tree stand is constructed by driving nails or other devices into trees or if wire is wrapped around trees. Other tree stands are permitted provided they are not permanently affixed or embedded in the tree. All stands and temporary climbing devices must be removed by the end of the deer hunting season.

123-52. Either-sex days for Private Lands in Game Zones 1-6.

Game Zone 1: The first three Saturdays in November.

Game Zone 2-6: Every Saturday from October 1 to the Saturday after Thanksgiving Day inclusive; Saturdays in December beginning 23 days after Thanksgiving Day; and the last day of the open season.

The daily bag limit on either-sex days is 2 antlerless deer.

In Game Zones 1 and 2 hunters using archery equipment may take either-sex during any open season for deer.

On special mobility impaired and youth and deer hunts sanctioned by the department and during the statewide youth deer hunt day, participants may take antlerless deer, 2 per day.

Individual Deer Tags: Individual Antlerless Deer Tags are not valid in Game Zone 1. Tags are valid in Game Zones 3- 6 beginning Sept. 15 and in Game Zone 2 beginning Oct. 1. Individual tags are not valid on properties enrolled in the Antlerless Deer Quota Program. Tags do not alter the daily (2 deer per day) or seasonal limit or change the type of weapon that can be used during special weapons seasons.

**Statement of Need and Reasonableness:**

Periodically, additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on September 1, it is necessary to file these regulations as emergency so they take effect immediately.

**Fiscal Impact Statement:**

This amendment of Regulation 123-40 and 123-52 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

## 96 EMERGENCY REGULATIONS

Filed: August 30, 2012 9:25am

Document No. 4291

### DEPARTMENT OF NATURAL RESOURCES

#### CHAPTER 123

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

#### Emergency Situation:

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Croft State Natural Area. Because the hunts begin on September 19 it is necessary to file these regulations as emergency so they take effect immediately.

#### Text:

#### 123-40. Hunt Units and Wildlife Management Area Regulations

##### 1.2 (X) Croft State Park WMA

Archery-Crossbow Deer Hunts	Sept. 19-20	3 Deer Per Day, either-sex
	October 10-11	Max. 1 antlered buck per day
	October 17-18	

#### Hunt Procedure/Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the Maintenance Shop near the main gate on or prior to each day of the hunt period. The checkpoint will be open on the day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 5:00 pm to 8:00 pm.

2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to checkout in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.

3. Scouting is allowed during normal park hours and days prior to each hunt period. Daily admission fees apply, except days of applicant's hunt.

4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles parked on state park property. A parking area will be provided near the old ammo dump just off Dairy Ridge Road but parking is not allowed along Dairy Ridge Road. Do not park where a gate is being blocked.

5. Portable stands may be placed one day prior to your scheduled hunt and must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed.

6. Only Archery equipment including crossbows is permitted. Hunters are allowed to carry only one type of equipment at a time.

7. Hunters must wear either a hat, coat or vest of international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.

8. Hunters may use boats with electric trolling motors only to enhance hunter access. Running lights and all other safety equipment are required.

9. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00 am to 3:00 pm and after dark. You must notify PRT or DNR before a dog is utilized.

10. Hunters will not be allowed to use ATV's.
11. Camping is available at Croft State Natural Area.
12. The daily bag limit is 3 deer per day including no more than one antlered buck.
13. Field dressing of deer is allowed in the woods but entrails should not be left closer than 200 yards from any road, trail or facility. Hunters should not attempt to dig in the ground to bury entrails because of safety concerns regarding buried ordnance (See safety requirements sheet). Field dressing of deer will not be allowed at the check station near the Maintenance Shop.
14. All harvested deer must be promptly brought to the deer check station at the Shop near the main gate.
15. Firearms or alcoholic beverages are not allowed within the park.
16. Hunters who harvest antlerless deer (including does and button bucks) will be pre-selected to attend the following year's hunt if one is conducted.
17. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.

**Statement of Need and Reasonableness:**

Periodically, additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow a special deer herd reduction hunt on Croft State Park. Because the hunts begin on September 19, it is necessary to file these regulations as emergency so they take effect immediately.

**Fiscal Impact Statement:**

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



## 98 FINAL REGULATIONS

Document No. 4289

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

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

#### 61-79. Hazardous Waste Management Regulations

##### Synopsis:

1. The Department of Health and Environmental Control (Department) has amended R.61-79, Hazardous Waste Management Regulations, by promulgating regulations to adopt three final rules published in the Federal Register by the United States Environmental Protection Agency (EPA) between July 1, 2009 and June 30, 2010, and has corrected errors and omissions in the language of the previously adopted National Manifest Final Rule:

(1) The Department has adopted the “Revisions to the Requirements for Transboundary Shipments of Hazardous Wastes Between Organization for Economic Cooperation and Development (OECD) Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes,” Final Rule, (OECD Rule) published on January 8, 2010 at 75 FR 1236.

(2) The Department has adopted into regulation the “Withdrawal of the Emission Comparable Fuel Exclusion Under RCRA,” Final Rule, published on June 15, 2010 at 75 FR 33712.

(3) The Department has adopted parts of the “Hazardous Waste Technical Corrections and Clarifications Final Rule,” published on March 18, 2010 at 75 FR 12989.

(4) The Department has amended R.61-79 to correct errors and omissions in the previously adopted National Manifest Final Rule at 70 FR 10776 (March 4, 2005), which was published as a final regulation in the S.C. State Register on May 28, 2010 in Document 4080.

2. Adoption of these federal amendments is required to comply with federal law and will bring R.61-79 into conformity with the federal regulation. Legislative review of these amendments is not required pursuant to Section 1-23-120(H). These regulations are also exempt from the requirements of a fiscal impact statement and assessment report pursuant to Sections 1-23-110(A)(3)(e) and (f).

3. A Notice of Drafting was published in the State Register on October 28, 2011.

##### Section-by-Section Discussion of Revisions:

**(1) “Revisions to the Requirements for Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes” Final Rule, published January 8, 2010 at 75 FR 1236.**

**262.10(d)** modify the paragraph to explain the requirements of exporting or importing wastes that are considered hazardous under U.S. national procedures to or from countries listed in 262.58(a) for recovery. The section goes on to explain how a waste is determined to be hazardous under US national procedures and what regulations and which management standards must be followed.

**262.55** modify the introductory paragraph to update the address for filing an exception report with EPA as well as who must file.

**262.58(a)** modify the paragraph to determine what exports are hazardous waste and citation of the parts of the regulation that address the requirements that must be met in order to export spent lead-acid batteries.

**262.58(a)(1)** change the name from South Korea to “the Republic of” Korea to reflect the new proper name of the country.

**262.58(b)** add the last phrase to indicate this provision is not subject to the requirements of subpart H.

**Subtitle H** modify the title of this subpart to reflect new OECD language, changing “Transfrontier shipments” to “Transboundary Movements”

**262.80(a)** modify paragraph (a) by removing text and changing the first paragraph to provide for the addition of sections (1) and (2) to break out the requirements in this part and to add language that makes the requirements clear and more understandable.

**262.80(b)** modify the paragraph by replacing the terms “notifier, consignee” with “exporter, importer” to use terms agreed upon in the OECD Cooperation and Development agreements.

**262.81** Definitions

To match the terms in the new OECD agreement, modify the definition for “Competent authority”; remove “Consignee”; change the term “countries” to “Countries concerned”; change “Exporting Country” to “Country of Export”; change “Importing Country” to “Country of Import”; add “Country of transit”; add “Exporter” and “Importer”, delete “notifier”; add a definition for “OECD”; modify “OECD area”; modify “Recognized trader”, “Recovery Facility” and “Recovery Operations”; remove the letter at the beginning of each definition and insert new or modified definitions in alphabetical order.

**R1-R6** remain the same. **Modify R7** by replacing the word “control” with the word “abatement” ; **modify R8** by adding “used” after the word “components.”

**R9-R12** remain the same. **Modify R13** by removing the words “in Table 2.B” and replacing it with “numbered R1-R12.”

**Modify (l) “Transfrontier movement”** by removing (l) and replace “transfrontier” with “transboundary” and replace “shipment” with “movement” to reflect the OECD agreement terms and remove “destined for recovery operations”.

**262.82(a)** is modified to change from the previous green, amber, or red list system to the new national procedures that include only Green and Amber lists for exporting to OECD countries.

**262.82(a)(1), and (i) through (ii)** are modified to clarify specifics of US Green control procedures and 262.80(a) provides specific guidelines to determine what is considered hazardous under US rules; (iii) is removed because it defines redlist waste which has been removed from the standards.

**262.82(a)(2), (i), (ii)** are modified; **add (A) & (B); (iii)** is modified to clarify determinations of US Amber wastes and where in the regulations specifics can be found. **Note to (a)(3) is changed to “Note to (a)(2)”** and removes redlist references.

**262.82(a)(3)** is modified; **(i), Note to (a)(3)(i), (ii), and Note to (a)(3)(ii)** are added sections with procedures for handling Green wastes that are mixed with other wastes.

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**262.82(a)(4)** is modified to provide guidance in determining into which list an unlisted waste would be included that is scheduled for transboundary movement. Use of the term: “transfrontier” is changed to “transboundary” throughout.

**262.82(a)(4)(i)** direct that if the wastes are considered hazardous as defined under 262.80(a) these lists are subject to Amber control.

**262.82(a)(4)(ii)** directs non hazardous wastes to be handled under Green control procedures.

**262.82(b) and (b)(2)** deals with the re-export of hazardous waste from the country of import to a third country. The first country of import becomes the new exporter and assumes all responsibilities as an exporter. This is considered a new transboundary movement of hazardous waste. Amber controls procedures are used here. The sections are modified to replace all instances of the word “transfrontier” with the term “transboundary” and to show that this movement between countries must comply with international agreements.

**262.82(c)(1), (i)-(ii), and (2)** the re-export and return provisions of the OECD Decision is set out in 262.82(c), (d) and (e). Exactly how the items are to be handled and who are the responsible parties as well as the specific requirements are set forth in these sections. The language is modified for better phrasing of the amber control procedures and to better define what those procedures require.

**262.82(c)(3)** Remove text of this section because this section was incorporated into (c)(2).

**262.82(d), (1) & (2)** add text to provide instructions on how to manage amber control shipments that cannot be completed and are returned to the country of export or are re-exported to a third country. **(d)(1)** deals with the requirements if a shipment is returned from the United States to the country of Export. The US importer must notify EPA who will in turn inform the proper authorities in the countries of export and transit. **(d)(2)** addresses the requirements if the shipment is returned from the country of import to the US.

**262.82(e), (1) & (2) and (f), (1) - (5), (i) & (ii) and (g)** add sections to provide instructions on how to manage Amber control shipments that cannot be completed and are returned from a country of transit or if the shipment does not meet shipping requirements.

**262.83(a), (b), (1)(i) through (iii), 2(i) through (ii), (c), (d)(1) through (14), note to (d)(14) and (e)** modify paragraphs to establish that consent must be received from countries of import and transit prior to shipping Amber list wastes and defines the procedures that must be followed to complete the transit of hazardous waste to OECD countries.

**262.84 (a), (1) & (2), (b), (b)(1) through (7), (c) through (e)** All U.S. parties subject to the contract provisions of 262.85 must ensure that a movement document meeting the conditions of paragraph 262.84(b) must accompany each transboundary movement of wastes subject to the Amber control procedures from the beginning of the shipment until it reaches the final recovery facility. In this section change the word “Tracking document” to “Movement document”. This section prescribes what is required of this document and how it must be used in the transport of hazardous waste in OECD countries. The movement document is described in 262.84 and is different from the RCRA hazardous waste manifest. All transporters must have a movement document before they can accept a shipment of spent lead acid batteries (SLABS) and it must remain with the shipment until it reaches the final recovery facility.

**262.85 (a)** Transboundary movement of hazardous wastes subject to Amber control procedures require a valid written contract or equivalent arrangements and persons assuming the obligations of the contracts must have legal status to conduct the operations specified in the agreements. Section 262.85 sets forth the requirements to of these contracts. To update the OECD terminology and agreement, change the terms “transfrontier” to “transboundary”, remove the reference to “red” in the control procedures, change the term “notifier” to “exporter” and make the last word of the paragraph, “arrangement” plural.

**262.85(b)** Contracts. Add the phrase “paragraph (b)(1) through (b)(4) of this section” and add a phrase at the end of the paragraph that refers to paragraphs (b)(1) through (b)(4). The items (1) through (4) defining who must meet the requirements of contracts under section (b) remain the same.

**262.85(c), (c)(1) & (2), (d) and (e) and the note to (e), parts (f) and (g) and note to (g)** further explains arrangements for import and export under OECD contracts, sets requirements to specify which party to the contract will assume responsibility for alternate management of the wastes if their disposition cannot be carried out as described in the notification of intent to export. This section sets forth the specifics of setting up a contract. Section (e) includes provisions for financial guarantees. To correct and update to the new terms of the OECD agreement, the word “notifier” is replaced with “exporter”, “exporting and importing countries” become “countries of export and import” and (c)(2) adds specifics of returning wastes under contract, and matching tenses and phrases to incorporate OECD terms and adjustments.

**262.86 Parts (a) and (b)** deal with provisions relating to recognized traders. Parts (a) and (b) define the scope of recognized traders and the requirements associated with being an exporter or importer as well as the fact that the requirements must meet federal laws.

**262.87 Parts (a), (1), (4) and (5), (i) and part (6).** Reporting and recordkeeping. Parts (a), (1) and (4) as well as (5) (i) and (ii) and part (6) provide specific requirements for traders and exporters filing annual reports.

**262.87(b), (1) - (2), (c), (1), (i) through (iv)** define exception reports for primary exporters as well as other recordkeeping requirements and where the reports must be filed, how often, within what time frame and how long the documentation must be kept. The exception report must be filed in lieu of the requirements of 262.42 with the Office of Enforcement and Compliance Assurance under the provisions listed in sections (b)(1) - (3). Sections (c)(1) and (i) - (iv) define what records the primary exporter must keep and the specifics of these records.

**262.88** Reserve this part to read:

262.88 [Reserved].

**262.89** OECD Waste Lists. (a)(2) & (b) through (e) provide criteria to determine if a waste is hazardous and subject to the requirements of this subpart. Delete part (c) and renumber part (d) as part (c). The old Part (e) is revised and renumbered as part (d). The new part (d) adopts the OECD Waste List Manual of 2009 by reference and corrects the address to which reports must be sent.

**263.10(d)** transporters of hazardous waste are subject to federal manifesting requirements of 262. Revise the provision that the transporters may be subject to state requirements that are analogous to part 273 or is exporting to any of the countries listed in 262.58(a)(1) for purposes of recovery is subject to this subpart and to all other relevant requirements of subpart H of part 262, including but not limited to 262.84 for movement documents; the term “tracking” is replaced by the term “movement”.

**264.12(a)(2)** addresses the required notices. Update the terminology from “tracking” document to the OECD approved term, “movement” document and replace “notifier” with “foreign exporter”; the address to which reporting documents must be sent is updated; specific requirements for a certificate of recovery are explained and to whom the document must be sent.

**264.71(a)(3)** deals with the use of the manifest system. This section is modified to require a receiving facility of imported hazardous waste from a foreign source to confirm EPA’s consent to the import of the hazardous waste along with a copy of the RCRA hazardous waste manifest for the incoming shipment within 30 days of delivery and the address to which the report must be sent is updated.

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**264.71(d)** The changes update the OECD accepted terms as well as the recordkeeping and reporting requirements and the address to which the movement document must be sent.

**265.12(a)(2)** deals with required notices. This section updates the OECD accepted terms as well as an update of the recordkeeping and reporting requirements of a certificate of recovery document and to whom this document must be sent.

**265.71(a)(3)** deals with the use of the manifest system. This section adds instructions for sending a manifest and documentation to confirm EPA's consent to import hazardous waste along with a copy of the RCRA hazardous waste manifest for the incoming shipment. The information must be sent within 30 days and the address to which this information must be sent is corrected.

**265.71(d)** documenting the receipt of imported hazardous waste is modified by updating the terms approved in the OECD agreement and the address to which documentation must be sent. Also add the numeral (3) after the word "three" (two times).

**266.80(a)(6) and (7)**. Add sections (6) and (7) to the existing table to address issues of exported batteries for reclamation and a list of parts in the regulation relating to the exporting of hazardous waste for reclamation. Parts (1) through (5) are unchanged.

**(2) "Withdrawal of the Emission Comparable Fuel Exclusion Under RCRA," Final Rule, published on June 15, 2010 at 75 FR 33712.**

**261.4 "Exclusions" (a)(16)** remove the parenthetical statement: (i.e., comparable syngas fuels)

This rule withdraws the conditional exclusion from regulation under subtitle C of RCRA for ECF. The premise of the ECF rule was that the ECF is no more hazardous than burning fuel oil because combustion of this material will have comparable emissions. EPA decided that to ensure that the material does not pose greater risks, they must promulgate a detailed set of conditions for both the storage and combustion of ECF that exists under subtitle C to provide for the necessary review of the operation to assure storage and combustion conditions are met.

**261.38** Revise the title. "Comparable/Syngas Fuel Exclusion." will change to: "Exclusion of Comparable Fuel and Syngas Fuel" Make changes to 261.38 (a) - (b) and add a new (c) as shown in the text of changes herein.

**Table 1 to 261.38 Detection and Detection Limit Values for Comparable Fuel Specification** - remove column two entitled: Composite value (mg/kg) and column three entitled: Heating value (BTU/lb). The rest of the table should have the numbers edited-as shown in the text of changes herein. Include three (3) notes at end of table: NA - Not Applicable, ND - Nondetect, and (\*) 25 or individual halogenated organics listed below.

**(3) "Hazardous Waste Technical Corrections and Clarifications," Final Rule, published on March 18, 2010 at 75 FR 12989 as well as other minor correctoins to match federal regulation.**

**260.10** Amend the definition of "New hazardous waste management facility" from: "facilities in existence on or before October 21, 1976" to read: "New hazardous waste management facility or new facility means a facility which began operation, or for which construction commenced after November 19, 1980." This is corrected to be more realistic and in line with the intent of RCRA.

**260 Appendix I** - Remove Appendix I because this appendix was inserted when RCRA was first developed but RCRA has had so many changes, Appendix I is no longer accurate. Removing the Appendix would minimize confusion.

**261.1(c)(10)** Correct the citation from “261.4(a)(13)” to read:“261.4(a)(14)” so the reference will correctly reference shredded circuit boards which is (14). Now it refers to (13) which is excluded scrap metal and thus is incorrect.

**261.2(c), Table 1** Replace “Scrap metal other than excluded scrap metal (see 261.1(c)(9))” with “Scrap metal that is not excluded under 261.4(a)(13)”

**261.3(a)(2)(iv)(A)** Insert the word “spent” before the first occurrence of the word solvents as shown which was omitted in error and is needed to indicate waste solvents rather than just solvents. The rest of the paragraph remains the same.

**261.4(a)(17)(vi)** Change the citation “(a)(7)” to “(b)(7)” which was incorrectly published in the final rule at 67 FR 11254 March 13, 2002.

**261.5(e)(1)** This section is referencing acute hazardous wastes so the reference to 261.32 needs to be removed because there are no acute hazardous wastes in 261.32

**261.5(e)(2)** This section is referencing acute hazardous wastes so the reference to 261.32 needs to be removed because there are no acute hazardous wastes in 261.32

**261.5(e)(2) Comment** - revise the Comment at the end of this section to correct the phrase from “generators of greater than 1,000 kg” to read: “generators of 1,000 kg or greater of hazardous waste” and to remove the redundant term “non-acutely” since this comment refers to non-acute hazardous wastes.

**261.5(f)** Change “...generator of acute hazardous wastes in quantities equal to or less than those set forth in paragraphs (e)(1) or (2) of this section...” to read: (e)(1) or (e)(2) to make sure (1) and (2) are both in part (e).

**261.5(g)** In the introduction, replace “less than 100 kilograms” with “100 kilograms or less” to clarify the requirements to be a conditionally exempt small quantity generator.

**261.5(g)(2)** Replace “between 100 kg and 1000 kg of hazardous waste” with “greater than 100 kg and less than 1000 kg of hazardous waste” to clarify the amount of hazardous waste a generator can generate in a calendar month and still be classified a small quantity generator.

**261.6(a)(2)** Revise subparts C through H” to read “subparts C through N”; add 268 to Parts 270 and 124” to clarify that the requirements of part 268 are applicable to the recycled wastes regulated under Part 266. The failure to cite 268 was an EPA oversight and this will correct that omission.

**261.6(a)(2)(ii)** Replace “for energy recovery” with “(as defined in section 266.100(a))” which expands the scope of the rule to include both energy and materials recovery. The change to include both took place in 1991 but this part failed to reflect the expanded scope of the regulations.

**261.7(b)(1)** Remove 261.32 because this reference is to acute hazardous wastes and currently there are no acute hazardous wastes listed in 261.32.

**261.7(b)(3)** Remove 261.32 because this reference is to acute hazardous wastes and currently there are no acute hazardous wastes listed in 261.32.

**261.23(a)(8)** Amend this paragraph to correct out of date cross-references to Class A and B explosives with the current DOT regulations relating to Class A and B explosives.

**261.30(d)** Remove “or 261.32” because this reference is to acute hazardous wastes and currently there are no acute hazardous wastes listed in 261.32.

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**261.32(a) table** - Correct the misspelled chemical name "...carboxylic acid hydrazines" to read: "...carboxylic acid hydrazides"

**261.33(f)** Revise the listing for U239, "Benzene, dimethyl-(I,T) by removing the "T" because this chemical is listed only for ignitability and not for toxicity ("T").

**261 Appendix VII** - remove the entries "K064," "K065," "K066," "K090," and "K091." in May 1998, EPA removed these K-listed wastes from 261.32 but failed to make the changes in Appendix VII of 261. This will make that correction.

**Add all of 262.23(f), (1), (i) - (ii), (2) through (4)** for clarification in the use of the national manifest. The March 2005 manifest rule omitted requirements related to the use of a manifest in shipments of rejected hazardous wastes or non-empty containers of regulated residues as well as having an error regarding a designated facility's preparation of a new manifest in certain returned shipment situations. The generator must confirm receipt of a returned shipment of rejected hazardous wastes by sending a copy of the final hazardous waste manifest that accompanied the shipment, whether it was a new manifest or a generator's original manifest, to the designated facility. A shipment returned to the generator must be verified by the designated facility. To do so, the generator must send a copy of the final manifest signed and dated along with the returned shipment of rejected hazardous wastes or container residues, provide the transporter with a copy of the manifest and retain the manifest for three years. This requirement was discussed in the synopsis of the rule showing this was an intended requirement. 262.23(f)(1)-(4) sets out the specific requirements of this omission.

**262.34(a)(4)** Replace "268.7(a)(5)" with "all applicable requirements under Part 268." This section relates to Land Disposal Restrictions (LDR). The limited reference to 268.7(a)(5) is in error because it only requires developing waste analysis plans but it needs to require large and small quantity generators to comply with all applicable regulations under Part 268.

**262.34(b)** Modify this section to clarify accumulation times.

**262.34(c)(1)** Add "264.31 or" before "261.33(e) and add "or (d)" after "(a)". This revision clarifies that the satellite accumulation provisions for large quantity generators are also applicable to small quantity generators and that this provision applies to acutely hazardous wastes listed under 261.31. Before the revision, the requirements omitted text that made clear that the satellite accumulation provisions also are applicable to small quantity generators and to acutely hazardous waste.

**262.34(c)(2).** Add "261.31 or" before "261.33(e)" and change paragraphs (c)(1)(i) through (ii)" to read "paragraphs (c)(1)(i) and (ii). This revision clarifies that the satellite accumulation provisions for large quantity generators are also applicable to small quantity generators and that this provision applies to acutely hazardous wastes listed under 261.31.

**262.34(d)(4)** Replace 268.7(a)(5) with "all applicable requirements under Part 268." to correct this section in the same manner as 262.34(a)(4) to require both large and small generators to comply with all applicable regulations under Part 268 and not just develop waste analysis plans.

**262.42(a)(1)** Replace "greater than 1,000 kilograms" with "1,000 kilograms or greater" - to clarify the amount of hazardous waste a generator must generate in a calendar month to be considered a large quantity generator.

**262.42(a)(2)** Replace "greater than 1,000 kilograms" with "1,000 kilograms or greater" the statement incorrectly describes the requirements applying to large quantity generators as having greater than 1000 kilograms of hazardous waste in a calendar month and it should say those generating 1000 kilograms or greater.

**262.60(b)** This section is amended to replace “Subpart B” with 262.20. This will now read that facilities transporting or importing hazardous wastes must comply all of the requirements 262.20.

**264.52(b)** Remove “or part 1510 of chapter V” because part 1510 no longer exists.

**264.56(d)(2)** Remove the parenthetical phrase “(in the applicable regional contingency plan under part 1510 of this title)” because part 1510 no longer exists.

**264.72(e)(6)** At the end of the provision add: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.” This is done so that when a facility forwards shipments of rejected loads or container residues under a new manifest, it is important for the facility to send the generator a copy of the new manifest with the date on which the shipment was accepted by the transporter of the rejected load. Otherwise the generator cannot determine that the alternate facility received the shipment in the time frame required to fulfill the obligations under the Manifest rule. This section corrects that omission.

**264.72(f)(1)** This section is amended to have the designated facility enter its own information (instead of the generator’s information) in Item 5 of the new manifest form when it originates the shipment of rejected hazardous waste or container residues to provide the most straightforward facility-to-generator tracking of waste shipments.

**264.72(f)(7)** When a designated facility uses the new manifest to return a full or partial load of rejected hazardous wastes or container residues, the generator must comply with the exemption reporting provisions of 262.42(a) and this paragraph will reference the requirements of (f)(8).

**264.72(f)(8)** Add a new provision at (f)(8) to require that a generator who has had a full or partial load rejected and returned requires the facility to comply with the exception reporting requirements in 262.42(a). The facility must file an exception report when a completed copy of the manifest is not received from the generator within 35 days of the date that the shipment was accepted by the initial transporter of the shipment to ensure that the shipment returned to the generator can be verified by the designated facility. This part of the Manifest rule was inadvertently omitted.

**264.195(b)** Completely revise this section by removing subparagraphs (b)(1)-(3) and incorporating the text from (b)(2) into the revised paragraph (b).

**264.314(d)** Change cross-references from “(e)(1)” to “(d)(1)” and “(e)(2)” to “(d)(2)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.316(b)** Change cross-references from 264.314“(e)” to 264.314“(d)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(a)(3)(ii)** Revise the citation from “264.314(d)” to “264.314(c)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(a)(3)(iii)** Revise the citation 264.314(f) to read 264.314(e) because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(a)(3)(iv)** Revise the citation “264.314(c)” to read “264.314(b)” and “264.314(e)” to read “264.314(d)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the



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rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**264.552(e)(4)(iv)(F)** Revise the citation from “260.11(a)(11)” to read “260.11(c)(3)(v).” The July 14, 2006 CFR corrections rule should have changed this reference to 260.11(c)(3)(v)

**265.52(b)** Remove “or part 1510 of chapter V” because part 1510 no longer exists.

**265.72(e)(6)** At the end of the provision add: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.” This is done so that when a facility forwards shipments of rejected loads or container residues under a new manifest, it is important for the facility to send the generator a copy of the new manifest with the date on which the shipment was accepted by the transporter of the rejected load. Otherwise the generator cannot determine that the alternate facility received the shipment in the time frame required to fulfill the obligations under the Manifest rule. This section corrects that omission.

**265.72(f)(1)** This section is being amended to have the designated facility enter its own information (instead of the generator’s information) in Item 5 of the new manifest form when it originates the shipment of rejected hazardous waste or container residues to provide the most straightforward facility-to-generator tracking of waste shipments.

**265.72(f)(7)** When a designated facility uses the new manifest to return a full or partial load of rejected hazardous wastes or container residues, the generator must comply with the exemption reporting provisions of 262.42(a) and this paragraph will reference the requirements of (f)(8).

**265.72(f)(8)** Add a new provision to correct an omission to require that a generator who has had a full or partial load rejected and returned requires the facility to comply with the exception reporting requirements in 262.42(a). The facility must file an exception report when a completed copy of the manifest is not received from the generator within 35 days of the date that the shipment was accepted by the initial transporter of the shipment to ensure that the shipment returned to the generator can be verified by the designated facility.

**265.224** a section was added defining “Response Actions” (a) - (c) and the subparts of each section all remain the same. Immediately following 265.224 “Response Actions” is a section, 265.224 marked [Reserved]. The [Reserved] status was not removed and needs to be removed since there is now information at that location and the [Reserved] is no longer correct.

**265.314(e)** Correct cross references from “(f)(1)” to “(e)(1)” and “(f)(2)” to “(e)(2)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references.

**265.314(f)** was renumbered from the old 265.314(g). Parts (1) and (2) were to remain the same but were inadvertently removed by the West System in the Cumulative Supplement. Therefore, the current 265.314(f)(1) and (2) need to be reinserted into the text.

**265.316(b)** Correct cross references from “265.314(f)” to “265.314(e)” because the Burden Reduction rule deleted the obsolete paragraph (a) which then required the rest of the paragraphs (b) through (f) to be re-designated as (a) through (e) but failed to update the cross references. This corrects that cross reference.

**266.20(b)** At the end of the paragraph add a new phrase “and the recycler complies with 268.7(b)(6).”

**268.7(b)(6)** In the first part of the first sentence, the reference 268.20(b) should be changed to 266.20(b) to correct the cross reference.

**268.40 table** “Treatment Standards for Hazardous Wastes” for each of the following waste codes, K156, K157 and K158, in the Waste Description Column insert the parenthetical sentence, “(This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)” This parenthetical sentence still exists in the table at 261.32 but was inadvertently deleted from 268.40 table for all three entries (K156 - 158).

**268.48** In the table containing Universal Treatment Standards has an entry for:

Hexachloropropylene 1888-71-7 0.035 30

Correct the spelling of Hexachloropropylene by adding an “l” between the y and e in propylene

**270.4(a)** Redesignate the numbering of this section as follows: paragraph (a) becomes (a)(1); (a)(1) becomes (a)(1)(i); (a)(2) becomes (a)(1)(ii); (a)(3) becomes (a)(1)(iii); (a)(4) becomes (a)(1)(iv); then add paragraph (a)(2) which will reinstate information that was in a sentence that was inadvertently deleted December 1, 1987.

**270.22** in the introductory paragraph, replace “62.1210(b)” with “62.1210(d)” to correct cross reference. The rest of the paragraph following the corrected citation remains the same.

**270.25(e)(3)** Remove the word “design” after “basic control device”. The rest of the paragraph remains the same.

**270.42(k)(2)(ii)** Replace “Director” with “Department” to indicate the state program rather than the Director of the EPA.

**270.62 Introductory paragraph** Replace “63.1210(b)” with “63.1210(d)” after the first parenthetical statement to correct cross reference as shown:

**(4) The Department is proposing to amend R.61-79 to correct errors and omissions in the previously adopted National Manifest Final Rule at 70 FR 10776 (March 4, 2005), which was published as a final regulation in the S.C. State Register on May 28, 2010 in Document 4080.**

**262.21(b)(6)** Add the omitted language to provide examples of what can be used to support the qualifications of a company being chosen to print the manifest.

**262.21(c)** Add language defining EPA’s actions after reviewing an application for a printer of the manifest.

**262.21(d)(1) - (2)(i)** Add details for EPA’s approval of a printer of the manifest.

**262.21(d)(3)** Add details for continuation sheet printing.

**262.21(e)** Add details of printing requirements and how to get EPA’s approval for a company to print manifests.

**262.21(f)(1)-(6), (6)(i) and (vi)** Add language to provide details of the manifest. The rest of the section remains the same.

**262.21(h)(1)-(3)** Add instructions for updating an application and the resulting approval process.

**262.21(i)-(l)** language is added to clarify the printing requirements and approval process.

**262.21(m)(1) & (i)** Define details of the printing process that could result in EPA’s revocation of printing privileges.

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**262.23(f)** This is an EPA correction. Insert paragraph (f) and (1) - (4) to add requirements that were inadvertently omitted in the March 2005 manifest rule. This paragraph adds requirements for shipments of rejected hazardous waste or non-empty containers containing regulated residues called “container residues”. This part also corrects an error regarding a designated facility’s preparation of a new manifest in certain returned shipment situations. **Part (f) is inserted after “Note:” that reads in part: “See 263.20(e) and (f) for special provisions ....”**

**262.32(b)** Add details of changes required for marking containers.

**262.42(c)** Add a new paragraph at (c), (c)(1) & (2) as well as Note to paragraph (c). This paragraph is added to require a generator to follow procedures with the provision that when a designated facility reships a generator’s hazardous waste shipment of rejected loads or container residues to an alternate facility under a new manifest for further hazardous waste management and the specifics of this requirement.

**264.72(e)(6)** adds instructions on how to determine to whom a copy of the certification that the waste was properly packaged and labeled should be sent.

**264.72(f)(1)** Change “generator’s” to “facility’s” name and address in three places for filling out the new manifest and add “of the new manifest” at the end of the last sentence after “in the designated space for Item 5”.

**264.72(f)(7) and (8).** Correct language to enable the addition of paragraph number (8) to paragraphs (1) through (7) that must be complied with.

**265.72(e)(6)** section is added at end of sentence to determine where on the signed copy of the new manifest to find the generator’s name that the copy is to be mailed to.

**265.72(f)(1)** Delete “generator’s” and replace with “facility’s” name throughout paragraph and add “of the new manifest” after the word “item 5.”

**265.72(f)(7)** Make corrections for two omissions that were made in this section: 18(a) was omitted in the first sentence after the words: “completing Item” and in the last sentence after “and (6)”; delete the “and” prior to (6) and add “, and (8)” after the (6).

**265.72(f)(8)** This whole section, (f)(8) was omitted so insert the entire section

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

### **Text:**

**(1) OECD Requirements for the Export of Spent Lead Acid Batteries Checklist required for federal compliance.**

**262.10(d) after the phrase: “Any person who exports or imports” delete “hazardous” and add an “s” to the word “waste”; delete the phrase: “subject to the federal manifesting requirements of part 262, or subject to the universal waste management standards of 273, or subject to state requirements analogous to 273, to or from countries listed in 262.58(a)(1) for recovery” then add the phrase: “that are considered hazardous under U.S. national procedures to or from the countries listed in 262.58(a) for recovery” before the words: “must comply with subpart H of this part.” After that phrase add “A waste is considered hazardous under U.S. national procedures if the waste meets the federal definition of hazardous waste in 40 CFR 261.3 and is subject to either the Federal RCRA manifesting requirements at part 262, subpart B, the universal waste management standards of part 273, State requirements**

**analogous to part 273, the export requirements in the spent lead-acid battery management standards of part 266, subpart G, or State requirements analogous to the export requirements analogous to the export requirements in part 266, subpart G.”**

(d) Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from the countries listed in 262.58(a)(1) for recovery must comply with subpart H of this part. A waste is considered hazardous under U.S. national procedures if the waste meets the federal definition of hazardous waste in 40 CFR 261.3 and is subject to either the Federal RCRA manifesting requirements at part 262, subpart B, the universal waste management standards of part 273, State requirements analogous to part 273, the export requirements in the spent lead-acid battery management standards of part 266, subpart G, or State requirements analogous to the export requirements analogous to the export requirements in part 266, subpart G.

**262.55 modify the introductory paragraph as shown to update the address for filing an exception report with EPA:**

In lieu of the requirements of 262.42, a primary exporter must file an exception report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, if any of the following occurs:

**262.58(a) modify the paragraph to determine what exports are hazardous waste and modify the citation of the parts of the regulation that address the requirements that must be met in exporting spent lead-acid batteries:**

(a) Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from designated Member countries of the Organization for Economic Cooperation and Development (OECD) as defined in paragraph (a)(1) of this section for purposes of recovery is subject to subpart H of this part. The requirements of subparts E and F of this part do not apply to such exports and imports. A waste is considered hazardous under U.S. national procedures if the waste meets the Federal definition of hazardous waste in part 261.3 and is subject to either the Federal RCRA manifesting requirements at part 262, subpart B, the universal waste management standards of part 273, state requirements analogous to part 273, the export requirements in the spent lead-acid battery management standards of part 266, subpart G or state requirements analogous to the export requirements of part 266, subpart G.

**262.58(a)(1) modify the name of Korea from “South” to “the Republic of” as shown:**

(1) For the purposes of Subpart H, the designated OECD countries consist of Australia, Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, the Republic of Korea, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

**262.58(b) add the last phrase to indicate this provision is not subject to the requirements of subpart H.**

(b) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD Member country for purposes other than recovery (e.g., incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of subparts E and F of this part and is not subject to the requirements of subpart H of this part.

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### **Modify the title of Subpart H to update to OECD terms as shown:**

SUBPART H - Transboundary Movements\_of Hazardous Waste for Recovery within the OECD

### **262.80(a) modify paragraph (a) by removing text and changing the first paragraph to enable adding sections (1) and (2) to break out the requirements in this part and to add language that makes the requirements more understandable as shown:**

(a) The requirements of this subpart apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in 262.58(a)(1). A waste is considered hazardous under U.S. national procedures if the waste:

(1) Meets the federal definition of hazardous waste in 40 CFR 261.3; and

(2) Is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, the universal waste management standards of part 273, State requirements analogous to part 273, the export requirements in the spent lead-acid battery management standards of part 266, subpart G, or State requirements analogous to the export requirements in part 266, subpart G.

### **262.80(b) modify paragraph by replacing the terms “notifier, consignee” with “exporter, importer” to use terms agreed upon in the OECD agreements as shown:**

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

### **262.81 Definitions.**

**To match the terms in the new OECD agreement, modify the following definitions for “Competent authority”, remove “Consignee”, change “countries” to “Countries concerned”; change “Exporting Country” to “Country of export”; change “Importing Country” to “Country of Import”, modify “Country of transit”; add “Exporter”, “Importer”; delete “notifier”; add a definition for “OECD”; modify “Recovery facility”, “Recovery Operations”; remove the letter at the beginning of each definition and insert new or modified definitions in alphabetical order as shown:**

"Competent authority" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes destined for recovery operations.

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

"Country of export" means any designated OECD Member country listed in 262.58(a)(1) from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

"Country of import" means any designated OECD Member country listed in 262.58(a)(1) to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

"Country of transit" means any designated OECD Member country listed in 262.58(a)(1) and (a)(2) other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.

“Exporter” means the person under the jurisdiction of the country of export who has, or will have at the time the planned transboundary movement commences, possession or other forms of legal control of the wastes and who proposes transboundary movement of the hazardous wastes for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the country of export, exporter is interpreted to mean a person domiciled in the United States.

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

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

“OECD area” means all land or marine areas under the national jurisdiction of any OECD Member country listed in 262.58. When the regulations refer to shipments to or from an OECD country, this means OECD area.

“Recognized trader” means a person who, with appropriate authorization of countries concerned, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transboundary movements of wastes destined for recovery operations.

“Recovery facility” means a facility which, under applicable domestic law, is operating or is authorized to operate in the country of import to receive wastes and to perform recovery operations on them.

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

**R1-R6 remains the same. Modify R7 & R8 as shown:**

R7 Recovery of components used for pollution abatement.

R8 Recovery of components used from catalysts

**R9-R12 remain the same.**

**Modify R13 by removing the words “in Table 2.B” and replacing it with “numbered R1-R12.”**

R13 Accumulation of material intended for any operation numbered R1-R12.

**Modify (I) by removing (I) and replace “transfrontier” with “transboundary” and “shipment” with “movement” to reflect the OECD agreement terms and remove “destined for recovery operations” as shown:**

“Transboundary movement” means any movement of wastes from an area under the national jurisdiction of one OECD Member country to an area under the national jurisdiction of another OECD Member country.

**262.82(a) is modified to change to the new national procedures that include only Green and Amber lists for exporting to OECD countries as shown:**

(a) Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and by the national procedures of the United States, as defined in 262.80(a). The OECD Green and Amber lists are incorporated by reference in 262.89(d)

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**262.82(a)(1), and (i) through (ii) are modified to clarify specifics of US Green control procedures as shown; (iii) is removed because it defines redlist waste which has been removed from the standards as shown:**

(1) Listed wastes subject to the Green control procedures.

(i) Green wastes that are not considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to existing controls normally applied to commercial transactions.

(ii) Green wastes that are considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the Amber controls procedures set forth in this subpart.

**262.82(a)(2)(i), (ii), add (A) & (B), (iii) are modified to clarify specifics of US Amber wastes and where in the regulations to get specifics. Note to (a)(3) is changed to “Note to (a)(2)” and removes redlist wastes references.**

(2) Listed wastes subject to the Amber control procedures.

(i) Amber wastes that are considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the Amber control procedures set forth in this subpart.

(ii) Amber wastes that are considered hazardous under U.S. national procedures as defined in 262.80(a), are subject to the Amber control procedures in the United States, even if they are imported to or exported from a designated OECD Member country listed in 262.58(a)(1) that does not consider the waste to be hazardous. In such an event, the responsibilities of the Amber control procedures shift as provided:

(A) For U.S. exports, the United States shall issue an acknowledgement of receipt and assume other responsibilities of the competent authority of the country of import.

(B) For U.S. imports, the U.S. recovery facility/importer and the United States shall assume the obligations associated with the Amber control procedures that normally apply to the exporter and country of export, respectively.

262.82(a)(2)(iii) Amber wastes that are not considered hazardous under U.S. national procedures as defined in 262.80(a), but are considered hazardous by an OECD Member country are subject to the Amber control procedures in the OECD Member country that considers the waste hazardous. All responsibilities of the U.S. importer/exporter shift to the importer/exporter of the OECD Member country that considers the waste hazardous unless the parties make other arrangements through contracts.

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

**262.82(a)(3) is modified, (i), Note to (a)(3)(i), (ii), and Note to (a)(3)(ii) are added sections with procedures for handling Green wastes that are mixed with other wastes as shown:**

262.82(a)(3) Procedures for mixtures of wastes.

(i) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not considered hazardous under U.S. national procedures as defined in 262.80(a) shall be subject to the Green

control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

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

(ii) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is considered hazardous under U.S. national procedures as defined in 262.80(a) are subject to the Amber control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

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

**262.82(a)(4), (i) and (ii) are modified to provide guidance in determining into which list an unlisted waste that is scheduled for transboundary movement would be. Use of the term “transfrontier” is changed to “transboundary” throughout as shown:**

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

(i) If such wastes are considered hazardous under U.S. national procedures as defined in 262.80(a), such wastes are subject to the Amber control procedures.

(ii) If such wastes are not considered hazardous under U.S. national procedures as defined in 262.80(a), such wastes are subject to the Green control procedures.

**262.82(b) and (b)(2) are modified to replace all instances of the word “transfrontier” with the term “transboundary” and to show that this movement between countries must comply with international agreements. Note below paragraph (b)(2) remains the same.**

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

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

**262.82(c), (1), (i)-(ii), and (2) modify language for better phrasing of the amber control procedures and to better define what those procedures require.**

(c) Provisions relating to re-export for recovery to a third country.

(1) Re-export of wastes subject to the Amber control procedures from the U.S., as the country of import, to a third country listed in 262.58(a)(1) may occur only after an exporter in the United States provides notification to and obtains consent from the competent authorities in the third country, the original country of export, and any transit countries. The notification must comply with the notice and consent procedures in 262.83 for all countries concerned and the original country of export. The competent authorities of the original country of export as well as the competent authorities of all other-countries concerned have thirty (30) days to object to the proposed movement.

(i) The thirty (30) day period begins once the competent authorities of both the initial country of export and new country of import issue Acknowledgments of Receipt of the notification.



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(ii) The transboundary movement may commence if no objection has been lodged after the thirty (30) day period has passed or immediately after written consent is received from all relevant OECD importing and transit countries.

(2) In the case of re-export of Amber wastes to a country other than those listed in 262.58(a)(1), notification to and consent of the competent authorities of the original OECD Member country of export and any OECD Member countries of transit is required as specified in paragraph (c)(1) of this section, in addition to compliance with all international agreements and arrangements to which the first importing OECD Member country is a party and all applicable regulatory requirements for exports from the first country of import.

**Remove text of 262.82(c)(3) since this text was incorporated into (c)(2).**

**262.82(d), (1) & (2) add the following text to provide instructions on how to manage amber control shipments that cannot be completed and are returned to the country of export or re-exported to a third country.**

(d) Duty to return or re-export wastes subject to the Amber control procedures. When a transboundary movement of wastes subject to the Amber control procedures cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover the waste in an environmentally sound manner in the country of import, the waste must be returned to the country of export or re-exported to a third country. The provisions of paragraph (c) of this section apply to any shipments to be re-exported to a third country. The following provisions apply to shipments to be returned to the country of export as appropriate:

(1) Return from the United States to the country of export: The U.S. importer must inform EPA at the specified address in 262.83(b)(1)(i) of the need to return the shipment. EPA will then inform the competent authorities of the countries of export and transit, citing the reason(s) for returning the waste. The U.S. importer must complete the return within ninety (90) days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned Member countries. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the U.S. importer.

(2) Return from the country of import to the United States: The U.S. exporter must provide for the return of the hazardous waste shipment within ninety (90) days from the time the country of import informs EPA of the need to return the waste or such other period of time as the concerned Member countries agree. The U.S. exporter must submit an exception report to EPA in accordance with 262.87(b).

**262.82(e), (1) & (2) and (f), (1) - (5), (i) & (ii) and (g) add sections to provide instructions on how to manage Amber control shipments that cannot be completed and are returned from a country of transit or if shipment does not meet shipping requirements as shown:**

(e) Duty to return wastes subject to the Amber control procedures from a country of transit. When a transboundary movement of wastes subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover these wastes in an environmentally sound manner, the waste must be returned to the country of export. The following provisions apply as appropriate:

(1) Return from the United States (as country of transit) to the country of export: The U.S. transporter must inform EPA at the specified address in 262.83(b)(1)(i) of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason(s) for returning the waste. The U.S. transporter must complete the return within ninety (90) days from the time EPA informs the country of export

of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned Member countries.

(2) Return from the country of transit to the United States (as country of export): The U.S. exporter must provide for the return of the hazardous waste shipment within ninety (90) days from the time the competent authority of the country of transit informs EPA of the need to return the waste or such other period of time as the concerned Member countries agree. The U.S. exporter must submit an exception report to EPA in accordance with 262.87(b).

(f) Requirements for wastes destined for and received by R12 and R13 facilities. The transboundary movement of wastes destined for R12 and R13 operations must comply with all Amber control procedures for notification and consent as set forth in 262.83 and for the movement document as set forth in 262.84. Additional responsibilities of R12/R13 facilities include:

(1) Indicating in the notification document the foreseen recovery facility or facilities where the subsequent R1-R11 recovery operation takes place or may take place.

(2) Within three (3) days of the receipt of the wastes by the R12/R13 recovery facility or facilities, the facility(ies) shall return a signed copy of the movement document to the exporter and to the competent authorities of the countries of export and import. The facility(ies) shall retain the original of the movement document for three (3) years.

(3) As soon as possible, but no later than thirty (30) days after the completion of the R12/R13 recovery operation and no later than one (1) calendar year following the receipt of the waste, the R12 or R13 facility(ies) shall send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460, by mail, e-mail without digital signature followed by mail, or fax followed by mail.

(4) When an R12/R13 recovery facility delivers wastes for recovery to an R1–R11 recovery facility located in the country of import, it shall obtain as soon as possible, but no later than one (1) calendar year following delivery of the waste, a certification from the R1–R11 facility that recovery of the wastes at that facility has been completed. The R12/R13 facility must promptly transmit the applicable certification to the competent authorities of the countries of import and export, identifying the transboundary movements to which the certification pertain.

(5) When an R12/R13 recovery facility delivers wastes for recovery to an R1–R11 recovery facility located:

(i) In the initial country of export, Amber control procedures apply, including a new notification;

(ii) In a third country other than the initial country of export, Amber control procedures apply, with the additional provision that the competent authority of the initial country of export shall also be notified of the transboundary movement.

(g) Laboratory analysis exemption. The transboundary movement of an Amber waste is exempt from the Amber control procedures if it is in certain quantities and destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery operations. The quantity of such waste shall be determined by the minimum quantity reasonably needed to perform the analysis in each particular case adequately, but in no case exceed twenty-five kilograms (25 kg). Waste destined for laboratory analysis must still be appropriately packaged and labeled.

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**262.83(a), (b), (1)(i)-(iii), 2(i)-(ii) are edited as shown. Old (c) and (d) are combined into (c) and the old (e) becomes the new (d) followed by (1)-(14), note to (d)(14) and add a new paragraph (e). Modify paragraphs to establish that consent must be received from countries of import and transit prior to shipping amber list wastes and the procedures are defined that must be followed to complete the transit of hazardous waste to OECD countries as shown:**

(a) Applicability. Consent must be obtained from the competent authorities of the relevant OECD countries of import and transit prior to exporting hazardous waste destined for recovery operations subject to this subpart. Hazardous wastes subject to the Amber control procedures are subject to the requirements of paragraph (b) of this section; and wastes not identified on any list are subject to the requirements of paragraph (c) of this section.

(b) Amber wastes. Exports of hazardous wastes from the United States as described in 262.80(a) that are subject to the Amber control procedures are prohibited unless the notification and consent requirements of paragraph (b)(1) or paragraph (b)(2) of this section are met.

(1) Transactions requiring specific consent:

(i) Notification. At least forty-five (45) days prior to commencement of each transboundary movement, the exporter must provide written notification in English of the proposed transboundary movement to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification must include all of the information identified in paragraph (d) of this section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes, and are to be sent periodically to the same recovery facility by the same exporter, the exporter may submit one general notification of intent to export these wastes in multiple shipments during a period of up to one (1) year. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to 262.84.

(ii) Tacit consent. If no objection has been lodged by any countries concerned (i.e., exporting, importing, or transit) to a notification provided pursuant to paragraph (b)(1)(i) of this section within thirty (30) days after the date of issuance of the Acknowledgement of Receipt of notification by the competent authority of the country of import, the transboundary movement may commence. Tacit consent expires one (1) calendar year after the close of the thirty (30) day period; renotification and renewal of all consents is required for exports after that date.

(iii) Written consent. If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than thirty (30) days, the transboundary movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one (1) calendar year after the date of that country's consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.

(2) Transboundary movements to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery:

(i) Notification. The exporter must provide EPA a notification that contains all the information identified in paragraph (d) of this section in English, at least ten (10) days in advance of commencing shipment to a pre-approved facility. The notification must indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, with the words "OECD Export Notification-Pre-

approved Facility” prominently displayed on the envelope. General notifications that cover multiple shipments as described in paragraph (b)(1)(i) of this section may cover a period of up to three (3) years. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to 262.84.

(ii) Exports to pre-approved facilities may take place after the elapse of seven (7) working days from the issuance of an Acknowledgement of Receipt of the notification by the competent authority of the country of import unless the exporter has received information indicating that the competent authority of any countries concerned objects to the shipment.

(c) Wastes not covered in the OECD Green and Amber lists. Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists, incorporated by reference in 262.89(d), but which are considered hazardous under U.S. national procedures as defined in 262.80(a), are subject to the notification and consent requirements established for the Amber control procedures in accordance with paragraph (b) of this section. Wastes destined for recovery operations, that have not been assigned to the OECD Green and Amber lists incorporated by reference in 262.89(d), and are not considered hazardous under U.S. national procedures as defined by 262.80(a) are subject to the Green control procedures.

(d) Notifications submitted under this section must include the information specified in paragraphs (d)(1) through (d)(14) of this section:

- (1) Serial number or other accepted identifier of the notification document;
- (2) Exporter name and EPA identification number (if applicable), address, telephone, fax numbers, and e-mail address;
- (3) Importing recovery facility name, address, telephone, fax numbers, e-mail address, and technologies employed;
- (4) Importer name (if not the owner or operator of the recovery facility), address, telephone, fax numbers, and e-mail address; whether the importer will engage in waste exchange recovery operation R12 or waste accumulation recovery operation R13 prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;
- (5) Intended transporter(s) and/or their agent(s); address, telephone, fax, and e-mail address;
- (6) Country of export and relevant competent authority, and point of departure;
- (7) Countries of transit and relevant competent authorities and points of entry and departure;
- (8) Country of import and relevant competent authority, and point of entry;
- (9) Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;
- (10) Date(s) foreseen for commencement of transboundary movement(s);
- (11) Means of transport envisaged;
- (12) Designation of waste type(s) from the appropriate OECD list incorporated by reference in 262.89(d), description(s) of each waste type, estimated total quantity of each, RCRA waste code, and the United Nations number for each waste type;

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(13) Specification of the recovery operation(s) as defined in 262.81.

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

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

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Note to Paragraph (d)(14): The United States does not currently require financial assurance for these waste shipments. However, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.

(e) Certificate of Recovery. As soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following receipt of the waste, the U.S. recovery facility shall send a certificate of recovery to the exporter and to the competent authorities of the countries of export and import by mail, e-mail without a digital signature followed by mail, or fax followed by mail. The certificate of recovery shall include a signed, written and dated statement that affirms that the waste materials were recovered in the manner agreed to by the parties to the contract required under 262.85.

**262.84 (a), (1) & (2), (b), (b)(1) - (7), (c) - (e) changes the word “Tracking document” to “Movement document” and prescribes what is required of this document and how it must be used in the transport of hazardous waste in OECD countries as shown:**

262.84 Movement document.

(a) All U.S. parties subject to the contract provisions of 262.85 must ensure that a movement document meeting the conditions of paragraph (b) of this section accompanies each transboundary movement of wastes subject to the Amber control procedures from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or sorted by the importer prior to shipment to the final recovery facility, except as provided in paragraphs (a)(1) and (2) of this section.

(1) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must forward the movement document with the manifest to the last water (bulk shipment) transporter to handle the waste in the United States if exported by water, (in accordance with the manifest routing procedures at 262.23(c)).

(2) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must forward the movement document with the manifest (in accordance with the routing procedures for the manifest in 262.23(d)) to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the United States if exported by rail.

(b) The movement document must include all information required under 262.83 (for notification), as well as the following paragraphs (b)(1) through (b)(7) of this section:

(1) Date movement commenced;

(2) Name (if not exporter), address, telephone, fax numbers, and e-mail of primary exporter;

(3) Company name and EPA ID number of all transporters;

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

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

(6) Certification/declaration signed by the exporter that no objection to the shipment has been lodged, as follows:

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

1. All necessary consents have been received; OR

2. The shipment is directed to a recovery facility within the OECD area and no objection has been received from any of the countries concerned within the thirty (30) day tacit consent period; OR

3. The shipment is directed to a recovery facility pre-approved for that type of waste within the OECD area; such an authorization has not been revoked, and no objection has been received from any of the countries concerned (Delete sentences that are not applicable)

Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(7) Appropriate signatures for each custody transfer (*e.g.*, transporter, importer, and owner or operator of the recovery facility).

(c) Exporters also must comply with the special manifest requirements of 262.54(a), (b), (c), (e), and (i) and importers must comply with the import requirements of 262, subpart F.

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

(e) Within three (3) working days of the receipt of imports subject to this subpart, the owner or operator of the U.S. recovery facility must send signed copies of the movement document to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to the competent authorities of the countries of export and transit. If the concerned U.S. recovery facility is a R12/R13 recovery facility as defined under 262.81, the facility shall retain the original of the movement document for three (3) years.

**262.85(a) Change the terms “transfrontier” to “transboundary”, “notifier” to “exporter”; remove the reference to “red” in the control procedures and make the last word in the paragraph, “arrangement” plural as shown:**

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

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**262.85(b) Contracts. Add the phrase “paragraph (b)(1) through (b)(4) of this section” and add a phrase at the end of the paragraph that refers to paragraph (b)(1) through (b)(4). The items (1) through (4) remain the same.**

(b) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of paragraph (b)(1) through (b)(4) of this section:

**262.85(c), (c)(1) & (2), (d) and (e) and the note to (e), parts (f) and (g) and note to (g) further explain arrangements for import and export under OECD contracts and corrects and updates the new terms of the OECD agreement: “notifier” is replaced with “exporter”, “exporting and importing countries” become “countries of export and import” and (c)(2) adds specifics of returning wastes under contract, matching tenses and phrases to incorporate OECD terms and adjustments as shown:**

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

(1) The person having actual possession or physical control over the wastes will immediately inform the exporter and the competent authorities of the countries of export and import and, if the wastes are located in a country of transit, the competent authorities of that country; and

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

(d) Contracts must specify that the importer will provide the notification required in 262.82(c) prior to the re-export of controlled wastes to a third country.

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

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

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

(g) Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by EPA only as provided in 260.2.

Note to Paragraph (g): Although the United States does not require routine submission of contracts at this time, the OECD Decision allows Member countries to impose such requirements. When other OECD Member countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, EPA will request the required information; absent submission of such information, some OECD Member countries may deny consent for the proposed movement.

**262.86 Part (a) delete “state and”; (b) replace “a notifier or consignee for transfrontier” with “an exporter or importer for transboundary” and replace “a notifier or consignee” with “an exporter or importer”.**

(a) A recognized trader who takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and must be so authorized in accordance with all applicable federal laws.

(b) A recognized trader acting as an exporter or importer for transboundary shipments of waste must comply with all the requirements of this subpart associated with being an exporter or importer.

**262.87 Parts (a) replace notifiers with exporters and add “or who initiate the movement documentation under 262.84 after 262.5a; Correct the name of the Office and address to where the document must be sent , add the phrase or the person who initiates the movement document under 262.84 after the phrase: “if the primary exporter” and add the last phrase: “all of the following paragraphs (a)(1) through (a)(6) of this section specified as follows:”.**

(a) Annual reports. For all waste movements subject to this subpart, persons (e.g., exporters, recognized traders) who meet the definition of primary exporter in 262.51 or who initiate the movement documentation under 262.84 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter or the person who initiates the movement document under 262.84 is required to file an annual report for waste exports that are not covered under this subpart, he may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD Member countries is contained in a separate section.) Such reports shall include all of the following paragraphs (a)(1) through (a)(6) of this section specified as follows:

**262.87 Part (a)(1) replace “notifier” with “exporter.”**

(1) The EPA identification number, name, and mailing and site address of the exporter filing the report;

**262.87 Part (a)(4) modify as shown:**

(4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from part 261, subpart C or D), designation of waste type(s) and applicable waste code(s) from the appropriate OECD waste list incorporated by reference in 262.89(d), DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to this subpart, and number of shipments pursuant to each notification;

**(5)(i) add “the”; (6) modify as shown:**

(5)(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and

(6) A certification signed by the person acting as primary exporter or initiator of the movement document under 262.84 that states:



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### **262.87(b); and (1)-(2), Make changes as shown and add new (c)(1)(i)-(iv);**

(b) Exception reports. Any person who meets the definition of primary exporter in 262.51 or who initiates the movement document under 262.84 must file an exception report in lieu of the requirements of 262.42 (if applicable) with the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, if any of the following occurs:

(1) He has not received a copy of the RCRA hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the waste from the United States, within forty-five (45) days from the date it was accepted by the initial transporter;

(2) Within ninety (90) days from the date the waste was accepted by the initial transporter, the exporter has not received written confirmation from the recovery facility that the hazardous waste was received;

#### (c) Recordkeeping.

(1) Persons who meet the definition of primary exporter in 262.51 or who initiate the movement document under 262.84 shall keep the following records in paragraphs (c)(1)(i) through (c)(1)(iv) of this section:

(i) A copy of each notification of intent to export and all written consents obtained from the competent authorities of countries concerned for a period of at least three (3) years from the date the hazardous waste was accepted by the initial transporter;

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

(iii) A copy of any exception reports and a copy of each confirmation of delivery (*i.e.*, movement document) sent by the recovery facility to the exporter for at least three (3) years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable; and

(iv) A copy of each certificate of recovery sent by the recovery facility to the exporter for at least three (3) years from the date that the recovery facility completed processing the waste shipment.

### **262.88 Reserve this part.**

262.88 [Reserved]

### **262.89 (a)(2) & (b) through (e): modify text as shown. Delete part (c) and renumber part (d) as part (c). The old Part (e) is revised and renumbered as part (d). The new Part (d) adopts the OECD Waste List Manual of 2009 by reference and corrects the address to which reports must be sent.**

(2) Is subject to either the Federal RCRA manifesting requirements at 262, subpart B, the universal waste management standards of 273, State requirements analogous to 273, the export requirements in the spent lead-acid battery management standards of 266, subpart G, or State requirements analogous to the export requirements in part 266, subpart G.

(b) If a waste is hazardous under paragraph (a) of this section, it is subject to the Amber control procedures, regardless of whether it appears in Appendix 4 of the OECD Decision, as defined in 262.81.

(c) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in 262.82.

(d) The OECD waste lists, as set forth in Annex B (“Green List”) and Annex C (“Amber List”) (collectively “OECD waste lists”) of the 2009 “Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations,” are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the Federal Register. The materials are available for inspection at: the U.S. Environmental Protection Agency, Docket Center Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004 (Docket # EPA–HQ–RCRA–2005–0018) or at the National Archives and Records Administration (NARA), and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F–75775 Paris Cedex 16, France. For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>. To contact the EPA Docket Center Public Reading Room, call (202) 566–1744. To contact the OECD, call +33 (0) 1 45 24 81 67.

**263.10(d) add the provision that transporters may be subject to state requirements that are analogous to part 273; the term “tracking” is replaced by the term “movement”.**

263.10(d) A transporter of hazardous waste subject to the federal manifesting requirements of 262, or subject to the waste management standards of 273, or subject to State requirements analogous to 273, that is being imported from or exported to any of the countries listed in 262.58(a)(1) for purposes of recovery is subject to this subpart and to all other relevant requirements of subpart H of part 262, including, but not limited to, 262.84 for movement documents.

**264.12(a)(2) change “tracking” document to the OECD approved term, “movement” document and replace “notifier” with “foreign exporter”; update the address to which reporting documents must be sent; add requirements for a certificate of recovery and to whom the document must be sent as shown:**

(a)(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to part 262, subpart H must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to the competent authorities of all other countries concerned within three (3) working days of receipt of the shipment. The original of the signed movement document must be maintained at the facility for at least three (3) years. In addition, such owner or operator shall, as soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following the receipt of the hazardous waste, send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to EPA's Office of Enforcement and Compliance Assurance at the above address by mail, e-mail without a digital signature followed by mail, or fax followed by mail.

**264.71(a)(3) modify to require a receiving facility of imported hazardous waste from a foreign source to confirm EPA's consent to the import of the hazardous waste within 30 days of delivery and the address to which the report must be sent is updated as shown:**

(a)(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.

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### **264.71(d) update the OECD accepted terms as well as update the recordkeeping and reporting requirements and the address to which the movement document must be sent as shown:**

(d) Within three (3) working days of the receipt of a shipment subject to part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.

### **265.12(a)(2) update to the OECD terms and the recordkeeping and reporting requirements of a certificate of recovery document and to whom this document must be sent as shown:**

(a)(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to part 262, subpart H must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to the competent authorities of all other countries concerned within three (3) working days of receipt of the shipment. The original of the signed movement document must be maintained at the facility for at least three (3) years. In addition, such owner or operator shall, as soon as possible, but no later than thirty (30) days after the completion of recovery and no later than one (1) calendar year following the receipt of the hazardous waste, send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to EPA's Office of Enforcement and Compliance Assurance at the above address by mail, e-mail without a digital signature followed by mail, or fax followed by mail.

### **265.71(a)(3) Add instructions for sending a manifest and documentation to confirm EPA's consent to import hazardous waste. The information must be sent within 30 days and the address to which this information must be sent is corrected as shown:**

(a)(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.

### **265.71(d) Update the terms approved in the OECD agreement and the address to which documentation must be sent. Add the numeral (3) after the word "three" (two times) as shown:**

(d) Within three (3) working days of the receipt of a shipment subject to part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to competent authorities of all other countries concerned. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.

**266.80(a) Table - add sections (6) and (7) as shown: (parts (1) through (5) are unchanged.)**

<b>If your batteries</b>	<b>And if you . .</b>	<b>Then you . . .</b>	<b>And you . . .</b>
(6) Will be reclaimed through regeneration or any other means	export these batteries for reclamation in a foreign country	are exempt from 40 CFR parts 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA. You are also exempt from part 262, except for 262.11, and except for the applicable requirements in either: (1) 40 CFR part 262 subpart H; or (2) 262.53 “Notification of Intent to Export, 262.56(a)(1) through (4)(6) and (b) “Annual Reports,” and 262.57 “Recordkeeping”	are subject to 40 CFR part 261 and 262.11, and either must comply with 40 CFR part 262, subpart H (if shipping to one of the OECD countries specified in 40 CFR 262.58(a)(1)), or must: (a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a) (1) through (4), (6), and (b) and 262.57; and (b) Export these batteries only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in subpart E of part 262 of this chapter; and
			(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.
(7) Will be reclaimed through regeneration or any other means	Transport these batteries in the U.S. to export them for reclamation in a foreign country	are exempt from 40 CFR parts 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA	must comply with applicable requirements in 40 CFR part 262, subpart H (if shipping to one of the OECD countries specified in 40 CFR 262.58(a)(1)), or must comply with the following:
			(a) you may not accept a shipment if you know the shipment does not conform to the EPA Acknowledgment of Consent;
			(b) you must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment; and
			(c) you must ensure that the shipment is delivered to the facility designated by the person initiating the shipment.

**(2) Withdrawal of the Conditional Exclusion Emission Comparable Fuel.**

**261.4 “Exclusions” (a)(16)** Revise to read:

Comparable fuels or comparable syngas fuels that meet the requirements of 261.38.

**261.38 The title language is rephrased as shown:**

261.38 Exclusion of comparable fuel and syngas fuel.

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**261.38(a) through (c) are revised to specify the requirements of no longer allowing an exclusion for Emission Comparable Fuel, revise 261.38(a) - (c) as shown:**

(a) Specifications for excluded fuels.

Wastes that meet the specifications for comparable fuel or syngas fuel under paragraphs (a)(1) or (a)(2) of this section, respectively, and the other requirements of this section, are not solid wastes.

(1) Comparable fuel specifications.

(i) Physical specifications.

(A) Heating value. The heating value must exceed 5,000 Btu/lbs. (11,500 J/g).

(B) Viscosity. The viscosity must not exceed: 50 cS, as-fired.

(ii) Constituent specifications. For compounds listed in Table 1 to this section, the specification levels and, where non-detect is the specification, minimum required detection limits are: ( *see* Table 1 of this section).

(2) Synthesis gas fuel specifications. — Synthesis gas fuel (*i.e.*, syngas fuel) that is generated from hazardous waste must:

(i) Have a minimum Btu value of 100 Btu/Scf;

(ii) Contain less than 1 ppmv of total halogen;

(iii) Contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N<sub>2</sub>);

(iv) Contain less than 200 ppmv of hydrogen sulfide; and

(v) Contain less than 1 ppmv of each hazardous constituent in the target list of appendix VIII constituents of this part.

(3) Blending to meet the specifications.

(i) Hazardous waste shall not be blended to meet the comparable fuel specification under paragraph (a)(1) of this section, except as provided by paragraph (a)(3)(ii) of this section:

(ii) Blending to meet the viscosity specification. A hazardous waste blended to meet the viscosity specification for comparable fuel shall:

(A) As generated and prior to any blending, manipulation, or processing, meet the constituent and heating value specifications of paragraphs (a)(1)(i)(A) and (a)(1)(ii) of this section;

(B) Be blended at a facility that is subject to the applicable requirements of parts 264, 265 or 262.34 of this chapter; and

(C) Not violate the dilution prohibition of paragraph (a)(6) of this section.

(4) Treatment to meet the comparable fuel specifications. (i) A hazardous waste may be treated to meet the specifications for comparable fuel set forth in paragraph (a)(1) of this section provided the treatment:

(A) Destroys or removes the constituents listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;

(B) Is performed at a facility that is subject to the applicable requirements of parts 262.34, 264 or 265 of this chapter; and

(C) Does not violate the dilution prohibition of paragraph (a)(6) of this section.

(ii) Residuals resulting from the treatment of a hazardous waste listed in subpart D of this part to generate a comparable fuel remain a hazardous waste.

(5) Generation of a syngas fuel. (i) A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of paragraph (a)(2) of this section provided the processing:

(A) Destroys or removes the constituents listed in the specification or raises the heating value by removing or destroying constituents or materials;

(B) Is performed at a facility that is subject to the applicable requirements of parts 262.34, 264, or 265 of this chapter or is an exempt recycling unit pursuant to 261.6(c); and

(C) Does not violate the dilution prohibition of paragraph (a)(6) of this section.

(ii) Residuals resulting from the treatment of a hazardous waste listed in subpart D of this part to generate a syngas fuel remain a hazardous waste.

(6) Dilution prohibition. No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a hazardous waste to meet the specifications of paragraphs (a)(1)(i)(A) or (a)(1)(ii) of this section for comparable fuel, or paragraph (a)(2) of this section for syngas.

(b) Implementation.

(1) General.

(i) Wastes that meet the specifications provided by paragraph (a) of this section for comparable fuel or syngas fuel are excluded from the definition of solid waste provided that the conditions under this section are met. For purposes of this section, such materials are called excluded fuel; the person claiming and qualifying for the exclusion is called the excluded fuel generator and the person burning the excluded fuel is called the excluded fuel burner.

(ii) The person who generates the excluded fuel must claim the exclusion by complying with the conditions of this section and keeping records necessary to document compliance with those conditions.

(2) Notices.

(i) Notices to State RCRA and CAA Directors in authorized States or regional RCRA and CAA Directors in unauthorized States.

(A) The generator must submit a one-time notice, except as provided by paragraph (b)(2)(i)(C) of this section, to the Regional or State RCRA and CAA Directors, in whose jurisdiction the exclusion is being claimed and where the excluded fuel will be burned, certifying compliance with the conditions of the exclusion and providing the following documentation:

(1) The name, address, and RCRA ID number of the person/facility claiming the exclusion;

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(2) The applicable EPA Hazardous Waste Code(s) that would otherwise apply to the excluded fuel;

(3) The name and address of the units meeting the requirements of paragraphs (b)(3) and (c) of this section, that will burn the excluded fuel;

(4) An estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed, except as provided by paragraph (b)(2)(i)(C) of this section; and

(5) The following statement, which shall be signed and submitted by the person claiming the exclusion or his authorized representative:

Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of 261.38 have been met for all comparable fuels identified in this notification. Copies of the records and information required at 261.38(b)(8) are available at the generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(B) If there is a substantive change in the information provided in the notice required under this paragraph, the generator must submit a revised notification.

(C) Excluded fuel generators must include an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed only in notices submitted after December 19, 2008 for newly excluded fuel or for revised notices as required by paragraph (b)(2)(i)(B) of this section.

(ii) Public notice. Prior to burning an excluded fuel, the burner must publish in a major newspaper of general circulation local to the site where the fuel will be burned, a notice entitled "Notification of Burning a Fuel Excluded Under the Resource Conservation and Recovery Act" and containing the following information:

(A) Name, address, and RCRA ID number of the generating facilities;

(B) Name and address of the burner and identification of the unit(s) that will burn the excluded fuel;

(C) A brief, general description of the manufacturing, treatment, or other process generating the excluded fuel;

(D) An estimate of the average and maximum monthly and annual quantity of the excluded fuel to be burned; and

(E) Name and mailing address of the Regional or State Directors to whom the generator submitted a claim for the exclusion.

(3) Burning. The exclusion applies only if the fuel is burned in the following units that also shall be subject to federal/state/local air emission requirements, including all applicable requirements implementing section 112 of the Clean Air Act:

(i) Industrial furnaces as defined in 260.10 of this chapter;

(ii) Boilers, as defined in 260.10 of this chapter, that are further defined as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;

(iii) Hazardous waste incinerators subject to regulation under subpart O of parts 264 or 265 of this chapter and applicable CAA MACT standards.

(iv) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

(4) Fuel analysis plan for generators. The generator of an excluded fuel shall develop and follow a written fuel analysis plan which describes the procedures for sampling and analysis of the material to be excluded. The plan shall be followed and retained at the site of the generator claiming the exclusion.

(i) At a minimum, the plan must specify:

(A) The parameters for which each excluded fuel will be analyzed and the rationale for the selection of those parameters;

(B) The test methods which will be used to test for these parameters;

(C) The sampling method which will be used to obtain a representative sample of the excluded fuel to be analyzed;

(D) The frequency with which the initial analysis of the excluded fuel will be reviewed or repeated to ensure that the analysis is accurate and up to date; and

(E) If process knowledge is used in the determination, any information prepared by the generator in making such determination.

(ii) For each analysis the generator shall document the following:

(A) The dates and times that samples were obtained, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) who obtained the samples;

(C) A description of the temporal and spatial locations of the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A description of the analytical methods used, including any clean-up and sample preparation methods;

(F) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and the description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;

(G) All laboratory results demonstrating whether the exclusion specifications have been met; and



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(H) All laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in paragraph (b)(9) of this section and also provides for the availability of the documentation to the claimant upon request.

(iii) Syngas fuel generators shall submit for approval, prior to performing sampling, analysis, or any management of an excluded syngas fuel a fuel analysis plan containing the elements of paragraph (b)(4)(i) of this section to the appropriate regulatory authority. The approval of fuel analysis plans must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the fuel analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.

### (5) Excluded fuel sampling and analysis.

(i) General. For wastes for which an exclusion is claimed under the specifications provided by paragraphs (a)(1) or (a)(2) of this section, the generator of the waste must test for all the constituents in appendix VIII to this part, except those that the generator determines, based on testing or knowledge, should not be present in the fuel. The generator is required to document the basis of each determination that a constituent with an applicable specification should not be present. The generator may not determine that any of the following categories of constituents with a specification in Table 1 to this section should not be present:

(A) A constituent that triggered the toxicity characteristic for the constituents that were the basis for listing the hazardous secondary material as a hazardous waste, or constituents for which there is a treatment standard for the waste code in 268.40;

(B) A constituent detected in previous analysis of the waste;

(C) Constituents introduced into the process that generates the waste; or

(D) Constituents that are byproducts or side reactions to the process that generates the waste.

Note to paragraph (b)(5): Any claim under this section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the excluded fuel above the exclusion specifications.

(ii) Use of process knowledge. For each waste for which the comparable fuel or syngas exclusion is claimed where the generator of the excluded fuel is not the original generator of the hazardous waste, the generator of the excluded fuel may not use process knowledge pursuant to paragraph (b)(5)(i) of this section and must test to determine that all of the constituent specifications of paragraphs (a)(1) and (a)(2) of this section, as applicable, have been met.

(iii) The excluded fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the excluded fuel. For the fuel to be eligible for exclusion, a generator must demonstrate that:

(A) The 95% upper confidence limit of the mean concentration for each constituent of concern is not above the specification level; and

(B) The analyses could have detected the presence of the constituent at or below the specification level.

(iv) Nothing in this paragraph preempts, overrides or otherwise negates the provision in 262.11 of this chapter, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(v) In an enforcement action, the burden of proof to establish conformance with the exclusion specification shall be on the generator claiming the exclusion.

(vi) The generator must conduct sampling and analysis in accordance with the fuel analysis plan developed under paragraph (b)(4) of this section.

(vii) Viscosity condition for comparable fuel.

(A) Excluded comparable fuel that has not been blended to meet the kinematic viscosity specification shall be analyzed as generated.

(B) If hazardous waste is blended to meet the kinematic viscosity specification for comparable fuel, the generator shall:

(1) Analyze the hazardous waste as generated to ensure that it meets the constituent and heating value specifications of paragraph (a)(1) of this section; and

(2) After blending, analyze the fuel again to ensure that the blended fuel meets all comparable fuel specifications.

(viii) Excluded fuel must be re-tested, at a minimum, annually and must be retested after a process change that could change its chemical or physical properties in a manner that may affect conformance with the specifications.

(6) [Reserved]

(7) Speculative accumulation. Excluded fuel must not be accumulated speculatively, as defined in 261.1(c)(8).

(8) Operating record. The generator must maintain an operating record on site containing the following information:

(i) All information required to be submitted to the implementing authority as part of the notification of the claim:

(A) The owner/operator name, address, and RCRA ID number of the person claiming the exclusion;

(B) For each excluded fuel, the EPA Hazardous Waste Codes that would be applicable if the material were discarded; and

(C) The certification signed by the person claiming the exclusion or his authorized representative.

(ii) A brief description of the process that generated the excluded fuel. If the comparable fuel generator is not the generator of the original hazardous waste, provide a brief description of the process that generated the hazardous waste;

(iii) The monthly and annual quantities of each fuel claimed to be excluded;

(iv) Documentation for any claim that a constituent is not present in the excluded fuel as required under paragraph (b)(5)(i) of this section;

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(v) The results of all analyses and all detection limits achieved as required under paragraph (b)(4) of this section;

(vi) If the comparable fuel was generated through treatment or blending, documentation of compliance with the applicable provisions of paragraphs (a)(3) and (a)(4) of this section;

(vii) If the excluded fuel is to be shipped off-site, a certification from the burner as required under paragraph (b)(10) of this section;

(viii) The fuel analysis plan and documentation of all sampling and analysis results as required by paragraph (b)(4) of this section.

(ix) If the generator ships excluded fuel off-site for burning, the generator must retain for each shipment the following information on-site:

(A) The name and address of the facility receiving the excluded fuel for burning;

(B) The quantity of excluded fuel shipped and delivered;

(C) The date of shipment or delivery;

(D) A cross-reference to the record of excluded fuel analysis or other information used to make the determination that the excluded fuel meets the specifications as required under paragraph (b)(4) of this section; and

(E) A one-time certification by the burner as required under paragraph (b)(10) of this section.

(9) Records retention. Records must be maintained for a period of three years.

(10) Burner certification to the generator. Prior to submitting a notification to the State and Regional Directors, a generator of excluded fuel who intends to ship the excluded fuel off-site for burning must obtain a one-time written, signed statement from the burner:

(i) Certifying that the excluded fuel will only be burned in an industrial furnace, industrial boiler, utility boiler, or hazardous waste incinerator, as required under paragraph (b)(3) of this section;

(ii) Identifying the name and address of the facility that will burn the excluded fuel; and

(iii) Certifying that the State in which the burner is located is authorized to exclude wastes as excluded fuel under the provisions of this section.

(11) Ineligible waste codes. Wastes that are listed as hazardous waste because of the presence of dioxins or furans, as set out in appendix VII of this part, are not eligible for these exclusions, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to the full RCRA hazardous waste management requirements.

(12) Regulatory status of boiler residues. Burning excluded fuel that was otherwise a hazardous waste listed under 261.31 through 261.33 does not subject boiler residues, including bottom ash and emission control residues, to regulation as derived-from hazardous wastes.

(13) Residues in containers and tank systems upon cessation of operations.

(i) Liquid and accumulated solid residues that remain in a container or tank system for more than 90 days after the container or tank system ceases to be operated for storage or transport of excluded fuel product are subject to regulation under parts 262 through 265, 268, 270, 271, and 124 of this chapter.

(ii) Liquid and accumulated solid residues that are removed from a container or tank system after the container or tank system ceases to be operated for storage or transport of excluded fuel product are solid wastes subject to regulation as hazardous waste if the waste exhibits a characteristic of hazardous waste under 261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed under 261.31 through 261.33 when the exclusion was claimed.

(iii) Liquid and accumulated solid residues that are removed from a container or tank system and which do not meet the specifications for exclusion under paragraphs (a)(1) or (a)(2) of this section are solid wastes subject to regulation as hazardous waste if:

(A) The waste exhibits a characteristic of hazardous waste under 261.21 through 261.24; or

(B) The fuel were otherwise a hazardous waste listed under 261.31 through 261.33. The hazardous waste code for the listed waste applies to these liquid and accumulated solid residues.

(14) Waiver of RCRA Closure Requirements. Interim status and permitted storage and combustion units, and generator storage units exempt from the permit requirements under 262.34 of this chapter, are not subject to the closure requirements of Parts 264 and 265 provided that the storage and combustion unit has been used to manage only hazardous waste that is subsequently excluded under the conditions of this section, and that afterward will be used only to manage fuel excluded under this section.

(15) Spills and leaks.

(i) Excluded fuel that is spilled or leaked and that therefore no longer meets the conditions of the exclusion is discarded and must be managed as a hazardous waste if it exhibits a characteristic of hazardous waste under 261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed in 261.31 through 261.33.

(ii) For excluded fuel that would have otherwise been a hazardous waste listed in 261.31 through 261.33 and which is spilled or leaked, the hazardous waste code for the listed waste applies to the spilled or leaked material.

(16) Nothing in this section preempts, overrides, or otherwise negates the provisions in CERCLA Section 103, which establish reporting obligations for releases of hazardous substances, or the Department of Transportation requirements for hazardous materials in 49 CFR parts 171 through 180.

(c) Failure to comply with the conditions of the exclusion. An excluded fuel loses its exclusion if any person managing the fuel fails to comply with the conditions of the exclusion under this section, and the material must be managed as hazardous waste from the point of generation. In such situations, EPA or an authorized State agency may take enforcement action under RCRA section 3008(a).

**Table 1 to 261.38 Detection and Detection Limit Values for Comparable Fuel Specification** - remove column two entitled: "Composite value (mg/kg)" and Column three entitled: "Heating value (BTU/lb)." The rest of the table should have the numbers edited as shown.

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261.38 Table 1 Detection and Detection Limit Values for Comparable Fuel Specification

Chemical Name	CAS #		Concentration Limit (mg/kg at 10,000 BTU/lb)	Minimum Required Detection Limit (mg/kg)
Total Nitrogen as N	NA		4900	
Total Halogens as Cl	NA		540	
Total Organic Halogens as Cl	NA		( <sup>a</sup> )	
Polychlorinated biphenyls, total [Aroclors, total]	1336-36-3		ND	1.4
Cyanide, total	57-12-5		ND	1.0
Metals:				
Antimony, total	7440-36-0		12	
Arsenic, total	7440-38-2		0.23	
Barium, total	7440-39-3		23	
Beryllium, total	7440-41-7		1.2	
Cadmium, total	7440-43-9		1.2	
Chromium, total	7440-47-3		2.3	
Cobalt	7440-48-4		4.6	
Lead, total	7439-92-1		31	
Manganese	7439-96-5		1.2	
Mercury, total	7439-97-6		0.25	
Nickel, total	7440-02-0		58	
Selenium, total	7782-49-2		0.23	
Silver, total	7440-22-4		2.3	
Thallium, total	7440-28-0		23	
Hydrocarbons:				
Benzo[a]anthracene	56-55-3		2400	
Benzene	71-43-2		4100	
Benzo[b]fluoranthene	205-99-2		2400	
Benzo[k]fluoranthene	207-08-9		2400	
Benzo[a]pyrene	50-32-8		2400	
Chrysene	218-01-9		2400	
Dibenzo[a,h]anthracene	52-70-3		2400	
7,12-Dimethylbenz[a]anthracene	57-97-6		2400	
Fluoranthene	206-44-0		2400	
Indeno(1,2,3-cd)pyrene	193-39-5		2400	
3-Methylcholanthrene	56-49-5		2400	
Naphthalene	91-20-3		3200	
Toluene	108-88-3		36000	
Oxygenates:				
Acetophenone	98-86-1		2400	
Acrolein	107-02-8		39	
Allyl alcohol	107-18-6		30	
Bis(2-ethylhexyl)phthalate [Di-2-ethylhexyl phthalate]	117-81-7		2400	
Butyl benzyl phthalate	85-68-7		2400	
o-Cresol [2-Methyl phenol]	95-48-7		2400	
m-Cresol [3-Methyl phenol]	108-39-4		2400	
p-Cresol [4-Methyl phenol]	106-44-5		2400	
Di-n-butyl phthalate	84-74-2		2400	
Diethyl phthalate	84-66-2		2400	
2,4-Dimethylphenol	105-67-9		2400	
Dimethyl phthalate	131-11-3		2400	
Di-n-octyl phthalate	117-84-0		2400	
Endothall	145-73-3		100	
Ethyl methacrylate	97-63-2		39	
2-Ethoxyethanol [Ethylene glycol monoethyl ether]	110-80-5		100	
Isobutyl alcohol	78-83-1		39	
Isosafrole	120-58-1		2400	
Methyl ethyl ketone [2-Butanone]	78-93-3		39	
Methyl methacrylate	80-62-6		39	

1,4-Naphthoquinone	130-15-4		2400	
Phenol	108-95-2		2400	
Propargyl alcohol [2-Propyn-1-ol]	107-19-7		30	
Safrole	94-59-7		2400	
Sulfonated Organics:				
Carbon disulfide	75-15-0		ND	39
Disulfoton	298-04-4		ND	2400
Ethyl methanesulfonate	62-50-0		ND	2400
Methyl methanesulfonate	66-27-3		ND	2400
Phorate	298-02-2		ND	2400
1,3-Propane sultone	1120-71-4		ND	100
Tetraethylthiopyrophosphate [Sulfotepp]	3689-24-5		ND	2400
Thiophenol [Benzenethiol]	108-98-5		ND	30
O,O,O-Triethyl phosphorothioate	126-68-1		ND	2400
Nitrogenated Organics:				
Acetonitrile [Methyl cyanide]	75-05-8		ND	39
2-Acetylaminofluorene [2-AAF]	53-96-3		ND	2400
Acrylonitrile	107-13-1		ND	39
4-Aminobiphenyl	92-67-1		ND	2400
4-Aminopyridine	504-24-5		ND	100
Aniline	62-53-3		ND	2400
Benzidine	92-87-5		ND	2400
Dibenz[a, j]acridine	224-42-0		ND	2400
O,O-Diethyl O-pyrazinyl phosphorothioate [Thionazin]	297-97-2		ND	2400
Dimethoate	60-51-5		ND	2400
p-(Dimethylamino) azobenzene [4-Dimethylaminoazobenzene]	60-11-7		ND	2400
3,3[prime]-Dimethylbenzidine	119-93-7		ND	2400
a,a-Dimethylphenethylamine	122-09-8		ND	2400
3,3[prime]-Dimethyloxybenzidine	119-90-4		ND	100
1,3-Dinitrobenzene [m-Dinitrobenzene]	99-65-0		ND	2400
4,6-Dinitro-o-cresol	534-52-1		ND	2400
2,4-Dinitrophenol	51-28-5		ND	2400
2,4-Dinitrotoluene	121-14-2		ND	2400
2,6-Dinitrotoluene	606-20-2		ND	2400
Dinoseb [2-sec-Butyl-4,6-dinitrophenol]	88-85-7		ND	2400
Diphenylamine	122-39-4		ND	2400
Ethyl carbamate [Urethane]	51-79-6		ND	100
Ethylenethiourea (2-Imidazolidinethione)	96-45-7		ND	110
Famphur	52-85-7		ND	2400
Methacrylonitrile	126-98-7		ND	39
Methapyrilene	91-80-5		ND	2400
Methomyl	16752-77-5		ND	57
2-Methylactonitrile, [Acetone cyanohydrins]	75-86-5		ND	100
Methyl parathion	298-00-0		ND	2400
MNNG (N-Methyl-N-nitroso- N[prime]-nitroguanidine)	70-25-7		ND	110
1-Naphthylamine, [ $\alpha$ -Naphthylamine]	134-32-7		ND	2400
2-Naphthylamine, [ $\beta$ -Naphthylamine]	91-59-8		ND	2400
Nicotine	54-11-5		ND	100
4-Nitroaniline [p-Nitroaniline]	100-01-6		ND	2400
Nitrobenzene	98-96-3		ND	2400
p-Nitrophenol, [p-Nitrophenol]	100-02-7		ND	2400
5-Nitro-o-toluidine	99-55-8		ND	2400
N-Nitrosodi-n-butylamine	924-16-3		ND	2400
N-Nitrosodiethylamine	55-18-5		ND	2400
N-Nitrosodiphenylamine, [Diphenylnitrosamine]	86-30-6		ND	2400
N-Nitroso-N-methylethylamine	10595-95-6		ND	2400
N-Nitrosomorpholine	59-89-2		ND	2400
N-Nitrosopiperidine	100-75-4		ND	2400
N-Nitrosopyrrolidine	930-55-2		ND	2400

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2-Nitropropane	79-46-9			ND	2400
Parathion	56-38-2			ND	2400
Phenacetin	62-44-2			ND	2400
1,4-Phenylene diamine, [p-Phenylenediamine]	106-50-3			ND	2400
N-Phenylthiourea	103-85-5			ND	57
2-Picoline [alpha-Picoline]	109-06-8			ND	2400
Propylthiouracil, [6-Propyl-2-thiouracil]	51-52-5			ND	100
Pyridine	110-86-1			ND	2400
Strychnine	57-24-9			ND	100
Thioacetamide	62-55-5			ND	57
Thiofanox	39196-18-4			ND	100
Thiourea	62-56-6			ND	57
Toluene-2,4-diamine [2,4-Diaminotoluene]	95-80-7			ND	57
Toluene-2,6-diamine [2,6-Diaminotoluene]	823-40-5			ND	57
o-Toluidine	95-53-4			ND	2400
p-Toluidine	106-49-0			ND	100
1,3,5-Trinitrobenzene, [sym-Trinitrobenzene]	99-35-4			ND	2400
Halogenated Organics:					
Allyl chloride	107-05-1			ND	39
Aramite	140-57-8			ND	2400
Benzal chloride [Dichloromethyl benzene]	98-87-3			ND	100
Benzyl chloride	100-44-77			ND	100
bis(2-Chloroethyl)ether [Dichloroethyl ether]	111-44-4			ND	2400
Bromoform [Tribromomethane]	75-25-2			ND	39
Bromomethane [Methyl bromide]	74-83-9			ND	39
4-Bromophenyl phenyl ether [p-Bromo diphenyl ether]	101-55-3			ND	2400
Carbon tetrachloride	56-23-5			ND	39
Chlordane	57-74-9			ND	14
p-Chloroaniline	106-47-8			ND	2400
Chlorobenzene	108-90-7			ND	39
Chlorobenzilate	510-15-6			ND	2400
p-Chloro-m-cresol	59-50-7			ND	2400
2-Chloroethyl vinyl ether	110-75-8			ND	39
Chloroform	67-66-3			ND	39
Chloromethane [Methyl chloride]	74-87-3			ND	39
2-Chloronaphthalene [beta-Chloronaphthalene]	91-58-7			ND	2400
2-Chlorophenol [o-Chlorophenol]	95-57-8			ND	2400
Chloroprene [2-Chloro-1,3-butadiene]	1126-99-8			ND	39
2,4-D [2,4-Dichlorophenoxyacetic acid]	94-75-7			ND	7.0
Diallate	2303-16-4			ND	3400
1,2-Dibromo-3-chloropropane	96-12-8			ND	39
1,2-Dichlorobenzene [o-Dichlorobenzene]	95-50-1			ND	2400
1,3-Dichlorobenzene [m-Dichlorobenzene]	541-73-1			ND	2400
1,4-Dichlorobenzene [p-Dichlorobenzene]	106-46-7			ND	2400
3,3[prime]-Dichlorobenzidine	91-94-1			ND	2400
Dichlorodifluoromethane [CFC-12]	75-71-8			ND	39
1,2-Dichloroethane [Ethylene dichloride]	107-06-2			ND	39
1,1-Dichloroethylene [Vinylidene chloride]	75-35-4			ND	39
Dichloromethoxy ethane [Bis(2-chloroethoxy)methane]	111-91-1			ND	2400
2,4-Dichlorophenol	120-83-2			ND	2400
2,6-Dichlorophenol	87-65-0			ND	2400
1,2-Dichloropropane [Propylene dichloride]	78-87-5			ND	39
cis-1,3-Dichloropropylene	10061-01-5			ND	39
trans-1,3-Dichloropropylene	10061-02-6			ND	39
1,3-Dichloro-2-propanol	96-23-1			ND	30
Endosulfan I	959-98-8			ND	1.4
Endosulfan II	33213-65-9			ND	1.4
Endrin	72-20-8			ND	1.4
Endrin aldehyde	7421-93-4			ND	1.4
Endrin Ketone	53494-70-5			ND	1.4

Epichlorohydrin [1-Chloro-2,3-epoxy propane]	106-89-8		ND	30
Ethylidene dichloride [1,1-Dichloroethane]	75-34-3		ND	39
2-Fluoroacetamide	640-19-7		ND	100
Heptachlor	76-44-8		ND	1.4
Heptachlor epoxide	1024-57-3		ND	2.8
Hexachlorobenzene	118-74-1		ND	2400
Hexachloro-1,3-butadiene [Hexachlorobutadiene]	87-68-3		ND	2400
Hexachlorocyclopentadiene	77-47-4		ND	2400
Hexachloroethane	67-72-1		ND	2400
Hexachlorophene	70-30-4		ND	59000
Hexachloropropene [Hexachloropropylene]	1888-71-7		ND	2400
Isodrin	465-73-6		ND	2400
Kepone [Chlordecone]	143-50-0		ND	4700
Lindane [gamma-BHC] [gamma-Hexachlorocyclohexane]	58-89-9		ND	1.4
Methylene chloride [Dichloromethane]	75-09-2		ND	39
4,4[prime]-Methylene-bis(2-chloroaniline)	101-14-4		ND	100
Methyl iodide [Iodomethane]	74-88-4		ND	39
Pentachlorobenzene	608-93-5		ND	2400
Pentachloroethane	76-01-7		ND	39
Pentachloronitrobenzene [PCNB] [Quintobenzene] [Quintozene]	82-68-8		ND	2400
Pentachlorophenol	87-88-5		ND	2400
Pronamide	23950-58-5		ND	2400
Silvex [2,4,5-Trichlorophenoxypropionic acid]	93-72-1		ND	7.0
2,3,7,8-Tetrachlorodibenzo-p-dioxin [2,3,7,8-TCDD]	1746-01-6		ND	30
1,2,4,5-Tetrachlorobenzene	95-94-3		ND	2400
1,1,2,2-Tetrachloroethane	79-35-4		ND	39
Tetrachloroethylene [Perchloroethylene]	127-18-4		ND	39
2,3,4,6-Tetrachlorophenol	58-90-2		ND	2400
1,2,4-Trichlorobenzene	120-82-1		ND	2400
1,1,1-Trichloroethane [Methyl chloroform]	71-56-6		ND	39
1,1,2-Trichloroethane [Vinyl trichloride]	79-00-5		ND	39
Trichloroethylene	79-01-6		ND	39
Trichlorofluoromethane [Trichloromonofluoromethane]	75-69-4		ND	39
2,4,5-Trichlorophenol	95-95-4		ND	2400
2,4,6-Trichlorophenol	88-06-2		ND	2400
1,2,3-Trichloropropane	96-18-4		ND	39
Vinyl Chloride	75-01-4		ND	39

Notes:

NA - Not Applicable.

ND - Nondetect.

(a) 25 or individual halogenated organics listed below.

**(3) Technical Corrections**

**260.10 Amend the definition of “New hazardous waste management facility or new facility” by changing the date “October 21, 1976” to “November 19, 1980”.**

"New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980. (See Also "Existing hazardous waste management facility".)

**260 Appendix I - Remove all of Appendix I. Delete Figures 1-4 as well as text**

**261.1(c)(10) Replace the citation 261.4(a)(13) with 261.4(a)(14)**



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(10) "Processed scrap metal" is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (261.4(a)(14)).

**261.2(c), Table 1 Replace “Scrap metal other than excluded scrap metal (see 261.1(c)(9))” with “Scrap metal that is not excluded under 261.4(a)(13)”**

261.2 Table 1 Summary of definitions of Solid Waste				
	Use Constituting Disposal (261.2(c)(1))	Energy Recovery/ Fuel (261.2(c)(2))	Reclamation (261.2(c)(3)), except as provided in 261.2(a)(2)(ii), 261.4(a)(17), 261.4(a)(23), 261.4(a)(24), or 261.4(a)(25)	Speculative Accumulation (261.2(c)(4))
	(1)	(2)	(3)	(4)
Spent Materials	(*)	(*)	(*)	(*)
Sludges (listed in Section 261.31 or .32)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	---	(*)
By-products (listed in Section 261.31 or 261.32)	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic of hazardous waste	(*)	(*)	---	(*)
Commercial chemical products listed in Section 261.33	(*)	(*)	---	---
Scrap metal that is not excluded under 261.4(a)(13)	(*)	(*)	(*)	(*)

Note: The terms "spent materials," "sludges," "by-products," "scrap metal" and "processed scrap metal" are defined in 261.1

**261.3(a)(2)(iv)(A) Insert the word “spent” before the first occurrence of word “solvents” as shown to correct a word omitted in error. The rest of the paragraph remains the same.**

(A) One or more of the following spent solvents listed in 261.31 - benzene, carbon tetrachloride, tetrachloroethylene, trichloroethylene or the scrubber waters derived-from the combustion of these spent solvents

**261.4(a)(17)(vi) Change the citation “(a)(7)” to “(b)(7)”**

(vi) For purposes of 261.4(b)(7) mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes.

**261.5(e)(1) remove reference to 261.32**

(1) A total of one kilogram of acute hazardous wastes listed in sections 261.31 or 261.33(e).

**261.5(e)(2) remove reference to 261.32**

(2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in sections 261.31 or 261.33(e).

**261.5(e)(2) Comment revise to read: “Full regulation” means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.**

**261.5(f) revise by adding an “(e)” before both (1) and (2) to read: “(e)(1) or (e)(2)” to make sure it is understood that (1) and (2) are both in part (e).**

(f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in paragraph (e)(1) or (e)(2) of this section ...”

**261.5(g) introduction: replace “less than 100 kilograms” with “100 kilograms or less” to clarify limits for a conditionally exempt small quantity generator.**

(g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements:

**261.5(g)(2) replace “between 100 kg and 1000 kg of hazardous waste” with “greater than 100 kg and less than 1000 kg of hazardous waste”;**

(2) The conditionally exempt small quantity generator may accumulate hazardous waste onsite. If he accumulates at any time 1,000 kilograms or greater of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of part 262 applicable to generators of greater than 100 kg and less than 1000 kg of hazardous waste in a calendar month as well as the requirements of 263 through 266, 268, and 270 and 124, and the applicable notification requirements of section 3010 of RCRA. The time period of 262.34(d) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes equal or exceed 1000 kilograms.

**261.6(a)(2) Revise subparts C through H” to read “subparts C through N”; add 268 to Parts 270 and 124” as shown:**

(2) The following recyclable materials are not subject to the requirements of this section but are regulated under subparts C through N of .266 and all applicable provisions in 268, 270 and .124

**261.6(a)(2)(ii) Replace “for energy recovery” with “(as defined in section 266.100(a))”**

(ii) Hazardous wastes burned (as defined in section 266.100(a)) in boilers and industrial furnaces that are not regulated under subpart O of 264 or 265 (Part 266, Subpart H);

**261.7(b)(1) Remove 261.32.**

(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–or 261.33(e) of this regulation, is empty if:

**261.7(b)(3) Remove 261.32.**

(3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in sections 261.31 or 261.33(e) of this regulation is empty if:

**261.23(a)(8) amend this paragraph to correct out of date cross-references with the current DOT regulations to read:**

(8) It is a forbidden explosive as defined in 49 CFR 173.54, or is a Division 1.1, 1.2 or 1.3 explosive as defined in 49 CFR 173.50 and 173.53.

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### 261.30(d) remove “or 261.32”

(d) The following hazardous wastes listed in section 261.31 are subject to the exclusion limits for acutely hazardous wastes established in section 261.5: EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026 and F027.

### 261.32(a) table correct the misspelled chemical name “...carboxylic acid hydrazines” to “...carboxylic acid hydrazides”

K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic hydrazides	(C, T)
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### At 261.33(f) revise the listing for dU239, “Benzene, dimethyl-(I,T) by removing the “T”

U239	1330-20-7	Benzene, dimethyl- (I)
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### 261, Appendix VII - remove the entries “K064,” “K065,” “K066” and “K090.”

Add all of 262.23(f) for clarification in the use of the national manifest as shown. Part (f) is inserted after “Note:” that reads in part: “See 263.20(e) and (f) for special provisions ....”

(f) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 264.72(f) or 265.72(f)), the generator must:

- (1) sign either:
  - (i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
  - (ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;

(2) Provide the transporter a copy of the manifest;

(3) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

(4) Retain at the generator’s site a copy of each manifest for at least three years from the date of delivery.

### 262.34(a)(4) replace “268.7(a)(5)” with “all applicable requirements under part 268.”

(4) The generator complies with the requirements for owners or operators in subparts C and D in R.61-79.265, with 265.15(d) and 265.16, and with all applicable requirements under part 268.

### 262.34(b) modify the paragraph as shown to clarify accumulation times:

(b) A generator who accumulates 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kilogram of acute hazardous waste listed in 261.31 or 261.33(e) in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of parts 264 and 265, and the permit requirements of 270 unless he has been granted an extension to the 90-day period. Such extension may be granted by the Department if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and

uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis.

**262.34(c)(1) Add “264.31 or” before “261.33(e) and add “or (d)” after “(a)”**

(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in 261.31 or 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section provided he:

**262.34(c)(2) Add “261.31 or” before “261.33(e)” and change paragraphs (c)(1)(i) through (ii)” to read “paragraphs (c)(1)(i) and (ii).”**

(2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in 261.31 or 261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions. During the three-day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

**262.34(d)(4) Replace 268.7(a)(5) with “all applicable requirements under Part 268.”**

(4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of subpart C of R.61-79.265, the requirements of all applicable requirements under part 268; and

**262.42.(a)(1) Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater”**

(a)(1) A generator with 1000 kilograms or greater 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 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

**262.42.(a)(2) Replace “greater than 1,000 kilograms” with “1,000 kilograms or greater”**

(2) A generator of 1000 kilograms or greater 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:

**262.60(b) replace “subpart B” with 262.20 as shown:**

(b) When importing hazardous waste, a person must meet all the requirements of 262.20 for the manifest except that:

**264.52(b) remove “or part 1510 of chapter V”**

(b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112, or some other emergency or contingency plan, ...

**264.56(d)(2) Remove the parenthetical phrase “(in the applicable regional contingency plan under part 1510 of this title)”**

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(d)(2) He must immediately notify the Department (using its 24-hour number 803-253-6488) and the government official designated as the on-scene coordinator for that geographical area, and the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

**264.72(e)(6) At the end of the provision add: “and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.” as shown:**

(e)(6) Sign the Generator's/Officer'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, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

**264.72(f)(1) Amend as shown changing generator to facility in every occurrence and adding “of the new manifest” at the end of the sentence after “in the designated space for Item 5”:**

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

**264.72(f)(7) add reference to subparagraph (8) in the last sentence of this section as shown:**

(f)(7) 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), (6), and (8) of this section.

**264.72(f)(8) add new provision at (8) as shown:**

(8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in 262.42(a).

**264.195(b) Completely revise this section by removing subparagraphs (b)(1)-(3) and incorporating the text from (b)(2) into the revised paragraph (b).**

(b) The owner or operator must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

**264.314(d) Change cross-references from “(e)(1)” to “(d)(1)” and “(e)(2)” to “(d)(2)” as shown:**

(d) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in paragraph (d)(1) of this section; materials that pass one of the tests in paragraph (d)(2) of this section; or materials that are determined by the Department and EPA to be nonbiodegradable through the part 260 petition process.

**264.316(b) Change cross-references from 264.314“(e)” to 264.314“(d)” as shown:**

(b)... determined to be nonbiodegradable in accordance with 264.314(d), to completely sorb all of the liquid contents of the inside containers. The metal outer container....

**264.552(a)(3)(ii) Revise the citation from “264.314(d)” to “264.314(c)”**

(ii) The requirements in 264.314(c) for placement of containers holding free liquids in landfills apply to placement in a CAMU except where placement facilitates the remedy selected for the waste.

**264.552(a)(3)(iii) revise the citation 264.314(f) to read 264.314(e) as shown:**

(iii) The placement of any liquid which is not a hazardous waste in a CAMU is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to 264.314(e).

**264.552(a)(3)(iv) revise the citation “264.314(c)” to read “264.314(b)” and “264.314(e)” to read “264.314(d)” as shown:**

(iv) The absence or presence of free liquids in either a containerized or a bulk waste must be determined in accordance with 264.314(b). Sorbents used to treat free liquids in CAMUs must meet the requirements of 264.314(d).

**264.552(e)(4)(iv)(F) Revise the citation from “260.11(a)(11)” to read “260.11(c)(3)(v).”**

(F) Alternatives to TCLP. For metal bearing wastes for which metals removal treatment is not used, the Department may specify a leaching test other than the TCLP (SW846 Method 1311, 260.11-(c)(3)(v) to measure treatment effectiveness, provided the Department determines that an alternative leach testing protocol is appropriate for use, and that the alternative more accurately reflects conditions at the site that affect leaching.

**265.52(b) Remove “or part 1510 of chapter V” as shown:**

(b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR part 112 , or some other emergency or contingency plan, he need only...

**265.72(e)(6) add a statement to end of provision as shown:**

(6) Sign the Generator's/Offeror'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 and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

**265.72(f)(1) Change generator to facility in each occurrence as shown and adding “of the new manifest” at the end of the sentence after “in the designated space for Item 5”:**

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

**265.72(f)(7) add reference to subparagraph (8) at the end of this provision as shown:**

(7) 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), (6) and (8) of this section.

**265.72(f)(8) add new provision (f)(8).**

(8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in 262.42(a).

**265.224 Remove the [Reserved] status. The section at 265.224 “Response actions” parts (a) - (c) and the subparts of those sections remain the same with no changes.**

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### 265.314(e) Change cross references as shown:

(e) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in paragraph (e)(1) of this section; materials that pass one of the tests in paragraph (e)(2) of this section; or materials that are determined by the Department to be nonbiodegradable through the Part 260 petition process.

**265.314(f) was renumbered from the old 265.314(g). Parts (1) and (2) were to remain the same but were inadvertently removed by the West System in the Cumulative Supplement. Therefore, the current 265.314(f)(1) and (2) need to be reinserted into the text as shown:**

(1) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(2) Placement in such owner or operator's landfill will not present a risk of contamination of any "underground source of drinking water" (as that term is defined in 40 CFR 270.2).

### 265.316(b) correct cross references as shown:

(b) ... sorbent material, determined to be nonbiodegradable in accordance with 265.314(e), to completely sorb all of the liquid contents of the inside containers.

### 266.20(b) At the end of the paragraph add a new phrase as shown:

(b) ... where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain and the recycler complies with 268.7(b)(6).

### 268.7(b)(6) In the first part of the first sentence, the reference 268.20(b) should be changed to 266.20(b)

(b) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of 266.20(b) regarding treatment standards and prohibition levels, the owner or operator...

### 268.40 table "Treatment Standards for Hazardous Wastes" for each of the following waste codes: K156, K157 and K158, insert the parenthetical sentence as shown:

K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. <sup>10</sup> (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. <sup>10</sup> (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. <sup>10</sup> (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)

### 268.48 table for Universal Treatment Standards - correct spelling for Hexachloropropylene by adding last "l" as shown:

Hexachloropropylene	1888-71-7	0.035	30
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**270.4(a) Redesignate the numbering of this section as follows: paragraph (a) becomes (a)(1); (a)(1) becomes (a)(1)(i); (a)(2) becomes (a)(1)(ii); (a)(3) becomes (a)(1)(iii); (a)(4) becomes (a)(1)(iv); then add paragraph (a)(2) as shown:**

(1) Compliance with a permit under these regulations during its term constitutes compliance, for purposes of enforcement, with subtitle C of RCRA and except for those requirements not included in the permit which:

(i) Become effective by statute;

(ii) Are promulgated under part 268 of this chapter restricting the placement of hazardous wastes in or on the land; or

(iii) Are promulgated under 264 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of 270.42 Class 1 permit modifications; or

(iv) Are promulgated under subparts AA, BB, or CC of part 265 of this chapter limiting air emissions.

(2) A permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in 270.41 and 270.43, or the permit may be modified upon the request of the permittee as set forth in 270.42.

**270.22 In the introductory paragraph, replace “63.1210(b)” with “63.1210(d)” to correct cross reference. The rest of the paragraph following the corrected citation remains the same.**

When an owner or operator of a cement or lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in part 63, Subpart EEE, (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance) under 63.1207(j) and 63.1210(d)\_documenting compliance with all applicable requirements of part 63, subpart EEE, the requirements of this section do not apply.

**270.25(e)(3) remove the word “design” after “basic control device”. The rest of the paragraph remains the same.**

(3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of ATPA Course 415: Control of Gaseous Emissions (incorporated by reference as specified in 270.6) or other engineering texts acceptable to the Department that present basic control device information.

**270.42(k)(2)(ii) replace “Director” with “Department” to indicate the state program rather than the Director of the EPA.**

(ii) The Department may elect to approve or deny the request contingent upon approval of the test plans.

**270.62 Introductory paragraph** replace “63.1210(b)” with “63.1210(d)” after the first parenthetical statement to correct cross reference as shown. The rest of the paragraph remains the same.

...(i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance), under 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of part 63 subpart EEE, ....



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### (4) National Manifest Rule

**Manifest Rule** EPA's checklist had abbreviated language but did not indicate when language was omitted. This whole section is to insert language that was inadvertently omitted to bring the regulation into conformity with the Code of Federal Regulations. The Manifest Rule is required of all states.

#### **262.21(b)(6) add the omitted language to provide examples of what can be used to support the qualifications of a company being chosen to print the manifest.**

(b)(6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest.

#### **262.21(c) insert language defining EPA's actions after reviewing an application for a printer for the manifest shown:**

(c) EPA will review the application submitted under paragraph (b) of this section and either approve it or request additional information or modification before approving it.

#### **262.21(d)(1) - (2)(i) insert language as shown to add details for EPA's approval of a printer for the manifest; (the remainder of the section stays the same); (2)(ii) and (iii) remain the same; in (iv) add "the" before the word "copies".**

(1) Upon EPA approval of the application under paragraph (c) of this section, EPA will provide registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in paragraph (d)(3) of this section. The registrant's samples must meet all of the specifications in paragraph (f) of this section and be printed by the company that will print the manifest as identified in the application approved under paragraph (c) of this section.

(2) The registrant must submit a description of the manifest samples as follows:

(i) Paper type (i.e., manufacturer and grade of the manifest paper);

(iv) Method of binding the copies.

#### **262.21(d)(3) insert language as shown to add details for continuation sheet printing:**

(3) The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.

#### **262.21(e) insert language to add details of printing requirements and how to get EPA's approval for a company to print manifests as shown:**

(e) EPA will evaluate the forms and either approves the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its forms until EPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved under paragraph (c) and the manifest specifications in paragraph (f) of this section. It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions, and binding method of its approved forms.

**262.21(f)(1)-(6), (6)(i) and (vi): Add language to 262.21(f)(1)-(6), (6)(i) and (vi) as shown. The rest of the section remains the same.**

(1) The manifest and continuation sheet must be printed with the exact format and appearance as EPA Forms 8700-22 and 8700-22A, respectively. However, information required to complete the manifest may be pre-printed on the manifest form.

(2) A unique manifest tracking number assigned in accordance with a numbering system approved by EPA must be pre-printed in Item 4. The tracking number must consist of a unique three-letter suffix following nine digits.

(3) The manifest and continuation sheet must be printed on durable 8.5x11 inch white paper, excluding common stubs (e.g., top- or side-bound stubs). The paper must be durable enough to withstand normal use.

(4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, and faxed, except that the marginal words indicating copy distribution must be in red ink.

(5) The manifest and continuation sheet must be printed as six copy forms. Copy-to-copy registration must be exact within 1/32nd of an inch. Handwritten and typed impressions on the form must be legible on all six copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.

(6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:

(i) Page 1: (top copy): "Designated facility to destination state (if required)."

(vi) Page 6: (bottom copy) "Generator's initial copy."

**262.21(h)(1)-(3) add instructions on updating a printing application and the resulting approval process as shown:**

(1) If an approved registrant would like to update any of the information provided in its application approved under paragraph (c) of this section (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the EPA Director of the Office of Resource Conservation and Recovery, along with an indication or explanation of update as soon as practicable after the change occurs. The Agency either will approve or deny the revision. If the Agency denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.

(2) If registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the EPA Director of the Office of Resource Conservation and Recovery, along with the reason for requesting it. The Agency will approve the suffix or deny the suffix and provide an explanation why it is not acceptable.

(3) If a registrant would like to change paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval under paragraph (e) of this section, then the registrant must submit three samples of the revised form for EPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. EPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decisions by mail. The registrant cannot use or distribute its revised forms until EPA approves them.

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### **262.21(i)-(l) language is added to clarify the printing requirements and approval process.**

(i) If, subsequent to its approval under paragraph (e) of this section, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by EPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. EPA will evaluate the manifests or continuation sheet to the registry for approval. EPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. EPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until EPA approves them.

(j) EPA may exempt a registrant from the requirement to submit form samples under paragraph (d) or (h)(3) of this section if the Agency is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions and binding method of the form samples approved for some other registrant). A registrant may request an exemption from EPA by indicating why an exemption is warranted.

(k) An approved registrant must notify EPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.

(l) If, subsequent to approval of a registrant under paragraph (e) of this section, EPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's forms is unsatisfactory, EPA will contact the registrant and require modifications to the form.

### **262.21(m)(1) & (i) adds details of the printing process that could result in EPA's revocation of printing privileges.**

(1) EPA may suspend and, if necessary, revoke printing privileges if we find that the registrant:

(i) Has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or

### **262.23 (f) Insert paragraph (f) and (1) - (4) to add omitted requirements for the shipment of rejected hazardous waste or container residues. This part also corrects an error regarding a designated facility's preparation of a new manifest in certain returned shipments.**

(f) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 CFR 264.72(f) or 265.72(f)), the generator must:

(1) Sign either:

(i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

(ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;

(2) Provide the transporter a copy of the manifest;

(3) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

(4) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

**262.32(b) make the following changes to the container marking as shown:**

**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** \_\_\_\_\_

**Generator's EPA Identification Number** \_\_\_\_\_

**Manifest Tracking Number** \_\_\_\_\_

**262.42(c) add new section at (c) which includes (c), parts (1) and (2) and a Note to paragraph (c).**

(c) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 264.72(e)(1) through (6) or 265.72(e)(1) through (6)), the generator must comply with the requirements of paragraph (a) or (b) of this section, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of paragraph (a) or (b) of this section for a shipment forwarding such waste to an alternate facility by a designated facility:

(1) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility, and

(2) The 35/45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

262.42(c) Note to paragraph (c): The submission to the Department 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.

**264.72(e)(6) add the omitted language as shown to provide instructions on what to do with a copy of the certification that the waste was properly packaged and labeled:**

(6) Sign the Generator's/Offerrer'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, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

**264.72(f)(1) corrections and details for filling out the manifest are added; change “generator’s” to “facility’s” name and address in three places for filling out the new manifest and add “of the new manifest” at the end of the last sentence after “in the designated space for Item 5” as shown:**

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

**264.72(f)(7) and (8) correct language to add number (8) as shown:**

(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) and (8) of this section.

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### **265.72(e)(6) correct by adding omitted language at end of paragraph to determine where the signed generators certification is to be mailed as shown:**

(6) Sign the Generator's/Offerror'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, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

### **265.72(f)(1) make corrections to change “generator’s” to “facility’s” address throughout and where to get this information on the new manifest as shown:**

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

### **265.72(f)(7) Two omission were made in this section: 18(a) was omitted in the first sentence and the last sentence omitted “and (8)”. Make corrections as shown:**

(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), (6), and (8) of this section.

### **265.72(f)(8) The whole section was omitted so insert this section as shown:**

(8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in 262.42(a).

### **Statement of Need and Reasonableness:**

This Statement of Need and Reasonableness was determined based on staff analysis pursuant to S.C. Code Ann. Section 1-23-115(c)(1)-(3) and (9)-(11), S.C. Code of Laws, 1976, as amended.

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

Purpose: The purpose of these amendments is to maintain State consistency with regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 261 through 270, between July 1, 2009 and June 30, 2010. The Department also corrected minor errors and inserted language into the National Manifest requirements that was inadvertently omitted when it was originally adopted.

Legal Authority: South Carolina Hazardous Waste Management Act, 1976 S.C. Code Ann. Sections 44-56-10 et seq., S.C. Code of Laws, 1976, as amended.

Plan for Implementation: Existing staff of the Division of Waste Management will implement these changes and will provide a hard copy or CD of R.61-79 to the community at cost through the Department's Freedom of Information Office. Also, a copy of the regulation will be published in electronic form on the SCDHEC Bureau of Land and Waste Management web site.

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

Adoption of the amendments and corrections to R.61-79 will enable compliance with recent federal amendments. See Purpose above.

**DETERMINATION OF COSTS AND BENEFITS:**

These regulatory amendments are 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 and law.

- (1) The OECD Rule will be managed at the national level, because the federal government manages import and export requirements but the states are required to adopt the rule into state regulations.
- (2) The Emission Comparable Fuel (ECF) exclusion has been removed and ECF will be regulated as a hazardous waste while the exclusions for comparable fuel and synthesis gas are not affected.
- (3) The technical corrections section have no costs associated with the corrections and potentially could save money by keeping costly mistakes from occurring.
- (4) The correction of the omission of some of the language of the National Manifest Rule has no costs associated with the corrections and will assure the National Manifest Rule will be written and implemented as intended.

**UNCERTAINTIES OF ESTIMATES:**

No known uncertainties.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

- (1) The OECD Rule: the federal government has authority for all import/export of hazardous waste. States are required to adopt the rule into state regulation to make sure each state knows how to implement the rule at the state level and how to handle the import/export of hazardous waste correctly.
- (2) The Withdrawal of the Emission Comparable Fuel Exclusion was done because EPA felt the ECF produced from secondary materials is more appropriately classified as a discarded material and regulated as a hazardous waste under RCRA. The exclusions for comparable fuel and synthesis gas fuel remain unchanged.
- (3) Hazardous Waste Technical Corrections and Clarifications were adopted in an effort to maintain good governmental practices, regulations need to be updated to make sure cross references and citations are correct. The technical corrections were promulgated to assure that the regulations reference the correct citations and that changes that have occurred over time are accurately reflected in regulation.
- (4) National Manifest Rule. The goal of the RCRA regulation was to tract hazardous waste from the point of generation to the grave. Previously, each state had its own state manifest system. In passing the National Manifest Rule, EPA was attempting to have one standard for documenting the shipping of hazardous waste throughout the country. In today's action, language that was inadvertently omitted in the state's adoption of the national rule was corrected, resulting in avoiding the mishandling of transporting hazardous waste.

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### **DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:**

(1) The OECD Rule. If the OECD Rule had not been adopted, it could have led to mishandling and reporting of the import/export of hazardous waste at the state level. While the export and import of hazardous waste is managed at the national level, the states needed to incorporate the rule into state regulation to assure procedures are followed to facilitate proper and safe management of the import and export of hazardous waste

(2) Withdrawal of the ECF Exclusion. If this rule had not been adopted, fuel that should be handled as hazardous waste would not be subject to being managed as a hazardous waste, subjecting the population and the environment to exposure to hazardous waste.

(3) Hazardous Waste Technical Corrections and Clarifications. If these corrections had not been adopted, errors could have been made in the management of hazardous waste, needlessly exposing people and the environment to the dangers of hazardous waste.

(4) National Manifest Rule. If this rule had not been adopted, errors could have been made in the documentation of the transportation of hazardous waste leading to potential harm to the transporter, the public and the environment.