

## R.61-63, Radioactive Materials (Title A) – Proposed Amendment

State Register Document No. 4958

Exempt from General Assembly review

Link to published Notice of Proposed Regulation (“NPR”): [www.scstatehouse.gov/regs/4958.docx](http://www.scstatehouse.gov/regs/4958.docx)

### Status |

NPR published; comment period closed

### Contact Information |

**Lynne Garner**, Bureau of Land and Waste Management  
2600 Bull Street | Columbia, SC 29201  
[garnerld@dhec.sc.gov](mailto:garnerld@dhec.sc.gov)

### Summary |

The federal Atomic Energy Act of 1954 enables the United States Nuclear Regulatory Commission (“Commission”) to enter into agreements with state governors allowing for state regulation of byproduct, source, and special nuclear material. 42 U.S.C. Section 2121. The Commission enters into such agreements if it finds the state regulatory program complies with applicable federal regulations. *Id.* To renew South Carolina’s ongoing agreement with the Commission, the Department of Health and Environmental Control (“Department”) proposes amendments to R.61-63 for compliance with the Commission’s federal regulatory updates. The proposed amendments add clarifications or corrections to Part II of the regulation. Additionally, the proposed amendments authorize the Department to review their general licensees’ quality assurance program for the use of Commission-approved Type B packaging for transportation of radioactive material as required in NRC Regulation Title 10, Code of Federal Regulation (“CFR”) Part 71.

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

### History |

NOD published; comment period started:	October 25, 2019
NOD comment period closed:	November 25, 2019
Board approval to publish NPR:	February 13, 2020
NPR published; comment period started:	February 28, 2020
NPR comment period closed:	March 30, 2020
Public Hearing (rescheduled):	July 9, 2020
(canceled):	May 7, 2020

## R.61-79, Hazardous Waste Management Regulations – Proposed Amendment

General Assembly review required

Link to published Notice of Drafting (“NOD”): [State Register Volume 44, Issue 4 \(Page 83\)](#)

### Status |

NOD comment period open:  
April 24, 2020 – May 26, 2020

### Submit Comments To |

**Joe Bowers**, Bureau of Land and Waste Management  
2600 Bull Street | Columbia, SC 29201  
[bowersjb@dhec.sc.gov](mailto:bowersjb@dhec.sc.gov)

### Summary |

Pursuant to R.61-79, Hazardous Waste Management Regulations, the Department has the authority to manage hazardous wastes in the state of South Carolina. The Department proposes amending R. 61-79 to adopt two final rules published by the United States Environmental Protection Agency (“EPA”). Because these two rules make standards less stringent than the standards authorized states have been enforcing, the EPA has made adoption optional. The two final rules are summarized as follows:

1. The Department proposes adopting the rule titled “Safe Management of Recalled Airbags,” published on November 30, 2018, at 83 FR 61552-61563. This rule provides a conditional exemption from the Resource Conservation and Recovery Act (“RCRA”) hazardous waste requirements for entities, including automobile dealerships, automotive salvage and scrap yards, independent repair facilities and collision centers, that collect airbag modules and inflators (“airbag waste”) from automobiles as long as certain conditions are met. This rule will help facilitate a more expedited removal of defective airbag inflators.

2. The Department proposes adopting the rule titled “Universal Waste Regulations: Addition of Aerosol Cans,” published on December 9, 2019, at 84 FR 67202-67220. This rule adds hazardous waste aerosol cans to the universal waste program under the federal Resource Conservation and Recovery Act (“RCRA”) regulations. This change is expected to reduce regulatory burdens for retail stores and other establishments that generate, manage and dispose of aerosol cans by providing a clear, protective system for handling waste aerosol cans. This will promote the collection and recycling of aerosol cans and encourage the development of municipal and commercial programs to reduce the amount of aerosol can waste going to municipal solid waste landfills or combustors.

The Department may also include changes such as corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

## R.61-79, Hazardous Waste Management Regulations – Proposed Amendment

Exempt from General Assembly review

Link to published Notice of Drafting (“NOD”): [State Register Volume 44, Issue 4 \(Page 83\)](#)

### Status |

NOD comment period open:  
April 24, 2020 – May 26, 2020

### Submit Comments To |

**Joe Bowers**, Bureau of Land and Waste Management  
2600 Bull Street | Columbia, SC 29201  
[bowersjb@dhec.sc.gov](mailto:bowersjb@dhec.sc.gov)

### Summary |

Pursuant to R.61-79, Hazardous Waste Management Regulations, the Department has the authority to manage hazardous wastes in the state of South Carolina. The Department proposes adopting the rule titled “Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine,” published on February 22, 2019, at 84 FR 5816-5950. This rule, published in the Federal Register by the Environmental Protection Agency (“EPA”), creates new standards for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in lieu of the generator regulations in Part 262 of R.61-79. To better protect drinking and surface water, this rule establishes prohibitions on facilities from disposing of hazardous waste pharmaceuticals down the drain. This regulation also maintains the household hazardous waste exemption for pharmaceuticals collected during pharmaceutical take-back programs and events, while ensuring their proper disposal and codifies EPA’s prior policy on the regulatory status of nonprescription pharmaceuticals going through reverse logistics. In addition, under this new rule, U.S. Food and Drug Administration-approved, over-the-counter nicotine replacement therapies (i.e., nicotine patches, gums and lozenges) will no longer be considered hazardous waste when discarded. This final rule also establishes a policy on the regulatory status of unsold retail items that are not pharmaceuticals and are managed via reverse logistics.

Pursuant to the Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(H)(1), this proposed amendment is exempt from General Assembly review because it is necessary to maintain compliance with federal law.

## R.61-79, Hazardous Waste Management Regulations – Proposed Amendment

State Register Document No. 4883

General Assembly review required

Link to Notice of Final Regulation (“NFR”) for legislative review: [www.scstatehouse.gov/regs/4883.docx](http://www.scstatehouse.gov/regs/4883.docx)

### Status |

Legislative review of NFR began: January 2020

### Contact Information |

**Joe Bowers**, Bureau of Land and Waste Management  
2600 Bull Street | Columbia, SC 29201  
[bowersjb@dhec.sc.gov](mailto:bowersjb@dhec.sc.gov)

### Summary |

The Department proposes adopting the “Revisions to the Definition of Solid Waste Rule,” published on January 13, 2015, at 80 FR 1694-1814 and May 30, 2018, at 83 FR 24664-24671. This United States Environmental Protection Agency (“EPA”) rule revised several recycling-related provisions issued under the authority of Subtitle C of the Resource Conservation and Recovery Act. The purpose of these revisions is to encourage reclamation of hazardous secondary materials in an environmentally safe manner. The federal rule has made the recycling-related provisions less stringent than previous standards. Because the standards are now less stringent than what states have been enforcing, the EPA has made state adoption optional. The proposed amendments are described in EPA Checklist 233D2 (2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule) and Checklist 233E (Remanufacturing Exclusion). These checklists may be found at <https://www.epa.gov/rcra/rule-checklists-applications-state-authorization-under-resource-conservation-and-recovery-act>.

The Department also proposes amending R.61-79 to correct typographical errors, citation errors, and other errors and omissions that have come to the Department’s attention, such as correcting form references, updating definitions, adding language that was erroneously omitted during adoption of previous rules, and other such changes.

The Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(A), requires General Assembly review of these proposed amendments.

### History |

NOD published; comment period started:	March 22, 2019
NOD comment period closed:	April 22, 2019
Board approval to publish NPR:	May 9, 2019
NPR published; comment period started:	May 24, 2019
NPR comment period closed:	June 24, 2019
Public Hearing:	November 7, 2019

## R.61-79, Hazardous Waste Management Regulations – Final Amendment

State Register Document No. 4882

Exempt from General Assembly review

Link to published Notice of Final Regulation (“NFR”): [www.scstatehouse.gov/regs/4882.docx](http://www.scstatehouse.gov/regs/4882.docx)

### Status |

NFR published/Legal effect: November 22, 2019

### Contact Information |

**Joe Bowers**, Bureau of Land and Waste Management  
2600 Bull Street | Columbia, SC 29201  
[bowersjb@dhec.sc.gov](mailto:bowersjb@dhec.sc.gov)

### Summary |

The Department proposes amending R.61-79 to adopt three final rules published in the Federal Register by the United States Environmental Protection Agency (“EPA”). The EPA requires state adoption of these rules, as the rules do not revise existing standards to make them less stringent.

The three final rules are summarized below.

1. The Department proposes adopting the “Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule,” published on May 30, 2018, at 83 FR 24664-24671. This rule revised several recycling-related provisions associated with the definition of solid waste under Subtitle C of the Resource Conservation and Recovery Act (“RCRA”). On July 7, 2017, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated portions of this rule (see *American Petroleum Inst. v. Environmental Prot. Agency*, 883 F.3d 918 (D.C. Cir. 2018)). This ruling affects portions of the Definition of Solid Waste Rule that the Department adopted on May 27, 2016. (see State Register Document No. 4646).

2. The Department proposes adopting the “Confidentiality Determinations for Hazardous Waste Export and Import Documents,” published on December 26, 2017, at 82 FR 60894-

60901. This rule amends existing regulations regarding the export and import of hazardous wastes from and into the United States. This rule applies a confidentiality determination such that no person can assert confidential business information claims for documents related to the export, import, and transit of hazardous waste, and export of excluded cathode ray tubes. The EPA makes these changes to apply a consistent approach in addressing confidentiality claims for export and import documentation.

3. The Department proposes adopting the “Hazardous Waste Electronic Manifest System User Fee; Final Rule,” published on January 3, 2018, at 83 FR 420-462. This rule establishes the methodology the EPA will use to determine and revise user fees applicable to the electronic and paper manifests to be submitted to the national electronic manifest system (“e-Manifest system”) in accordance with the Hazardous Waste Electronic Manifest Establishment Act, P.L. 112-195. The Hazardous Waste Electronic Manifest System became operational nationwide on June 30, 2018.

Pursuant to the Administrative Procedures Act, S.C. Code Ann. Section 1-23-120(H)(1), these proposed amendments are exempt from General Assembly review because they are necessary to maintain compliance with federal law.

### History |

NOD published; comment period started:	March 22, 2019
NOD comment period closed:	April 22, 2019
Board approval to publish NPR:	May 9, 2019
NPR published; comment period started:	May 24, 2019
NPR comment period closed:	June 24, 2019
Public Hearing:	November 7, 2019

## R.61-107.4, Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals – Proposed Amendment

General Assembly review required

Link to published Notice of Drafting (“NOD”): [State Register Volume 44, Issue 5 \(Page 66\)](#)

### Status |

NOD comment period open:  
May 22, 2020 – June 22, 2020

### Submit Comments To |

**Juli Blalock**, Bureau of Land and Waste Management  
2600 Bull Street | Columbia, SC 29201

### Summary |

Pursuant to R.61-107.4, Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals, the Department oversees the recycling of food waste, yard trash, brush and other organic material to produce compost and wood mulch. The Department proposes amending R.61-107.4, to more effectively regulate composting facilities, and better protect human and environmental health. The proposed amendments will address issues including quality assurance and testing requirements, acceptance of unauthorized wastes, and permitting requirements. Proposed amendments may also include operating requirements, including material management, equipment maintenance, fire preparedness, and prevention of vectors, odors, dust, and litter. The Department also proposes amending the financial assurance requirements for permitted composting facilities to ensure the requirements are adequate for closure, post-closure, and corrective action activities, but do not create an undue burden for composters.

The Department may also include changes such as corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Ann., Section 1-23-120(A), requires General Assembly review of this proposed amendment.

## 61-107.20, Regulation Name Pending – Proposed New Regulation

General Assembly review required

Link to published Notice of Drafting (“NOD”): [State Register Volume 44, Issue 5 \(Page 66\)](#)

### Status |

NOD comment period open:  
May 22, 2020 – June 22, 2020

### Submit Comments To |

**Juli Blalock**, Bureau of Land and Waste Management  
2600 Bull Street | Columbia, SC 29201

### Summary |

During the 2018 legislative session, the General Assembly passed Act 170 (“Act”), which revised the South Carolina Solid Waste Policy and Management Act of 1991. The Act codified language at S.C. Code Ann. Section 44-96-360 *et seq.*, which establishes conditions for facilities that process or recycle construction and demolition debris.

The Department proposes a new regulation to address and implement provisions of the Act to regulate facilities that process or recycle construction and demolition debris. This new regulation, R.61-107.20, will establish requirements including registration, permitting, location, operation, and reporting requirements for construction and demolition debris processing and recycling facilities. The regulation will also address the applicability of the regulation and will clarify exemption requirements. For facilities that fail to adhere to proper procedures, the regulation will address penalties and establish procedures for the revocation or suspension of a permit.

The Administrative Procedures Act, S.C. Code Ann., Section 1-23-120(A), requires General Assembly review of this new regulation.