

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

State Register Document No. TBD

General Assembly review required

### Summary |

Summary available in State Register publication

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 and Status |

NOD published: March 22, 2019  
NOD comment period will close: April 22, 2019

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

State Register Document No. TBD

Exempt from General Assembly review

### Summary |

Summary available in State Register publication

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 and Status |

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# Land and Waste Management | Environmental Affairs

## R.61-79, Hazardous Waste Management Regulations - Final Amendment (Imports and Exports of Hazardous Waste Rule)

State Register Document No. 4840

Exempt from General Assembly review

Link to published Notice of Final Regulation | [www.scstatehouse.gov/regs/4840.docx](http://www.scstatehouse.gov/regs/4840.docx)

### Summary |

Full summary available via link above

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

### History and Status |

NOD published:	April 27, 2018
NOD comment period closed:	May 28, 2018
Board approval to publish NPR:	October 12, 2018
NPR published:	October 26, 2018
NPR comment period closed:	November 26, 2018
Public Hearing:	December 13, 2018
NFR published/Legal effect:	December 28, 2018

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## R.61-79, Hazardous Waste Management Regulations - Proposed Amendment (Hazardous Waste Generator Improvements Rule)

State Register Document No. 4841

General Assembly review required

Link to Notice of Final Regulation for legislative review | [www.scstatehouse.gov/regs/4841.docx](http://www.scstatehouse.gov/regs/4841.docx)

### Summary |

Full summary available via link above

The Department of Health and Environmental Control (“Department”) amends R.61-79, Hazardous Waste Management Regulations, to adopt the Environmental Protection Agency’s (“EPA”) Hazardous Waste Generator Improvements Rule published November 28, 2016, at 81 FR 85732 85829. The amendments support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

The amendments reorganize the hazardous waste generator regulations to improve their usability by the regulated community, provide a better understanding of how the Resource Conservation and Recovery Act (“RCRA”) hazardous waste generator regulatory program works, address gaps in existing regulations to strengthen environmental protections, provide greater flexibility for hazardous waste generators to manage their hazardous waste in a cost effective and protective manner, and make technical corrections to address inadvertent errors and remove obsolete references to programs that no longer exist.

The EPA periodically promulgates regulations that are either mandatory for authorized state programs to adopt or maintain program equivalency or are optional for states because the changes are less stringent than the current federal regulations. While the majority of the EPA’s Hazardous Waste Generator Improvements Rule is equivalent to current state regulations and optional for state adoption, several provisions are more stringent and must be adopted by the Department to maintain federal program authorization. Due to the interrelated nature of the equivalent provisions and the more stringent provisions, the Department has adopted the rule in a single drafting that required General Assembly review.

### History and Status |

NOD published:	April 27, 2018
NOD comment period closed:	May 28, 2018
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Legislative review of NFR began:	January 8, 2019

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