



Solid Waste Policy and Management Act – May 2018 Amendments

In late 2016, DHEC convened a group of stakeholders to address concerns that the recycling exemption in the Solid Waste Policy and Management Act (Act) was too broad to adequately address a growing problem at some facilities that process construction and demolition (C&D) debris. At that time DHEC identified the following concerns:

- The Act exempted facilities from permitting requirements if they recycled 75% by weight of the material managed.
- The 75% condition allowed the processors of C&D debris to remain exempt from permit requirements by recycling heavy materials, such as concrete, while continuing to accumulate other materials. The over-accumulation of material became a concern at some facilities.
- Because the exempted facilities were not regulated under authority of a permit, the Department was limited on the available actions they could take to require facilities to take actions.

The stakeholders developed a consensus document that established parameters for C&D recycling, which included additional permitting requirements for certain facilities. Based on the recommendations of the stakeholder group, an amendment to the Act was introduced in January of 2018, and became effective May 3, 2018. The following changes were made to the Act:

- Require all C&D debris processing or recycling facilities to register with the Department.
- Exempt two types of C&D debris processors from permit requirement: those that accept only source separated C&D material, and existing facilities of 2 acres or less.
- Require facilities that process **mixed** C&D debris to obtain a permit and provide financial assurance funding. Permits are issued pursuant to R.61-107.6 SWM: Solid Waste Processing Facilities.

C&D Processing facilities are now required to register with the Department, and in some cases, to obtain a permit to continue operating. Facilities were given 60 days from May 3, 2018 to register with the Department, 12 months to submit a complete permit application, and 24 months to secure a permit and provide financial assurance. Those who cannot meet the exemption requirements and cannot obtain a permit within the 24-month period, are required to close in accordance with the requirements of R.61-107.6.

The May 3, 2018 changes to the Act also included the establishment of the Solid Waste Emergency Fund. The Act directs the Department to transfer 2.5% of the funds remitted quarterly to the Solid Waste Management Trust Fund to a special sub-fund designated as the Solid Waste Emergency Fund.

The department is to deposit quarterly payments into the Solid Waste Emergency Fund until the unencumbered balance equals \$1,500,000. When expenditures from the account occur, the department is to again begin to transfer funds until such time as the unencumbered balance of the fund equals \$1,500,000.

The Fund may be used by the department exclusively at the discretion of the director to “address a substantial release or threat of substantial release into the environment of any pollutant or other circumstance which may present an imminent and substantial danger to human health and the environment from a solid waste facility...” The department may use the funding directly or by contract to perform “emergency actions to protect human health and the environment.”