

1980 WL 120921 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 9, 1980

***1 Re: Financial Responsibility for Hazardous Waste Management Activities**

Paul V. Hawkins
Manager
Insurance Reserve Fund
Division of General Services
300 Gervais Street
Columbia, S.C. 29201

Dear Mr. Hawkins:

The Department of Health and Environmental Control (DHEC) has recently brought to my attention a problem which involves the General Services Insurance Fund and the adequacy of insurance coverage presently afforded to State-owned and operated facilities, such as hospitals, universities, and laboratories, which have recently become subject to the Department's Hazardous Waste Management [Regulations \(R. 61-79, et seq.\)](#) which were promulgated pursuant to [Section 44-56-10, et seq., of the 1976 Code of Laws of South Carolina](#), as amended.

Of particular concern are the provisions relating to financial responsibility contained primarily in R.61-79.5 which establishes requirements for maintaining financial responsibility for sudden and accidental occurrences in a minimum amount of one million dollars (\$1,000,000.00) with an annual aggregate of two million dollars (\$2,000,000.00). These amounts are required for the issuance of a permit to treat, store, or dispose of hazardous waste. Since many State-owned and operated facilities treat, store, or dispose of hazardous waste as defined by the law and regulation, it is clear that their compliance is required. The U.S. Environmental Protection Agency's (EPA) regulations which will become final on or about November 19, 1980, are expected to establish similar amounts after having been reduced from the originally proposed five million dollars (\$5,000,000.00) minimum with an annual aggregate of ten million dollars (\$10,000,000.00) for such activities; therefore, no conflict is anticipated when they become effective.

Since EPA has elected to defer the establishment of amounts for transporters of hazardous waste to the U.S. Department of Transportation (DOT), their regulations will not contain transporter requirements. DOT's regulations are expected some time later next year. Accordingly, DHEC on September 26, 1980 amended by emergency regulation the levels of financial responsibility required for hazardous waste transporters by reducing the sudden and accidental coverage to one hundred thousand dollars (\$100,000.00), each person; three hundred thousand dollars (\$300,000.00), each occurrence, bodily injury; and three hundred thousand dollars (\$300,000.00) per occurrence, property damage. Transportation requirements had previously been identical to those concerning treatment, storage, or disposal facilities.

As a result of the DHEC Board's recent action, it appears that transporter coverage is no longer a matter of immediate concern since present coverage can provide the required level of financial protection. However, it is also apparent that the present requirements for treatment, storage, and disposal facilities, which apply to State-owned and operated facilities, exceed the current coverage provided through the Division of General Services. It therefore appears necessary to take immediate action to obtain the required coverage in order to avoid any interruption of present activities by State bodies.

***2** I trust the preceding discussion adequately explains the situation, however, if any further explanation or assistance is required in obtaining the necessary coverage, please do not hesitate to contact me.

Very truly yours,

Daniel R. McLeod
Attorney General

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