



# 2022 Five-Year Regulatory Review

June 30, 2022



S.C. Department of Health and  
Environmental Control



# Executive Summary |

Pursuant to S.C. Code Section 1-23-120(j) of the Administrative Procedures Act, a state agency that promulgates regulations must conduct a formal review of its regulations every five years. Upon completing the review, the agency submits a report to the Code Commissioner of the South Carolina Legislative Council identifying which regulations the agency recommends for amendment, repeal, or no changes to be made.

The Department of Health and Environmental Control (“Department” or “DHEC”) completed its last five-year review in 2017, recommending a total of 75 regulatory development actions. The chart below shows the recommended actions for regulations for each category.

## 2017 Recommendations

Amendment	Repeal	No Change
66	9	79

As a result of these recommendations, 29 regulatory development actions were completed between 2017 and 2022.

The Office of General Counsel (OGC) initiated the review process for this year’s five-year review in February 2022. Over several months, Department personnel completed templates for internal analysis purposes that considered multiple factors, among which included scope relative to statutory authority, stakeholder concerns, and the efficacy and breadth of requirements. Appropriate management, OGC, and Executive Leadership Team members reviewed the templates and determined final recommendations.

The final 2022 regulatory review yielded the following recommendations, based on the findings of the analysis templates. The final recommendations report and templates are contained herein.

## 2022 Recommendations

Amendment	Repeal	No Change
33	4	112

OGC will work with the DHEC Director, ELT members, management, and program staff over the course of five years to conduct the promulgation process for these recommendations.



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## 2022 Recommendations |

### Administration General Counsel

Regulation No.	Regulation Title	Recommendation
61-117	Access to Restricted Information	No change

### Environmental Affairs Administration

Regulation No.	Regulation Title	Recommendation
61-30	Environmental Protection Fees	No change
61-47	Shellfish	No change
61-115	Environmental Electronic Reporting Requirements	No change

### Air Quality

Regulation No.	Regulation Title	Recommendation
61-62.1	Air Pollution Control Regulations and Standards – Definitions and General Requirements	No change
61-62.2	Prohibition of Open Burning	No change
61-62.3	Air Pollution Episodes	No change
61-62.4	Hazardous Air Pollution Conditions	No change
61-62.5, Std. 1	Emissions from Fuel Burning Operations	No change
61-62.5, Std. 2	Ambient Air Quality Standards	No change
61-62.5, Std. 3	Waste Combustion and Reduction	No change
61-62.5, Std. 3.1	Hospital/Medical/Infectious Waste Incinerators (HMIWI)	No change
61-62.5, Std. 4	Emissions from Process Industries	No change
61-62.5, Std. 5	Volatile Organic Compounds	No change
61-62.5, Std. 5.2	Control of Oxides of Nitrogen (NOx)	No change
61-62.5, Std. 7	Prevention of Significant Deterioration	No change
61-62.5, Std. 7.1	Nonattainment New Source Review (NSR)	No change
61-62.5, Std. 8	Toxic Air Pollutants	No change
61-62.6	Control of Fugitive Particulate Matter	No change
61-62.7	Good Engineering Practice Stack Height	No change
61-62.60	South Carolina Designated Facility Plan and New Source Performance Standards	Amend
61-62.61	National Emission Standards for Hazardous Air Pollutants (NESHAP)	No change
61-62.63	National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories	Amend
61-62.68	Chemical Accident Prevention Provisions	No change
61-62.70	Title V Operating Permit Program	Amend
61-62.72	Acid Rain	No change
61-62.96	Nitrogen Oxides (NOx) Budget Program	No change
61-62.97	Cross State Air Pollution Rule (CSAPR) Trading Program	No change

61-62.99	Nitrogen Oxides (NOx) Budget Trading Program Requirements for Stationary Sources Not in the Trading Program	No change
61-86.1	Standards of Performance for Asbestos Projects	No change

### Environmental Health Services

Regulation No.	Regulation Title	Recommendation
61-25	Retail Food Establishments	Amend
61-29	Environmental Health Inspections and Fees	No change
61-32	Wholesale Bottled Water, Soft Drink, and Ice Manufacturing	No change
61-34	Raw Milk for Human Consumption	No change
61-34.1	Pasteurized Milk and Milk Products	No change
61-36	Manufactured Grade Dairy Products	No change
61-56	Onsite Wastewater Systems	No change
61-81	State Environmental Laboratory Certification Program	No change

### Land and Waste Management

Regulation No.	Regulation Title	Recommendation
61-33	Drycleaning Facility Restoration Trust Fund	No change
61-63	Radioactive Materials (Title A) (This regulation is co-regulated with Radiological Health in Healthcare Quality)	Amend
61-79	Hazardous Waste Management Regulations	No change
61-83	Transportation of Radioactive Waste Into or Within South Carolina	Amend
61-92	Underground Storage Tank Control Regulations	No change
61-98	State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation	No change
61-104	Hazardous Waste Management Location Standards	No change
61-105	Infectious Waste Management Regulation	Amend
61-107.1	Solid Waste Management: Solid Waste Management Grants, Recycling Education Grants, and Waste Tire Grants	Amend
61-107.2	Solid Waste Management: Full Cost Disclosure	No change
61-107.3	Solid Waste Management: Waste Tires	Amend
61-107.4	Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings, and Organic Residuals	No change
61-107.5	Solid Waste Management: Collection, Temporary Storage and Transportation of Solid Waste	No change
61-107.6	Solid Waste Management: Solid Waste Processing Facilities	No change
61-107.7	Solid Waste Management: Transfer of Solid Waste	Amend
61-107.8	Solid Waste Management: Lead Acid Batteries	No change
61-107.9	Solid Waste Management: White Goods	No change
61-107.10	Solid Waste Management: Research, Development, and Demonstration (RDD) Permit Criteria	No change
61-107.12	Solid Waste Management: Solid Waste Incineration and Solid Waste Pyrolysis Facilities	No change
61-107.14	Solid Waste Management: Municipal Solid Waste Landfill Operator's Certification	No change
61-107.15	Solid Waste Management: Land Application of Solid Waste	No change

61-107.17	Solid Waste Management: Demonstration-of-Need	Amend
61-107.18	Solid Waste Management: Off-Site Treatment of Contaminated Soil	No change
61-107.19	Solid Waste Management: Solid Waste Landfills and Structural Fill	No change
61-107.279	Solid Waste Management: Used Oil	No change
61-124	Consumer Electronic Equipment Collection and Recovery	Amend
89-10 – 89-350	Office of the Governor – Mining Council of South Carolina	No change
121-8.0 – 121-8.28	Oil and Gas Exploration, Drilling, and Production	No change

### Ocean and Coastal Resources Management

Regulation No.	Regulation Title	Recommendation
30-1	Statement of Policy	No change
30-2	Applying for a Permit	No change
30-3	Public Hearings	No change
30-4	Decisions on a Permit	No change
30-5	Exceptions	No change
30-6	Appeals of Permit Decisions	No change
30-8	Enforcement	No change
30-9	Other Provisions	No change
30-10	Critical Area Boundaries	No change
30-11	General Guidelines for all Critical Areas	No change
30-12	Specific Project Standards for Tidelands and Coastal Waters	Amend
30-13	Specific Project Standards for Beaches and the Beach/Dune System	Amend
30-14	Administrative Procedures	No change
30-15	Activities Allowed Seaward of Baseline	No change
30-16	Documentation Requirements Before Commencing Activities Between Setback Line and Baseline	No change
30-17	Application Procedures for General Permits Pursuant to Section 48-39-290(B)(4)	No change
30-18	Beach Restoration Fund	No change
30-21	Beachfront Management Plan	No change

### Water

Regulation No.	Regulation Title	Recommendation
19-450	Permits for Construction in Navigable Waters	Repeal
61-9	Water Pollution Control Permits	Amend
61-43	Standards for the Permitting of Agricultural Animal Facilities	No change
61-44	Individual Residential Well & Irrigation Well Permitting	No change
61-50	Natural Public Swimming Areas	No change
61-51	Public Swimming Pools	Amend
61-58	State Primary Drinking Water Regulations	Amend
61-67	Standards for Wastewater Facility Construction	No change
61-68	Water Classifications and Standards	Amend
61-69	Classified Waters	Amend
61-71	Well Standards	No change

61-82	Proper Closeout of Wastewater Treatment Facilities	Amend
61-87	Underground Injection Control Regulations	No change
61-101	Water Quality Certification	Amend
61-110	Total Maximum Daily Loads (TMDLs) for Pollutants in Water	No change
61-113	Groundwater Use and Reporting	No change
61-119	Surface Water Withdrawal, Permitting, Use and Reporting	No change
72-1 – 72-9	Dams and Reservoirs Safety Act Regulations	Amend
72-101 – 72-108	Erosion and Sediment Reduction and Stormwater Management	Repeal
72-300 – 72-316	Standards for Stormwater Management and Sediment Reduction	Repeal
72-400 – 72-445	Standards for Stormwater Management and Sediment Reduction	Repeal

### Healthcare Quality Community Care

Regulation No.	Regulation Title	Recommendation
61-13	Standards for Licensing Intermediate Care Facilities for Individuals with Intellectual Disabilities	Amend
61-17	Standards for Licensing Nursing Homes	No change
61-84	Standards for Licensing Community Residential Care Facilities	No change
61-103	Residential Treatment Facilities for Children and Adolescents	No change
61-125	Standards for Licensing Crisis Stabilization Unit Facilities	No change

### Drug Control

Regulation No.	Regulation Title	Recommendation
61-4	Drug Control	Amend

### Healthcare Systems + Services

Regulation No.	Regulation Title	Recommendation
61-3	The Practice of Selling and Fitting Hearing Aids	No change
61-7	Emergency Medical Services	No change
61-12	Standards for Licensing Abortion Clinics	No change
61-16	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	Amend
61-24	Licensed Midwives	No change
61-75	Standards for Licensing Day Care Facilities for Adults	No change
61-77	Standards for Licensing Home Health Agencies	No change
61-78	Standards for Licensing Hospices	No change
61-91	Standards for Licensing Ambulatory Surgical Facilities	No change
61-93	Standards for Licensing Facilities for Chemically Dependent or Addicted Persons	No change
61-96	Athletic Trainers	No change
61-97	Standards for Licensing Renal Dialysis Facilities	No change

61-102	Standards for Licensing Birthing Centers for Deliveries by Midwives	No change
61-108	Standards for Licensing Freestanding or Mobile Technology	No change
61-109	Standards for Permitting Body Piercing Facilities	No change
61-111	Standards for Licensing Tattoo Facilities	No change
61-116	South Carolina Trauma Care Systems	No change
61-118	South Carolina Stroke Care System	No change
61-122	Standards for Licensing In-Home Care Providers	Amend
61-123	Critical Congenital Heart Defects Screening on Newborns	No change

### Planning + Construction

Regulation No.	Regulation Title	Recommendation
61-15	Certification of Need for Health Facilities and Services	Amend
61-31	Healthcare Cooperative Agreements	No change
61-95	Medicaid Nursing Home Permits	No change

### Radiological Health

Regulation No.	Regulation Title	Recommendation
61-63	Radioactive Materials (Title A) (This regulation is co-regulated with Land + Waste in Environmental Affairs)	Amend
61-64	X-Rays (Title B)	Amend
61-65	Particle Accelerators (Title C)	No change
61-106	Tanning Facilities	No change

## Public Health

### Chronic Disease + Injury Prevention

Regulation No.	Regulation Title	Recommendation
61-45	South Carolina Central Cancer Registry	Amend

### Communicable Disease Prevention + Control

Regulation No.	Regulation Title	Recommendation
61-8	Immunization Requirements for School and Childcare Attendance	No change
61-20	Communicable Diseases	No change
61-21	Sexually Transmitted Diseases	Amend
61-22	The Evaluation of Staff of Schools and Child Care Centers for Tuberculosis	No change
61-120	South Carolina Immunization Registry	No change

### Community Health Services

Regulation No.	Regulation Title	Recommendation
61-19	Vital Statistics	Amend

### Community Nutrition Services

Regulation No.	Regulation Title	Recommendation
61-94	WIC Vendors	Amend

### Maternal + Child Health

Regulation No.	Regulation Title	Recommendation
61-114	South Carolina Birth Defects Program	No change

### Public Health Laboratory

Regulation No.	Regulation Title	Recommendation
61-80	Neonatal Screening for Inborn Metabolic Errors and Hemoglobinopathies	No change

### Public Health Preparedness

Regulation No.	Regulation Title	Recommendation
61-112	Implementation of Emergency Health Powers Act	No change



<b>Regulation:</b>	<b>61-117</b>	<b>Access to Restricted Information</b>		
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input checked="" type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	General Counsel			
<b>Program:</b>	Freedom of Information Office			
<b>Program Contact:</b>	Name: Karla Bishop		Email: bishopky@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Section 30-4-45

**2. Regulation Overview:**

- A. Regulation Synopsis: These provisions were added to the FOIA in 2002 after the 9/11 terrorist attacks. The Act requires the Department to regulate and restrict access to information, the release of which could increase the risk of acts of terrorism. In accordance with the Act, the Department, by written notification to the S.C. Attorney General, identifies the types of information that are restricted. The regulation sets out the procedures and conditions for the information’s limited release consistent with the Act. According to the FOIA, access to the information is limited to federal, state, and local authorities that need the information to carry out their official government functions, and to persons who live or work in a “vulnerable zone” as that term is defined in the Act. Release of restricted information may also be allowed by the Department in response to a special request if its use is solely to advance knowledge about South Carolina’s environment or to otherwise benefit the State.
- B. Date of Initial Promulgation: May 25, 2012 (Doc. No. 4197, Vol. 36, Iss. 5)
- C. Promulgation Synopsis: See 2.A.

**3. Nature of Public Input Received:**

No stakeholder comments were received.

**4. Evaluation:**

- A. Continued Need: The regulation is still needed to regulate and restrict access to information that could increase the risk of acts of terrorism.
- B. Efficacy: The regulation is consistent with statutory authority. Restricted and non-restricted information categories are still relevant, as are the technological means by which to transmit requested information.
- C. Breadth: This is not written too broadly, nor are the scope and clarity too narrow.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The regulation as written fulfills the necessary requirements.			

<b>Regulation:</b>	<b>61-30 Environmental Protection Fees</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Administration			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Rebecca Sproles		Email: <a href="mailto:sprolemr@dhec.sc.gov">sprolemr@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 48-2-50 and 48-39-145

**2. Regulation Overview:**

- A. Regulation Synopsis: R.61-30, *Environmental Protection Fees*, is promulgated pursuant to the Environmental Protection Fund Act, S.C. Code Ann. § 48-2-50, and the Coastal Tidelands and Wetlands Act, S.C. Code Ann. §§ 48-39-145. The Acts authorize the Department to establish, charge, and collect fees for environmental programs it administers in accordance with federal and state laws and regulations. R.61-30 prescribes the fees applicable to applicants and holders of permits, licenses, certificates, certifications, and registrations, (collectively, “permits”), including the Pollution Control Act, Clean Air Act, Safe Drinking Water Act, Hazardous Waste Management Act, Infectious Waste Management Act, Atomic Energy Act, Oil and Gas Act, Coastal Zone Management Program, and Laboratory Certification Services. It establishes procedures for the assessment of penalties for nonpayment, and an appeals process to contest the applicability or calculation of a fee. The regulation also establishes time schedules for Department reviews of permit applications and sets the maximum length of time necessary for review of each category of permit applications. R.61-30 was first promulgated in 1995 and was last amended in 2014.
- B. Date of Last Amendment: June 27, 2014 (Doc. No. 4460, Vol. 38, Iss. 6)
- C. Amendment Synopsis: The amendment revised Section 61-30.G(3), Schedule of Air Quality Fees, to increase fees in order to cover the cost of its Title V Permit program.

**3. Nature of Public Input Received:**

No general stakeholder comments regarding the regulation have been received to date.

**4. Evaluation:**

- A. Continued Need: The regulation is necessary to allow the Department to maintain the staff and other resources needed to conduct timely and thorough reviews of environmental permit applications by defraying some of the costs of such reviews.
- B. Efficacy: The regulation meets federal requirements where state authorization to implement the federal program (e.g., the Clean Air Act Title V operating permit program) requires fee collection.
- C. Breadth: The regulation is consistent with the statutory authority granted to the Department under the Environmental Protection Fund Act to establish fees to support environmental programs and to establish reasonable and timely review cycles for permit applications. The environmental fees and review schedules are periodically evaluated by the Department to ensure that the fees are commensurate with the resources required to adequately administer the programs and to meet the required time frames for application and permit reviews.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: Although evaluation of fees and review schedules may lead to amendments in the future, no change is recommended at this time.

<b>Regulation:</b>	<b>61-47 Shellfish</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Administration			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Rebecca Sproles		Email: <a href="mailto:sprolesmr@dhec.sc.gov">sprolesmr@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Section 44-1-140

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to South Carolina Code Section 44-1-140 (1976 Code of Laws, as amended), the Department is authorized, but not required, to promulgate and enforce rules and regulations for public health for the classification of waters and for the safety and sanitation in the harvesting, storing, processing, handling and transportation of mollusks, which includes shellfish. R.61-47, Shellfish prescribes requirements for producers, processors, harvesters, and transporters of shellfish and is intended to protect the health of consumers of shellfish. The regulation closely follows the requirements in the *National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish*. This document was developed and is routinely updated by the Interstate Shellfish Sanitation Conference (ISSC), which includes representatives from the shellfish industry, academia, and state and federal government agencies. DHEC shellfish program staff represent South Carolina on the ISSC. The US Food and Drug Administration (FDA) is the federal government agency that oversees national and international compliance with the substantive requirements of the *National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish*. DHEC and the shellfish industry in South Carolina must meet these requirements, as determined by the FDA, for South Carolina shellfish to be acceptable for interstate and international commerce. Penalties for violating this regulation and related criminal enforcement actions needed to enforce the regulation are pursuant to South Carolina Code Sections 44-1-150, 44-1-151, 44-1-152 and 44-1-155 (1976 Code of Laws, as amended). This regulation became effective on June 27, 2008.
- B. Date of Last Amendment: April 28, 2017 (Doc. No. 4736, Vol. 41, Iss. 4)
- C. Amendment Synopsis: The Department amended R.61-47 to provide specific technical requirements regarding the harvesting and handling of clams and maricultured triploid oysters during the summer months (i.e., months that require additional temperature controls) in a manner that is consistent with the national shellfish sanitation program and protects the health of the consumers of shellfish. The amendment included a requirement for certified shippers to only accept shellfish from harvesters that have received annual training on key regulatory requirements and the safe and sanitary practices related to the harvesting and handling of shellfish in South Carolina. The amendment updated several documents referenced in the regulation to the latest versions of the documents and added a definition for “mariculture” and “triploid oyster.” The amendment also included stylistic changes to correct for spelling, clarity, readability, grammar, and codification for overall improvement of the text of the regulation.

**3. Nature of Public Input Received:**

No general stakeholder comments regarding the regulation have been received to date.

**4. Evaluation:**

- A. Continued Need: R.61-47 Shellfish is necessary to protect the public from purchasing and consuming contaminated shellfish, and is also required in order for the South Carolina shellfish industry to be allowed to export products across state lines and to other countries in the world.
- B. Efficacy: The regulation adequately fulfills the statutory requirements.
- C. Breadth: The regulation is neither too broad nor too narrow as written.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: No revisions are recommended at this time.

## Environmental Affairs | Environmental Affairs Administration

<b>Regulation:</b>	<b>61-115 Environmental Electronic Reporting Requirements</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Administration			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Rebecca Sproles		Email: <a href="mailto:sprolemr@dhec.sc.gov">sprolemr@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 13-7-10 et seq., 26-6-10 et seq., 44-1-10 et seq., 44-2-10 et seq., 44-55-10 et seq., 44-55-50 et seq., 44-56-10 et seq., 44-93-10 et seq., 44-96-10 et seq., 48-1-10 et seq., 48-2-10 et seq., 48-3-10 et seq., 48-5-10 et seq., 48-14-10 et seq., 48-18-10 et seq., 48-20-10 et seq., 48-39-10 et seq., and 48-43-10 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-115 provides the framework by which the South Carolina Department of Health and Environmental Control (Department) will accept, manage, and enforce electronic record submissions from the regulated community.
- B. Date of Initial Promulgation: May 23, 2008 (Doc. No. 3149, Vol. 32, Iss. 5)
- C. Promulgation Synopsis: See item 2.A.

### **3. Nature of Public Input Received:**

No comments have been received.

### **4. Evaluation:**

- A. Continued Need: To date, the Department has not developed an electronic document receiving system as defined in R.61-115. As such, Environmental Programs in Environmental Affairs receive documents in appropriate formats and manage data in accordance with retention schedules approved by the South Carolina Department of Archives and History. Section III of this regulation does not apply to documents submitted via facsimile or electronic documents submitted via magnetic or optical media such as diskette, compact disk, digital video disk, or tape. Environmental documents submitted to Programs in Environmental Affairs are submitted on paper or on a Compact Disk. Therefore, the implementation of this regulation is pending the development of an electronic records receiving system.
- B. Efficacy: A new e-permitting initiative is currently underway to allow for electronic reporting and will be compliant with this regulation once finalized for Department implementation.
- C. Breadth: The regulation is neither too broad nor too narrow as written.

**Recommendation:**  Amend  Repeal  No change

Explanation of Recommendation: Until the e-permitting initiative is complete, the regulation does not need to be updated.

<b>Regulation:</b>	<b>61-62.1 Definitions and General Requirements</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: S.C. Regulation 61-62.1, Definitions and General Requirements, is currently a part of South Carolina’s State Implementation Plan (or SIP), which is a federally enforceable plan for how the State will demonstrate compliance with the national ambient air quality standards (or NAAQS). Once a state has adopted regulations or strategies adopted into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.” Regulation 61-62.1 establishes the foundation for much of the Bureau of Air Quality’s permitting program. Regulation 61-62.1 includes a list of definitions (Section I), permit requirements (Section II), emission inventory requirements (Section III), source testing requirements (Section IV), and a section on credible evidence (Section V). This regulation became effective on February 25, 1983, and it affects nearly every permitted facility in the state.
- B. Date of Last Amendment: April 24, 2020 (Doc. No. 4873, Vol. 44, Iss. 4)
- C. Amendment Synopsis: The Department last revised this regulation to update public participation procedures and expand and improve consistency in language regarding general and registration permits. The Department also made corrections for internal consistency, punctuation, and codification. This revision was part of the Department’s 2018 General Assembly Package and required legislative review.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation in response to notice of the Five-Year Review. The Department expects that it will receive comments on this regulation in the future as it is the primary means to establish and address permitting requirements. The Department continues to work with sources to streamline the requirements in Regulation 61-62.1 where possible while protecting the health and environment of the state.

**4. Evaluation:**

- A. Continued Need: As noted above in the Regulation Synopsis, this regulation is essential to establishing the requirements for sources operating in South Carolina to apply for and obtain construction and operating permits, comply with emissions inventory reporting, and conduct source testing that will serve to protect the health and environment of the state. It is also an integral part of South Carolina’s federally enforceable SIP, and this regulation is necessary to ensure continued federal approval of the SIP.
- B. Efficacy: This regulation is a key part of South Carolina’s SIP, which establishes definitions and state-specific air quality permitting, emission reporting, and source testing requirements. This regulation has undergone many revisions over the years, and as part of the revision process, the regulation undergoes

evaluation by other bureaus to identify conflicts. This regulation is not redundant in that no conflicts between this regulation and other Department regulations have been identified.

- C. Breadth: The regulation is comprehensive in scope, serving as the foundation for all air quality permitting in South Carolina. Over the years, significant effort has been made to reduce the complexity of this regulation, including several recent efforts to streamline and clarify the permit requirements for sources in South Carolina. Such streamlining efforts have included providing permitting exemptions, establishing registration permits, and adopting reduced reporting requirements. Amendments to Regulation 61-62.1 have involved extensive stakeholder outreach (including small businesses representatives), and no adverse complaints have been received regarding final amendments.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.			

<b>Regulation:</b>	<b>61-62.2 Prohibition of Open Burning</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: S.C. Regulation 61-62.2, Prohibition of Open Burning, is currently a part of South Carolina’s State Implementation Plan (SIP), which is a federally enforceable plan for how the State will demonstrate compliance with the national ambient air quality standards (NAAQS). Once a state has adopted regulations or strategies adopted into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.” Regulation 61-62.2 prohibits open burning except when carried out in compliance with one of the specific exemptions specified in the regulation.
- B. Date of Last Amendment: December 27, 2013 (Doc. No. 4387, Vol. 37, Iss. 12)
- C. Amendment Synopsis: The regulation was last amended to make minor formatting changes for consistency.

**3. Nature of Public Input Received:**

The Department has not received any specific comments on this regulation in response to notice of this Five-Year Review. Over the years the Department has worked with stakeholders including small business owners (e.g., Landscapers) to help address their concerns and offer alternatives for waste disposal. Regional Department staff also respond to many complaints and concerns from citizens regarding open burning incidents. Typically, these complaints raise concerns about smoke and/or the type of materials being burned.

**4. Evaluation:**

- A. Continued Need: Regulation 61-62.2 remains a vital part of DHEC’s air quality management planning. It is currently part of the SIP and is necessary to ensure continued federal approval of the SIP. Open burning (regardless of material being burned) produces particulate matter (PM), reduces visibility, and can endanger public health and the environment. Regulation 61-62.2 attempts to address these concerns and is therefore necessary.
- B. Efficacy: Regulation 61-62.2 is essential to establishing the state limits for the open burning of materials and limiting this type of burning during the ground-level ozone season. It is also essential to maintaining compliance with the NAAQS, to protect the health of the public and environment. Declining concentrations of criteria pollutants indicate the effectiveness of Regulation 61-62 (including Regulation 61-62.2). S.C. Regulation 61-62.2 is essential to meeting and maintaining the NAAQS and is not duplicative.
- C. Breadth: Regulation 61-62.2 comprehensively addresses open burning concerns by prohibiting all open burning except where authorized by specific exemption. Regulation 61-62.2 is utilized by many

municipalities in the state as the minimum threshold for limiting open burning. Some municipalities have formally adopted this regulation into their own local standards or have further restricted the standard for their own community needs. As stated before, Regulation 61-62.2 is a fundamental part of South Carolina's air quality management program, addressing an important component of the SIP and ensuring compliance with the NAAQS.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.3 Air Pollution Episodes</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: 40 CFR Part 51, Subpart H requires the State to have in place an emergency episode plan, the purpose of which is to prevent the excessive buildup of air pollutants by recognizing atmospheric conditions conducive to such buildup and initiating effective remedial actions before the concentrations can build to unhealthy levels. Regulation 61-62.3, promulgated by the Department pursuant to authority under the *Pollution Control Act*, S.C. Code section 48-1-10 et seq., implements this federal requirement. Regulation 61-62.3 has been adopted into the State Implementation Plan (SIP), which is a federally enforceable plan showing how the State will demonstrate compliance with the national ambient air quality standards (NAAQS). EPA issues NAAQS for six common air pollutants, commonly called “criteria pollutants.” Once a state adopts regulations or strategies into its SIP, it cannot remove or change those regulations or strategies unless the state demonstrates that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”
- B. Date of Last Amendment: April 26, 2013 (Doc. No. 4330, Vol. 37, Iss. 4)
- C. Amendment Synopsis: The regulation was last amended to correct a typographical error/omission.

**3. Nature of Public Input Received:**

There have not been any public comments or complaints received regarding this regulation since 2013.

**4. Evaluation:**

- A. Continued Need: This regulation, being part of the federally approved and enforceable SIP, is needed if conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency are deemed to exist. Under the regulation, action will be taken whenever the Department determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to human health.
- B. Efficacy: This regulation sets forth criteria to designate an air pollution episode and required remedial actions. The actions required include voluntary emission reduction actions at the watch level, and mandatory emission reduction actions at the alert and emergency levels. At the emergency level, mandatory actions include curtailment of a wide range of economic activities to reduce emissions from point, area, and mobile sources. The remedial actions set forth in the regulation are designed to ensure that any air pollution episodes can be timely and appropriately addressed.

- C. Breadth: This regulation has not been invoked and would not be applied in South Carolina except in exceedingly rare circumstances. The air pollution levels needed to invoke the regulation at alert or emergency levels are truly hazardous, greatly in excess of NAAQS for the pollutants covered (PM<sub>10</sub>, SO<sub>2</sub>, and ozone). While applicable only under such narrow conditions, the range of remedial measures that may be implicated if the regulation were invoked at the alert or emergency levels is broad, and includes but is not limited to: modification of operations of coal or oil-fired EGUs and steam plants; cessation of operations of many industrial processes; temporary closure of many wholesale and retail trade establishments; temporary closure of local, county, and state government offices; libraries and schools; and (emergency only) banning motor vehicle use except for emergencies or with police permission. Although these measures are very broad, in many respects they are not different than state powers exercised in the event of a hurricane or other natural catastrophe. Air pollution emergencies have occurred in other parts of the country, most notably in Los Angeles and New York City, several decades ago. As noted above, the regulation remains needed to address any future air pollution emergencies, should they occur, and to ensure continued SIP compliance.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.4 Hazardous Air Pollution Conditions</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: S.C. Regulation 61-62.4, Hazardous Air Pollution Conditions, is currently a part of South Carolina’s State Implementation Plan (SIP), which is a federally enforceable plan for how the State will demonstrate compliance with the national ambient air quality standards (NAAQS). Once a state has adopted regulations or strategies adopted into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.” Regulation 61-62.4 establishes general cessation, cleanup, and notification requirements for sources which are emitting air pollutants at levels which are hazardous to the public and/or create hazardous traffic conditions.
- B. Date of Last Amendment: May 24, 1985 (Doc. No. 457, Vol. 36, Iss. 9); Errata notices published February 24, 2012 (Vol. 36, Iss. 2) and September 28, 2012 (Vol. 36, Iss. 9).
- C. Amendment Synopsis: The regulation was last amended to (insert 1985 amendments summary); two errata notices were published in 2012 to make minor grammatical and typographical changes for consistency.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: Regulation 61-62.4 remains a vital part of DHEC’s air quality management planning. It is currently part of the SIP and is necessary to ensure continued federal approval of the SIP. This regulation is essential to establishing basic requirements for cessation, cleanup, and notification for sources which emit air pollutants at levels deemed hazardous to public welfare or that create dangerous traffic conditions.
- B. Efficacy: Regulation 61-62.4 is essential to establishing cessation, cleanup, and notification requirements for sources which are emitting air pollutants at levels which are hazardous to the public and/or create hazardous traffic conditions. These requirements effectively function to help ensure compliance with the NAAQS and to protect the health of the public and environment. Declining concentrations of criteria pollutants indicate the effectiveness of Regulation 61-62 (including Regulation 61-62.4).
- C. Breadth: Regulation 61-62.4 is a fundamental part of South Carolina’s air quality management program, addressing an important component of the SIP and ensuring compliance with the NAAQS. The regulation is brief and straightforward, consisting of five sections which define key terms and clearly outline applicable requirements for facilities producing hazardous air pollutants.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.5, Std. 1 Emissions from Fuel Burning Operations</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-62.5, Standard No. 1, *Emissions from Fuel Burning Operations*, outlines allowable visible, particulate matter, and sulfur dioxide emissions from fuel burning operations. R. 61-62.5, Standard No. 1 also includes opacity monitoring requirements, exemptions, and periodic testing requirements for fuel burning operations. R. 61-62.5, Standard No. 1 is adopted into the State Implementation Plan (SIP), which is a federally enforceable plan showing how the State will demonstrate compliance with the national ambient air quality standards (NAAQS) EPA issues for the six “criteria pollutants.” Once a state adopts regulations or strategies into its SIP, of which Standard No. 1 is part, it cannot remove or change those regulations or strategies unless the state demonstrates that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”
- B. Date of Last Amendment: September 23, 2016 (Doc. No. 4650, Vol. 40, Iss. 9)
- C. Amendment Synopsis: The Department amended the regulation as required in response to the EPA’s ‘SIP call’ concerning startup, shutdown, or malfunction (SSM) provisions in SIPs for 36 states, including South Carolina (80 FR 33840, June 12, 2015). The Department also made minor typographical changes for consistency.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: R.61-62.5, Standard No. 1 is essential in establishing state emission limits for fuel burning operations. As R.61-62.5, Standard No. 1 is part of the SIP, it is also essential to maintain compliance with the NAAQS, which facilitates ongoing protection of the health of the public and environment. This regulation is also necessary to ensure continued federal approval of the SIP.
- B. Efficacy: This regulation was promulgated to comply with federal requirements and is adopted into the SIP. The regulation’s provisions apply to appropriately limit emissions from a wide range of fuel-burning sources subject to Department permitting and regulatory requirements. Declining concentrations of criteria pollutants indicate the effectiveness of Regulation 61-62 (including Regulation 61-62.5, Standard No. 1). The Department updates Standard No. 1 as necessary to comply with federal amendments and works with stakeholders to streamline requirements where possible while protecting and promoting public health and the environment in South Carolina.

- C. Breadth: R.61-62.5, Standard No. 1 applies to a wide range of fuel-burning sources subject to Department permitting and regulatory requirements. The regulation undergoes revisions as necessary to keep the standard up to date, which alleviates economic burden. This regulation is part of the SIP, which means Standard No. 1 cannot be changed unless the state demonstrates that the change will result in equal or lower concentrations of criteria pollutant emissions (anti-backsliding).

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.5, Std. 2 Ambient Air Quality Standards</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of Regulation 61-62.5, Standard No. 2 is to outline the state ambient air quality standards which reflect the NAAQS. Regulation 61-62.5, Standard No. 2, originally went into effect on May 24, 1985. Standard No. 2 has been adopted into the State Implementation Plan (SIP), which is a federally enforceable plan showing how the State will demonstrate compliance with the national ambient air quality standards (NAAQS) EPA issues for the six “criteria pollutants.” Once a state adopts regulations or strategies into its SIP, of which Regulation 61-62.5, Standard No. 2, is part, it cannot remove or change those regulations or strategies unless the state demonstrates that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”
- B. Date of Last Amendment: April 24, 2020 (Doc. No. 4873, Vol. 44, Iss. 4)
- C. Amendment Synopsis: Amended the introductory paragraph to R.61-62.5, Standard No. 2, *Ambient Air Quality Standards* to remove obsolete language referencing Gaseous Fluorides, and to improve the accuracy and clarity of the regulation’s text.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: Regulation 61-62.5, Standard No. 2, is paramount in establishing the state Ambient Air Quality Standards which are reflective of the NAAQS. It provides the public with an overview of the standards South Carolina has in place to attain and maintain compliance with the NAAQS, enabling South Carolina as a state to protect the health of the public and environment.
- B. Efficacy: This regulation was promulgated to comply with federal requirements and is adopted into the SIP. The federal requirements are codified in 40 CFR Part 50. The Department updates Standard No. 2 as necessary to comply with federal amendments, and works with stakeholders to streamline requirements where possible while protecting and promoting public health and the environment in South Carolina.
- C. Breadth: This regulation provides the primary and secondary ambient air quality standards for the state, and the regulation remains a required part of the SIP. The scope of the regulation’s standards reflects the federally required NAAQS. This regulation has been revised multiple times over the years to reflect federal changes to the NAAQS and to ensure that the regulation is usable, up-to-date, and understandable.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.5, Std. 3</b>	<b>Waste Combustion and Reduction</b>		
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department initially promulgated Regulation 61-62.5, Standard No. 3, May 24, 1985 (Doc. No. 457). This regulation was developed based on an increased reliance on combustion of waste as a means of disposal and a lack of federal rules to regulate waste combustion sources. It has since been revised pursuant to the Pollution Control Act and federal requirements under Sections 111 and 129 of the Clean Air Act (CAA). The regulation in its current form adopts emission limits and operating requirements, notification requirements, waste analysis requirements, testing and monitoring requirements, and training requirements for a variety of waste combustion sources. Federal NSPS regulations for waste combustion were initially established in the mid-1990's. Then in 2013, EPA promulgated New Source Performance Standards and Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units ("CISWIs") (CISWI rule, 78 FR 9112, February 7, 2013) under authority of Sections 111 and 129 of the CAA. While the current version of Standard No. 3 is consistent with and has similarities to the federal regulations, it also contains unique provisions that apply to smaller sources that may otherwise be exempt from the federally adopted NSPS provisions.
- B. Date of Last Amendment: September 23, 2016 (Doc. No. 4650, Vol. 40, Iss. 9)
- C. Amendment Synopsis: The regulation was last amended to make minor changes for clarity and consistency.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: As noted above in the Regulation Synopsis, Standard No. 3 establishes the requirements for operating new and existing sources of waste combustion and reduction, including incinerators, in South Carolina. This regulation stems from an early need to regulate municipal waste incinerators, air curtain incinerators, and other waste combustion sources. The Department is also concerned that several sources operating in South Carolina, such as smaller municipal sources, could be exempt from CISWI requirements. Retaining Standard No. 3 in its present form may be necessary to prevent creation of such regulatory gaps and protect the citizens of South Carolina.
- B. Efficacy: As noted above in the Regulation Synopsis, Standard No. 3 is consistent with and has similarities to the federal regulations, but it also contains unique provisions that apply to smaller sources that may otherwise be exempt from the federally adopted CISWI provisions.

- C. Breadth: Over the years this regulation has undergone several revisions to include both new and revised requirements for specific source categories. In 1990, Standard No. 3 underwent a significant revision (Doc. No. 1067), whereby biomedical waste incinerators were removed from coverage under Standard No. 3, and Standard No. 3.1 was developed to regulate hospital, medical and infectious waste incinerators separately.

Regulation 61-62.5, Standard No. 3, has also been revised several times over the years to provide flexibility when appropriate, reducing overall complexity of the regulation. For example, Section III.A allows the Department to establish a case-by-base analysis for waste combustion emission reductions, Section VIII.A allows for flexibility in source testing, and Section V.G. allows for case-by-case analysis for waste analysis provisions. Furthermore, Section I.J.3, provides an exemption for those sources that are subject to a 40 CFR Part 63 standard.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department recommends no change at this time. Standard No. 3 is needed to regulate sources that are otherwise exempt/not subject to other state/federal requirements.			

<b>Regulation:</b>	61-62.5, Std. 3.1 Hospital/Medical/Infectious Waste Incinerators (HMIWI)			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Section 48-1-30

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to the authority in the Pollution Control Act, S.C. Code Section 48-1-30, the Department originally promulgated Regulation 61-62.5, Standard No. 3.1, on June 22, 1990 (Doc. No. 1067). This regulation was developed to draw a distinction between the combustion of municipal waste and the combustion of biomedical waste. The necessity for this distinction was the result of increased public concern about biomedical waste facilities, several guidance documents developed by the U.S. Environmental Protection Agency (EPA) in 1987, and new information learned at an intergovernmental agency conference on biomedical waste incineration in May 1988. The increasing use of air curtain incinerators to dispose of waste gave rise to a need to develop more comprehensive guidance through regulations to include separate and distinct requirements for biomedical waste streams.

On September 15, 1997, the EPA adopted New Source Performance Standards (NSPS) (40 CFR Part 60, Subpart Ec) and emission guidelines (EG) (40 CFR Part 60, Subpart Ce) for Hospital/Medical/Infectious Waste Incinerators (HMIWI) under the authority of sections 111 and 129 of the federal Clean Air Act (CAA). The EPA developed emissions limits for all nine pollutants (Particulate matter (PM), lead (Pb), cadmium (Cd), mercury (Hg), chlorinated dibenzo-p-dioxins/dibenzofurans, carbon monoxide, nitrogen oxides (NO<sub>x</sub>), hydrogen chloride (HCl), and sulfur dioxide (SO<sub>2</sub>)) required to be regulated under Section 129 for three HMIWI subcategories (large, medium, and small units) for the NSPS and four HMIWI subcategories (large, medium, small, and small rural units) for the EG. EPA revised its HMIWI regulations in 2009 in response to a D.C. Circuit remand, and, most recently, issued error corrections on April 4, 2011 (76 FR 18407).

CAA Section 111(d) and EPA's HMIWI EG require that states develop plans to control certain air pollutant emissions associated with existing HMIWI sources. On September 21, 2001, EPA approved South Carolina's HMIWI state plan, consisting of HMIWI requirements contained in Standard No. 3.1. At the time the Department submitted its plan to EPA, four (4) sources were subject to EPA's HMIWI EG. During the development of this plan, the Department proposed revisions to Regulation 61-62.5, Standard No. 3.1, to include adopting the most recent revisions to the NSPS and EG. However, following several stakeholder meetings to discuss these revisions, DHEC ultimately decided to amend Regulation 61-62.5, Standard No. 3.1, to be more stringent than federally mandated. For example, Standard No. 3.1 differs from EPA's NSPS and EG by requiring testing for dioxins/furans and requiring that all incinerators be inspected annually, regardless of size.

- B. Date of Last Amendment: September 23, 2016 (Doc. No. 4650, Vol. 40, Iss. 9)
- C. Amendment Synopsis: Minor corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text.

### **3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: Regulation 61-62.5, Standard No. 3.1, was initially promulgated prior to any federal standard or mandate. The Department believed that the regulation was essential to protecting public health and the environment. In 2000, the Department revised the regulation to satisfy federal HMIWI requirements and make the regulation more stringent than federally mandated. In doing so, the Department aimed to ensure consistency and use of good engineering practices that might reveal problems that would otherwise go unnoticed. This objective is supported by the continued implementation of Standard No. 3.1 in its present form.
- B. Efficacy: South Carolina's regulation is more stringent than the federally required regulation, as mentioned above. It includes emissions limitations, performance specifications, a requirement for an annual performance test, monitoring, calibration and quality assurance of monitoring devices, recordkeeping and reporting requirements, operator training and qualification, preparation of a waste management plan and guidelines for the annual inspection.
- C. Breadth: The regulation is designed to cover five classes of HMIWI incinerators: small (rural); small (urban); medium; large, with capacity < 2000 lbs/hr; and large, with capacity ≥ 2000 lbs/hr. Requirements become more stringent as the size of the unit increases. In all cases, there are fundamental requirements, such as the maximum interval of 12 months between performance tests and source tests for eight (8) pollutants, with the exception of small, rural units, which are exempted from source tests for HCl, cadmium and lead (although DHEC may conduct these if needed.) By separating affected incinerators into multiple classes, each with their own requirements, the regulation does not place an undue burden on small facilities.

#### **Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department does not recommend any changes at this time to Regulation 61-62.5, Standard No. 3.1. Standard No. 3.1 is needed to regulate sources that are otherwise exempt/not subject to other state/federal requirements.

<b>Regulation:</b>	<b>61-62.5, Std. 4 Emissions from Process Industries</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of Regulation 61-62.5, Standard No. 4 is to outline emissions limits for process industries, including sulfuric acid and kraft pulp and paper manufacturing, cotton gins, hot mix asphalt manufacturing, metal refining, and other manufacturing facilities. Standard No. 4 is currently a part of South Carolina’s State Implementation Plan (SIP), which is a federally enforceable plan showing how the State will demonstrate compliance with the national ambient air quality standards (NAAQS) EPA issues for the six “criteria pollutants.” Once a state adopts regulations or strategies into its SIP, it cannot remove or change those regulations or strategies unless the State demonstrates that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”
- B. Date of Last Amendment: September 23, 2016 (Doc. No. 4650, Vol. 40, Iss. 9)
- C. Amendment Synopsis: Minor corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: Regulation 61-62.5, Std. 4 remains a vital part of DHEC’s air quality management planning. It is currently part of the SIP and is necessary to ensure continued federal approval of the SIP. This regulation is essential to outline emissions limits for process industries, including sulfuric acid and kraft pulp and paper manufacturing, cotton gins, hot mix asphalt manufacturing, metal refining, and other manufacturing facilities.
- B. Efficacy: Regulation 61-62.5, Std. 4 is essential to implementing emissions limits for process industries, including sulfuric acid and kraft pulp and paper manufacturing, cotton gins, hot mix asphalt manufacturing, metal refining, and other manufacturing facilities. It is also essential to maintaining compliance with the NAAQS, to protect the health of the public and environment. Declining concentrations of criteria pollutants indicate the effectiveness of Regulation 61-62 (including Regulation 61-62.5, Std. 4). S.C. Regulation 61-62.5, Std. 4 is essential to meeting and maintaining the NAAQS and is not duplicative.
- C. Breadth: Regulation 61-62.5, Std. 4 comprehensively addresses emission limits for a wide range of process industries, as specified above. Regulation 61-62.5, Std. 4 is a fundamental part of South

Carolina's air quality management program, addressing an important component of the SIP and ensuring compliance with the NAAQS.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	61-62.5, Std. 5 Volatile Organic Compounds			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: On November 19, 1979, under authority of the Pollution Control Act, S.C. Code Section 48-1-10 et seq., and in accordance with the CAA's SIP requirements, Standard No. 5 was initially published in the South Carolina State Register as a means to reach attainment, via reasonable available control techniques (RACT) for the control of VOCs from several categories of stationary sources. The federal Clean Air Act (CAA), as amended in 1977, required submission of federally enforceable State Implementation Plans (SIPs) for demonstrating how each State will demonstrate attainment of national ambient air quality standards (NAAQS), including standards for ozone, for which volatile organic compounds (VOCs) are a precursor. At the time following the 1977 amendments, South Carolina had several nonattainment areas. Regulation 61-62.5, Standard No. 5, is part of South Carolina's SIP. Once a state adopts regulations or strategies into its SIP, it cannot remove or change those regulations or strategies unless the state demonstrates that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as "anti-backsliding."
- B. Date of Last Amendment: November 27, 2015 (Doc. No. 4577, Vol. 39, Iss. 11)
- C. Amendment Synopsis: The Department amended the regulation to make minor changes for clarity and consistency.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: Regulation 61-62.5, Standard 5 is part of the federally approved and enforceable SIP. It was promulgated as part of the Department's effort to reduce VOC emissions to meet earlier ozone NAAQS. On October 26, 2015, the EPA published the revised 8-hour ozone NAAQS of 70 ppb, which is stricter than the previous NAAQS of 75 ppb. The Department's ability to require controls to limit ozone precursors like VOCs is still relevant and necessary to protect the public health and environment.
- B. Efficacy: Regulation 61-62.5, Standard 5, was promulgated to comply with CAA requirements to ensure that all moderate and above nonattainment areas have in place all RACT for source categories covered by a Control Technique Guideline (CTG) document and for major sources that are not subject to a CTG. States must adopt control methods for sources in its nonattainment area(s) subject to a CTG. Standard 5 provides the basis for these controls and is not duplicative of any other regulations. Over the years, Regulation 61-62.5, Standard 5 has undergone several revisions to maintain compliance with federal CTGs that provide emission limits and exemptions to VOC controls.

- C. Breadth: Because Standard 5 is based on the federal rules, it has continually considered the technology and economic conditions that pertain to controlling VOC emissions. Standard No. 5's requirements are therefore not seen as unduly burdensome.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.5, Std. 5.2</b>	<b>Control of Oxides of Nitrogen (NO<sub>x</sub>)</b>		
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to the authority in the Pollution Control Act, S.C. Code Section 48-1-10 et seq., the Department initially promulgated Regulation 61-62.5, Standard 5.2, Control of Oxides of Nitrogen (NO<sub>x</sub>), on June 25, 2004 (Doc. No. 2872). This regulation was promulgated as part of the Department’s efforts to avoid/defer nonattainment designation for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) and reduce or regulate the growth of ozone precursors so that the ozone monitors in the state might attain the NAAQS for ozone. It requires reasonable NO<sub>x</sub> controls on fuel combustion sources and ensures uniform controls across the state in lieu of a federal system that requires stringent controls in select areas.

This regulation has been adopted into the State Implementation Plan (SIP), which is a federally enforceable plan showing how the State will demonstrate compliance with the NAAQS to the U.S. Environmental Protection Agency (EPA). Once a state adopts regulations or strategies into its SIP, it cannot remove or change those regulations or strategies unless the state demonstrates that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”

- B. Date of Last Amendment: April 24, 2020 (Doc. No. 4873, Vol. 44, Iss. 4)
- C. Amendment Synopsis: The Department amended Regulation 61-62.5, Standard No. 5.2 to update applicability and exemptions, and made corrections for internal consistency, punctuation, codification, and spelling.

**3. Nature of Public Input Received:**

The Department has not received public comments during the Five-Year Review process.

**4. Evaluation:**

- A. Continued Need: As noted above in the Regulation Synopsis, Standard No. 5 is in place to reduce or regulate the growth of ozone precursors in order to avoid/defer nonattainment designation of the NAAQS for ozone. With a revised (more stringent) 8-hour ozone NAAQS that South Carolina must continue to meet, the ability to require controls to limit NO<sub>x</sub> emissions is still relevant and necessary to protect the public health and environment.
- B. Efficacy: As previously mentioned, Regulation 61-62.5, Standard 5.2, was promulgated as part of the Department’s effort to avoid/defer nonattainment designations for the 1997 8-hour ozone NAAQS. These regulations, together with the remainder of South Carolina’s SIP, have been effective in that South Carolina does not have any nonattainment designations at this time. While this regulation does require

sources to add NO<sub>x</sub> controls as equipment is replaced, the cost of these controls is not considered unduly burdensome. As technology and other factors have changed over the years, the Department has identified opportunities for this regulation's requirements to be clarified, streamlined, and made more consistent.

- C. Breadth: Regulation 61-62.5, Standard 5.2 has been revised in recent years to promote clarity and streamlining. In promulgating Standard 5.2, the Department considered several alternatives and applied a cost benefit analysis which demonstrated that the cost associated with installing low NO<sub>x</sub> burners was significantly less than the cost associated with a nonattainment designation.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.5, Std. 7 Prevention of Significant Deterioration</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: S.C. Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration (“Standard No. 7”), is currently a part of South Carolina’s State Implementation Plan (SIP), which is a federally enforceable plan for how the State will demonstrate compliance with the national ambient air quality standards (NAAQS). Once a state has adopted regulations or has strategies adopted into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.” This regulation implements federal prevention of significant deterioration (PSD) requirements in South Carolina. Standard No. 7 is in place to ensure that new facilities do not significantly degrade existing air quality in areas that attain the NAAQS. The regulation also ensures that new facilities use the most current emissions control technology. It also provides for permitting of South Carolina sources subject to PSD requirements.
- B. Date of Last Amendment: November 26, 2021 (Doc. No. 5056, Vol. 45, Iss. 11)
- C. Amendment Synopsis: The Department amended this regulation to incorporate EPA’s clarification of Project Emissions Accounting (85 FR 74890, November 24, 2020), and incorporate EPA’s corrections to NSR regulations (NSR Corrections Rule), as published in the Federal Register on July 19, 2021 (86 FR 37918), and made other amendments, as necessary, to maintain compliance with federal law.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: As noted above in the Regulation Synopsis, Standard No. 7 is in place to ensure that new facilities do not significantly degrade existing air quality in areas that attain NAAQS. The regulation also ensures that new facilities use the most current emissions control technology. Standard No. 7 is a key part of South Carolina’s SIP, and this regulation is necessary to ensure continued federal approval of the SIP.
- B. Efficacy: This regulation was promulgated to comply with federal requirements and is adopted into the SIP. The federal requirements are codified in 40 CFR 52.21. The Department updates Standard No. 7 as necessary to comply with federal amendments, and works with stakeholders to streamline requirements where possible while protecting and promoting public health and the environment in South Carolina. The regulation provides an effective means for Department implementation of federal PSD requirements and administration of PSD permitting actions.

- C. Breadth: This regulation provides state-specific provisions for the federal PSD program, and the regulation remains a required part of the SIP. Each regulatory revision includes stakeholder outreach and involvement, to provide valuable input into the technological, economic, and other factors that are relevant to the regulation. This input also has helped ensure that Standard No. 7 minimizes the economic impact on small businesses and is not unduly burdensome, while also protecting the public and the environment and ensuring that South Carolina can continue to meet air quality standards.

**Recommendation:**       Amend                       Repeal                       No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.5, Std. 7.1</b>	<b>Nonattainment New Source Review (NSR)</b>		
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: S.C. Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR) (“Standard No. 7.1”), is currently a part of South Carolina’s State Implementation Plan (SIP), which is a federally enforceable plan for how the State will demonstrate compliance with the national ambient air quality standards (NAAQS). Once a state has adopted regulations or has strategies adopted into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.” This regulation implements federal nonattainment NSR requirements in South Carolina. Standard No. 7.1 is in place to prevent areas that are in nonattainment with the NAAQS from slowing progress towards improving their air quality and attaining the NAAQS. The regulation also ensures that new facilities use the most current emissions control technology. It also provides for permitting of South Carolina sources subject to nonattainment NSR requirements.
- B. Date of Last Amendment: November 26, 2021 (Doc. No. 5056, Vol. 45, Iss. 11)
- C. Amendment Synopsis: The Department amended this regulation to incorporate EPA’s clarification of Project Emissions Accounting (85 FR 74890, November 24, 2020), and incorporate EPA’s corrections to NSR regulations (NSR Corrections Rule), as published in the Federal Register on July 19, 2021 (86 FR 37918), and made other amendments, as necessary, to maintain compliance with federal law.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: As noted above in the Regulation Synopsis, Standard No. 7.1 is in place to prevent areas that are in nonattainment with the NAAQS from slowing progress towards improving their air quality and attaining the NAAQS. The regulation also ensures that new facilities use the most current emissions control technology. Standard No. 7.1 is a key part of South Carolina’s SIP, and this regulation is necessary to ensure continued federal approval of the SIP.
- B. Efficacy: This regulation was promulgated to comply with federal requirements and is adopted into the SIP. The federal requirements are codified in 40 CFR 51.166. The Department updates Standard No. 7.1 as necessary to comply with federal amendments, and works with stakeholders to streamline requirements where possible while protecting and promoting public health and the environment in South Carolina. The regulation provides effective means of implementing federal nonattainment new source review requirements and permitting processes.

- C. Breadth: This regulation provides state-specific provisions for the federal nonattainment NSR program, and the regulation remains a required part of the SIP. Each regulatory revision includes stakeholder outreach and involvement, to provide valuable input into the technological, economic, and other factors that are relevant to the regulation. This input also has helped ensure that Standard No. 7.1 minimizes the economic impact on small businesses and is not unduly burdensome, while also protecting the public and the environment and ensuring that South Carolina can continue to meet air quality standards.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.			

<b>Regulation:</b>	<b>61-62.5, Std. 8 Toxic Air Pollutants</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: S.C. Regulation 61-62.5, Standard No. 8, Toxic Air Pollutants, was developed by the Department and published as a final regulation on May 24, 1991. The purpose was to provide standards for regulating toxic air emissions from industrial and commercial facilities. At the time the rule was developed, the U.S. Environmental Protection Agency (EPA) had only promulgated a small number of health-based national air toxics standards and was encouraging states to develop their own rules. In 1997, after the EPA began developing more standards, the Department incorporated several exemptions for facilities complying with federal air toxics standards. As a result, many facilities are now exempt from complying with Standard No. 8; however, the Department has found that the regulation is still achieving reductions in air toxics emissions and is providing associated health benefits.
- B. Date of Last Amendment: June 26, 2015 (Doc. No. 4481, Vol. 39, Iss. 6)
- C. Amendment Synopsis: The Department amended Regulation 61-62.5, Standard No. 8 to add hydrogen fluoride to the Standard No. 8 list instead of regulating it under Standard No. 2.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: Standard No. 8 was developed in response to an increased awareness of the dangers posed by air toxics. In the 1990 Clean Air Act (CAA) amendments, Congress directed the EPA to begin developing technology-based standards instead of health-based standards and to later develop health-based standards to address any remaining (or residual) risk. The EPA was having difficulty meeting its obligations to develop health-based national air toxics standards and as a result encouraged states to develop their own air toxic standards. The Department initially developed guidance to meet this need. In the early 1990's, due to industry opposition to the Department regulating sources via guidance, the Department developed and promulgated Standard No. 8 to address and categorize air toxics based on toxicity. In 1995, the Department met with stakeholders as part of a governmental reform effort to evaluate the necessity of Standard No. 8. A workgroup was formed, and in 1997, the Department agreed to revise Standard No. 8 based on the recommendations it received (see Doc. No. 2245, July 1, 1998). The regulation is deemed by the Department to provide continued reductions in and protections against potentially harmful air toxics emissions.
- B. Efficacy: While the EPA has promulgated many air toxics standards since 1990 (which are incorporated by reference under Department Regulation 61-62.61 and 61-62.63), most of these standards are technology-based instead of health-based standards. In addition, although Standard No. 8 includes

exemptions from the regulation for sources subject to federal air toxics rules, there will continue to be some facilities not subject to federal requirements. Standard No. 8, therefore, provides additional protection beyond the scope of the federal regulations, and is not duplicative of or in conflict with federal air toxics standards or any other federal or state regulations. Present conditions, including continued need for regulation of harmful air toxics emissions, warrant the continued implementation of Standard No. 8.

- C. Breadth: Standard No. 8 provides health-based standards which provide protection from short and long-term adverse exposure to toxic air pollutants as well as the release of increased amounts of toxic pollutants into the environment. Standard No. 8 protects public health and the environment until all federally mandated air toxics standards are finalized. Since the EPA is overdue to finalize these rules, Standard No. 8 provides public health protection until all federal air toxics rules become effective. The Department will re-evaluate the need for Standard No. 8 after EPA completes all the residual risk studies required by the CAA.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: For those reasons stated above, the Department does not believe that Standard No. 8 should be repealed or otherwise revised at this time. Further discussion with stakeholders is needed to evaluate the ramifications of a complete repeal. The Department will re-evaluate the need for Standard No. 8 after EPA completes all the residual risk studies required by the CAA. The Department does not recommend any changes at this time.

<b>Regulation:</b>	<b>61-62.6 Control of Fugitive Particulate Matter</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department initially published Regulation 61-62.6 in the South Carolina State Register on May 24, 1985, (Doc. No. 457). R.61-62.6 addresses fugitive particulate matter, which includes particulate emissions that become airborne by forces of wind, man’s activity, or both, including, but not limited to, emissions from construction sites, tilled land, materials storage piles, and materials handling; and particulate emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. The regulation is part of South Carolina’s State Implementation Plan (or SIP), which is a federally enforceable plan for how the State will demonstrate compliance with the national ambient air quality standards (or NAAQS). Once a state has adopted regulations or strategies into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”
- B. Date of Last Amendment: November 27, 2015 (Doc. No. 4577, Vol. 39, Iss. 11)
- C. Amendment Synopsis: The regulation was last revised with one minor change for consistency.

**3. Nature of Public Input Received:**

No comments regarding this regulation have been received.

**4. Evaluation:**

- A. Continued Need: R.61-62.6 is in place to control fugitive particulate matter in nonattainment areas, in problem areas, and statewide. R.61-62.6 is a key part of South Carolina’s SIP, and it is necessary to ensure continued federal approval of the SIP.
- B. Efficacy: The regulation serves to control fugitive particulate matter and imposes varying levels of controls depending on the area’s status. The Department evaluated this regulation in the 2017 5-year review, and determined then that the regulation minimized the economic impact on small businesses and was not unduly burdensome. There has been no material change in conditions since the last 5-year review.
- C. Breadth: The regulation establishes three classes of particulate control areas. The most stringent applies to nonattainment areas, where specific dust/particulate control measures are required. The intermediate level refers to “problem areas” which are generally defined. The lowest level of particulate controls apply statewide at all times, are very general, and in the event a facility operates under a Title V permit, are prescribed on a case-by-case basis.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.7 Good Engineering Practice Stack Height</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-30 through 48-1-60

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to Sections 48-1-30 through 48-1-60 of the S.C. Pollution Control Act, this regulation was initially published in the South Carolina State Register on February 25, 1983, and was developed to incorporate federal rule requirements associated with the regulation of stack height and dispersion techniques.

Section 123 of the federal Clean Air Act requires the U.S. EPA to promulgate regulations to ensure that emission limits under an applicable State Implementation Plan (SIP) are not affected by stack heights in excess of good engineering practice or other dispersion techniques. A final EPA rulemaking requiring states revise their SIPs to include stack height credit regulations was published on February 8, 1982 [47 FR 5869]. The Department promulgated Regulation 61-62.7, “Good Engineering Practice Stack Height,” to comply with this federal requirement. The purpose of this regulation is to prevent the use of tall stacks or other dispersion techniques from affecting the emissions limitations required to meet National Ambient Air Quality Standards (NAAQS) or Prevention of Significant Deterioration (PSD) increments. This regulation has been adopted into South Carolina’s SIP, which is a federally enforceable plan showing how the State will attain/maintain compliance with the NAAQS. Once a state adopts regulations or strategies into its SIP, of which Regulation 61-62.7 is part, it cannot remove or change those regulations or strategies unless the state demonstrates that the change will result in equal or lower concentrations of the criteria pollutants for which NAAQS have been issued.

- B. Date of Last Amendment: May 23, 1986 (Doc. No. 715, Vol. 36, Iss. 11); Errata notice published December 28, 2012 (Vol. 35, Iss. 11).
- C. Amendment Synopsis: The regulation was amended in 2012 for minor changes for clarity and consistency.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: The purpose of this regulation is to prevent the use of tall stacks or other dispersion techniques from affecting the emissions limitations required to meet the NAAQS or PSD increments. This regulation has been adopted into South Carolina’s SIP, which is a federally enforceable plan showing how the State will attain/maintain compliance with the NAAQS.
- B. Efficacy: This regulation is essential to meeting federal requirements associated with the regulation of stack height and dispersion techniques. The regulation’s requirements are needed to specify the

limitations on air pollution emitting facilities' ability to claim air dispersion modeling credit based on stack height.

- C. Breadth: Regulation 61-62.7 remains a vital part of the Department's air quality rules to comply with federal modeling requirements. There is no duplication with other state regulations. This regulation has undergone many revisions, and as part of the process, it undergoes evaluation by other bureaus to identify conflicts. No conflicts between this regulation and other Department regulations have been identified.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.60 South Carolina Designated Facility Plan and New Source Performance Standards</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department first promulgated R.61-62.60 on February 26, 1999 (Doc. No. 2373). This regulation, as amended, incorporates by reference federal new source performance standards (NSPS), which impose emission limits and requirements on regulated categories of new sources; the regulation also includes performance standards and compliance times for existing sources, consistent with federal emission guidelines. The EPA has delegated the Department authority to implement and enforce NSPS standards, and the Department therefore regularly updates Regulation 61-62.60 to incorporate by reference the federal NSPS standards and requirements.
- B. Date of Last Amendment: November 26, 2021 (Doc. No. 5056, Vol. 45, Iss. 11)
- C. Amendment Synopsis: Revisions of the following subparts of 40 CFR Part 60 were adopted by reference: A, BBa, AAA, WWW, XXX, CCCC, IIII, JJJJ, KKKK, OOOO, OOOOa, and QQQQ. In addition, revisions of Subparts Cf and DDDD were adopted to comply with federal emission guidelines requirements.

**3. Nature of Public Input Received:**

During the comment period for the Department’s most recent revisions to these regulations, one comment was received from the public regarding the changes to Subparts AAA and QQQQ and their impact on businesses selling residential wood heaters and the increased cost to consumers. The Department responded, explaining that the state regulations incorporate by reference the federal NSPS, which were already in effect. The Department is charged with implementing and enforcing the NSPS and lacks authority to relax the federal standards or timelines.

**4. Evaluation:**

- A. Continued Need: This regulation is needed because it establishes the requirements for South Carolina facilities to operate new and existing stationary sources within regulated source categories. The NSPS are developed by the EPA, and implementation and enforcement are delegated to the states. R.61-62.60 is needed to carry out this delegation in South Carolina.
- B. Efficacy: Incorporation of federal Part 60 standards into R. 61-62.60 provides timely means of codifying relevant standards and requirements into the Department’s regulations and implementing and enforcing those standards, per authority delegated by the EPA.
- C. Breadth: In cases where the EPA regulations are adopted by reference, the Department reviews those regulations annually to ensure they are current and consistent with other federal requirements. This regulation was last amended on November 26, 2021, to adopt the federal requirements promulgated

from January 1, 2020 to December 31, 2020. This regulation was also evaluated during the 2017 5-Year Review. Technology, economic conditions, and other factors have not changed beyond what has been addressed in the 2020 and 2021 revisions. The breadth of the regulation is determined by federal requirements set by the EPA as explained above. The state incorporates the federal regulations into its own to maintain its delegated enforcement authority.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department recommends that no further change be made to Regulation 61-62.60 at this time outside of those being made through the Department's regular end of year process. The regulation is currently undergoing revision to adopt the federal requirements promulgated from January 1, 2021 to December 31, 2021.

<b>Regulation:</b>	<b>61-62.61 National Emission Standards for Hazardous Air Pollutants (NESHAP)</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-62.61 (together with Regulation 61-62.63) covers the National Emission Standards for Hazardous Air Pollutants (NESHAP), which are stationary source standards for emissions of hazardous air pollutants or HAP. The HAP regulated by Regulation 61-62.61 are: Asbestos; Beryllium; Mercury; Vinyl chloride; Benzene; Arsenic; Coke Oven Emissions; and Radon/radionuclides. Regulation 61-62.61 corresponds with federal NESHAP regulations at 40 CFR Part 61, and Regulation 61-62.63 corresponds with federal NESHAP regulations at 40 CFR Part 63. The EPA delegated authority to implement and enforce NESHAP standards to South Carolina in 1995, and since that time, the Department has regularly updated Regulation 61-62.61 to incorporate by reference the federal NESHAP standards and requirements.
- B. Date of Last Amendment: January 25, 2019 (Doc. No. 4870, Vol. 43, Iss. 1)
- C. Amendment Synopsis: Revisions of the following subparts of 40 CFR Part 61 were adopted by reference: A and W.

**3. Nature of Public Input Received:**

No public comments were received.

**4. Evaluation:**

- A. Continued Need: This regulation is needed because it incorporates federal 40 CFR Part 61 standards that apply to HAP emissions from regulated activities (for example: asbestos emissions from demolition and renovation of old buildings, or fugitive emissions of benzene from storage tanks). If a source is performing an activity identified in Regulation 61-62.61, it must comply with the NESHAP requirements to reduce HAP emissions. NESHAP requirements are developed by EPA, and implementation and enforcement are delegated to South Carolina. R.61-62.61 is needed to carry out this delegation of authority.
- B. Efficacy: Incorporation of federal Part 61 standards into R.61-62.61 provides timely means of codifying relevant standards and requirements into the Department’s regulations and implementing and enforcing those standards, per authority delegated by the EPA.
- C. Breadth: In cases where the EPA regulations are adopted by reference, the Department reviews those regulations annually to ensure they are current and consistent with other federal requirements. This regulation was last amended on January 25, 2019, to adopt the federal requirements promulgated from January 1, 2017 to December 31, 2017. This regulation was also evaluated during the 2017 5-Year Review. Technology, economic conditions, and other factors have not changed beyond what has been addressed

in the 2017 revision. The breadth of the regulation is determined by federal requirements set by the EPA. The EPA evaluates chemical substances for inclusion in the list of HAPs, and lists substances as the EPA Administrator finds appropriate. The state incorporates the federal regulations into its own to maintain its delegated enforcement authority.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department is not recommending any additional change to Regulation 61-62.61 at this time outside of those being made through the Department's regular end of year process.

<b>Regulation:</b>	<b>61-62.63 National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to the authority in the Pollution Control Act, S.C. Code Section 48-1-10 et seq., and in accordance with authority delegated by the U.S. Environmental Protection Agency (EPA) under the federal Clean Air Act (CAA), Section 112(d), and 40 CFR Part 63, *National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Source Categories*, Regulation 61-62.63 regulates the hazardous air pollutants (HAP) listed in CAA Section 112(b) from both new and existing major and area stationary sources. The standards for larger (major) sources are called maximum achievable control technology (MACT) standards. These standards are based on the emissions levels of the better-controlled and lower-emitting facilities in an industry. The standards for smaller (area) sources are called Generally Available Control Technology (GACT) standards. Together, Regulation 61-62.61 and Regulation 61-62.63 cover all federal NESHAPs. Regulation 61-62.61 corresponds with federal NESHAP regulations at 40 CFR Part 61, and Regulation 61-62.63 corresponds with federal NESHAP regulations at 40 CFR Part 63. The EPA delegated authority to implement and enforce NESHAP standards to South Carolina in 1995, and since that time, the Department has regularly updated Regulation 61-62.63 to incorporate by reference the federal NESHAP standards and requirements.
- B. Date of Last Amendment: December 25, 2020 (Doc. No. 4978, Vol. 44, Iss. 12)
- C. Amendment Synopsis: The 2020 revisions included changes in the federal regulations promulgated during the period January 1, 2020 to December 31, 2020. The following Subparts were revised: A, F, G, H, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, SS, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, UUUUU, WWWW, ZZZZ, BBBBBB, CCCCCC, HHHHHH, PPPPPP, QQQQQQ, RRRRRR, TTTTTT, WWWW, XXXXX, YYYYY, AAAAAA, BBBBBB, CCCCCC, and HHHHHH.

**3. Nature of Public Input Received:**

No comments were received regarding this regulation or its revision.

**4. Evaluation:**

- A. Continued Need: This regulation is needed because it incorporates federal 40 CFR Part 63 standards that apply to State area and major source facilities that produce HAP. Part 63 NESHAP requirements are developed by EPA, and implementation and enforcement are delegated to South Carolina. R.61-62.63 is needed to carry out this delegation of authority.

- B. Efficacy: Incorporation of federal Part 63 standards into R.61-62.63 provides timely means of codifying relevant standards and requirements into the Department’s regulations and implementing and enforcing those standards, per authority delegated by the EPA.
  
- C. Breadth: In cases where the EPA regulations are adopted by reference, the Department reviews those regulations annually to ensure they are current and consistent with other federal requirements. This regulation was last amended on November 26, 2021, to adopt the federal requirements promulgated from January 1, 2020 to December 31, 2020. This regulation was also evaluated during the 2017 5-Year Review. Technology, economic conditions, and other factors have not changed beyond what has been addressed in the 2020 and 2021 revisions. The breadth of the regulation is determined by federal requirements set by the EPA. The EPA conducts Risk and Technology Reviews on a 5-year basis, as required by Clean Air Act sections 112(f)(2) and 112(d)(6). The state incorporates the federal regulations into its own to maintain its delegated enforcement authority.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department recommends that no further change be made to Regulation 61-62.63 outside of those being made through the Department’s regular end of year process. The regulation is currently undergoing revision to adopt federal requirements promulgated from January 1, 2021 to December 31, 2021.

<b>Regulation:</b>	<b>61-62.68 Chemical Accident Prevention Provisions</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-30 through 48-1-60

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation was initially published in the South Carolina State Register on August 28, 1998 (Doc. No. 2310) and was developed to incorporate federal 40 CFR Part 68 requirements associated with the accidental releases of certain regulated substances.

On June 20, 1996 [61 FR 31668], the United States Environmental Protection Agency (EPA) promulgated 40 CFR Part 68. The Clean Air Act (CAA) requires the EPA to promulgate regulations to apply to all stationary sources with processes that contain more than a threshold quantity of a regulated substance to prevent accidental releases and reduce the severity of those releases that do occur. A list of the regulated substances and threshold quantities was promulgated on January 31, 1994 (59 FR 4478). The most common substances regulated by the regulation are ammonia, chlorine, and propane.

Pursuant to authority under the CAA, the EPA has delegated South Carolina authority for implementation and enforcement of the 40 CFR Part 68 program in the state.

- B. Date of Last Amendment: December 25, 2020 (Doc. No. 4978, Vol. 44, Iss. 12)
- C. Amendment Synopsis: Substantive changes were made in R.61-62.68 to reflect EPA amendments made in 40 CFR Part 68 by a Final Rule found at 84 FR 69834 (December 19, 2019).

**3. Nature of Public Input Received:**

No comments were received regarding this regulation or its revision since the last 5-year review.

**4. Evaluation:**

- A. Continued Need: This regulation and its subsequent amendments carry out the delegation of authority to South Carolina for implementation and enforcement of the 40 CFR Part 68 risk management program and comply with the federal mandate to implement a state regulation at least as stringent as the federal rule. Moreover, this regulation allows for the development of a program that will reduce the likelihood of accidental releases of regulated substances and minimize the consequences on the environment and public health should a release occur. Therefore, this regulation remains necessary to ensure public health and protection of the environment.
- B. Efficacy: Owners and operators of stationary sources subject to R.61-62.68 must submit a Risk Management Plan, including a hazard assessment for the 77 regulated substances, and processes and procedures using them. The chemical accident prevention program includes safety information, a hazard review, operating procedures, training of operators, maintenance of process equipment, compliance audits and, in the event of an incident, an investigation. An emergency response program and exercises

must be established for “Program 2” and “Program 3” processes having a greater potential for harm in a chemical accident. The regulation includes public right-to-know provisions (R.61-62.68.210).

- C. Breadth: The regulation is quite broad because it applies to a wide range of industries and operations. It encompasses all stationary sources having more than a threshold quantity of a regulated substance in a process. Because of the range of industrial operations using regulated substances that, if released improperly, pose a danger to the environment and health of nearby communities, this regulatory breadth is necessary.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department will amend Regulation 61-62.68 as part of future revisions to incorporate amendments to the federal part 68 regulations as necessary. The Department does not recommend any changes to Regulation 61-62.68 at this time.

<b>Regulation:</b>	<b>61-62.70 Title V Operating Permit Program</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-50, 48-1-100, 48-1-110, and 48-1-270

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-62.70, *Title V Operating Permit Program* (“R.61-62.70”), is the regulatory basis for the state Title V permitting program approved by the U.S. Environmental Protection Agency (EPA), under Title V of the Clean Air Act. Title V permitting requirements apply to larger facilities, typically those that could potentially emit more than 100 tons per year of certain pollutants. EPA’s approval of South Carolina’s Title V program required promulgation of R.61-62.70. R.61-62.70 is enabled through the *Pollution Control Act*, S.C. Code Sections 48-1-50, 48-1-100, 48-1-110, and 48-1-270.
- B. Date of Last Amendment: April 24, 2020 (Doc. No. 4873, Vol. 44, Iss. 4)
- C. Amendment Synopsis: Amended to codify relevant federal amendments to Title V provisions, as published in the *Federal Register* on February 5, 2020 (85 FR 6431), to ensure compliance with federal law.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: Regulation 61-62.70 is the regulatory basis for the state Title V permitting program approved by the EPA under Title V of the Clean Air Act. Title V permitting requirements apply to larger facilities, typically those that could potentially emit more than 100 tons per year of certain pollutants. EPA’s approval of this program required promulgation of R.61-62.70. The regulation continues to be a critical piece of the Department’s permitting program.
- B. Efficacy: This regulation implements the EPA-approved Title V permitting program. The Department updates the regulation as necessary to comply with federal amendments, and works with stakeholders to streamline requirements where possible while protecting and promoting public health and the environment in South Carolina.
- C. Breadth: This regulation is not redundant or duplicative but rather serves to implement corresponding federal Title V regulations in South Carolina. There is no duplication with other state regulations. This regulation has undergone many revisions, and as part of the revision process, it undergoes evaluation by other bureaus to identify conflicts. No conflicts between this regulation and other Department regulations have been identified.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: The Department recommends no additional change to Regulation 61-62.70 at this time outside limited amendments under review for the Department's regular end of year process to maintain compliance with federal requirements.

<b>Regulation:</b>	<b>61-62.72 Acid Rain</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-30 through 48-1-60

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-62.72, Acid Rain, is the state regulatory basis for the Acid Rain Program permitting program approved by the EPA under Title IV of the Clean Air Act. The Acid Rain permitting program is an EPA-managed emissions trading program designed to control emissions of sulfur dioxide (SO<sub>2</sub>) from large power plants. This regulation was developed to incorporate federal rule requirements associated with Title IV of the federal Clean Air Act (CAA).
- B. Date of Last Amendment: April 26, 2013 (Doc. No. 4330, Vol. 37, Iss. 4)
- C. Amendment Synopsis: The Department revised Regulation 61-62.72 to incorporate federal revisions by reference.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: As noted above in the Regulation Synopsis, Regulation 61-62.72 is the regulatory basis for the Acid Rain Program permitting program approved by the EPA, under Title IV of the Clean Air Act. It is therefore needed for the state to implement acid rain permitting authority.
- B. Efficacy: By incorporating federal acid rain requirements, this regulation effectively enables the Department to implement its acid rain permitting authority. This regulation is amended as necessary to incorporate new federal rules. Each of these efforts involved stakeholder outreach and involvement. This involvement provides valuable input into the technological, economic, and other factors that are relevant to the regulation. This input has also helped to ensure that R.61-62.72 minimizes the economic impact on small businesses and is not unduly burdensome. There have been no material changes in conditions since the 2017 Five-Year Review.
- C. Breadth: This regulation is not redundant or duplicative but rather serves to implement state permitting authority under the Title IV Acid Rain Program. There is no duplication with other state regulations. This regulation has undergone many revisions, and as part of the process, it undergoes evaluation by other bureaus to identify conflicts. No conflicts between this regulation and other Department regulations have been identified.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department recommends no change to Regulation 61-62.72 at this time, as there have been no material changes in federal requirements associated with the acid rain program.

<b>Regulation:</b>	<b>61-62.96 Nitrogen Oxides (NO<sub>x</sub>) Budget Program</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department initially published this regulation in the South Carolina State Register on May 24, 2002 (Doc. No. 2593), to comply with EPA’s “NO<sub>x</sub> SIP Call” regulation (40 CFR 51.121). These regulations, referred to as the Nitrogen Oxides (NO<sub>x</sub>) Budget Program, were later sunset and replaced with regulations providing for the participation of South Carolina sources in EPA’s (now vacated) Clean Air Interstate Rule (CAIR) emissions trading programs for ozone and particulate matter 2.5 micrometers and smaller (PM<sub>2.5</sub>). EPA subsequently sunsetted the federal CAIR rule and replaced it with the Cross-State Air Pollution Rule (CSAPR), which is addressed by S.C. Regulation 61-62.97. Therefore, in January 2019, the Department repealed R.61-62.96’s CAIR provisions and reinstated applicable portions of the EPA’s NO<sub>x</sub> SIP Call regulations, with amendments as necessary, to maintain state compliance with federal regulations. R.61-62.96 is part of South Carolina’s State Implementation Plan (SIP), which is a federally enforceable plan for how the State will demonstrate compliance with the national ambient air quality standards (NAAQS). EPA issues NAAQS for six common air pollutants, commonly called “criteria pollutants.” Once a state has adopted regulations or strategies adopted into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”
- B. Date of Last Amendment: January 25, 2019 (Doc. No. 4870, Vol. 43, Iss. 1)
- C. Amendment Synopsis: Amended Regulation 61-62.96 to repeal the Clean Air Interstate Rule (CAIR) trading program regulations (Subparts AA through II, AAA through III, and AAAA through IIII) and reinstate applicable portions of the EPA’s “Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone” (NO<sub>x</sub> SIP Call), with amendments as necessary, to maintain state compliance with federal regulations.

**3. Nature of Public Input Received:**

The Department received comments from EPA Region 4 staff during the public comment period for the Department’s January 2019 amendments to the regulation and addressed those comments in its final regulation. No comments have been received on the current regulation since its most recent amendment.

**4. Evaluation:**

- A. Continued Need: R.61-62.96 is in place to meet the requirements of the federal NO<sub>x</sub> SIP Call, to control ozone and PM<sub>2.5</sub>, and comply with federal requirements for regional haze.
- B. Efficacy: This regulation was promulgated to maintain state compliance with federal regulations. The Department updates its regulations as necessary to comply with federal amendments, and works with

stakeholders to streamline requirements where possible while protecting and promoting public health and the environment in South Carolina.

- C. Breadth: As discussed previously, this regulation has been amended to incorporate new federal rules. Each of these efforts involved stakeholder outreach and involvement. This involvement provides valuable input into the technological, economic, and other factors that are relevant to the regulation. This input also has helped to ensure that R.61-62.96 minimizes the economic impact on small businesses and is not unduly burdensome.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.97 Cross State Air Pollution Rule (CSAPR) Trading Program</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, was promulgated to incorporate the EPA's CSAPR trading program for South Carolina for NO<sub>x</sub> (Annual) and SO<sub>2</sub> (Annual), as published in the *Federal Register* on August 8, 2011 (76 FR 48208) and subsequently amended on June 12, 2012 (77 FR 34830), December 3, 2014 (79 FR 71663), and October 26, 2016 (81 FR 74504). This regulation addresses mandatory interstate transport and regional haze SIP infrastructure elements pursuant to 42 U.S.C. Sections 7410 and 7491. R.61-62.97 is part of South Carolina's State Implementation Plan (SIP), which is a federally enforceable plan for how the state will demonstrate compliance with the national ambient air quality standards (NAAQS). Once a state has adopted regulations or strategies into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as "anti-backsliding."
- B. Date of Initial Promulgation: August 25, 2017 (Doc. No. 4750, Vol. 41, Iss. 8)
- C. Promulgation Synopsis: Added Regulation 61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, in its entirety.

**3. Nature of Public Input Received:**

When promulgating the regulation, the Department received comments from a stakeholder during the public comment process. The stakeholder comments were related to provisions the Department did not adopt. The Department has received no comments on the current regulation since its promulgation in 2017.

**4. Evaluation:**

- A. Continued Need: Regulation 61-62.97 remains needed to address mandatory transport and regional haze SIP infrastructure elements pursuant to 42 U.S.C. Sections 7410 and 7491.
- B. Efficacy: This regulation implements state-specific requirements for CSAPR. The Department updates its regulations as necessary to comply with federal amendments, and works with stakeholders to streamline requirements where possible while protecting and promoting public health and the environment in South Carolina.
- C. Breadth: This regulation is not redundant or duplicative but rather serves to implement corresponding federal CSAPR regulations in South Carolina. There is no duplication with other state regulations. This regulation has undergone many revisions, and as part of the revision process, it undergoes evaluation by other bureaus to identify conflicts. No conflicts between this regulation and other Department regulations have been identified.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-62.99 Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program Requirements for Stationary Sources Not in the Trading Program</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Air
<b>Program:</b>	Air Regulation + SIP Management
<b>Program Contact:</b>	Name: Mary Peyton Wall    Email: wallmp@dhec.sc.gov
<b>Submission Date:</b>	4/25/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: S.C. Regulation 61-62.99, Nitrogen Dioxides (NO<sub>x</sub>) Budget Trading Program Requirements for Stationary Sources Not in the Trading Program, limits NO<sub>x</sub> emissions from cement manufacturing. This regulation is currently a part of the State Implementation Plan (SIP), which is a federally enforceable plan for how the state will demonstrate compliance with the national ambient air quality standards (NAAQS). EPA issues NAAQS for six common air pollutants, commonly called “criteria pollutants.” Once a state has adopted regulations or strategies adopted into its SIP, it cannot remove or change those regulations or strategies unless the state can demonstrate that the change will result in equal or lower concentrations of the criteria pollutants, a requirement known as “anti-backsliding.”
- B. Date of Last Amendment: May 24, 2002 (Doc. No. 2593, Vol. 26, Iss. 5)
- C. Amendment Synopsis: The regulation was added on May 24, 2002, and revised through an Errata on June 22, 2012, (State Register Vol. 36 Issue No. 6) to make minor changes for clarity, consistency, and grammatical correctness.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: R.61-62.99 is in place to limit NO<sub>x</sub> emissions from cement manufacturing. R.61-62.99 is a key part of South Carolina’s SIP, and this regulation is necessary to ensure continued federal approval of the SIP.
- B. Efficacy: This regulation implements state-specific requirements for compliance with the NO<sub>x</sub> SIP Call. There is no duplication with other state regulations. No conflicts between this regulation and other Department regulations have been identified, and R.61-62.99 is an integral part of the SIP.
- C. Breadth: The Department initially published this regulation to comply with EPA’s “NO<sub>x</sub> SIP Call” regulation (40 CFR 51.121). R.61-62.99 limits emissions of NO<sub>x</sub> from cement manufacturing. While the Department promulgated this regulation in concert with R.61-62.96, this regulation is a distinct regulation because the main source of NO<sub>x</sub> in cement manufacturing, kilns, falls outside the scope of the emissions trading programs in R.61-62.96, which only includes boilers and combustion turbines of a certain size.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: This regulation is currently part of the federally approved and enforceable SIP identifying how South Carolina will attain/maintain compliance with the NAAQS. The Department is recommending no changes to this regulation at this time.

<b>Regulation:</b>	<b>61-86.1 Standards of Performance for Asbestos Projects</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Air			
<b>Program:</b>	Air Regulation + SIP Management			
<b>Program Contact:</b>	Name: Mary Peyton Wall		Email: wallmp@dhec.sc.gov	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 44-1-140, 44-87-10 et seq., and 48-1-30

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to the authority in the Pollution Control Act, S.C. Code Sections 48-1-30, 44-1-140, and 44-87-10 et seq., and based in large part on Section 112 of the federal Clean Air Act (CAA), National Emission Standards for Hazardous Air Pollutants (NESHAP) contained in 40 CFR Part 61, Asbestos Hazard Emergency Response Act (AHERA) regulations at 40 CFR Part 763, and Occupational Safety and Health Administration (OSHA) regulations at 29 CFR Part 1926, the Department’s asbestos regulations are promulgated to incorporate and supplement federal requirements governing the control of asbestos emissions.

The Section 112 provisions of the CAA require the U.S. Environmental Protection Agency (EPA) to develop and enforce regulations to protect the public from exposure to airborne contaminants that are known to be hazardous to human health. The list of hazardous air pollutants (HAPs), or “air toxics,” includes specific compounds that are known or suspected to cause cancer or other serious health effects. Asbestos was one of the first HAPs regulated under the air toxics program.

In 1977 (42 FR 4124), the Department was granted initial authority by the EPA to implement/enforce NESHAP requirements in South Carolina. R.61-86.1 was initially promulgated on June 27, 1986 (Doc. No. 548) and has been revised several times. The regulation address requirements governing asbestos licensure, asbestos project permitting, and relevant work practices and monitoring to protect the public and environment from harm related to potential asbestos exposure.

- B. Date of Last Amendment: May 27, 2011 (Doc. No. 4130, Vol. 35, Iss. 5)
- C. Amendment Synopsis: The Department revised R.61-86.1 to change the required frequency of building inspections for industrial manufacturing and electrical generating facilities from 3 years to 5 years.

**3. Nature of Public Input Received:**

No comments or complaints have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: This regulation is essential to establishing the requirements for facilities operating in South Carolina to apply for and obtain permits to perform asbestos abatement activities. It also sets forth building inspection, air monitoring, work practice, and other requirements critical to protecting the public and the environment from harm related to potential asbestos exposure.
- B. Efficacy: This regulation establishes state-only regulations implementing the state asbestos abatement license statute and federal NESHAP requirements for asbestos.

- C. Breadth: The Department considers this regulation to be of appropriate scope to address applicable NESHAP requirements, necessary licensure and permitting practices, and other necessary requirements pursuant to state and federal law.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: Based on the Department's consideration of consistency among regulatory requirements (specifically OSHA and AHERA), it is recommended that no changes be made to R.61-86.1 at this time.			

<b>Regulation:</b>	<b>61-25 Retail Food Establishments</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services
<b>Program:</b>	Division of Food + Lead Risk Assessments
<b>Program Contact:</b>	Name: Sandra Craig    Email: craigsd@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Sections 44-1-140(2), 44-1-150, and 44-1-180

**2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of this regulation is to ensure that consumers are receiving safe, unadulterated food and food products at the retail level. The regulation governs restaurants, grocery stores, school cafeterias, and other establishments where food is prepared and served to the public.
- B. Date of Last Amendment: May 24, 2019 (Doc. No. 4842, Vol. 43, Iss. 5)
- C. Amendment Synopsis: The FDA releases updates to the national Food Code every four years. The Department reviewed and proposed a revision to R.61-25 to incorporate the changes made in the 2017 version. This revision did not place any undue burdens on the respective industries since the revision only requires industry to meet minimum federal criteria. DHEC's charge is to ensure the risks of foodborne illnesses are identified and eliminated or reduced in retail food establishments to ensure the health and safety of every citizen of the state.

**3. Nature of Public Input Received:**

Multiple stakeholder forums were held to assist in the drafting and implementation of the 2019 regulation revision; attendees gave overwhelming support for DHEC to update the regulation frequently to reflect new food safety practices allowed by the most current version of the FDA model food code, which is fully updated every four years. Requests were made and implemented to incorporate the Priority (P) and Priority Foundation (Pf) subscripts into the 2019 revision to mirror the FDA Food Code.

**4. Evaluation:**

- A. Continued Need: The sale of food at the retail level affects every person in the state. Consumer confidence in a safe food supply is a driving force for this large sector of the economy. R.61-25 has been effective in mitigating foodborne illness risk factors by ensuring retail food establishments are operated in a sanitary manner and practice good food handling methods.
- B. Efficacy: Reduction of the risk factors associated with foodborne disease outbreaks has been demonstrated by epidemiological data to be a key factor in preventing foodborne illness outbreaks. Permitting and inspecting retail food establishments has been identified by the FDA as a necessary component of an effective food safety program.
- C. Breadth: This regulation is no more complex than necessary to meet the minimum federal criteria established under the 2017 FDA Food Code and is fully understood by the industry it regulates. The regulation provides the only oversight of food prepared for consumption by the end consumer as required by the statute. It does not duplicate or conflict with any other federal, state, or local law and is necessary to ensure safe food for consumers. There is no case law or statutory changes related to this

regulation. The regulation has a built-in variance process for new technology for food processes, as well as an enforcement and appeal process that has been successful in obtaining food safety compliance.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: FDA will be releasing the next version of the Food Code (2021) in 2023. This release has been delayed due to COVID 19. Once it is released, the Department will review and propose a revision to R.61-25 to incorporate the changes.

<b>Regulation:</b>	<b>61-29 Environmental Health Inspections and Fees</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services			
<b>Program:</b>	Division of Food + Lead Risk Assessments			
<b>Program Contact:</b>	Name: Sandra Craig		Email: craigsd@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 44-1-140 and 44-1-180

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes a \$60 annual inspection fee for environmental health inspections at facilities licensed, regulated, or registered by other state agencies to prevent disease and protect the environment.
- B. Date of Last Amendment: June 26, 1992 (Doc. No. 1398, Vol. 16, Iss. 6)
- C. Amendment Synopsis: It established the fees for environmental health inspections and identified the facilities that these services are required to have inspections conducted.

**3. Nature of Public Input Received:**

None

**4. Evaluation:**

- A. Continued Need: DHEC is required by various state laws and regulations to conduct environmental health inspections at facilities licensed, regulated, or registered by other state agencies. The Department is currently conducting less than 300 requested inspections annually. These inspections cannot be provided unless funds to defray the cost of conducting the inspections and administering and operating the program are made available.
- B. Efficacy: The fees provided for in this regulation have not been revised in 25 years; however, the cost of providing services (onsite inspections) has increased. The fees charged in this regulation have been evaluated and new technologies, specifically virtual inspections, are being utilized to allow for the service to be provided without an increase in the fee. This allows the Department to continue to provide the service in today's economy and inflation.
- C. Breadth: This regulation is effective in determining which facilities are required to have environmental health inspections conducted. There are no other regulations that address the environmental health inspection fees. There have been no changes to the statutes that require these inspections and no case law related to this regulation.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: Due to the low volume of requests and the ability to conduct these inspections virtually, no change in the fee is needed.			

<b>Regulation:</b>	<b>61-32 Wholesale Bottled Water, Soft Drink, and Ice Manufacturing</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services
<b>Program:</b>	Division of Food + Lead Risk Assessments
<b>Program Contact:</b>	Name: Sandra Craig    Email: craigsd@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Sections 44-1-140 and 44-1-150

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation sets forth minimum health standards, procedures, and practices to ensure that soft drinks, bottled waters, and wholesale manufactured ice (bagged ice) are manufactured in South Carolina in a safe and wholesome manner. It sets requirements for personnel; grounds, buildings and facilities; equipment and utensils; production and process controls; examination and condemnation of unwholesome or contaminated raw materials or finished product; and enforcement procedures.
- B. Date of Last Amendment: June 26, 2020 (Doc. No. 4903, Vol. 44, Iss. 6)
- C. Amendment Synopsis: This regulation was revised to combine the regulation for bottled water/soft drinks with the regulation for wholesale manufactured ice to create one single regulation. New federal regulations went into effect in 2018. The new federal regulation structure facilitated combining all manufactured water-based products into one simpler regulation instead of two separate regulations with repetitive content. The previous regulation was based on the Code of Federal Regulations (CFR) 21 CFR 110 which had been removed from the register and has been replaced by the Food Safety Modernization Act (FSMA)- compliant 21 CFR 117. The new federal regulation not only updated the good manufacturing processes, but it also incorporated the new preventive controls provision required for all non-exempt firms to meet.

**3. Nature of Public Input Received:**

Stakeholder meeting were scheduled for comments prior to the revision, but no stakeholders attended and no comments were received.

**4. Evaluation:**

- A. Continued Need: Pursuant to S.C. Code of Laws, Section 44-1-140 (4), DHEC promulgated this regulation, which is necessary to ensure the prevention of illness by water or other beverages or ice produced or bottled/bagged in South Carolina. In cases where DHEC adopts the CFR or Good Manufacturing Practices by reference, DHEC reviews those regulations annually to ensure they are current and consistent with other federal requirements.
- B. Efficacy: Outbreaks of communicable disease have not been associated with beverages and ice bottled or bagged in South Carolina produced from plants operated in accordance with this regulation in part due to the reduction of the disease risk from unsanitary conditions. It allows for firms operating in S.C. to meet minimum federal criteria established under 21 CFR 117 that specifies criteria on current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food.

- C. Breadth: This regulation is no more complex than necessary to meet the minimum federal criteria established under 21 CFR 117 that specifies criteria on current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food. In cases where DHEC adopts CFR or Good Manufacturing Practices by reference, DHEC reviews those regulations annually to ensure they are current and consistent with other federal requirements. 21 CFR 110 was revised in 2018 to the newer 21 CFR 117, and the Good Manufacturing Practices have changed. These changes required DHEC to revise this regulation in 2020 to stay current with the federal criteria. No other statutory changes have occurred and there has been no case law or enforcement cases associated with this regulation.

**Recommendation:**       Amend                       Repeal                       No change

Explanation of Recommendation: The regulation is up to date with all federal criteria and allows for products produced in S.C. to meet the necessary standards for interstate commerce.

<b>Regulation:</b>	<b>61-34 Raw Milk for Human Consumption</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services
<b>Program:</b>	Division of Food + Lead Risk Assessments
<b>Program Contact:</b>	Name: Sandra Craig    Email: craigsd@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Section 44-1-140

**2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of this regulation is to regulate the production and sale of “raw” (unpasteurized) milk and limited risk raw milk products for human consumption within the state of South Carolina. The interstate sale of raw milk is prohibited by federal regulations and is not recommended by the Federal Food and Drug Administration due to the public health risk associated with drinking unpasteurized milk. The consumption of raw milk and raw milk products have a dedicated consumer base that believes the benefits of drinking unpasteurized and unprocessed milk/milk products outweigh any potential health risk. Approximately 37 states allow consumers the choice to purchase and drink raw milk by some method, either direct sales or “cow shares.” This regulation sets forth provisions for animal health; limited milk processing; milking and bottling sanitation; labeling; and milk examination with the intention of reducing the risk for contamination of milk that is not pasteurized to kill pathogens prior to consumption.
- B. Date of Last Amendment: April 22, 2022 (Doc. No. 5033, Vol. 46, Iss. 4)
- C. Amendment Synopsis: Added provisions for manufacturing of raw milk buttermilk, raw milk kefir, and raw milk cream to meet consumer request for these products. Removed some requirements from the previous regulation that were a carryover from the pasteurized milk regulation and are not applicable to the production of raw milk. We also deleted, since they are unnecessary for regulatory purposes, sampling processes that are conducted by the Department. Revised the consumer advisory to be harmonious with the requirements in R. 61-25, Retail Food Establishments, to reduce the burden on the retail sales locations for special signage.

**3. Nature of Public Input Received:**

A Stakeholder meeting was held during the revision drafting period and was attended by 14 stakeholders. During this meeting, there was discussion and comments requesting that raw milk kefir be added to the Department’s proposal to allow buttermilk and cream as an allowed further processed raw milk product. This modification was accepted by the Department. There was also a request for a delay in implementing the labeling changes for one year that was also accepted by the Department to allow dairies to use up the existing supply of labels.

**4. Evaluation:**

- A. Continued Need: Pursuant to S.C. Code of Laws, Section 44-1-140(3), DHEC promulgates regulations regarding raw milk, which are necessary as milk has a potential to serve as a vehicle of disease transmission. In the past, milk has been associated with disease outbreaks of major proportions. This regulation is necessary for reducing the risk of milk-borne diseases associated with the consumption of raw milk and raw milk products. The provision of the regulation cannot eliminate the risks associated with drinking raw milk but can reduce them by ensuring the milking animals are healthy, and the milk is

produced and bottled in an environment that can be kept sanitary and where the milk and limited risk milk products will not be subject to contamination (physical or pathogenic) or adulteration.

- B. **Efficacy:** These requirements have been effective in limiting severe illness outbreaks associated with consumption of raw milk; however, they cannot eliminate the risk of illness from consumption of raw milk due to the high-risk nature of this raw agricultural product. The recent revision has updated the regulation to reflect the most current science related to the limited risk in processing raw milk into raw buttermilk, raw milk cream, and raw milk kefir. It also provides for a construction variance process. Furthermore, it provides for a process for enforcement and penalties for those that would sell raw milk without a permit or regulatory oversight.
- C. **Breadth:** Regulation of milk by requiring pasteurization has dropped the incidence of milk-borne outbreaks from 25% of all disease outbreaks in 1938 to the less than 1% currently reported. Because raw milk is not pasteurized, enforcement of this regulation can only attempt to reduce the health risk of consuming raw milk. By providing requirements for the health of the milking herd and sanitary conditions of milking and bottling areas, this regulation has been as effective as possible. There have been illness outbreaks associated with the sale of legally produced raw milk, but they have been related to pathogens that do not cause illness in the animal and are therefore difficult to prevent. No other statutory changes have occurred and there has been no case law or enforcement cases associated with this regulation.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation has been updated to reflect the most current best practices associated with the production of raw milk and raw milk products for human consumption. The consumption of raw milk and raw milk products have a dedicated consumer base that believes the benefits of drinking unpasteurized and unprocessed milk/ milk products outweigh any potential health risk.

<b>Regulation:</b>	<b>61-34.1 Pasteurized Milk and Milk Products</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services			
<b>Program:</b>	Division of Food + Lead Risk Assessments			
<b>Program Contact:</b>	Name: Sandra Craig		Email: craigsd@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Section 44-1-140

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation sets forth minimum health standards, procedures, and practices to ensure the safety of milk and milk products for human consumption. It sets requirements for definitions and standards; adulterated or misbranded milk; permits; labeling; inspection of dairy farms and milk plants; the examination of milk; standards for milk; animal health; milk and milk products which may be sold; transferring, delivery containers, and cooling; future dairy farms and milk plants; personnel health; bottling, packaging, container filling, and container closure/sealing; procedures when infection or risk is discovered; recalls; permit fees; and enforcement procedures.
- B. Date of Last Amendment: April 22, 2022 (Doc. No. 5033, Vol. 46, Iss. 4)
- C. Amendment Synopsis: Updated the current regulation to change from referencing the 2013 Pasteurized Milk Ordinance (PMO) to the 2019 PMO. This is necessary to allow for the continuation of interstate commerce of Grade "A" dairy products produced in S.C. Revised the requirements for potable water sources for dairy farms by requiring them to be registered at a minimum of a category 3 small water system. This will provide a better method of tracking the sampling of farm wells. Clarified that non-Interstate Milk Shippers (IMS) plants do not have to comply with the requirement for Preventive Controls training. This will reduce the burden of expensive training costs to small in-state farms.

**3. Nature of Public Input Received:**

During the drafting period the Department held a virtual stakeholder meeting which was attended by nine stakeholders, at which there were no comments made.

**4. Evaluation:**

- A. Continued Need: Pursuant to S.C. Code of Laws, Section 44-1-140(3), DHEC promulgates regulations regarding milk and milk products to protect public health. The regulation is necessary as milk has a potential to serve as a vehicle of disease transmission. In the past, milk has been associated with disease outbreaks of major proportions. Conformance with the federal standard known as the Grade "A" PMO is necessary for individuals in South Carolina to sell or process milk and milk products for interstate commerce. R.61-34.1 requires regulatory conformance with the PMO.
- B. Efficacy: Regulation of milk has dropped the incidence of milk-borne outbreaks from 25% of all disease outbreaks in 1938 to the less than 1% currently reported. It has been effective in providing adequate safeguards in preventing intentional and unintentional contamination of milk produced or processed in South Carolina.
- C. Breadth: The industry is supportive of the Department's efforts to ensure a safe supply of milk for the public. This regulation does not place any undue burdens on the respective industries since current

language only requires industry to meet minimum federal criteria. All testing requirements that pertain to milk and milk products are federally mandated and are necessary to ensure safe food products. Conformance with the federal standard known as the Grade "A" PMO is necessary for individuals in South Carolina to sell or process milk and milk products for interstate commerce. This regulation must be amended periodically to the most current version of the PMO as interstate commerce and federal regulations require no more than a 3-year span between a new PMO and state adoption of that version. The current regulation is based on and meets the requirements of the 2019 Revision of the PMO. No other statutory changes have occurred and there has been no case law or enforcement cases associated with this regulation.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation is up to date with all federal criteria and allows for products produced in S.C. to meet the necessary standards for interstate commerce.

<b>Regulation:</b>	<b>61-36 Manufactured Grade Dairy Products</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services
<b>Program:</b>	Division of Food + Lead Risk Assessments
<b>Program Contact:</b>	Name: Sandra Craig    Email: craigsd@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Sections 39-37-120, 44-1-140, and 44-1-150

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation sets forth minimum health standards, procedures, and practices to ensure that manufactured grade dairy products are manufactured in South Carolina in a safe and wholesome manner. It sets requirements for definitions; adulterated or misbranded manufactured grade dairy products; compliance procedures; labeling; inspection of manufactured grade dairy products plants; examination of manufactured grade dairy products; manufactured grade dairy products from points beyond the limits of routine inspection; plans for construction; personnel health; procedures when infection or high-risk infection is suspected; recalls; and enforcement procedures.
- B. Date of Last Amendment: June 26, 2020 (Doc. No. 4902, Vol. 44, Iss. 6)
- C. Amendment Synopsis: This regulation was revised to combine the regulation for Frozen Desserts with Imitation Milk, Imitation Milk Products, and Products Made in Semblance of Milk and Milk Products, to create one single regulation. It also added standards for the manufacturing of other manufactured grade dairy products such as cheese and butter to provide food safety oversight of these products. New federal regulations went into effect in 2018. The new federal regulation structure facilitated combining all manufactured grade dairy products into one simpler regulation instead of two separate regulations with repetitive content. The previous regulation was based on the Code of Federal Regulations (CFR) 21 CFR 110 which had been removed from the register and has been replaced by the Food Safety Modernization Act (FSMA)-compliant 21 CFR 117. The new federal regulation not only updated the good manufacturing processes, but it also incorporated the new preventive controls provision required for all non-exempt firms to meet.

**3. Nature of Public Input Received:**

The Department held two stakeholder meetings, one in Charleston on October 3, 2019, and one in Anderson on October 10, 2019, to give the regulated community an opportunity to provide input, ask questions, and comment on the regulation and proposed changes. The stakeholders had no additional comments at the meetings other than to express support for the proposed changes.

**4. Evaluation:**

- A. Continued Need: Pursuant to S.C. Code of Laws, Section 44-1-140 (3), DHEC promulgated this regulation, which is necessary to ensure the prevention of illness by milk or milk products produced in South Carolina. In cases where DHEC adopts the CFR or Good Manufacturing Practices by reference, DHEC reviews those regulations annually to ensure they are current and consistent with other federal requirements.
- B. Efficacy: Outbreaks of communicable disease have not been associated with manufactured grade dairy products produced from plants operated in South Carolina in accordance with this regulation in part due

to the reduction of the disease risk from unsanitary conditions. It allows for firms operating in S.C. to meet minimum federal criteria established under 21 CFR 117 that specifies criteria on current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food.

- C. Breadth: This regulation is no more complex than necessary to meet the minimum federal criteria established under 21 CFR 117 that specifies criteria on current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food. In cases where DHEC adopts CFR or Good Manufacturing Practices by reference, DHEC reviews those regulations annually to ensure they are current and consistent with other federal requirements. 21 CFR 110 was revised in 2018 to the newer 21 CFR 117 and the Good Manufacturing Practices have changed. These changes required DHEC to revise this regulation in 2020 to stay current with the federal criteria. No other statutory changes have occurred and there has been no case law or enforcement cases associated with this regulation.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation is up to date with all federal criteria and allows for products produced in S.C. to meet the necessary standards for interstate commerce.

<b>Regulation:</b>	<b>61-56 Onsite Wastewater Systems</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services
<b>Program:</b>	Division of Onsite Wastewater, Rabies Prevention, Vector Surveillance & Enforcement
<b>Program Contact:</b>	Name: David Vaughan    Email: vaughadr@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Sections 44-1-140(11), 44-1-150, 44-55-825, 44-55-827, and 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: With this regulation, the Department provides oversight for the safe treatment and disposal of domestic wastewater to protect the health of families and communities.
- B. Date of Last Amendment: May 28, 2021 (Doc. No. 4979, Vol. 45, Iss. 5); July 1, 2022 (pending)
- C. Amendment Synopsis: In accordance with R.61-55, R.61-56, R.61-56.1, and R.61-56.2, the Department issues onsite wastewater contractor licenses, permits to construct, and approvals to operate for individual onsite wastewater treatment systems (septic systems). In 2021, the Department amended R.61-56, Onsite Wastewater Systems, to add new system standards, clarify and amend definitions, and clarify and update selected sections. The amendments modernize the regulation and streamline permitting procedures to address needed updates in administering the Onsite Wastewater program. The Department also amended provisions of R.61-56.1 and R.61-56.2 and merged R.61-56.1 and R.61-56.2 into R.61-56 to improve efficiency and clarity for regulated entities and the public. This entailed repealing R.61-56.1 and R.61-56.2 and simultaneously adding their provisions, as amended, to R.61-56. The amendments include changes to licensing requirements for pumpers and haulers currently under R.61-56.1. The amendments revise provisions currently contained in R.61-56.2 to implement a tiered licensing program to establish improved competency of onsite wastewater system contractors/installers. This approach included new requirements for examination and continuing education. In addition, because R.61-56.1 and R.61-56.2 are being combined with R.61-56, previously separate enforcement provisions were also consolidated and updated for clarity and to improve administration of the Onsite Wastewater program. The revisions expand existing site evaluation options and allow for more streamlined permit processing by allowing an applicant to submit a proposed system layout from a licensed Professional Soil Classifier ("PSC") or other licensed person qualified by statute to practice professional soil classifying. Under this regulation, applicants desiring to install systems for a subdivision are required to submit third-party soils work from a PSC or other licensed person qualified by statute to practice professional soil classifying. That person would then have the option to either submit a proposed system layout under one of the system standards established within R.61-56 or give the soils report to a Registered Professional Engineer to design a specialized septic system through the 610 Standard. Outside of the subdivision context, applicants for conventional systems will retain the option to use a qualified third party or allow the Department to conduct a soil evaluation and prepare a system layout. The 2022 revisions clarify a definition relating to rippable rock, amend language pertaining to procedures for evaluating subdivisions, adds variance processing timeframes, and provides a new option for subcontracting onsite wastewater soil evaluations by a licensed third-party professional.

### **3. Nature of Public Input Received:**

The Department held multiple stakeholder meetings from 2017-2022 to discuss the implementation of the 2021 revisions to R.61-56. At those meetings, the general sentiment was that the revisions had addressed most of the issues, but the following were noted as needing further consideration: increasing permitting fees, additional training for installers, amending the large system standard to prohibit circumvention by subdividing the property, and requiring soil reports for large systems to be done by a PSC. As the 2022 revisions are implemented, we will continue to work with stakeholders on any needed future amendments.

### **4. Evaluation:**

- A. Continued Need: This regulation is necessary to ensure a sanitary method of disposition of sewage and to abate obnoxious and offensive odors caused or produced by septic tank toilets by prosecution, injunction or otherwise.
- B. Efficacy: This regulation provides the oversight required by the statute and does not contain provisions not authorized by statute. Provisions have been clarified in recent revisions. New technology for onsite treatment of wastewater and the design of septic systems have been developed and were considered as part of a revision to this regulation. It is important to note that economic conditions continue to improve and are causing a sharp increase in the number of applications received. Additionally, the overall cost of issuing an onsite wastewater permit continues to increase because of indirect and direct operating costs. A request for state appropriations for this program in 2022 to date has not been supported.
- C. Breadth: The regulation is adequate to ensure compliance with the statute and there have been no statutory revisions since the regulation was last amended.

#### **Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: No change is recommended at this time. As the 2022 revisions are implemented, we will work with stakeholders on any needed future amendments.

<b>Regulation:</b>	<b>61-81 State Environmental Laboratory Certification Program</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Environmental Health Services			
<b>Program:</b>	Environmental Laboratory Certification			
<b>Program Contact:</b>	Name: Bennie Cockerel		Email:cockerbl@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Ann. Sections 44-55-10 et seq., known as the South Carolina Safe Drinking Water Act, and specifically § 44-55-30 and 44-55-100(4); S.C. Code Ann. § 48-1-10 et seq., known as the South Carolina Pollution Control Act, and specifically § 48-1-30 and 48-1-50(22); and S.C. Code Ann. Sections 44-56-10 et seq., known as the South Carolina Hazardous Waste Management Act, and specifically, § 44-56-30, to aid in the implementation of those Acts, and § 44-1-60 for appeal procedures.

**2. Regulation Overview:**

- A. Regulation Synopsis: R.61-81 provides the mechanism to assure the validity and quality of the data being generated for compliance with State regulations. The regulation applies to any laboratory performing analyses to determine the quality of air, drinking water, hazardous waste, solid waste, or wastewater; performing a bioassay; or performing any other analyses related to environmental quality evaluations as required by the Department or that will be officially submitted to the Department.
- B. Date of Initial Promulgation: April 11, 1980 (Vol. 4, Iss. 6 Part 1)
- C. Promulgation Synopsis: R.61-81 provides the mechanism to assure the validity and quality of the data being generated for compliance with State regulations. In addition, it allows the state to meet required federal mandates. This is directly impactful to the Environmental Affairs programs operationally.

**3. Nature of Public Input Received:**

None received.

**4. Evaluation:**

- A. Continued Need: This regulation must remain in legal effect based on the excerpt below from the Code of Federal Regulations, 40 CFR 142.10(b)(3)(i). This directly impacts programmatic work and the agency mission in fulfilling required federal mandates.

*The establishment and maintenance of a State program for the certification of laboratories conducting analytical measurements of drinking water contaminants pursuant to the requirements of the State primary drinking water regulations including the designation by the State of a laboratory officer, or officers, certified by the Administrator, as the official(s) responsible for the State's certification program. The requirements of this paragraph may be waived by the Administrator for any State where all analytical measurements required by the State's primary drinking water regulations are conducted at laboratories operated by the State and certified by the Agency. Until such time as the Agency establishes a National quality assurance program for laboratory certification the State shall maintain an interim program for the purpose of approving those laboratories from which the required analytical measurements will be acceptable.*

- B. Efficacy: This regulation continues to provide the needed authorities to meet the goals of this program.
- C. Breadth: This regulation serves as the only means to satisfy federal regulation 40 CFR 142.10(b)(3)(i), which in return allows the Environmental Affairs program areas to satisfy required federal mandates.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: The regulation is not recommended for change at this time. However, we continue to evaluate new federal and state regulatory requirements and will move forward with regulation amendments if needed.

<b>Regulation:</b>	<b>61-33 Drycleaning Facility Restoration Trust Fund</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Site Assessment, Remediation + Revitalization
<b>Program Contact:</b>	Name: Robert Hodges    Email: hodgesrf@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Ann. Sections 44-56-410 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Drycleaning Facility Restoration Trust Fund was established to pay for assessment and cleanup of contamination from dry cleaning facilities. This regulation contains the procedures to implement the Drycleaning Facility Restoration Trust Fund (the Fund), as spelled out in Article 4 of the Hazardous Waste Management Act (S.C. Code Ann. § 44-56-410 et seq.). The regulation establishes the criteria for determining eligibility of sites, and the process for prioritizing those sites for assessment and cleanup. The regulation applies to drycleaners, persons, and wholesalers that have registered with the Department of Revenue and subject to Article 4. The Fund excludes participation by textile mills, linen supply or uniform rental facilities, drycleaning facilities owned by government entities, and those facilities that initially elected not to participate as allowed by statute.
- B. Date of Last Amendment: May 26, 2017 (Doc. No. 4705, Vol. 41, Iss. 5)
- C. Amendment Synopsis: In the 2017 amendments, changes eliminated the requirement for drycleaners to provide evidence of contamination before the Department could use the Fund to perform work at their facilities. Subsequently, there was no need for sections of the regulation dealing with Initial Assessments, Secondary Assessments, applicants obtaining access to properties they do not own, excluded costs, reimbursements from the Fund, and contractor certification. The amendment also dealt with containment measures as a condition of eligibility and the requirement for closed-loop delivery.

**3. Nature of Public Input Received:**

No general stakeholder comments have been received requesting regulation changes.

**4. Evaluation:**

- A. Continued Need: The regulation is necessary for the implementation of the Drycleaning Facility Restoration Trust Fund.
- B. Efficacy: The regulation reflects the current state of policy, industry practices, and technology related to drycleaning facilities.
- C. Breadth: Due to the general overall effectiveness of the regulation, the regulation should remain as published.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: The regulation continues having need, is effective as currently written, and encompasses all aspects of fund management. Therefore, no change is recommended at this time.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-63 Radioactive Materials (Title A)*</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Waste Management
<b>Program Contact:</b>	Name: Lynne Garner    Email: <a href="mailto:garnerld@dhec.sc.gov">garnerld@dhec.sc.gov</a>
<b>Submission Date:</b>	4/29/2022

\*Co-owned with Healthcare Quality

**1. Statutory Authority:** S.C. Code Sections 13-7-10 through 13-7-140

### **2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-63, *Radioactive Materials (Title A)*, sets safety standards for all persons who receive, possess, use, transfer, or acquire any radioactive material. This regulation does not apply to persons subject to regulation by the Nuclear Regulatory Commission (“NRC”). Statutory authority for R.61-63 resides in the Atomic Energy and Radiation Control Act, S.C. Code Ann. Sections 13-7-10 through 140.

The Department adopted Parts I, II, III, IV, V, VI, VIII, XI, and XII to maintain compliance with federal law. The Department adopted Part XII in its entirety at the time of the October 24, 2014, revision. These parts are revised periodically to maintain compatibility with NRC regulations. The schedule for revision is planned by the Bureau of Radiological Health in conjunction with the Division of Waste Management in the Bureau of Land and Waste Management. The Department has maintained federal compatibility since the regulation was first promulgated.

Part VII of the regulation sets forth requirements for Licensing Requirements for Land Disposal of Radioactive Waste. Part VII became effective on August 22, 1986, and was last amended on March 26, 2010. The Department promulgated Sections 7.11.9 through 7.11.11 of Part VII, which have not been revised since the 2007 five-year review.

The Department promulgated Parts IX and X, which are not subject to federal compatibility requirements. Part IX of the regulation sets forth the requirements for the Licensing of Naturally Occurring Radioactive Material (“NORM”). Part X of the regulation sets forth the Licensing Requirements for Interim Storage of Radioactive Waste. Parts IX and X became effective on May 26, 1995, and have not been amended since 1995.

- B. Date of Last Amendment: May 28, 2021 (Doc. No. 5036, Vol. 45, Iss. 5)
- C. Amendment Synopsis: A majority of the revisions made were parts of RHA.4, “Use of Radionuclides in the Health Profession.”

### **3. Nature of Public Input Received:**

The Department received no public comments for this regulation. Stakeholder sentiment for the regulation is generally neutral with the understanding that the regulations are adopted for federal compatibility.

### **4. Evaluation:**

- A. Continued Need: The federal equivalent to R.61-63 is amended periodically. The state is required to adopt certain federal amendments within three years of the effective date of changes in United States

Nuclear Regulatory Commission (USNRC) regulation to maintain authorization by the USNRC for the State Radioactive Waste Management Program.

- B. Efficacy: The subject of managing radioactive materials can be complex. Overall, Parts I, II, III, IV, V, VI, VIII, XI, and XII are necessary to protect workers, the public, and the environment from the adverse effects of radiation produced by radioactive materials and are required to maintain compliance with federal law. Part VII of the regulation meets the compatibility and health and safety categories of the NRC regulations. Provisions promulgated by the state in Part VII and the provisions in Part IX and X are currently effective to protect the health of workers, citizens and the environment of South Carolina from the effects of by-product and naturally occurring radioactive materials. However, Parts IX and X have not been evaluated since their promulgation in 1995. Also, Section 7.32.8, required for compatibility with federal regulations, was inadvertently omitted and needs to be added. Part X contains a reference error.
- C. Breadth: Due to the general overall effectiveness of the regulation, other than the recommended amendments, the regulation should remain as published.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: Amend Parts III, IV, and XII by November 16, 2023, to incorporate required federal compatibility. The R.61-63 amendment date is based on the date that the NRC publishes a federal register notice for regulations that apply to the Agreement States. The Agreement State schedule for completion of promulgation is 3 years after publication of the notice. We currently have one outstanding RATS ID: 2020-3 that requires amendment to be complete by November 16, 2023. The current R.61-63 regulations are shared between Radioactive Waste and Radiological Health divisions and are updated by the section to which the revised regulations apply.			

## Environmental Affairs | Land and Waste

Regulation:	61-79 Hazardous Waste Management Regulations			
Deputy Area:	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
Bureau:	Land and Waste			
Program:	Division of Waste Management			
Program Contact:	Name: Joe Bowers		Email: bowersjb@dhec.sc.gov	
Submission Date:	4/29/2022			

**1. Statutory Authority:** S.C. Code Ann. Section 44-56-30.

### **2. Regulation Overview:**

- A. Regulation Synopsis: The Hazardous Waste Management Regulations authorize DHEC to regulate the management of hazardous waste in South Carolina. Hazardous waste is regulated from the point of generation, through transportation, storage, treatment, and disposal.
- B. Date of Last Amendment: R.61-79.260-266; 268; 270; and 273: May 27, 2022 (Doc. No. 5058, Vol. 46, Iss. 5)
- C. Amendment Synopsis: On May 27, 2022, the Hazardous Waste Management Regulations were amended to adopt the “Modernizing Ignitable Liquids Determinations” rule published by the U.S. Environmental Protection Agency (EPA). This rule updated flash point test methods used to determine if a liquid waste is hazardous. It allows the use of non-mercury thermometers in approved analytical methods that currently require mercury thermometers.

### **3. Nature of Public Input Received:**

Several stakeholders encouraged adoption of federal rules published by the U.S. Environmental Protection Agency (EPA). Three rules were adopted, including the “Universal Waste Regulations: Addition of Aerosol Cans Rule”, the “Safe Management of Recalled Airbags Rule”, and the “Modernizing Ignitable Liquids Determinations Rule”.

### **4. Evaluation:**

- A. Continued Need: As a federally authorized program, the Hazardous Waste Management Regulations are routinely reviewed to ensure that they are current with the federal program. EPA has oversight and enforcement authority to ensure that state-authorized programs maintain federal equivalence. State authorization requires that the regulations are no less stringent than the federal regulations, contain adequate state enforcement authority, and provide for public participation and availability of information. Authorized states like South Carolina must continually revise their programs to maintain federal equivalence. Once the state promulgates rule changes, they are submitted to EPA for review, comment, and approval. This robust regulatory process ensures that the program stays current with the federal Resource Conservation and Recovery Act (RCRA) program. As an authorized program, South Carolina is required to adopt certain “mandatory” regulations within three years of EPA adoption. While South Carolina is not required to adopt other regulatory changes to RCRA if the changes are considered “optional” for adoption, it typically does so to maintain consistency with the federal RCRA Program.
- B. Efficacy: The RCRA program is based on federal regulations. S.C. is authorized by EPA to implement the RCRA program in lieu of EPA. The hazardous waste regulations effectively regulate hazardous waste from the point of generation through transportation, storage, treatment, and disposal.

- C. Breadth: Due to the general overall effectiveness of the regulations, other than periodic amendments as required by the EPA to maintain program authorization, the regulation should remain as published.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The EPA issues periodic revisions to the RCRA hazardous waste regulations. Authorized states such as S.C. are required by EPA to adopt the revisions if the EPA determines these revisions to be mandatory. Other updates may be determined by EPA to be optional for states to adopt. South Carolina typically adopts the optional revisions in order to be consistent with EPA regulations. It is recommended to adopt revisions to RCRA regulations as made by EPA.			

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-83 Transportation of Radioactive Waste Into or Within South Carolina</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Waste Management			
<b>Program Contact:</b>	Name: Lynne Garner		Email: garnerld@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 13-7-10 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation was promulgated pursuant to Act No. 429 of 1980, the South Carolina Radioactive Waste Transportation and Disposal Act, amending S.C. Code Ann. § 13-7-10, et seq. (1976 and Supp. 2014) of the South Carolina Atomic Energy and Radiation Control Act (“Act”). It became effective May 22, 1981, and was last amended on October 27, 2006. The purpose of this regulation is to require written notification to the Department of shipments of radioactive waste by any shipper, carrier, or other person who transports such waste within the State’s borders. An additional purpose of the regulation is to require that shippers of such waste obtain adequate financial assurance and hold the State harmless in case of radiological injury or damage arising out of the transportation of the waste, and for the enforcement of transportation and disposal requirements of radioactive waste. This regulation applies to generators and shippers of radioactive waste, including, for example, nuclear power plants, waste brokers and processors, educational and government institutions, and research facilities.
- B. Date of Last Amendment: October 27, 2006 (Doc. No. 3068, Vol. 30, Iss. 10)
- C. Amendment Synopsis: Removal of reference to 49 CFR 171-179, 49 CFR Parts 386-399 and replaced with reference to the Nuclear Regulatory Commission Title 10 CFR 71, as revised on January 1, 2006. Included a listing of exceptions in Part 71 that are under NRC authority and are not delegated to the states.

### **3. Nature of Public Input Received:**

No comments have been received.

### **4. Evaluation:**

- A. Continued Need: The federal equivalent to R.61-83 is amended periodically. The State is required to adopt certain federal amendments within three years of the effective date of changes in the United States Nuclear Regulatory Commission (USNRC) regulation to maintain authorization by the USNRC for the State Radioactive Materials Management Program.
- B. Efficacy: R.61-83 adopts these federal regulations to maintain conformity with federal requirements for Transportation Safety Standards as found in 10 CFR 71 and to promote compliance with federal standards, as required by Section 274 of the Atomic Energy Act of 1954. The Transportation Safety Requirements are incorporated by reference.
- C. Breadth: Due to the general overall effectiveness of the regulation, other than the recommended amendments, the regulation should remain as published.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: Amend the regulations in 2024 to incorporate the following revisions. There should be language in Section 1.2 of R.61-83 that requires compliance with the Department of Transportation (DOT) regulations; this language was inadvertently omitted during the last revision. The language regarding "10 CFR Part 71" refers to a revision date of 2006; however, the regulation was revised in 2018, therefore, the language should reflect the latest revision. Also, the reference to "R.61-63" was revised to "R.61-83" in error. Section 1.2 should be amended to include the DOT regulations, to change the reference from R.61-83 to R. 61-63, and to remove the outdated revision date referencing 10 CFR Part 71.

The language in Section 3.3 of R.61-83 does not match the language in the Act and does not clearly indicate that the Department requires shippers to comply with the waste acceptance criteria at the disposal site. Although Section 3.3. states that shippers must comply with the "licenses or license conditions of the disposal facility . . .", it is not clear that the Site Disposal Criteria is a condition that has been incorporated into the licensing of the facility.

There should be language in Section 7 allowing the Department the discretion to grant exemptions or exceptions from the requirements of the regulations that will not result in undue hazard to public health and safety or property. This is consistent with R.61-63 regulations.

The regulation references required forms in various parts of Sections 4 and 5 and includes copies of those forms; however, the names of those forms have changed since the last amendment to the regulation. The form name changes are not reflected in the regulations but should be.

<b>Regulation:</b>	<b>61-92 Underground Storage Tank Control Regulations</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Underground Storage Tank Management Division			
<b>Program Contact:</b>	Name: Mihir Mehta		Email: mehtamp@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Ann. Sections 44-2-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: R.61-92, Part 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs), is promulgated pursuant to Title 44, Chapter 2, of the 1976 South Carolina Code of Laws, as amended, and known as the State Underground Petroleum Environmental Response Bank (SUPERB) Act of 1988. The SUPERB Act creates two separate and distinct accounts – the SUPERB Fund and the SUPERB Financial Responsibility Fund – to assist owners and operators of USTs to pay costs associated with petroleum releases and to compensate third parties for accidental releases. The Regulation addresses requirements for: performance standards; notification and permitting; release prevention and detection; operator training and certification; financial responsibility requirements; and release reporting, investigation, and corrective action.
- B. Date of Last Amendment: May 26, 2017 (Doc. No. 4706, Vol. 41, Iss. 5)
- C. Amendment Synopsis: In 2016, the Department initiated the statutory process to amend the regulation to adopt the federal UST requirements at 40 CFR Section 280 (effective October 13, 2015), and revise portions of R.61-92, Part 280 pertaining to compliance requirements. The amendments reorganize the regulations for clarity and consistency with the format of the revised federal regulation along with changes to correct typographical errors, deletion of outdated tables and text, and revision or removal of burdensome compliance requirements.

**3. Nature of Public Input Received:**

The Department provided outreach meetings on May 16, June 13, July 11, and August 15 of 2016 to stakeholders -- UST facility owners and operators, petroleum industry members, equipment contractors, environmental consultants, small businesses, local governments, and environmental groups -- to provide an opportunity to share their ideas and concerns. The Department considered all input from those attending these meetings.

**4. Evaluation:**

- A. Continued Need: The Act requires DHEC to promulgate regulations as authorized by S.C. Code Ann. Sections 44-2-50, -60, -70, and -80. The UST Control Regulations adopt the federal requirements of 40 CFR 280 and 281. The Regulations support protection of human health and the environment without redundancy with other programs or agencies in South Carolina. Most residents in South Carolina use groundwater as their source of drinking water. Petroleum releases from UST operations are a major contributor to contamination of our State’s natural resources. Implementation of the regulation, compliance, and inspection activities have resulted in fewer leaks from UST systems. In turn, this means less investigation and corrective action is required. Ultimately, this equates to less risk to human health and the environment as well as less liability for UST owners and operators and the SUPERB Fund.

- B. Efficacy: The compliance and technical portions addressed by the regulations are somewhat complex, but are based on federal requirements which refer to codes of practice and national industry standards established by various organizations and associations, as well as manufacturer's instructions.
- C. Breadth: In 2019, Department staff conducted a thorough review of current regulatory requirements, comparing the South Carolina UST Control Regulations to the federal UST regulation. The South Carolina UST Control Regulations are no less stringent than the federal UST regulation.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation as written fulfills the necessary requirements.

<b>Regulation:</b>	61-98 State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Underground Storage Tank Management Division			
<b>Program Contact:</b>	Name: Mihir Mehta		Email: mehtamm@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Ann. Sections 44-2-50, 44-2-120, and 44-2-130.

**2. Regulation Overview:**

- A. Regulation Synopsis: R.61-98 is promulgated pursuant to S.C. Code Ann. Sections 44-2-50, -120, and -130 of the 1976 South Carolina Code of Laws, as amended, the State Underground Petroleum Environmental Response Bank (SUPERB) Act of 1988. The Regulation sets forth certain requirements for site rehabilitation for releases from underground storage tanks (USTs) governed by the SUPERB Act and Regulation R.61-92, including accessing the SUPERB Fund account, risk-based corrective action procedures, certification of site rehabilitation contractors, and suspension and decertification of site rehabilitation contractors by DHEC.
- B. Date of Last Amendment: May 23, 1997 (Doc. No. 2040, Vol. 21, Iss. 5)
- C. Amendment Synopsis: The 1997 amendments included clarifications to Section 44-2-40 pertaining to the purposes and uses of the SUPERB Account and SUPERB Financial Responsibility Fund; to Section 44-2-50 and Section 44-2-80 pertaining to the lender liability exemption; to Section 44-2-60 pertaining to tank registration, fees, and penalties; and Section 44-2-140 pertaining to enforcement of the SUPERB Act.

**3. Nature of Public Input Received:**

No comments were received.

**4. Evaluation:**

- A. Continued Need: The Act requires DHEC to promulgate regulations as authorized by S.C. Code Ann. Sections 44-2-50, -120, and -130. R.61-98 is necessary to establish priority ranking for UST releases, criteria for release assessments, corrective action procedures, contractor certification/decertification, and procedures for requesting and allocating SUPERB funds. The regulation supports protection of human health and the environment without redundancy with other programs or agencies in South Carolina. The cleanup of leaking USTs has resulted in better protection of groundwater which is the primary source of drinking water for a majority of South Carolinians.
- B. Efficacy: The regulation fulfills the requirements as authorized by S.C. Code Ann. Sections 44-2-50, -120, and -130. In 2013, the Department recommended the regulation be amended to change the definition of "Site Rehabilitation Contractor" in Section I of R.61-98.
- C. Breadth: The regulation supports protection of human health and the environment without redundancy with other programs or agencies in South Carolina. The cleanup of leaking USTs has resulted in better protection of groundwater which is the primary source of drinking water for a majority of South Carolinians.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation as written fulfills the necessary requirements.

## Environmental Affairs | Land and Waste

Regulation:	61-104 Hazardous Waste Management Location Standards			
Deputy Area:	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
Bureau:	Land and Waste			
Program:	Division of Waste Management			
Program Contact:	Name: Joe Bowers		Email: bowersjb@dhec.sc.gov	
Submission Date:	4/29/2022			

**1. Statutory Authority:** S.C. Code Ann. Section 44-56-35

### **2. Regulation Overview:**

- A. Regulation Synopsis: The Act requires the Department to establish standards for the location of new and expanding hazardous waste treatment, storage, and disposal (“TSD”) facilities. The standards must be based solely on the protection of human health and the environment and are a prerequisite for the issuance of a hazardous waste permit. The regulation includes site suitability criteria, including, but not limited to: geologic and hydrologic settings; media-specific requirements (e.g., groundwater, surface water, and air); ecological resources (e.g., wetlands); and buffer zones and setbacks. The regulation took effect on February 22, 1991 and has not been amended since then.
- B. Date of Initial Promulgation: February 22, 1991 (Doc. No. 1180, Vol. 15, Iss. 2)
- C. Promulgation Synopsis: Please see item A.

### **3. Nature of Public Input Received:**

No stakeholder comments have been received requesting regulation changes.

### **4. Evaluation:**

- A. Continued Need: In addition to fulfilling a statutory requirement of the Hazardous Waste Management Act, the location standards continue to play an important role in the permitting of hazardous waste TSD facilities and the expansion of existing facilities. The standards help to ensure that TSD facilities are located in areas where there will be minimal impact on human health and the environment.
- B. Efficacy: In addition to fulfilling a statutory requirement of the Hazardous Waste Management Act, the location standards continue to play an important role in the permitting of hazardous waste TSD facilities and the expansion of existing facilities. The standards help to ensure that TSD facilities are located in areas where there will be minimal impact on human health and the environment.
- C. Breadth: The regulation is not too broad or too narrow. The location of new or expanding hazardous waste sites is important for the protection of human health and the environment for all citizens of the state.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: The Hazardous Waste Management Location Standards regulations are effective in protecting human health and the environment by placing minimum requirements on the locations of new or expanding hazardous waste management facilities. This is an important safeguard for citizens of the state.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-105 Infectious Waste Management Regulation</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Waste Management			
<b>Program Contact:</b>	Name: Lynne Garner		Email: garnerld@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 44-93-10 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation was promulgated pursuant to the South Carolina Infectious Waste Management Act, Act Number 134 of 1989 of S.C. Code Ann. 44-93-10, et seq. (2002 and Supp. 2016), as amended. The purpose is to protect the health and safety of the public and the health of living organisms and the environment from the improper, inadequate, or unsound infectious waste management. It also sets forth standards for the containment, storage, and treatment, of infectious waste, requirements for reporting and recordkeeping, procedures and requirements for registration of generators, facilities, and transporters of infectious waste, and for conditions and issuance of permits. R.61-105 became effective June 28, 1991.
- B. Date of Last Amendment: June 25, 2010 (Doc. No. 4107, Vol. 34, Iss. 6)
- C. Amendment Synopsis: The Department amended R.61-105 to include the handling of embalming waste as a regulated infectious waste, provide requirements for the use of formaldehyde as a disinfectant for bodily fluids during the embalming process, provide a method for the inspection, approval, and use of holding tanks to hold the treatment residue created by the disinfection of bodily fluids with formaldehyde, and to clarify points in the regulation for the regulated community. The amendments also added and clarified definitions. Allowances for alternate recordkeeping and communication were established for generators and transporters with regards to weight, biohazard marking, and manifesting. Duplicated or outdated requirements were deleted. New requirements were added for situations that could create a public health risk that had not been addressed in the past. Clarifications were made to the regulation to address the handling and treatment of regulated infectious waste by generators and transporters. In response to comments, adjustments were made to bring state transportation requirements in line with the U.S. Department of Transportation (DOT) requirements. Requirements for those utilizing the United States Postal Service to transport regulated infectious waste were clarified. Generator registration and fee requirements were revised and facilities that close were required to notify the Infectious Waste Program.

### **3. Nature of Public Input Received:**

In September of 2016, the Department published a Notice of Proposed Regulation (NPR), identified as Document 4667, in the State Register, to amend Regulation 61-105, Infectious Waste Management Regulations. Due to the complexity of issues raised by public comments received, the Department canceled the March 2017 public hearing for the proposed amendments and terminated Document 4667. The Department will consider these comments in proposing future amendments to R.61-105.

#### 4. Evaluation:

- A. Continued Need: This regulation shall apply to infectious waste management as defined in 44-93-20 of the Act and as further defined herein, that is generated, stored, contained, transferred, transported, treated, destroyed, disposed, or otherwise managed within South Carolina. Generators, transporters, owners/operators of intermediate handling facilities, and treatment facilities, or any other persons who generate, store, contain, transport, transfer, treat, destroy, dispose, or otherwise manage infectious waste in South Carolina shall comply with this regulation. In addition to the requirements of this regulation, all other applicable requirements of the Department shall be met. In addition to the requirements of this regulation, generators, transporters, owners/operators of intermediate handling facilities and treatment facilities, or any other person shall comply with applicable Federal, State, county, and local rules, regulations, and ordinances.
  
- B. Efficacy: This regulation has some overlap with the Occupational, Safety, and Health Administration (OSHA), and the Department of Transportation (DOT) requirements. Most overlaps occur in the requirements for the handling and containment of waste. The Department has a cooperative agreement with DOT to enforce its regulations. The Department proposes to amend the regulations, as necessary, to ensure compatibility. This regulation does not refer to tattoo or body piercing facilities or address waste generated by them; however, the Department's standards for licensing tattoo and body piercing facilities (R. 61-111, Section 1206 and R.61-109, Sections 1101 and 1103.A.7, respectively) require that those facilities comply with this regulation. Therefore, this regulation should be amended to address waste generated in tattoo or body piercing facilities.

Additionally, stylistic changes, which may include corrections for internal consistency, clarification, references, and spelling will be made to improve the overall text of the regulation, as well as to add or clarify definitions of terminology used in the regulation.

- C. Breadth: Due to the general overall effectiveness of the regulation, other than the recommended amendments, the regulation should remain as published.

Recommendation:	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: Issue a new NOD in 2025 to address the compatibility with OSHA/DOT regulations, standards for managing products of conception, demonstration of need for treatment facilities, requirements for transfer and intermediate handling facilities, disinfection standards, treatment standards, and other revisions addressed above.			
Proposed amendments may include the following:			
(1) Facilities that have a permit by rule will now be required to notify the Department of the type of treatment they will utilize, and the requirements will be revised for any waste that generators are pre-treating.			
(2) Body art facilities (tattoo and body piercing) will be included in the types of facilities that generate infectious waste.			
(3) Recordkeeping requirements will be revised to include a timeframe for records to be provided to the Department after an inspection.			
(4) Timeframes will also be added to the requirements for variances and alternative treatment technology approvals, including expiration and opportunities for renewal.			
(5) Requirements will be added to allow better communication with facilities and tracking of facilities.			
(6) Annual reporting requirements for treatment facilities will be revised to require amounts of waste treated to correspond to the state of origin.			
(7) Requirements in conflict with the federal Department of Transportation regulations will be deleted or revised.			
(8) Protocol requirements for generators will be given more specificity.			

(9) Demonstration of need requirements will be revised and given more consistency with those of other similar programs.

(10) The definition(s) and requirements for storage of waste will be revised.

(11) Financial assurance documentation requirements will be revised to better protect the Department and South Carolina residents.

(12) The standards for waste treatment technologies will be updated.

(13) The requirement for transporters to disinfect their vehicles will be simplified.

(14) The requirements for handling product of conception waste will be revised and specific requirements for treatment and documentation relating to this waste will be added.

(15) Additionally, stylistic changes, which may include corrections for internal consistency, clarification, references, and spelling will be made to improve the overall text of the regulation, as well as to add or clarify definitions of terminology used in the regulation.

(16) A table of contents will be added.

<b>Regulation:</b>	<b>61-107.1 Solid Waste Management Grants, Recycling Education Grants, and Waste Tire Grants</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-10 et seq., 44-96-120, and 44-96-130

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation authorizes the Department to establish procedures for disbursement of solid waste management grants, recycling education grants, and waste tire grants to local governments for solid waste management recycling facilities.
- B. Date of Initial Promulgation: April 23, 1993 (Doc. No. 1491, Vol. 17, Iss. 4)
- C. Promulgation Synopsis: The initial promulgation addressed the Department’s ability to establish specific procedures for the disbursement of solid waste management grants, recycling education grants, and waste tire grants to local governments for solid waste management recycling projects. It has not been amended since promulgation.

**3. Nature of Public Input Received:**

During 2016, the Department initiated a stakeholder process to consider changes needed to the Solid Waste Policy and Management Act (SWPMA) and solid waste regulations. As a result of that process, a recommendation was made to revise the “bonus” grant language in the statute as well as in the regulation for consistency with the statute. No other public comments have been received since 2016. Changes were also proposed that would amend how the Petroleum Fund is allocated for grants.

**4. Evaluation:**

- A. Continued Need: The regulation needs to remain in effect to fulfill requirements set forth in S.C. Code Sections 44-96-10 et seq., 44-96-120, and 44-96-130 to establish procedures for disbursement of solid waste management grants, recycling education grants, and waste tire grants to local governments for solid waste management recycling facilities.
- B. Efficacy: This regulation has not been amended since promulgation in 1993, therefore, references throughout the regulation are outdated. Specifically, it should be updated to address changes to the Solid Waste Policy and Management Act (SWPMA). Language should also be clarified throughout the regulation regarding general requirements for grant agreement guidelines and should be updated to reflect terms and conditions staff typically use for grant agreements.
- C. Breadth: The current regulation limits the ability of the Department to make needed updates to the grant application and award process.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation should be amended for consistency with changes to the SWPMA and to update general staff practices for grant agreements.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.2 Full Cost Disclosure</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Section 44-96-90

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation requires local governments to submit to DHEC and to publish in a newspaper of general circulation an annual report outlining its costs to provide solid waste services in its city or county. This regulation applies to all local governments that provide solid waste management services.
- B. Date of Initial Promulgation: April 23, 1993 (Doc. No. 1490, Vol. 17, Iss. 4)
- C. Promulgation Synopsis: The regulation requires annual reporting of county solid waste services to DHEC.

### **3. Nature of Public Input Received:**

In 2016, the Department initiated an extensive stakeholder process to review needed changes to the Solid Waste Policy and Management Act (SWPMA). The stakeholder group, as well as local governments, expressed strong opposition to the requirement to locally publish full cost data, especially the requirement to publish reports in a newspaper. The private sector solid waste management community has expressed an interest in keeping the requirement that full cost data be submitted to DHEC.

### **4. Evaluation:**

- A. Continued Need: The regulation is needed to fulfill county reporting requirements, as required, in the Solid Waste Policy and Management Act (SWPMA).
- B. Efficacy: This regulation fulfills the requirements set forth in the SWPMA by establishing standards for local governments to disclose information regarding their solid waste services.
- C. Breadth: This regulation is too broad based upon new technologies. Requiring local governments publish their Full Cost data in a newspaper is a burden and an outdated technology. Technological advancements provide alternate means, at no cost, to distribute information via internet websites.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: Currently no change is recommended at this time due to other, higher regulation amendment priorities; however, in the future, this regulation should be amended should proposed changes to the SWPMA act be implemented.			

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.3 Waste Tires</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Section 44-96-170

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation contains requirements for the collection, storage, transport, disposal, and processing of waste tires.
- B. Date of Last Amendment: June 26, 2015 (Doc. No. 4542, Vol. 39, Iss. 6)
- C. Amendment Synopsis: The revision amended the applicability of the regulation and expanded the definitions contained in the regulation.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation must remain in effect to manage the collection, storage, transport, disposal, and processing of waste tires in South Carolina.
- B. Efficacy: The regulation fulfills the policy for which it is based; however, legislative changes in 2021 to the Solid Waste Policy and Management Act (SWPMA) should be updated in the regulation. Updates include removing gaps in the Department's authority over waste tire facilities by addressing the Department's right to deny, suspend, or revoke permits if compliance is not maintained.
- C. Breadth: The regulation language should be adjusted to remove the exemption allowing storage of 120 tires at a non-permitted facility. The Department also wishes to adjust the language in the permit requirements to state an end-market for chipped tires in a facility's operational plan.

**Recommendation:**     Amend     Repeal     No change

Explanation of Recommendation: The regulation should be updated to reflect the recent legislative changes and ensure the requirements adequately protect human and environmental health.

<b>Regulation:</b>	<b>61-107.4 Compost and Mulch Production from Land-clearing Debris, Yard Trimmings, and Organic Residuals</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes minimum standards for the proper management of yard trimmings, land-clearing debris, and other organic material.
- B. Date of Last Amendment: May 28, 2021 (Doc. No. 5003, Vol. 45, Iss. 5)
- C. Amendment Synopsis: The 2021 Amendment provided updates to financial assurance requirements, operating and noticing requirements for exempt or conditionally exempt facilities, and operating requirements for composting facilities, reduced noticing requirements for facilities recycling land-clearing debris, and addressed clerical errors.

**3. Nature of Public Input Received:**

The Department is engaged in stakeholder discussions to discuss proposals for a general permit for Type 2 composting facilities. If implemented, a general permit could ease regulatory burdens for business while still retaining a minimum degree of protection on human and environmental health.

**4. Evaluation:**

- A. Continued Need: This regulation is needed to establish minimum requirements for the proper management of yard trimmings, land-clearing debris, and other organic material; to encourage composting and establish standards for producing compost, and to ensure operations are performed in a manner protective of human and environmental health.
- B. Efficacy: This regulation generally does a good job of providing a minimum level of requirements for composting facilities in the State. Some stakeholders suggested removing permitting and financial assurance requirements for Type 1 composters, as is done in neighboring states like Georgia, while still retaining inspection and operational requirements like fire prevention plans. The Department should study this proposal further for a possible future amendment. Some requirements are redundant, such as the requirement for a disclosure statement for transfers of ownership, which are not required for new permittees.
- C. Breadth: The Department believes the regulation is too narrow in that the wood chipping portions focus mainly on mulch production. There should be different requirements for facilities that keep piles of processed materials on site. The Department should also consider whether the types of facilities that require weekly temperature readings should be expanded.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: While the Department does not see urgency to update the Composting requirements at the current time, this may change as stakeholder discussions and further reviews encourage further amendments.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.5 Collection, Temporary Storage and Transportation of Solid Waste</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Mining + Solid Waste Management			
<b>Program Contact:</b>	Name: Sallie Williams		Email: williasw@dhec.sc.gov	
<b>Submission Date:</b>	4/11/2022			

**1. Statutory Authority:** S.C. Code Sections 44-96-370, 44-96-450, and 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The regulation establishes minimum standards for the collection, temporary storage, and transportation of solid waste prior to processing or waste disposal.
- B. Date of Initial Promulgation: May 28, 1993 (Doc. No. 1547, Vol. 17, Iss. 5 Part 1)
- C. Promulgation Synopsis: See item A.

**3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: This regulation should remain in effect to maintain standards for collection, temporary storage, and transportation of solid waste prior to processing or disposal.
- B. Efficacy: The regulation adequately fulfills the policy for which it was based. There have been no compliance problems, enforcement actions, or appeals concerning this regulation.
- C. Breadth: This regulation has not been revised since it became effective in 1993. It has a very limited scope and no major issues have been identified regarding the regulation's requirements. The Department has not found any major compliance or enforcement issues with its provisions.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: No changes at this time due to other, higher regulation amendment priorities; however, regarding future amendments only for the purposes of consistency, the Department recommends (as it did in 2017) that language related to violations, penalties, and appeals be revised for consistency with other Sections of R.61-107.			

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.6 Solid Waste Processing Facilities</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-290, 44-96-300, 44-96-360, 44-96-400, 44-96-450, and 44-96-460

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes procedures for solid waste processing facilities, including processing activities involving unrecoverable solid waste at a Materials Recovery Facility.
- B. Date of Last Amendment: June 23, 1995 (Doc. No. 1801, Vol. 19, Iss. 6)
- C. Amendment Synopsis: R.61-107.6 originally only regulated municipal solid waste processing facilities to the exclusion of other solid waste processing facilities. The amendment in 1995 broadened the scope of the regulation to encompass other solid waste processing activities, apart from on-site processing. This amendment also added requirements for signs and updated closure requirements.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation should remain in effect to establish the procedures, documentation, and other requirements that must be met for the proper operation and management of all solid waste processing facilities, including the processing activities involving the unrecoverable solid waste at a Materials Recovery Facility. It includes permitting, operational, closure, and other requirements.
- B. Efficacy: This regulation fulfills the policy for managing solid waste processing facilities. However, multiple environmental incidents occurred due to sham recyclers who claimed exemption from this regulation as a recovered materials processing facility. Act 170 was enacted on May 3, 2018, to combat the practice of sham recycling by establishing requirements for construction and demolition debris facilities. The Department believes that a new regulation for these specific activities is needed. The stakeholder meeting on this new regulation stalled in 2020, but discussions are ongoing.
- C. Breadth: This regulation is too narrow and should be updated to address several references that are out of date. For example, there is a reference to R.61-107.11, which was repealed. For consistency, the permit review language should also be updated to include recent language from R.61-107.4 regarding permit suspension. The regulation should also be updated to include recommendations from the 2017 review:
  - a. Increase the boundary distances;
  - b. Standardize financial assurance requirements for consistency with other regulations;
  - c. Clarify access requirements for Department personnel;
  - d. Specify signage requirements at permitted facilities;
  - e. Clarify storage requirements for residual materials generated/remaining at permitted facilities;

- f. Clarify that a facility must adhere to the design and operational plans outlined in their application; and
- g. Require that copies of the facility design and operational plans, as submitted as part of the permit application, be maintained on-site at the facility.

**Recommendation:**       Amend                       Repeal                       No change

Explanation of Recommendation: No change is recommended at this time due to other, higher regulation amendment priorities. This regulation should be amended in the future in conjunction with a statutory change to the SWPMA and in conjunction with the repeal of 61-107.18.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.7 Transfer of Solid Waste</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-290, 44-96-300, 44-96-360, 44-96-400, 44-96-450, and 44-96-460

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes standards for facilities where solid waste is transferred from collection vehicles to other transportation units for movement to another solid waste management facility prior to its processing and disposal.
- B. Date of Initial Promulgation: May 28, 1993 (Doc. No. 1549, Vol. 17, Iss. 5 Part 1)
- C. Promulgation Synopsis: This regulation is used to establish minimum requirements for facilities where solid waste is transferred from collection vehicles to other transportation units for movement to another solid waste management facility prior to its processing and disposal. In addition, this regulation provides that no unpermitted discharges to the environment shall occur during the transfer of solid waste.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation is necessary to convey the requirements for the construction, operation, and closure of a solid waste transfer station so that such activities are protective of the environment.
- B. Efficacy: The regulation adequately fulfills the policy for which it is based. The requirements of this regulation are not complex and are necessary to clarify standards for facility operators and allow Department staff to have pertinent and adequate information when making permitting decisions. This regulation also clarifies to all parties the processes for maintaining compliance with the regulation and the penalties for violations.
- C. Breadth: There are outdated references that should be updated for this regulation. The Department also believes that recommendations from previous Five-Year Reviews should be considered and implemented:
  - a. This regulation should address consistency determinations consistent with R.61-107.17.
  - b. Remove outdated references in the regulation.
  - c. Require financial assurance estimates to be updated to reflect current economics.
  - d. Add a clarification that requires facilities to adhere to their facility design and operating procedures in their applications and that the plans and specifications should be maintained, on-site, at the facility. Also, the regulation should specify that authorized representatives of the Department should have reasonable access to the facility and to facility records.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: As recommended in 2017, the regulation should be updated to remove outdated references and address the potential legal issues regarding consistency determinations.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.8 Lead Acid Batteries</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-40 and 44-96-180

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation applies to proper disposal, collection, and recycling of lead-acid batteries and small sealed lead-acid batteries.
- B. Date of Last Amendment: June 23, 1995 (Doc. No. 1810, Vol. 19, Iss. 6)
- C. Amendment Synopsis: The 1995 amendment reflected changes to the Solid Waste Policy and Management Act (SWPMA), which became effective in 1992. This amendment required the Department to include the regulation of small, sealed lead-acid batteries.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation needs to remain in effect due to the requirement in the Solid Waste Policy and Management Act (SWPMA).
- B. Efficacy: This regulation fulfills the policy upon which it is based.
- C. Breadth: There have been no compliance problems, enforcement actions, or appeals that indicate that the regulation is overly stringent, unreasonable, or inadequate. The requirements in the SWPMA and this regulation have resulted in a high recycling rate for lead-acid batteries.

**Recommendation:**     Amend     Repeal     No change

Explanation of Recommendation: No amendment needed at this time. If the regulation is amended at a future date, the registration requirements required in Section E are unnecessary and do not provide useful information.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.9 White Goods</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Section 44-96-200

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation applies to proper management and recycling, or disposal of inoperative or discarded white goods.
- B. Date of Initial Promulgation: June 25, 1993 (Doc. No. 1600, Vol. 17, Iss. 6)
- C. Promulgation Synopsis: This regulation is used to discourage the illegal disposal and dumping of white goods, including refrigerators, ranges, water heaters, freezers, dishwashers, and other materials

**3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: This regulation should remain in effect to fulfill the requirements of the Solid Waste Policy and Management Act (SWPMA) and discourage the illegal handling of white goods in South Carolina.
- B. Efficacy: This regulation adequately fulfills its policy as enacted. The requirements of the regulation mirror those of the SWPMA, including penalties for violating the regulation, except for the recovery of refrigerants and electrical components. The regulation clarifies that the recovery of refrigerants and electrical components must comply with applicable federal, state, and local regulations.
- C. Breadth: The regulation is simple and easy to understand. This regulation has not been updated since 1993 largely because no technological, economic, or other changes have occurred pertaining to white goods that have resulted in the need to update the regulation.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: This regulation creates no undue burdens on small businesses, and it does not negatively impact the efficiency of a business because it adds no additional requirements to the mandates of the SWPMA, except its clarification that refrigerants must be reclaimed in accordance with all federal, state, or local requirements.			

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.10 Research, Development, and Demonstration (RDD) Permit Criteria</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Mining + Solid Waste Management			
<b>Program Contact:</b>	Name: Sallie Williams		Email: williasw@dhec.sc.gov	
<b>Submission Date:</b>	4/11/2022			

**1. Statutory Authority:** S.C. Code Sections 44-96-310 and 44-96-450

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation applies to solid waste management facilities proposing to utilize an innovative and experimental solid waste management technology or process.
- B. Date of Initial Promulgation: June 25, 1993 (Doc. No. 1599, Vol. 17, Iss. 6)
- C. Promulgation Synopsis: This regulation has not been revised since it became effective on June 25, 1993. The initial promulgation addressed the need for facilities to utilize innovative and experimental technologies.

### **3. Nature of Public Input Received:**

During the 2016 stakeholder process, a recommendation was made to revise the South Carolina Solid Waste Policy and Management Act (SWPMA) and the regulation to allow Research, Development, and Demonstration (RD&D) conditions to be placed on other solid waste management permits.

### **4. Evaluation:**

- A. Continued Need: This regulation should remain in effect due to the requirement in the SWPMA.
- B. Efficacy: This regulation fulfills the policy upon which it is based; however, this regulation has rarely been utilized and there are currently no facilities permitted or operating under this regulation. The regulation states that after two years of satisfactory operation, the Department may promulgate regulations or criteria regarding the RD&D technology or process and may issue written approval for the continuance of the technology or process. It would be more effective for the Department and regulated community if the regulation also stated that the operations could be allowed to continue under another existing regulation, if such an appropriate regulation exists.
- C. Breadth: This regulation is too narrow and should be revised to update language for violations and penalties, and for appeals of Department decisions and orders. This regulation should be amended pending legislation to allow permit conversion after a period of effective operation and address updates to language on violations, penalties, and appeals.

**Recommendation:**  Amend  Repeal  No change

Explanation of Recommendation: No change is recommended at this time due to other, higher regulation amendment priorities. Future revisions are needed to update language for violations and penalties and for appeals of Department decisions and orders.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.12 Solid Waste Incineration and Solid Waste Pyrolysis Facilities</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Mining + Solid Waste Management			
<b>Program Contact:</b>	Name: Sallie Williams		Email: williasw@dhec.sc.gov	
<b>Submission Date:</b>	4/11/2022			

**1. Statutory Authority:** S.C. Code Sections 44-96-10 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes minimum standards for all municipal solid waste incineration facilities, including all municipal solid waste pyrolysis facilities, and resource recovery facilities that burn municipal solid waste for energy.
- B. Date of Last Amendment: June 24, 2016 (Doc. No. 4614, Vol. 40, Iss. 6)
- C. Amendment Synopsis: The June 24, 2016, amendment clarified requirements for different types of incinerators by specifying separate requirements for air curtain incinerators and municipal solid waste incinerators. It also exempted certain air curtain incinerators from the requirements and specified noticing requirements.

### **3. Nature of Public Input Received:**

No comments have been received from the public or from stakeholders.

### **4. Evaluation:**

- A. Continued Need: The regulation needs to remain in effect to facilitate the state's safe management of the disposal of solid waste through incineration to protect public health and the environment.
- B. Efficacy: This regulation generally fulfills the state policy of establishing minimum requirements that must be met for the proper operation and management of solid waste incineration facilities, including pyrolysis and waste-to-energy facilities.

The regulation is not overly complex. The requirements of this regulation do not negatively impact the efficiency of a permitted facility. This regulation is effective at facilitating the state's safe management of the disposal of solid waste through incineration. In addition, it effectively protects both public health and the environment. Overall, the regulation provides a good framework to regulate incinerators, especially with separate requirements for air curtain, pyrolysis, and solid waste incinerators.

- C. Breadth: The regulation is narrow in that it does not address the need for permit suspensions or revocations. The regulation should be amended to address this to mirror R.107.4 (L) for consistency. Churches should be included in structures that require a minimum buffer for incineration facilities for consistency.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: No change is recommended at this time due to other, higher regulation amendment priorities. In the future, additional language should be added for permit suspensions that mirror R.107.4(L) for consistency.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.14 Municipal Solid Waste Landfill Operator's Certification</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes training and certification requirements for operators of municipal solid waste (MSW) landfills and MSW incinerator ash landfills.
- B. Date of Initial Promulgation: May 27, 1994 (Doc. No. 1661, Vol. 18, Iss. 5)
- C. Promulgation Synopsis: See item A.

**3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

**4. Evaluation:**

- A. Continued Need: This regulation should remain in effect by the South Carolina Solid Waste Policy and Management Act of 1991 (SWPMA) requiring that the Department establish certification qualifications for operators of landfills, operators of other types of solid waste management facilities, and local government recycling coordinators. The SWPMA also requires that these standards be addressed by regulation.
- B. Efficacy: This regulation is clear in addressing minimum training and certification requirements for operators of MSW landfills and MSW incinerator ash landfills. The training and certification program requires that landfill operators are professionally trained and re-certified on a regular basis to remain current with changes in solid waste technology as well as changes in South Carolina's environmental laws and regulations. No redundancies have been identified with respect to this regulation. This regulation places no undue burden on business. The benefit to business is that the training required by the regulation assists a business in achieving compliance with Department solid waste regulations.
- C. Breadth: This regulation is too narrow as written. The regulation does not address qualification requirements for operators of other types of solid waste management facilities or for local government recycling coordinators. It also does not address changes to landfill classes in the landfill regulation, R.61-107.19, which have resulted in reference discrepancies that should be corrected. For example, this regulation references MSW landfills and MSW incinerator ash landfills. Those facilities are now identified as Class Three Landfills in the landfill regulation. To be consistent with the SWPMA, the regulation should also incorporate certification qualification requirements for operators of other solid waste management facility types and local government recycling coordinators.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: No change is recommended at this time due to other, higher regulation amendment priorities. While the Department does not feel an amendment is needed at this time, future recommendations should be considered to enact 2017 recommendations to fix landfill class references to mirror R.61-107.19 and incorporate certificate qualification requirements for operators of other solid waste management facility types and local government recycling coordinators.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.15 Land Application of Solid Waste</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-260, 44-96-290, 44-96-310, 44-96-380, and 44-96-450

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes an appropriate application rate, frequency of application, and monitoring requirements for the application of non-hazardous solid waste on or into soil that is being used for agricultural, silvicultural, and horticultural production.
- B. Date of Initial Promulgation: July 26, 1996 (Doc. No. 1895, Vol. 20, Iss. 7)
- C. Promulgation Synopsis: This regulation addresses the appropriate use of solid waste for agricultural, silvicultural, and horticultural production.

### **3. Nature of Public Input Received:**

No comments have been received from the public or from stakeholders regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation is necessary for the beneficial performance of solid waste land application for agricultural and horticultural purposes. This regulation is also useful and instructive in its discouragement of land application to dispose of non-hazardous solid waste.
- B. Efficacy: This regulation adequately addresses the requirements for waste characterization prior to land application and the monitoring requirements of soils to ensure application rates and nutrient loading are managed effectively for protective of the environment.
- C. Breadth: This regulation is effective in establishing criteria for the land application of solid waste but should be broadened to include language for appeals of all Department decisions and administrative orders.

<b>Recommendation:</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No change
Explanation of Recommendation: Future recommendation to amend language addressing appeals of Department decisions should be updated for consistency with the Solid Waste statute and other regulations.	

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.17 Demonstration-of-Need</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-10 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes the criteria for the demonstration-of-need (DON) for the construction of new, and the expansion of existing, commercial Class Two solid waste landfills, commercial Class Three solid waste landfills, commercial solid waste incinerators, and commercial solid waste processing facilities that process waste destined for disposal at a Class Three solid waste landfill.
- B. Date of Last Amendment: June 26, 2009 (Doc. No. 3198, Vol. 33, Iss. 6 Part 1)
- C. Amendment Synopsis: The 2009 amendment expanded the scope of the regulation by defining criteria for certain types of solid waste. The amendment also provided consistency with changes approved by the legislature in Document No. 3113.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation is necessary to prevent an excess of solid waste management facilities in the State.
- B. Efficacy: The regulation generally fulfills the policy upon which it is based by having facilities provide DON to the Department prior to any type of construction or expansion. This prevents both an overabundance of solid waste management facilities and a cap on waste disposal in an area.
- C. Breadth: This regulation is too broad and should be narrowed to make more specific requirements for each solid waste management facility. Specifications include addressing transfer facilities and amending Section C.1 to specifically state that an annual tonnage rate increase higher than what would be allowed within a facility's planning area would not be allowed.

**Recommendation:**     Amend     Repeal     No change

Explanation of Recommendation: Amend to address more specific requirements for each solid waste management facility.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.18 Off-Site Treatment of Contaminated Soil</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-260, 44-96-290, 44-96-300, 44-96-310, 44-96-360, and 44-96-450

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes criteria for the treatment of contaminated soils and soil-like materials, which are not hazardous, have been extracted, and are being treated off-site.
- B. Date of Initial Promulgation: May 25, 2001 (Doc. No. 2532, Vol. 25, Iss. 5 Part 1)
- C. Promulgation Synopsis: The promulgation established criteria for regulations concerning treatment of contaminated solid and soil-like materials.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation is needed to establish minimum standards, for the protection of the environment, for the procedures, documentation, and other requirements which must be met for the proper site selection, design, operation, and closure of facilities treating contaminated soil and soil-like materials, hereinafter referred to as soil, which is not determined to be hazardous waste and that has been excavated and is being treated off-site.
- B. Efficacy: This regulation fulfills the policy for which it was written. The requirements of this regulation are not complex, but they are necessary to clarify standards for facility operators, to provide Department staff with pertinent information so they can make informed permitting decisions, to clarify to all parties the procedures for compliance with the regulation, and to provide the penalty amount for specific violations.
- C. Breadth: As noted in the 2013 and 2017 regulation reviews, this regulation could be repealed if minor amendments to the Solid Waste Processing regulation were made, after which soil treatment facilities could be permitted under that regulation, 61-107.6. To date, this regulation has been rarely utilized and there is only one facility currently permitted under this regulation.

**Recommendation:**     Amend     Repeal     No change

Explanation of Recommendation: If such amendments are made to the Solid Waste Processing regulation, this regulation should be repealed. Repealing this regulation in favor of R.61-107.6 would help to reduce the number of regulations necessary for the compliance of small businesses.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.19 Solid Waste Landfills and Structural Fill</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 44-96-10 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation promotes appropriate methods of solid waste management and provides that the methods of management of solid waste will protect public health, safety, and the environment by employing the best available technology which is economically feasible for the control of pollution and the release of hazardous constituents into the environment.
- B. Date of Initial Promulgation: May 23, 2008 (Doc. No. 3113, Vol. 32, Iss. 5)
- C. Promulgation Synopsis: See item A. In July 2008, the regulation was non-substantively corrected through an errata.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: The regulation should remain in effect to establish minimum standards for the site selection, design, operation, and closure of all solid waste landfills and structural fill areas.
- B. Efficacy: Generally, the regulation adequately fulfills policy upon which it is based by having all solid waste landfills and structural fill facilities consistently comply with standards for site selection, design, operation, and closure. The regulation has been effective over the years in providing minimum standards for all landfills and structural fill facilities to comply with and for S.C. solid waste regulators to use as guidelines on facilities to demonstrate compliance. The regulation does allow for some variances that can be granted by the Department on a case-by-case basis.
- C. Breadth: Department staff recommended additional language to improve the landfill regulation. Updates should be made to the financial assurance requirements for post-closure care to ensure adequate environmental coverage. Clarifications should be added to the Waste Characterization section to describe what analyses are needed when making waste determinations. For structural fills, language should be revised to require inspections after closure and clarifications on what types of structures are allowed (such as construction of a parking lot). Additional changes should be made for correcting typographical errors, correcting some references, and other improvements for reading ease.

The Department also recommends adopting revisions to address issues from the 2017 5-Year Review, including:

- a. Simplifying the two-step process for the permitting of Class 2 and Class 3 landfills has resulted in extended permitting timeframes, two appeal periods for one permit application process, and

an increased financial burden on the applicant and the Department because multiple public notices are required.

- b. The regulation should clarify at what point at which a consistency determination is made for Class 1 landfills.
- c. Because of a legal interpretation of the requirements in Section 44-96-290(F) of the SWPMA, the Department is responsible for determining a landfill application's compliance with local zoning ordinances. While this has not led to operational issues in the Department's opinion, some local governments have expressed concern about this requirement. This would likely require a legislative change if stakeholders wished to modify the requirement.
- d. Some proposed statutory changes that could impact the landfill regulation include a proposed definition for a "residence," the timing of consistency determinations, how zoning determinations would be made, how Research, Development and Demonstration permits are issued, how closed landfills would be noted on deeds, and how the Facilities Issues Negotiation process would be implemented.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: No change is recommended at this time due to other, higher regulation amendment priorities. However, if this regulation is amended in the future, the recommendation is to amend based on recommendations from the 2017 and 2022 comments above.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-107.279</b>	<b>Used Oil</b>		
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Mining + Solid Waste Management			
<b>Program Contact:</b>	Name: Sallie Williams		Email: williasw@dhec.sc.gov	
<b>Submission Date:</b>	4/11/2022			

**1. Statutory Authority:** S.C. Code Section 44-96-160

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation outlines how used motor oil is to be collected, stored, transported, processed, and disposed, which must occur in an environmentally protective manner and as required by federal regulations. This regulation establishes standards for used oil generators, collection facilities, transporters, transfer facilities, processors and re-refiners, and burners.
- B. Date of Last Amendment: June 24, 2016 (Doc. No. 4613, Vol. 40, Iss. 6)
- C. Amendment Synopsis: The amendment in 2016 removed the requirement for used oil fuel marketers to obtain a permit, revised existing language for clarity, and clarified when used oil contaminated with polychlorinated biphenyls (PCBs) is regulated under the Resource Conservation and Recovery Act (RCRA) used oil standards and when it is not, in order to conform to federal regulations. It also clarified violations and penalties.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation was promulgated to clarify requirements of 40 CFR 279 and is consistent with those requirements. This regulation is necessary because it provides the requirements for the construction, operation, and closure of facilities that manage used oil.
- B. Efficacy: The requirements of this regulation are not complex. This regulation efficiently clarifies the requirements of the federal regulation but does not address issues other than those required by 40 CFR 279. This regulation is not redundant in that it establishes operating criteria for used oil processing facilities, and there is little overlap with any other state regulation. This regulation imposes no undue burden on small businesses.
- C. Breadth: This regulation should be broadened to include transfer of ownership and financial assurance requirements. There are also some out-of-date references in the regulation, including the naming of generator categories, due to recent changes in the hazardous waste rules.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: Currently no change is recommended at this time due to other, higher regulation amendment priorities; however, future recommendations are to correct out-of-date references and include transfer of ownership requirements and financial assurance requirements.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>61-124 Consumer Electronic Equipment Collection and Recovery</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste
<b>Program:</b>	Division of Mining + Solid Waste Management
<b>Program Contact:</b>	Name: Sallie Williams    Email: williasw@dhec.sc.gov
<b>Submission Date:</b>	4/11/2022

**1. Statutory Authority:** S.C. Code Sections 48-60-5 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: This regulation establishes standards for the sale, management, disposal, and recycling of household computers, printers, televisions, and computer monitors.
- B. Date of Initial Promulgation: February 26, 2016 (Doc. No. 4539, Vol. 40, Iss. 2)
- C. Promulgation Synopsis: The regulation establishes registration and reporting requirements for manufacturers and recyclers of certain devices (household computers, printers, televisions, and computer monitors), and establishes fines for violations.

### **3. Nature of Public Input Received:**

The Department held a stakeholder workgroup throughout 2021 on the issue of electronic waste. Affected stakeholders have been disappointed in the results of the implementation of this law. County and local governments felt that the financial burdens of the program disproportionately fell on them with little cost relief from the manufacturer's recycling obligations. Television and computer monitor manufacturers also felt that the pounds target the program uses was difficult to meet during the fluctuations in sales during the COVID-19 pandemic, placing them at risk for heavy financial penalties.

### **4. Evaluation:**

- A. Continued Need: This regulation is needed to enforce the mandates of the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, which prohibits certain electronic devices (computers, computer monitors, televisions, and printers) from being disposed and establishes recycling requirements for electronics manufacturers to assist counties in recycling these devices.
- B. Efficacy: The regulation provides an adequate framework for the enforcement of the Act, establishing standards for the sale, management, disposal, and recycling of household computers, printers, televisions, and computer monitors.

The Act, as it currently functions, does not adequately enforce the state's policy. Most of the devices end up in collection centers owned or operated by local governments. The recycling obligation led in practice to manufacturers purchasing "paper pounds" from recyclers who picked up the waste from local government facilities. These "paper pounds" would then go towards the manufacturer's obligation with the state.

County and local governments felt that the financial burdens of the program disproportionately fell on them with little cost benefit from the manufacturer's recycling obligations. Television and computer

monitor manufacturers also felt that the pounds target the program uses was difficult to meet during the fluctuations in sales during the COVID-19 pandemic, placing them at risk for heavy financial penalties.

- C. Breadth: The structure of the program is out-of-step with the goals of the Act. The manufacturer recycling obligation based on pounds sold in the prior year does not provide county governments with sufficient assistance to comply with the requirement of recycling certain devices. The Electronic Waste Stakeholder Group in 2021 proposed revisions to the Act, including proposals to:
- Update the Act’s definitions to facilitate consistency with technological advances.
  - Change the current 80% pounds obligation for television and computer monitor manufacturers to a convenience standard.
  - Guarantee that counties who elect to participate a minimum number of permanent collection sites or one-day events, based on population. Require manufacturers pay to transport and recycle all collected material from mutually agreed-upon program collection points.
  - Municipalities with more than 17,000 persons will be able to opt-in to another county’s program if their county elects not to participate.
  - Television and computer monitor manufacturers will participate individually or as part of a manufacturer’s clearinghouse. A manufacturer’s clearinghouse’s recycling program will be approved by the Department and must adhere to the allocation methodology, which provides that larger manufacturers will provide more coverage than smaller ones.
  - Push sunset date to December 31, 2029 and create a mechanism to initiate stakeholder proceedings in 2026 to review the Act and provide recommendations to the legislature to aid in the Act being kept up to date.
  - Update requirements for recoverers and collectors of covered electronic devices to ensure human and environmental health is protected.
  - Implement other changes to correct errors, references, and reorganize as necessary.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: Pending changes to the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, propose revisions as listed above.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>89-10 – 89-350</b>	<b>Office of the Governor – Mining Council of South Carolina</b>		
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Mining + Solid Waste Management			
<b>Program Contact:</b>	Name: Sallie Williams		Email: <a href="mailto:williasw@dhec.sc.gov">williasw@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/11/2022			

**1. Statutory Authority:** S.C. Code Section 48-20-210

### **2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of this regulation is to establish the criteria for the operation and closure of mining and exploratory excavation activities. The regulation establishes when an operating permit is required and when a certificate of exploration is required, based upon the acreage to be impacted and the utilization of the minerals excavated. The regulation exempts excavation or grading conducted solely in aid of on-site farming or on-site construction. The regulation outlines the application requirements for permits and the administrative processes for suspension or revocation of permits. It establishes operating standards, reporting requirements, and reclamation standards. It establishes a graduated fee schedule based on specific activities
- B. Date of Last Amendment: June 27, 2003 (Doc. No. 2802, Vol. 27, Iss. 6 Part 1)
- C. Amendment Synopsis: The 2003 amendment increased fees to provide the necessary funds to enhance the mining program.

### **3. Nature of Public Input Received:**

No comments have been received from the public or stakeholders regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: This regulation should remain in effect to continue regulating mining activities in South Carolina.
- B. Efficacy: This regulation generally fulfills the policy upon which it was written, however, it has not been updated since 2003. The regulation contains outdated names for state agencies and references to Soil and Water Conservation Districts, which should be updated. Department staff believes the advertising requirements in 89-100 provide little benefit to the public while presenting administrative burdens and legal difficulties to the Department and prospective mines. This requirement could be substituted with revisions to the noticing process.
- C. Breadth: The regulation is too narrow and should be updated to increase effectiveness and address changes in policies. Currently there are only specific buffers for blasting in the regulation. Buffers for mines to property lines and other structures are typically left up to mining staff's judgment (and of course any local ordinances). Specific buffers might be helpful to the regulated community and the public, but if the regulation establishes them, they should be flexible because mining operations in the upstate might not need the buffers required in the coastal regions. The industry has indicated support for fee increases designed to increase Department staffing for mining program needs. The mining industry has proposed a statutory fee increase, with the funds being retained to provide additional staff

for the mining and reclamation programs and to provide educational and training assistance to the mining industry in South Carolina.

The Department also supports addressing proposed amendments in previous Five-Year Reviews:

- a. to remove redundant references;
- b. to allow increased mining fees (pending a statute change);
- c. to clarify the application process;
- d. to update references to DHEC and other state agencies;
- e. to update references to appeals of Department decisions;
- f. to address timing on permit termination; and
- g. to address and update references to suspension or revocation of permits.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: In the future, amendments are needed to reflect administrative changes, to address concerns from the public, and for added responsiveness to permit holders and permit applicants.

## Environmental Affairs | Land and Waste

<b>Regulation:</b>	<b>121-8.0 – 121-8.28</b>	<b>Oil and Gas Exploration, Drilling, and Production</b>		
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Land and Waste			
<b>Program:</b>	Division of Mining + Solid Waste Management			
<b>Program Contact:</b>	Name: Sallie Williams		Email: williasw@dhec.sc.gov	
<b>Submission Date:</b>	4/11/2022			

**1. Statutory Authority:** S.C. Code Sections 48-43-10 et seq.

### **2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of the regulation is to prevent waste of oil and gas, to protect correlative rights, and to prevent environmental pollution to water, air, and land, resulting from oil or gas exploration or production. The regulation applies to all lands, regardless of the owner and how the land was accumulated, including submerged lands, tidelands and wetlands, and offshore to the three-mile territorial limit.
- B. Date of Last Amendment: September 28, 1984 (Doc. No. 406)
- C. Amendment Synopsis: The regulation was promulgated to prevent waste of oil and gas, to protect correlative rights, and to prevent environmental pollution to water, air, and land, resulting from oil or gas exploration or production.

### **3. Nature of Public Input Received:**

No public comments have been received regarding this regulation.

### **4. Evaluation:**

- A. Continued Need: The regulation should remain in effect to provide necessary standards for the exploration and development of petroleum resources in South Carolina.
- B. Efficacy: Staff has identified updates needed based on changes in technology, industry standards, and economic factors. These changes were recommended in 2017 and should be taken into consideration if amendments are proposed:
  - a. Definitions included in the regulation are based on the statutory definitions, but are not in terms that are easily understood. Definitions should be expanded to make the regulation more accessible and to improve clarity.
  - b. Permitting costs should be updated to reflect increases since 2002. The South Carolina application fee is lower than the industry standard for the region, and would not cover the estimated staff hours necessary to review an application and issue a permit.
  - c. The performance bond requirement should be updated to be more analogous to regional cost estimate requirements.
  - d. Reporting requirements for oil and gas well drilling could be simplified.
  - e. Staff has identified areas of the regulation that could be more protective of the environment. A regulation change could help protect oil and gas metal pipelines from corrosion, which can induce metal fatigue and ultimately lead to pipeline failure.
  - f. The staff has also identified changes that would be more protective of human health, the environment, and the oil/gas producing formations from potential geologic activities, either natural or manmade conditions.

- g. Technical specifications should be updated to address changes in technology, specifically as it relates to “fracturing” a.k.a. “fracking.”
- C. Breadth: The regulation is too narrow and should be updated to address staff recommendations above regarding industry practices and new technologies.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: No change is recommended at this time due to other, higher regulation amendment priorities. Future amendment recommendation based on changes in technology, industry standards, and economic standards.			

Regulation:	30-1 through 30-21 Coastal Division Regulations			
Deputy Area:	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
Bureau:	OCRM			
Program:	n/a			
Program Contact:	Name: Elizabeth von Kolnitz		Email: vonkoleb@dhec.sc.gov	
Submission Date:	5/25/2022			

**1. Statutory Authority:** S.C. Code Sections 48-39-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Coastal Division Regulation 30-1 through 30-21 is promulgated pursuant to the Coastal Tidelands and Wetlands Act (Act), S.C. Code Ann. §§ 48-39-10 et seq. The Act authorizes the Department to promulgate necessary rules and regulations to carry out the provisions of the Act. The regulation establishes the framework necessary to implement the policies to promote the economic and social welfare of the citizens of the state while protecting the sensitive and fragile areas in the coastal counties and promoting sound development of coastal resources.
- B. Date of Last Amendment: May 28, 2021 (Doc. No. 4995, Vol. 45, Iss. 5)
- C. Amendment Synopsis: Pursuant to the S.C. Coastal Zone Management Act, S.C. Code Sections 48-39-10 et seq., the Department amended R.30-1 and R.30-12 to provide a definition and add project standards for living shorelines. Coastal property owners and other stakeholders expressed an increased interest in the use of living shorelines as an alternative to hardened erosion control structures within the estuarine environment. Coastal Division regulations did not provide guidance specific for living shoreline installations. The lack of a regulatory definition or specific project standards for living shorelines resulted in longer permitting review times and uncertainties about project performance. New sections R.30-1.D(31) and R.30-12.Q allow for a more efficient authorization process by defining which projects qualify as a living shoreline and establishing specific standards for living shoreline installations. The new sections also help ensure a project’s design will accomplish its intended goals.

**3. Nature of Public Input Received:**

The Department received input beginning in 2017 through 2019 from state, local, and federal agencies, and other stakeholders through various outreach efforts, including the establishment of a Living Shoreline Working Group. In addition, the Department provided public notice of regulatory promulgation in the *State Register* on April 24, 2020, and September 25, 2020. A Public Hearing was held before the Board of Health and Environmental Control on December 10, 2020. The Department considered public input and comments received during this process and made changes to the regulatory text accordingly.

**4. Evaluation:**

- A. Continued Need: The regulation is consistent with the statutory authority granted to the Department under the Coastal Tidelands and Wetlands Act and is necessary to implement the policies established therein. The regulation ensures effective management of the critical areas of the coastal zone and provides clarity and specificity to rules that administer the coastal program.
- B. Efficacy: The regulation provides guidance and a framework by which the Department evaluates and authorizes use of the state’s critical areas of the coastal zone. It is intended to aid the regulated community in developing projects compatible with the natural environment. It also ensures consistent

permit evaluations by the Department and provides for consistent management efforts for the coastal zone.

- C. Breadth: The regulation is the Department statement of general public applicability and guidance, which implements the policies of the Act. It provides detailed permitting processes and prescribed requirements of the overall Coastal Zone Management Program. It is intended to be read as part of, and to be construed with, the policies set forth in the South Carolina Coastal Management Program Document.

**Recommendation:**

Amend

Repeal

No change

**Explanation of Recommendation:**

Amendments to R.30-12 are being considered for language and project standards associated with docks and piers, marinas, and vessel mooring activities. These amendments would provide additional clarity for a more streamlined permitting process and provide for consistency with other Department regulations.

Amendments to R.30-13 are being considered for language and project standards associated with the state's beaches and beach/dune system. Amendments would address ambiguity regarding interpretation and application of beachfront policies, would clarify standards for projects within the state's jurisdiction, and would provide for consistency with other Department regulations and recent statutory changes.

<b>Regulation:</b>	<b>19-450 Permits for Construction in Navigable Waters</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Quality			
<b>Program Contact:</b>	Name: Chuck Hightower		Email: HIGHTOCW@dhec.sc.gov	
<b>Submission Date:</b>	3/7/2022			

**1. Statutory Authority:** S.C. Code Sections 49-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 19-450 was developed pursuant to S.C. Code Section 49-1-10, et seq. of the 1976 Code of Laws. The regulation requires a permit for any dredging, filling, construction or alteration activity in, on, over, or under a navigable water. The primary purpose of the regulation is to ensure that the state’s waters remain free for navigation. Authority for the regulation was transferred to DHEC under the 1993 Government Restructuring Act and the regulation was revised upon publication in the State Register on June 23, 1995, to reflect those changes. The regulation has not been amended since that time.

Although any construction activity in a navigable water is subject to review under this regulation, Section 19-450.3.G of the regulation states that, “No permit is required for any activities which requires another Department permit or certification...”. Instead, these permits and certifications incorporate a review to ensure that the provisions of the regulation are adhered to. This provision greatly reduces the number of individual Construction in Navigable Waters permits that are issued.

- B. Date of Last Amendment: June 23, 1995 (Doc. No. 1824, Vol. 19, Iss. 6)
- C. Amendment Synopsis: The last amendment transferred the regulatory obligation from the Water Resources Commission to the Department of Health and Environmental Control. Additionally, it changed the procedure to allow the Department to determine decisions and not to recommend to the Budget and Control Board. The amendment also added a section to state that when another Department permit or certification is required a Construction in Navigable Waters Permit is not required, though coordination with other Department staff will be required. The amendment also changed timeframes for public notice, appeals, and allowed for public notices to be published in a local newspaper once.

**3. Nature of Public Input Received:**

No comments received.

**4. Evaluation:**

- A. Continued Need: The primary purpose of the regulation is to ensure that navigation is unimpeded on the state’s waterbodies. However, given the number of other agencies, political subdivisions, and public service corporations that are charged with substantially similar roles, the regulation has questionable necessity. For instance, in accordance with their Federal Energy Regulatory Commission or FERC licenses, Dominion Energy, Duke, Greenwood County, and Santee Cooper are responsible for overseeing shoreline activities and taking actions to prevent unauthorized uses of project shoreline. If R.19-450 did not exist, these entities would still be responsible for ensuring that navigation on the lakes that they manage is maintained. Furthermore, the U.S. Army Corps of Engineers is authorized in accordance with Section 10 of the Rivers and Harbors Act with issuing Section 10 permits which, again, serve a

substantially similar role to that of R.19-450. Finally, although there are no Construction in Navigable Waters Permits issued in the critical area of the coastal zone, in the coastal counties outside of the critical area, OCRM's charge when reviewing projects also encompasses the requirement to maintain navigation. Nonetheless, there remain a few instances in which there is no other agency or entity with oversight with respect to ensuring that navigation is maintained. An example of this would be a waterbody that is outside of the coastal zone for which there is no Federal Section 10 or FERC oversight.

- B. Efficacy: The regulation fulfills its purpose of ensuring that construction activities do not impact navigation. However, the number of other agencies and political subdivisions that have similar roles with overlapping authorities increases regulatory complexity. In addition to the broadness of the regulation, the Department lacks full authority for enforcement of regulatory provision.
- C. Breadth: R.19-450 is a simple regulation from the perspective of its purpose, which is to ensure navigation is unimpeded. However, the regulations are quite broad as to its scope and the inclusion of adverse impact to water quality evaluations.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department believes that this regulation should be repealed due to the fact that other agencies and political subdivisions have substantially similar authorities.

<b>Regulation:</b>	<b>61-9 Water Pollution Control Permits</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Facilities Permitting			
<b>Program Contact:</b>	Name: Shawn Clarke		Email: clarkesm@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq. and 48-14-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: R.61-9 addresses stormwater discharges and wastewater system operation, including National Pollutant Discharge Elimination System (NPDES) permits and Land Application permits. These permit programs regulate the discharge of pollutants to surface water and the land (not including on-site wastewater management systems, such as septic tanks). Businesses affected include industries, cities, mobile home parks, land development companies, homeowner associations, etc.
- B. Date of Last Amendment: November 22, 2019 (Doc. No. 4888, Vol. 43, Iss. 11)
- C. Amendment Synopsis: R.61-9 was amended to adopt portions of three federal Clean Water Act rules promulgated by the United States Environmental Protection Agency required for state program implementation. These federal regulations include NPDES Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting (79 FR 49001, August 19, 2014), NPDES Electronic Reporting Rule (80 FR 64063, October 22, 2015), and NPDES Applications and Program Updates (84 FR 3324, February 12, 2019).

**3. Nature of Public Input Received:**

No public comments were received.

**4. Evaluation:**

- A. Continued Need: R.61-9 is the Department’s method of complying with the Clean Water Act/NPDES requirements at the federal level, and the PCA at the state level. It is critical to the core environmental protections of our waters and wetlands.
- B. Efficacy: As written R.61-9 meets the requirements of the CWA & PCA. The proposed changes would clarify public notice requirements for the state’s No Discharge permitting program, as well as clarifying the coliform and bacteria level monitoring of reuse water and overland flow. This is to provide consistency with previously made updates to R.61-9.
- C. Breadth: R.61-9 is sufficiently broad enough to meet the protections intended by the CWA and PCA without exceeding their authority.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: Amend R.61-9 to 1) provide consistency between the required federal language for public notices of NPDES permits and the state land application program; 2) revise the CAFO portion of the regulations to match the current version of the federal regulations; and 3) clarify the coliform and bacteria level monitoring of reuse water and overland flow.

<b>Regulation:</b>	<b>61-43 Standards for the Permitting of Agricultural Animal Facilities</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Monitoring, Assessment + Protection			
<b>Program Contact:</b>	Name: Robert Devlin		Email: devlinrj@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 47-20-10 through 47-20-170, 48-1-90, and 48-1-100

**2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of the regulation is (1) to protect the environment and the health and welfare of the citizens of S.C. from pollutants generated by the growing/confining of animals, the processing of animal waste, and the land application of animal waste; (2) to establish standards, which consist of general requirements, constituent limits, management practices, and operational standards, for the use or disposal of animal waste applied to the land; (3) to establish standards for the frequency of monitoring and record keeping requirements for producers who operate animal facilities; and (4) to establish criteria for animal facilities and manure utilization areas as they relate to the protection of the environment and public health.
- B. Date of Last Amendment: May 28, 2021 (Doc. No. 4997, Vol. 45, Iss. 5)
- C. Amendment Synopsis: Part 100.10 and 200.10 were changed to distinguish the difference between an inactive facility and a closed facility, and what their permit requirements would be to put the facility back into operation.

Parts 100.60, 200.60, 300.60, and 400.50 that require a notice to be published in local newspapers with general circulation were replaced with public noticing on the DHEC website or other means and all public hearings were changed to public meetings.

In Part 200.70, setback limits and siting requirements were updated to give the Department the same authority as the statute allows. These factors are expressed in broad terms and no definitive/measurable criteria are given. These permit decisions were frequently appealed and the subjective criteria often lead to several days of testimony at the Administrative Law Court. Part 100.70 was updated to eliminate subjective criteria and help reduce time spent in the Administrative Law Court. Both sections were updated that they shall not receive more than two permit to construct extensions.

In Part 100.80 and 200.80, there were two categories of setback criteria (one for facilities with 500,000 pounds of animal live weight and one for facilities with greater than 500,000 pounds.) Since the last regulatory revision, the Department has seen a strong trend that poultry and swine facilities are much larger in size with a larger number of animals. The Department added a third category of setback criteria for facilities that house 1,000,000 pounds or greater of animal live weight.

Part 100.80 allows swine facilities to reduce the setback distances from their waste treatment systems, lagoons, or manure storage ponds to waters of the state if the permittee implements a design so that it never enters waters of the state. A court ruling stated that it is not possible to demonstrate a design

that will never enter waters of the state. Since that time the Department has not allowed this exemption. The Department removed this variance.

In Part 100.90 and 200.90, there were two categories of setback criteria (one for facilities with 500,000 pounds of animal live weight and one for facilities with greater than 500,000 pounds.) Since the last regulatory revision, the Department has seen a strong trend that poultry and swine facilities are much larger in size with a larger number of animals. The Department added a third category of setback criteria for facilities that house 1,000,000 pounds or greater of animal live weight.

Part 100.150 and 200.150 addressed odor control requirements for agricultural facilities. The Department clarified those sections to address the requirements for new permits and the requirements for existing facilities that have odor issues.

Part 100.160 and 200.160 addressed vector control requirements for agricultural facilities. The Department clarified those sections to address the requirements for new permits and the requirements for existing facilities that have vector issues.

Part 100.190, 200.90, and 400.120 now require all owner/operators of a permit to attend the Certified Animal Manure Management class created and operated by Clemson University and obtain certification.

Part 400 was changed to include land applier as it is defined in the regulations and their permit requirements.

In Part 500.20.E, all Integrators are required to update their grower list each year with growers that have been added or released for that year.

### **3. Nature of Public Input Received:**

This regulation was last amended in May 2021, and no public comments have been received since then.

### **4. Evaluation:**

- A. Continued Need: R.61-43 is needed in order to ensure that all agricultural animal facilities are properly designed, constructed, operated, and maintained in order to protect public health and safety and the environment of the State. Producers reviewing this regulation receive the detailed requirements on how to get permitted, what to expect when they receive their permit, training, record keeping, land application, and even the requirements for facility close out. Compliance inspections are carried out using an Inspection Report including these requirements to ensure that they are being adhered to.
- B. Efficacy: These regulations were developed with the various producers in mind, realizing that all farmers are unique in their background, education and abilities.
- C. The regulation is not believed to be overbroad relative to statutory authority.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation as written fulfills the necessary requirements.

<b>Regulation:</b>	<b>61-44 Individual Residential Well &amp; Irrigation Well Permitting</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Monitoring, Assessment + Protection			
<b>Program Contact:</b>	Name: Rob Devlin		Email: <a href="mailto:devlinrj@dhec.sc.gov">devlinrj@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 44-55-10 et seq. and 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Improper installation of residential and irrigation wells endangers public health and groundwater quality. Construction standards for water wells have been in place since 1985, when R.61-71, *Well Standards*, became effective. R.61-44, *Individual Residential Well and Irrigation Well Permitting*, (effective date August 24, 1999) ensures that construction of all residential and irrigation wells complies with R.61-71.
- B. Date of Initial Promulgation: June 25, 1999 (Doc. No. 2351, Vol. 23, Iss. 6)
- C. Promulgation Synopsis: This regulation is necessary to ensure that individual residential wells and irrigation wells are installed properly to prevent risks to public health and to ensure that the quality of groundwaters of this State are not adversely impacted. Fees from the program support the staff needed to perform the inspections to ensure compliance with well construction standards.

**3. Nature of Public Input Received:**

No public comments have been received.

**4. Evaluation:**

- A. Continued Need: This regulation is necessary to ensure that individual residential wells and irrigation wells are installed properly to prevent risks to public health and to ensure that the quality of groundwaters of this State are not adversely impacted. Fees from the program support the staff needed to perform the inspections to ensure compliance with well construction standards.
- B. Efficacy: This regulation requires following a simple two-step process. Step One includes the completion of a one-page Notice of Intent (NOI) form that can be mailed, e-mailed, or faxed to the Department. Step Two requires the well driller to notify the local SCDHEC Regional EA Office to provide the time and date of drilling at least 48 hours before drilling begins. There is a fee of \$70 for a residential drinking water well and a \$50 fee for an irrigation well. The residential drinking water well fee includes water quality testing for total coliform.

This regulation is efficiently implemented. Completed NOI forms can be faxed or e-mailed, and the 48-hour prior notification can be done concurrently with the NOI submittal. DHEC continues to meet the number of inspections required by the regulation.

- C. Breadth: This regulation requires well drillers, homeowners, homebuilders, and others to notify the Department prior to constructing residential and irrigation wells. This regulation has provided a mechanism for improved compliance with R.61-71, *Well Standards*, increased protection of groundwater

quality, and improved public health. This regulation has positively impacted all affected persons. R.61-44 has had a positive impact on public health and groundwater quality.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The intended consequences of this regulation are improved quality of construction for residential and irrigation wells and greater protection of both public health and groundwater quality. No unintended consequences have been identified.

## Environmental Affairs | Water

<b>Regulation:</b>	<b>61-50 Natural Public Swimming Areas</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Water
<b>Program:</b>	Division of Drinking Water + Recreational Waters Protection
<b>Program Contact:</b>	Name: Doug Kinard    Email: kinarddb@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Section 44-1-140(7)

**2. Regulation Overview:**

- A. Regulation Synopsis: Establishes minimum criteria for establishing and operating an approved natural swimming area.
- B. Date of Last Amendment: May 27, 2016 (Doc. No. 4570, Vol. 40, Iss. 5)
- C. Amendment Synopsis: Amended to adopt E.coli as the water quality standard for natural swimming areas in lieu of fecal coliform.

**3. Nature of Public Input Received:**

We get very few stakeholder comments on this regulation.

**4. Evaluation:**

- A. Continued Need: This regulation is necessary to ensure that water quality is maintained at approved natural swimming areas in the state.
- B. Efficacy: This regulation is very clear and effectively fulfills its purpose.
- C. Breadth: This regulation is neither too broad nor too narrow. It effectively fulfills its purpose.

<b>Recommendation:</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No change
Explanation of Recommendation: There is no need to change this regulation. It effectively fulfills its purpose.	



<b>Regulation:</b>	<b>61-58 State Primary Drinking Water Regulations</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Drinking Water + Recreational Waters Protection			
<b>Program Contact:</b>	Name: Doug Kinard		Email: kinarddb@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 44-55-10 through 44-55-120

**2. Regulation Overview:**

- A. Regulation Synopsis: The regulations include design, construction, and operating standards for public water systems as well as monitoring and water quality standards required for consistency with the National Primary Drinking Water Regulations. These regulations affect any business that owns, operates, or maintains a public water system, including municipal and county governments, special purpose districts, private businesses, etc.
- B. Date of Last Amendment: September 26, 2014 (Doc. No. 4469, Vol. 38, Iss. 9)
- C. Amendment Synopsis: Adopted federal “Revised Total Coliform Rule” in order to maintain consistency with federal regulations to maintain primacy.

**3. Nature of Public Input Received:**

Considering the size and complexity of these regulations, we receive few comments. Most comments received concern federal provisions that the Department is required to adopt in order to retain primary enforcement authority for the drinking water program in the state.

**4. Evaluation:**

- A. Continued Need: The regulations are necessary to protect public health by requiring the proper design, construction, operation, maintenance, and monitoring of public water systems in the state. The regulations are also necessary for the Department to retain primacy over the implantation of federally mandated drinking water regulations in the state.
- B. Efficacy: The regulations are necessary to protect public health. A considerable amount of the text of the regulations is based on federal regulatory language and is adopted directly from the *Federal Register* text.
- C. Breadth: The public water system design standards were last fully updated in 1995. Some provisions are outdated and require that permitting staff grant variances to allow for more modern technology. Much of the language is adopted word-for-word from the *Federal Register* text.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: Proposed amendments are currently being drafted to adopt the federal “Lead and Copper Rule Revisions” promulgated by the EPA in December 2020.			

<b>Regulation:</b>	<b>61-67 Standards for Wastewater Facility Construction</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Facilities Permitting			
<b>Program Contact:</b>	Name: Shawn Clarke		Email: clarkesm@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-50 and 48-1-110

**2. Regulation Overview:**

- A. Regulation Synopsis: R.61-67 serves as the minimum standards for wastewater treatment and collection systems.
- B. Date of Last Amendment: June 26, 2015 (Doc. No. 4485, Vol. 39, Iss. 6)
- C. Amendment Synopsis: Amendments reduced unit loading flows in Appendix A by 25 percent based on the knowledge of water savings fixtures and improved designs of sewer collection systems. For ease of implementation, the loading was rounded to the nearest whole number. The revisions also included having a service connection definition similar to the definition for a drinking water service connection, reducing the number of plans and other documents that need to be submitted. Further revisions included streamlining industrial pump and haul operations and allowing issuance of a treatment plant permit coincident with a discharge permit. Minor changes were made at R.61-67.100 to remove unnecessary language for clarity and a stylistic change was made in the Table at Appendix A and Section 67.100.E.4.b. (5) and (6). Language related to permit appeals was removed so as to streamline with current law.

**3. Nature of Public Input Received:**

No comments were received and there are no known concerns about the regulation.

**4. Evaluation:**

- A. Continued Need: R.61-67 continues to be needed to protect the public and environment from potential wastewater exposure.
- B. Efficacy: R.61-67 meets the current state of construction while allowing flexibility for evolving technologies and treatments.
- C. Breadth: R.61-67 meets the current needs of the Department and the regulated community by setting the minimum technical standards that engineering reports, wastewater treatment facilities, and collection systems are required to meet to receive Department approval and/or state construction permit. It also addresses the criteria for Reliability Classifications used to protect downstream drinking water supplies and recreational waters.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation is effective as is to meet the needs of the regulated community while protecting the environment.

<b>Regulation:</b>	<b>61-68 Water Classifications and Standards</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Facilities Permitting			
<b>Program Contact:</b>	Name: Shawn Clarke		Email: clarkesm@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: R.61-68 establishes the State's official classified water uses for all waters of the State, establishes general rules and specific numeric and narrative criteria for protecting classified and existing water uses, and establishes procedures for classifying waters of the State. The water quality standards include the uses of the waters, the numeric and narrative criteria, and the antidegradation rules contained in this regulation.
- B. Date of Last Amendment: June 26, 2020 (Doc. No. 4887, Vol. 44, Iss. 6)
- C. Amendment Synopsis: The 2020 amendment addressed a revised standard for aquatic life ambient water quality criteria for cadmium, a revised recreational water quality criteria for enterococci, a standard for aquatic life ambient water quality criteria for carbaryl, and a standard for human health recreational ambient water quality criteria for microcystins and cylindrospermopsin to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA.

**3. Nature of Public Input Received:**

No public comments have been sought or received at this time. It will be sought during the public comment period during the promulgation process.

**4. Evaluation:**

- A. Continued Need: R.61-68 is the State's regulation to comply with Sections 304(a) and 307(a) of the CWA.
- B. Efficacy: R.61-68 addresses the federal water quality standards used to ensure South Carolina remains fishable, swimmable, and as a source of drinking water.
- C. Breadth: R.61-68 meets the federal requirement for water quality standards, and as such is updated accordingly as new standards are promulgated at the federal level, and then evaluated and recommended for inclusion. The scope of R.61-68 continues to expand to provide for continual protection of the state's waterways.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: Amend to update as required by the CWA for the Triennial Review of water quality standards.			

Regulation:	61-69 Classified Waters			
Deputy Area:	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
Bureau:	Water			
Program:	Division of Water Facilities Permitting			
Program Contact:	Name: Shawn Clarke		Email: clarkesm@dhec.sc.gov	
Submission Date:	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-69 was developed pursuant to S.C. Code Section 48-1-10, et seq. of the 1976 Code of Laws and in accordance with Section 303(c) of the Federal Clean Water Act (CWA). The regulation is a compilation of the waters of the State listed by name, waterbody location, the classification, and any site-specific numeric criteria that apply to the listed waterbody. This regulation must be amended each time a waterbody is reclassified. The regulation serves as a resource; however, it impacts businesses that discharge to particular waterbodies in the sense that the classification determines the standards to which discharges are evaluated. For instance, waters classified for shellfish harvesting require more stringent standards with respect to bacteria.
- B. Date of Last Amendment: June 26, 2020 (Doc. No. 4885, Vol. 44, Iss. 6)
- C. Amendment Synopsis: R.61-69 establishes South Carolina’s site-specific water quality standards and provides a listing of all named and specific unnamed waterbodies, their classifications, and locations. The last amendment clarified and corrected, as needed, waterbody names, counties, classes, and descriptions. Minimal stylistic changes for overall improvement of the text of the regulation were also included.

**3. Nature of Public Input Received:**

No comments have been sought or received at this time, but will be sought during the public comment period of the promulgation process.

**4. Evaluation:**

- A. Continued Need: R.61-69 serves as a resource to implement the water quality standards established in R.61-68; however, it impacts businesses that discharge to particular waterbodies in the sense that the classification determines the standards to which discharges are evaluated. For instance, waters classified for shellfish harvesting require more stringent standards with respect to bacteria. This is an integral part our ability to implement section 303(c) of the CWA, and therefore must remain in effect.
- B. Efficacy: R.61-69 is an integral part of the state’s approach to comply with section 303(c) of the CWA and assists to ensure South Carolina remain fishable, swimmable, and as a source of drinking water.
- C. Breadth: R.61-69 is used as part of the Department’s approach to meet the federal requirement for water quality standards, and to provide the public with a snapshot of the water quality of the state’s waterbodies. As such the scope of R.61-69 continues protection of the state’s waterways.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: Amend to update as required by the CWA for the Triennial Review of water quality standards.

<b>Regulation:</b>	<b>61-71 Well Standards</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Water
<b>Program:</b>	Division of Water Monitoring, Assessment + Protection
<b>Program Contact:</b>	Name: Rob Devlin    Email: <a href="mailto:devlinrj@dhec.sc.gov">devlinrj@dhec.sc.gov</a>
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Section 44-55-40

**2. Regulation Overview:**

- A. Regulation Synopsis: The regulation establishes minimum standards for the construction, maintenance, and operation of common types of wells (individual residential, irrigation, and geothermal), investigation boreholes and less-specifically (by the definition of “borehole” and “well”) miscellaneous other types of wells, in order “to ensure that underground sources of drinking water are not contaminated and public health is protected.” The health protection of the users of the well is the principal goal for residential wells. Well drillers and environmental consultants, and to a lesser extent certain plumbers (who include pump service), are affected by these regulations.
- B. Date of Last Amendment: May 27, 2016 (Doc. No. 4571, Vol. 40, Iss. 5)
- C. Amendment Synopsis: These amendments updated R.61-71 to be consistent with R.61-56, Onsite Wastewater Systems, and clarified that R.61-71 applies to injection wells as specified in R.61-87, Underground Injection Control Regulations. Additionally, stylistic changes were made for clarity and consistency to improve the overall quality of the regulation.

**3. Nature of Public Input Received:**

No comments received.

**4. Evaluation:**

- A. Continued Need: The well construction requirements are effectively communicated via the regulation and have led to the consistent construction of quality wells in the state. Prior to this regulation, many home wells were being installed in a manner that allowed microbial and chemical contamination of the family’s drinking water, the contaminants mainly coming down from the surface environment along the borehole for the well. In addition, monitoring well construction requirements help ensure that test results from these wells are truly representative and groundwater test results are reported to DHEC to identify areas with contaminated groundwater. The regulation is necessary to ensure public health protection and aquifer protection (i.e., protect current and future groundwater users).
- B. Efficacy: This regulation and its requirements are not complex, especially considering that the main target audiences are technically adept well drillers and professional consultants. This regulation is not redundant with any other state or federal law or regulation.
- C. The regulation is not believed to be overbroad relative to statutory authority.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation as written fulfills the necessary requirements.

<b>Regulation:</b>	<b>61-82 Proper Closeout of Wastewater Treatment Facilities</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Water
<b>Program:</b>	Division of Water Facilities Permitting
<b>Program Contact:</b>	Name: Shawn Clarke    Email: clarkesm@dhec.sc.gov
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Section 48-1-50

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation addresses the requirements to close out a wastewater treatment system. When a wastewater treatment system is no longer being used, it is important to close the system in a way that protects public health and the environment.
- B. Date of Initial Promulgation: April 11, 1980 (Vol. 4, Iss. 6 Part 1)
- C. Amendment Synopsis: See item A.

**3. Nature of Public Input Received:**

No comments were received and there are no known concerns about the regulation.

**4. Evaluation:**

- A. Continued Need: R.61-82 is needed as POTW's, utilities, and industries close treatment facilities, and the property must be made safe for the public while protecting the environment.
- B. Efficacy: While R.61-82 addresses the broad requirements to safely close out a wastewater treatment facility, proposed changes would clarify where the remaining waste would be disposed of, as well as detail the scope of the closure and specifically require Departmental approval of closeout plans.
- C. Breadth: R.61-82 is sufficiently broad to ensure compliance with the intent of the PCA while not exceeding its authority.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend <input type="checkbox"/> Repeal <input type="checkbox"/> No change
Explanation of Recommendation: Amend R.61-82 to include language to specify 1) where the remaining waste would be disposed of; 2) detail the scope of the closure to cover all equipment, components, piping, and other appurtenances; and 3) specifically require Departmental approval of closeout plans.	

<b>Regulation:</b>	<b>61-87    Underground Injection Control Regulations</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Water
<b>Program:</b>	Division of Water Monitoring, Assessment + Protection
<b>Program Contact:</b>	Name: Rob Devlin    Email: <a href="mailto:devlinrj@dhec.sc.gov">devlinrj@dhec.sc.gov</a>
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-87 sets forth the specific requirements for controlling underground injection of fluids in the State and includes provisions to protect underground sources of drinking water from injection. This regulation is promulgated pursuant to the authority of the Pollution Control Act, Section 48-1-10 et seq. R.61-87 was enacted to provide South Carolina with a regulation to implement an EPA-approved state primacy program to satisfy the requirement under the federal Safe Drinking Water Act to control the underground injection of fluids into the subsurface to protect drinking water sources. R.61-87 is based on the requirements and technical criteria found in the federal underground control regulation (CFR Title 40 Chapter 1 Subchapter D Parts 144, 145, 146, and 147).
- B. Date of Last Amendment: November 24, 2000 (Doc. No. 2539, Vol. 24, Iss. 11)
- C. Amendment Synopsis: The Department adopted the EPA revised rule at 40 CFR Parts 9, 144, 145, and 146 of the Underground Injection Control Regulations on December 7, 1999 (64 FR 68546). The rule banned motor vehicle waste disposal wells in groundwater protection areas and other sensitive groundwater areas; banned new motor vehicle waste disposal wells and new and existing large capacity cesspools; and added new or revised definitions to the regulation. Adoption brought the State Underground Injection Control Regulations into compliance with the federal regulations and allowed the State to maintain its primacy status.

**3. Nature of Public Input Received:**

No comments received.

**4. Evaluation:**

- A. Continued Need: The regulation is needed for South Carolina to have an EPA-approved state primacy program to implement the federal requirement under the Safe Drinking Water Act to control the underground injection of fluids into the subsurface via a well. The requirements and technical criteria of the regulation are approved and enforced via a permit from the Department to protect underground drinking water sources in South Carolina. Because all groundwater in South Carolina is classified as a drinking source in the S.C. Water Classifications and Standards (R.61-68), wastes cannot be disposed of in the state by underground injection in a well. The regulation is effective at protecting underground sources of drinking water (i.e., groundwater) from the injection of fluids that could cause a violation of state drinking water standards.
- B. Efficacy: The regulations are not complex and are consistent with the nomenclature and technical requirements of the Federal underground injection control regulation. Consequently, most regulated

persons and environmental consultants are familiar with the requirements of the regulation and the regulation is efficient to implement for the regulated community and DHEC.

The regulation is not redundant with other state and federal laws and regulations. The regulation has no known unintended consequences.

- C. Breadth: The regulation is not believed to be overbroad relative to statutory authority.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The regulation as written fulfills the necessary requirements.

<b>Regulation:</b>	<b>61-101 Water Quality Certification</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Quality			
<b>Program Contact:</b>	Name: Chuck Hightower		Email:hightocw@dhec.sc.gov	
<b>Submission Date:</b>	3/7/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-101 was developed pursuant to S.C. Code Section 48-1-10, et seq. of the 1976 Code of Laws and in accordance with Section 401 of the Federal Clean Water Act (CWA). The regulation establishes the procedures and policies for implementing the water quality certification requirements of Section 401 of the CWA. The regulation was first promulgated upon publication in the State Register on June 23, 1995, and has not been amended since this time. The regulation is applicable to applicants for Federal licenses or permits to conduct activities that may result in a discharge to state waters. Before the Federal license or permit can be issued, the State must either issue, deny, or waive the 401 Water Quality Certification (401 Certification) issued in accordance with this regulation. Section 404 permits issued by the U.S. Army Corps of Engineers are the most common Federal permits requiring such certification. The regulation is broad in scope and applies to activities such as filling wetlands for developments, road construction, marinas, etc.
- B. Date of Last Amendment: June 23, 1995 (Doc. No. 1825, Vol. 19, Iss. 6)
- C. Amendment Synopsis: The previous amendment included changes necessary to effect streamlining of the water quality certification program to combine certification actions with permits and certification of DHEC’s Office of Ocean and Coastal Resource Management (OCRM), and the navigable waters permitting program transferred to DHEC from the Budget and Control Board. Section A was revised to describe the process for incorporating the DHEC water quality certification review into OCRM permits and for combining DHEC water quality certification and OCRM coastal zone consistency certification into one action. Section G was revised to describe how appeals of the combined actions will be handled.

**3. Nature of Public Input Received:**

No public comment received.

**4. Evaluation:**

- A. Continued Need: R.61-101 establishes the procedures for implementing the State’s water quality certification requirements in accordance with Section 401 of the CWA and provides the State with the authority to review Federal permits and licenses to ensure that state water quality is protected. There is a continued need for this regulation to ensure that activities covered under these Federal licenses or permits are conducted in a manner consistent with the State’s water quality standards and classification.
- B. Efficacy: As written the regulation provides a clear process and review structure for DHEC to evaluate and apply. Federal law requires DHEC to issue a 401 certification within one year or the certification is deemed waived. This timeframe does create issues since the previous amendments incorporated OCRM into the water quality certification process and OCRM has a different timeframe for review and issuance

of a critical area permit. Per regulation, the OCRM review typically begins at a later date and is not confined to the one-year mark.

Very few 401 Certifications require a NEPA Environmental Impact Statement (EIS) review. However, for those that do, the certification process could be streamlined by allowing the EIS determination to serve as DHEC's determination for the feasible alternative with the less adverse consequences for water quality.

C. Breadth: As written this regulation is neither too broad nor too narrow.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: There is burden associated with the regulatory requirement to deny a 401 Certification if a feasible alternative exists with less adverse consequences for water quality. Projects with broad environmental impacts require an Environmental Impact Statement or EIS to be developed in accordance with the Federal National Environmental Policy Act or NEPA. The Federal NEPA process and EIS determine what is the least environmentally damaging feasible or practicable alternative.

This regulation should be amended for projects that are required to develop an EIS to allow the least environmentally damaging feasible or practicable alternative identified in the EIS to serve as DHEC's determination of feasible alternatives for the purposes of issuing a 401 Water Quality Certification.

This regulation should also be amended so that the 401 Water Quality Certification can stand alone as issued and not as drafted currently as to where OCRM's Critical Area Permit serves as the 401 Water Quality Certification.

<b>Regulation:</b>	<b>61-110 Total Maximum Daily Loads (TMDLs) for Pollutants in Water</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Quality			
<b>Program Contact:</b>	Name: Wade Cantrell		Email: cantrewm@dhec.sc.gov	
<b>Submission Date:</b>	3/7/2022			

**1. Statutory Authority:** S.C. Code Sections 48-1-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-110 was developed pursuant to S.C. Code Section 48-1-10, et seq. of the 1976 Code of Laws and in accordance with Section 303(d) of the Federal Clean Water Act (CWA). Section 303(d) of the CWA requires States to develop a list of waters that do not meet water quality standards and develop total maximum daily loads or TMDLs for those waters. TMDLs are essentially plans to bring the waters back into compliance with water quality standards. R.61-110 provides the administrative process necessary for the Department to develop TMDLs, including requirements for public notice, public hearings, and notice of proposed decision. The regulation was first promulgated upon publication the State Register on May 27, 2005, and has not been amended since this time.
- B. Date of Initial Promulgation: May 27, 2005 (Doc. No. 2903, Vol. 29, Iss. 5)
- C. Promulgation Synopsis: Section 303(d) of the Federal Water Pollution Control Act requires States to establish the total loading that a water can receive without violating State water quality standards for waters that do not meet them. The regulation defines Total Maximum Daily Load (TMDL) and defines the administrative appeal process for TMDLs. In addition, the regulation provides for public notice, public hearing, and notice of proposed decision, and addresses revisions to approved TMDLs.

**3. Nature of Public Input Received:**

No public comments received.

**4. Evaluation:**

- A. Continued Need: There is a continued need for this regulation as it sets forth the process for the establishment and appeals of TMDLs in South Carolina.
- B. Efficacy: R.61-110 is a very simple regulation. It was developed at the request of the regulated community who wanted the opportunity to provide input on the development and approval of TMDLs. As such, it provides the administrative process for developing TMDLs to include specifics on public notice, public hearing, and appeals.
- C. Breadth: This regulation is neither too broad nor too narrow.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The regulation as written fulfills the necessary requirements.			

<b>Regulation:</b>	<b>61-113 Groundwater Use and Reporting</b>			
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Water Monitoring, Assessment + Protection			
<b>Program Contact:</b>	Name: Rob Devlin		Email: devlinrj@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 49-5-10 et seq.

**2. Regulation Overview:**

- A. Regulation R.61-113 was developed pursuant to the requirements in Chapter 5 of Title 49 which was originally passed in 1969 (the Groundwater Use Act) and amended in 1976, 1990, and 2000 (the Groundwater Use and Reporting Act). R.61-113 prescribes the procedures necessary for obtaining a permit to withdraw, obtain, or utilize groundwater and construct, maintain, and operate groundwater withdrawal wells within designated Capacity Use Areas, which includes all counties located in the coastal plain of the state. The regulation pertains to persons desiring to withdraw groundwater greater than 3 million gallons in any given month except as exempted by Section J. of the regulation.
- B. Date of Initial Promulgation: June 23, 2006 (Doc. No. 3005, Vol. 30, Iss. 6)
- C. Promulgation Synopsis: This regulation establishes procedures to prevent or mitigate unreasonable adverse effects on groundwater users within designated Capacity Use Areas. The regulation requires persons located in counties that are not Capacity Use Areas and withdraw groundwater greater than 3 million gallons in any given month to report their groundwater use to DHEC. Persons typically affected by this regulation are Public Water Supply, industry, agricultural operations, and golf courses.

**3. Nature of Public Input Received:**

The South Carolina Farm Bureau has stated in public comments that the permit length of 5 years is too short. They have stated the permit length may impede farmers from receiving loans from financial institutions.

**4. Evaluation:**

- A. Continued Need: The regulation is necessary to protect groundwater resources in areas where groundwater is vulnerable to overuse or saltwater intrusion.
- B. Efficacy: The regulation is not considered to be too complex to implement. This regulation is not redundant with any other state or federal law or regulation. There have been no unintended consequences identified to date.
- C. Breadth: This is not written too broadly, nor are the scope and clarity too narrow.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
<b>Explanation of Recommendation:</b> The regulation became effective June 23, 2006. The technologies in the regulation are up to date. There have been no economic changes that would affect the need for the regulation or the implementation of the regulation.			

<b>Regulation:</b>	<b>61-119 Surface Water Withdrawal, Permitting, Use and Reporting</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Water
<b>Program:</b>	Division of Water Monitoring, Assessment + Protection
<b>Program Contact:</b>	Name: Rob Devlin    Email: <a href="mailto:devlinrj@dhec.sc.gov">devlinrj@dhec.sc.gov</a>
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Sections 49-4-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Act has detailed requirements for implementation of this program; therefore, most of the technical requirements in the regulations are taken directly from the Act. The regulation standardizes procedures, enabling the safe and sustainable development of surface water resources, and provides for measures to prevent or mitigate unreasonable adverse effects on surface water users or surface water uses throughout the state. The regulation pertains to any person who withdraws surface water in excess of 3 million gallons in any one month except as exempted in Section C of the regulation. This regulation establishes a system and rules for permitting or registering the withdrawal and use of surface water from within the State of South Carolina and those surface waters shared with adjacent states as specified in the Act. Persons withdrawing surface water for agricultural purposes must obtain a registration and all other persons withdrawing surface water must obtain a permit. This is a fee-funded program and the fee schedule is contained in the Act and regulation. There are fees for persons applying for a permit and an annual renewal fee for persons with a permit. No fees apply to registrations for agricultural withdrawals.
- B. Date of Initial Promulgation: June 22, 2012 (Doc. No. 4193, Vol. 36, Iss. 6)
- C. Promulgation Synopsis: The regulation is deemed necessary to preserve, protect, and manage the surface water resources of the state. The regulation implements the provisions of the statute and attempts to convey both the need for the regulation as well as permitting and reporting issues in a simple and concise manner.

**3. Nature of Public Input Received:**

There have been comments from the public concerning the definition of “Safe Yield” as it relates to surface water availability. In 2018-2019, stakeholder workgroups were formed to evaluate the way safe yield is calculated. The workgroups concluded that safe yield as defined in the regulation allows for more water to be allocated than existed in the river during times of low flow. The workgroup also looked at several changes to the calculation or definition and concluded that any adjustments to the definition would only make small improvements to the flow calculations. The workgroup concluded that a statutory change would be required to make the changes need.

**4. Evaluation:**

- A. Continued Need: The Act has detailed requirements for implementation of this program; therefore, most of the technical requirements in the regulations are taken directly from the Act. Any changes to the regulation would first require a change in statute.
- B. Efficacy: The regulation is not considered to be too complex to implement. This regulation is not redundant with any other state or federal law or regulation. There have been no unintended consequences identified to date.

C. Breadth: This is not written too broadly, nor are the scope and clarity too narrow.

**Recommendation:**       Amend                       Repeal                       No change

Explanation of Recommendation: Any changes to the regulation would first require a change in statute.



**Recommendation:** Amend Repeal No change

Explanation of Recommendation: Program staff recommends:

- Refine definitions for clarification and to ensure consistent application
- Provide clarification and streamlining of requirements for applications to alter, repair or remove a regulated dam.
- Provide clarification in the regulatory requirements for a detailed inspection.
- Amend Section 72-5 "Remedial Measures" for consistency with the APA and to allow for such provisions as pool restriction.
- Addition of Annual Notification of Dam Ownership – Revise the regulations to require owners of regulated dams to submit an annual registration form with their contact information (name, address, phone number) so that DHEC staff may provide program updates, coordinate inspections, contact owners leading up to storm events which may impact their dams, etc. The annual notification could be submitted either in a paper or electronic format.
- Require that all applicable regulated dams provide a current Emergency Action Plan (EAP) for their dam. An EAP identifies the steps owners will follow when a potential incident is developing at their dam. It outlines who to call (first responders, downstream residents, etc.) to warn of the potential of dam failure and steps they may take (opening gates or bags, placing sandbags, etc.) to reduce the hazard.
- Evaluate amending section 72-6 to expand on department's role in establishing the "owner" of the dam per the regulatory definition
- Other changes for clarity

<b>Regulation:</b>	<b>72-101 – 72-108</b>	<b>Erosion and Sediment Reduction and Stormwater Management</b>		
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Water			
<b>Program:</b>	Division of Dams Safety + Stormwater Permitting			
<b>Program Contact:</b>	Name: Jill Stewart, P.E.		Email: <a href="mailto:stewarjc@dhec.sc.gov">stewarjc@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 48-18-10 through 48-18-80

**2. Regulation Overview:**

- A. Regulation Synopsis: These regulations set forth requirements for erosion and sediment control and stormwater management measures to be used on state land to prevent damage to land, water, and property from erosion, sediment, and stormwater. These regulations apply to all land either owned by the state, a state agency, or quasi-state agency, or under the management or control of such entities through right-of-way easements or other agreements between the entities and private landowners, except as exempted by these regulations. Though the Office of State Engineer is charged with implementation of section 72-106, the Department administers this regulation on a day-to-day basis through an MOU that has been in place since 1990.
- B. Date of Last Amendment: May 28, 1993 (Doc. No. 1581, Vol. 17, Iss. 5 Part 3)
- C. Amendment Synopsis: Updated to require the owner of a dam or reservoir to notify the Commission in writing within 30 days after title to the dam has been transferred from his ownership; granted to the Commission the authority to issue orders on dams that are poorly maintained; required the owners of high hazard and significant hazard dams to provide the Commission a current emergency action plan in a format specified as an addition to these Regulations; and granted to the Commission the authority to assess administrative fines (not less than \$100 nor more than \$1000) for violations of the Act or Regulations.

**3. Nature of Public Input Received:**

No comments received.

**4. Evaluation:**

- A. Continued Need: South Carolina continues to see rapid development combined with routine storm events that yield the need for statewide regulatory mechanisms to address stormwater runoff and sediment/erosion control. Efficiency could be gained through the consolidation and amendment of the state's four regulations governing these areas.
- B. Efficacy: The regulation has served the intended function of the statute in that it has created a mechanism to require sediment and erosion controls and stormwater management on state-owned or managed lands. This has resulted in reduced sediment deposition in streams and reduced erosion of stream banks from the increased flow rates and volumes brought about by development of these lands. It is necessary to continue to require such controls be installed and maintained to protect receiving waters and adjacent properties from the increased stormwater runoff brought about by development.

- C. Breadth: The expanse of activities covered under these regulations is appropriate to implement statutory goals. Updates to the regulations should address the latest best practices for management of stormwater and sediment/erosion control. Amendments must also facilitate consistency with federal regulations.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input checked="" type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: Amend R.61-9 to incorporate updated technical requirements for post-construction stormwater management and then repeal R.72-100.			

<b>Regulation:</b>	<b>72-300 – 72-316 Standards for Stormwater Management and Sediment Reduction</b>
<b>Deputy Area:</b>	<input checked="" type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Water
<b>Program:</b>	Division of Dams Safety + Stormwater Permitting
<b>Program Contact:</b>	Name: Jill Stewart, P.E.    Email: <a href="mailto:stewarjc@dhec.sc.gov">stewarjc@dhec.sc.gov</a>
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Sections 48-14-10 through 48-14-160

**2. Regulation Overview:**

- A. Regulation Synopsis: These regulations set forth requirements for erosion and sediment control and stormwater management measures to be used during land-disturbing activities to prevent damage to land, water, and property from erosion, sediment, and stormwater. These regulations apply to land-disturbing activities undertaken for residential, commercial, industrial, institutional projects, etc. These regulations have not been modified since their initial enactment.

R.72-300 allows for the incorporation of additional requirements for activities located in the eight coastal counties of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Jasper, and Horry. The additional requirements are provided in detail in the [Policies and Procedures of the South Carolina Coastal Zone Management Program](#), updated July 1995, ([Program Excerpt](#)).

These regulations also establish the criteria for “Designated Watersheds.” This is a status that may be granted a watershed where a local government or governments have identified the need for watershed studies and additional regulatory oversight to prevent existing water quantity and quality problems from getting worse, reduce existing flooding problems, improve water quality, or protect a watershed.

Finally, R.72-300 sets forth the criteria for creation and implementation of a stormwater utility. Stormwater utilities are a funding mechanism that a local government may utilize to fund maintenance activities, prepare watershed master plans, inspect stormwater management facilities, etc.

- B. Date of Last Amendment: June 28, 2002 (Doc. No. 2698, Vol. 26, Iss. 6 Part 2)
- C. Amendment Synopsis: Increase of plan review fee from \$50 per disturbed acre to \$100 per disturbed acre with a cap of \$2000 for a single application.

**3. Nature of Public Input Received:**

No comments received.

**4. Evaluation:**

- A. Continued Need: South Carolina continues to see rapid development combined with routine storm events that yield the need for statewide regulatory mechanisms to address stormwater runoff and sediment/erosion control. Efficiency could be gained through the consolidation and amendment of the state’s four regulations governing these areas.
- B. Efficacy: The regulation has served the intended function of the statute in that it has created a mechanism to require sediment and erosion controls and stormwater management on state-owned or

managed lands. This has resulted in reduced sediment deposition in streams and reduced erosion of stream banks from the increased flow rates and volumes brought about by development of these lands. It is necessary to continue to require such controls be installed and maintained to protect receiving waters and adjacent properties from the increased stormwater runoff brought about by development.

- C. Breadth: The expanse of activities covered under these regulations is appropriate to implement statutory goals. Updates to regulations should address latest best practices for management of stormwater and sediment/erosion control. Amendments must also facilitate consistency with federal regulations.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: Amend R.61-9 to incorporate updated technical requirements for post-construction stormwater management and then repeal R.72-300.



<b>Regulation:</b>	<b>61-13 Standards for Licensing Intermediate Care Facilities for Individuals with Intellectual Disabilities</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Community Care			
<b>Program:</b>	Residential Facilities Division			
<b>Program Contact:</b>	Name: JoMonica Taylor		Email: TAYLORJJ@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Section 44-7-260(A)(11)

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to S.C. Code of Laws, the Department establishes and enforces basic standards for the licensure, maintenance, and operation of health facilities and services, including Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-ID Facilities) to ensure the safe and adequate treatment of persons served in the state. ICF-ID Facilities serve four (4) or more persons and provide health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services. These facilities provide room and board, and active treatment for individuals with intellectual disabilities and related conditions.
- B. Date of Last Amendment: May 27, 2016 (Doc. No. 4564, Vol. 40, Iss. 5); Errata published June 24, 2016
- C. Amendment Synopsis: The amendments provided updates to licensure requirements, accident and/or incident reports, client and medical record maintenance, client care, services, and treatment, emergency procedures and disaster preparedness, infection control and tuberculosis screening, medication administration, design and construction, and fire and life safety. In addition, provisions were amended for general clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation. Errata notice corrected non-substantive errors.

**3. Nature of Public Input Received:**

In response to the State Register notice, the Department received seven comments from representatives of the ICF-ID communities on two topics: submitting investigation reports (701.D) and administering medications (1203.C & G). Below are descriptions of those public comments.

R.61-13 section 701.D requires the facility to submit a written report of its investigation of every serious accident and/or incident to the Department within five days. In addition to state licensure, this facility type is also certified by Centers for Medicare & Medicaid Services (CMS), which requires results of investigations be reported within five working days. Working days means Monday through Friday, excluding state and federal holidays. State reporting requirements should be consistent with federal requirements (CMS State Operations Manual Appendix J W156).

R.61-13 Section 1203.C requires licensed individuals to administer medications only. Section 1203.G allows non-licensed facility staff to administer non-legend drugs if trained by licensed individuals and it is documented and maintained. Per CMS State Operations Manual Appendix J W370, unlicensed personnel are allowed to administer drugs. The S.C. Nurse Practice Act Section 40-33-42 states a licensed nurse may delegate tasks to unlicensed assistive personnel. Additionally, Section 40-33-43 of this act, applicable to Community Residential Care Facilities, allows for medications to be performed by selected unlicensed staff with documented training and supervision. Due to the nursing shortage, which has negatively impacted the ICF-IDs to recruit and hire, representatives

request amendment to R.61-13 Sections 1203.C & G to be consistent with federal requirements and mirror the S.C. Nurse Practice Act Sections 40-33-42 and 40-33-43.

**4. Evaluation:**

- A. Continued Need: This regulation ensures the population living in these communities are protected and receive the care and services they need. The regulation holds the facilities accountable for the operation and maintenance of these facilities.
- B. Efficacy: The Department has issued an increasing number of citations related to medication management, implementation of policies and procedures, facilities not reporting accidents and/or incidents in a timely manner, and Resident’s Bill of Rights citations.
- C. Breadth: The Department receives questions and complaints regarding the requirements for administering medications, reporting accidents and/or incidents in a timely manner, the language in Section 501 for policies and procedures to include staff to be held accountable for not following implemented facility policies, update the requirements for an acceptable emergency evacuation plan in Section 1401, update the tuberculosis requirements in Section 1702, and amend the language in Section 302.B to specify what information should be required and posted. The license application requirements should be more specific.

The current inspection and construction fees need to be incorporated into the regulation. The evacuation requirements need to be clarified and strengthened. The regulation needs to be revised to align with current federal laws and regulations and state law. In particular, 2022 Act No. 171 (S.613) and Act No. 179 (S.1059) need to be incorporated into R.61-13 as applicable.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: The Department’s recommendation is based on the information presented above.			

Regulation:	61-17 Standards for Licensing Nursing Homes			
Deputy Area:	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
Bureau:	Community Care			
Program:	Nursing Home Division			
Program Contact:	Name: Geoffery Calloway		Email: callowga@dhec.sc.gov	
Submission Date:	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-110 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of R.61-17 is to provide a set of minimum standards for the licensing of nursing homes. A nursing home is a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two (2) or more unrelated individuals over a period exceeding twenty-four (24) hours which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing intermediate or skilled care for persons who are not in need of hospital care.
- B. Date of Last Amendment: March 25, 2016 (Doc. No. 4543, Vol. 40, Iss. 3)
- C. Amendment Synopsis: The amendments incorporated provisions relating to accident and incident reporting requirements, infection control and tuberculosis screening, licensing requirements, meal and dietary service requirements, and staff training requirements. The amendments also updated design and construction, and fire protection and prevention requirements. The amendments incorporated provider-wide exceptions, memoranda, and governing statutory authority applicable to nursing homes.

**3. Nature of Public Input Received:**

In response to the Department’s November 26, 2021, State Register notice, several stakeholders submitted comments, including the following:

The South Carolina Hospital Association requested amendments to Section 1704(B)(1)(a) to allow both steps of the tuberculosis test be administered after the resident has been admitted to the nursing home.

Several members of LeadingAge SC requested that the Department amend several sections of 61-17:

- Section 500(C) to allow nursing homes to maintain, review, and sign the required policy and procedures electronically rather than paper format.
- Section 601(C) to not require the nursing home to maintain in the nursing home employee records for employees of agencies and/or companies for which they have a contract to provide services, but rather require the nursing home to provide the information from the contractor in a timely manner.
- Section 605 to require at least one licensed nurse rather than a registered nurse and to allow the administrator, if he or she is a licensed nurse, to count as the one licensed nurse.

**4. Evaluation:**

- A. Continued Need: The regulation helps to protect individuals by setting standards for the care, treatment, health, safety, welfare, and comfort of patients served by and residing in nursing homes.

- B. Efficacy: The nursing home staffing ratios prescribed by proviso need to be incorporated into the regulation. The regulation also needs to be amended to align with state and federal law. There has not been a substantial increase in enforcements related to nursing homes.
- C. Breadth: When the regulation is amended in the future, the Department will need to clarify sections referring to authorized health care provider, violation classifications, the inclusion of current fee schedule, the implementation of policies and procedures, tuberculosis screening, and removal of the Emergency Medication Kit.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) years.

<b>Regulation:</b>	<b>61-84 Standards for Licensing Community Residential Care Facilities</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Community Care			
<b>Program:</b>	Residential Facilities Division			
<b>Program Contact:</b>	Name: JoMonica Taylor		Email: TAYLORJJ@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Section 44-7-260(A)(6)

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department is charged with establishing basic standards for the licensure, maintenance, and operation of health facilities and services, including Community Residential Care Facilities (CRCFs) to ensure the safe and adequate treatment of persons served in the state. CRCFs offer room and board but, unlike a boarding house, provide and/or coordinate a degree of personal care. These facilities are designed to accommodate residents’ changing needs and preferences, maximize residents’ dignity, autonomy, privacy, safety, and encourage family and community involvement.
- B. Date of Last Amendment: June 26, 2015 (Doc. No. 4484, Vol. 39, Iss. 6); Errata notices published July 24, 2015 and September 25, 2015
- C. Amendment Synopsis: The amendments included the Department’s effort to incorporate provisions relating to statutory mandates, accident and incident reporting, medication management, emergency procedures and disaster preparedness, design and construction, fire and life safety, and overall licensing requirements for community residential care facilities. Additionally, corrections were made for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. Errata notices corrected non-substantive errors.

**3. Nature of Public Input Received:**

In response to the November 26, 2021, State Register notice, the Department received comments from stakeholders who represent the regulated community, stakeholders, and consumers.

Members of South Carolina Assisted Living Association (SCALA) recommended the following: removing language from Sections 503.B.1 & 2, adding other examples of illnesses to Section 504.A.3, amending the language to Section 1101.A to allow NPs and PAs to perform physical examinations on residents, adding subsections to Section 1401 for those facilities in the coastal areas to shelter in place, updating the tuberculosis screening requirements for residents and staff in Section 1702, and amending emergency admissions for those outside of DSS custody in Section 1702.F.

Members of LeadingAge South Carolina recommended the following: amend Section 500 (comment is about all staff members but lists the private sitter section) to require third-party contractors to maintain the staff member employment information and not the facility itself due to privacy and employment laws, clarify Sections 601.B.4 & 5, remove Section 601.D.6, amend Section 506.C to remove the sign in and out verbiage because they must maintain a timecard, update the tuberculosis screening requirements for residents and staff in Section 1702, and amend emergency admissions for those outside of DSS custody in Section 1702.F.

Public comments received included: not reducing the strength of the regulation, amend Sections 503.B.1 & 2 to include a specific ratio for memory care residents and qualifications of staff caring for them, add requirements

for facilities with separate wings not visible from the other regardless of if multilevel or not in Section 503.B.3, and only require nurses to administer life ending medications in Section 1203.A.

Two facility administrators recommended the following: updating the tuberculosis screening requirements for residents and staff in Section 1702, clarifying Section 801.D.3 since “consecutive days” is interpreted wrong by many, and expanding the list of injectables in Section 1203.B.

#### **4. Evaluation:**

- A. Continued Need: S.C. Code Section 44-7-260(A)(6) gives statutory authority to the Department to regulate Community Residential Care Facilities (Regulation 61-84). This regulation assures the population living in these communities, some of our most vulnerable adults, are protected and receive the care and services they need. In addition, it allows us to hold the facilities accountable for the operation and maintenance of these facilities.
- B. Efficacy: Over the past years, the Department has received several exception requests. Additionally, the Department receives numerous inquiries from the provider community seeking clarity on regulatory requirements. Regulation concerns include:
- specifying application requirements in 103.I,
  - amend the language in 202.B to specify information to provide and to be posted,
  - amend the language in section 401 to allow staff and the facility to be held accountable for not following policies and procedures,
  - specify the requirements for the individuals providing the training in 504.A.4,
  - amend 604 to reflect nursing home requirements due to the confusing with the two timeframes listed,
  - clarify the language in 801.D.2-3 due to the confusion caused by “consecutive days”,
  - amend 901.A. to specify a signature and date upon admissions and upon any changes,
  - amend 901.B to not make it seem an order is required for a resident to receive medical attention especially in an emergency,
  - amend 901.C to make the first sentence into two sentences (take precautions for residents with special conditions should be by itself, i.e., citing elopements),
  - update the requirements for an acceptable emergency evacuation plan in 1401 and update the tuberculosis requirements in 1702.

The current construction and inspection fees need to be incorporated into the regulation. Due to an increase in abuse, there should be specific trainings for abuse/neglect/exploitation separate from Resident’s Bill of Rights. There should be a more specific training requirement for facilities with memory care units. If evacuation requirements for inpatient facilities are changed, it should be updated. Examples listed in the regulation cause confusion and people think only those listed are applicable to that citation. Due to the increase in elopements, there should be specific requirements related to elopements and staff training.

- C. Breadth: The regulation is written broadly as evidenced by exception requests and requests for citation reconsideration, and can be clarified during the next revision in the future.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department has not identified a need to amend this regulation in the next five (5) years.

<b>Regulation:</b>	<b>61-103 Residential Treatment Facilities for Children and Adolescents</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Community Care			
<b>Program:</b>	Residential Facilities Division			
<b>Program Contact:</b>	Name: JoMonica Taylor		Email: TAYLORJJ@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Section 44-7-260

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department establishes and enforces basic standards for the licensure, maintenance, and operation of health facilities and services, including Residential Treatment Facilities for Children and Adolescents (RTF) to ensure the safe and adequate treatment of persons served in the state. An RTF is a facility that is operated for the assessment, diagnosis, treatment, and care of two (2) or more children and/or adolescents in need of mental health treatment which provides:
  - 1. An education program, including a program for students with disabilities, that meets all applicable federal and state requirements, as defined by the South Carolina Department of Education (“SCDE”). The education program may be provided at the facility, if appropriate space is available, to provide a free appropriate public education in the least restrictive environment, or an alternate location;
  - 2. Recreational facilities with an organized youth development program; and
  - 3. Residential treatment for a child or adolescent in need of mental health treatment.
- B. Date of Last Amendment: June 24, 2016 (Doc. No. 4596, Vol. 40, Iss. 6)
- C. Amendment Synopsis: The regulation was amended to provide updates to definitions, licensure requirements, accident and/or incident reporting requirements, residents’ rights, record maintenance and retention, services and treatment, personnel requirements, infection control and sanitation, medication management, design and construction, and fire and life safety. In addition, provisions were amended for general clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

**3. Nature of Public Input Received:**

In response to the State Register notice, the Department received no public comments.

**4. Evaluation:**

- A. Continued Need: This regulation is needed to help ensure the population living in RTFs are protected and receive the care and services they need.
- B. Efficacy: The Department has taken an increasing number of enforcement actions related to abuse/neglect/exploitation and elopements. The regulation needs to be amended to require facilities to implement policies and procedures.
- C. Breadth: The current inspection and construction fees need to be incorporated into the regulation. The initial and renewal application requirements be clarified. The tuberculosis requirement needs to be

amended to reflect the current CDC and Department's TB Control Division recommendations. The emergency evacuation plan requirements need to be amended for clarity.

**Recommendation:**       Amend                       Repeal                       No change

Explanation of Recommendation: While the above changes are recommended, the Department has not identified a need to amend this regulation over the next five (5) year period.

<b>Regulation:</b>	<b>61-125 Standards for Licensing Crisis Stabilization Unit Facilities</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Community Care			
<b>Program:</b>	Residential Care Facilities			
<b>Program Contact:</b>	Name: JoMonica Taylor		Email: TAYLORJJ@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Section 44-7-260

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to S.C. Code 44-7-260(A)(5) the Department promulgates regulations for the licensure of Crisis Stabilization Unit facilities. These facilities provide a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen (18) and older, twenty-four (24) hours a day, seven (7) days a week.
- B. Date of Initial Promulgation: May 24, 2019 (Doc. No. 4809, Vol. 43, Iss. 5)
- C. Promulgation Synopsis: This was a newly promulgated regulation; see item A.

**3. Nature of Public Input Received:**

In response to the State Register notice, the Department received no responses from the public.

**4. Evaluation:**

- A. Continued Need: S.C. Code Section 44-7-260 requires the Department to promulgate and enforce regulations for licensing Crisis Stabilization Unit Facilities.
- B. Efficacy: Since the issuance of R.61-125, the Department has not received applications nor licensed this facility type. There is one facility currently licensed as a CRCF who identifies as a CSUF but has not transitioned.
- C. Breadth: The Department has not received any comments or complaints regarding the standards outlined in R.61-125.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-4 Controlled Substances</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Drug Control			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Lisa Thomson		Email: thomsola@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 1-23-10 et seq., 44-53-160, 44-53-280(A), and 44-53-280(C)-(F)

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-4 provides for the measures necessary to facilitate the enforcement of the S.C. Controlled Substances Act.
- B. Date of Last Amendment: June 28, 2013 (Doc. No. 4296, Vol. 37, Iss. 6)
- C. Amendment Synopsis: The most recent regulation revision provided for consistency with state and federal laws. The changes included updating antiquated language, incorporating electronic prescribing, and clarifying provisions requested by the regulated community.

**3. Nature of Public Input Received:**

One comment was received noting the need to clarify EMS controlled substance recordkeeping and accountability in the regulation.

**4. Evaluation:**

- A. Continued Need: This regulation is necessary to ensure consistent application of and compliance with the laws addressing controlled substances, and to clarify procedural processes for enforcement of applicable laws that affect practitioners, pharmacies, and entities that possess, administer, prescribe, and dispense controlled substances.
- B. Efficacy: The current regulation meets the need, generally, regarding registrations, record-keeping requirements, and controlled substance accountability. Due to recent law regarding electronic prescribing, the Department feels the regulation should be amended to expand on this new technology. In addition, facilities are now utilizing electronic health records and electronic dispensing/administration records that are not adequately addressed in regulation.
- C. Breadth: The current regulation places emphasis on pharmacy and hospital-controlled substance record keeping and accountability. The Department has identified the need to amend the regulation to include a section in the regulation specific to drug accountability and recordkeeping under these registrant types: EMS, and facilities (clinics, animal shelters/humane societies, law enforcement K9 units). In addition, recent statutory changes related to prescriptions and electronic prescribing should be further defined in regulation. Practitioner controlled substance dispensing also needs to be defined. The Department has identified the need to amend the regulation to conform the language related to Orders to Show Cause and the process for conducting informal and formal hearings, in addition to revising the current fee structure for annual controlled substance registrations and other program fees.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: Recommendation to amend as stated above.

<b>Regulation:</b>	<b>61-3 The Practice of Selling and Fitting Hearing Aids</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems + Services			
<b>Program:</b>	Division of Hospitals & Professionals			
<b>Program Contact:</b>	Name: Charlene Bell		Email: bellc@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 40-25-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-3 sets forth standards for the licensure of hearing aid specialists and temporary hearing aid specialist permit holders.
- B. Date of Last Amendment: January 22, 1988 (Doc. No. 764, Vol. 12, Iss. 1)
- C. Amendment Synopsis: The regulation was amended to implement the continuing education requirement for renewal of hearing aid dealers' licenses pursuant to S.C. Code Section 40-25-150.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, *State Register* notice.

**4. Evaluation:**

- A. Continued Need: This regulation helps to ensure the standards and qualifications for persons who engage in the practice of specializing in hearing aids, which is the measurement of human hearing by an audiometer and by other established means solely for fitting, making selections, adaptations, or sale of hearing aids. It also includes the making of impressions for earmolds.
- B. Efficacy: The Department has not seen enforcement trends or requests for exceptions to note.
- C. Breadth: The Department needs to clarify certain sections of the regulation including violation classifications, continuing education, and the implementation of policies and procedures. The regulation needs to be amended to ensure alignment with current statute. The regulation, last amended in 1988, is in need of substantive revision, but first requires statutory changes.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period unless the statute changes.			

<b>Regulation:</b>	<b>61-7 Emergency Medical Services</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems & Services			
<b>Program:</b>	Division of EMS			
<b>Program Contact:</b>	Name: Rich Wisniewski		Email: wisnierl@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-61-10 et seq. and 44-78-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to statute, the Department is required to establish standards for the licensure of ambulance services and emergency medical responder agencies, and certification of EMS personnel to help improve emergency medical services statewide. The Department is also required to promulgate regulations necessary to provide direction to emergency personnel in identifying patients who have a Do Not Resuscitate (DNR) Order, to oversee the Physician Orders for Scope of Treatment (POST) form, and to carry out other related responsibilities.
- B. Date of Last Amendment: May 27, 2022 (Doc. No. 5055, Vol. 46, Iss. 5)
- C. Amendment Synopsis: Amendments incorporated and revised provisions and definitions to conform to statutory mandates and terminology widely used and understood within the provider community. The Department revised requirements for Emergency Medical Technician (EMT) training programs, ambulance design and equipment, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification. The Department also amended the regulation to provide direction to emergency personnel in identifying patients who have a Do Not Resuscitate Order (DNR), to add oversight of the Physician Orders for Scope of Treatment (POST) form, and to carry out other related responsibilities to the form.

**3. Nature of Public Input Received:**

The Department received comments in response to the November 26, 2021, *State Register* notice, including a request that the regulation be amended to allow EMTs to teach at their level or under and not just allow paramedics only as instructors. Comments also included a statement that while the regulation needs some improvement, the statute is outdated, and a request that the regulation not be changed until a statutory change can be initiated to reflect current EMS best practices and innovations recently implemented on a short term basis during COVID.

**4. Evaluation**

- A. Continued Need: This regulation helps to ensure the improvement of emergency medical services in the state.
- B. Efficacy: The regulation was recently amended to improve and streamline efficacy. (see 2.C above).
- C. Breadth: The regulation was recently amended and is, therefore, sufficient in scope (see 2.C above).

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: Regulation was approved by the General Assembly in May 2022.

<b>Regulation:</b>	<b>61-12 Standards for Licensing Abortion Clinics</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems & Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-110 et seq. and 44-41-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-12 sets forth minimum standards for the licensure of Abortion Clinics.
- B. Date of Initial Promulgation: June 28, 1996 (Doc. No. 1903, Vol. 20, Iss. 6 Part 1)
- C. Promulgation Synopsis: The regulation was promulgated to set forth the specific requirements for licensure and operation of a facility where abortions are performed.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, State Register notice.

**4. Evaluation:**

- A. Continued Need: The regulation helps to ensure sanitation, housekeeping, maintenance, staff qualifications, emergency equipment, and procedures to provide emergency care, medical records and reports, laboratory, procedure and recovery rooms, physical plant, quality assurance, infection control, and information on and access to patient follow-up care.
- B. Efficacy: The Department has not seen any compliance or enforcement trends with abortion clinics. Additionally, the Department has not seen a large volume of exception requests from abortion clinics. The Department has not received complaints from the provider community regarding the standards outlined in Regulation 61-12.
- C. Breadth: The construction and fire prevention requirements should be amended for consistency with current national and state standards and to incorporate licensing inspection and construction fees into the regulation.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-16 Minimum Standards for Licensing Hospitals and Institutional General Infirmaries</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input checked="" type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems & Services
<b>Program:</b>	Division of Hospitals and Professionals
<b>Program Contact:</b>	Name: Charlene Bell     Email: <a href="mailto:bellc@dhec.sc.gov">bellc@dhec.sc.gov</a>
<b>Submission Date:</b>	4/8/2022

**1. Statutory Authority:** S.C. Code Section 44-7-260(A)(1)

**2. Regulation Overview:**

- A. Regulation Synopsis: The statutory authority for Regulation 61-16 includes S.C. Code Sections 44-7-110 et seq. Regulation 61-16 sets forth minimum standards for the licensure of hospitals and institutional general infirmaries.
- B. Date of Last Amendment: May 25, 2018 (Doc. No. 4740, Vol. 42, Iss. 5)
- C. Amendment Synopsis: The amendments were necessary to incorporate changes in state law as well as changes to current practices and standards. The amendment incorporated provisions allowing dietitians to prescribe diets and other dietary services; incorporated requirements of S.C. Code Sections 44-41-410 through -480 relating to the provision of abortion services; incorporated existing inspection and construction fees; and incorporated safe haven requirements.

**3. Nature of Public Input Received:**

In response to the November 26, 2021, State Register notice, the Department received three (3) comments. Below is a summary of the public comments received.

The South Carolina Hospital Association proposed amending Section 604(A) to eliminate the physical exam requirement for volunteers if the volunteer’s only patient care activity is providing vaccinations.

MUSC Health System Quality and Safety proposed amending Section 506.D to require the facility to develop, establish, and maintain written personnel policies and practices which support sound patient care, and which are made available to all employees. In addition, the suggested amendment would require review of the policies at least every three years or more frequently if evidence-based practice dictates change. Moreover, the date of the most recent review must be indicated on the written policies and a procedure established for notifying employees of changes in the established personnel policies.

The Medical University Hospital Authority MUSC’s proposed revision to Section 1306.C with regards to the minimum volume requirement for perinatal hospitals with level III designation to clarify the calculations for the average number of annual deliveries and specific neonate admissions required.

Dr. Chris Wilson, Physical Therapist, proposed amending the regulation by removing Section 1217 (Physical Therapy) and Section 1218 (Occupational Therapy). He feels these requirements are not consistent, not being followed, are outdated, increase needless administrative burden, place hospitals at a competitive disadvantage, jeopardize patient safety, lead to increased cost to consumers and bloat from hospitals, and are redundant.

**4. Evaluation:**

- A. Continued Need: The regulation establishes basic standards for the licensure, maintenance, and operation of hospitals and institutional general infirmaries to ensure the safe and adequate treatment of persons served in this state.
- B. Efficacy: The regulation implements statutory requirements but needs to clarify hospital types and services, among other things.
- C. Breadth: During the 2017 five-year review the recommendation was to amend this regulation. A Notice of Drafting was published in the February 25, 2022, State Register. The regulation is currently in the promulgation process. and proposes amending R.61-16 to ensure alignment with current state laws and to update and revise definitions and requirements regarding licensure, inspections, enforcement, management, medical staff, nursing services, patient safety, policies and procedures, incident reporting, accommodations for patients, medical records, vital statistics, emergency preparedness and response, food service, maintenance, laundry, linen, housekeeping, refuse disposal, infection control, physical plant, design requirements, construction requirements, hazardous elements of construction, fire protection, fire prevention, engineering and exits, and standards for specialized departments or services. The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: The regulation is currently being amended in the promulgation process.			

<b>Regulation:</b>	<b>61-24 Licensed Midwives</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input checked="" type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems + Services
<b>Program:</b>	Division of Hospitals & Professionals
<b>Program Contact:</b>	Name: Charlene Bell      Email: bellc@dhec.sc.gov
<b>Submission Date:</b>	4/8/2022

**1. Statutory Authority:** S.C. Code Section 44-1-140

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-24, Licensed Midwives, sets forth standards for licensing lay midwives and midwife apprentices.
- B. Date of Last Amendment: June 28, 2013 (Doc. No. 4210, Vol. 37, Iss. 6)
- C. Amendment Synopsis: The amendment (1) incorporated the utilization of certification credentials from a nationally recognized credentialing organization approved by the Department to satisfy certain requirements for licensing; (2) allowed for reciprocity of currently credentialed midwives; (3) updated the hearings and appeals language for consistency with changes in state law for contested cases; and (4) deleted the provisions for monetary penalties. Other minor non-substantive stylistic revisions were made to improve the overall quality of the regulation pursuant to Legislative Council drafting standards for regulations.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, *State Register* notice.

**4. Evaluation:**

- A. Continued Need: The purpose of R.61-24 is to provide requirements for licensure, education, and minimum standards of care and practice to individuals who desire to practice midwifery in the state of South Carolina.
- B. Efficacy: The regulation’s efficacy is currently being measured through new data collection processes for the midwives’ quarterly reports. Once the Department has collected and analyzed sufficient data, a determination of efficacy can be assessed.
- C. Breadth: The Department attempted a revision of this regulation in 2021. The Department was asked to withdraw the regulation until such time as it collects data to support a comprehensive revision. The regulation needs amending to update provisions in accordance with current practices and standards. The amendments need to incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements for scope of practice, incident reporting, continuing education training requirements, prescription medication administration, client and neonate care and services, infection control, monetary penalties, and other licensure requirements.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: No change pending collection and analysis of data.

<b>Regulation:</b>	<b>61-75 Standards for Licensing Day Care Facilities for Adults</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-110 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-75 sets forth standards for the licensure of day care facilities for adults.
- B. Date of Last Amendment: March 25, 2022 (Doc. No. 4977, Vol. 45, Iss. 3)
- C. Amendment Synopsis: The regulation was amended to update provisions in accordance with current practices and standards. The amendments incorporated and revised provisions relating to statutory mandates, updated definitions to conform to terminology widely used and understood within the provider community, and revised requirements for incident reporting, staffing and training, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and licensure. The amendments also updated the structure of the regulation throughout for consistency with other Department regulations.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, State Register notice.

**4. Evaluation:**

- A. Continued Need: This regulation helps to ensure the population receiving day care service for adults, our most vulnerable adults, are protected and receive the care and services they need. In addition, it allows us to hold the facilities accountable for the operation and maintenance of these facilities.
- B. Efficacy: The regulation was recently amended to, in part, align with changes in state law. The regulation now aligns with current state law and implements statutory requirements.
- C. Breadth: During the previous five-year review it was recommended that this regulation be amended. The regulation was amended and the final regulation went into effect upon publication in the March 25, 2022 State Register.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
<b>Explanation of Recommendation:</b> Recommend no change to Regulation 61-75, as it was amended in 2022.			

<b>Regulation:</b>	<b>61-77 Standards for Licensing Home Health Agencies</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems + Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-69-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The purpose of the regulation is to provide a set of minimum standards for licensing home health agencies, which furnish home health services to individuals in their home or in an institutional setting.
- B. Date of Last Amendment: May 27, 2022 (Doc. No. 5057, Vol. 46, Iss. 5)
- C. Amendment Synopsis: The Department amended R.61-77 to ensure alignment with current federal and state laws, and revised definitions and requirements for obtaining licensure, inspections, personnel, enforcement, patient care, record maintenance and retention, and licensure standards.

**3. Nature of Public Input Received:**

The Department received comments in response to the November 26, 2021, *State Register* notice from:

- The South Carolina Home Care and Hospice Association: Requesting that DHEC amend the reporting section of the regulation to the accident and incident reporting section to provide sufficient detail for the reporting requirements.
- Team Select Home Care Rep.: Asking the Department to consider adding the Family Home Health Aide Program. This program would allow parent, guardian, and family members as paid HHA's for pediatric clients already qualified for private duty nursing, similar to programs allowed in CO, NH, and AZ.
- Medical Services of America, Inc. Rep.: Requesting a revision to Section 1002 (Health Status) regarding Tuberculosis screening for agency employees, staff, and volunteers to align with DHEC Memorandum dated 6/23/2006 and current CDC guidance.
- Westminster Towers Rep.: Requesting that the Department return Part 15 Continuing Care Retirement Community back to the proposed amendments currently at the General Assembly.
- Prestige Personal Care Services, LLC, Rep.: Asking the Department to consider reducing the fees associated with licensing and renewal, to consider the options as it relates to not hiring from temp/staffing agencies and those with backgrounds records, and to consider allowing in-home offices as an option, as long as files are still able to be confidential and locked away and also have a door that locks so that others cannot gain access.

**4. Evaluation:**

- A. Continued Need: The regulation helps to ensure the care, treatment, health, safety, welfare, and comfort of patients served by home health agencies, and the maintenance and operation of home health agencies promote safe and adequate care and treatment of the patients.
- B. Efficacy: The regulation was recently revised to, in part, align with state law and to ensure the implementation of statutory requirements.
- C. Breadth: During the 2017 five-year review, the recommendation was to amend this regulation. The Department had a Notice of Drafting published in the February 26, 2021, *State Register*. An amended regulation was submitted to the General Assembly and was approved.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: An amended regulation was approved by the in May 2022.			

<b>Regulation:</b>	<b>61-78 Standards for Licensing Hospices</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-260(A)(10) and 44-71-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-78 sets forth standards for the licensure of hospice programs and hospice facilities.
- B. Date of Last Amendment: June 22, 2018 (Doc. No. 4800, Vol. 42, Iss. 6)
- C. Amendment Synopsis: The amendments incorporated 2017 Act No. 61, which made changes to the Hospice Licensure Act, S.C. Code Sections 44-71-10 et seq. These amendments included requirements to register multiple locations and updated requirements for medication disposal to comply with the new statutory changes.

**3. Nature of Public Input Received:**

The Department received comments in response to the November 26, 2021, *State Register* notice from:

LeadingAge South Carolina requesting that the Department amend:

- Section 1303 Staff and Volunteer Tuberculosis Screening, by removing the two-step process for staff and residents and to include an emergency admission process.
- Section 1600.C. Medication Management, by allowing electronic versions of the current Drug reference Book. Facilities are allowed to have electronic versions in the current regulation.

South Carolina Home Health and Hospice Association requesting that the Department amend:

- Section 100.E., to include physician assistants (PA) and advanced practice registered nurses (APRN) to the definition of attending physician.
- Section 804. Plan of Care, to remove the requirement for a physician to approve the Plan of Care.
- Section 900.C.4 Admission, by removing it from the regulation. *The person is not likely to endanger himself or herself or others as determined by a physician or other authorized healthcare provider.*
- Section 601, to clarify the reporting requirements for incidents and accidents.
- Section 100.E, to be consistent with other Departmental regulations (definition of health assessment).

**4. Evaluation:**

- A. Continued Need: The regulation should remain in effect because S.C. Code Sections 44-71-60 et seq. requires the Department to promulgate regulations for hospices to include defining needs, services, and standards for the care, treatment, health, safety, welfare, and comfort of patients and their families served by hospices, and for the maintenance and operation of hospices, including hospice facilities, which will promote safe and adequate care and treatment of the patients and their families

- B. Efficacy: There has been no substantial increase in citations nor enforcement actions against hospices. There has been no substantial increase in exception requests.
  
- C. Breadth: While the current regulation is sufficient in scope right now, there are some changes that the Department would like to make in the future to streamline and clarify processes. These include the bed capacity section related to disasters and emergencies to be amended for consistency with other Departmental regulations. The regulation needs to be amended to align with the federal regulations to assist providers in maintaining compliance with state and federal regulations and alleviate regulatory burden. The definition of "Attending Physician," and the requirement for the Plan of Care approval by a physician need to be amended for clarity and consistency with other Departmental regulations. The incident and accident reporting section needs to be amended for clarity and for consistency with other Departmental regulations. Current applicable inspection and construction fees need to be incorporated into the regulation.

Recommendation:	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-91 Standards for Licensing Ambulatory Surgical Facilities</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-110 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-91 sets forth standards for the licensure of ambulatory surgical facilities. The purpose of R.61-91 is to provide a set of minimum licensing standards for ambulatory surgical facilities for the health and safety of patients. An ambulatory surgical facility is defined as a facility organized and administered for the purpose of performing surgical procedures and/or endoscopy for which patients are scheduled to arrive, receive surgery, and be discharged on the same day.
- B. Date of Last Amendment: June 26, 2015 (Doc. No. 4471, Vol. 39, Iss. 6)
- C. Amendment Synopsis: The amendments clarified and expanded the definitions, particularly the definition of “same day,” revised the codes for fire and life safety, and for design and construction. In addition, corrections were made for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, State Register notice.

**4. Evaluation:**

- A. Continued Need: The regulation helps to ensure the safe and adequate treatment of persons receiving services and care in ambulatory surgical facilities, facilities organized and administered for the purpose of performing surgical procedures for which patients are scheduled to arrive, receive surgery, and be discharged on the same day.
- B. Efficacy: There has been no substantial increase in citations, exception requests, or enforcement actions.
- C. Breadth: The current regulation is sufficient in scope. If the regulation is recommended for amendments in the future, the current inspection and construction fees need to be incorporated into the regulation.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-93 Standards for Licensing Facilities for Chemically Dependent or Addicted Persons</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems & Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-150(3) and 44-7-260(A)(7)

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-93 sets forth standards for the licensure of facilities that treat chemically dependent or addicted persons. Facilities for Chemically Dependent or Addicted Persons (CDAP) are organized to provide outpatient or residential services to chemically dependent or addicted persons and their families based on an Individual Plan of Care, including diagnostic treatment, individual and group counseling, family therapy, vocational and educational development counseling, and referral services.
- B. Date of Last Amendment: June 26, 2020 (Doc. No. 4954, Vol. 44, Iss. 6)
- C. Amendment Synopsis: The amendments incorporated and revised provisions relating to statutory mandates, updated terminology to conform to the terminology widely used and understood within the provider community, and revised requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. The revisions also included changing the name of the regulation and facility type to “Facility for Chemically Dependent or Addicted Persons.”

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, State Register notice.

**4. Evaluation:**

- A. Continued Need: The regulation helps to ensure the health, safety, and welfare of clients receiving care and services from Facilities for Chemically Dependent or Addicted Persons (CDAP). CDAPs provide outpatient and residential services to chemically dependent or addicted persons and their families based on an Individual Plan of Care, including diagnostic treatment, individual and group counseling, family therapy, vocational and educational development counseling, and referral services.
- B. Efficacy: There has been no substantial increase in citations, variance requests, or enforcements for Facilities for Chemically Dependent or Addicted Persons.
- C. Breadth: Facilities/providers have not expressed concerns regarding the regulatory requirements. Several providers asked for clarification related to office-based opioid treatment covered by the DATA 2000 Waiver program, and this should be reviewed for possible inclusion and clarification in the next revision of the regulation.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.



<b>Regulation:</b>	<b>61-97 Standards for Licensing Renal Dialysis Facilities</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input checked="" type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services
<b>Program:</b>	Provider Services Division
<b>Program Contact:</b>	Name: Kristen Kollu      Email: JUAREZKN@DHEC.SC.GOV
<b>Submission Date:</b>	4/8/2022

**1. Statutory Authority:** S.C. Code Sections 44-7-110 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-97 sets forth standards for the licensure of renal dialysis facilities. Renal Dialysis Facilities are outpatient facilities offering staff-assisted dialysis or home dialysis training and support services to patients with end-stage renal disease.
- B. Date of Last Amendment: June 26, 2020 (Doc. No. 4953, Vol. 44, Iss. 6)
- C. Amendment Synopsis: The regulation was amended to update provisions in accordance with current practices and standards. Amendments incorporated and revised provisions relating to statutory mandates, updated terminology to conform to the terminology widely used and understood within the provider community, and revised requirements for incident reporting, staffing and training requirements, medication management, patient care and services, infection control, meal service, emergency procedures, design and construction, fire and life safety, and other miscellaneous requirements for licensure. The Department further revised for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

**3. Nature of Public Input Received:**

The Department received comments in response to the November 26, 2021, State Register notice from Davita Inc. to amend:

- Section 502. Administrator, by removing the requirement that a facility must employ a full-time administrator, and instead, require that a licensed nurse be present at the facility at all times that patient care is being provided.
- Section 504. Staffing, by revising the patient to staff ratio to require one registered nurse for every twelve patients, or fraction thereof, and permit a licensed practical nurse to count towards the 1:12 requirement.
- Section 1705. Patient Hepatitis Screening, by revising the requirement to include confirmation of antigens only prior to admission, with the full Hepatitis B panel to follow upon initiation of treatment.
- Sections 903.A and B, by revising these sections to limit review of plans and specifications to instances of major construction and/or work that alters function or use of the physical space.

**4. Evaluation:**

- A. Continued Need: The regulation should remain in effect because S.C. Code Section 44-7-260 requires the Department to promulgate regulations for end-stage renal dialysis units. The regulation helps to ensure the health, safety, and welfare of patients with end-stage renal disease receiving outpatient staff-assisted dialysis or home dialysis training and support services.

- B. Efficacy: There has been no substantial increase in citations, variance requests, or enforcements for renal dialysis facilities. The Department did receive exception requests from 2013 for several dialysis facilities owned by Fresenius to utilize LPN's for the remaining RN staffing ratio as long as at least one RN was on duty.
- C. Breadth: When the next revision occurs in the future, the staffing section needs to be amended to include the language from a 2013 exception request to utilize LPNs for the remaining RN staffing ratio as long as at least one RN is on duty. No comments and or concerns have been voiced by the Renal Dialysis Advisory Committee.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period, as this regulation was last amended in June 2020.			

<b>Regulation:</b>	<b>61-102 Standards for Licensing Birthing Centers for Deliveries by Midwives</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services			
<b>Program:</b>	Hospitals and Professionals Division			
<b>Program Contact:</b>	Name: Charlene Bell		Email: bellc@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-260 et seq. and 44-89-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-102 provides minimum standards for licensing birthing centers for the health and safety of mothers and newborns. The regulation affects birthing centers, licensed midwives, certified nurse midwives, and physicians associated with birthing centers.
- B. Date of Initial Promulgation: May 24, 1991 (Doc. No. 1307, Vol. 15, Iss. 5)
- C. Promulgation Synopsis: Regulation 61-102 was originally promulgated on May 24, 1991. This regulation has not been substantively amended since its promulgation.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, State Register notice.

**4. Evaluation:**

- A. Continued Need: The regulation helps to protect the health and safety of mothers and newborns.
- B. Efficacy: A proviso requires birthing centers to submit documentation and reports to the Department, and needs to be incorporated into the regulation.
- C. Breadth: When the regulation is revised in the future, the regulation needs to be amended to align with current state and federal statutes. The Department would also seek to clarify sections referring to authorized health care providers, violation classifications, documentation of client and infant records, enforcement actions, and the implementation of policies and procedures.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-108 Standards for Licensing Freestanding or Mobile Technology</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-110 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department promulgates regulations for licensing freestanding or mobile technology that include (1) standards for the maintenance and operation of freestanding or mobile technology to ensure the safe and effective treatment of persons served; (2) a description of the professional qualifications necessary for personnel to operate the equipment and interpret the test results; (3) minimum staffing requirements to ensure the safe operation of the equipment and interpret the test results; and (4) that all freestanding or mobile technology must be in conformance with professional organizational standards.
- B. Date of Initial Promulgation: May 28, 2004 (Doc. No. 2859, Vol. 28, Iss. 5)
- C. Promulgation Synopsis: Promulgation of this regulation satisfied a legislative mandate requiring the Department to develop regulations to set standards for the licensing and inspection of freestanding or mobile technology.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, State Register notice.

**4. Evaluation:**

- A. Continued Need: The Department is required to promulgate regulations for Freestanding or Mobile Technology.
- B. Efficacy: There are currently no licensed Freestanding or Mobile Technology facilities in South Carolina nor any applicants for this facility type.
- C. Breadth: This regulation is sufficient as written to satisfy the legislative mandate.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-109 Standards for Permitting Body Piercing Facilities</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-32-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Pursuant to S.C. Code Sections 44-32-10 et seq., the Department establishes sterilization, sanitation, and safety standards for persons engaged in the business of body piercing.
- B. Date of Last Amendment: May 27, 2016 (Doc. No. 4569, Vol. 40, Iss. 5)
- C. Amendment Synopsis: The amendments updated permitting requirements, reporting requirements, client rights, infection control and sterilization, regulation enforcement, emergency procedures, fire and life safety requirements, and construction design requirements. In addition, corrections were made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, *State Register* notice.

**4. Evaluation:**

- A. Continued Need: The regulation establishes sterilization, sanitation, and safety standards for persons engaged in the business of body piercing.
- B. Efficacy: There has been no substantial increase in citations nor enforcements for body piercing facilities.
- C. Breadth: When the regulation is revised in the future, the current inspection fees need to be incorporated in the regulation. The regulation needs to be amended regarding the requirements for staff in-service training including in blood-borne pathogens and infectious diseases, OSHA standards, violation classifications, and restroom floor coverings.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-111 Standards for Licensing Tattoo Facilities</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-34-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-111 sets forth standards for the licensure of tattoo facilities. The Department establishes by regulation sterilization, sanitation, and safety standards for persons engaged in the business of tattooing.
- B. Date of Last Amendment: May 27, 2016 (Doc. No. 4568, Vol. 40, Iss. 5)
- C. Amendment Synopsis: The amendments updated licensing requirements, reporting requirements, client rights, infection control and sterilization, regulation enforcement, emergency procedures, fire and life safety requirements, and construction design requirements. The amendments also incorporated provider-wide exceptions applicable to tattoo facilities. In addition, corrections were made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, *State Register* notice.

**4. Evaluation:**

- A. Continued Need: The regulation helps to ensure the sterilization, sanitation, and safety standards for persons engaged in the business of tattooing.
- B. Efficacy: There has been no substantial increase in citations, enforcements, or regulation variances for Tattoo Facilities.
- C. Breadth: The regulation is sufficient as written.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			



<b>Regulation:</b>	<b>61-118 South Carolina Stroke Care System</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input checked="" type="checkbox"/> Healthcare Quality <input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems and Services
<b>Program:</b>	EMS Division
<b>Program Contact:</b>	Name: Rich Wisniewski                      Email: wisnierl@dhec.sc.gov
<b>Submission Date:</b>	4/8/2022

**1. Statutory Authority:** S.C. Code Sections 44-61-610 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation provides clarification and further information regarding the Stroke System of Care as required by S.C. Code Sections 44-61-610 et seq.
- B. Date of Initial Promulgation: May 25, 2018 (Doc. No. 4760, Vol. 42, Iss. 5)
- C. Promulgation Synopsis: The initial promulgation in 2018 addressed the designation process and authority as well as further defined the quantitative measures required for suspected stroke patients.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, *State Register* notice.

**4. Evaluation:**

- A. Continued Need: This regulation helps to ensure an effective system to support optimal stroke care in our communities in order to treat stroke patients in a timely manner, improve the overall treatment of stroke patients, increase survival, and decrease the disabilities associated with stroke.
- B. Efficacy: The regulation establishes a process to recognize hospitals achieving stroke certification or accreditation, as prescribed by state law.
- C. Breadth: There is no identified need to revise at this time.

<b>Recommendation:</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) years.	

<b>Regulation:</b>	<b>61-122 Standards for Licensing In-Home Care Providers</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Healthcare Systems & Services			
<b>Program:</b>	Provider Services Division			
<b>Program Contact:</b>	Name: Kristen Kollu		Email: JUAREZKN@DHEC.SC.GOV	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-70-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-122 sets forth standards for the licensure of in-home care providers. In-home care providers are business entities, corporations, and associations that directly provide or make provisions for in-home care services.
- B. Date of Initial Promulgation: June 27, 2014 (Doc. No. 4433, Vol. 38, Iss. 6)
- C. Promulgation Synopsis: The regulation was promulgated to implement the provisions of the South Carolina In-Home Care Providers Act.

**3. Nature of Public Input Received:**

The Department received comments from the South Carolina Home Care & Hospice Association in response to the November 26, 2021, State Register notice requesting the Department amend:

- Section 400.B, by removing the requirement for an annual TB risk assessment as well as the Tuberculosis (TB) risk assessment worksheet in the Appendix.
- Section 100, by adding a definition of Health Assessment that is consistent with other Departmental regulations.

**4. Evaluation:**

- A. Continued Need: The regulation helps ensure providers meet the standards and procedures for in-home care which is primarily intended to assist an individual in an activity of daily living, and is personal in nature.
- B. Efficacy: R.61-122 includes language in the TB section requiring caregivers to have TB screening; however, the Department’s TB Control Program provided guidance that caregivers are not designated as “healthcare personnel” required to have TB screening. Also, there have been some enforcement actions taken by the Department, primarily for individuals operating as an in-home care provider without a license.
- C. Breadth: The regulation needs to be amended to include requirements for written policies and procedures, client records, reporting, plans of correction, clarify in-home care services, and clarify separate lines of business. Current inspection fees also need to be incorporated into the regulation.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: Regulation 61-122 should be amended for the reasons presented above.



<b>Regulation:</b>	<b>61-15 Certification of Need for Health Facilities and Services</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Planning and Construction			
<b>Program:</b>	Certificate of Need			
<b>Program Contact:</b>	Name: Jennifer Hyman		Email: hymanjj@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-110 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The regulation implements the Certificate of Need (“CON”) provisions set forth in the Certification of Need and Health Facility Licensure Act. The regulation addresses, among other things, the application form, fees, project review criteria, changes to CON applications during and after staff review, reports on implementation of approved projects, and the procedure for updating the South Carolina Health Plan.
- B. Date of Last Amendment: May 25, 2012 (Doc. No. 4181, Vol. 36, Iss. 5)
- C. Amendment Synopsis: The amendments included the following: increased filing, application and issuance fees for certificate of need applications; clarified non-transferability and voidance of a Certificate of Need; added provisions to submit information related to quality of patient care; streamlined the program by relaxing reporting requirements and extending the period for an exemption or non-applicability determination to be valid; revised the Part A- Questionnaire; and made other changes to improve the overall quality of the regulation.

**3. Nature of Public Input Received:**

The Department received comments on the following:

- Adjust the monetary thresholds for capital expenditures to increase to \$5 million and purchase of medical equipment to \$2 million. Thresholds should be increased every 5 years for inflation.
- Eliminate the requirement for a CON to add additional beds to an existing hospital if previous occupancy requirements are met.
- Eliminate the requirement for a CON to establish a new hospital of up to 50 beds if located in one of the eight counties without a hospital.
- Remove the requirement for a written exemption determination from the Department in order to replace like equipment for which a CON has been issued.

**4. Evaluation:**

- A. Continued Need: The regulation is needed to fulfill the Department’s role of implementing the Certificate of Need Program.
- B. Efficacy: The regulation as written is not efficient. The regulation needs to be updated to increase the capital expenditure thresholds, increase fees, revise project review criteria, and adjust time limits. The

Legislative Audit Council recently conducted an audit of the program and made recommendations for the Department and other considerations.

- C. Breadth: The Department has previously made recommendations to update the regulation to conform with modern industry practices and new technology. The regulation needs to be updated and adjusted to account for inflation based on Consumer Price Index.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: The Regulation needs to be amended to be consistent with industry changes and account for inflation.			

<b>Regulation:</b>	<b>61-31 Health Care Cooperative Agreements</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Planning and Construction			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: David Fiorini		Email: Fiorindn@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-500 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The regulation implements the Health Care Cooperation Act, including to permit and encourage cooperative agreements between hospitals, health care purchasers, or other health care providers which would otherwise violate federal or state anti-trust laws when the benefits outweigh disadvantages caused by their potential adverse effects on competition. Parties to a cooperative agreement may apply for a Certificate of Public Advantage (COPA).
- B. Date of Initial Promulgation: June 23, 1995 (Doc. No. 1806, Vol. 19, Iss. 6); Errata published June 25, 2010 (Doc. No. 1806, Vol. 34, Iss. 6)
- C. Promulgation Synopsis: The COPA Program began in State Fiscal Year 1995. Other than a June 25, 2010, errata to correct a non-substantive error in the regulation, Regulation 61-31 has not been amended since it was first adopted.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, State Register notice.

**4. Evaluation:**

- A. Continued Need: The regulation is needed to fulfill the Department’s role in administering the COPA Program. This is encouraged because the cost of improved technology and scientific methods contribute significantly to the increasing cost of health care; and cooperative agreements among hospitals, health care purchasers, and other health care providers foster improvements in the quality of health care of South Carolinians.
- B. Efficacy: The regulation meets the requirements in statute. However, Section 44-7-570(A) was amended in 2008 (eff. 2009), relating to the monitoring and regulating of cooperative agreements, so as to provide that the fee the department may charge extends to certificates of public advantage.
- C. Breadth: In previous regulatory reviews, the Department recommended amending the regulation to allow for electronic application submission.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-95 Medicaid Nursing Home Permits</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Planning and Construction			
<b>Program:</b>	Certificate of Need Program			
<b>Program Contact:</b>	Name: David Fiorini		Email: Fiorindn@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 44-7-80 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The regulation implements the Medicaid Nursing Home Permits statute, including setting forth a methodology for the distribution of available Medicaid nursing home patient days.
- B. Date of Initial Promulgation: May 26, 1989 (Doc. No. 983, Vol. 13, Iss. 5)
- C. Promulgation Synopsis: The regulation addressed Issuance, Conditions, Penalties, and Waiver of Permit requirements for obtaining a Permit. Also, the regulation provided methodologies to Application, Allocation and Appeals by the Applicant regarding the Medicaid Patient Days.

**3. Nature of Public Input Received:**

No comments were received in response to the November 26, 2021, *State Register* notice.

**4. Evaluation:**

- A. Continued Need: The regulation is needed to fulfill the Department’s role in determining the distribution of Medicaid patient days for which Medicaid nursing home permits can be issued.
- B. Efficacy: The Medicaid Nursing Home Permit Program began in State Fiscal Year 1988, and the statute has been amended on multiple occasions since 1988. However, this regulation has not been amended since it was first promulgated in 1989 and is not efficient as written.
- C. Breadth: Changes have been made in the statute regarding definitions, application deadlines, the allocation process, and penalties for non-compliance. When the regulation is revised in the future, it needs to be expanded to adopt the statutory language.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) years.			

<b>Regulation:</b>	<b>61-63 Radioactive Materials (Title A)*</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Radiological Health			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Susan Jenkins		Email:jenkinse@dhec.sc.gov	
<b>Submission Date:</b>	4/8/2022			

\*Co-owned with Environmental Affairs

**1. Statutory Authority:** S.C. Code Sections 13-7-10 through 13-7-140

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-63, *Radioactive Materials*, sets safety and security standards for all persons who receive, possess, use, transfer, or acquire any radioactive material. This regulation does not apply to persons subject to regulation by the Nuclear Regulatory Commission (“NRC”). Statutory authority for R.61-63 resides in the Atomic Energy and Radiation Control Act, S.C. Code Ann. Sections 13-7-10 through -140.

The Department adopted Parts I, II, III, IV, V, VI, VIII, XI, and XII to maintain compliance with federal law. These parts are revised periodically to maintain compatibility with NRC regulations. The schedule for revision is planned by the Bureau of Radiological Health in conjunction with the Division of Waste Management in the Bureau of Land and Waste Management. The Department has maintained federal compatibility since the regulation was first promulgated.

Part VII of the regulation sets forth requirements for Licensing Requirements for Land Disposal of Radioactive Waste and is subject to compatibility requirements for states with LLRW disposal facilities. Part VII became effective on August 22, 1986, and was last amended March 26, 2010. The Department promulgated Sections 7.11.9 through 7.11.11 of Part VII, which have not been revised since the 2007 five-year review.

The Department promulgated Parts IX and X, which are not subject to federal compatibility requirements. Part IX of the regulation sets forth the requirements for the Licensing of Naturally Occurring Radioactive Material (“NORM”). Part X of the regulation sets forth the Licensing Requirements for Interim Storage of Radioactive Waste. Parts IX and X became effective on May 26, 1995, and have not been amended since 1995.

- B. Date of Last Amendment: May 28, 2021 (Doc. No. 5036, Vol. 45, Iss. 5)
- C. Amendment Synopsis: The amendments were required to be implemented for South Carolina to maintain its status through the NRC as an Agreement State and to ensure compatibility with federal regulations as required by Section 274 of the Atomic Energy Act of 1954. The amendments included revisions to medical event definitions, training and experience, individual monitoring devices, social security number fraud prevention, and general overall clarifications, miscellaneous corrections, and organization.

**3. Nature of Public Input Received:**

The Department received three public comments requesting to change the frequency required for instrument calibrations from one year to two years; to allow for the decay-in-storage of isotopes with up to a 275-day half-life (current limit is 120-day half-life); and to delete requirements for measuring applicator lengths in certain

devices. Adoption of the first two suggested revisions would be inconsistent with the NRC and the majority of other states. Adoption of the third suggested revision would be incompatible with federal requirements.

#### **4. Evaluation:**

- A. **Continued Need:** The SC Atomic Energy and Radiation Control Act mandates that the Department promulgate regulations relating to the control of ionizing radiation. These regulations apply to all persons who receive, possess, use, transfer, or acquire any radioactive material. There are currently more than 350 radioactive materials licensees in effect for medical, industrial, and academic facilities as well as hundreds of general licenses.
- B. **Efficacy:** All Parts (except IX and X) of the regulation require compatibility with federal regulations. The regulation is written with clarity and is revised regularly to maintain compatibility. The US NRC makes revisions as needed in response to industry practices, new technologies, variances, and compliance issues. Part IX of the regulation should be amended to improve compatibility with the suggested state regulations (“SSR”), Part N, published by the Conference of Radiation Program Control Directors (“CRCPD”). The CRCPD is a nonprofit, non-governmental professional organization dedicated to radiation protection. A CRCPD committee is currently working to update Part N and, once completed, the Department can begin its analysis to determine what revisions should be adopted. The revisions would update industry terminology, exemption concentration limits, general and specific license requirements, and clarify language and definitions in the existing regulation.
- C. **Breadth:** The regulation in general is not too broad or narrow. The regulatory provisions are mostly determined by the requirement for compatibility with federal requirements and are revised accordingly.

#### **Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is recommended to be revised for federal compatibility. The next amendment is required to be completed in 2023.

<b>Regulation:</b>	<b>61-64 X-Rays (Title B)</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Radiological Health			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Susan Jenkins		Email: jenkins@dhcc.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 13-7-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-64, *X-Rays, Title B*, provides for radiation control and applies to all persons who receive, possess, use, transfer, own, or acquire any x-ray producing machine. The purpose is to protect workers and members of the public from the harmful effects of electronically produced ionizing radiation while allowing its beneficial use. Statutory authority for R.61-64 resides in the Atomic Energy and Radiation Control Act at S.C. Code Sections 13-7-10 et seq. The fees collected from the regulated community must be sufficient to implement the provisions of this regulation, as mandated by the Act.
- B. Date of Last Amendment: June 24, 2016 (Doc. No. 4595, Vol. 40, Iss. 6)
- C. Amendment Synopsis: General areas of the last revision included clarifying and simplifying the regulations, adding new definitions as required, and deleting regulations that were no longer applicable.

**3. Nature of Public Input Received:**

The Department received multiple comments from a few members of the regulated community on a variety of topics, including patient shielding requirements, calibration frequencies, reporting of misadministration, and others.

**4. Evaluation:**

- A. Continued Need: The SC Atomic Energy and Radiation Control Act mandates that the Department promulgate regulations relating to the control of ionizing radiation. There is a continued need for R.61-64. Currently there are more than 4,000 x-ray facilities with more than 15,500 x-ray machines registered in the state of South Carolina (an increase from 2017). The uses of these x-ray machines range from medical facilities such as hospitals, doctor's offices, chiropractors, and dentists to non-human use facilities such as veterinary offices, industry, law enforcement, and security. Since radiation cannot be seen, tasted, or smelled, it is critical to ensure that effective radiation protection practices are followed. This makes the regulation necessary to ensure safety for patients, occupationally exposed workers, and the members of the public from unnecessary exposure to electronically produced radiation.
- B. Efficacy: In general, the regulation continues to fulfill the policy upon which it is based. However, due to new technologies, changing industry practices, the number of variances granted, and the need to clarify certain provisions, the Department is currently in the process of amending the regulation.
- C. Breadth: The regulation in general is not too broad or narrow. However, clarification is necessary regarding requirements for licensed professionals using fluoroscopic and other x-ray equipment based on current industry practice. Requirements for new technologies should be included to reduce the need for variance requests. This includes revisions related to hand-held x-ray devices and the growing use of

personnel security screening systems now being used in detention centers and prisons across the state. Revisions related to the suspension of mammography facilities is needed to assure the process meets FDA requirements as well as the requirements of state law.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: This regulation is currently in the process of amendment to improve the efficacy and breadth as described above. Internal procedures related to compliance and enforcement will be removed from the regulation. The Department published an NOD for this regulation on February 25, 2022, and will consider the need for revisions specific to comments received as part of the five-year review during the ongoing regulatory revision process.

<b>Regulation:</b>	<b>61-65 Particle Accelerators (Title C)</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Radiological Health			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Susan Jenkins		Email: jenkins@dhcc.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 13-7-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-65, *Particle Accelerators, Title C*, provides for radiation control and applies to all persons who receive, possess, use, transfer, own, or acquire any particle accelerators. Statutory authority for R.61-65 resides in the Atomic Energy and Radiation Control Act at S.C. Code Ann. Sections 13-7-10 et seq. The fees collected from the regulated community must be sufficient to implement the provisions of this regulation, as mandated by the Act.
- B. Date of Last Amendment: June 26, 2015 (Doc. No. 4482, Vol. 39, Iss. 6)
- C. Amendment Synopsis: General areas of this revision included clarifying and simplifying the regulations, adding new definitions as required, and deleting regulations that were no longer applicable.

**3. Nature of Public Input Received:**

The Department did not receive any public comments.

**4. Evaluation:**

- A. Continued Need: The S.C. Atomic Energy and Radiation Control Act mandates that the Department promulgate regulations relating to the control of ionizing radiation. There is a continued need for R.61-65. Currently there are about 35 Particle Accelerators registered with the Department. Some of the Particle Accelerators are capable of producing lethal doses of radiation. Since radiation cannot be seen, tasted, or smelled, it is critical to ensure that effective radiation protection practices are followed.
- B. Efficacy: These regulations continue to be effective, and no factors have been identified that would compel revisions.
- C. Breadth: This regulation is not too broad or too narrow. Not much has changed in the industry in recent years.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.			

<b>Regulation:</b>	<b>61-106 Tanning Facilities</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input checked="" type="checkbox"/> Healthcare Quality	<input type="checkbox"/> Public Health
<b>Bureau:</b>	Radiological Health			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Susan Jenkins		Email: jenkins@dhcc.sc.gov	
<b>Submission Date:</b>	4/8/2022			

**1. Statutory Authority:** S.C. Code Sections 13-7-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-106, *Tanning Facilities*, provides for the registration and regulation of facilities and equipment that employ ultraviolet and other lamps for the purpose of tanning the skin of the human body through the application of ultraviolet radiation. Statutory authority for the regulation resides in the Atomic Energy and Radiation Control Act at S.C. Code Ann. Sections 13-7-10 et seq. The Act states that the fees collected from the regulated community must be sufficient to protect the public health and safety and environment and to recover the costs incurred by the Department in registering the source of nonionizing radiation and in performing emergency corrective measures. The Department may retain up to thirty thousand dollars (\$30,000) from the fees collected to be used for the administration of this program, as mandated by this Act.
- B. Date of Last Amendment: May 23, 2008 (Doc. No. 3114, Vol. 32, Iss. 5)
- C. Amendment Synopsis: The amendment was a result of House Bill 3833 enacted into law (Act 355) on June 9, 2006. The amendment substantially reduced the regulatory burden to the tanning industry and included language changes intended to clarify many sections of the regulations by making them more specific, better organized, and the intent of the regulation more clear. The most significant changes were redefining the registration requirements and Civil Penalty schedule.

**3. Nature of Public Input Received:**

The Department did not receive any public comments following publication of the *State Register* notice. The regulated community has not provided Department staff with any specific positive or negative comments concerning R.61-106, however two bills were introduced in 2019 with the intent of banning tanning for those under the age of 18 and did not pass.

**4. Evaluation:**

- A. Continued Need: Currently, there are 360 tanning facilities registered in the State of South Carolina. The regulation is necessary to ensure public safety for individuals utilizing tanning equipment. A main cause of skin cancer is ultraviolet radiation. There is a known relationship between use of tanning equipment and risk of basal and squamous cell carcinomas and melanoma. The radiation from “tanning beds” has been deemed a carcinogen.
- B. Efficacy: It is unclear whether the regulation is effective in protecting against the harmful effects of indoor tanning as related cancers would take years to develop and routine inspections are not conducted as a result of limited funding in the amount of \$30,000 per year enacted into law in 2006. The 2008 revision removed some requirements intended to protect users from the harmful effects of nonionizing radiation, the stated purpose of the Act under which it was promulgated, including the removal of requirements for override timer controls. The Department relies on investigation of complaints to enforce the regulatory requirements. Ten complaints were received from 2017 to March 2022. All were

investigated and resulted in findings of violations beyond the original complaint. Many had to do with cracked acrylic which can cause burns to the skin. No severe injuries were reported to the Department.

Many medical experts recommend that children under 18 not use indoor tanning as it increases risk of melanoma later in life. Twenty (20) states and the District of Columbia ban indoor tanning for those under the age of 18. Forty-four states including South Carolina have some limitation on tanning for minors.

- C. Breadth: The regulation is not too broad or narrow but should be compared to CRCPD's suggested state regulations as updates are made to them.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: The Department has not identified a need to amend this regulation over the next five (5) year period.

<b>Regulation:</b>	<b>61-45 South Carolina Central Cancer Registry</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Chronic Disease & Injury Prevention			
<b>Program:</b>	Central Cancer Registry			
<b>Program Contact:</b>	Name: Deborah Hurley Stephanie Chiodini		Email: <a href="mailto:hurleydm@dhec.sc.gov">hurleydm@dhec.sc.gov</a> <a href="mailto:Chiodisc@dhec.sc.gov">Chiodisc@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/25/2022			

**1. Statutory Authority:** S.C. Code Sections 44-35-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: Establishes statewide population-based registry of cancer cases with a diagnosis date after December 31, 1995. The purpose of the registry is to provide statistical information that will reduce morbidity and mortality of cancer in South Carolina. This information must be used to guide cancer control efforts in the State by assisting in prevention and early detection of cancer, extending the life of the cancer patient, identifying high-risk groups or areas in the State with clusters of cancer cases, and improving cancer treatment. The registry shall receive, compile, analyze, and make available epidemiological and aggregate clinical cancer case information collected from all health care providers who diagnose and/or treat cancer patients in this State. The registry shall meet national standards of completeness and timeliness of case reporting and quality of data. Annual reports of aggregate cancer data must be provided to reporting facilities and physicians in the State.
- B. Date of Initial Promulgation: June 26, 1998 (Doc. No. 2262, Vol. 22, Iss. 6, Part 2)
- C. Promulgation Synopsis: The regulation has not been previously amended. For a synopsis of the original promulgation, please see item 2.A above.

**3. Nature of Public Input Received:**

Reporting entities use the “burden” section (S.C. Code Section 44-35-30) and the lack of consequences for failure to report or report on time to justify non-compliance with the state law as written. Reporting entities are confused by the outdated specifics in the legislation compared to current reporting requirements by the Cancer Registry, which are primarily based on national reporting requirements from CDC/NPCR and NAACCR. Requirements are updated annually.

**4. Evaluation:**

- A. Continued Need: Maintaining a state law for cancer reporting is one of the primary funding requirements to receive federal funds for cancer surveillance. Legislation supports timely and complete cancer surveillance and prevention and control activities.
- B. Efficacy: As currently written, S.C. Code Sections 44-35-5 through 44-35-100 do not fulfill the need for timely cancer reporting. Advancements in electronic reporting need to be provided for (industry practice). Loopholes related to non-compliance need to be removed and consequences for non-compliance need to be addressed (e.g., hold up certificates of need). Reference should be made to the Cancer Registry state reporting guidelines (for reportability, data elements, etc.) and replace the very explicit language in current legislation, as cancer reporting guidelines and standards are updated annually. Finally, a requirement should be in place that larger cancer reporting entities shall take over

responsibility for cancer data collection for all facilities within their health system, including newly acquired facilities and physician offices.

- C. Breadth: As written, the breadth is insufficient given advances in the electronic health record and electronic reporting mechanisms now available. The breadth is also insufficient to cover annual updates in cancer reporting standards and requirements. Current legislation lacks sufficient power to enforce 100% cancer data reporting, which directly undermines the purpose of population-based cancer reporting to improve cancer surveillance and outcomes.

**Recommendation:**

Amend

Repeal

No change

Explanation of Recommendation: As written, the breadth is insufficient given advances in the electronic health record and electronic reporting mechanisms now available. The breadth is also insufficient to cover annual updates in cancer reporting standards and requirements. Current legislation lacks sufficient power to enforce 100% cancer data reporting which directly undermines the purpose of population-based cancer reporting to improve cancer surveillance and outcomes.

<b>Regulation:</b>	<b>61-8 Immunization Requirements for School and Childcare Attendance</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Disease Control			
<b>Program:</b>	Division of Immunization + Prevention			
<b>Program Contact:</b>	Name: Stephen White		Email: whites2@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 44-29-40(A) and 44-29-180

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation applies to South Carolina Schools and Childcare settings. The regulation defines what is required for school/childcare entry and outlines the authority DHEC has in order to enforce the requirements for admittance into school/childcare settings.
- B. Date of Last Amendment: June 27, 2014 (Doc. No. 4434, Vol. 38, Iss. 6)
- C. Amendment Synopsis: This amendment updated language regarding religious exemption criteria; clarified compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); facilitated compliance with the McKinney-Vento Homeless Assistance Act; reflected the use of electronic forms in addition to paper copies provided by the Department; made general editorial revisions to clarify and improve the language; and amended the title of the regulation to more accurately reflect the subject matter.

**3. Nature of Public Input Received:**

No comments have been received since the last amendment.

**4. Evaluation:**

- A. Continued Need: This regulation is needed for DHEC to continue to ensure proper admittance into school/childcare settings in order to protect students/children from vaccine preventable diseases as they arise in those settings.
- B. Efficacy: The regulation allows for DHEC to ensure compliance of vaccine records and/or exemptions to allow children to remain in a school/childcare setting. It is especially important to understand a student or child's vaccination status during a disease outbreak in order to protect the student or children in a school/childcare setting. The regulation allows for certain exclusions for providing vaccination information on a student/child with a medical, religious or special 30-day exemption.
- C. Breadth: The currently written regulation clearly defines what is required for school/childcare settings and should remain in place.

**Recommendation:** Amend Repeal No change

Explanation of Recommendation: In time, DHEC may consider recommending an amendment to the current regulation to address religious exemptions. Currently, there is only a need for a one-time religious exemption to be on file for a student/child in a school/childcare setting. The recommendation may include a more frequent renewal (i.e., annual renewal) of the religious exemption due to the rise in vaccine preventable diseases DHEC has monitored in school/childcare settings. Additionally, an individual's religious views may change over time from the time that they initially received a religious exemption for vaccinations. A student/child's vaccination status may allow for them to remain in school/childcare versus having to be excluded in the event of a vaccine preventable disease being in a school/childcare setting due to having a religious exemption on file.

<b>Regulation:</b>	<b>61-20 Communicable Diseases</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Communicable Disease Prevention and Control
<b>Program:</b>	Division of Acute Disease Epidemiology
<b>Program Contact:</b>	Name: Dr. Abdoulaye Diedhiou     Email: DIEDHIA@dhec.sc.gov
<b>Submission Date:</b>	4/28/2022

**1. Statutory Authority:** S.C. Code Sections 44-1-110, 44-1-140, and 44-29-10

**2. Regulation Overview:**

- A. Regulation Synopsis: Regulation 61-20 sets forth the Department’s regulations pertaining to public health concerns of communicable disease reporting, investigation, and mitigation to prevent spread of disease.
- B. Date of Last Amendment: June 24, 2016 (Doc. No. 4609, Vol. 40, Iss. 6)
- C. Amendment Synopsis: In 2016, the regulation was significantly amended to remove obsolete sections, improve the clarity of the language, and add definitions for improving precision. Changes were also necessitated by changes in related statutes as well as Department organization and structure. The changes also aligned the Department with advancements and best practices in disease investigation and prevention. As a result, the entire existing regulation was replaced.

**3. Nature of Public Input Received:**

No comments or input have been received.

**4. Evaluation:**

- A. Continued Need: The regulation stipulates how reportable diseases for which the Department has the authority to conduct surveillance are defined, the requirements for and by whom they are to be reported, and how the Department shall conduct core public health activities for investigating, and the various means for mitigating, communicable diseases that may pose a threat to the public health.
- B. Efficacy: The regulation effectively fulfills the means for the Department to implement surveillance for communicable disease through disease reporting and control measures for public health concerns of communicable disease by investigation and mitigation to prevent spread of disease. The extensive revisions that took effect in 2016 addressed and improved clarity and related statutory changes, and aligned the Department with advancements and best practices in disease investigation and prevention.
- C. Breadth: The regulation is neither too broad nor too narrow.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: The significant revisions that took effect in 2016 remain sufficient.			

<b>Regulation:</b>	<b>61-21 Sexually Transmitted Diseases</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Communicable Disease Prevention and Control			
<b>Program:</b>	Division of STD/HIV			
<b>Program Contact:</b>	Name: Ali Mansaray		Email: mansarab@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 44-1-110, 44-1-140, and 44-29-10 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: The Department regulations pertaining to public health concerning the reporting, prevention, and treatment of cases of STD/HIV, including provisions regarding confidentiality of information held by the Department.
- B. Date of Last Amendment: June 24, 2016 (Doc. No. 4612, Vol. 40, Iss. 6)
- C. Amendment Synopsis: The most recent revisions to Regulation 61-22 updated medical terms and conditions to reflect current terminology, specified the school notification requirement as kindergarten through fifth grade, and removed “nonoxynol-9 or other chemical agents” as it was no longer recommended.

**3. Nature of Public Input Received:**

No specific complaints or comments have been received.

**4. Evaluation:**

- A. Continued Need: The regulation must remain in effect to support our legal authority to maintain surveillance, prevention and control of sexually transmitted diseases that are dangerous to the public and provides the standards and requirements for maintaining the confidentiality of the data the Department collects.
- B. Efficacy: Amendments may be needed to clarify some language that may be ambiguous or confusing.
- C. Breadth: The regulation may be too broad in the requirement for notification of school officials of HIV infected students. There is no evidence to support this as an effective or needed public health measure. South Carolina is the only state with this language. Additionally, the requirement applies only to students attending public schools. The public health benefit of the notification is not supported and the requirement inadvertently promotes stigma relating to STDs/HIV.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: May be needed for clarity of some language and consistency with current public health practice.			

<b>Regulation:</b>	<b>61-22 The Evaluation of Staff of Schools and Child Care Centers for Tuberculosis</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Disease Control
<b>Program:</b>	Division of Tuberculosis Control
<b>Program Contact:</b>	Name: Amy R. Painter, BSN, RN     Email: <a href="mailto:paintear@dhec.sc.gov">paintear@dhec.sc.gov</a>
<b>Submission Date:</b>	3/10/2022

**1. Statutory Authority:** S.C. Code Sections 44-29-150, 44-29-160, and 44-29-170

**2. Regulation Overview:**

- A. Regulation Synopsis: Guidelines put forth by the Department for the evaluation of school employees for tuberculosis prior to starting work at public and private schools, kindergartens, and daycares.
- B. Date of Last Amendment: May 26, 2017 (Doc. No. 4704, Vol. 41, Iss. 5)
- C. Amendment Synopsis: Use of Tuberculin Skin Test (TST)/TB Blood test for all employees. Recommended Public Health Education element developed and provided by the TB Control Program for all employees and volunteers.

**3. Nature of Public Input Received:**

Clarified that the guidelines do not apply to registered family childcare homes. Updated language regarding volunteers. Allowed a person to be evaluated by a licensed health care provider while acknowledging that the certification must come from a licensed physician. Section B(3) added to show that if an employee leaves the setting, they must be re-evaluated as a condition of employment. Section B(4) added to state that these were minimum recommended guidelines and that the schools and childcare centers are free to require additional evaluations. Discretion provided to schools and districts on how the DHEC 1420 should be maintained. For persons employed by outside contractors, it is the employer's/contractor's responsibility to maintain a copy of the DHEC 1420.

**4. Evaluation:**

- A. Continued Need: The regulation must remain in legal effect as required by statutory authority.
- B. Efficacy: The regulation fulfills the statutory requirement that all persons initially hired to work in any public or private school, kindergarten, nursery, or day care center for infants and children be evaluated for tuberculosis as a prerequisite to employment.
- C. Breadth: The regulation adequately fulfills the statutory requirement.

<b>Recommendation:</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No change
Explanation of Recommendation: The regulation maintains an appropriate level of tuberculosis screening that is appropriate for the incidence of disease in the state. The regulation is sensitive to the financial and human resources of the stakeholders.	

<b>Regulation:</b>	<b>61-120 South Carolina Immunization Registry</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Disease Control			
<b>Program:</b>	Division of Immunization + Prevention			
<b>Program Contact:</b>	Name: Stephen White		Email: whites2@dhec.sc.gov	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Section 44-29-40(B)

**2. Regulation Overview:**

- A. Regulation Synopsis: Defines who has or should have access to immunization information from the Statewide Immunization Online Network (SIMON). The regulation also defines what the data in SIMON can be used for.
- B. Date of Last Amendment: May 24, 2019 (Doc. No. 4837, Vol. 43, Iss. 5)
- C. Amendment Synopsis: The May 24, 2019, amendment allowed DHEC to share data with the Office of Revenue and Fiscal Affairs in order to match immunization registry data from SIMON with insurance groups to meet public health Healthcare Effectiveness Data and Information Set (HEDIS) measures. Additionally, the amendment allowed DHEC to utilize a Public Portal within SIMON for the benefits of constituents to access their own immunization data.

**3. Nature of Public Input Received:**

I'm unaware of any public comment against the May 24, 2019, amendment revisions.

**4. Evaluation:**

- A. Continued Need: This regulation is imperative to the way in which DHEC manages and protects the immunization registry information in SIMON.
- B. Efficacy: Due to this current regulation, DHEC has been able to clearly define how data can be used. There are several examples of ways in which outside stakeholders have wanted information, and DHEC has been able to provide timely feedback due to the effective way in which this regulation is currently written.
- C. Breadth: The current regulation is very specific to the uses of the immunization data in SIMON. Due to this detail, it helps to guide DHEC specifically on how data can be used and shared.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: In time, DHEC may consider another amendment to the current regulation in order to further clarify language around the uses of the immunization data in SIMON along with who may be granted access to the data. DHEC may also consider how data may be shared if there is no longer any sort of public health emergencies on federal or state levels.			

<b>Regulation:</b>	<b>61-19 Vital Statistics</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Community Health Services			
<b>Program:</b>	Division of Vital Statistics			
<b>Program Contact:</b>	Name: Caleb Cox		Email: coxcn@dhec.sc.gov	
<b>Submission Date:</b>	4/15/2022			

**1. Statutory Authority:** S.C. Code Ann. Sections 44-63-10, et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation governs the administration of the Vital Records/Statistics Program.
- B. Date of Last Amendment: June 24, 2016 (Doc. No. 4580, Vol. 40, Iss. 6)
- C. Amendment Synopsis: General updates to processes and procedures.

**3. Nature of Public Input Received:**

The current regulation doesn't address processes for changes to gender marker on a birth certificate, doesn't address assisted reproduction issues, including surrogacy situations, and forces unnamed registrants to go to court if over 1 year old to get their name on their certificate.

**4. Evaluation:**

- A. Continued Need: The Vital Statistics program is a permanent program mandated by law. These regulations are needed to effectively administer Sections 44-63-10, et seq., of the South Carolina Code of Laws.
- B. Efficacy: These regulations need to be updated to address some new functionality in our vital records system as well as new laws that were passed requiring fines for entities who are filing death certificates and ITOP records outside of the mandated time frame. The current regulation also does not address processes related to changes in gender marker on a birth certificate as well as rules surrounding assisted reproduction.
- C. Breadth: For the above-mentioned reasons, the current regulation does not address new laws or new technologies currently in use by the program. Some sections of the current regulation are too restrictive to customers and need to be updated so that more can be accomplished administratively rather than through court, including amending/correcting birth certificates and establishing delayed birth certificates.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: Vital Statistics is already in the process of updating these regulations to address a number of general updates and changes that are needed, but amendment specifically is needed to address the above-mentioned issues brought up by the public. Additionally, amendment is needed to address new laws regarding fees we are to charge for certificates that are filed late.			

<b>Regulation:</b>	<b>61-94 WIC Vendors</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Community Nutrition Services
<b>Program:</b>	Division of WIC Services
<b>Program Contact:</b>	Name: Berry Kelly     Email: kellybb@dhec.sc.gov
<b>Submission Date:</b>	4/20/2022

**1. Statutory Authority:** S.C. Code Section 43-5-910

**2. Regulation Overview:**

- A. Regulation Synopsis: The Regulation sets forth the requirements for participation of vendors in the WIC Program, including a point system to determine periods of disqualification, sanctions and civil penalties for violations of WIC statutes and regulations, and prescribes other policies and practice requirements to implement the purpose of the South Carolina WIC Vendor Act.
- B. Date of Last Amendment: May 26, 2017 (Doc. No. 4671, Vol. 41, Iss. 5)
- C. Amendment Synopsis: The last amendment addressed the responsibilities and duties of all potential and authorized WIC Vendors in the state of South Carolina.

**3. Nature of Public Input Received:**

No public comments were received, and we do not anticipate any concerns from general stakeholders

**4. Evaluation:**

- A. Continued Need: The regulation must remain in legal effect as directed by the statute to implement the WIC Program.
- B. Efficacy: R.61-94 is currently in the promulgation process. The proposed amendments to R.61-94 will address provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265) and an interim rule published by USDA in the Federal Register revising the WIC food packages. The vendor-related amendments of this interim rule were implemented to prevent fraud, waste, and abuse of program benefits. The amendments will also include stylistic changes.
- C. Breadth: R.61-94 adequately addresses the program’s needs. The regulation focuses on the requirements that all potential and authorized vendors are aware of. The scope of the regulation relative to statutory authority is aligned with federal regulatory requirements. The regulation adequately fulfills the policy upon which it is based.

<b>Recommendation:</b>	<input checked="" type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input type="checkbox"/> No change
Explanation of Recommendation: The Department proposes amending R.61-94 and is currently in the promulgation process to update verbiage to South Carolina Electronic WIC Benefits (eWIC). The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.			

<b>Regulation:</b>	<b>61-114 South Carolina Birth Defects Program</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Maternal and Child Health
<b>Program:</b>	Division of Children’s Health and Perinatal Services
<b>Program Contact:</b>	Name: Kimberly Seals      Email: sealskn@dhec.sc.gov
<b>Submission Date:</b>	5/2/2022

**1. Statutory Authority:** S.C. Code Sections 44-44-10 through 44-44-160

**2. Regulation Overview:**

- A. Regulation Synopsis: The statutory authority requires South Carolina to conduct birth defects monitoring and referrals. The associated regulation further defines and delineates the verbiage in the law and how the law should be carried out. Specifically, it covers purpose and scope, definitions, conducting surveillance, data usage, referrals, confidentiality, and severability. These parameters allow the program and affiliated data sources to understand what is necessary for the law to be in effect.
- B. Date of Initial Promulgation: May 23, 2008 (Doc. No. 3151, Vol. 32, Iss. 5)
- C. Promulgation Synopsis: See item 2.A.

**3. Nature of Public Input Received:**

No comments have been received.

**4. Evaluation:**

- A. Continued Need: The regulation provides parameters for data collection, referrals, and data usage. Without this, the scope of associated activities could be misinterpreted or ambiguous. The regulation also specifically supports the referral of children with birth defects to the state’s Early Intervention agency, BabyNet.
- B. Efficacy: The nature of birth defects and surveillance have not fundamentally changed. The regulation adequately provides the verbiage needed to ensure robust and accurate surveillance can occur despite changes in diagnostic practices.
- C. Breadth: The breadth of the regulation, as written, fits the purpose and practice of the law very well to ensure that robust surveillance, and corresponding referrals, can occur without issue.

<b>Recommendation:</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No change
Explanation of Recommendation: No changes are needed at this time.	

<b>Regulation:</b>	<b>61-80 Neonatal Screening for Inborn Metabolic Errors and Hemoglobinopathies</b>
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs <input type="checkbox"/> Administration <input type="checkbox"/> Healthcare Quality <input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Public Health Laboratory/Bureau of Maternal and Child Health
<b>Program:</b>	n/a
<b>Program Contact:</b>	Name: Kimberly Seals     Email: <a href="mailto:sealskn@dhec.sc.gov">sealskn@dhec.sc.gov</a>
<b>Submission Date:</b>	4/29/2022

**1. Statutory Authority:** S.C. Code Section 44-37-30

**2. Regulation Overview:**

- A. Regulation Synopsis: Summarizes and allows DHEC to make notification to providers/parents of time-critical newborn screening results.
- B. Date of Last Amendment: June 27, 2003 (Doc. No. 2803, Vol. 27, Iss. 6 Part 1)
- C. Amendment Synopsis: The amendment incorporated legislative mandates regarding storage and use of blood specimens collected on filter paper for the purposes of neonatal screening for inborn metabolic errors and hemoglobinopathies and incorporated legislative mandates regarding the confidentiality of information obtained as a result of neonatal screening for inborn metabolic errors and hemoglobinopathies. It also updated language, which included corrections to improve clarity and readability, as well as to strengthen, improve, and codify standards and terminology for consistency with national and medical standards. The amendment also incorporated legislative mandates regarding forms and documentation.

**3. Nature of Public Input Received:**

For time critical results, specialists would like notification at the same time as providers to be able to provide timely support and intervention.

**4. Evaluation:**

- A. Continued Need: Must remain in legal effect.
- B. Efficacy: The regulation has proven not to be efficacious as written. Although legislation was introduced this session that would enable the Department to update the regulation, the bill did not pass ultimately.
- C. Breadth: The current regulation is too narrow; however, needed statutory changes were not implemented during the current legislative session to enable the Department to update the regulation.

<b>Recommendation:</b>	<input type="checkbox"/> Amend <input type="checkbox"/> Repeal <input checked="" type="checkbox"/> No change
Explanation of Recommendation: No changes at this time.	

<b>Regulation:</b>	<b>61-112 Implementation of Emergency Health Powers Act</b>			
<b>Deputy Area:</b>	<input type="checkbox"/> Environmental Affairs	<input type="checkbox"/> Administration	<input type="checkbox"/> Healthcare Quality	<input checked="" type="checkbox"/> Public Health
<b>Bureau:</b>	Public Health Preparedness			
<b>Program:</b>	n/a			
<b>Program Contact:</b>	Name: Sam Finklea		Email: <a href="mailto:finklea@dhec.sc.gov">finklea@dhec.sc.gov</a>	
<b>Submission Date:</b>	4/29/2022			

**1. Statutory Authority:** S.C. Code Sections 44-1-140 and 44-4-100 et seq.

**2. Regulation Overview:**

- A. Regulation Synopsis: This regulation provides procedures for responding to an occurrence or imminent risk of a large scale natural or manmade event which constitutes a public health emergency.
- B. Date of Initial Promulgation: March 24, 2006 (Doc. No. 2962, Vol. 30, Iss. 3)
- C. Promulgation Synopsis: See item 2.A.

**3. Nature of Public Input Received:**

BPHP has not received any public input regarding this regulation.

**4. Evaluation:**

- A. Continued Need: This regulation is necessary to address and protect the public from a large-scale public health emergency, whether natural or man-made. It focuses upon the prevention, detection, management, and containment of public health emergencies. The regulation is designed to limit further negative impact that may occur from a large-scale public health emergency. It is necessary to implement the Emergency Health Powers Act and compel persons and entities to comply with directives.
- B. Efficacy: The provisions of the regulation track directives set forth in the Emergency Health Powers Act. Based on lessons learned during the recent covid response, revisions to improve its efficacy may be indicated after staff has time for further consideration.
- C. Breadth: The regulation parallels the scope of the Emergency Health Powers Act.

<b>Recommendation:</b>	<input type="checkbox"/> Amend	<input type="checkbox"/> Repeal	<input checked="" type="checkbox"/> No change
Explanation of Recommendation: No changes are needed at this time.			