

Document No. 5454
DEPARTMENT OF ENVIRONMENTAL SERVICES
 CHAPTER 61

Statutory Authority: 1976 Code Sections 13-7-40, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

61-63. Radioactive Materials (Title A).

Preamble:

Pursuant to S.C. Code Ann. Section 13-7-40 et seq., the South Carolina Department of Environmental Services (Department) has the authority to regulate radiation sources and to formulate, adopt, promulgate, and repeal rules and regulations relating to the control of ionizing radiation.

The United States Nuclear Regulatory Commission (NRC) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. The Department proposes amending R.61-63, Radioactive Materials (Title A), to incorporate several federal amendments, ensuring compliance with federal requirements found in 10 CFR Parts 30, 32, 35, and 71, as well as Section 274 of the Atomic Energy Act of 1954.

Federal amendments include revisions to 10 CFR Part 71, Packaging and Transportation of Radioactive Materials (RATS ID 2015-3). These federal amendments made conforming changes to the NRC’s regulations, based on the International Atomic Energy Agency’s standards for the international transportation of radioactive material, and maintain consistency with the United States Department of Transportation’s (DOT) regulations. The Department proposes amending R.61-63, Radioactive Materials (Title A), as necessary to maintain compliance with these federal rules.

Additionally, the Department proposes amending R.61-63, Radioactive Materials (Title A), to incorporate an omitted table federal rule published on December 29, 1993, 58 FR 68730. This federal amendment outlines the requirement for establishing financial assurance for the decommissioning of licensed facilities.

The Department also proposes amending R.61-63, Radioactive Materials (Title A), to incorporate non-substantive amendments published in the Federal Register on August 9, 2021, 86 FR 43397 (RATS ID 2021-1) and August 24, 2023, 88 FR 57873 (RATS ID 2023-1). These federal amendments include corrections for consistency, clarity, references, spelling, punctuation, formatting, and overall improvement of the text.

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

The Department had a Notice of Drafting published in the October 24, 2025, South Carolina State Register.

Section-by-Section Discussion:

Section	Type of Change	Purpose
R.61-63, PART I: General Provisions		
RHA 1.12.2	Revision	Correction of a reference.
RHA 1.15.3.1	Revision	Amend to reference RHA 1.19[Appendix C].
RHA 1.15.3.2	Revision	Amend to reference RHA 1.19[Appendix C].
RHA 1.15.3.4	Revision	Amend to reference RHA 1.19[Appendix C].
RHA 1.15.10	Revision	Amend to reference RHA 1.19[Appendix C].

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RHA 1.19[Appendix C]	Addition	Add previously omitted table used for determining financial assurance and decommissioning funding plan threshold limits.
R.61-63, PART II: Licensing of Radioactive Material		
RHA 2.7.5.1.2.1	Revision	Amend for compatibility with federal regulations correcting a reference (RATS-ID 2023-1).
RHA 2.22.1	Revision	Amend for compatibility with 10 CFR Part 71 by excepting certain requirements to eliminate duplication, gaps or incorporating terms reserved to the US NRC. Adds clarifying language regarding references to the NRC in 10 CFR Part 71. Corrects a typographical error.
RHA 2.22.1.2.2	Revision	Amend to clarify that only physicians licensed by the NRC, the Department, or another Agreement State are exempt from certain transportation requirements.
RHA 2.22.5	Addition	Add to correct a gap created by excepting 10 CFR 71.17 in RHA 2.22.1 and previously deleting the equivalent state requirement RHA 2.22.5.
RHA 2.22.6	Addition	Add to correct a gap created by excepting 10 CFR 71.21 in RHA 2.22.1 and previously deleting the equivalent state requirement RHA 2.22.6.
R.61-63, PART IV: Uses of Radionuclides in the Health Professions		
RHA 4.23.2.2	Revision	Amend to correct a phrase referencing broad scope licenses (RATS-ID 2021-1).

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to Mr. Andrew M. Roxburgh of the Bureau of Land and Waste Management, South Carolina Department of Environmental Services, 2600 Bull Street, Columbia, S.C. 29201; or via email at Andrew.Roxburgh@des.sc.gov. To be considered, the Department must receive comment(s) no later than 5:00 p.m. on Monday, June 22, 2026, the close of the comment period.

Should a public hearing on the proposed regulations be requested by qualifying entities or the requisite number of persons pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, the South Carolina Administrative Law Court will conduct a public hearing on July 8, 2026, beginning at 1:00. pm, at the South Carolina Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, S.C. 29201.

If a qualifying request pursuant to Section 1-23-110(A)(3) is not received by 5:00 p.m. on Monday, June 22, 2026, the hearing will be canceled.

Statement of Need and Reasonableness:

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: R.61-63, Radioactive Materials (Title A).

Purpose: The Department of Environmental Services proposes amendments to Regulation 61-63 for compliance with federal regulations 10 CFR Parts 30, 32, 35, and 71.

Legal Authority: 1976 Code Sections 13-7-40, 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024.

Plan for Implementation: The amendments will have legal effect upon publication in the State Register. Department personnel will then take appropriate steps to inform the regulated community of the amendments.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The federal Atomic Energy Act of 1954 enables the United States Nuclear Regulatory Commission (Commission) to enter into agreements with state governors allowing for state regulation of byproduct, source, and special nuclear materials. (42 U.S.C. Section 2121). The Commission enters into such agreements if it finds the state regulatory program complies with applicable federal regulations. To renew South Carolina's ongoing agreement with the Commission, the Department of Environmental Services proposes amendments to Regulation 61-63 for compatibility with the Commission's federal regulatory updates. The amendments are beneficial in that they ensure state oversight of required standards.

DETERMINATION OF COSTS AND BENEFITS:

Neither the state nor its political subdivisions will incur additional costs as a result of implementing this amendment. The state will utilize its existing staff and resources to implement this amendment to the regulation. The amendment will not create any significant additional cost to the regulated community since requirements or changes to the regulations will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties in the estimates of costs to the state or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These amendments seek to ensure an effective regulatory program for users of radioactive material under state jurisdiction and to protect the public and workers from unnecessary exposure to ionizing radiation.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

Adoption of the changes to federal regulations through the proposed amendments to R.61-63 will continue protecting the environment and public health.

Statement of Rationale:

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The federal Atomic Energy Act of 1954 enables the United States Nuclear Regulatory Commission (Commission) to enter into agreements with state governors allowing for state regulation of byproduct, source, and special nuclear materials (42 U.S.C. Section 2121). The Commission enters into such agreements if it finds the state regulatory program complies with applicable federal regulations. To renew South Carolina's ongoing agreement with the Commission, the South Carolina Department of Environmental Services proposes amendments to Regulation 61-63 for compatibility with the Commission's federal regulatory updates.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.