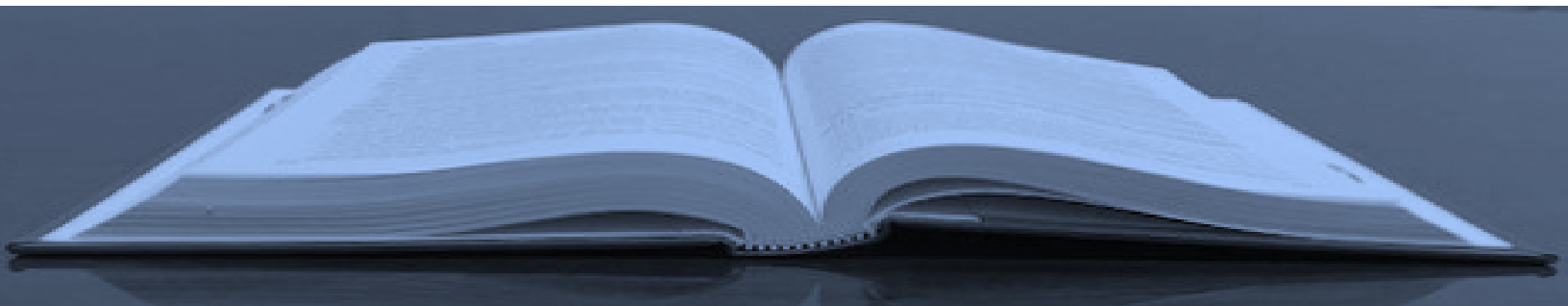


REGULATION DEVELOPMENT UPDATE |

November 2023



In this Issue |

DHEC publishes this online report the fourth Friday of each month to exhibit pending regulatory initiatives. The report includes proposed new regulations and amendments and repeals of existing regulations.

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DHEC Regulatory Information
www.scdhec.gov/permits-regulations

South Carolina State Register
<https://www.scstatehouse.gov/registerandregs.php>

Terminology
NOD - Notice of Drafting
NPR - Notice of Proposed Regulation
NFR - Notice of Final Regulation

R.61-62, Air Pollution Control Regulations and Standards – Proposed Amendment

State Register Document No. 5188

Exempt from General Assembly review

Link to published Notice of Final Regulation (“NFR”): www.scstatehouse.gov/regs/5188.docx

Status |

NFR published/Legal effect: August 25, 2023

Contact Information |

Holly Randolph, Bureau of Air Quality
2600 Bull Street | Columbia, SC 29201
randolhk@dhec.sc.gov

Summary |

Pursuant to the Pollution Control Act and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

The U.S. Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60, 63, and 97 include revisions to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Cross-State Air Pollution Rule (CSAPR) Trading Programs.

The Department proposes amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, to incorporate by reference federal amendments promulgated from January 1, 2022, through December 31, 2022.

The Department further proposes amending R.61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, and the State Implementation Plan (SIP), to incorporate by reference recently promulgated federal amendments to the CSAPR NOX Annual Trading Program (found in 40 CFR Part 97, Subpart AAAAA) and the CSAPR SO2 Group 2 Trading Program (found in 40 CFR Part 97, Subpart DDDDD) as necessary to maintain compliance with federal law.

The Department also proposes additional changes to R.61-62, Air Pollution Control Regulations and Standards, for overall quality of regulatory text as deemed necessary to maintain compliance with federal law. These changes may include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement to the text of R.61-62.

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

History |

NOD published; comment period started:	March 24, 2023
NOD comment period closed:	April 24, 2023
Board approval to publish NPR:	May 11, 2023
NPR published; comment period started:	May 26, 2023
NPR comment period closed:	June 26, 2023
Public hearing:	August 10, 2023

Proposed New Solid Waste Management Regulation

State Register Document No. 5191

General Assembly review required

Link to published Notice of Final Regulation (“NFR”): www.scstatehouse.gov/regs/5191.docx

Status |

Legislative review of NFR will begin: January 2024

Contact Information |

Juli Blalock, Bureau of Land and Waste Management
2600 Bull Street | Columbia, SC 29201
swregdev@dhec.sc.gov

Summary |

Pursuant to 2022 Act No. 119, Section 5, the Department is directed to develop rules to guide all South Carolinians invested in, selling, installing, and using photovoltaic (“PV”) modules and energy storage system batteries in the management of end-of-life PV modules and energy storage system batteries on solar projects, and the decommissioning of solar projects in excess of thirteen acres. The Department proposes new regulation R.61-107.20, Solar Energy Systems, to create basic guidelines for large solar energy systems. The new regulation is designed to establish a registration requirement, and facilitate all large solar energy systems have a decommissioning plan, which includes financial assurance, removal of PV modules and accompanying equipment, and remediation of the land, if necessary.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of the proposed new regulation.

History |

NOD published; comment period started:	March 24, 2023
NOD comment period closed:	April 24, 2023
Board approval to publish NPR:	June 8, 2023
NPR published; comment period started:	June 23, 2023
NPR comment period closed:	July 24, 2023
Public hearing:	September 7, 2023

R.89-10 through 89-350, Office of the Governor-Mining Council of South Carolina – Proposed Amendment

General Assembly review required

Link to published Notice of Drafting (“NOD”): [State Register Volume 46, Issue 8 \(page 23\)](#)

Status |

NOD published; comment period closed

Contact Information |

Juli Blalock, Bureau of Land and Waste Management
2600 Bull Street | Columbia, SC 29201
swregdev@dhec.sc.gov

Summary |

Pursuant to the South Carolina Mining Act, S.C. Code Ann., Sections 48-20-10 et seq., the Department establishes and enforces standards for the permitting, operation, and closure of mining and exploratory excavation activities. The Department proposes amending R.89-10 through 89-350 to more efficiently regulate mining activities and protect human and environmental health. More specifically, the Department proposes revising requirements for setbacks between mines and property lines and other structures. The Department may consider revisions to blasting, permitting, bonding, noticing, and operational requirements, and other administrative changes.

The proposed amendments may also include updates, corrections, or other changes for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Ann., Section 1-23-120(A), requires General Assembly review of these proposed amendments.

History |

NOD published; comment period started:

August 26, 2022

NOD comment period closed:

September 26, 2022

Land and Waste Management | Environmental Affairs

R.61-63, Radioactive Materials (Title A) – Proposed Amendment

State Register Document No. 5189

Exempt from General Assembly review

Link to published Notice of Final Regulation (“NFR”): www.scstatehouse.gov/regs/5189.docx

Status |

Legislative review of NFR will begin: January 2024

Contact Information |

Lynne Garner, Bureau of Land and Waste Management
2600 Bull Street | Columbia, SC 29201
garnerld@dhec.sc.gov

Summary |

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 material. 42 U.S.C. Section 2121. The Commission enters into such agreements if it finds the state regulatory program complies with applicable federal regulations, Id. To renew South Carolina’s ongoing agreement with the Commission, the Department proposes amendments to R.61-63 for compliance with the Commission’s federal regulatory updates. The proposed amendments add clarifications or corrections to Parts II, III, IV, and XII of the regulation.

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

History |

NOD published; comment period started:	February 24, 2023
NOD comment period closed:	March 27, 2023
Board approval to publish NPR:	May 11, 2023
NPR published; comment period started:	May 26, 2023
NPR comment period closed:	June 26, 2023
Public hearing:	October 12, 2023

R.61-83, Transportation of Radioactive Waste Into or Within South Carolina – Proposed Amendment

Exempt from General Assembly review

Link to published Notice of Final Regulation (“NFR”): www.scstatehouse.gov/regs/5226.docx

Status |

Legislative review of NFR will begin: January 2024

Contact Information |

Lynne Garner, Bureau of Land and Waste Management
2600 Bull Street | Columbia, SC 29201
garnerld@dhec.sc.gov

Summary |

Pursuant to S.C. Code Sections 13-7-10 et seq., the Department requires compliance with all applicable provisions of Title 10, Part 71 of the Code of Federal Regulations (10 CFR 71), as revised in February 2018, and any disposal facility’s radioactive material license requirements and site disposal criteria regarding the packaging, transportation, disposal, storage or delivery of radioactive materials. The Department proposes amending R.61-83, Transportation of Radioactive Waste Into or Within South Carolina, to incorporate 10 CFR 71 regulations promulgated in 2018, provide clarification for conformance with Disposal Site Criteria, include an exemption/exception allowance, and update Forms to the current documents in use.

The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

History |

NOD published; comment period started:	April 28, 2023
NOD comment period closed:	May 30, 2023
Board approval to publish NPR:	August 10, 2023
NPR published; comment period started:	August 25, 2023
NPR comment period closed:	September 25, 2023
Public Hearing:	November 9, 2023

R.61-58, State Primary Drinking Water Regulations – Proposed Amendment

General Assembly review required

Link to published Notice of Drafting (“NOD”): [State Register Volume 46, Issue 8 \(page 23\)](#)

Status |

NOD published; comment period closed

Contact Information |

Richard Welch, Bureau of Water
2600 Bull Street | Columbia, SC 29201
welrchra@dhec.sc.gov

Summary |

Pursuant to 1976 Code Sections 44-55-10 et seq., the Department is authorized to regulate public water systems and to promulgate regulations governing the design, construction, operation, and maintenance of public water systems in the state. The Department proposes amending R.61-58.7, Operation and Maintenance, of the State Primary Drinking Water Regulations to incorporate internal inspection requirements for atmospheric drinking water storage tanks. This new requirement would apply to all atmospheric drinking water storage tanks, both new and existing

The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

History |

NOD published; comment period started:
NOD comment period closed:

August 26, 2022
September 26, 2022

Ocean + Coastal Resource Management | Environmental Affairs

R.30-1, Statement of Policy; R.30-2, Applying for a Permit; R.30-11, General Guidelines for All Critical Areas; R.30-13, Specific Project Standards for Beaches and the Beach/Dune System; R.30-15, Activities Allowed Seaward of Baseline – Proposed Amendment

State Register Document No. 5200

General Assembly review required

Link to published Notice of Final Regulation (“NFR”): www.scstatehouse.gov/regs/5200.docx

Status |

Legislative review of NFR will begin: January 2024

Submit Comments To |

Liz Hartje, Office of Ocean + Coastal Resource Management
1362 McMillan Avenue, Suite 400 | Charleston, SC 29405
hartjeen@dhec.sc.gov

Summary |

South Carolina’s beachfront policies and jurisdictional authorities are established under the South Carolina Beachfront Management Act (S.C. Code Sections 48-39-250 et seq.). Over the past three decades, these rules have guided where and how areas along the state’s beachfront can be developed. In 2018, Act 173 amended the Beachfront Management Act to replace the state’s 40-year policy of retreat with a policy of beach preservation. However, Coastal Division regulations currently lack specific guidance to effectively implement the new policy. In 2022, the Department convened the Beach Preservation Stakeholder Workgroup (“Workgroup”), which represented a wide range of backgrounds and constituencies, to provide input and diverse perspectives on beach preservation in South Carolina. The Workgroup’s recommendations and key findings were the primary basis for developing the proposed amendments to R.30-1, R.30-2, R.30-11.D, and R.30-13 to establish a regulatory definition for beach preservation, provide for a process and standards to permit pilot projects proposed within the beaches or beach/dune system critical areas, and provide for consistency in the application of standards for activities across beaches and beach/dune system critical areas. The proposed amendments will provide clarity for the regulated community, guidance for regulatory staff, and allow the Department to more effectively implement the state’s beach preservation policy. The proposed amendments also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

History |

NOD published; comment period started:	February 24, 2023
NOD comment period closed:	March 27, 2023
Board approval to publish NPR:	July 13, 2023
NPR comment period closed:	August 28, 2023
Public hearing:	October 12, 2023

R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries – Proposed Amendment

General Assembly review required

*This Notice of Drafting supersedes the one previously published on March 24, 2023, and restarts the promulgation process for these proposed amendments.

Link to Notice of Proposed Regulation (“NPR”) for legislative review: www.scstatehouse.gov/regs/5265.docx

Status |

NPR comment period open:
November 24, 2023 – December 27, 2023

Submit Comments To |

Office of Policy + Communications, Healthcare Quality
2600 Bull Street | Columbia, SC 29201
HQRegs@dhec.sc.gov

Summary |

Pursuant to S.C. Code Sections 44-7-250 and -260(A)(1), the Department establishes and enforces minimum standards for the licensure, maintenance, and operation of hospitals to ensure the safe and appropriate treatment of persons served in this state. The Department proposes amending R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries, to ensure alignment with current state laws and to update and revise definitions, license requirements and fees, staff and training, reporting, disaster management, accommodations for patients, patient care and services, perinatal services, design and construction, fire protection, prevention and life safety, and policies and procedures.

The proposed amendments may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of the text of the regulation.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

R.61-91, Standards for Licensing Ambulatory Surgical Facilities – Proposed Amendment

General Assembly review required

Link to Notice of Proposed Regulation (“NPR”) for legislative review: www.scstatehouse.gov/regs/5264.docx

Status |

NPR comment period open:
November 24, 2023 – December 27, 2023

Contact Information |

Kristen Juarez Kollu, Bureau of Healthcare Systems and Services

2600 Bull Street | Columbia, SC 29201
HQRegs@dhec.sc.gov

Summary |

Pursuant to S.C. Code Sections 44-7-250 and 44-7-260(A)(4), the Department establishes and enforces the minimum standards for the licensure, maintenance, and operation of ambulatory surgical facilities to ensure the safe and appropriate treatment of persons served in this state. In accordance with 2023 Act No. 20 (S.164), the Department proposes amending R.61-91 to promulgate regulations concerning the provision of uncompensated indigent/charity care required pursuant to S.C. Code Section 44-7-266(B) and -(C), including related definitions, licensure requirements, reporting requirements, and enforcement. Additionally, the Department proposes amending the regulation to address the required quality of care, services, and treatment provided by facilities and to prescribe the manner and method of fee payments.

The proposed amendments may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification, and overall improvement of the text of the regulation.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

History |

NOD published; comment period started:	August 25, 2023
NOD comment period closed:	September 25, 2023
Board approval to publish NPR:	November 9, 2023
NPR published; comment period started:	November 24, 2023
NPR comment period closed:	December 27, 2023
Public hearing (scheduled):	February 8, 2024

R.61-15, Certification of Need for Health Facilities and Services – Proposed Amendment

State Register Document No. 5136

General Assembly review required

Link to Notice of Final Regulation (“NFR”) for legislative review: www.scstatehouse.gov/regs/5136.docx

Status |

House Regulations and Administrative Procedures Committee requested a withdrawal on May 1, 2023. The regulation is tolled, and will resume when resubmitted at a later time.

Contact Information |

Office of Policy + Communications, Healthcare Quality
2600 Bull Street | Columbia, SC 29201
HQRegs@dhec.sc.gov

Summary |

Pursuant to S.C. Code Sections 44-7-110 et seq., the Department is required to adopt substantive and procedural regulations considered necessary by the Department and approved by the S.C. Board of Health and Environmental Control (“Board”) to carry out the Department’s Certificate of Need duties. The Department amends R.61-15 for consistency with statutory requirements, to establish an electronic application process, to revise the application format and additional information required for the application process, and update exemption and non-applicability determination processes. The Department’s amendments also include adding, removing, and modifying definitions contained within the regulation. The Department updated language and processes related to public hearings on Certificate of Need applications, the application and review process and related notifications, voidance and extension procedures, and periodic and final reporting requirements regarding issued Certificates of Need. Additionally, the amendments revise the project review criteria and the monetary thresholds that trigger a Certificate of Need review. The amendments also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

History |

NOD published; comment period started:	June 24, 2022
NOD comment period closed:	July 25, 2022
Board approval to publish NPR:	September 8, 2022
NPR published; comment period started:	September 23, 2022
NPR comment period closed:	October 24, 2022
Public hearing:	December 8, 2022
Withdrawal notification received:	May 1, 2023

R.61-45, South Carolina Central Cancer Registry – Proposed Amendment

General Assembly review required

Link to Notice of Drafting (“NOD”): [State Register Volume 47, Issue 3 \(Page 11\)](#)

Status |

NOD published; comment period closed

Contact Information |

Stephanie Chiodini, Bureau of Chronic Disease + Injury Prevention
2600 Bull Street | Columbia, SC 29201
cancer.registry@dhec.sc.gov

Summary |

Pursuant to S.C. Code Sections 44-35-20 through 44-35-40, the Department collects, processes, and analyzes newly diagnosed cancer cases among South Carolina residents that are reported from various medical facilities. The Department proposes amending R.61-45 to address several updates since the regulation was originally promulgated in 1998. These proposed changes may include updating the definition of reportable cases, updating the name of entities that have changed, and updating language to reflect electronic reporting advances. Additional clarification may be added for data items that are required to be reported, and which entities are responsible for reporting cases in the instance of facility mergers or acquisitions.

The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

History |

NOD published; comment period started:	March 24, 2023
NOD comment period closed:	April 24, 2023