Document No. _____ DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-55-610 et seq., 44-55-825, 44-55-827, 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

R.61-56. Onsite Wastewater Systems.

R.61-81. State Environmental Laboratory Certification Program.

Preamble:

On May 19, 2023, Governor McMaster signed 2023 S.C. Act 60 (Act), restructuring the South Carolina Department of Health and Environmental Control (DHEC). Pursuant to that legislation, DHEC and the DHEC Board were abolished, and the South Carolina Department of Environmental Services (SCDES) was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48-6-20(A) and Section 14(B) of the Act, SCDES is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC including the power and duty to promulgate associated regulations.

SCDES proposes amending R.61-56. Onsite Wastewater Systems, and R.61-81. State Environmental Laboratory Certification Program, to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non-substantive, grammatical changes.

These amendments will require legislative review pursuant to S.C. Code Ann. Section 1-23-120(A) (Supp. 2023).

SCDES had a Notice of Drafting published in the August 23, 2024, South Carolina State Register.

Section	Type of Change	Purpose				
R.61-56						
61-56.101	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.				
61-56.102.3	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES. Updated to reflect the abolishment of DHEC and creation of SCDES.				
61-56.204.2(3)(c)	Revision					
61-56.400. Appendix A	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.				
61-56.400. Appendix C	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.				
61-56.400. Appendix D	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.				
61-56.400. Appendix E	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.				
61-56.400. Appendix F	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.				
61-56.400. Appendix G	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.				

Section-by-Section Discussion of Proposed Amendments:

	1	
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
Н		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
Ι		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
J		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
Κ		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
L		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
Μ		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
Ν		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
0		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
Р		of SCDES.
61-56.400. Appendix	Revision	Updated to reflect the abolishment of DHEC and creation
R		of SCDES.
61-56.800.1	Revision	Updated to reflect the abolishment of DHEC and creation
		of SCDES.
61-56.800.4(2)(a)	Revision	Updated to reflect the abolishment of DHEC and creation
through (c)		of SCDES.
R.61-81		
61-81.D(2) and (7)	Revision	Updated to reflect the abolishment of DHEC and creation
		of SCDES.
61-81.K	Revision	Updated to reflect the abolishment of DHEC and creation
		of SCDES.
61-81.L	Revision	Updated to reflect the abolishment of DHEC and creation
		of SCDES.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comment(s) on the proposed amendments to Mary Peyton Wall of the South Carolina Department of Environmental Services at 2600 Bull Street, Columbia, S.C. 29201; or via email at <u>marypeyton.wall@des.sc.gov</u>. To be considered, SCDES must receive the comment(s) no later than 5:00 p.m. on November 25, 2024, the close of the comment period.

Should a public hearing be requested 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 Monday, December 9, 2024, beginning at 10:00 a.m. 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 November 25, 2024, the hearing will be cancelled. Should the public hearing be cancelled, SCDES will post the notice of cancellation at <u>https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update</u>.

SCDES publishes a Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at

https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update.

Preliminary Fiscal Impact Statement

There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions. The proposed amendments comply with 2023 Act No. 60 to restructure the agencies. These amendments will benefit the regulated community by clarifying and updating the regulations and improving their ease of use.

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.61-56. Onsite Wastewater Systems, and R.61-81. State Environmental Laboratory Certification Program.

Purpose: On May 19, 2023, Governor McMaster signed 2023 S.C. Act 60 (Act), restructuring the South Carolina Department of Health and Environmental Control (DHEC). Pursuant to that legislation, DHEC and the DHEC Board were abolished, and South Carolina Department of Environmental Services (SCDES) was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48-6-20(A) and Section 14(B) of the Act, SCDES is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC including the power and duty to promulgate associated regulations. SCDES proposes amending the above-referenced regulations, to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non-substantive, grammatical changes.

Legal Authority: 1976 Code Sections 1976 Code Sections 44-55-610 et seq., 44-55-825, 44-55-827, 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

Plan for Implementation: Upon taking legal effect, SCDES personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The SCDES Regulation Development Update (accessible at <u>https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update</u>) provides a summary of and link to these proposed amendments. Additionally, printed copies are available for a fee from the Freedom of Information Office within SCDES.

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

On May 19, 2023, Governor McMaster signed the Act, restructuring DHEC. Pursuant to that legislation, DHEC and the DHEC Board were abolished, and SCDES was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48-6-20(A) and Section 14(B) of the Act, SCDES is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC including the power and duty to promulgate associated regulations. SCDES proposes these amendments to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non-substantive, grammatical changes. These amendments are necessary and reasonable to implement the agency restructuring.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions. The proposed amendments are consistent with the Act, and these amendments will benefit the regulated community by clarifying and updating the regulations and improving their ease of use.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the proposed amendments to R.61-56 and R.61-81.1 will provide continued protection of the environment and public health.

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

The state's regulations must be amended to reflect the restructuring of DHEC and the creation of SCDES. These regulations are beneficial to the public health and environment, and their clarity would be compromised if these amendments were not adopted in South Carolina.

Statement of Rationale:

On May 19, 2023, Governor McMaster signed 2023 S.C. Act 60 (Act), restructuring the South Carolina Department of Health and Environmental Control (DHEC). Pursuant to that legislation, DHEC and the DHEC Board were abolished, and South Carolina Department of Environmental Services (SCDES) was created, effective July 1, 2024. Pursuant to S.C. Code Ann. Section 48-6-20(A) and Section 14(B) of the Act, SCDES is vested with all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC including the power and duty to promulgate associated regulations. SCDES proposes these amendments to reflect the restructuring of DHEC pursuant to the Act, to revise related references, and to make non-substantive, grammatical changes.

Text:

Indicates Matter Stricken Indicates New Matter

61-56, Onsite Wastewater Systems

Statutory Authority: 1976 Code Section(s) 44-55-610 et seq., 44-55-825, 44-55-827, and 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

Regulation 61-56.101, Definitions and References.

Regulation 61-56.101. Definitions, unnumbered definition of "Department," shall be revised as follows:

Department – The South Carolina Department of Health and Environmental Control Services (SCDES).

Regulation 61-56.102, Onsite Wastewater System Site Evaluation and Fees.

Regulation 61-56.102.3, shall be revised as follows:

Funds derived from these fees shall be used only for the provision of services and accompanying expenses associated with the Department's Bureau of <u>Environmental Health Regional and Laboratory</u> Services programs.

Regulation 61-56.200, Minimum Site Conditions for Onsite Wastewater Systems.

Regulation 61-56.200.6(3), shall be revised as follows:

(3) Prior to permitting the onsite wastewater system, jurisdictional determination of any affected wetlands may be required. Should any part of the proposed onsite wastewater system be located in wetlands, approval from the appropriate permitting agency(s) (e.g., U.S. Army Corps of Engineers, <u>SCDHECSCDES</u> Ocean and Coastal-Resource Management, etc.) shall be received, and proof of such provided to the Department.

Regulation 61-56.204, Evaluation of Alternative Infiltration Trench Products

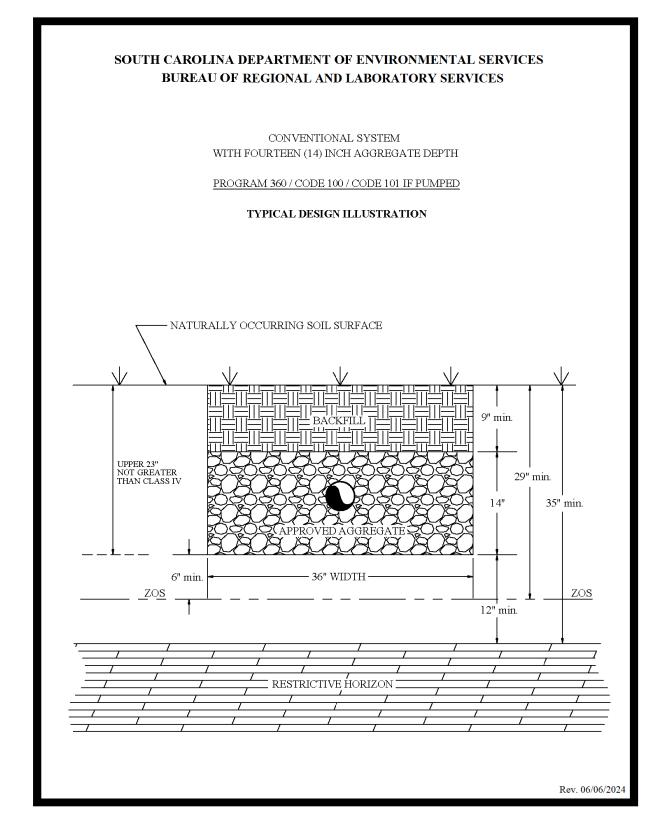
Regulation 61-56.204.2(3)(c), shall be revised as follows:

(c) The Required Total Length of the Product Shall Be Calculated As Follows:

Length of Product (L) = E x Length of Conventional 36 in. Wide Trenches Required by $\frac{\text{DHEC}SCDES}{\text{DHEC}SCDES}$ Regulations and Standards

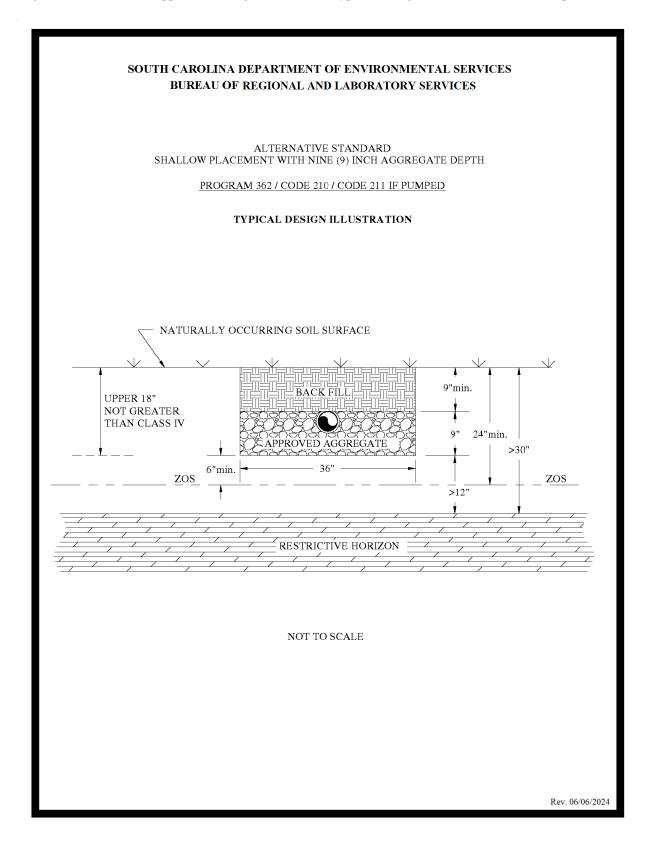
Regulation 61-56.400. Appendices of Standards for Permitted Systems.

Regulation 61-56.400. Appendix A, Figure insert of "Typical Design Illustration," shall be replaced with:

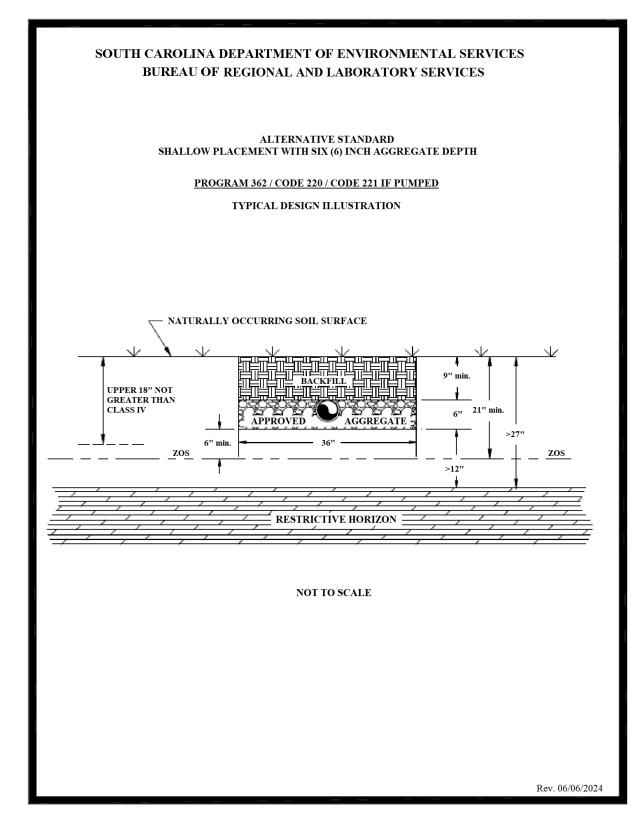


Regulation 61-56.400. Appendices of Standards for Permitted Systems.

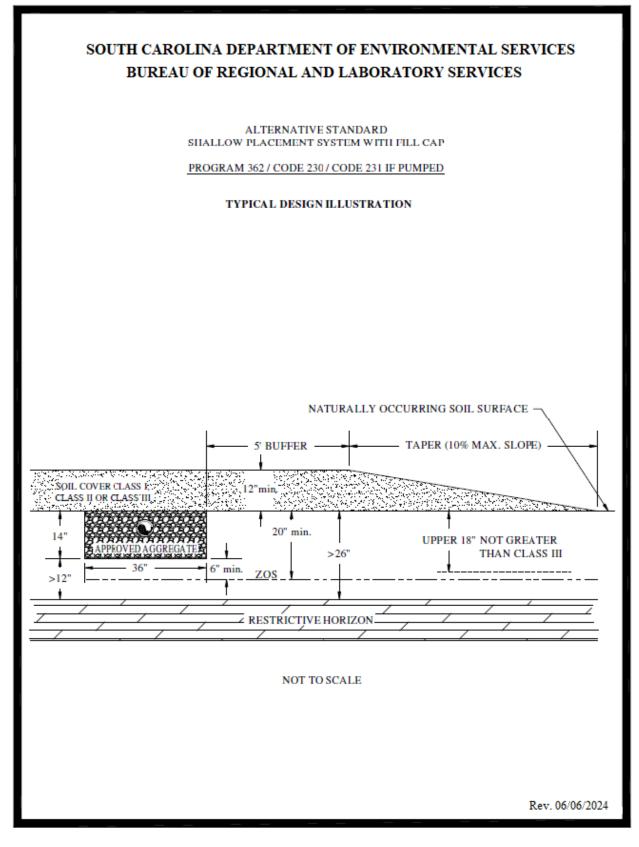
Regulation 61-56.400. Appendix C, Figure insert of "Typical Design Illustration," shall be replaced with:



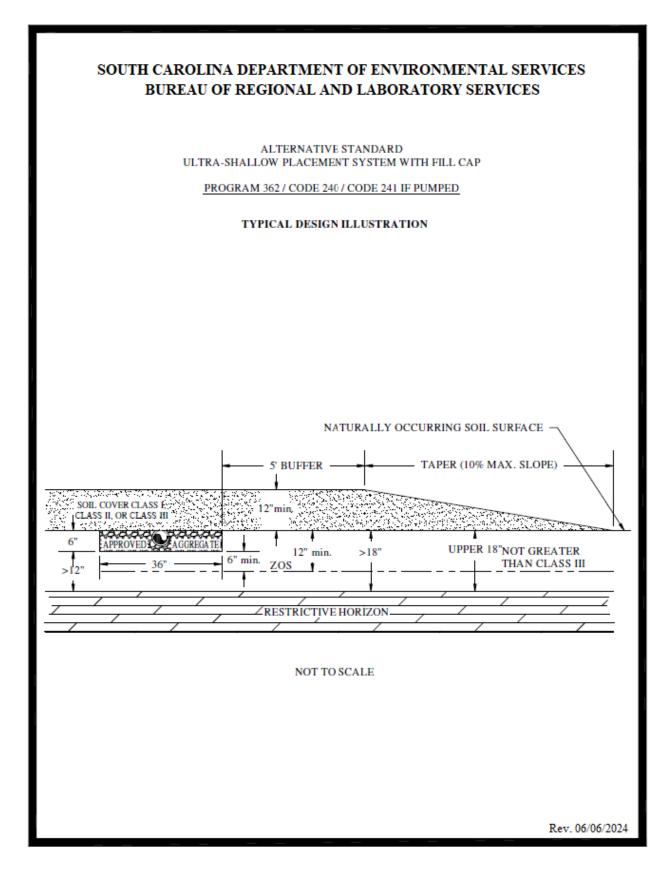
Regulation 61-56.400. Appendix D, Figure insert of "Typical Design Illustration," shall be replaced with:



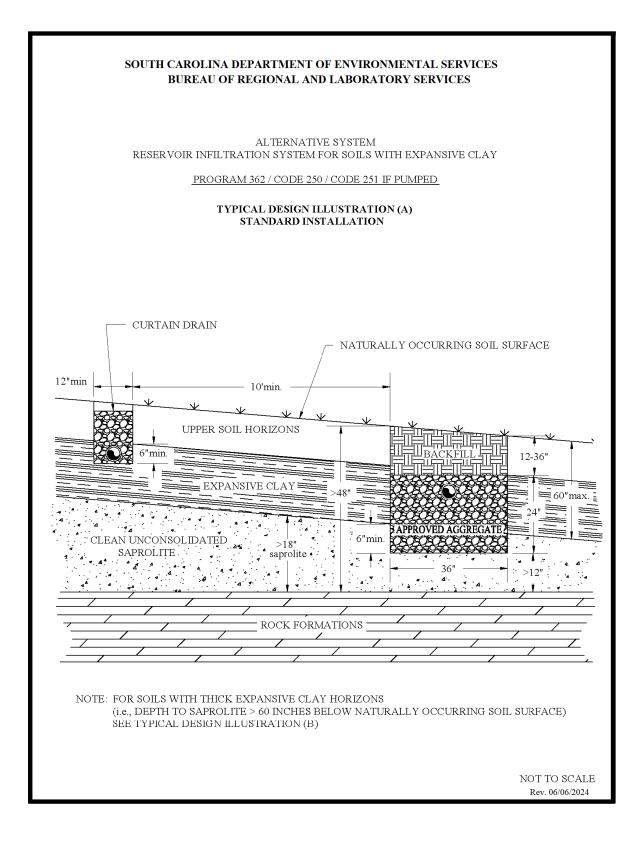
Regulation 61-56.400. Appendix E, Figure insert of "Typical Design Illustration," shall be replaced with:

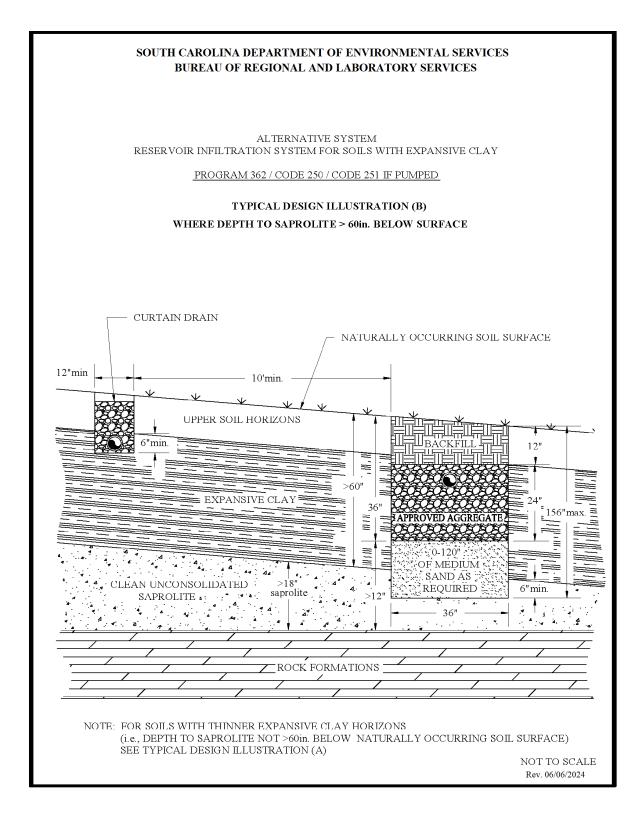


Regulation 61-56.400. Appendix F, Figure insert of "Typical Design Illustration," shall be replaced with:

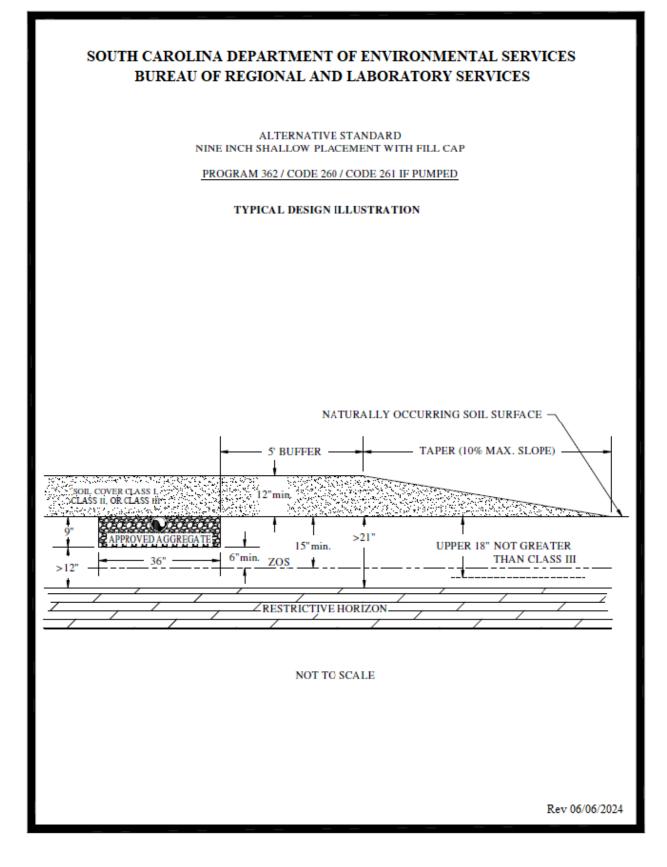


Regulation 61-56.400. Appendix G, Two figure inserts of "Typical Design Illustration (A)" and "Typical Design Illustration (B)," shall be replaced with:





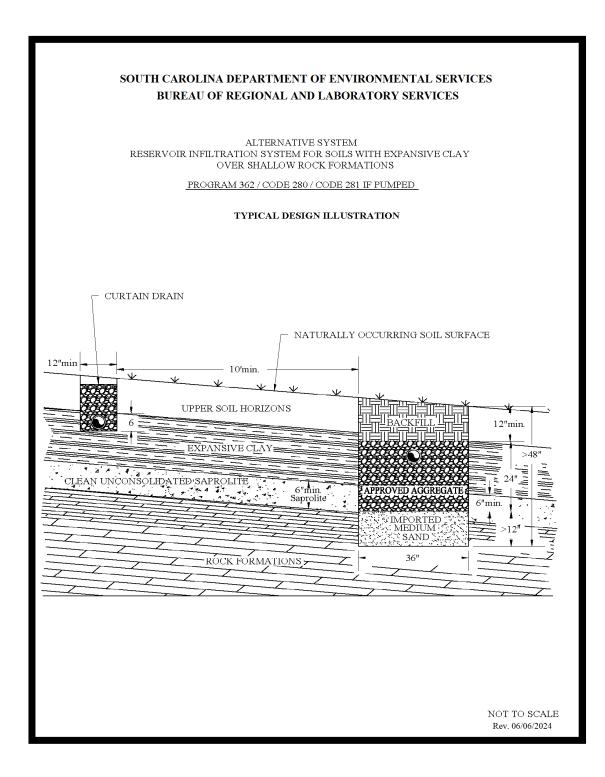
Regulation 61-56.400. Appendix H, Figure insert of "Typical Design Illustration," shall be replaced with:



Regulation 61-56.400. Appendix I, Figure insert of "Typical Design Illustration," shall be replaced with:

	ALTE		NATIVE STANDAI ENCH WIDTH & DE		IS	
	PRO	GRAM 362 / C	ODE 270 / CODE 2'	71 IF PUMPED	<u>)</u>	
		TYPICAL I	DESIGN ILLUSTR	ATION		
y y y 9" min. 6"-28" (see chart) ↓ >12"		1.5' - 10' (s	AGGREGATE ²	6"min 2	ZOS	SOIL SURFAC
, / , /		, , , , , , , , , , , , , , , , , , , ,				NOT TO SC
RENCH	S (F) FOR MA	INTAINING	EQUIVALENT I AGGREGATE DI		VE SURFAC	
	5 (F) FOR MA 6" *	INTAINING 9" **	-		VE SURFAC	
RENCH			AGGREGATE DI 14" USE LTAR	EPTH (in.)		E AREA
FRENCH VIDTH (ft.)	6" *	9" **	AGGREGATE DI	EPTH (in.) 20"	24"	E AREA 28"
TRENCH VIDTH (ft.) 1.5'	6" * 2.39	9" ** 1.94	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR	EPTH (in.) 20" 1.10	24" 0.97	E AREA 28" 0.87
TRENCH VIDTH (ft.) 1.5' 2.0'	6" * 2.39 1.99	9" ** 1.94 1.66	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR STANDARD USE LTAR	EPTH (in.) 20" 1.10 1.00	24" 0.97 0.89	E AREA 28" 0.87 0.80 0.75 0.70
I.5' 2.0' 2.5'	6" * 2.39 1.99 1.71	9" ** 1.94 1.66 1.46	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR STANDARD USE LTAR STANDARD USE LTAR	EPTH (in.) 20" 1.10 1.00 0.91	24" 0.97 0.89 0.82	E AREA 28" 0.87 0.80 0.75 0.70
TRENCH VIDTH (ft.) 1.5' 2.0' 2.5' 3.0'	6" * 2.39 1.99 1.71 1.50	9" ** 1.94 1.66 1.46 1.30	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR STANDARD USE LTAR STANDARD USE LTAR STANDARD	EPTH (in.) 20" 1.10 1.00 0.91 0.84	24" 0.97 0.89 0.82 0.76	E AREA 28" 0.87 0.80 0.75 0.70 see system 360/38
TRENCH VIDTH (ft.) 1.5' 2.0' 2.5' 3.0' 4.0'	6" * 2.39 1.99 1.71 1.50 1.20	9" ** 1.94 1.66 1.46 1.30 1.06	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR STANDARD USE LTAR STANDARD USE LTAR STANDARD 0.84	EPTH (in.) 20" 1.10 1.00 0.91 0.84 0.73	24" 0.97 0.89 0.82 0.76 0.67	E AREA 28" 0.87 0.80 0.75 0.70 see system 360/38 0.62
CRENCH VIDTH (ft.) 1.5' 2.0' 2.5' 3.0' 4.0' 5.0'	6" * 2.39 1.99 1.71 1.50 1.20 1.00	9" ** 1.94 1.66 1.46 1.30 1.06 0.89	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR STANDARD USE LTAR STANDARD USE LTAR STANDARD 0.84 0.73	EPTH (in.) 20" 1.10 1.00 0.91 0.84 0.73 0.64	24" 0.97 0.89 0.82 0.76 0.67 0.59	E AREA 28" 0.87 0.80 0.75 0.70 see system 360/35 0.62 0.55
TRENCH 1.5' 2.0' 2.5' 3.0' 4.0' 5.0' 6.0'	6" * 2.39 1.99 1.71 1.50 1.20 1.00 0.85	9" ** 1.94 1.66 1.46 1.30 1.06 0.89 0.78	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR STANDARD USE LTAR STANDARD USE LTAR STANDARD 0.84 0.73 0.64	EPTH (in.) 20" 1.10 1.00 0.91 0.84 0.73 0.64 0.57	24" 0.97 0.89 0.82 0.76 0.67 0.59 0.53	E AREA 28" 0.87 0.80 0.75 0.70 see system 360/35 0.62 0.55 0.50
I.5' 2.0' 2.5' 3.0' 4.0' 5.0' 6.0' 7.0'	6" * 2.39 1.99 1.71 1.50 1.20 1.00 0.85 0.74	9" ** 1.94 1.66 1.46 1.30 1.06 0.89 0.78 0.68	AGGREGATE DI 14" USE LTAR STANDRARD USE LTAR STANDARD USE LTAR STANDARD USE LTAR STANDARD 0.84 0.73 0.64 0.57	EPTH (in.) 20" 1.10 1.00 0.91 0.84 0.73 0.64 0.57 0.52	24" 0.97 0.89 0.82 0.76 0.67 0.59 0.53 0.49	28" 0.87 0.80 0.75 0.70 see system 360/38 0.62 0.55 0.50 0.46

Regulation 61-56.400. Appendix J, Figure insert of "Typical Design Illustration," shall be replaced with:



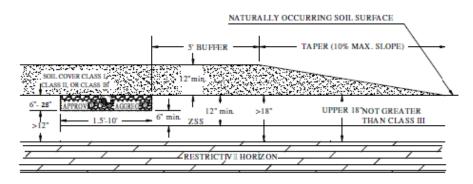
Regulation 61-56.400. Appendix K, Figure insert of "Typical Design Illustration," shall be replaced with:

SOUTH CAROLINA DEPARTMENT OF ENVIRONMENTAL SERVICES BUREAU OF REGIONAL AND LABORATORY SERVICES

ALTERNATIVE STANDARD ALTERNATIVE TRENCH WIDTH & DEPTH SYSTEMS

PROGRAM 362 / CODE 290 / CODE 291 IF PUMPED

TYPICAL DESIGN ILLUSTRATION

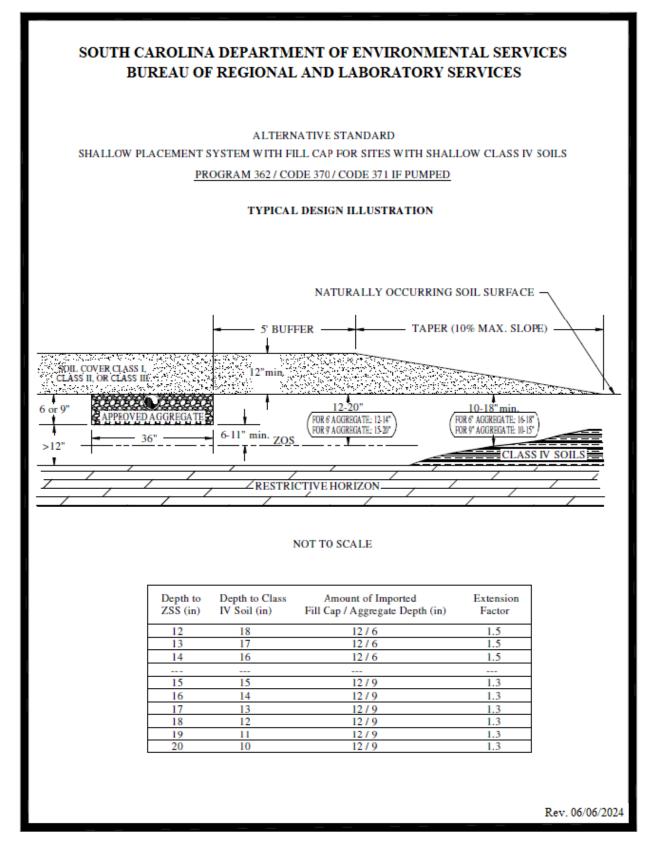


NOT TO SCALE

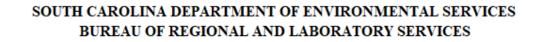
TRENCH WIDTH (ft.)	AGGREGATE DEPTH (in.)						
	6" *	9" **	14"	20"	24"	28"	
1.5'	2.39	1.94	USE LTAR STANDRARD	1.10	0.97	0.87	
2.0'	1.99	1.66	USE LTAR STANDARD	1.00	0.89	0.80	
2.5'	1.71	1.46	USE LTAR STANDARD	0.91	0.82	0.75	
3.0'	1.50	1.30	USE LTAR STANDARD	0.84	0.76	0.70 scc system 360/380	
4.0'	1.20	1.06	0.84	0.73	0.67	0.62	
5.0'	1.00	0.89	0.73	0.64	0.59	0.55	
6.0'	0.85	0.78	0.64	0.57	0.53	0.50	
7.0'	0.74	0.68	0.57	0.52	0.49	0.46	
8.0'	0.66	0.61	0.52	0.47	0.45	0.42	
9.0'	0.59	0.55	0.47	0.43	0.41	0.39	
10.0'	0.54	0.51	0.43	0.40	0.38	0.36	
5.33 sqft. / ft		s (F) reflect 129	6 increase foot o	of conventional	type trench (36	e surface area per in. wide, 14in. de	
2 (SwD / 12) + T	YY	rs (F) reflect 99 es in text)		SwD = Side V FW = Trend	Vall Depth (in) h Width (ft.)	Rev. 06/06/20	

Regulation 61-56.400. Appendices of Standards for Permitted Systems.

Regulation 61-56.400. Appendix L, Figure insert of "Typical Design Illustration," shall be replaced with:



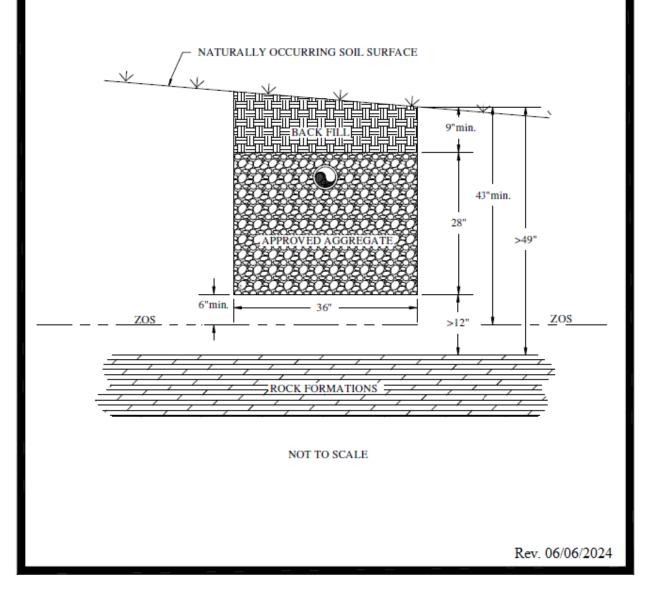
Regulation 61-56.400. Appendix M, Figure insert of "Typical Design Illustration," shall be replaced with:



ALTERNATIVE STANDARD DOUBLE AGGREGATE DEPTH SOIL ABSORPTION TRENCHES

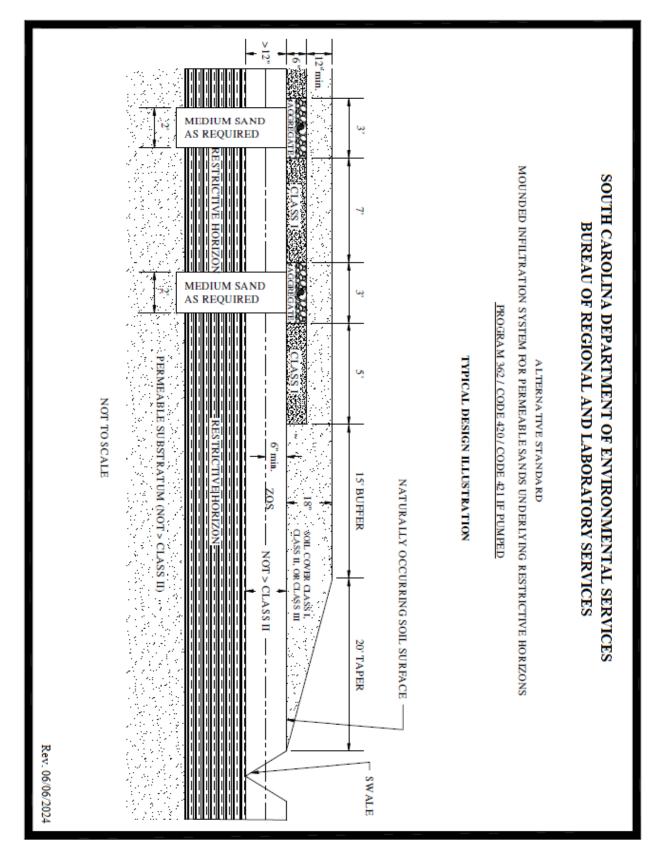
PROGRAM 360 / CODE 380 / CODE 381 IF PUMPED

TYPICAL DESIGN ILLUSTRATION



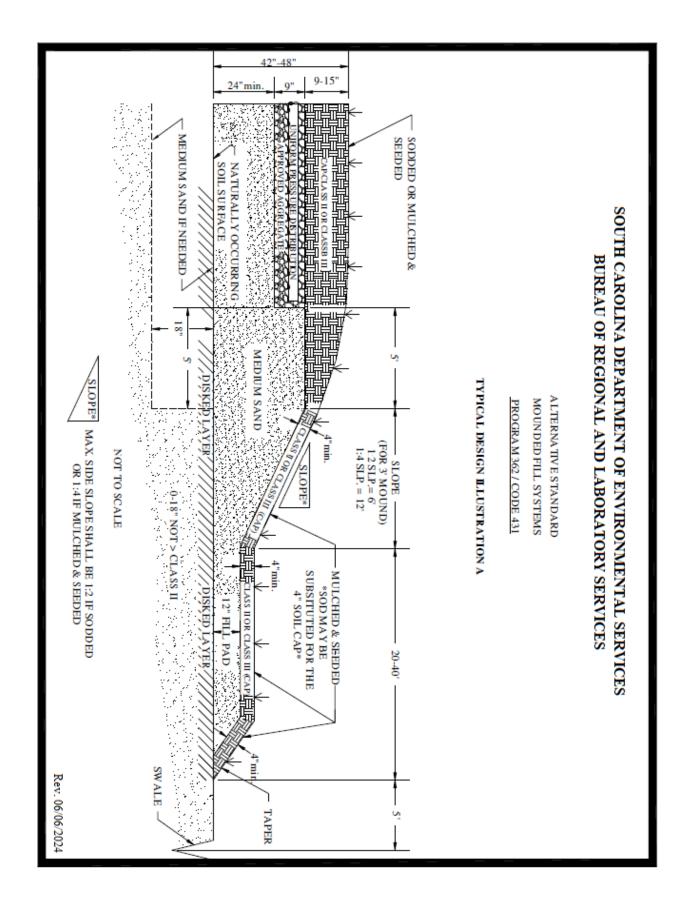
Regulation 61-56.400. Appendices of Standards for Permitted Systems.

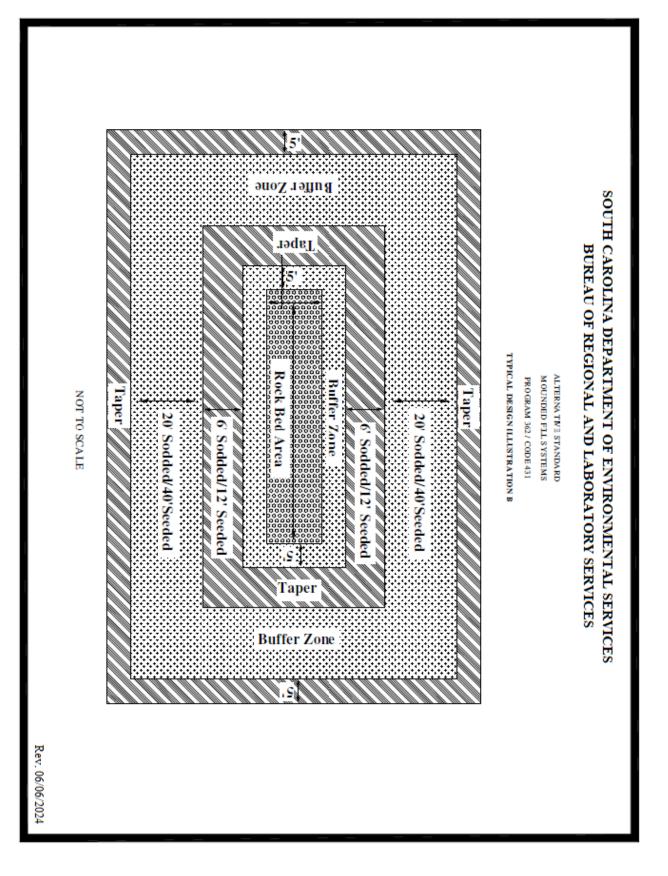
Regulation 61-56.400. Appendix N, Figure insert of "Typical Design Illustration," shall be replaced with:

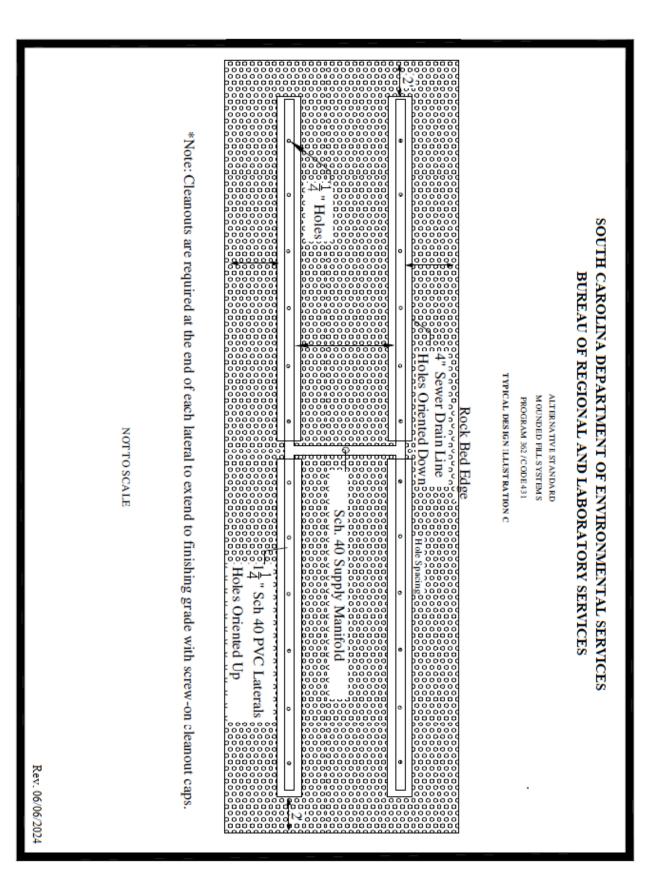


Regulation 61-56.400. Appendices of Standards for Permitted Systems.

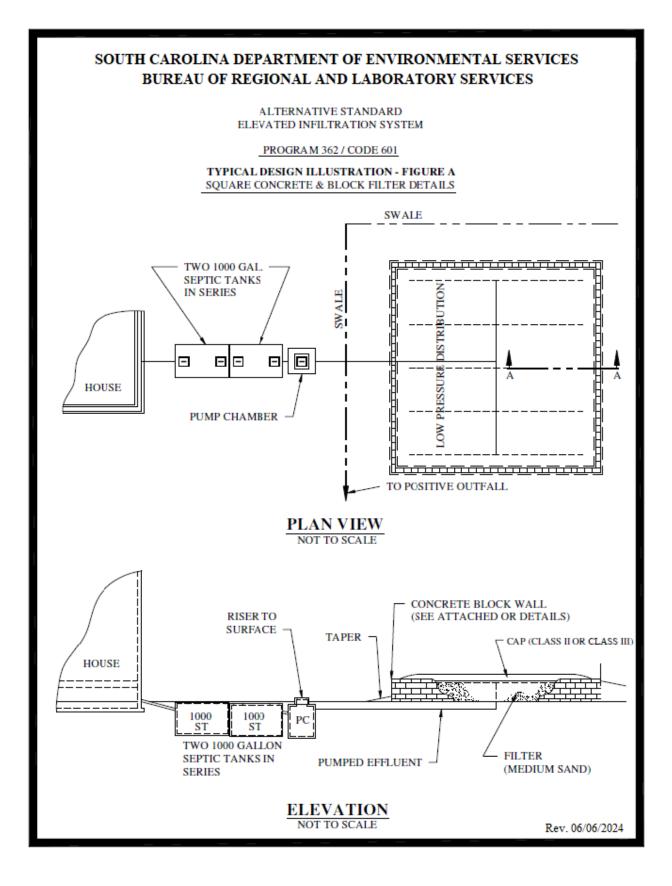
Regulation 61-56.400. Appendix O, Three figure inserts of "Typical Design Illustration (A)" through "Typical Design Illustration (C)," shall be replaced with:

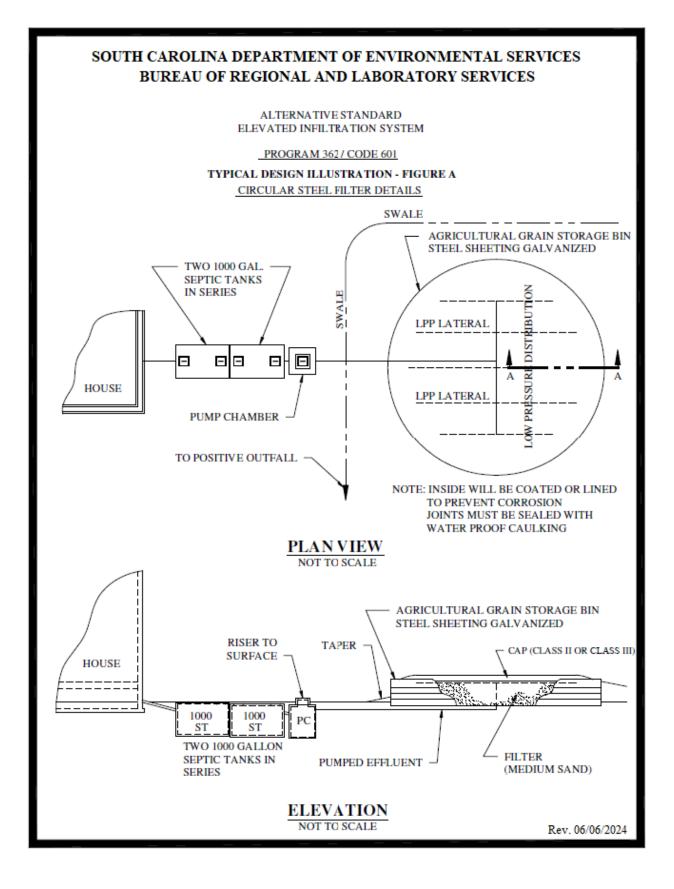


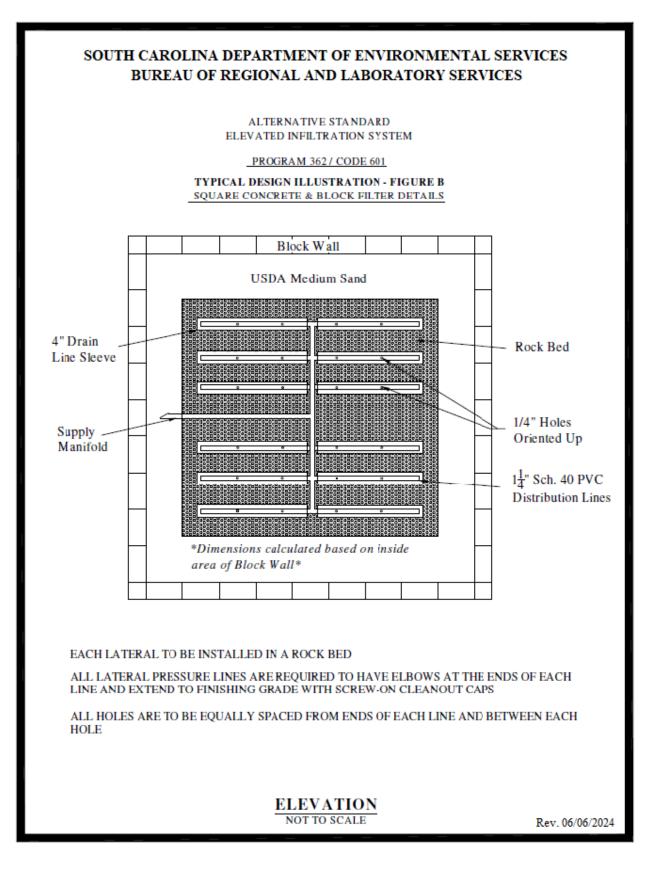


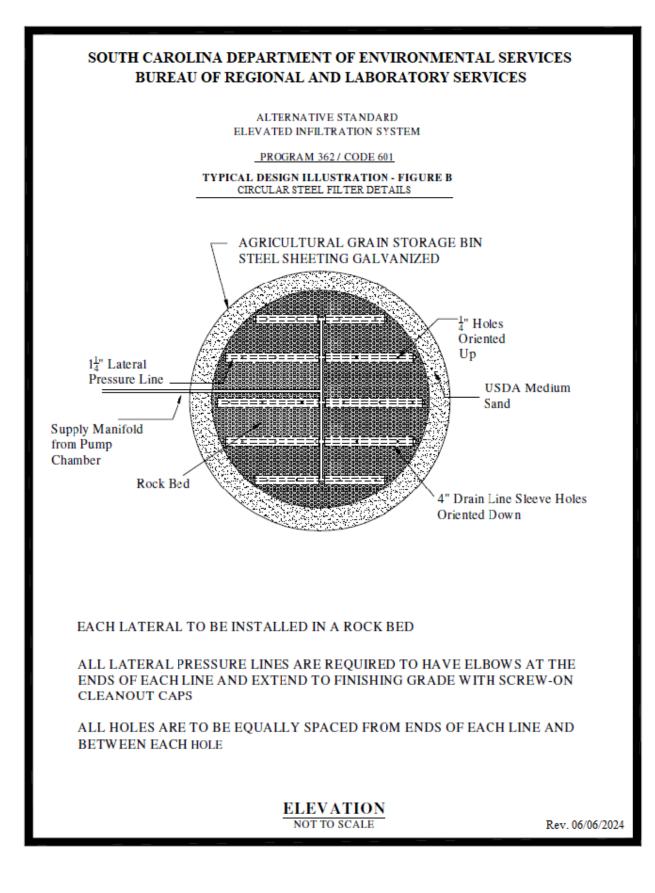


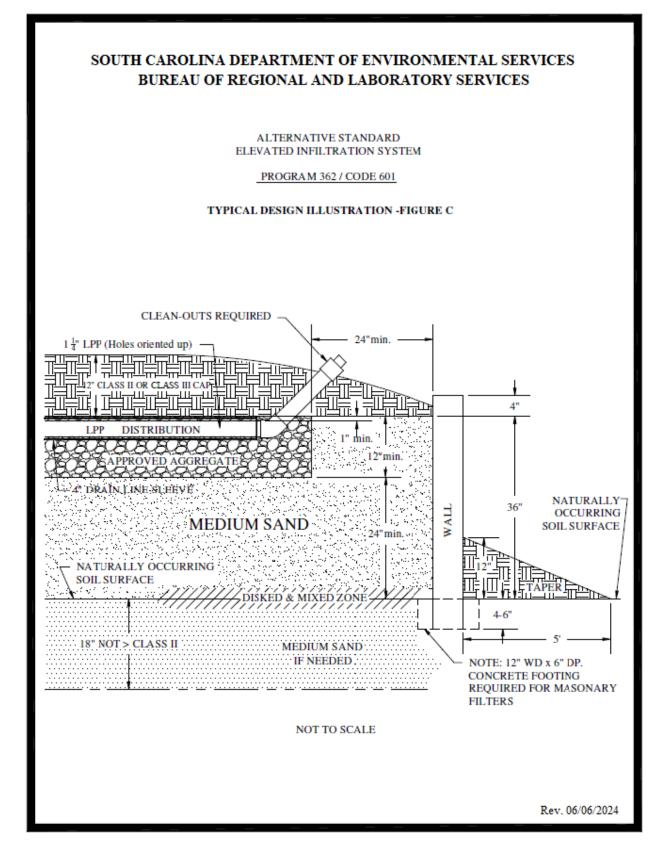
Regulation 61-56.400. Appendix P, Five figure inserts of "Typical Design Illustration (A)" through "Typical Design Illustration (C)," shall be replaced with:





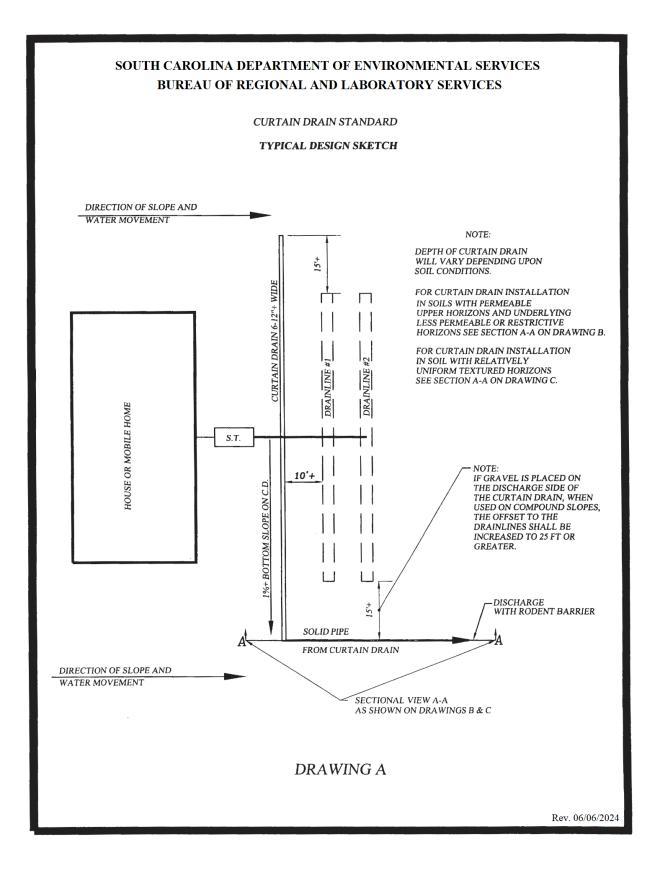


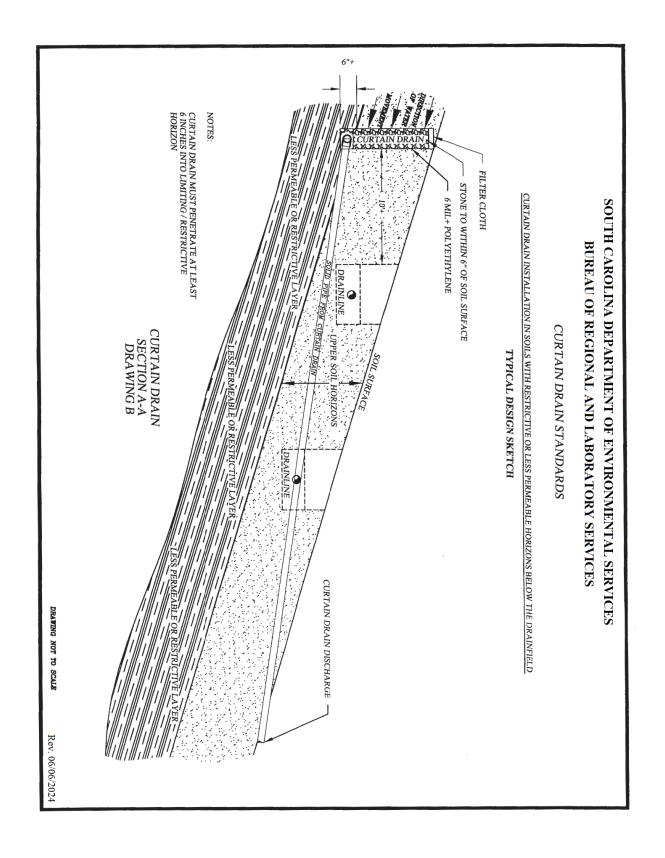


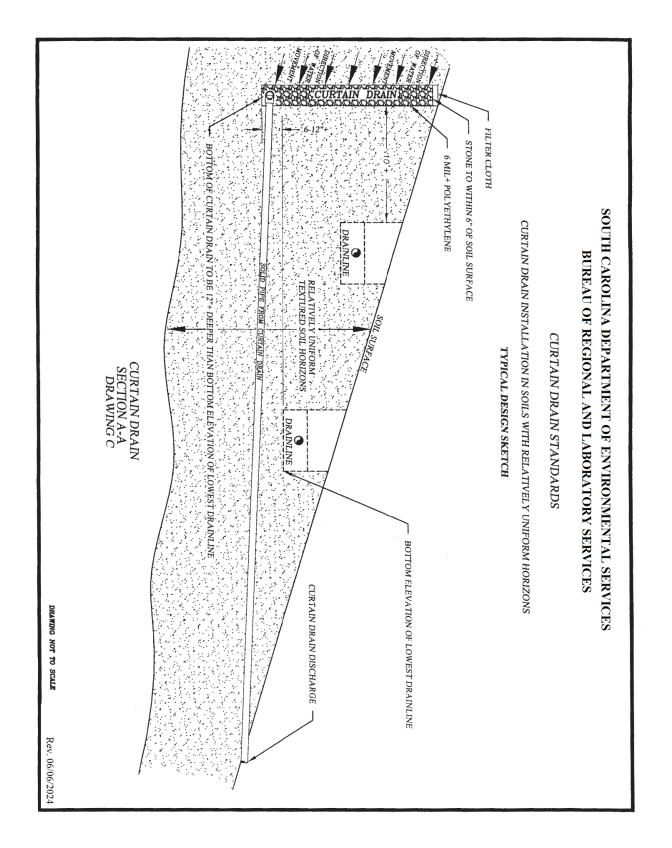


Regulation 61-56.400. Appendices of Standards for Permitted Systems.

Regulation 61-56.400. Appendix R, Three figure inserts of "Typical Design Sketch (A) through Typical Design Sketch (C)," shall be replaced with:







Regulation 61-56.800. Enforcement.

Regulation 61-56.800.1, shall be revised as follows:

800.1. Violations of this regulation shall be punishable in accordance with S.C. Code Sections 44-1-15048-6-70, 44-55-825, 48-1-320, and 48-1-330. The Department may seek enforcement, suspend and revoke permits and licenses, issue civil penalties, and order corrective action in accordance with law. The Department shall have the authority to suspend civil penalties if the violations of this regulation are corrected in a period of time established by the Department.

Regulation 61-56.800.4(2)(a) through (c), shall be revised as follows:

(a) First offense violations may be enforced under S.C. Code Section 44-1-15048-6-70 or by suspension of the license for a period not to exceed one (1) year.

(b) Second offense violations shall be enforced under S.C. Code Section 44-1-15048-6-70 or by suspension of the license for a period not to exceed three (3) years.

(c) Third offense violations shall be enforced under S.C. Code Section $44 \cdot 1 \cdot 150 \cdot 48 \cdot 6 \cdot 70$ or by permanent revocation of the license.

Regulation 61-81, State Environmental Laboratory Certification Program

Statutory Authority: 1976 Code Section(s) 44-55-10 et seq, 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

Regulation 61-81.D. Definitions

Regulation 61-81.D.(2), shall be revised as follows:

(2) "Board" means the governing body of the South Carolina Department of Health and Environmental Control.[Reserved]

Regulation 61-81.D.(7), shall be revised as follows:

(7) "Department" means the South Carolina Department of Health and Environmental Control Services, including personnel thereof authorized and empowered by the Board to act on behalf of the Department or Board.

Regulation 61-81.K. Appeals

Regulation 61-81.K., shall be revised as follows:

In the event a Laboratory Director disagrees with a decision affecting certification, an appeal <u>can be</u> <u>made</u>, in accordance with <u>Department Regulation #72</u>, <u>December 28</u>, <u>1976</u>, <u>entitled "Procedures for</u> <u>Contested Cases"</u>, can be made to the Board <u>S.C. Code of Laws Section 48-6-30</u>.

Regulation 61-81.L. Reciprocity

Regulation 61-81.L. Uncodified Second Paragraph, shall be revised as follows:

Laboratories in states without an equivalent program may be evaluated under this Regulation upon payment of a fee, set by the **Board** <u>Department</u>, and expenses incurred by the Department evaluator(s).