

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

Statutory Authority: 1976 Code Sections, 44-55-10 et seq., 46-45-80, 48-1-10 et seq., 49-4-10 et seq., 49-5-10 et seq., 48-6-10 et seq., and 2023 Act No. 60, effective July 1, 2024

- R.61-9. Water Pollution Control Permits.
- R.61-43. Standards for the Permitting of Agricultural Animal Facilities.
- R.61-44. Individual Residential Well and Irrigation Well Permitting.
- R.61-58. State Primary Drinking Water Regulations.
- R.61-67. Standards for Wastewater Facility Construction.
- R.61-68. Water Classifications and Standards.
- R.61-82. Proper Closeout of Wastewater Treatment Facilities.
- R.61-87. Underground Injection Control Regulations.
- R.61-101. Water Quality Certification.
- R.61-110. Total Maximum Daily Loads for Pollutants in Water.
- R.61-113. Groundwater Use and Reporting.
- R.61-119. Surface Water Withdrawal, Permitting, Use and Reporting.

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 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.61-9. Water Pollution Control Permits; R.61-43. Standards for the Permitting of Agricultural Animal Facilities; R.61-44. Individual Residential Well & Irrigation Well Permitting; R.61-58. State Primary Drinking Water Regulations; R.61-67. Standards for Wastewater Facility Construction; R.61-68. Water Classifications and Standards; R.61-82. Proper Closeout of Wastewater Treatment Facilities; R.61-87. Underground Injection Control Regulations; R.61-101. Water Quality Certification; R.61-110. Total Maximum Daily Loads (TMDLs) for Pollutants in Water; R.61-113. Groundwater Use and Reporting; and R.61-119. Surface Water Withdrawal, Permitting, Use and Reporting, 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-by-Section Discussion of Proposed Amendments:

Section	Type of Change	Purpose
R.61-9		
61-9.122.2(b), “Application” definition	Revision	Updated to reflect the abolishment of the DHEC Board.
61-9.122.2(b), “Board” definition	Deletion	Removed to reflect the abolishment of the DHEC Board.

61-9.122.2(b), “Commissioner” definition	Deletion	Removed to reflect the abolishment of DHEC.
61-9.122.2(b), “Department” definition	Revision	Updated to reflect the abolishment of DHEC and the DHEC Board as well as the creation of SCDES.
61-9.122.2(b), “NPDES” definition	Revision	Updated to reflect the abolishment of the DHEC Board.
61-9.122.41(e)(4)(ii)	Revision	Updated to reflect the abolishment of DHEC.
61-9.124.19(a)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-9.124.19(b)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-9.503.22(a)(2)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-9.504.22(a)(2)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-9.505.6(a)(3)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-9.505.41(e)(4)(ii)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-9.600.2 “Department” definition	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-9.610.2	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
R.61-43		
Part 50 “Confined Animal Manure Management (Camm) Certification” definition	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
Part 50 “Department” definition	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
R.61-44		
61-44(A)(2)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
R.61-58		
61-58 General(B)(14)	Revision	Updated to reflect the abolishment of the DHEC Board.
61-58 General(B)(29)	Revision	Updated to reflect the abolishment of DHEC.
61-58 General(B)(43)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-58 General(C)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-58.1(H)(4)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-58.1(I)(3)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-58.1(N)(3)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-58.1(O)(4)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.

R.61-67		
61-67.100(D) “Department” definition	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-67.100(D) “NPDES Permit” definition	Revision	Updated to reflect the abolishment of the DHEC Board.
R.61-68		
61-68(B)(31)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-68(E)(1)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
R.61-82		
61-82, Section I, (6)	Addition	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section II, (1)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section II, (1)(c)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section II, (3)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section II, (4)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section IV	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section V, (1)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section V, (2)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section V, (3)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section V, (4)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-82, Section V, (5)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
R.61-87		
61-87.2	Revision	“Department” defined in response to creation of SCDES and remaining definitions re-lettered for consistency.
R.61-101		
61-101(A)(6)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-101(B)	Revision	Updated to reflect the abolishment of DHEC and the DHEC Board as well as the creation of SCDES. Definition list re-numbered to reflect above changes.
61-101(F)(4)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-101(G) section heading	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.

61-101(G)(1)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-101(G)(3)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
R.61-110		
R.61-110(E)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-110(F)(1)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
61-110(F)(2)	Revision	Updated to reflect newly promulgated S.C. Code of Laws Section 48-6-30 language.
R.61-113		
61-113(B)(10)	Revision	Updated to reflect the abolishment of the DHEC Board.
61-113(B)(11)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-113(B)(17)	Revision	Updated to reflect the abolishment of DHEC and the DHEC Board as well as the creation of SCDES.
61-113(E)(2)(e)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-113(M)(3)(g)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-113(M)(5)(a)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-113(N)(3)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
R.61-119		
61-119(B)(6)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-119(P)(1)(a)	Revision	Updated to reflect the abolishment of the DHEC Board.
61-119(Q)(4)(b)	Revision	Updated to reflect the abolishment of DHEC and creation of SCDES.
61-119(Q)(4)(d)	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 marypeyton.wall@des.sc.gov. 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 <https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update>.

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 and implement 2023 Act No. 60. These amendments will benefit the regulated community by clarifying and updating the preexisting DHEC regulations now implemented by SCDES 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.61-9. Water Pollution Control Permits; R.61-43. Standards for the Permitting of Agricultural Animal Facilities; R.61-44. Individual Residential Well & Irrigation Well Permitting; R.61-58. State Primary Drinking Water Regulations; R.61-67. Standards for Wastewater Facility Construction; R.61-68. Water Classifications and Standards; R.61-82. Proper Closeout of Wastewater Treatment Facilities; R.61-87. Underground Injection Control Regulations; R.61-101. Water Quality Certification; R.61-110. Total Maximum Daily Loads (TMDLs) for Pollutants in Water; R.61-113. Groundwater Use and Reporting; and R.61-119. Surface Water Withdrawal, Permitting, Use and Reporting.

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 these 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, 44-55-10 et seq., 44-55-2310 et seq., 46-45-80, 48-1-10 et seq., 49-4-10 et seq., 49-5-10 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 <https://des.sc.gov/permits-regulations/laws-regulations-regulatory-updates/regulation-development-update>) 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 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.

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

61-9. Water Pollution Control Permits.

Statutory Authority: S.C. Code Sections 48-1-10 et seq., 48-14-10 et seq., 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

61-9.122. The National Pollutant Discharge Elimination System.

61-9.122.2. Definitions.

Regulation 61-9.122.2(b), “Application” definition, shall be revised as follows:

“Application” means the uniform NPDES application form, including subsequent additions, revisions, or modifications thereof promulgated by the Administrator of EPA, and adopted for use by the ~~Board~~Department or a State permit application form.

Regulation 61-9.122.2(b), “Board” definition, shall be revised as follows:

~~—“Board” means the Board of Health and Environmental Control for the State of South Carolina and shall be inclusive of any agent designated by the Board to perform any function.~~

Regulation 61-9.122.2(b), “Commissioner” definition, shall be revised as follows:

~~“Commissioner” means the Commissioner of the S.C. Department of Health and Environmental Control, or his designated representative.~~

Regulation 61-9.122.2(b), “Department” definition, shall be revised as follows:

“Department” means the S.C. Department of ~~Health and Environmental Control~~Services and shall also be inclusive of those persons within the Department authorized ~~by the Board~~ to administer the NPDES program ~~or take any action in behalf of the Board.~~

Regulation 61-9.122.2(b), “NPDES permit” definition, shall be revised as follows:

“NPDES permit” means a permit issued by the Department to a discharger pursuant to regulations adopted by the ~~Board~~Department for all point source discharges into surface waters, and shall constitute a final determination of the ~~Board~~Department.

61-9.122.41. Conditions applicable to all permits.

Regulation 61-9.122.41(e)(4)(ii) shall be revised as follows:

(ii) Authority and applicability. Under Section 48-1-30 of the Code of Laws of South Carolina (1976 as amended), the Department is authorized to adopt such rules and regulations as may be necessary to implement the Pollution Control Act. This regulation applies to all sewer systems that have been or would be subject to a ~~DHEC~~ construction permit under Regulation 61-67 and whose owner owns or operates the wastewater treatment system to which the sewer discharges and which discharges under NPDES. Nothing in this regulation supersedes a more stringent requirement that may be imposed by sewer system owners that manage wastewater from satellite systems. This regulation (122.41(e)(4)) is effective when published in the State Register.

61-9.124. Procedures for Decision Making.

61-9.124.19. Appeal of NPDES and State Permits.

Regulation 61-9.124.19(a) shall be revised as follows:

a. A Department decision involving issuance, denial, renewal, modification, suspension, or revocation of an NPDES, Land Application, or State permit may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code ~~Title 1, Chapter 23~~ Section 48-6-30 and Title 44, Chapter 1.

Regulation 61-9.124.19(b) shall be revised as follows:

b. Any person to whom an order, related to an NPDES, Land Application, or State permit, is issued may appeal it pursuant to applicable law, including S.C. Code ~~Title 1, Chapter 23~~ Section 48-6-30 and Title 44, Chapter 1.

61-9.503. Standards for the Use or Disposal of Sewage Sludge.

61-9.503.22. General requirements.

Regulation 61-9.503.22(a)(2) shall be revised as follows:

(2) For any facility, except a landfill or a sludge only monofill, meeting the definition of a surface disposal site on or after the date of this regulation, a report detailing the final closure of the site must be submitted to the ~~Bureau of Water Pollution Control, Department of Health and Environmental Control,~~ within one (1) year after the date of this regulation. The facility must be closed within five (5) years after the date of this regulation, and a plan must provide a schedule showing how the closure will be accomplished.

61-9.504. Standards for the Use or Disposal of Industrial Sludge.

61-9.504.22. General requirements.

Regulation 61-9.504.22(a)(2) shall be revised as follows:

(2) For any facility, except a landfill or a sludge only monofill, meeting the definition of a land disposal site on the date of this regulation, either sufficient amount of sludge must be removed from the facility in order to change the facility's classification, or a report detailing final closure must be submitted to the Bureau of Water, Department of ~~Health and Environmental Control~~ Services or an application for permitting under Solid Waste Regulations must be submitted to the Bureau of Land and Waste Management, Department of ~~Health and Environmental Control~~ Services. Either the sludge removal must be accomplished within one year after the date of this regulation or the closeout report or permit application must be submitted to the Department within one (1) year after the date of this regulation. If closure is the selected option, the plan must provide a schedule showing how the closure will be accomplished. The land disposal site must be either closed under Regulation 61-82 or permitted by Solid Waste Management Regulations by June 28, 2001. Facilities will be in compliance with this section if a timely and complete application for closure or permit is made and through no fault of the applicant a closure approval or permit has not been issued.

61-9.505. Land Application Permits and State Permits.

61-9.505.6. Continuation of expiring Land Application permits or State permits.

Regulation 61-9.505.6(a)(3) shall be revised as follows:

(3) The permittee has submitted a timely application under section 505.21 which is a complete application for a new permit and makes a timely appeal of the new permit in accordance with S.C. Code of Laws Section 48-6-30.

61-9.505.41. Conditions applicable to all Land Application permits and State permits.

Regulation 61-9.505.41(e)(4)(ii) shall be revised as follows:

(ii) Authority and applicability. Under Section 48-1-30 of the Code of Laws of South Carolina (1976 as amended), the Department is authorized to adopt such rules and regulations as may be necessary to implement the Pollution Control Act. This regulation applies to all sewer systems that have been or would be subject to a ~~DHEC~~ construction permit under Regulation 61-67 and whose owner owns or operates the wastewater treatment system to which the sewer discharges and which discharges under a State permit. Nothing in this regulation supersedes a more stringent requirement that may be imposed by sewer system owners that manage wastewater from satellite systems. This regulation (505.41(e)(4)) is effective when published in the State Register.

61-9.600. Viability Requirements.

61-9.600.2. Definitions.

Regulation 61-9.600.2, “Department” definition, shall be revised as follows:

“Department” means the South Carolina Department of ~~Health and Environmental Control~~ Services.

61-9.610. Operation and Maintenance of Satellite Sewer Systems.

61-9.610.2. Authority and applicability.

Regulation 61-9.610.2 shall be revised as follows:

Under Section 48-1-30 of the Code of Laws of South Carolina (1976 as amended), the Department is authorized to adopt such rules and regulations as may be necessary to implement the Pollution Control Act. This regulation applies to all sewer systems that have been or would be subject to a ~~DHEC~~ construction permit under Regulation 61-67, except for those whose owner owns or operates the wastewater treatment system to which the sewer discharges and which discharges under NPDES or a State permit (see 122.41(e)(4) and 505.41(e)(4)), and to systems approved pursuant to 61-9.505.8. Nothing in this regulation supersedes a more stringent requirement that may be imposed by sewer system owners that manage wastewater from satellite systems. This regulation is effective when published in the State Register.

61-43. Standards for the Permitting of Agricultural Animal Facilities.

Statutory Authority: S.C. Code Sections 44-1-60, 44-1-65, 46-45-80, 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

PART 50 GENERAL DEFINITIONS

Regulation 61-43, Part 50, “Confined Animal Manure Management (Camm) Certification” definition, shall be revised as follows:

“Confined Animal Manure Management (Camm) Certification” means an operator, manager, or owner of an animal facility or manure utilization area, has received certification by completing a class and passing an exam that is provided by Clemson University, Clemson Extension, the South Carolina Department of Health and Environmental Control Services, and the USDA Natural Resource Conservation Service.

Regulation 61-43, Part 50, “Department” definition, shall be revised as follows:

“Department” means the South Carolina Department of ~~Health and Environmental Control~~ Services.

61-44. Individual Residential Well and Irrigation Well Permitting.

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

A. PURPOSE AND SCOPE.

Regulation 61-44(A)(2) shall be revised as follows:

2. The South Carolina Department of ~~Health and Environmental Control~~ Services has concluded that the improper installation of individual residential wells and irrigation wells are endangering public health and the quality of groundwater in this state and therefore finds the need for regulation to govern installation of such wells.

61-58. State Primary Drinking Water Regulations.

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

61-58. General.

B. Definitions.

Regulation 61-58 General(B)(14) shall be revised as follows:

(14) "Board" ~~means the South Carolina Board of Health and Environmental Control charged with responsibility for implementation of the Safe Drinking Water Act~~ Reserved.

Regulation 61-58 General(B)(29) shall be revised as follows:

(29) "Commissioner" ~~means the duly constituted Commissioner of the Department or his authorized agent~~ Reserved.

Regulation 61-58 General(B)(43) shall be revised as follows:

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

C. Appeals.

Regulation 61-58 General(C) shall be revised as follows:

Any determination made by the Department pursuant to these regulations shall be subject to the provisions of ~~R.61-72~~S.C. Code of Laws Section 48-6-30 and the Administrative Procedures Act, S.C. Code of Laws Section 1-23-310 et seq.

61-58.1. Construction and Operation Permits.

H. Requirements for a General Construction Permit.

Regulation 61-58.1(H)(4) shall be revised as follows:

(4) The Department may revoke the general construction permit at any time during the five year period for failure to maintain the qualifications as specified in R.61-58.1(H)(1) or failure to comply with the conditions of the permit. Such revocation is subject to appeal in accordance with the Administrative Procedures Act, S.C. Code of Laws Section 1-23-310 et seq., S.C. Code of Laws Section 48-6-30, and applicable procedures for contested cases.

I. Delegated Review Program.

Regulation 61-58.1(I)(3) shall be revised as follows:

(3) The Department may revoke a system's delegated review authority at any time for failure to maintain the qualifications as specified in R.61-58.1(I)(1) or failure to comply with the permitting procedures under the delegated review program. Such revocation is subject to appeal in accordance with S.C. Code of Laws Section 48-6-30 and the Administrative Procedures Act, S.C. Code of Laws Section 1-23-310 et seq., for contested cases.

N. Request for Review of Permit Decisions.

Regulation 61-58.1(N)(3) shall be revised as follows:

3. The applicant may appeal the director's final decision on the permit in accordance with ~~R.61-58(C)~~S.C. Code of Laws Section 48-6-30 and the Administrative Procedures Act, S.C. Code of Laws Section 1-23-310 et seq.

O. Operating Permits.

Regulation 61-58.1(O)(4) shall be revised as follows:

(4) For existing systems, the Department shall provide a draft of the operating permit to the applicant for comment, for at least a thirty (30) day period. If the applicant gives written notice of concurrence with the draft permit, the thirty (30) day comment period may be waived. After consideration of any comments received from the applicant, the Department will issue the operating permit. The operating permit will become effective on that date unless a review of the decision is requested in accordance with R.61-58.1(N), or appealed in accordance with ~~R.61-58.C~~S.C. Code of Laws Section 48-6-30 and the Administrative Procedures Act, S.C. Code of Laws Section 1-23-310 et seq.

61-67. Standards for Wastewater Facility Construction.

Statutory Authority: S.C. Code Sections 44-1-50, 48-1-110, 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

67.100. General Provisions.

Regulation 61-67.100(D), “Department” definition, shall be revised as follows:

“Department” means the South Carolina Department of ~~Health and Environmental Control~~Services.

Regulation 61-67.100(D), “NPDES Permit” definition, shall be revised as follows:

“NPDES Permit” means a permit issued by the Department to a discharger pursuant to regulations adopted by the Department’s ~~Board~~ for all point source discharges into surface waters, ~~and shall constitute a final determination of the Board.~~

61-68. Water Classifications and Standards.

Statutory Authority: S.C. Code Sections 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

B. DEFINITIONS.

Regulation 61-68(B)(31) shall be revised as follows:

31. **Department** means the S.C. Department of ~~Health and Environmental Control~~Services.

E. GENERAL RULES AND STANDARDS APPLICABLE TO ALL WATERS.

Regulation 61-68(E)(1) shall be revised as follows:

1. The General Assembly of South Carolina in the Act has declared the following policy: “It is declared to be the public policy of the State to maintain reasonable standards of purity of the air and water resources of the State, consistent with the public health, safety and welfare of its citizens, maximum employment, the industrial development of the State, the propagation and protection of terrestrial and marine fauna and flora, and the protection of physical property and other resources. It is further declared that to secure these purposes and the enforcement of the provisions of this Act, the [Department] of ~~Health and Environmental Control~~ shall have authority to abate, control and prevent pollution.”

61-82. Proper Closeout of Wastewater Treatment Facilities.

Statutory Authority: S.C. Code Section 48-1-50, 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

SECTION I: Definitions

Regulation 61-82, Section I, (6) shall be added as follows:

6. Department—Department means the South Carolina Department of Environmental Services.

SECTION II: Proper closeout of lagoons

Regulation 61-82, Section II, (1) shall be revised as follows:

1. Lagoons shall be drained only after written permission has been obtained from ~~DHEC~~the Department and in accordance with one of the below procedures, (procedures in order of decreasing desirability):

Regulation 61-82, Section II, (1)(c) shall be revised as follows:

c. If neither of the above methods is possible, an alternative method of closeout may be proposed for ~~DHEC~~Department consideration.

Regulation 61-82, Section II, (3) shall be revised as follows:

3. After the treated sewage has been drained from the lagoon, solid accumulation on the bottom of the lagoon shall be allowed to dry. A disinfectant suitable for control of odors and vectors shall be applied to all remaining solids when determined necessary by ~~DHEC~~the Department. After drying, the solids should be mixed with soil and left on the bottom of the lagoon, be removed for disposal in an approved landfill, or disposed in some other approved method.

Regulation 61-82, Section II, (4) shall be revised as follows:

4. The lagoon may be filled with soil or may be allowed to remain bowlshaped, so as to be utilized for purposes other than waste handling, i.e., fish ponds, irrigation ponds, etc., provided that this practice does not violate local health and vector control regulations and ~~DHEC~~Department approval of the close-out is obtained prior to any alternative use of the facility.

SECTION IV: Proper closeout of waste treatment facilities not defined as lagoons and package plants

Regulation 61-82, Section IV, shall be revised as follows:

Waste treatment facilities not defined as lagoons and package plants shall be closed out in accordance with guidelines issued by ~~DHEC~~the Department on an individual basis. These guidelines shall be designed to prevent health hazards and to promote safety in and around the abandoned sites.

SECTION V: Procedures applicable to all closeouts

Regulation 61-82, Section V, (1) shall be revised as follows:

1. A request for site inspection for closeout shall be made by the responsible official to ~~DHEC~~the Department.

Regulation 61-82, Section V, (2) shall be revised as follows:

2. A site inspection shall be conducted by ~~DHEC~~the Department and authorization to proceed with closeout granted by ~~DHEC~~the Department.

Regulation 61-82, Section V, (3) shall be revised as follows:

3. Monitoring as deemed necessary by ~~DHEC~~the Department to prevent water quality violations or nuisance conditions will be established on a case-by-case basis and carried out in accordance with ~~DHEC~~Department guidance.

Regulation 61-82, Section V, (4) shall be revised as follows:

4. Upon completion of closeout the responsible party shall request an inspection by ~~DHEC~~the Department. The results of the inspection shall be reduced to writing and forwarded to the responsible official approving or disapproving the closeout. In cases of disapproval discrepancies shall be noted and a follow-up inspection scheduled.

Regulation 61-82, Section V, (5) shall be revised as follows:

5. Closeout will be considered accomplished only after approval in writing from ~~DHEC~~the Department.

61-87. Underground Injection Control Regulations.

Statutory Authority: S.C. Code Section 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

61-87.2. Definitions.

Regulation 61-87.2 shall be revised as follows:

The definition of any word or phrase used in these regulations shall be the same as defined in Section 48-1-10 of the 1976 Code, except that the following words and phrases shall have the following meaning and shall apply to the underground injection control program.

A. “Abandoned well” means a well the use of which has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for monitoring purposes.

B. “Aquifer” means a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of ground water to wells or springs.

C. “Casing” means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into permeable strata, or to prevent fluids from entering or leaving the hole.

D. “Cesspool” means a drywell that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

E. “Confining zone” means a geological formation, group of formations, or part of a formation that is capable of significantly limiting fluid movement above or below an injection zone.

F. “Contaminant” means any substance or matter which degrades the quality of naturally occurring water either directly or indirectly as a result of man’s activity.

G. “Department” means the South Carolina Department of Environmental Services.

~~G~~H. “Drywell” means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

~~H~~I. “Facility, operation or activity” means any injection well or system including land and appurtenances thereto.

IJ. “Flow rate” means the volume per unit of time of a fluid which emerges from an orifice, pump, turbine, or passes along a conduit or channel.

JK. “Fluid” means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

KL. “Formation” means a body of rock characterized by a degree of lithologic homogeneity which is prevailingly, but not necessarily, tabular and is mappable on the earth’s surface or traceable in the subsurface.

LM. “Formation fluid” means fluid present in a formation under natural conditions as opposed to introduced fluids.

MN. “Ground water” means water below the land surface in a zone of saturation.

NO. “Improved sinkhole” means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geological settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

OP. “Injection” means the emplacement of fluid into the subsurface or ground waters by an injection well except fluids used in association with well construction, development, or abandonment.

PQ. “Injection well” means any well which is used or intended to be used for injection.

QR. “Injection zone” means a geological formation, group of formations, or part of a formation which is receiving injection, has received injection, or is intended to receive injection.

RS. “Lithology” means the description of rocks on the basis of their physical and chemical characteristics.

ST. “Non-contact system” means a closed system which conveys water pumped from the aquifer through a process on a once-through basis without significantly altering the chemical quality of the water to be returned to the aquifer.

TU. “Owner/operator” means the person who owns the land on which a facility is located and/or the person who is responsible for the overall operation of the facility.

UV. “Person” means any individual, federal agency, public or private corporation, political sub-division, government agency, municipality, industry, copartnership, association, firm, trust, estate, or any legal entity whatsoever.

VW. “Point of injection for Class V wells” means the last accessible point prior to waste fluids being released into the subsurface environment through a Class V well.

WX. “Pressure” means the total load or force per unit area acting on a surface.

XY. “Septic system” means a well that is used to emplace sanitary wastes below the surface and is typically comprised of a septic tank and subsurface fluid distribution system. The UIC requirements do not apply to single family residential septic systems nor to non residential septic systems which are used solely for disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.

~~YZ~~. “Stratum (plural strata)” means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

~~ZAA~~. “Subsurface fluid distribution system” means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

~~AABB~~. “Subsidence” means the lowering of the natural land surface in response to: Earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (Hydro-compaction); oxidation of organic matter in soils; or added load on the land surface.

~~BBCC~~. “Total dissolved solids (TDS)” means the amount of material in solution gravimetrically determined after filtering the sample through a 0.45-um membrane filter and drying at 180°C.

~~CCDD~~. “Underground source of drinking water (USDW)” means an aquifer or its portion:

- (1) Which supplies any public water system; or,
- (2) Which contains a sufficient quantity of ground water to supply a public water system; and,
 - (a) Currently supplies drinking water for human consumption; or,
 - (b) Contains water with fewer than ten thousand milligrams per liter total dissolved solids.

~~DEEE~~. “Waste” shall mean and include the following:

(1) “Sanitary waste” means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparations, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of the wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the water is not mixed with industrial wastes.

(2) “Industrial waste” means any superfluous liquid, gaseous, solid or other substance or a combination thereof resulting from any process of industry, manufacturing, trade or business.

(3) “Hazardous waste” has the meaning given in Section 44-56-20 of the 1976 South Carolina Code of Laws as amended and regulations promulgated pursuant thereto.

~~EEFF~~. “Well” means any excavation which is cored, bored, drilled, jetted, dug, or otherwise constructed the depth of which is greater than its largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

~~FFGG~~. “Well injection” means the subsurface emplacement of fluids through a well.

61-101. Water Quality Certification.

Statutory Authority: S.C. Code Sections 48-1-30, 48-1-50, 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

A. GENERAL

Regulation 61-101(A)(6) shall be revised as follows:

6. The Department is required by Federal law to issue, deny, or waive certification for Federal licenses or permits within one (1) year of acceptance of a completed application unless processing of the application is suspended. If the Federal permitting or licensing agency suspends processing of the application on request by the applicant or the Department or of its own volition, suspension of processing of application for certification will also occur, unless specified otherwise in writing by the Department. Unless otherwise suspended or specified in this regulation, the Department shall issue a ~~proposed~~ decision on all applications within 180 days of acceptance or an application.

B. DEFINITIONS

Regulation 61-101(B) shall be revised as follows:

Other than those terms defined below, any term used in this regulation shall be the same as defined in Section 48-1-10 or Regulation 61-68 of the Code of Laws, 1976.

~~1. "Board" means the Board of the Department of Health and Environmental Control.~~

21. "Certification" means certification as required under Section 401 of the Clean Water Act, 33 U.S.C. Section 1341.

~~3. "Commissioner" means the Commissioner of the Department of Health and Environmental Control.~~

42. "Department" means the Department of ~~Health and Environmental Control~~ Services.

F. SCOPE OF REVIEW FOR APPLICATION DECISIONS

Regulation 61-101(F)(4) shall be revised as follows:

4. Certification of the activities listed below will be issued when there are no feasible alternatives. When issuing certification for such activities, the Department shall condition the certification upon compliance with all measures necessary to minimize adverse effects, including stormwater management. The Department shall issue ~~proposed~~ certification decisions on such applications within sixty (60) days of acceptance of the application unless otherwise suspended or in accordance with State permitting agency procedures. The Department will also attempt to issue general certifications for such activities.

G. NOTICE OF PROPOSED DECISIONS AND ADJUDICATORY HEARINGS FOR CERTIFICATIONS FOR FEDERAL LICENSES OR PERMITS

Regulation 61-101(G) section heading shall be revised as follows:

G. NOTICE OF ~~PROPOSED~~ DECISIONS AND ~~ADJUDICATORY HEARINGS~~ APPEALS FOR CERTIFICATIONS FOR FEDERAL LICENSES OR PERMITS

Regulation 61-101(G)(1) shall be revised as follows:

1. The Department shall issue a notice of ~~proposed~~ decision on application for certification, including any ~~proposed~~ conditions. Such notice shall advise of availability of the staff assessment and related file information. Such notice shall be mailed to:

- (a) the applicant;
- (b) agencies having jurisdiction or interest over the disposal site or activity site;
- (c) owners or residents of property adjoining the area of the proposed activity; and
- (d) those persons providing comment in response to the initial notice of application.

Regulation 61-101(G)(3) shall be revised as follows:

3. A person desiring to appeal a determination must ~~submit a written request for an adjudicatory hearing within fifteen days of notice of the determination~~ do so within thirty (30) days in accordance with S.C. Code of Laws Section 48-6-30. The request must set forth the manner in which the person requesting the hearing would be injured by issuance of the certification. ~~If no appeal of the proposed decision is timely received, the proposed decision of the Department shall become final.~~

61-110. Total Maximum Daily Loads for Pollutants in Water.

Statutory Authority: S.C. Code Sections 48-1-10 et seq., 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

E. Notice of Proposed Decision

Regulation 61-110(E) shall be revised as follows:

E. Notice of ~~Proposed~~ Decision

Department staff shall issue a notice of ~~proposed~~ decision to submit a TMDL to the U.S. Environmental Protection Agency for approval. Such notice shall advise of availability of the final draft TMDL and related file information. Such notice shall be made available to those persons providing comment in response to the public notice and to those persons participating at an informational hearing.

F. Administrative Appeal Process

Regulation 61-110(F)(1) shall be revised as follows:

(1) The Notice of ~~Proposed~~ Decision may be appealed as a contested case in accordance with S.C. ~~Regulation 61-72~~ Code of Laws Section 48-6-30 and the S.C. Administrative Procedures Act, S.C. Code of Laws Section 1-23-310 et seq.

Regulation 61-110(F)(2) shall be revised as follows:

(2) A person desiring to appeal a TMDL must submit a written request ~~for an adjudicatory hearing to the Clerk of the Board of Health and Environmental Control~~ within thirty (30) days after the date of the notice of proposed decision in accordance with S.C. Code of Laws Section 48-6-30. The request must set forth the manner in which the person requesting the hearing would be injured by issuance of the TMDL. ~~If no appeal of the proposed decision is timely received, the proposed decision of the Department shall become final.~~

61-113. Groundwater Use and Reporting.

Statutory Authority: S.C. Code Sections 49-5-10 et seq., 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

B. Definitions

Regulation 61-113(B)(10) shall be revised as follows:

10. ~~“Board” means the Board of the S.C. Department of Health and Environmental Control~~ Reserved.

Regulation 61-113(B)(11) shall be revised as follows:

11. “Capacity Use Area” means an area, designated by the ~~Board~~Department, where excessive groundwater withdrawal presents potential adverse effects to the natural resource or poses a threat to public health, safety, or economic welfare or where conditions pose a significant threat to the long-term integrity of a groundwater source, including saltwater intrusion.

Regulation 61-113(B)(17) shall be revised as follows:

17. “Department” means the S.C. Department of ~~Health and Environmental Control, including personnel thereof authorized and empowered by the Board to act on behalf of the Department or Board~~Services.

E. Permit Application

Regulation 61-113(E)(2)(e) shall be revised as follows:

- e. A completed ~~SCDHEC~~SCDES Water Well Record or other approved form and driller’s logs, if available;

M. Hydrologic and Geologic Information

Regulation 61-113(M)(3)(g) shall be revised as follows:

- g. Completed ~~DHEC~~SCDES Water Well Record or other approved reporting form.

Regulation 61-113(M)(5)(a) shall be revised as follows:

- a. A completed ~~SCDHEC~~SCDES Water Well Record or other approved form;

N. Abandoned Wells

Regulation 61-113(N)(3) shall be revised as follows:

3. Upon completion of abandonment the well owner or his agent shall submit a completed ~~SCDHEC~~SCDES Water Well Record or other approved form to the Department.

61-119. Surface Water Withdrawal, Permitting, Use and Reporting.

Statutory Authority: S.C. Code Sections 49-4-10 et seq., 48-6-10 et seq., and 2023 Act No.60, effective July 1, 2024.

B. DEFINITIONS.

Regulation 61-119(B)(6) shall be revised as follows:

6. 'Department' means the Department of ~~Health and Environmental Control~~ Services.

P. OTHER DEPARTMENT AUTHORITY.

Regulation 61-119(P)(1)(a) shall be revised as follows:

a. The Department may, in consultation with the SCDNR, negotiate agreements, accords, or compacts on behalf of and in the name of the State of South Carolina with other states or the United States, or both, with any agency, department, or commission of either, or both, relating to transfers of water that impact waters of this State, or are connected to or flowing into waters of this State. Any agreements, accords, or compacts made by the ~~Board~~ Department pursuant to this section must be approved by concurrent resolution of the General Assembly prior to being implemented.

Q. SURFACE WATER PERMITTING AND WITHDRAWAL FEES.

Regulation 61-119(Q)(4)(b) shall be revised as follows:

b. All returned checks will be subject to a returned check fee as outlined in the ~~DHEC~~ Department's Administrative Policy and Procedures Manual. This penalty will be in addition to those outlined in item Q.3.d above.

Regulation 61-119(Q)(4)(d) shall be revised as follows:

d. All fees shall be payable to the Department of ~~Health and Environmental Control~~ and mailed to the Bureau of Finance, 2600 Bull Street, Columbia, S.C. 29201 Services.