



# Regulation Development Update

July 28, 2017

DHEC produces this Regulation Development Update within one business day of publication of the South Carolina State Register (the fourth Friday of each month).

The Update reports DHEC's regulation development activity, including proposed new regulations, amendments, and repeals of existing regulations, currently pending. Each entry presents a synopsis, status, and (upon assignment by the S.C. Legislative Council) a searchable S.C. State Register Document Number. Legislative Council assigns a Document Number at the Notice of Proposed Regulation stage of the regulation [promulgation process](#). The Document Number subsequently remains with the particular regulation development activity throughout the process.

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While DHEC has made every effort to maintain the accuracy of content presented in this Regulation Development Update, it reserves the right to correct errors when discovered.

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# NO PENDING REGULATION DEVELOPMENT ACTIVITY FOR:

The following program areas have no pending regulation development activities at this time.

## Chief Financial Officer

Budgets and Financial Management

## Chief Operations Officer

Public Health Preparedness

## General Counsel

## Environmental Affairs

Environmental Affairs Administration  
Bureau of Water  
Ocean and Coastal Resource Management

## Health Regulations

Drug Control

## Health Services

Vital Statistics and Cancer Registry

There are no DHEC Emergency Regulations in effect at this time.

# PENDING REGULATION DEVELOPMENT ACTIVITY FOR:

The following program areas have pending regulation development activities at this time.

## ENVIRONMENTAL AFFAIRS

### AIR QUALITY – Proposed Regulation

#### **R.61-62, Air Pollution Control Regulations and Standards**

[State Register Document 4750](#)

#### **Synopsis:**

Pursuant to the South Carolina Pollution Control Act, S.C. Code Section 48-1-10 et seq. (2008), along with the federal Clean Air Act (“CAA”), 42 U.S.C. Sections 7410, 7413, and 7416, the S.C. Department of Health and Environmental Control 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 United States Environmental Protection Agency (“EPA”) promulgates amendments to the Code of Federal Regulations (“CFR”) throughout each calendar year. Recent federal amendments to 40 CFR Parts 50, 51, 52, 60, 61, 63, and 70 include clarification, guidance and technical amendments regarding state implementation plan (“SIP”) requirements promulgated pursuant to 42 U.S.C. Sections 7410 and 7413, New Source Performance Standards (“NSPS”) mandated by 42 U.S.C. Section 7411, federal National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories mandated by 42 U.S.C. Section 7412, and Prevention of Significant Deterioration (“PSD”) and Title V Operating Program provisions promulgated under title I and title V of the CAA.

The Department proposes to amend the following, as well as the South Carolina SIP to adopt the federal amendments to these standards, promulgated from January 1, 2016, through December 31, 2016:

R.61-62.1	Definitions and General Requirements
R.61-62.5, Standard No.7	Prevention of Significant Deterioration
R.61-62.60	South Carolina Designated Facility Plan and New Source Performance Standards

R.61-62.61	National Emission Standards for Hazardous Air Pollutants (NESHAP)
R.61-62.63	National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories
R.61-62.70	Title V Operating Permit Program

The Department also proposes to add R.61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, to incorporate the EPA’s CSAPR trading program for South Carolina in 40 CFR Part 97 for NO<sub>x</sub> (Annual) and SO<sub>2</sub> (Annual), as published in the Federal Register on August 8, 2011 (76 FR 48208) and subsequently amended on June 12, 2012 (77 FR 34830), December 3, 2014 (79 FR 71663), and October 26, 2016 (81 FR 74504). This regulation will address mandatory transport and regional haze SIP infrastructure elements pursuant to 42 U.S.C. Sections 7410 and 7491.

The Department is also proposing other changes to R.61-62 that include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text as necessary.

South Carolina industries are already subject to these national air quality standards as a matter of federal law. Thus, there will be no increased cost to the State or its political subdivisions resulting from codification of these amendments to federal law. The state of South Carolina is already reaping the environmental benefits of these amendments.

In accordance with S.C. Code Section 1-23-120(H) (Supp. 2016), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

**History and Status:**

Notice of Drafting published:	January 27, 2017
Drafting comment period closed:	February 27, 2017
Board approval of proposed regulation notice:	May 11, 2017
Notice of Proposed Regulation published:	May 26, 2017
Proposed regulation comment period closed:	June 26, 2017
Public Hearing scheduled for:	August 10, 2017

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## ENVIRONMENTAL HEALTH SERVICES – Proposed Regulations

### **R.61-56.1, License To Construct Or Clean Onsite Sewage Treatment And Disposal Systems And Self-Contained Toilets**

State Register Document TBD

#### **Synopsis:**

The Department proposes to amend R.61-56.1, License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets to remove the licensure of onsite wastewater system installers, and rededicate R.61-56.1 for the licensure of septage pumpers and haulers. The licensure of onsite wastewater system installers will be moved to R. 61-56.2, Licensing of Onsite Wastewater Systems Master Contractors, in a separate amendment being proposed in the S.C. State Register concurrently with this amendment of R.61-56.1. Placing these requirements into separate regulations will provide the public and regulated entities with more clarity and easier search capabilities. The revision would include an increase in fees to an appropriate level for implementing the program. The Department may also make stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining and codification, and such other changes as necessary to improve the overall quality of the regulation. Legislative review is required.

#### **History and Status:**

Notice of Drafting published:

July 28, 2017

Drafting comment period will close:

August 28, 2017 by 5:00 p.m.

#### **Please Send Comments To:**

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### **R.61-56.2, Licensing Of Onsite Wastewater Systems Master Contractors**

State Register Document TBD

#### **Synopsis:**

The Department proposes to amend R.61-56.2, Licensing of Onsite Wastewater Systems Master Contractors, to include the requirements for all installers that construct onsite wastewater (septic) systems. Among other requirements, the revision will include continuing educational requirements and a tiered system of installers with associated tiered fees. To assist the industry in meeting the requirements for continuing education and ensure adequate and appropriate courses are available, the Department is proposing a delayed implementation of the continuing educational units' ("CEU") requirement to be phased into the program three years after passage

of the regulation. The Department may also make stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining and codification, and such other changes as necessary to improve the overall quality of the regulation. Legislative review is required.

**History and Status:**

Notice of Drafting published: July 28, 2017  
Drafting comment period will close: August 28, 2017 by 5:00 p.m.

**Please Send Comments To:**

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Bureau of Environmental Health Services

**R.61-55, Septic Tank Evaluation Fees**

State Register Document TBD

**Synopsis:**

The Department proposes amending R.61-55, Septic Tank Evaluation Fees to adjust application fees and correct and amend definitions. The revision would include an increase in fees, allow for a new expedited permitting process with associated fees, and application fees would be related to the particular service performed. This revision is needed to update the fees to an appropriate level for implementing the program. The Department may also make stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining and codification, and such other changes as necessary to improve the overall quality of the regulation. Legislative review is required.

**History and Status:**

Notice of Drafting published: July 28, 2017  
Drafting comment period will close: August 28, 2017 by 5:00 p.m.

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Bureau of Environmental Health Services

## LAND AND WASTE MANAGEMENT – Final Regulations

### **R.61-33, Drycleaning Facility Restoration**

[State Register Document 4705](#)

#### **Synopsis:**

The amendments made to this regulation revised and clarified criteria, procedures, and standards for: eligibility; moratorium; financial responsibility; facility prioritization; and restoration investigation and clean-up goals of drycleaning facilities and sites participating in the Drycleaning Facility Restoration Trust Fund. These amendments provided updates to the definitions, removed requirements and procedures for documenting existing contamination, and removed requirements and procedures for certifying contractors. Additional changes included revising the regulation title, stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining/codification, and other necessary changes to improve the overall quality of the regulation. This amendment replaced R.61-33 in its entirety and supersedes any former versions.

#### **History and Status:**

Notice of Drafting published:	July 22, 2016
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Board approval for proposed regulation notice:	October 13, 2016
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Proposed regulation comment period closed:	November 28, 2016
Public Hearing:	December 8, 2016
Submitted to General Assembly:	January 10, 2017
Joint Resolution S0375 ratified:	May 4, 2017
Signed by Governor:	May 9, 2017
Final regulation by law through publication:	May 26, 2017

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### **R.61-92, Underground Storage Tank Control Regulations**

[State Register Document 4706](#)

#### **Synopsis:**

The amendments made to this regulation focused on adopting the federal underground storage tank requirements of 40 CFR Section 280 effective October 13, 2015, and revising portions of R.61-



92, Part 280 pertaining to compliance requirements of the UST Control Regulations. The amendments reorganized the regulations for clarity and consistency with the format of the above-mentioned revised federal regulation, along with other stylistic changes to improve the overall quality of the regulation. This amendment replaced R.61-92 in its entirety and supersedes any former versions.

**History and Status:**

Notice of Drafting published:	April 22, 2016
Drafting comment period closed:	May 23, 2016
Board approval for proposed regulation notice:	October 13, 2016
Notice of Proposed Regulation:	October 28, 2016
Proposed regulation comment period closed:	November 28, 2016
Public Hearing:	December 8, 2016
Submitted to General Assembly:	January 10, 2017
Joint Resolution S0376 ratified:	May 4, 2017
Signed by Governor:	May 9, 2017
Final regulation by law through publication:	May 26, 2017

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### EMERGENCY MEDICAL SERVICES, TRAUMA, AND ATHLETIC TRAINERS – Proposed Regulation

#### **R.61-TBD, Proposed New Regulation to address the Stroke System of Care Act of 2011**

State Register Document TBD

#### **Synopsis:**

In 2011, the General Assembly passed the Stroke System of Care Act of 2011 (“Act”) which requires the Department of Health and Environmental Control (“DHEC”) to promulgate regulations to establish a process of application and recognition of acute care hospitals that wish to be recognized as stroke centers within the State. A list of all recognized stroke centers must be posted on the Department website and distributed to all DHEC licensed Emergency Medical Service (EMS) agencies. The Act further requires the Department to establish a statewide stroke registry for the collection and analysis of stroke care by acute care hospitals within the State. Additionally, the Act requires the Department to adopt and distribute a nationally recognized, standardized stroke-triage assessment tool. This assessment tool must be posted on the Department’s website and distributed to all DHEC-licensed EMS agencies. Legislative review is required.

#### **History and Status:**

Notice of Drafting published: April 28, 2017  
Drafting comment period closed: May 29, 2017

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## HEALTH FACILITY LICENSING – Proposed Regulations

### **R.61-15, Certification of Need for Health Facilities and Services**

State Register Document TBD

#### **Synopsis:**

The Department proposes amending this regulation to enable an electronic application process, revise the application format, update exemption and non-applicability determination processes, and revise language regarding penalties and enforcement actions. The Department also intends to add, remove, or modify multiple definitions contained within the regulation. The Department may also update 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. The amendment may also revise the project review criteria. The Department may also revise the monetary thresholds which trigger a Certificate of Need review. The Department may also make stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining and codification, and such other changes as may be necessary to improve the overall quality of the regulation. Legislative review is required.

#### **History and Status:**

Notice of Drafting published:

September 23, 2016

Drafting comment period closed:

October 24, 2016

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### **R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries**

[State Register Document 4740](#)

#### **Synopsis:**

The Department is making necessary amendments to this regulation to incorporate recent changes in state law, as well as changes to current practices and standards. The amendment incorporates provisions allowing dietitians to prescribe diets and other dietary services; incorporate requirements of S.C. Code Sections 44-41-410 through -480 relating to the provision of abortion services; incorporate existing inspection and construction fees; and incorporate new safe haven requirements. Legislative review is required.

**History and Status:**

Notice of Drafting published:	September 23, 2016
Drafting comment period closed:	October 24, 2016
Board approval for proposed regulation notice:	December 8, 2016
Notice of Proposed Regulation published:	December 23, 2016
Proposed regulation comment period closed:	January 23, 2017
Public Hearings:	June 8, 2017 April 13, 2017 (cancelled) February 9, 2017 (cancelled)
General Assembly review period begins:	January 2018

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**R.61-78, Standards for Licensing Hospices**

State Register Document TBD

**Synopsis:**

On May 19, 2017, Governor Henry McMaster signed into law Act No. 61 amending the Hospice Licensure Act. The Department proposes amending R.61-78 to incorporate the provisions of Act No. 61 into its oversight of hospices. The Department 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. Legislative review is required.

**History and Status:**

Notice of Drafting published:	June 23, 2017
Drafting comment period closed:	July 24, 2017

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## **R.61-TBD, Proposed New Regulation for Crisis Stabilization Unit Facilities**

State Register Document TBD

### **Synopsis:**

On April 24, 2017, Governor Henry McMaster signed into effect Act No. 10 amending Article 3 of Chapter 7, Title 44, to require the Department to license and regulate Crisis Stabilization Unit Facilities. These facilities provide a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen and older, twenty-four hours a day, seven days a week. Legislative review is required.

### **History and Status:**

Notice of Drafting published:

May 26, 2017

Drafting comment period closed:

June 26, 2017

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## RADIOLOGICAL HEALTH – Proposed Regulation

### **R.61-63, Radioactive Materials (Title A)**

State Register Document TBD

#### **Synopsis:**

The federal Atomic Energy Act of 1954 enables the United States Nuclear Regulatory Commission (“Commission”) to enter into agreements with state governors allowing for state regulation of byproduct, source, and special nuclear materials. 42 U.S.C. Section 2121. The Commission enters into such agreements if it finds that the state regulatory program is in compliance with applicable federal regulations. Id. In order to renew South Carolina’s ongoing agreement with the Commission, DHEC proposes amending Regulation 61-63 to ensure state standards are in compliance with the Commission’s regulatory updates. Specifically, DHEC’s proposed amendments will revise Parts II, V, VII, and XII, for consistency with federal regulations. The Department may also make revisions for grammatical errors, typographical errors, and other such changes. Legislative review is not required.

#### **History and Status:**

Notice of Drafting published:

April 28, 2017

Drafting comment period closed:

May 29, 2017

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## DISEASE CONTROL – Final Regulation

### **R.61-22, The Evaluation of School Employees for Tuberculosis**

[State Register Document 4704](#)

#### **Synopsis:**

The Department substantially amended this regulation in order to simplify and clarify the tuberculosis screening and evaluation requirements for schools and child care centers, and to significantly reduce the financial and human resources burden on schools and child care centers created in prior revisions to this regulation, all while affording children greater protection against exposure to tuberculosis in these settings. The amendments included the Department’s effort to incorporate current tuberculosis evaluation and preventive treatment guidelines; update the screening and evaluation requirements for those working and volunteering in schools and child care centers; clarify language relating to the issuance of evaluation and certificates; and provide for consistency with applicable state and federal laws. The title of the regulation was also changed. This amendment replaced R.61-22 in its entirety and supersedes any former version.

#### **History and Status:**

Notice of Drafting published:	August 26, 2016
Drafting comment period closed:	September 26, 2016
Board approval for proposed regulation notice:	October 13, 2016
Notice of Proposed Regulation published:	October 28, 2016
Proposed regulation comment period closed:	November 28, 2016
Public Hearing:	December 8, 2016
Department withdrew and resubmitted revised regulation:	January 30, 2017
Joint Resolution S0374 ratified and signed by Governor:	May 9, 2017
Final regulation by law through publication:	May 26, 2017

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# MATERNAL AND CHILD HEALTH – Final Regulation

## **R.61-94, WIC Vendors**

[State Register Document 4671](#)

### **Synopsis:**

The amendments to this regulation incorporated provisions included in the Child Nutrition and WIC Reauthorization Act of 2004 (P.L.108-265) and the final rule published by the U.S. Department of Agriculture (“USDA”) in 2014 that revised the WIC food packages. The final rule also contained WIC vendor provisions and amendments to ensure adequate and appropriate monitoring of the Program’s food delivery system. Stylistic changes to the regulation were also included. This amendment replaced R.61-94 in its entirety and supersedes any former versions of the regulation.

### **History and Status:**

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Board approval for proposed regulation notice:	September 8, 2016
Notice of Proposed Regulation published:	September 23, 2016
Proposed regulation comment period closed:	October 24, 2016
Public Hearing:	November 10, 2016
Department withdrew and resubmitted revised regulation:	February 15, 2017
Joint Resolution S0453 ratified and signed by Governor:	May 9, 2017
Final regulation by law through publication:	May 26, 2017

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